

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 19-20
Z.C. Case No. 19-20
Georgetown University on behalf of President and Directors of Gonzaga College
(Voluntary Design Review at Square 622, Lot 93)
December 12, 2019

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on December 12, 2019 to consider the application of Georgetown University (“University”) regarding property owned by the President and Directors of Gonzaga College (“Gonzaga”) for Voluntary Design Review approval to construct a new residence hall with ground-floor retail (“Project”) in the MU-9 Zone District at 55 H Street, NW (Square 622, Lot 93) (“Property”). The Voluntary Design Review request included flexibility to allow a height of 110 feet as well as flexibility from the rear yard and side yard requirements. In addition, the University also requested special exception relief from the vehicle parking requirements. The Commission considered the application pursuant to Subtitles X and Z of Title 11 of the District of Columbia Municipal Regulations (“Zoning Regulations,” to which all references are made unless otherwise specified). For the reasons below, the Commission hereby **APPROVES** the application.

FINDINGS OF FACT

Notice

1. On May 31, 2019, the University mailed a Notice of Intent to file a voluntary design review application to all property owners within 200 feet of the Property and to Advisory Neighborhood Commission 6E (“ANC 6E”), the “affected ANC” per Subtitle Z, Section 101.8. (Ex. 2D.)
2. On September 27, 2019, the University filed an application on behalf of Gonzaga, the owner of the Property, for Voluntary Design Review and approval of the Project pursuant to Subtitle X, Section 601.2, including a request for flexibility from the height, rear yard, and side yard requirements pursuant to Subtitle X, Section 603.1. The University also requested special exception relief from the parking requirements pursuant to Subtitle X, Section 603.3. (Ex. 1, 2A-2H.)
3. Pursuant to Subtitle Z, Section 402.1, the Office of Zoning (“OZ”) published the Notice of Public Hearing on October 24, 2019 (Ex. 5.) Pursuant to Subtitle Z, Section 402.3, the University posted notice of the hearing on the property on October 24, 2019 and maintained such notice in accordance with the Zoning Regulations. (Ex. 7, 12.)

Parties

4. The University and ANC 6E were automatically parties to the proceeding.
5. On December 12, 2019, ANC 6C filed a request for party status as a proponent, along with a request for a waiver of the 14-day advance filing requirement for such party status. (Ex. 18.) At the hearing, the Commission granted the waiver along with the request for party status based on the proximity of the Property to ANC 6C.

The Property

6. The Property contains approximately 33,040 square feet of land area. The Property is located mid-block on the unit block of H Street NW between North Capitol Street NW and 1st Street NW, in the Downtown East neighborhood. (Ex. 2.)
7. The Property is currently improved with a surface parking lot. (Ex. 2.)
8. The Property is bounded by an office building to the east, an apartment building to the west, and Gonzaga's athletic fields to the north. The United States Government Printing Office ("GPO") headquarters is located across H Street to the south of the Property. (Ex. 2.)
9. An entrance to the Union Station Metrorail station is located approximately 2 ½ blocks to the southeast of the Property. (Ex. 2.) Other nearby transportation options include multiple bus lines, Capital Bikeshare stations, carsharing services, and the Judiciary Square Metrorail station entrance. (Ex. 8A1-8A2, 9A.)
10. The Georgetown University Law Center is located approximately 1 ½ blocks to the southwest of the Property. The University also recently acquired 500 1st Street NW, adjacent to the Law Center, which the University intends to use for a mix of academic and administrative uses. The Law Center, together with 500 1st Street, the Property, and other nearby properties, comprises the University's "Capitol Campus." The University provides private shuttle bus transportation that connects the Capitol Campus to the main "Hilltop" campus. (Ex. 2, 9A.)
11. The Property is located in the MU-9 Zone District.¹ The MU-9 Zone District is a high-density mixed-use zone district. (Ex. 2.)

The Application

12. The University proposes to develop the Property with an 11-story residence hall with approximately 158 units containing a total of approximately 476 beds as well as ground-floor retail and student amenity space and a habitable penthouse containing communal recreation space for the building residents. (Ex. 2.) The Project will have a maximum FAR of 6.5 and lot occupancy of approximately 60%, which are within the parameters for the MU-9 Zone District. (Ex. 2.)

¹ At the time of filing of the application, the official Zoning Map erroneously showed the Property as split-zoned in the MU-9 and RF-1 Zone Districts. OZ corrected this error prior to the public hearing, and the official Zoning Map now shows the entirety of the Property as in the MU-9 Zone District, which is consistent with the Zoning Commission's action in Z.C. Order No. 909-A, when it rezoned the entirety of the Property to the C-3-C Zone District, which is now the MU-9 Zone District. (Ex.2.)

