

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ZONING COMMISSION



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 20-18

Z.C. Case No. 20-18

1319 South Capitol Owner, LLC

(Design Review of Buildings and Structures on South Capitol Street @ Square 653, Lots 14, 15, 53, 54, 60-64, 68, 70, 810, 811, and 831, 1319 South Capitol Street, S.W.)

August 18, 2021

Pursuant to notice, at its October 26, 2020 virtual public hearing, the Zoning Commission (the “Commission”) considered the application (the “Application”) of 1319 South Capitol Owner, LLC (the “Applicant”) requesting the following relief under the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified) for Lots 14, 15, 53, 54, 60-64, 68, 70, 810, 811, and 831 in Square 653, with an address of 1319 South Capitol Street, S.W. (the “Property”) in the CG-2 zone:

- CG Design Review approval required by Subtitle K § 512 and Subtitle X, Chapter 6; with
- Design review flexibility pursuant to Subtitle X § 603.1 from:
  - Subtitle K § 502.7’s minimum rear yard requirements;
  - Subtitle K § 502.9’s minimum court requirements; and
  - Subtitle K § 510.1(b)(1)’s setback requirements for buildings fronting on South Capitol Street, S.W.

to construct an 11-story building incorporating parts of six of the Property’s existing rowhouses.

The Commission considered the application for the Project pursuant to Subtitles X and Z. For the reasons below, the Commission hereby **APPROVES** the application.

**FINDINGS OF FACT**

**I. BACKGROUND**

**PARTIES**

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

## NOTICE

3. Pursuant to Subtitle Z § 301.6, on December 27, 2019, the Applicant mailed a Notice of Intent to file a Design Review application to all property owners within 200 feet of the Property and to ANC 6D (Exhibit [“Ex.”] 3D).
4. Pursuant to Subtitle Z § 402.1, the Office of Zoning (“OZ”) provided notice of the October 26, 2020 public hearing by:
  - An August 7, 2020 letter with the Notice of Public Hearing (Ex. 6, 7) sent to:
    - The Applicant;
    - ANC 6D;
    - ANC SMD 6D06, in whose district the Property is located;
    - The Office of ANCs;
    - The Office of Planning (“OP”);
    - The District Department of Transportation (“DDOT”);
    - The District of Columbia Housing Authority (“DCHA”);
    - The Office of the Attorney General;
    - The Department of Energy and the Environment (“DOEE”);
    - The Ward 6 Councilmember, in whose ward the Property is located;
    - The Chair of the Council and the At-Large Councilmembers; and
    - The owners of property within 200 feet of the Property; and
  - Publication of the Notice of Public Hearing in the August 14, 2020 edition of the *D.C. Register* (Ex. 4, 7).
5. Pursuant to Subtitle Z §§ 402.8 and 402.9, the Applicant filed an affidavit supported by photos stating that on September 15, 2020, it had posted the required notice of the public hearing (Ex. 10).
6. Pursuant to Subtitle Z §§ 402.10, the Applicant filed an affidavit attesting that it had maintained the posting of the notice on the Property until October 20, 2020 (Ex. 22).
7. Pursuant to Subtitle Z § 101.9, the Applicant requested the Commission grant a waiver of OZ’s requirement that the affidavits of posting and maintenance be notarized due to COVID-19, which the Commission granted at the public hearing (Ex. 9, Transcript of the October 26, 2020 public hearing [“Tr.”] at 6).

## THE PROPERTY

8. The Property is an “L”-shaped parcel comprised of approximately 37,453 square feet of land area (Ex. 3).
9. The Property is currently improved with a surface parking lot and eight vacant rowhouses (Ex. 3).
10. The Property is located between the Buzzard Point and Navy Yard neighborhoods in Ward 6 and is bounded:
  - To the north – by N Street, S.W.;

- To the east – by South Capitol Street, S.W., across which is Nationals Park;
  - To the south – by the Camden South Capitol Apartments (subject to Z.C. Order No. 06-41); and
  - To the west – by an alley and Syphax Village (Ex. 3).
11. The Property is two blocks east of the Greenleaf recreation center and housing development and two blocks north of the Anacostia River.
  12. The Property is less than a half mile from the Navy Yard-Ballpark Metrorail Station and one block south of the bus lines along M Street.

**ZONING**

13. Subtitle K § 502.1 states that the Property’s CG-2 zone is intended to permit medium-density mixed-use development with a focus on residential use and to provide for the establishment of South Capitol Street as a monumental civic boulevard.

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

14. The Generalized Policy Map (“GPM”) of the CP designates the Property as a Land Use Change Area, in which the CP’s Framework Element (2020) establishes that redevelopment should “encourage and facilitate new development and promote the adaptive reuse of existing structures ... [and incorporate] exemplary site and architectural design and innovative environmental features, compatible with nearby neighborhoods, protect cultural and historic assets, and provide significant affordable-housing and employment opportunities” (CP §§ 225.11-225.12).
15. The CP’s Future Land Use Map (“FLUM”) designates the Property for Mixed Use - Medium Density Residential and Moderate Density Commercial uses, which the CP’s Framework Element (2020) defines as follows:
  - Medium Density Residential – generally for mid-rise apartment buildings, with density typically between 1.8 and 4.0, although developments complying with Inclusionary Zoning (“IZ”) may have greater density (CP § 227.7);
  - Moderate Density Commercial – for shopping and service areas ranging from small business districts serving surrounding neighborhoods to larger business districts with density typically between 2.5 and 4.0, although developments complying with IZ may have greater density (CP § 227.11).
16. The Property falls under the CP’s Lower Anacostia/Near Southwest Area Element and is also included in the Southwest Neighborhood Plan, adopted by the D.C. Council as a Small Area Plan (the “SAP”) (Ex. 3, 12).

**II. THE APPLICATION**

**THE PROJECT**

17. The Application, as updated (Ex. 12), proposes to:
  - Construct a new residential building (the “Building”) that incorporates portions of four existing rowhouses on N Street, S.W., with:

- Approximately 269,661 square feet of gross floor area;
  - A maximum height of 110 feet and 11 stories;
  - Approximately 310 residential units;
  - Approximately 180 vehicular parking spaces; and
  - Approximately 100-107 bicycle parking spaces; and
  - Retain and renovate two existing rowhouses on South Capitol Street, S.W., to be used for either commercial or residential use (collectively with the Building, the “Project”).
18. The Project will have a floor area ratio (“FAR”) of 7.2 and will occupy approximately 69% of the Property (Ex. 3).
19. The Project’s residential units will begin on the ground floor with a variety of residential unit sizes, including walk-out units fronting in N Street, S.W., and the three new “townhouse units” embedded in the new building and fronting on South Capitol Street, S.W. (Ex. 3).

