

GOVERNMENT OF THE DISTRICT OF COLUMBIA



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION NO. 21-27

Z.C. Case No. 21-27

Chun-Chau Lam

(Design Review @ Square 653, Lots 65, 66, 827, 829, and 830)

February 9, 2023

Pursuant to notice, at its February 9, 2023¹ public meeting, the Zoning Commission for the District of Columbia (“Commission”) considered the application (“Application”) of Chun-Chau Lam (“Applicant”)² 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): design review approval pursuant to Subtitle K, Chapter 5 and Subtitle Z, Chapter 6 with flexibility from the minimum rear yard requirements of Subtitle K § 502.7 to provide no rear yard on the first and second floors and 11 feet on upper floors instead of the required 15 feet; the closed court requirements of Subtitle K § 502.9 to provide a closed court of three feet by 13 feet, 11 inches on the first floor and 15 feet by 14 feet on upper floors; the minimum front setback requirements of Subtitle K § 510.1(b) to provide bay projections on South Capitol Street that are set back 12 feet instead of the required 15 feet; and such other design flexibility as are set forth in the Conditions hereof.

The relief was requested for Lots 65, 66, 827, 829, and 830 in Square 653 (“Property”) to construct a new mixed-use multi-family building with ground floor retail and second floor office space (“Project”) in the CG-2 zone. The Commission conducted the public hearings in accordance with Subtitle Z. For the reasons below, the Commission hereby **APPROVES** the application.

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. The following were automatically parties to this proceeding pursuant to Subtitle Z § 403.5:
 - The Applicant; and
 - Advisory Neighborhood Commission (“ANC”) 6D, in which the Property is located and so is an “affected ANC” per Subtitle Z § 101.8.

¹ The Commission held public hearings regarding the Application on April 21, 2022, October 3, 2022, and January 5, 2023.

² The respective owners are: Shing W. Lam and Sau Chan (Lot 827), R S Liquors Inc. c/o Shing-Wai Lam (Lots 829 and 830), and Chun-Chau Lam (Lots 65 and 66). The owners of the lots agreed to collective representation by Chun-Chau Lam.

2. The Commission received a request for Party Status from Sheila Samaddar and Greg Keagle (“Party Opponents”). (Ex. 22.) The Commission granted them party status at the April 21, 2022 hearing. The party status was later withdrawn on November 28, 2022. (Ex. 46.)

NOTICE AND HEARINGS

3. Pursuant to Subtitle Z §§ 301.6 and 301.7, the Applicant mailed a Notice of Intent to file the Application on June 24, 2021, to ANC 6D and the Owners of property within 200 feet of the Property. (Ex. 2D1, 2D2.)
4. Pursuant to Subtitle Z § 402, on January 5, 2022, the Office of Zoning (“OZ”) sent notice of the February 28, 2022 public hearing to: (Ex. 6.)
 - The Applicant;
 - ANC 6D;
 - ANC 6D06 Single Member District Commissioner, whose district includes the Property;
 - The Office of the ANCs;
 - Ward 6 Councilmember, whose district includes the Property;
 - The Chair and At-Large members of the D.C. Council;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The Department of Consumer and Regulatory Affairs (“DCRA”);
 - The Office of Zoning Legal Division (“OZLD”);
 - The Department of Energy and the Environment (“DOEE”); and
 - Owners of property within 200 feet of the Property.
5. Pursuant to Subtitle Z § 402.1(a), OZ also published the public hearing notice in the January 7, 2022, *District of Columbia Register* (69 DCR 000055 *et seq.*). (Ex. 4.)
6. Pursuant to Subtitle Z §§ 402.8 and 402.9, the Applicant filed an affidavit supported by photos stating that on January 12, 2022, it had posted the required notice of the public hearing. (Ex. 8.)
7. On January 31, 2022, the Applicant requested a postponement of the originally scheduled February 28, 2022 public hearing to April 21, 2022, stating that the purpose of the postponement was to accommodate ANC 6D’s meeting schedule. (Ex. 11.)
8. Pursuant to Subtitle Z § 402, on February 2, 2022, OZ sent notice of the April 21, 2022, rescheduled public hearing to: (Ex. 13, 14.)
 - The Applicant;
 - ANC 6D;
 - ANC 6D06 Single Member District Commissioner, whose district includes the Property;
 - The Office of the ANCs;

