

**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 the President and Directors of Gonzaga College**  
**(Voluntary Design Review at Square 622, Lot 93 [55 H Street, N.W.]**

**December 12, 2019**

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on December 12, 2019, to consider the application (the “Application”) of Georgetown University (the “University”) under Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016 [the “Zoning Regulations”] to which all references herein are made unless otherwise specified) for:

- Voluntary Design Review approval under Subtitle X, Chapter 6, with flexibility from the height, side yard, and rear yard requirements under Subtitle X § 603.1; and
- Special exception relief pursuant to Subtitle X § 603.3 and Subtitle C § 703.2 from the vehicle parking requirements of Subtitle C § 701.5.

Said relief is requested to construct a new residence hall with ground-floor retail on Lot 93 in Square 622 with an address of 55 H Street, N.W. ( the “Property”), owned by the President and Directors of Gonzaga College (“Gonzaga”) and located in the MU-9 zone. The Commission considered the Application pursuant to Subtitles X and Z. 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: (Exhibit [“Ex.”] 2D.)
  - Advisory Neighborhood Commission (“ANC”) 6E, the “affected ANC” per Subtitle Z § 101.8; and
  - All property owners within 200 feet of the Property.
2. On September 27, 2019, the University filed the Application, including the request for flexibility and special exception relief, on behalf of Gonzaga, the owner of the Property. (Ex. 1, 2A-2H.)
3. The Office of Zoning (“OZ”) published the Notice of Public Hearing on October 24, 2019, in compliance with Subtitle Z § 402.1. (Ex. 5.)

4. The University posted notice of the hearing on the Property on October 24, 2019, and maintained such notice in accordance with the Subtitle Z § 402.3. (Ex. 7, 12.)

### **Parties**

5. The University and ANC 6E were automatically parties to the proceeding pursuant to Subtitle Z § 403.5.
6. On December 12, 2019, ANC 6C filed a request for party status in support based on the proximity of the Property to ANC 6C, along with a request for a waiver of the 14-day advance filing requirement for such party status. (Ex. 18.)
7. At the hearing, the Commission granted the waiver and party status request for ANC 6C.

### **The Property**

8. The Property contains approximately 33,040 square feet of land area.
9. The Property is located mid-block on the unit block of H Street, N.W., between North Capitol Street, N.W. and 1<sup>st</sup> Street, N.W., in the Downtown East neighborhood. (Ex. 2.)
10. The Property is currently improved with a surface parking lot. (Ex. 2.)
11. 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.)
12. An entrance to the Union Station Metrorail station is located approximately two and a half blocks to the southeast of the Property. (Ex. 2.) Other nearby transportation options include multiple bus lines, Capital Bikeshare stations, car-sharing services, and the Judiciary Square Metrorail station entrance. (Ex. 8A1-8A2, 9A.)
13. The Georgetown University Law Center (the "Law Center") is located approximately one and a half blocks to the southwest of the Property. The University also recently acquired 500 1<sup>st</sup> Street, N.W., 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 1<sup>st</sup> 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.)
14. The Property is designated as a Land Use Change Area on the Comprehensive Plan's (the "CP") General Policy Map ("GPM"). 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. (Ex. 2.)

15. The Property is designated as High Density Commercial on the CP’s Future Land Use Map (“FLUM”). 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. (Ex. 2.)
16. The Property is also subject to the Citywide and Central Washington elements of the CP, and the NOMA Vision Plan and Development Strategy (which was adopted by the D.C. Council as a Small Area Plan [“SAP”]). (Ex. 2.)
17. The Property is located in the MU-9 zone, which is defined as a high-density mixed-use zone district by Subtitle G § 400.8.<sup>1</sup> (Ex. 2.)