**APPLICANT’S SUBMISSIONS**

20. In addition to the initial application of July 24, 2020 (Ex. 1-3F5, the “Initial Application”), the Applicant made the following submissions to the record in support of the Application:
- A September 11, 2020 Comprehensive Transportation Review (Ex. 11-11B, the “CTR”) that concluded that the Project would not have a detrimental impact assuming that the site design elements, intersection mitigation measures, and proposed Transportation Demand Management (“TDM”) plan were implemented;
  - An October 6, 2020 submission (Ex. 12-12C, the “Pre-Hearing Statement”) that included the following plan revisions and information in response to comments from OP and the ANC:
    - Provision of canopies over the entrances of the South Capitol Townhouses which would encroach into the required 15-foot setback;
    - Inclusion of a dog run on the roof of the Building;
    - Changes to the building entrance;
    - Addition details for the rear façade;
    - Provision of historic and community fabric design elements;
    - Inclusion of rooftop solar panels;
    - Additional information including a viewshed analysis, rear alley renderings, and material details; and
    - Additional analysis about the Application’s consistency with the SAP;
  - Agreements (collectively, the “Neighbor Agreements”) that the Applicant had entered into with the community and neighbors:
    - The Good Neighbor Agreement with Syphax Village, dated as of October 14, 2020 (Ex. 16A, the “Good Neighbor Agreement with Syphax Village”);
    - The Good Neighbor Agreement with owners of properties along South Capitol Street and N Street, dated as of October 11, 2017 (Ex. 16A, the “Good Neighbor Agreement with Adjacent Neighbors”);
    - The Crane Overswing Agreements with adjacent owners, dated as of October 11, 2017 (Ex. 16B1-16B3, the “Crane Overswing Agreements”); and

- The South Capitol Development Agreement with SWNA, dated as of October 4, 2019 and amended April 29, 2020 (Ex. 16C1-16C3, the “SWNA Development Agreement”); and
  - Presentation materials for the October 26, 2020 virtual public hearing (Ex. 40A1-40A2, the “Hearing Presentation”) including:
    - Drawings illustrating the Project’s design, including the Building’s form and related setbacks facing the existing townhouses on South Capitol Street, S.W. (Ex. 40A1);
    - A shadow study demonstrating that the Project’s most significant impacts would be in the afternoons during the winter (Ex. 40A2, pg. 31); and
    - Confirmation that the Applicant had agreed to the conditions of:
      - The OP Report, as defined below;
      - The DDOT Report, as defined below, regarding the extension of the easement and the additions to the TDM plan; and
      - The ANC Report, as defined below, including the stipulation that the townhouses along N Street, S.W., would be designated as IZ units if permitted by the relevant District agencies.
21. At the October 26, 2020 public hearing, the Applicant presented the Project, including:
- Testimony from:
    - Greg Van Wie, on behalf of the Applicant;
    - Caroline Warlick Levins of Beyer Blinder Belle, the Project architect;
    - Loren Helgason of Studio 39, the Project’s landscape architect;
    - Michael Babcock of Sustainable Building Partners, the Project’s sustainability consultant; and
    - Erwin Andres of Gorove Slade, the Applicant’s transportation consultant; and
  - Responses to the ANC Report’s issues and concerns as follows:
    - The Applicant agreed to:
      - Incorporate a pet relief area and maintenance details on the relevant detail sheets;
      - Included components of landscape management plan;
      - Provide a construction management plan and incorporate it into the conditions of the approval;
      - Provide historic signage and incorporate it into the conditions of the approval; and
      - Provide regular updates to ANC 6D on the status of the project, including changes that occur to the design of the N Street, S.W., rowhouses, the overall IZ unit mix, and the status of the live/work units;
    - The Applicant noted that it would be premature to agree to providing air purifier units and that the Voluntary Clean-up Program (“VCP”) process would allow for further discussion of the necessity of such equipment; and
    - The Applicant disagreed with the ANC Report’s preferred choice of brick because the Applicant did not want to mimic the historic Syphax School but rather to select a color that complemented that structure and surrounding context, specifically the coloration from the James Creek community.
22. Following the public hearing, the Applicant filed a November 23, 2020 submission (Ex. 43-43G, the “Post-Hearing Statement”) that included:

- Final plans for the Project (Ex. 43A);
- An explanation of the Project’s consistency with the CP and SAP (Ex. 43C);
- A revision to the Applicant’s affordable housing commitment providing that:
  - The total IZ set-aside for the Project is a minimum of approximately 23,016 gross square feet, including approximately 544 gross square feet representing 8% of the total area of penthouse residential units;
  - The IZ units will all be reserved for households earning no more than 60% of the Median Family Income (“MFI”) as rental units, except one unit that will be provided at 50% MFI;
  - The location of the IZ units, including the location of such units in the four N Street “rowhouse units,” is subject to approval by the Department of Consumer and Regulatory Affairs (“DCRA”) and the Department of Housing and Community Development; and
  - The allocation concept is in accordance with the SWNA Development Agreement;
- An analysis of the impacts of the Project on the surrounding area with an examination of gentrification (Ex. 43E);
- A study by Robert Charles Lesser & Co. (RCLCO) (Ex. 43F) concluding that:
  - Market forces are driving the increases in housing costs and demographic changes and additional housing was necessary to help address housing supply constraints and to assist in reducing rents; and
  - The Project’s affordable housing worked to counteract displacement and gentrification, and that the Project furthered the CP and SAP’s concepts of equitable development and inclusivity;
- A statement that the Applicant agreed to a revised access easement with the following terms:
 

*Extend the proposed 12-foot easement northward to the edge of Lot 830 to allow for access to Lots 829/830 when those properties redevelop. Also, provide an easement across the private portion of the 10-foot alley (Lot 831) so that the rowhouses can exit out the 16-foot public alley. A copy of the easement(s) should be provided to DDOT Planning and Sustainability Division when it is signed by all parties;*
- Revisions to the TDM and loading plans reflecting the Applicant’s agreement to DDOT’s conditions (Ex. 43); and
- Draft Findings of Fact and Conclusions of Law (Ex. 43G).

**RELIEF REQUESTED**

23. The Application requested the following relief:
- Capitol Gateway (“CG”) Design Review approval required by Subtitle K § 512 and Subtitle X, Chapter 6; and
  - Design review flexibility pursuant to Subtitle X § 603.1 from:
    - Subtitle K § 502.7’s minimum rear yard requirements;
    - Subtitle K § 502.9’s minimum court requirements; and
    - Subtitle K § 510.1(b)(1)’s setback requirements for buildings fronting on South Capitol Street, S.W.



## **APPLICANT'S JUSTIFICATION**

### **Specific CG Design Review Criteria (Subtitle K § 512)**

24. The Project complies with Subtitle K § 512.3(a)'s requirement to achieve the objectives of the CG by incorporating residential and potentially commercial uses. The high-quality architectural design and landscaping will help to establish South Capitol Street as a monumental civic boulevard, framing the viewsheds of the Capitol and the Anacostia River along South Capitol Street. The Project will incorporate commemorative elements into the design, including murals and signage among other items, referencing the history of the neighborhood and the structures on the Property. These historical elements will help enhance the streetscape along this important boulevard as it leads from the Anacostia River to the Capitol.
25. The Project complies with Subtitle K § 512.3(b)'s requirement to achieve the CG desired use mix by including approximately 310 residential units, including 25 affordable units and potentially ground floor commercial uses. The residential units will range from studios to three-bedrooms and will include townhouse-style units. The surrounding area consists of many commercial uses, including drinking and eating establishments to serve the adjacent Ballpark. The Project will complement these uses, additional residential density and potentially a degree of ground floor commercial/retail or neighborhood-serving uses.
26. The Project complies with Subtitle K § 512.3(c)'s requirement to be in context with the surrounding neighborhood and street patterns by incorporating a 110-foot building component and retains and incorporates six existing rowhouses, thus uniting the larger scale segments of the surrounding neighborhood, including the Ballpark and the Camden South Capitol building, and the smaller-scale residential structures within the Property itself. The varied mix of building heights and densities in the area and the Property's location along South Capitol lend themselves to the Project's design approach of focusing on a 110-foot masonry building component integrated with rowhouses and townhouses along the street-facing portions of the Property. The Project's materiality, setbacks, and highly articulated façade allow these varied heights to coexist with existing structures on and adjacent to the Property.
27. The Project complies with Subtitle K § 512.3(d)'s requirement to minimize conflicts between vehicles and pedestrians by proposing no new curb cuts and will close an existing curb cut on South Capitol Street, reducing the areas where pedestrian and vehicular conflict might occur. The Project will also widen and improve the sidewalks around the perimeter of the Property, making them more accessible. In addition, the Building has been designed to chamfer away from the 10-foot wide east/west public alley that intersects with South Capitol Street along with removing the southernmost rowhouse at this location. The resulting area around this alley and Building entrance sequence will allow for maximum visibility for pedestrians and drivers and for both to coexist more safely. This alley segment will also be made one way, from South Capitol Street headed west, to further reduce the instances of vehicle/vehicle and vehicle/pedestrian conflicts.
28. The Project complies with Subtitle K § 512.3(e)'s requirement to minimize unarticulated blank walls adjacent to public spaces by façade articulation by differentiating the