13. Building Uses. The Project provides student housing for a mix of undergraduate, graduate, and law students and supports the emerging Capitol Campus, which delivers on the University's commitment in its Main Campus Campus Plan (Z.C. Order No. 16-18) to promote growth at locations other than the Main Campus. (Ex. 2; Tr. Dec. 12, 2019.)
14. Building Façade Design. The Project incorporates a mix of high-quality materials and façade elements to create a design that complements the immediate surroundings yet also identify itself as a unified element with the University's Capitol Campus. The architectural composition consists of a brick base and a neoclassical rhythm that harmonizes with the GPO headquarters and other neighboring structures; this base is overlaid with a terracotta wrap façade that evokes but does not replicate the lighter color and materiality of the existing Law Center buildings. The blend of terracotta with metal and glass as well as the offset and irregular window patterning on the primary south façade serves as a contemporary expression to give the mid-block building identity amid its more formal brethren. (Ex. 2, 9A.)
15. Ground-Floor Design. The ground-floor design of the Project incorporates a number of street-activating and pedestrian-friendly features, including a pair of entrances for the retail and residential portions of the Project that frame transparent ground-floor glass that provides visibility into the active retail and ground-floor amenity spaces. The glass façade is punctuated by piers clad in brick, which helps to strengthen the connection to adjacent brick structures and create articulation and depth for the ground-level spaces. (Ex. 2, 9A.)
16. Sustainable Design. The University is targeting a minimum of Gold under the LEED v4 rating system. Among other features, the Project incorporates photovoltaic panels on both the penthouse roof and on the upper-story south-facing façade. (Ex. 2, 9A.)
17. Vehicular Access. The Project contains on-site loading and service spaces within the Project, accessed from the private service alley on the western portion of the Property. The Project does not contain any underground parking or other zoning-compliant parking spaces, but three parking spaces are located within the ground level of the Project and are able to be accessed through the loading spaces when the loading spaces are not in use. (Ex. 2, 9A.)
18. Bicycle Parking. The Project contains a bicycle room with a minimum of 100 long-term bicycle parking spaces as well as a shower and lockers for cyclists, and the Project incorporates 14 short-term bicycle parking spaces within small plaza areas created by setbacks from the sidewalk near the residential and retail entrances. (Ex. 2, 9A.)
19. Penthouse. The Project contains a habitable penthouse that will be programmed with communal recreation and amenity spaces for building residents as well as enclosed mechanical equipment, stairway, and elevator penthouses and screened mechanical equipment. The penthouse components are located within enclosing walls of three separate heights as permitted under Subtitle C, Section 1500.9, and they are set back at least 1:1 from the edge of the roof along all walls where such setback is required by Subtitle C, Section 1502.1. (Ex. 2, 9A, 9E1-9E4.)
20. Inclusionary Zoning. The Project is being developed by the University exclusively for its students, faculty, and staff, and is therefore exempt from the inclusionary zoning requirements

pursuant to Subtitle C, Section 1001.6(c). The penthouse space is communal rooftop recreation and amenity space that is exempt from the inclusionary zoning requirements pursuant to Subtitle C, Section 1500.11. (Ex. 2, 9A.)

21. Comprehensive Transportation Review. On October 28, 2019, the University submitted a Transportation Statement for the Project in accordance with DDOT's Comprehensive Transportation Review Guidelines. (Ex. 8, 8A1-8A2.) The CTR included the Applicant's proposed Transportation Demand Management ("TDM") and Loading Demand Management measures for the Project, which were later updated and memorialized in the Applicant's proposed conditions of approval. (Ex. 9D.)

Flexibility and Relief Requested

22. Voluntary Design Review. The University requested Voluntary Design Review to permit the following areas of flexibility:

- a. Height. The Project will be approximately 110 feet in height, which is 20 feet above the maximum height permitted by right but within the maximum permitted height with design flexibility in the MU-9 Zone.² The additional height permits more flexibility in building design and the creation of larger outdoor spaces. (Ex. 2, 9A, 10.)
- b. Rear Yard. The Project is designed as a roughly U-shaped building. The two wings of the Project are proposed to be constructed to the northern lot line, which reduces the rear yard on the Property to zero feet. However, the massing and configuration of the Project also creates two large courtyards located at the rear of the Project, which provides ample light, air, and outdoor recreation space for building residents. Additionally, Gonzaga's athletic fields are located to the north, which creates a significant amount of open space between the Project and nearest buildings to the north. (Ex. 2, 9A.)
- c. Side Yards. The Project is set back a minimum of 18'8" on the west to maintain a private service alley that serves the Project as well as Gonzaga. This complies with the side yard requirement. The bulk of the project is set back 34 feet on the east, but the front portion of the building narrows the side yard to 5 feet in order to close the gap between the buildings and create a more consistent streetwall along H Street NW. This 5-foot wide side yard for just the front portion of the building does not comply with the side yard requirements. (Ex. 2, 9A.)