### **The Application**

18. The University proposes to develop the Property with an 11-story residence hall (the “Building”) with:
  - Approximately 158 units containing a total of approximately 476 beds;
  - Ground-floor retail and student amenity space; and
  - A habitable penthouse containing communal recreation space for the building residents.
19. The Building is proposed to have:
  - A height of 110 feet, approximately 20 feet above the maximum height permitted in the MU-9 zone (Subtitle G § 403);
  - A maximum floor area ratio (“FAR”) of 6.5, within the requirements of the MU-9 zone (Subtitle G § 402); and
  - A lot occupancy of approximately 60%, within the requirements of the MU-9 zone (Subtitle G § 404). (Ex. 2.)
20. The Building complies with all other development standards of the MU-9 zone except for:
  - Rear yard – a 23-foot rear yard is required based on the Building’s height (Subtitle G § 405), but no rear yard is proposed;
  - Side yard – 18-foot, 4-inch side yards are required based on the Building’s height (Subtitle G § 406); the west side yard complies, but the east side yard varies with the smallest portion measuring five feet; and
  - Vehicular parking – 26 parking spaces are required (Subtitle G § 701.5), but no zoning compliant spaces are proposed. (Ex. 2, 9A.)
21. Building Uses. The Building 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 Plan to promote growth at locations other

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<sup>1</sup> 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 zones. 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, 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. (Ex. 2.)

than the Main Campus. (Z.C. Order No. 16-18; Ex. 2; Transcript [“Tr.”] of December 12, 2019.)

22. Building Façade Design. The Building incorporates a mix of high-quality materials and façade elements to create a design that complements the immediate surroundings yet also identifies itself as a unified element of 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.)
23. Ground-Floor Design. The ground-floor design of the Building incorporates a number of street-activating and pedestrian-friendly features, including a pair of entrances for the retail and residential portions of the Building 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.)
24. Sustainable Design. The University is targeting a minimum certification of Gold under the LEED v4 rating system. Among other features, the Building incorporates photovoltaic panels on both the penthouse roof and on the upper-story south-facing façade. (Ex. 2, 9A.)
25. Vehicular Access and Parking. The Building contains on-site loading and service spaces within the Building, accessed from the private service alley on the western portion of the Property. The Building does not contain any underground parking or other zoning-compliant parking spaces, but three parking spaces are located within the ground level of the Building and are able to be accessed through the loading spaces when the loading spaces are not in use. (Ex. 2, 9A.)
26. Bicycle Parking. The Building 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 Building 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.)
27. Penthouse. The Building 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 § 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 § 1502.1. (Ex. 2, 9A, 9E1-9E4.)

28. Inclusionary Zoning. The Building, other than the penthouse, is exempt from Inclusionary Zoning (“IZ”) requirements, pursuant to Subtitle C § 1001.6(c), because the University is developing the Building to be used exclusively for its students, faculty, and staff. The Building would be subject to IZ requirements if it is converted to a non-exempt residential use, as provided by Subtitle C § 1001.8. The penthouse space is communal rooftop recreation and amenity space that is exempt from the IZ requirements pursuant to Subtitle C § 1500.11. (Ex. 2, 9A.)
29. Comprehensive Transportation Review (“CTR”). On October 28, 2019, the University submitted a Transportation Statement for the Building 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 (“LDM”) measures for the Building, which were later updated and memorialized in the Applicant’s proposed conditions of approval. (Ex. 9D.)

### **Flexibility and Relief Requested**

30. Voluntary Design Review. The University requested Voluntary Design Review approval to permit the following areas of flexibility pursuant to Subtitle X § 603:
- a. Height. The Building will be approximately 110 feet in height, 20 feet above the maximum height permitted by-right but within the maximum permitted height with design flexibility in the MU-9 zone. (Subtitle X § 603.2.)<sup>2</sup> The additional height permits more flexibility in building design and the creation of larger outdoor spaces; (Ex. 2, 9A, 10.)
  - b. Rear Yard. The Building is designed as a roughly U-shaped building. The two wings of the Building 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 Building also creates two large courtyards located at the rear of the Building, 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 Building and nearest buildings to the north; and (Ex. 2, 9A.)
  - c. Side Yards. The Building is set back a minimum of 18 feet 8 inches from the west property line to maintain a private service alley that serves the Building as well as Gonzaga. This complies with the side yard requirement. The bulk of the Building is set back 34 feet from the east property line, but the front portion of the building narrows the side yard to five feet in order to close the gap between the buildings and create a more consistent streetwall along H Street, N.W. This five-foot-wide side yard for just the front portion of the building does not comply with the side yard requirements. (Ex. 2, 9A.)