Building's façades among the various exposed elevations – the east, north and west facades. Special focus was placed on the west or "rear" façade of the Building to ensure that it is highly articulated to a greater degree than the typical design of a rear façade. This façade will incorporate the same masonry and glass materiality and application as the front façade of the building, along with including brick detailing, such as soldier and belt coursing and cornices, drawn from the historic Syphax School building that will create an intentional connection between the Project and the long-existing fabric of the neighborhood.

29. The Project's design complies with Subtitle K § 512.3(f)'s requirement to minimize its environmental impact by the Applicant's commitment to achieve the LEED v.4 Gold level and certification thereof, in response to encouragement from OP. In addition, the Project will incorporate a solar panel area of 1,000 square feet. The Project will also remove an existing surface parking lot and renovate and restore several older rowhouses on the Property. The Project will meet or exceed the minimum Green Area Ratio ("GAR") and incorporate a number of sustainable features, including water use reduction strategies and a green roof.

#### **Specific South Capitol Street Frontage Design Review Criteria (Subtitle K § 516)**

30. The Project complies with Subtitle K § 512.6(a)'s requirement to be sensitive to the establishment of South Capitol Street as a monumental civic boulevard by replacing the existing surface parking lot on the Property with an appropriately scaled and highly articulated development. The Project will include massing, materials, and streetscaping and landscaping supportive of, and additive to, the unique viewshed required for South Capitol Street. The Project's incorporation of balconies, canopies, and brick patios along South Capitol will enhance the viewshed along this monumental civic boulevard by providing varied articulation and massing.
31. The Project's design complies with Subtitle K § 512.6(b)'s requirement to recognize the surrounding neighborhood use and context by utilizing the existing alley on the western side of the Property to facilitate access to, and from, the below-grade parking garage and loading areas. The Building will set back from both South Capitol Street and N Street to provide deference to the Property's retained rowhouses and the adjacent neighbor rowhouses along those frontages, allowing the Project to appropriately assimilate with the proximate residential portions of the surrounding neighborhood. The South Capitol side of the Building will provide the primary pedestrian access. Landscaping and hardscaping along South Capitol Street will enhance the pedestrian experience for residents of the Property and nearby community and visitors. The N Street frontage will also benefit from additional landscaping and an updated streetscape.
32. The Project's design complies with Subtitle K § 512.6(c)'s requirement to include a view analysis with the Application's viewshed analysis demonstrating how the Project enhances the view corridor along South Capitol Street. The Building more aptly matches the massing of the Ballpark to the east and the Camden South Capitol apartments to the south, helping to frame the perspective of the Capitol itself to the north and the viewshed to the Anacostia River to the south. The Project provides the required 15- foot setback along South Capitol



Street, except for a minor degree of elements that project into such space, including balconies, canopies and brick entry porches, which operate to further detail and enhance such viewshed while not adversely affecting it.

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

33. The Application asserted that it was not inconsistent with the CP because:
- The Application was not inconsistent with the GPM’s Land Use Change Area designation because it proposed to redevelop the existing underdeveloped property with a new building providing housing along a “monumental civic boulevard”;
  - The Application is not inconsistent with the Mixed Use FLUM designation because the CG-2 zone permits medium-density mixed development and supports the creation of additional housing while establishing a presence along South Capitol Street, S.W., both of which are achieved by the Project. The height and density of the Project will be consistent with the scale of the surrounding development and with the requirements of the CG-2 zone;
  - The Project will support the updated Framework Element’s focus on ensuring equity, housing, and reducing the impacts of gentrification and displacement by increasing the District’s housing stock, meeting the IZ requirements, and providing more family-sized units than required, all of which render the Project better than a matter of right development; and
  - The Project will advance the CP’s Land Use, Transportation, Environmental Protection, Economic Development, Urban Design, Housing, and Parks, Recreation, and Open Space Elements (Ex. 43C).
34. The Application asserted that it satisfied the special exception criteria of Subtitle X § 901.2(a) and (b), as required by Subtitle X § 604.6, because:
- Aside from the requested flexibility, the Project will comply with the requirements of the CG-2 zone, and the Applicant will support the CG-2 zone’s intent to provide medium-density mixed-use development with a focus on residential use and to provide for the establishment of South Capitol Street as a monumental civic boulevard; and
  - The Project will not result in adverse effects on the neighboring properties because the Building’s design includes measures to mitigate potential adverse impacts.

### **Design Review Flexibility (Subtitle X § 603.1)**

35. The Application justified its request for design review flexibility as follows:
- **Rear Yard** - Although the majority of the southern portion of the Building complies with the 15-foot rear yard requirement of Subtitle K § 502.7, sections of the Building require rear yard flexibility as they provide depths of 3, 7, and 11 feet. The requested rear yard flexibility would allow for sufficiently-sized units along a double loaded corridor while allowing the Building to be set back from the rowhouses along South Capitol Street and providing sufficient open space with the Syphax Village property to the east (Ex. 3F1 at 12).
  - **Court** - Based on the 110-foot height of the Building, a court width of 36 feet, 8 inches is required. However, given the unique shape of the Property and the lot lines of the adjacent properties, along with the existence of a ten (10)-foot wide public alley, a court

of 28 feet, 8 inches is provided in the interior of the Property. The Applicant must also satisfy the Design Review requirements set forth in Subtitle X § 604 on the Building's east side. This court area is a result of the design of the Building which prioritized compatibility and setbacks from the rowhouses along South Capitol Street, S.W., in part as the result of the SWNA Development Agreement. Otherwise, the Building would have been constructed up to and over the portions of the Property along South Capitol Street, S.W., with rowhouses (Ex. 3).

- ***South Capitol Street Setback*** - Although the majority of the Building complies with the required 15-foot setback along the South Capitol Street frontage, the Building includes balconies and canopies along South Capitol Street, S.W. which project a maximum of four (4) feet into the setback zone. These canopies and balconies contribute to the varied articulation of the Building's façade. The balconies in particular provide important outdoor space for residents. The balconies located on the South Capitol Street façade will be largely transparent, thus minimizing their presence within the setback zone. The Project also includes walk-out patios and steps for the three new townhouse units along South Capitol Street, S.W., extending approximately 10 feet, 4 inches into the setback zone with brick walls extending approximately 4 feet, 8 inches into the setback zone. These patios and steps will help to integrate the Building into the adjacent South Capitol Street streetscape (Ex. 3 and 12).