The University's satisfaction of the burden of proof for voluntary design review approval and related flexibility from the height, rear yard and side yard requirements, along with findings of fact directly related to the University's satisfaction of the burden of proof for such approval, are further discussed in the Conclusions of Law.

23. Vehicle Parking. The University requested special exception approval to provide no zoning-compliant parking spaces in the Project. (The Project would otherwise require 26 vehicular

² The maximum permitted height with design flexibility is the height permitted for a PUD, which is 130 feet in the MU-9 Zone. Here, the 1910 Height Act limits the maximum attainable height to 110 feet.

parking spaces.) (Ex. 2, 9A.) The University’s satisfaction of the burden of proof for such special exception review, along with findings of fact directly related to the University’s satisfaction of the burden of proof for such special exception approval, are further discussed in the Conclusions of Law.

24. Design Flexibility from Approved Plans. The University proposed design flexibility conditions to authorize deviations from the final approved plans to accommodate the typical evolution of building design as plans are refined and developed during the design and permitting process, some of which were later refined based on recommendations from the Office of Planning. (Ex. 9D; Tr. Dec. 12, 2019.)

Reports on and Responses to the Application

Office of Planning Report

25. On December 2, 2019, OP filed a report recommending approval of the voluntary design review application and the related special exception relief from the parking requirements. (Ex. 10.)
26. OP examined the Project against the design review criteria and found that the Project satisfied each relevant condition; OP also concluded that the proposed height, rear yard, and side yard flexibility were appropriate. 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, the policies and goals of the Citywide and Central Washington elements of the Comprehensive Plan, and the NOMA Vision Plan and Development Strategy (which was adopted by the D.C. Council as a Small Area Plan). OP also concluded that the University had met the burden of proof for the special exception relief from the parking requirements. (Ex. 10.)
27. OP recommended that the approval be conditioned such that, if the residence hall were converted to another type of residential use, the District’s inclusionary zoning requirements should apply. OP also recommended that some of the Applicant’s proposed areas of design flexibility from the approved plans be refined to align with “standard” flexibility proposed by the Office of Planning in a pending text amendment case. (Ex. 10.)
28. Department of Energy and the Environment (DOEE). OP’s report noted comments from DOEE that the Project incorporated numerous positive sustainable features, including the LEED v4 Gold certification, the courtyards serving as bioretention areas, solar panels, and green roofs. (Ex. 10.)
29. District Department of Transportation Report. On December 2, 2019, DDOT filed a report concluding it had no objection to the application, provided the University implement its TDM and loading management plans as memorialized in the University’s proposed conditions of approval. DDOT noted support for the proposed parking relief given the numerous nearby transit options, campus shuttle system, TDM, and University policies regarding student vehicles. DDOT recommended continued coordination on the public realm elements of the Project within the public right-of-way, including streetscape design and curbside management. (Ex. 11.)

30. ANC 6E Report. At a duly-noticed, regularly-scheduled public meeting, with a quorum present, ANC 6E voted unanimously to support the application and its related flexibility and related special exception relief. ANC 6E's support was conditioned on the University: (1) exploring the expansion of Capital Bikeshare near the Project; (2) working with DDOT to consider curbside management in front of the Project on H Street; and (3) applying existing policies that prohibit students from bringing a car to the proposed project and committing to work with students to identify off street parking in rare exceptions where students require a vehicle. (Ex. 13.)
31. ANC 6C Report. At a duly-noted, regularly-scheduled public meeting, with a quorum present, ANC 6C voted unanimously to support the application and its related flexibility and special exception relief. ANC 6C's support was conditioned on the University's commitment to devote at least 50% of the surface area facing H Street to display windows or entrances having clear glass and ensure visibility is not significantly blocked. (Ex. 17.)
32. Applicant's Pre-Hearing Submission. On November 22, 2019, the Applicant filed a supplemental statement, proposed conditions of approval, and revised plans. The materials:
- a. Supplemented the initial application's evaluation of the Project's satisfaction of the burden of proof for the special exception from the parking requirements;
 - b. Evaluated the Project's consistency with the NOMA Vision Small Area Plan and incorporated design changes intended to further this consistency; and
 - c. Proposed conditions of approval, including commitments to LEED v4 Gold certification as well as the TDM Plan and the loading management plan requested by DDOT and the transportation measures recommended by ANC 6E.

(Ex. 9A, 9D, 9E1-E4.)

33. Applicant's Hearing Submission. On December 12, 2019, the Applicant submitted additional proposed conditions based on feedback from OP and ANC 6C along with a photograph of the proposed materials board for the Project. (Ex. 14, 15.) The proposed conditions included:
- a. Commitments regarding inclusionary zoning for a change in use of the Project as requested by OP; and
 - b. A commitment regarding ground-level clear windows and pedestrian entrances along the Project's H Street façade.