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<sup>2</sup> 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.

31. Special Exception from Vehicle Parking Requirements. The University requested special exception relief pursuant to Subtitle X § 603.3 and Subtitle C § 703.2 from providing the 26 vehicular parking spaces required by Subtitle C § 701.5 in order to provide no zoning-compliant parking spaces in the Building. (Ex. 2, 9A.)
32. Design Flexibility from Approved Plans. The University requested 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. (Ex. 9D.)

#### The University's Case

33. The University filed three submissions in support of the Application in addition to testimony at the Commission's December 12, 2019, public hearing:
  - A September 30, 2019, submission ("University's Initial Submission"); (Ex. 2A, 2A1-2H.)
  - A November 22, 2019, submission ("University's Pre-Hearing Submission"); and (Ex. 9A, 9D, 9E1-E4.)
  - A December 12, 2019, submission ("University's Hearing Submission"). (Ex. 14, 15.)
34. The University's Initial Submission asserted that the Application met the Voluntary Design Review standards for the requested flexibility, as well as the standards for the requested special exception from vehicle parking requirements.
35. The University asserted that the Building furthers the following relevant elements of the CP:
  - 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-3.2.2 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*; and
- h. Central Washington Element. Policy *CW-1.1.1 Promoting Mixed Use Development*; *CW-1.1.3 Incentives for Non-Office Users*; *CW-1.1.4 New Housing Development in Central Washington*; *CW-1.1.12 Reinforcing Central Washington's Design Features*; *CW-1.1.13 Creating Active Street Life and Public Spaces*; *CW-1.2.4 Recreation for New Downtown Residents and Workers*; and *CW-2.8.1 NoMA Land Use Mix*.

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

- 36. The University's Pre-Hearing Submission included a supplemental statement, proposed conditions of approval, and revised plans, which:
  - a. Supplemented the Initial Submission's evaluation of the Building's satisfaction of the burden of proof for the special exception from the parking requirements;
  - b. Evaluated the Building's consistency with the SAP and incorporated design changes intended to further this consistency; and
  - c. Proposed conditions of approval, including:
    - Commitments to LEED v4 Gold certification;
    - The TDM and LDM plans requested by DDOT; and
    - The transportation measures recommended by ANC 6E.
- 37. The Application asserted that the Building's design advances and supports several elements of the SAP, including:
  - a. H Street West Character Area. The SAP 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, that 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 SAP recommends increased design review. The Building is consistent with and fulfills these goals and recommendations with the Building's retail space along H Street, N.W.; the Building's architectural design that is consistent with this design guidance; and the University's use of the voluntary design review process

that affords the opportunity for increased review recommended by the Plan, as laid out in the Findings of Fact;

- b. Land Use Mix. The Building provides additional residential development and activity west of the railroad tracks, which fulfills the mixed-use goals of the SAP;
- c. Infrastructure and Transportation. The Building encourages the use of walking, bicycling, and transit, which satisfies infrastructure and transportation goals of the SAP;
- d. Identity and Building Design. The Building design includes an attractive and pedestrian-friendly mix of uses and design elements at the ground floor, which furthers building design goals of the SAP; and
- e. Environment and Sustainability. The Building 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 SAP.

(Ex. 9A, 10.)

38. Downtown East Re-urbanization Strategy. The Application asserted that the Building furthers several elements of the Downtown East Re-urbanization Strategy, a high-level planning document that sets forth an urban design vision for the Downtown East neighborhood, 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.)
39. The University's Hearing Submission included a photograph of the proposed materials board for the Building and proposed additional conditions based on feedback from OP and ANC 6C:
  - a. Commitments regarding providing inclusionary zoning in the event of a change in use of the Building as requested by OP; and
  - b. A commitment regarding ground-level clear windows and pedestrian entrances along the Building's H Street façade.
40. At the December 12, 2019, public hearing, the University presented the Application and responded to questions from the Commission regarding the Building and its impacts, including its solar panels and potential changes to the University shuttle bus system.
41. The University presented the following witnesses on its behalf at the December 12, 2019, public hearing:
  - Graham Wyatt, FAIA, Robert A.M. Stern Architects, as an expert in architecture;



- Chris Kabatt of Wells & Associates, as an expert in transportation planning; and
  - 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, on behalf of the University.
42. 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 Building’s sustainable design features.