### III. RESPONSES TO THE APPLICATION

#### OP REPORTS

36. OP filed October 16, 2020 report (Ex. 17, the "OP Report") that:
- Encouraged the Applicant to:
    - Achieve LEED Gold; and
    - Incorporate a larger solar array to generate a larger percentage of the building's energy use on-site;
  - Requested that prior to the public hearing, the Applicant quantify the proposed solar array's energy generation and compare it to the Building's energy usage to help OP and the Commission evaluate the Project; and
  - Recommended approval of the Application, subject to the following conditions:
    - The Project shall be developed generally in accordance with the plans at Exhibit 12A, including:
      - Maintaining the existing rowhouses on South Capitol Street, S.W.;
      - Incorporating parts of the existing rowhouses on N Street, S.W.; and
      - Creating three new rowhouse-style entrances on South Capitol Street, S.W.;
    - The lower two stories of the Building's façade on South Capitol Street, S.W., shall be developed with the details generally as shown on pages 27 and 28 of Exhibit 12A, including the canopies, lighting, brick friezes, brick detailing around the windows, and the brick cornice above the second floor; and
    - Balcony railings shall use glass as the primary material, as shown in the renderings on page 32 of Exhibit 12A.
37. At the October 26, 2020 public hearing, OP testified that:

- Since the OP Report had not addressed the SAP, OP offered to submit a supplemental report to address the SAP;
  - OP supported the concept of placing IZ units in the N Street, S.W., townhouses; and
  - OP supported the Application.
38. OP filed a December 1, 2020 report (Ex. 44, the “Supplemental OP Report”), that responded to the Commission’s request that OP address the Application’s consistency with the CP’s updated Framework Element and the SAP by concluding that:
- The Project would not be inconsistent with fourteen of the updated Framework Element’s “guiding principles” including:
    - Providing opportunities for housing that is “healthy, safe, and affordable for a range of household types, sizes, and incomes in all neighborhoods” (CP § 219.1);
    - Protecting the positive aspects of life in the city, such as local cultural heritage, and reducing negatives such as poverty, crime, food deserts, displacement, and homelessness (CP § 219.2);
    - Sustaining and promoting safe neighborhoods offering health care, quality education, transportation, childcare, parks, libraries, arts and cultural facilities, and housing for families (CP § 219.3);
    - Developing housing for households of different sizes, including growing families as well as singles and couples, and for all income levels (CP § 219.4);
    - Designing a site along corridors and near transit stations that will respect the integrity of stable neighborhoods and the broader community context, and encourage housing and amenities for low-income households, who rely more on transit (CP § 219.7);
    - Encouraging growth in the District by accommodating a larger number of jobs and residents, to support new services, sustain public transit, and improve regional environmental quality (CP § 219.8);
    - Protecting, maintaining and improving the residential character of the neighborhoods (CP § 220.3); and
    - Creating new affordable housing, especially for low-income and workforce households, to avoid a deepening of racial and economic divides in the city (CP § 220.5); and
  - The Project would not be inconsistent with the CP’s maps, the CP’s updated Framework Element, and multiple CP policies including the Land Use, Transportation, Urban Design, and Lower Anacostia Waterfront and Near Southwest Elements and would also be consistent with the existing CG-2 zoning, including the FAR of 7.2 achieved by providing IZ units; and
  - “Although the SAP does not provide a great deal of detail for this location in particular, the project would help to achieve a number of the Plan’s goals for the neighborhood” namely:
    - Enhance pedestrian connections and safety throughout the neighborhood;
    - Support the transformation of South Capitol Street into a high density, urban boulevard that establishes a robust pedestrian realm;
    - Adopt Sustainable DC goals to showcase the Southwest neighborhood as a steward of green, sustainable practices targeting stormwater management, healthy living, and energy efficiency;

- Maintain a mix of affordable and market-rate residential units that better serve community needs; and
- Ensure that future development is compatible with the existing design of the community; and
- The Project would also help to achieve a written policy of the SAP to create new affordable housing sized for families.

### **DDOT REPORT**

39. DDOT filed an October 16, 2020 report (Ex. 18, the “DDOT Report”), that analyzed the Project and Applicant’s CTR and concluded that:
- The Project would generate vehicle trips that would unacceptably degrade four nearby intersections if not properly mitigated; and
  - But DDOT had no objection to approval of the Project based on the Applicant’s proposed mitigations, including the TDM plan, subject to the following conditions:
    - The Applicant extend the proposed 12-foot private easement to the edge of Lot 830 to provide Lots 829 and 830 access to the 10-foot public alley;
    - The Applicant provide an easement across the private portion of the 10-foot alley (Lot 831) to provide the rowhouses access to the 16-foot public alley; and
    - The Applicant revise the TDM plan to incorporate the following three measures to increase its effectiveness by encouraging non-vehicle access to the transportation network around the Building:
      - Fund two four-dock Capitol Bikeshare expansion plates in locations within ANC 6D’s district as determined by DDOT during permitting;
      - Fund and install missing curb ramps and high visibility crosswalks at two intersections in the residential neighborhood surrounding the Building; and
      - Increase the term of the Capitol Bikeshare memberships for new residents of the Building to three years (from the initially proposed single year).

### **ANC REPORTS**

40. ANC 6D submitted an October 16, 2020 report (Ex. 16, the “ANC Report”), stating that at its regularly scheduled and duly noticed October 13, 2020, public meeting, with a quorum present, the ANC voted to:
- Raise the following issues and concerns:
    - Missing details in the Application and its associated plans, which the ANC proposed the Applicant address by providing additional details to be included in the order approving the Project, specifically regarding:
      - Details for maintenance and clean-up of the pet relief areas at the Building’s South Capitol Street, S.W. entrance, and rooftop; and
      - An on-going landscape management plan to address long-term maintenance of trees, shrubs and groundcover, flood prevention, and storm water management based on DOEE recommendations;
    - Integrating the Building’s scale and façade design into the neighborhood, which the ANC proposed the Applicant address by:

- Adding the Kings Mill brick design to the Building’s façade facing Half Street, S.W., to better blend with neighboring complexes and reduce the impact of the Building’s massive scale on the lower row houses below;
    - Maintaining the design and use of the N Street, S.W., homes as individual homes retaining their historic use and facades as agreed to in the four Neighbor Agreements signed by the Applicant; and
    - Prohibiting neon or digital signs on the Building;
  - Preserving the Property’s history which the ANC proposed the Applicant address by including appropriate signage on both N and South Capitol Streets, S.W., rowhouses to narrate their history, including a brick outline of the demolished houses’ footprints;
  - The adverse impacts of the Project’s construction on the neighborhood, which the ANC proposed the Applicant address by providing the ANC with a Construction Management Plan prior to the start of construction, including a plan for management of truck arrival and departure that will not disrupt traffic flow from the South Capitol Street Bridge;
  - The adverse impacts of the Project’s VCP clean-up of the Property, which the ANC proposed the Applicant address by:
    - Providing the ANC and affected residents with information about the Voluntary Clean-up Action and Health & Safety Plan (the “VCP Plan”) and other actions to be taken to protect the health and safety of the surrounding neighborhood; and
    - Providing air purifier units to affected residents whose homes are on and near the Project site to help maintain indoor air quality during the VCP clean-up of the Property; and
  - Substantive changes to the Project, which the ANC proposed the Applicant address by:
    - Providing the ANC with regular updates on the Project’s status, including any changes to, the design of the N Street, S.W., homes, the overall IZ unit mix, or the price and occupancy of live/work units;
    - Considering retail uses if the live/work concept is not successful in consultation with the ANC; and
    - Considering converting the historic South Capitol Street, S.W., homes to additional affordable units if the proposed commercial use is not successful; and
- Support the Application, subject to the following conditions, which the ANC believed would address their most pressing concerns, along with the request that the Applicant and Commission consider the other issues raised by the ANC Report at the public hearing:
  - The Applicant will fully comply with all terms agreed upon in the four Neighbor Agreements, including that the Applicant will not pursue its alternative plan to develop the N Street, S.W., homes as four “flats” (loft apartments) behind these homes’ historic façades, which the ANC believes would result in vestigial nonfunctional front doors without retaining any other elements of the historic working-class housing the ANC sought to preserve. Instead the Applicant will develop these N Street, S.W., houses as endorsed by the ANC and SWNA as four two-story independent dwellings in the “vertical rowhouse” style with true historic integrity, with the rears of the houses reconstructed to create larger, family-sized units integrated into the Project, including direct access to Project amenities, a sense of