(Ex. 14.)

Public Hearing

34. The Commission held a public hearing on the application on December 12, 2019. Expert witnesses appearing on behalf of the University included Graham Wyatt, FAIA, Robert A.M. Stern Architects, as an expert in architecture and Chris Kabatt of Wells & Associates as an expert in transportation planning. Geoff Chatas, Senior Vice President and Chief Operating

Officer, Ben Kuo, Vice President for Planning and Facilities Management, and Regina Bleck, Associate Vice President and University Architect, all testified on behalf of the University.

35. Commissioner Mark Eckenwiler appeared on behalf of ANC 6C and testified in support of the application.
36. No persons appeared or testified in opposition to the application.
37. At the hearing, the University presented the Project and responded to questions from the Commission regarding the Project and its impacts, including its solar panels and potential changes to the University shuttle bus system.
38. At the close of the hearing, counsel for the University addressed OP's comments regarding the proposed design flexibility conditions and proposed to utilize some of OP's recommended changes but retain the University's proposed flexibility regarding the Project's sustainable design features. The Commission agreed with the compromise proposed by the University's counsel.
39. After the close of the hearing, given that there was no opposition to the application and no outstanding issues to resolve, the Commission proceeded to deliberate and vote to approve the application.

CONCLUSIONS OF LAW

Design Approval

1. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.01 (2019 Repl.)) authorizes the Commission to undertake review and approval of the Project.
2. Pursuant to Subtitle X, Section 600.1, the purpose of the design review process is to:
 - (a) *Allow for special projects to be approved by the Zoning Commission after a public hearing and a finding of no adverse impact;*
 - (b) *Recognize that some areas of the District of Columbia warrant special attention due to particular or unique characteristics of an area or project;*
 - (c) *Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density;*
 - (d) *Promote high-quality, contextual design; and*
 - (e) *Provide for flexibility in building bulk control, design and site placement without an increase in density or a map amendment.*The Commission has jurisdiction to grant Voluntary Design Review approval for the proposed development and the related flexibility from the height, rear yard, and side yard requirements pursuant to Subtitle X, Sections 601.2 and 603.1 of the Zoning Regulations.
3. Pursuant to Subtitle X, Section 601.3, there is no minimum area requirement for a Voluntary Design Review application in the MU-9 Zone District.

4. Under Subtitle X, Section 601.4, all of the property included in a Voluntary Design Review application is required to be contiguous or separated only by a public street, alley, or right-of-way. The entire Property is a single parcel, so this requirement is not applicable here.
5. Pursuant to Subtitle X, Section 603.2, the flexibility for height in a voluntary design review application is limited to what would be available to a PUD. Subtitle X, Section 303.7 permits a height of 130 feet for a PUD in the MU-9 Zone District. The proposed Project is a maximum of 110 feet, which is within this limitation.
6. Pursuant to Subtitle X, Section 603.3, the Commission is authorized to consider special exception relief simultaneously with a design review application, subject to all applicable special exception criteria.

General Design Review Criteria (X § 604)

7. 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 and with other adopted public policies and active programs related to the subject site;*
 - (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;*
 - (c) *review the urban design of the site and the building according to certain enumerated criteria set forth below; and*
 - (d) *find that the criteria of Subtitle X § 604.7 are met in a way that is superior to any matter-of-right development possible on the site.*
8. The Commission concludes that the application meets the general design review criteria as elaborated below.

Not Inconsistent with the Comprehensive Plan (X § 604(a))

9. The Commission concludes that the application meets the first prong of the general design review criteria – to not be inconsistent with the Comprehensive Plan – because the application does not contradict any provisions of the Comprehensive Plan and in fact furthers several principles and elements of the Comprehensive Plan as detailed below.
10. The Future Land Use Map of the Comprehensive Plan designates the Property as appropriate for “high density” commercial uses. The Comprehensive Plan Framework Element defines the “high density” commercial designation as the central employment area of the District with buildings generally greater than eight stories in height. The 11-story Project is not inconsistent with this designation. (Ex. 2, Ex. 10.)