### **Responses to the Application**

#### **Office of Planning Report**

43. On December 2, 2019, OP filed a report (the “OP Report”) recommending approval of the Application, including the related special exception relief from the parking requirements, with two recommendations: (Ex. 10.)
- The approval includes a condition that the Building be subject to IZ requirements if the Building was “no longer used as a student residence hall exclusively for Georgetown University students,” and converted to another type of residential use; and
  - Some of the Application’s proposed areas of design flexibility from the approved plans be refined to align with “standard” flexibility language proposed by OP in pending Z.C. Case No. 19-05.
44. The OP Report concluded that the University had demonstrated that the Building:
- Satisfied each of the relevant design review criteria; OP also concluded that the proposed height, rear yard, and side yard flexibility were appropriate;
  - Is not inconsistent with the designation for the Property on the CP’s FLUM and GPM, the policies and goals of the Citywide and Central Washington elements of the CP, and the SAP; and
  - Had met the burden of proof for the special exception relief from the parking requirements. (Ex. 10.)

#### **Department of Energy and the Environment (“DOEE”) Response**

45. The OP Report reported DOEE’s comments that the Building incorporated numerous positive sustainable features, including the LEED v4 Gold certification, the courtyards serving as bioretention areas, solar panels, and green roofs. (Ex. 10.)

#### **District Department of Transportation Report**

46. DDOT filed a December 2, 2019, report (the “DDOT Report”) concluding it had no objection to the Application provided the University implement its TDM and LDM plans as memorialized in the University’s proposed conditions of approval. The DDOT Report supported the proposed parking relief given the numerous nearby transit options, campus shuttle system, TDM, and University policies regarding student vehicles. The DDOT Report recommended continued coordination on the public realm elements of the Building within the public right-of-way, including streetscape design and curbside management. (Ex. 11.)

### ANC 6E Report

47. ANC 6E filed a written report dated November 20, 2019 (the “ANC 6E Report”) that stated that at a duly-noticed, regularly-scheduled public meeting, with a quorum present, ANC 6E voted to support the Application’s requested design review flexibility and related special exception relief, conditioned on the University: (Ex. 13.)
- Exploring the expansion of Capital Bikeshare near the Building;
  - Working with DDOT to consider curbside management in front of the Building on H Street;
  - Applying existing policies that prohibit students from bringing a car to the proposed Building; and
  - Committing to work with students to identify off-street parking in rare exceptions where students require a vehicle.

### ANC 6C Report

48. ANC 6C filed a written report dated December 12, 2019 (the “ANC 6C Report”), stating that at a duly-noted, regularly-scheduled public meeting, with a quorum present, it voted to support the Application’s requested design review flexibility and related special exception relief, subject to the condition that the University commit to devote at least 50% of the surface area facing H Street, N.W. to display windows or entrances having clear glass and ensure visibility is not significantly blocked. (Ex. 17.)
49. Commissioner Mark Eckenwiler testified on behalf of ANC 6C at the public hearing.

### Other Responses

50. No persons or entity filed a written response to the Application or appeared or testified in opposition to the Application.

## CONCLUSIONS OF LAW

### Design Review Approval

1. Section 8 of the Zoning Act of 1938 authorizes the Commission to review and approval of the Application. (D.C. Official Code § 6-641.01 (2019 Repl.).)
2. Pursuant to Subtitle X § 600.1, the purpose of the design review process is to:
  - (a) *Allow for special projects to be approved by the Zoning Commission after a public hearing and a finding of no adverse impact;*
  - (b) *Recognize that some areas of the District of Columbia warrant special attention due to particular or unique characteristics of an area or project;*
  - (c) *Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density;*

- (d) *Promote high-quality, contextual design; and*
- (e) *Provide for flexibility in building bulk control, design, and site placement without an increase in density or a map amendment.*

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 §§ 601.2 and 603.1.