- membership with the rest of the Project's residents, and with the Applicant's commitment to rent these homes at 60% MFI;
- Prior to the start of the VCP clean-up of the Property, the Applicant will:
    - Provide ANC 6D and affected residents with copies of the VCP Plan, including plans for the safe remediation of chemicals and contaminants from the Property; and
    - Schedule a meeting with the company performing the clean-up, ANC 6D, community members and DOEE staff to walk through the VCP Plan and the steps that will be taken to protect the health and safety of the immediately affected residents and the broader community; and
  - The Applicant shall agree not to place neon and/or digital signage/lighting on the Building.
41. At the October 26, 2020, public hearing, ANC Commissioner Gail Fast testified on behalf of ANC 6D that:
- The ANC applauded the Applicant's efforts in its negotiations with the ANC for three years on the Project;
  - The ANC supported the Application, which due to the collaboration between the ANC and the Applicant resulted in the Project's successful honoring the history of Southwest, D.C.; and
  - In addition to the issues and concerns raised by the ANC Report, the ANC requested that the Applicant:
    - Provide more detail regarding traffic generated by the parking garage; and
    - The Applicant provide appropriate signage for pick-up and drop-off along South Capitol Street and that traffic patterns be clarified and adopted in the final order (Ex. 38; Tr. at 84-90).

**PERSONS IN SUPPORT**

42. SWNA and Syphax Village submitted letters and testified in support of the Application, applauding the Applicant's engagement with the community and willingness to modify the Project to reflect the community's concerns (Ex. 20; Tr. at 103-107).

**PERSONS IN OPPOSITION**

43. Two abutting neighbors of the Property - Gregory Keagle (1311 South Capitol Street, S.W.), and Dr. Sheila Samaddar (1313 South Capitol Street, S.W.) - submitted filings and testified in opposition alleging that the Project would have the following adverse impacts on adjacent properties:
- Shadowing effects that would reduce the adjacent property owners' ability to collect solar energy and would be harmful to their health and enjoyment of green space;
  - Lack of a sufficient set back from the rear property line of the adjacent properties on South Capitol Street that would infringe on their access to a right-of-way from the rear of their properties; and
  - The lack of proper notice for meetings from ANC 6D (Ex. 24A1-24A10, 27, 32, 33 Tr. at 110-117, 151-156).



44. Several community members submitted letters and testified in opposition to the Application, raising the following concerns:
- The Project did not provide sufficient affordable housing and requested that the Building offer a mix of one-third market rate, one-third workforce, and one-third deeply affordable units;
  - The Project would violate the SAP's requirement for equity and inclusion with a mix of races, ages, and income levels because the Project would exacerbate gentrification in Southwest, D.C., citing statistics demonstrating the increasing white population and decreasing black population in Southwest D.C., including a study that named Navy Yard the most gentrified area in the country;
  - The District's Southwest neighborhood has been inundated with an overabundance of luxury apartments, and the Project's offering of 8% affordable housing, or 24 out of 310 units, was not an exemplary model of equity and inclusion as required by the SAP;
  - The Project is inconsistent with the CP's Framework Element, specifically the Element's goals to support a more equitable and diverse city; and
  - The Project fails to meet the goals of the Opportunity Zone in which it is located by failing to provide sufficient affordable housing (Ex. 23, 25, 28, 30, 31, 34-37; and 39; Tr. at 107-110, 118-125, 145-148).
45. One individual testified as an undeclared witness and asserted that the Project had not provided for any plans for current tenants residing in the adjacent rowhouses and raised concerns over the increased traffic generated by residents using the parking garage (Tr. at 124-127).

## CONCLUSIONS OF LAW

### AUTHORITY

1. Pursuant to the authority granted by the Zoning Act, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), the Commission may approve a Capitol Gateway design review application consistent with the requirements of Subtitle K § 512 and Subtitle X, Chapter 6.
2. Subtitle K §§ 512.1(d) and 512.2 require that the Project, due to the Property's frontage on South Capitol Street, S.W. obtain design review approval from the Commission, subject to the specific CG design review criteria of Subtitle K §§ 512.3 and 512.6 and the general design review provisions of Subtitle X, Chapter 6.
3. 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.*

4. Subtitle X § 603.1 authorizes the Commission, as part of the design review process, to “grant relief from development standards for height, setbacks, lot occupancy, courts, and building transitions, as well as any of a specific zone ... [but] not ... other building development standards including FAR, Inclusionary Zoning, or Green Area Ratio.”
5. Subtitle X § 603.3 provides that “[e]xcept for height, the amount of relief is at the discretion of the Zoning Commission, provided that the relief is required to enable the applicant to meet all of the standards of Subtitle X § 604.”

#### **SPECIFIC CG DESIGN REVIEW CRITERIA (SUBTITLE K § 512)**

6. Based on the case record, including the Application and OP and DDOT Reports, and the Findings of Fact above, the Commission concludes that the Application satisfies the applicable Design Review requirements of Subtitle K §§ 512.3 and 512.6 as detailed below:
  - ***Subtitle K § 512.3(a)*** - *The proposed building will achieve the objectives of the Capitol Gateway as defined in Subtitle K §500.1*

The Project will incorporate a mix of uses and utilize high-quality architectural features to establish South Capitol Street as a “monumental civic boulevard”. The Project will frame the viewsheds of the Capitol and the Anacostia River along South Capitol Street and will incorporate design elements that reference the history of the neighborhood and the structures on the Property.
  - ***Subtitle K § 512.3(b)*** - *The proposed building will help achieve the desired use mix, with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail or service uses.*

The Project will achieve the desired mix of uses by providing over 300 residential units, including 25 affordable units and potential ground floor commercial space. Further, the Project’s residential uses will help support the nearby commercial and retail uses.
  - ***Subtitle K § 512.3(c)*** - *The proposed building will be in context with the surrounding neighborhood and street patterns.*

The Project will be in context with the surrounding neighborhood due to the Project’s varied mix of building heights and densities including the retention of the existing rowhouses and townhouses along the street-facing portions of the Property.
  - ***Subtitle K § 512.3(d)*** - *The proposed building will minimize conflict between vehicles and pedestrians*

The Project will minimize conflict between vehicles and pedestrians by the areas where pedestrian and vehicular conflict might occur by eliminating a curb cut, not proposing additional curb cuts, widening and improving the sidewalks around the perimeter of the Property, making them more accessible; and making the alley segment one way to further reduce the instances of vehicle/vehicle and vehicle/pedestrian conflicts.
  - ***Subtitle K § 512.3(e)*** - *The proposed building will minimize unarticulated blank walls adjacent to public spaces through facade articulation*

The Building’s façades are differentiated among the various exposed elevations with special focus placed on the west or “rear” façade of the Building to ensure that it is

highly articulated to a greater degree than the typical design of a rear façade in order to create an intentional connection between the Project and the long-existing fabric of the neighborhood.

- **Subtitle K § 512.3(f)** - *The proposed building will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.*

The Project will achieve LEED v.4 Gold level certification and will incorporate a number of sustainable features including a solar panel area of 1,000 square feet, water use reduction strategies, a green roof and will meet or exceed the GAR requirements.