- Ward 6 Councilmember, whose district includes the Property;
 - The Chair and At-Large members of the D.C. Council;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The Department of Consumer and Regulatory Affairs (“DCRA”);
 - The Office of Zoning Legal Division (“OZLD”);
 - The Department of Energy and the Environment (“DOEE”); and
 - Owners of property within 200 feet of the Property.
9. Pursuant to Subtitle Z § 402.1(a), OZ also published the public hearing notice for the first rescheduled hearing in the February 11, 2022, *District of Columbia Register* (69 DCR 001128 *et seq.*). (Ex. 12.)
 10. The Applicant presented at the first hearing on April 21, 2022. Alexandra Wilson, Land Use Counsel from Sullivan and Barros, appeared on behalf of the Applicant. Chun-Chau (“Jason”) Lam also appeared on behalf of the owners. Richard Markus, project architect, was sworn in as an expert and provided testimony on behalf of the Applicant, as did William Zeid, the Applicant’s traffic expert. (Ex. 27F-27H.) Sheila Samaddar and Greg Keagle appeared and testified in opposition to the Application, objecting that it did not adequately show how the Project related to their adjacent properties, and its impact. ANC 6D testified about concerns it had about the Project’s parking and loading plan. The Applicant stated that it was willing to meet with the Party Opponents and ANC to try to resolve their differences.
 11. After the conclusion of the first hearing, the Commission requested the hearing be continued to give the parties time to discuss potential changes to the design of the Project to resolve their issues. The continued hearing was scheduled for June 23, 2022.
 12. On June 13, 2022, the Applicant requested a further postponement to October 3, 2022, stating that it needed additional time to work with OP and with the ANC. (Ex. 35.)
 13. The second hearing was held on October 3, 2022. The Applicant advised the Commission that it had a tentative agreement with the Party Opponents. The Applicant further advised the Commission that it and ANC 6D had agreed to a revised Project design that included an off-street loading area off of N Street. However, the Applicant stated that the revised design required a curb cut, and it was advised by DDOT’s Public Space Committee that it would not approve the curb cut, but that the hearing on the curb cut request had not yet occurred. The Commission continued the hearing to January 5, 2023, so the Applicant could attend the Public Space Committee hearing on its curb cut request and finalize the agreement with the Party Opponents.
 14. The third hearing took place on January 5, 2023. At the hearing, the Applicant advised the Commission that the Public Space Committee had denied its curb cut request, and that it had finalized its agreement with the Party Opponents. The Applicant presented its final design. ANC 6D stated the reasons for its opposition to the final design.

15. The Commission voted to approve the Application at its February 9, 2023 public meeting.

THE PROPERTY

16. The Property contains 7,131 square feet of land area and is located in the CG-2 zone. The Property is an L-shaped parcel made up of five lots (Lots 65, 66, 827 829, and 830). It is currently improved with a small liquor store, a parking lot, and three two-story row buildings. Two of the row dwellings are on N Street and one is on South Capitol Street. (Ex. 2, 47A, Sheet A04.)
17. The Property has frontage on N Street, S.W. to the north and South Capitol Street to the east. To the south and west of the Property are row dwellings. (Ex. 2.)
18. The Property is directly across the street from Nationals Park, north of the Camden South Capitol Apartments, which are the subject of Z.C. Order No. 06-41, and a development at 1319 S. Capitol Street, which is the subject of Z.C. Order No. 20-18. The Property is two blocks east of the Greenleaf recreation center and housing development and three blocks north of the Anacostia River. (Ex. 2.)
19. 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. (Ex. 2.)

ZONING

20. The Property is located in the CG-2 zone. The CG zones are intended to, among other things, “[a]ssure development with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings as generally indicated in the Comprehensive Plan and recommended by planning studies of the area” and encourage a “variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel uses.” (Subtitle K § 500.1.) The CG-2 zone is intended to permit medium-density mixed-use development with a focus on residential use and provide for the establishment of South Capitol Street as a monumental civic boulevard. (Subtitle K § 502.1.) The CG-2 zone also requires design review approval from the Commission for development on properties abutting South Capitol Street, such as the Property. (Subtitle K § 512.1(d)).
21. The CG-2 zone permits a maximum floor area ratio (“FAR”) of 7.2 inclusive of the Inclusionary Zoning (“IZ”) and residential density bonuses, with a maximum FAR of 2.0 for nonresidential use. (Subtitle K § 502.3.) The CG-2 zone permits a maximum height of 110 feet for IZ projects. (Subtitle K § 502.4.) Subtitle K §510 contains design-related conditions on height and upper story setbacks for development on South Capitol Street.