3. The Commission concluded that the Application met the eligibility requirements for a Voluntary Design Review approval as follows:
  - There is no minimum area requirement for a Voluntary Design Review application in the MU-9 zone; (Subtitle X § 601.3.)
  - The Property is a single parcel and so meets Subtitle X § 601.4's requirement that all of the property included in a Voluntary Design Review application is contiguous or separated only by a public street, alley, or right-of-way; and
  - The Building's proposed height of 110 feet is within the maximum 130 feet allowed for a PUD in the MU-9 zone (Subtitle X § 303.7), which is the maximum flexibility for height in a Voluntary Design Review application pursuant to Subtitle X § 603.2.

General Design Review Criteria (Subtitle X § 604)

4. Subtitle X § 604 requires that in order for the Commission to approve a Design Review application it must:
  - *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; (Subtitle X § 604.5.)*
  - *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; (Subtitle X § 604.6.)*
  - *Review the urban design of the site and the building according to certain enumerated criteria set forth below; and (Subtitle X § 604.7.)*
  - *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. (Subtitle X § 604.8.)*
5. The Commission concludes that the Application meets the general design review criteria as elaborated below.

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

6. The Commission concludes that the Application meets the first prong of the general design review criteria – to not be inconsistent with the CP – because the Application does not contradict any provisions of the CP and in fact furthers several principles and elements of the CP as detailed below.
7. The Commission concludes that the Building furthers the goals of the CP's GPM, which designates the Property as a Land Use Change area. The Building 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, 10.)

8. The Commission concludes that the Application furthers the goals of the CP's FLUM designation of High Density Commercial because the 11-story Building will provide a mix of appropriate uses, and is not inconsistent with this designation. (Ex. 2, 10.)
9. The Commission concludes that the Application is not inconsistent with the CP, and furthers many of its elements, by redeveloping a vacant, transit-adjacent, 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, N.W. with 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.
10. The Commission concludes that the Application furthers several elements of the SAP as well as the Downtown East Re-urbanization Strategy, by adding a residential use in a primarily commercial area, by improving the pedestrian realm, and by using a high-performance architectural design in concert with the existing architectural fabric.

Satisfaction of the General Special Exception Criteria (Subtitle X § 604.6.)

11. The Commission concludes 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. The general special exception criteria require that a project:
  - a. Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and
  - b. Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. (Subtitle X § 901.2.)
12. The Commission concludes that the Building 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 Building is not compliant with the height, rear yard, and side yard requirements of the Zoning Regulations, flexibility from these standards is permissible under the Voluntary Design Review process.

13. The Commission also concludes that the Building will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, because the Building is designed to fit in and operate compatibly with neighboring properties and uses as follows:
- a. Based on OP's analysis and recommendations, the Commission concludes that the design of the Building 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 air<sup>3</sup>, 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 LDM commitments to mitigate the potential transportation impacts of the Building and its related loading relief; and
  - 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 (Subtitle X § 604.7.)

14. The Commission concludes that the Building 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:

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

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

The Building 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

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<sup>3</sup> The University noted, however, that the five-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 five-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.

setbacks that widen the sidewalk at these entrances. Vehicular access is provided from the private service alley rather than directly from the street;

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

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

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

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

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

The Building has been sensitively designed to fit within its immediate architectural context through its massing, scale, color, and materials; it 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 and also incorporates design elements that evoke the color and materiality of the University's other nearby buildings;

*Subtitle 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 while 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;

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

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

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

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

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

15. The Building demonstrates superior design, site planning, safe pedestrian access, and other features that are superior to typical matter-of-right development. Because of this, the Building satisfies the urban design criteria of Subtitle X § 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**

16. Pursuant to Subtitle X § 603.3, the Commission is authorized to consider special exception relief simultaneously with a Design Review application, subject to all applicable special exception criteria.
17. Pursuant to Subtitle C § 703.2, the Application requested special exception approval for relief from the vehicle parking requirements of Subtitle C § 701.5. The Commission concludes that the Application has met these special exception standards as detailed below:

Subtitle 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 Building is a student residence hall located within a couple of blocks of the University's Capitol Campus. Furthermore, the Building 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 Building, 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;

*Subtitle 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 § 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; and

*Subtitle 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 Recommendations of OP**