- **Subtitle K § 512.6(a)** - *The building or structure incorporates massing, materials, and buildings and streetscape landscaping to further the design and development of properties in a manner that is sensitive to the establishment of South Capitol Street as a monumental civic boulevard.*

The Project will fill a hole in the monumental and symbolic streetscape by replacing the existing surface parking lot on the Property with an appropriately scaled and highly articulated building. The Project's massing, materials, and streetscaping and landscaping will support the unique viewshed of South Capitol Street.

- **Subtitle K § 512.6(b)** - *The building incorporates massing, location of access to parking and loading, and location of service areas to recognize the proximate residential neighborhood use and context, as applicable.*

Access to the below-grade parking garage and loading areas will be provided from the existing alley on the western side of the Property while primary pedestrian access will be provided on the South Capitol side. The pedestrian experience along the South Capitol Street and N Street will be enhanced by landscaping and the use of setbacks from both South Capitol Street and N Street allowing the Project to appropriately assimilate with the surrounding neighborhood.

- **Subtitle K § 512.6(c)** - *The application shall include a view analysis that assesses openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront.*

Based on the Applicant's viewshed analysis, the Project will enhance the view corridor along South Capitol Street by more aptly matching the massing of the Ballpark to the east and the Camden South Capitol apartments to the south, helping to frame the perspective of the Capitol itself to the north and the viewshed to the Anacostia River to the south.

#### **GENERAL DESIGN REVIEW CRITERIA (SUBTITLE X § 604)**

7. Based on the case record, including the Application and OP and DDOT Reports, and the Findings of Fact above, the Commission concludes that the Application satisfies the applicable general design review requirements of Subtitle X § 604 as detailed below.
8. The Commission concludes that the Application complies with the general design review requirement of Subtitle X §§ 604.1 and 604.2 to comply with the specific design review requirements because the Application satisfies Subtitle K §§ 512.3 and 512.6 as discussed above.

9. The Commission concludes that the Application satisfies the requirement of Subtitle X § 604.5 to not be inconsistent with the CP because the Project:
- Will replace currently underutilized land occupied by a surface parking lot and vacant rowhouses with residential and potentially commercial uses along an essential District corridor as contemplated by the GPM’s Land Use Change Area designation;
  - Is permitted to have a FAR above the FLUM’s specific FAR range as it is an IZ development and the Commission concludes the higher density is appropriate because the Project also provides much needed market rate housing in a transit-accessible location, while meeting the heightened design criteria required because of its location on South Capitol Street, S.W.;
  - Will advance policies of the CP’s Land Use, Transportation, Environmental Protection, Economic Development, Urban Design, Housing, and Parks, Recreation, and Open Space Elements;
  - As noted by the OP Supplemental Report, the Project is not inconsistent with the CP’s updated Framework Element relating to the equity and diversity goals because the Project provides a significant amount of housing including the required number of IZ units as well as family sized units that are larger than what is required by the Zoning Regulations. Although the Project could potentially do more to advance equity and diversity goals, the Commission recognizes that the Applicant must balance the various and sometime competing requirements of the Zoning Regulations; and
  - Promotes the SAP’s goals by:
    - Developing an underutilized site with residential units that will address housing demand and promote affordability by increasing housing supply. The Project provides 25 affordable housing units and will include family-sized units thereby meeting and exceeding the requirements of the regulations by providing larger units than would otherwise be required;
    - Incorporating elements of the surrounding neighborhood’s character and history;
    - Undertaking public space improvements related to the Project that will increase neighborhood connectivity; and
    - Including significant sustainability commitments through the commitment to LEED v.4 Gold certification and providing an area of solar panels comprising at least 1,000 square feet.
10. The Commission concludes that the Application satisfies requirement of Subtitle X § 604.6 to not tend to adversely affect the use of neighboring property and the general special exception criteria of Subtitle X, Chapter 9, as discussed below:
- **Subtitle X § 901.2(a)** – The Commission concludes that the Application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps because the CG-2 zone in which the Property is located permits medium-density mixed-use development with a focus on residential use. The CG-2 zone also intends to establish a monumental civic boulevard along South Capitol Street and frame the viewshed of the Capitol. Aside from the requested flexibility from the rear yard, court, and South Capitol setback requirements, the Project satisfies the other matter-of-right requirements of the CG-2 zone. The Project complies with all CG-2 zone development standards, including its 110-foot height, 7.2 FAR, and 69% lot occupancy. The

requested flexibility will allow the Project to be better configured to the Property while respecting the surrounding development and providing outdoor amenity space for building residents.

- **Subtitle X § 901.2(b)** – The Commission concludes that the Application will not tend to adversely affect the use of neighboring properties as follows:
  - **Shadow Impacts** - The Building’s design includes significant setbacks from the adjacent South Capitol Street, S.W., houses to the north and east to minimize shadowing, as demonstrated by the Applicant’s shadow studies that shows that the shadow impacts will be most significant only in the winter months.
  - **Access** - The Applicant will provide access easements to adjacent properties beyond that which would exist if the Project was built out to the full matter of right building envelope, including:
    - An access easement to the rear of the adjacent rowhouse properties for vehicular and pedestrian access;
    - The DDOT-requested extended easement northward to the edge of Lot 830 for access to Lots 829/830 when those properties are redeveloped; and
    - An easement across the private portion of the 10-foot alley (Lot 831) so that the rowhouses can exit out the 16-foot public alley.
  - **Scale** - While the Project’s scale is larger than the immediately adjacent rowhouses, the impacts on these parcels has been mitigated through:
    - Significant setbacks, material selection, coloration, and articulation of the Building to fit within the neighborhood context;
    - Community agreements to minimize impacts; and
    - The conditions of the approval.The Commission notes that the adjacent properties are also permitted to achieve the same matter-of-right height and density as the Property. The Commission also concludes that these impacts are outweighed by the overall benefit of the Project’s provision of significant housing and affordable housing and its favorable community preservation attributes.
  - **Gentrification** - The Commission concludes that the gentrification forces that are impacting the neighborhood are due largely to market forces beyond the capability of the Applicant to solve with this Project; that the Project’s IZ units include units larger than required; and that the Project’s market rate housing benefits the District and the neighborhood.
  - **Neighborhood Context** - The Project appropriately fits in with the context of the surrounding buildings which includes both large buildings like the Nationals Ballpark, and the Camden South Capitol apartment building, as well as smaller row houses, by integrating these varied heights and densities through the Building’s design that focuses massing primarily to the south and west, while incorporating several existing rowhouses and setting back the primary mass of the building away from existing adjacent rowhouses along South Capitol Street.
  - **Community Outreach** - The Applicant has addressed the Project’s potential adverse impacts by engaging in extensive outreach with the community, resulting in multiple agreements with a community organization and neighbors and in substantive changes to the Project’s design.