11. The Commission concludes that the Project furthers the goals of the Comprehensive Plan's Generalized Policy Map, which designates the Property as a Land Use Change area. The Framework Element defines Land Use Change areas as areas for "new development" with "mixed-use communities containing housing" and other uses such as workplaces and civic facilities, with Area Elements and Small Area Plans providing additional guidance on the desired mix of uses in each area. The Project will create new housing that will help activate the neighborhood, support the University's development of the Capitol Campus as an anchor institution, and further the development of an increased mix of diverse and complementary uses. (Ex. 2, Ex. 10.)
12. The University will redevelop a vacant, transit-oriented, and commercially-zoned site in Central Washington with an infill student housing development that contributes to the residential and mixed-use character of the Downtown East neighborhood; respects the architectural design character of its immediate context; activates the public realm along H Street and creates ample outdoor recreation and open space for its residents; incorporates meaningful commitments to sustainable design through solar panels, green roofs, and bioretention areas; and strengthens the University's Capitol Campus. Accordingly, the Commission concludes that the Project furthers the following relevant elements of the Comprehensive Plan.
 - a. Land Use Element. *Policy LU-1.1.5 Urban Mixed Use Neighborhoods; Policy LU-1.3.2 Development Around Metrorail Stations; Policy LU-1.3.3 Housing Around Metrorail Stations; Policy LU-1.4.1 Infill Development; Policy LU-1.4.2 Long-Term Vacant Sites; Policy LU-2.2.4 Neighborhood Beautification; and Policy LU-3.2. Corporate Citizenship.*
 - b. Housing Element. *Policy H-1.1.3 Balanced Growth; Policy H-1.1.4 Mixed Use Development; Policy H-1.1.16 Housing in the Central City; and Policy H-1.3.5 Student Housing.*
 - c. Educational Facilities Element. *Policy EDU-3.3.1 Satellite Campuses; Policy EDU-3.3.2 Balancing University Growth and Neighborhood Needs; Policy EDU-3.3.3 Campus Plan Requirements; Policy EDU-3.3.4 Student Housing; and Policy-3.3.35 Transportation Impacts of Colleges and Universities*
 - d. Environmental Protection Element. *Policy E-1.1.3 Landscaping; and Policy E-3.1.1 Maximizing Permeable Surfaces.*
 - e. Transportation Element. *Policy T-1.1.4 Transit-Oriented Development.*
 - f. Parks, Recreation and Open Space Element. *Policy PROS-4.3.3 Common Open Space in New Development.*
 - g. Urban Design Element. *Policy UD-2.1.1 Design Character; UD-2.1.4 Architectural Excellence; UD-2.2.1 Neighborhood Character and Identity; and*

UD-2.2.5 Creating Attractive Facades.

- h. Central Washington Element. *Policy CW-1.1.1 Promoting Mixed Use Development; Policy CW-1.1.3 Incentives for Non-Office Users; Policy CW-1.1.4 New Housing Development in Central Washington; Policy CW-1.1.12 Reinforcing Central Washington's Design Features; Policy CW-1.1.13 Creating Active Street Life and Public Spaces; Policy CW-1.2.4 Recreation for New Downtown Residents and Workers; and Policy CW-2.8.1 NoMA Land Use Mix.*

(Ex. 2, Ex. 2G, Ex. 10.)

- 13. The Project's advances and supports several elements of the NoMA Vision Plan, which is a Small Area Plan for an area that includes the Property, including:

- a. H Street West Character Area. The NoMA Vision Plan sets forth an architectural vision for H Street west of North Capitol Street, including neighborhood-serving retail as well as new high-quality architecture that emphasizes brick articulation, reflects the inspiration of the existing red-brick GPO headquarters building, and promotes large window openings, consistent regulating lines, and architectural continuity. To this end, the Plan recommends increased design review. As described in the Findings of Fact, the Project includes retail space along H Street, architectural design of the Project is consistent with this design guidance, and the University's use of the voluntary design review process affords the opportunity for increased review recommended by the Plan. Accordingly, the Project is consistent with and fulfills these goals and recommendations.
- b. Land Use Mix. The Project provides additional residential development and activity west of the railroad tracks, which fulfills land use mix goals for the NoMA Vision Plan.
- c. Infrastructure and Transportation. The Project encourages the use of walking, bicycling, and transit, which satisfies infrastructure and transportation goals of the NoMA Vision Plan.
- d. Identity and Building Design. The Project design includes an attractive and pedestrian-friendly mix of uses and design elements at the ground floor, which furthers building design goals of the NoMA Vision Plan.
- e. Environment and Sustainability. The Project incorporates energy efficiency and renewable energy as well as water retention and reuse features, all of which promote the high-performance building design called for in the NoMA Vision Plan.

(Ex. 9A, Ex. 10.)

14. Downtown East Re-urbanization Strategy. The Downtown East Re-urbanization Strategy is a high-level planning document that sets forth an urban design vision for the Downtown East neighborhood. The Project furthers several elements of the Strategy, including enhancement of neighborhood vitality through adding a residential use in a primarily commercial area and promotion of Georgetown University as an institutional anchor for the Downtown East area. (Ex. 9A.)
15. No testimony or evidence was provided that the Project would be inconsistent with any element of the Comprehensive Plan, NoMA Vision Small Area Plan, the Downtown East Re-urbanization Strategy, or any other relevant planning document.