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



19. The OP Report recommended approval of the Application, subject to the condition that IZ should apply if “the building or a portion of the building [is] no longer used as a student residence hall **exclusively for Georgetown University students.**” (Ex. 10 at 1 [emphasis added].)
20. The Commission accepts the University’s slightly different IZ exemption condition that permits the University to house, in addition to Georgetown University students, “students from other educational institutions within the Building 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).” (Ex. 14.) The Commission concludes that the University’s proposed condition preserves the spirit of OP’s proposal, which is that IZ applies to the Building if it is converted to another use, while at the same time reflects the true nature of the University’s proposed student residence hall use. The Commission therefore concurs with OP’s analysis and recommendation to approve the Application.

#### **“Great Weight” to the Written Report of the ANC**

21. The Commission must give “great weight” to the issues and concerns of the affected ANC expressed in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy 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. The ANC 6E Report recommended approval subject to three conditions that addressed its issues and concerns. The Commission concludes that the University’s acceptance of these conditions has addressed the ANC’s issues and concerns and therefore concurs with ANC 6E that the Application should be approved.
23. The ANC 6C Report also recommended approval subject to one condition that addressed its issues and concerns. The Commission concludes that the University’s acceptance of these conditions has addressed the ANC’s issues and concerns and therefore concurs with ANC 6E that the Application should be approved.

### **DECISION**

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission concludes that the University has satisfied its burden of proof and therefore **APPROVES** the Application for:

- Voluntary Design Review approval under Subtitle X, Chapter 6, with flexibility from the height, side yard, and rear yard requirements under Subtitle X § 603.1; and
- Special exception relief pursuant to Subtitle X § 603.3 and Subtitle C § 703.2 from the vehicle parking requirements of Subtitle C § 701.5.

Said approval is subject to the following conditions, standards, and flexibility:

1. **Building Development.** The Building shall be built in accordance with the plans and elevations dated November 22, 2019, and marked as Exhibit 9E1-9E4 of the record (the “Approved Plans”), and with flexibility from the height, side yard, and 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 Approved 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 Approved 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 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 Approved 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 Building 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; and
  - 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 Building shall be developed by the University as a residence hall exclusively for its students, faculty, and staff as follows:
- a. During the period of use as a residence hall, the University shall be permitted to house students from other educational institutions within the Building 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); and
  - 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 Inclusionary Zoning 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 Building 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 Building as long as the total number of LEED points achievable for the Building does not decrease below the minimum required for the foregoing LEED standard.
5. **Transportation Management Plan. For the life of the Building,** 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 Building 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 will also be 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 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 Building. If the University determines that student resident of the proposed Building 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 Building**, 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 Building**, 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 Approved Plans;
- p. **Prior to the issuance of a certificate of occupancy for the Building** 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 Building as shown on the Approved Plans or in the adjacent public space;
- q. **Prior to the issuance of a certificate of occupancy for the Building**, 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 Building;
- r. **Following the issuance of a certificate of occupancy for the Building**, 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; and

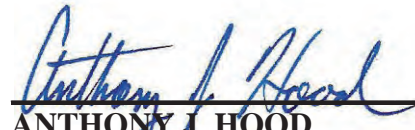
- s. **Following the issuance of a certificate of occupancy for the Building**, the Transportation Coordinator will submit a letter to the Zoning Administrator, Office of Zoning, DDOT, and goDCgo every five years (as measured from the final certificate of occupancy for the Building) summarizing compliance with the transportation and TDM conditions in the Order.
6. **Loading Management Plan. For the life of the Building**, the University shall adhere to the following loading management plan measures:
    - a. A member of the Building’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 feet 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, § 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](http://godcgo.com/truckandbusmap)); and
    - g. The maintenance team will be responsible for disseminating suggested truck routing maps to the Building’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 a building permit must be filed as specified in Subtitle Z § 702.2. Construction must begin within three years after the effective date of this Order as specified in Subtitle Z § 702.3.

**VOTE (December 12, 2019):**      **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 19-20 shall become final and effective upon publication in the *D.C. Register*; that is, on May 1, 2020.

  
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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
\_\_\_\_\_  
**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.