11. The Commission concludes that the Application satisfies the requirements of Subtitle X §§ 604.7 and 604.8 to be superior to matter-of-right construction, with respect to the urban design of the Project's site and building (specifically the Project's creative massing, detailing, materials selection, and other design features, its prominent relationship and attention to the surrounding public corridors, and its pedestrian accommodation), based on the following criteria:
- **Subtitle X § 604.7(a)** - The Project will activate the street frontages along N and South Capitol Streets, S.W., by improving the hardscaping and landscaping and upgrading adjacent streetscapes. The streetscape along South Capitol Street, S.W., in particular, will be widened as the result of the setback of the Building's southern component allowing for more open space for pedestrians and improved visibility and safety for pedestrians, bicycles, and vehicles. The Project eliminates an existing curb cut and proposes no new curb cuts. The parking garage and loading access is provided from the west alley rather than the street. The façades of the Building are designed with a high degree of articulation, incorporating specialty masonry detailing and balconies. The Building's west or "rear" façade has been designed to appear as though it is street-facing. As such, blank facades are prevented given the Building's existing surrounding context.
  - **Subtitle X § 604.7(b)** - The Project includes a landscaped and hardscaped urban plaza and a pet relief area along its South Capitol Street, S.W., frontage and in the interior of the Property. This will provide a unique area for public use and recreation in a location that also allows for additional space around the existing South Capitol Street, S.W. rowhouses. The Project also incorporates a number of balconies, patios, and a rooftop area for residents to enjoy.
  - **Subtitle X § 604.7(c)** - The Building respects the character of the surrounding neighborhood. In collaboration with the community, the Applicant has incorporated historical references throughout the Project, from murals and signage referencing the history of the Property and neighborhood, to architectural features commemorating the historic Syphax School building, James Creek community, and adjacent rowhouses. The materiality and coloration of the Building was specifically selected to reference and complement the surrounding context. This design inspiration allows for an infill project that respects and integrates, but does not mimic or overwhelm, adjacent neighborhood character. The Building will help to frame the viewshed of the Capitol, mirroring the scale of the adjacent Ballpark and Camden South Capitol building. As a result, the Project will respect and protect the South Capitol Street monumental vista.
  - **Subtitle X § 604.7(d)** - The Project includes walk-in units along N and South Capitol Streets, S.W., providing an activated, pedestrian-focused perimeter. The Building's façade incorporates existing rowhouses and additional design details along the first and second floors to create a neighborhood-sensitive design. The Project will include improvements to the public realm surrounding the Property, including enhancements to the streetscape and the inclusion of a second row of trees along South Capitol Street, S.W. The primary glass utilized on the Building's facades will have advanced features, reducing reflectiveness and minimizing adverse reflection on the surrounding area. As mentioned above, the façade will incorporate elements reflecting the history of the neighborhood and the site itself.



- **Subtitle X § 604.7(e)** - The Project's landscaping plan will incorporate a double row of trees along part of South Capitol Street, S.W., along with various perennials and other plants creating an urban garden. The landscaping will be planted to minimize maintenance and reduce stormwater runoff. The Project also features a green roof and solar panels.
- **Subtitle X § 604.7(g)** - The Project's design will enhance pedestrian connectivity within and surrounding the Property. The Building is designed to include entry points along N and South Capitol Streets, S.W., which will allow for heightened integration into the surrounding community through street-level connections. The Project will include over 100 bicycle spaces and improve the sidewalks along the perimeter, thus encouraging pedestrian and bike activity. The Project will include additional and enhanced TDM Plan measures to further incorporate and stimulate the use of transit and bicycle facilities.

**DESIGN REVIEW FLEXIBILITY (SUBTITLE X § 603)**

12. The Commission concludes that the requested design review flexibility pursuant to Subtitle X § 603 from the rear yard, court, and South Capitol Street setback requirements meets the standards of Subtitle X § 604 for the following reasons:

- **Rear Yard** - The requested rear yard flexibility allows the Property, considering its narrow northern portion and abutting an alley, to provide sufficiently sized units along a double loaded corridor while allowing the Building to be set back from the rowhouses along South Capitol Street, S.W., and provide sufficient open space with the Syphax Village property to the east.
- **Court** – The requested court flexibility allows the Property, considering its unique shape, the lot lines of the adjacent properties, and the abutting ten-foot wide public alley, to provide a 28 feet, 8 inch, court in the interior of the Property on the east side of the Building. This internal court is an integral part of the Building's design, partly resulting from the SWNA Development Agreement, that prioritized compatibility and setbacks from the rowhouses along South Capitol Street, S.W., instead of having the Building constructed up to and over the portions of the Property with rowhouses along South Capitol Street, S.W.
- **South Capitol Street Setback** – The requested setback relief allows the following projections into the required 15-foot setback along South Capitol Street, S.W., although the majority of the Building complies with this setback:
  - The Building's balconies and canopies that contribute to the varied articulation of the Building's façade, extending up to four-feet into the setback. The balconies provide important outdoor space for residents and are largely transparent, thus minimizing their presence within the setback zone; and
  - The walk-out patios and steps for the three new townhouse units along South Capitol Street, extending approximately 10 feet, 4 inches into the setback zone with brick walls extending approximately 4 feet, 8 inches into the setback zone. These patios and steps will help to integrate the Building into the adjacent South Capitol Street streetscape (Ex. 3 and 12).

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

13. 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, 1086-87 (D.C. 2016).)
14. The Commission finds persuasive OP’s evaluation of the Application as having satisfied the applicable design review requirements and having satisfactorily addressed OP’s concerns and conditions and concurs with OP’s recommendation to approve the Application.

**“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC**

15. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy this great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)
16. The Commission finds the ANC Report’s issues and concerns persuasive and notes that the Applicant has agreed to all of the ANC’s proposed solutions to these issues and concerns except for three, which the Commission does not find persuasive as follows:
  - ***N Street, S.W., rowhouse units*** – The Commission is not persuaded by the ANC Report’s proposed condition that the four vertical rowhouse units be designated as affordable units, but instead concludes that the Applicant’s proposal that these units be so designated only if the District agencies approved such concept within the IZ program is reasonable because the Applicant cannot control whether the rowhouse units will be accepted into the IZ program, and the Applicant’s response meets the spirit of the ANC’s request that the Applicant designate the rowhouse units as IZ;
  - ***Brick design*** - The Commission is not persuaded by the ANC Report’s proposed use of the Kings Mill brick design on the Half Street, S.W., façade as necessary to integrate the Building into the surrounding neighborhood, because the Commission concludes that the Applicant’s brick choice better complements the Syphax School, James Creek community, and surrounding buildings; and
  - ***Air purifiers*** – The Commission is not persuaded by the ANC Report’s proposal that the Applicant provide air purifier units to residents whose homes are on and near the Property to help maintain indoor air quality during the VCP clean-up of the Property because the Commission concludes that the VCP process will determine whether air purifiers would be necessary as part of the appropriate mitigation measures during the clean-up.

## **DECISION**

Based on the case record, the testimony at the public hearing, and the above Findings of Fact and Conclusions of Law, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for the following relief for the Property:

- CG Design Review approval required by Subtitle K § 512 and Subtitle X, Chapter 6; with
- Design review flexibility pursuant to Subtitle X § 603.1 from:
  - Subtitle K § 502.7's minimum rear yard requirements;
  - Subtitle K § 502.9's minimum court requirements; and
  - Subtitle K § 510.1(b)(1)'s setback requirements for buildings fronting on South Capitol Street, S.W.,subject to the following conditions, standards, and flexibility:

### **A. PROJECT DEVELOPMENT**

1. The Project shall be built in accordance with the plans and elevations dated July 24, 2020, marked as Exhibits 3F1-3F5, as modified by Exhibits 12A1-12A3 and Exhibit 43A of the record (the "Final Plans"), subject to the following design flexibility from compliance with the Final Plans:
  - a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, signage, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not materially change the exterior configuration or appearance of the building;
  - b. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction without reducing the quality of the materials;
  - c. To make minor refinements to exterior details, locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, balconies, canopies and trim, such that the refinements do not substantially change the external configuration or appearance of the building;
  - d. To vary the number of residential units and the residential unit types by plus or minus 10%;
  - e. To eliminate up to one level of the parking garage;
  - f. To vary the number of parking spaces by 10% provided that no relief is required;
  - g. To reconfigure the garage layout provided that no relief is required;
  - h. To vary the roof plan as it relates to the green roof areas, solar panels, planters, terraces, pool, equipment, roof structure configuration, and outdoor amenity areas, provided that total GAR is not reduced below that shown on the GAR scorecard and the minimum solar panel square footage is provided;
  - i. To vary the signage of the building pursuant to market or tenant demands, subject to D.C. signage regulations;