Satisfaction of the General Special Exception Criteria (X § 604(b))

16. The Commission concludes that the Project satisfies the second prong of the general design review criteria by meeting the general special exception criteria of Subtitle X, Chapter 9. The Commission concludes that the Project will be harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps for the MU-9 Zone and comply with the Zoning Regulations in terms of development standards, including FAR, lot occupancy, and proposed uses. Although the Project is not compliant with the height, rear yard, and side yard requirements of the Zoning Regulations, flexibility from these standards is envisioned by and constitutes an essential component of the Voluntary Design Review process.
17. The Commission also concludes that the Project will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, because the Project is designed to fit in and operate compatibly with neighboring properties and uses.
 - a. Based on OP's findings, the Commission concludes that the design of the Project and related flexibility will not have adverse effects on the light, air, and access to surrounding properties, because the building fills in a gap in the streetwall at a scale and density consistent with surrounding buildings, incorporates setbacks from the properties to the east and west to maintain light and air³, and provides continued access to the Gonzaga property to the north. Because the existing Gonzaga playing fields are located to the north, the rear yard flexibility will not adversely impact structures on the Gonzaga campus to the north.
 - b. The Commission finds the DDOT Report persuasive with respect to the adequacy of the University's TDM and loading management commitments to mitigate the potential transportation impacts of the Project and its related loading relief.

³ The University noted, however, that the 5-foot side yard does adhere to the requirements of a private easement on the Property for the benefit of the property to the east. (Ex.2, 9A.) Furthermore, the Zoning Regulations do not require any side yard for this type of structure in the MU-9 Zone. Subtitle G § 406.1. Therefore, the 5-foot side yard provides the property to the east with more separation than it is entitled to under the Zoning Regulations, and at least as much separation as it could have reasonably expected under the private easement.

- c. The Commission finds that the University's conditions of approval regarding Capital Bikeshare, curbside management, student parking policies, and ground-floor design transparency address the impacts identified by ANC 6E and ANC 6C.

Consistency with the Urban Design Criteria (X § 604(c))

18. The Commission concludes that the Project meets the third prong of the general design review criteria because it is consistent with each of the urban design criteria listed in Subtitle X § 604.7 and provided in italics below.

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

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

The Project features a pedestrian-friendly and street-activating design along H Street, characterized by active ground-floor uses visible through large storefront windows punctuated by brick-clad piers as well as multiple pedestrian entrances and ground-floor setbacks that widen the sidewalk at these entrances. Vehicular access is provided from the private service alley rather than directly from the street.

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

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

The Project will include substantial outdoor open space for building residents within two large courtyards, the size and orientation of which are made possible by the height and yard flexibility. Meaningful gathering spaces within the Project are also incorporated, particularly at ground and penthouse levels.

X § 604.7(c) - New development respects the historic character of Washington's neighborhoods, including:

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

The Project has been sensitively designed to fit within its immediate architectural context through its massing, scale, color, and materials; it at once fills in the gap in the urban streetwall with a design that complements the brick architecture of the GPO

headquarters and other surrounding buildings on H Street yet also incorporates design elements that evoke the color and materiality of the University's other nearby buildings.

X § 604.7(d) - Buildings strive for attractive and inspired façade design that:

- (1) Reinforces the pedestrian realm with elevated detailing and design of first and second stories; and*
- (2) Incorporates contextual and quality building materials and fenestration:*

The H Street façade design reinforces the public realm with an articulated, transparent base; at the upper stories, the façade provides an inspired architectural statement through the balance of its contextually-appropriate brick base and neoclassical rhythm and with contemporary design elements, including terracotta wrap as well as offset and irregular window patterning.

X § 604.7(e) - Sites are designed with sustainable landscaping:

The Project incorporates bioretention facilities at ground level and green roofs on the roof, both of which were commented on favorably by DOEE.

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

- (1) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;*
- (2) The development incorporates transit and bicycle facilities and amenities;*
- (3) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;*
- (4) Large sites are integrated into the surrounding community through street and pedestrian connections; and*
- (5) Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront:*

The Project advances connectivity through meaningful on-site bicycle parking and facilities as well as support for additional Capital Bikeshare in the neighborhood as well as the retention of the private service alley, which maintains off-street access to both the Property and Gonzaga.

19. The Project demonstrates superior design, site planning, safe pedestrian access, and other features that are superior to typical matter-of-right development. Because of this, the Project satisfies the urban design criteria of Subtitle X, Section 604.7 in a way that is superior to matter-of-right development of the Property.

Special Exception Approval for Relief from the Parking Requirements

20. Pursuant to Subtitle X Section 603.3 the Applicant also requested special exception

approval for relief from the vehicle parking requirements pursuant to Subtitle C, Section 703.2. The Commission concludes that the Application has met the standards as explained below:

C § 703.2 - The [Zoning Commission] may grant a full or partial reduction in the number of requirements parking spaces, subject to the general special exception requirements of Subtitle X and the Applicant's demonstration of at least one of the following:

...

(b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities; . . .

(e) The nature of the use or structure or the number of residents, employees, guests, customers, or clients who would reasonably be expected to use the proposed building or structure at one time would generate demand for less parking than the minimum parking standards;

The Project is a student residence hall located within a couple of blocks of the University's Capitol Campus. Furthermore, the Project is located in the downtown core and is well served by multiple modes of transportation, which student residents will be able to use to get to work, handle shopping and errands, and go out for entertainment and cultural activities. For those students that may have a need to travel to the Main Campus, the University's shuttle bus system as well as public transit alternatives provide direct connections.

As with the Project, the relief from the parking requirements satisfies the general special exception standards. In addition to the reasons set forth above, parking relief here is not inconsistent with the zone plan because the Property is across the street from property in the Downtown zone, which has no parking requirement, and parking relief is not likely to adversely affect the parking supply on neighboring streets because the Property is commercially zoned and its residents are therefore excluded from participating in the District's Residential Parking Permit system.

C § 703.3 – Any reduction in the required number of parking spaces shall only be for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in demand demonstrated by the applicant:

The Commission concludes that this prong only applies when an applicant for parking relief claims a reduction due to "physical constraints of the property" under Subtitle C, Section 703.2(a). Because the University is claiming relief under other justifications that are not tied to the physical parameters of the property or site, this criterion is inapplicable.

C § 703.4 – Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District

Department of Transportation, the implementation of which shall be a condition of the [Zoning Commission's] approval:

DDOT accepted the University's proposed TDM measures and they have been incorporated as conditions of approval of this order.

“Great Weight” to the Written Report of the ANC

21. The Commission is required to give “great weight” to the issues and concerns of the affected ANC expressed in its written report (§ 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21); D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2). To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).
22. ANC 6E, the “affected ANC” in this case, recommended approval subject to three conditions, and the University agreed to all three conditions. Therefore, the Commission finds the University has satisfied the ANC’s concerns. The Commission concurs with ANC 6E that the Project and related flexibility and relief should be approved.
23. Although not an “affected ANC,” ANC 6C also recommended approval subject to one condition, and the University agreed to that condition. Therefore, the Commission concludes that the University has satisfied the concerns of the ANC.

“Great Weight” to the Recommendations of OP

24. The Commission is also required to give great weight to the recommendations of OP. (D.C. Official Code § 6-623.04 and Subtitle Z § 405.8)

The Commission gives OP’s recommendation to approve the application great weight, concurs with OP’s, and concludes that the Applicant’s proposed conditions appropriately addressed OP’s questions and concerns. Accordingly, the Commission has given the requisite great weight to OP’s report and recommendation.

DECISION

After the close of the public hearing on December 12, 2019, in consideration of the case record and the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia took **FINAL ACTION** to **APPROVE** the voluntary design review application, including design flexibility and special exception approval, subject to the following conditions, standards, and flexibility:

1. **Project Development.** The Project shall be built in accordance with the plans and elevations dated November 22, 2019 and marked as Exhibit 9E1 – 9E4 of the record (the “Final Plans”), and with flexibility from the height, side yard, rear yard requirements, and the special exception relief requested, 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 provide a range in the approved number of dwelling units and number of beds of 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 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, 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 3,000 square feet of solar panels;
 - 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;
 - i. To vary the final design and layout of the indoor and outdoor amenity spaces to reflect their final design and programming, including the type and design of the shading structures located in the interior courtyards;
 - 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

on the plans approved by the order and are compliant with the District of Columbia's signage regulations.

2. **Inclusionary Zoning Exemption.** The Project shall be developed by the University as a residence hall exclusively for its students, faculty, and staff.
 - a. During the period of use as a residence hall, the University shall be permitted to house students from other educational institutions within the Project in a manner that is consistent with the customary housing of such students in residence halls (for example, students in exchange or short-term District-based programs and students who come to the District during the summer months).
 - b. In the event of a change in use of all or a portion of the building from a residence hall to another multifamily residential use that would be subject to the requirements of Subtitle C, Chapter 10, the provisions of that chapter shall apply to such use.
3. **Ground-Floor Windows.** The ground story shall devote at least 50% of the surface area facing H Street to display windows or pedestrian entrances having clear low-emissivity glass and ensure that the view through the display windows and pedestrian entrances is not blocked for at least 10 feet in from the building face.
4. **LEED.** The Project shall achieve certification from the U.S. Green Building Council at the level of LEED Gold v4, provided that the University 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.
5. **Transportation Management Plan.** For the life of the Project, the University shall adhere to the following transportation management plan measures.
 - a. The University will identify a Transportation Coordinator for the planning, construction, and operations phases of development. The Transportation Coordinator will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and their contact information will be shared with goDCgo.
 - b. Employees and students will be included in Georgetown University's annual commute survey. This survey data and a report of other TDM activities will be included in the Annual Transportation Monitoring Report presented to DDOT.
 - c. The Transportation Coordinator will develop and distribute marketing materials promoting various transportation options and encouraging participating in transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day). This will be done through the use of internal building communications or as a larger campus-wide communication effort to the Georgetown University community through email notices, newsletters, or website announcements.