- j. To utilize the three ground level units along South Capitol Street, S.W. designed as “live/work” units for live/work uses or, if suitable commercial and/or neighborhood-serving component uses cannot be found, residential-only uses; and
  - k. To modify the streetscape design and areas in public space in response to DDOT and the public space permitting process.
2. Development of the Project, including maintaining two rowhouses on South Capitol Street, S.W., incorporating portions of four existing rowhouses on N Street, S.W., and creating three new townhouse-style entrances on South Capitol Street, S.W., shall be generally as shown in the plans at Exhibit 12A.
  3. Details of the façade at the first two stories of the new component of the Building along South Capitol Street, S.W., shall be generally as shown on pages 27 and 28 of Exhibit 12A, including canopies, lighting, brick friezes, brick detailing around the windows, and the brick cornice above the second floor.
  4. Balcony railings on the Building’s South Capitol, Street, S.W., N Street, S.W., and rear facades shall use glass as the primary material, as shown in the renderings on page 32 of Exhibit 12A.
  5. The Applicant shall extend the proposed 12-foot easement northward to the edge of Lot 830 to allow for access to Lots 829/830 when those properties redevelop; and shall provide an easement across the private portion of the 10-foot alley (Lot 831) so that the rowhouses can exit out the 16-foot public alley. A copy of the easement(s) should be provided to DDOT Planning and Sustainability Division when it is signed by all parties

**B. REQUIREMENTS - CERTIFICATE OF OCCUPANCY**

1. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with evidence that the Project is designed to obtain LEED-Gold certification or higher from the U.S. Green Building Council under the LEED v.4 rating system.
2. **Within 12 months after the issuance of such certificate of occupancy**, the Applicant shall submit evidence to the Zoning Administrator that it has secured such LEED-Gold certification.

**C. REQUIREMENTS - LIFE OF THE PROJECT (unless otherwise noted)**  
**Transportation Demand Management Measures**

1. **For the life of the Project**, the Applicant shall adhere to the following TDM plan measures:
  - a. Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile.

- b. Identify Transportation Coordinators for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement.
- c. Provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year.
- d. Transportation Coordinators will develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on the property's website and in any internal building newsletters or communications.
- e. Transportation Coordinators will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
- f. Provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT's goDCgo program by emailing [info@godcgo.com](mailto:info@godcgo.com).
- g. Provide residents who wish to carpool with detailed carpooling information and referrals to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future.
- h. Transportation Coordinator will subscribe to goDCgo's residential newsletter.
- i. Post all TDM commitments on the property's website, publicize their availability, and allow the public to see what commitments have been promised.
- j. Provide a free SmarTrip card and a complimentary Capitol Bikeshare coupon good for one ride to every new resident for the first three years after the building opens.
- k. Exceed ZR16 short- and long-term bicycle parking requirements. Long-term bicycle spaces will be provided free of charge to residents. 77 long-term bicycle parking spaces and 17 short-term bicycle parking spaces are required by ZR16. The development will provide 110 long term bicycle parking spaces and 17 short-term bicycle parking spaces.
- l. Long-term bicycle storage rooms will accommodate nontraditional-sized bikes including cargo, tandem, and kids bikes.
- m. Following the issuance of a certificate of occupancy for the Project, the Transportation Coordinator shall submit documentation from DCRA summarizing 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.
- n. Install a Transportation Information Center Display (electronic screen) within the lobby containing information related to local transportation alternatives. At a minimum the display should include information about nearby Metrorail stations and schedules,

- Metrobus stops and schedules, car-sharing locations, and nearby Capitol Bikeshare locations indicating the availability of bicycles.
- o. Offer an annual CaBi membership or SmarTrip cards pre-loaded with \$85 for all new residents or employees for the first three years after the building opens.
  - p. Provide a bicycle repair station in each long-term bicycle parking storage room.
  - q. To encourage teleworking, a business center will be provided on-site and available for free to residents 24 hours per day, 7 days per week. Access to a copier and internet services will be included.
  - r. Hold a transportation event for residents, employees, and members of the community once per year for a total of three years. Examples include a 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.
  - s. Fund and install two four-dock Capitol Bikeshare expansion plates at a station(s) within ANC 6D in locations to be determined by DDOT at a later date. If DDOT is not ready for the installation or has not chosen a location at the time of Certificate of Occupancy, then the Applicant should instead contribute \$16,000 to the DDOT Transportation Mitigation Fund to upgrade pedestrian, bicycle, or transit facilities in ANC 6D.
  - t. Fund and install missing curb ramps and high-visibility crosswalks at the intersections of O Street at Canal Street, S.W. and Delaware Avenue at Canal Street, S.W., subject to DDOT approval.
  - u. Forward a copy of the private easement to the DDOT Planning & Sustainability Division, when it is recorded and available.
  - v. Provide one collapsible shopping cart (utility cart) for every 50 residential units, for a total of six to encourage residents to walk to the grocery shopping and run errands.
  - w. After initial lease-up of 75% of the units in the building, the Applicant will restrict loading activities during game days for the duration of time beginning one hour before the start of the game to one hour after the end of the game on weekdays.
  - x. Following the issuance of a certificate of occupancy for the Project, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo every five years (as measured from the final certificate of occupancy for the Project) summarizing continued compliance with the transportation and TDM conditions in the Order.

### **Sustainability**

2. **For the life of the Project**, the Applicant shall provide an area of solar panels totaling 1,000 square feet as shown on the Plans.

### **ANC Conditions**

3. The Applicant shall adhere to the following conditions in response to the ANC Report:
  - a. Comply with the terms of the Good Neighbor Agreement with Syphax Village, the Good Neighbor Agreement with Adjacent Neighbors, the Crane Overswing Agreements, and the SWNA Development Agreement.



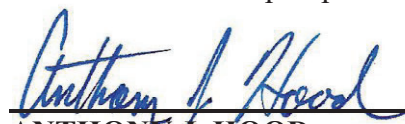
- b. Incorporate the four “vertical rowhouse” homes along N Street, S.W., and, if permitted by DC agencies, designate these as IZ units.
- c. Share copies of a Voluntary Clean-up Action and Health & Safety Plan with ANC 6D and the community as a part of participation in the Voluntary Clean-up Program (VCP) and schedule a meeting with the company performing the clean-up, ANC 6D, DOEE, and community prior to beginning clean up.
- d. Refrain from displaying neon or digital signage on the Property.
- e. Maintain and manage the Project’s landscaping and pet relief areas in a first-class manner in perpetuity by building management.
- f. Provide the ANC with a “construction management plan” prior to the start of construction, which will include truck routes.
- g. Provide at least two commemorative signs or plaques on the N Street and South Capitol Street rowhouses and brick outlines of the two razed rowhouses.
- h. Provide regular updates to ANC 6D on the status of the project, including changes that occur to (1) the design of the N Street, S.W., rowhouses; (2) the overall IZ unit mix; and (3) the status of the live/work-designed units.


**D. VALIDITY**

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

**VOTE (December 17, 2020): 5-0-0** (Peter A. Shapiro, Michael G. Turnbull, Anthony J. Hood, Robert E. Miller, and Peter G. May to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 20-18 shall become final and effective upon publication in the *D.C. Register*; that is on August 27, 2021.

  
 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.