- d. The Transportation Coordinator will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
- e. New residents will be provided welcome packets that include information about Metrorail, local bus lines (Circulator and Metrobus), the Georgetown University shuttle, Capital Bikeshare, and the most recent DC Bike Map. Brochures for all nearby transportation options will be available onsite. This information is also highlighted on the University's transportation webpage.
- f. Employees will receive information about carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future.
- g. The Transportation Coordinator will subscribe to goDCgo's residential newsletter.
- h. A transportation event for residents and employees will be held once per year. Examples include resident social, walking tour of local transportation options, goDCgo lobby event, transportation fair, WABA Everyday Bicycling seminar, bicycle safety/information class, bicycle repair event, etc.
- i. The Capital Bikeshare for Universities discount for students and the Capital Bikeshare Corporate Program discount for employees will be promoted and administered.
- j. The University will provide one (1) collapsible shopping cart (utility cart) for every 50 students, for a total of 10 for students/residents use to walk to the grocery shopping and run errands.
- k. The University will work with DDOT to evaluate the feasibility of providing a dedicated pick up and drop off zone along H Street.
- l. The University will continue to evaluate possibly extending shuttle service directly to the Property. This will include evaluating the student population residing in the building and deciding if a shuttle route would be appropriate in consideration of the other transportation options in immediate vicinity.
- m. Subject to reasonable, very limited exceptions, student residents shall not be permitted to bring a car to the proposed project. If the University determines that student resident of the proposed project requires a vehicle, the University will work with the student to identify a parking space for that student within nearby University-controlled parking or a nearby commercial parking facility.

- n. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has installed a Transportation Information Center Display (electronic screen) within the lobby containing information related to local transportation alternatives such as information about nearby Metrorail stations and schedules, Metrobus stops and schedules, carsharing locations, and nearby Capital Bikeshare locations indicating the availability of bicycles.
 - o. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has provided a long-term bicycle storage room as well as a shower and lockers for cyclists on the ground level of the building with a minimum of 100 bicycle parking spaces as shown on the Final Plans.
 - p. Prior to the issuance of a certificate of occupancy for the Project and subject to approval by public space officials as needed, the University shall demonstrate that it has installed 14 short-term bicycle parking spaces either in front of the Project as shown on the Final Plans or in the adjacent public space.
 - q. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has funded either the expansion of an existing Capital Bikeshare station or construction of a new Capital Bikeshare station within ½ mile of the Project.
 - r. Following the issuance of a certificate of occupancy for the Project, the University shall submit documentation used to summarize compliance with the transportation and TDM conditions of the Order (including, if made available, any written confirmation from the Office of the Zoning Administrator) to the Office of Zoning for inclusion in the IZIS case record of the case.
 - s. Following the issuance of a certificate of occupancy for the Project, the Transportation Coordinator will submit a letter to the Zoning Administrator, Office of Zoning, DDOT, and goDCgo every five (5) years (as measured from the final certificate of occupancy for the Project) summarizing compliance with the transportation and TDM conditions in the Order.
6. **Loading Management Plan.** For the life of the Project, the University shall adhere to the following loading management plan measures.
- a. A member of the Project’s maintenance team will coordinate with vendors and tenants to schedule deliveries and will coordinate with the community and neighbors to resolve any conflicts should they arise.
 - b. All tenants will be required to schedule deliveries that utilize the loading dock (any loading operation conducted using a truck 20’ in length or larger) and all loading activities are required to occur at the loading docks.

- c. The maintenance team will schedule deliveries such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when a berth will be available so as not to compromise safety or impede street or intersection function.
 - d. The maintenance team will monitor inbound and outbound truck maneuvers and will ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic along the alley (except during those times when a truck is actively entering or exiting a loading berth).
 - e. Trucks larger than a SU30 will not be permitted to make deliveries to the loading docks.
 - f. Trucks using the loading docks will not be allowed to idle and must follow 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 Map (godcgo.com/truckandbusmap).
 - g. The maintenance team will be responsible for disseminating suggested truck routing maps to the Project's tenants as needed, and to drivers from delivery services that frequently utilize the development's loading dock as well as notifying all drivers of any access or egress restrictions. The maintenance team will also distribute materials as DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with idling laws. The on-site maintenance team will also post these documents and notices in a prominent location within the service areas.
7. 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.)
8. 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.