COMPREHENSIVE PLAN (TITLE 10-A OF THE DCMR, THE “CP”) AND OTHER RELEVANT PLANNING DOCUMENTS

22. The CP’s Future Land Use Map (“FLUM”) designates the Property as Mixed-Use Medium Density Residential / Moderate Density Commercial. (Ex. 2.) Medium Density Residential neighborhoods or areas are generally, but not exclusively, suited for mid-rise apartment buildings. Density typically ranges from 1.8 to 4.0 FAR although greater density may be

possible when complying with Inclusionary Zoning . . . (10A DCMR § 227.7.) Moderate Density Commercial areas range from small business districts that draw primarily from the surrounding neighborhood to larger business districts that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a FAR of 2.5 and 4.0, with greater density possible when complying with Inclusionary Zoning . . . (10A DCMR § 227.11.)

23. The CP’s Generalized Policy Map (“GPM”) designates the Property as a “Neighborhood Enhancement Area”; such areas are “neighborhoods with substantial amounts of vacant and underutilized land.” New development in Neighborhood Enhancement Areas should “respond to the existing character” and “[n]ew housing [is] encouraged to improve the neighborhood.” New development must be consistent with the FLUM. (10A DCMR § 223.6.)
24. The Property is included in the Southwest Neighborhood Small Area Plan. (Ex. 2.)
25. The Project will help achieve a number of the CP’s goals for the neighborhood, including enhancing pedestrian connections and safety, supporting the transformation of South Capitol Street into a high density, urban boulevard that establishes a robust pedestrian realm, adopting sustainable policies to showcase the Southwest neighborhood as a steward of green, sustainable practices, and maintaining a mix of affordable and market-rate residential units that better serve community needs. (Southwest Neighborhood Plan pp. 5-8.)
26. The Property is located within the “Lower Anacostia Waterfront Near Southwest” Area Element, one of the ten area elements contained in the Comprehensive Plan. (Ex. 2.)
27. The project would also further the policies of the Lower Anacostia Waterfront Near Southwest Area Element as it would help to “transform South Capitol Street into a great urban boulevard and walking street, befitting its role as a gateway to the U.S. Capitol...” (AW-2.2.1, 10A DCMR § 1911.7, Ex. 2.)
28. This Application will further racial equity goals. Specifically, the proposal will facilitate the creation of a new development that will bring market-rate and affordable housing; and employment and business opportunities where there are only two occupied row dwellings and a small business (which will be retained). Additionally, this development triggers enhanced sustainability requirements and the Applicant is proposing to achieve LEED certification. (Ex. 27A.) The proposed development will displace the existing tenants living in the rowhouses on N and South Capitol Streets; however, the Applicant has agreed to assist with relocating the tenants as a condition of this Order. (Ex. 34C.)

II. THE APPLICATION

THE PROJECT

29. The Applicant proposed a mixed-use project with: (Ex. 2G1-3, 21B1-B2, 27B1-B2, 34A, 38A-A1, 42A1-A2, 47A-B.)
- A maximum height of 108.5 feet plus a habitable penthouse;
 - Approximately 51,313 square feet of gross floor area (“GFA”), plus a habitable penthouse, for a total FAR of approximately 7.195 based on the lot area of 7,131 sq. ft.;
 - 49 Residential units-- 12% of the residential gross floor area will be set aside for IZ units or approximately six units; one of the units will be set aside for households at 50% or less of the Median Family Income (“MFI”) and the rest will be set aside for households at 60% or less of the MFI;
 - Approximately 6,000 square feet of retail use and 4,900 square feet of office use; and
 - Four short-term and 24 long-term bicycle parking spaces.
30. While the design changed throughout the process, the overall program did not undergo any material changes. (Ex. 2G1-3, 21B1-B2, 27B1-B2, 34A, 38A-A1, 42A1-A2, 47A-B.)

APPLICANT’S SUBMISSIONS

31. In addition to the testimony at the public hearing, the Applicant made the following submissions to the record in support of the Application:
- The initial December 21, 2021, application and related materials requesting design review approval and related flexibility (Ex. 1-2G3.);
 - A Comprehensive Transportation Review and subsequent final TDM & LMP Plan. (Ex. 9, 18 the “CTR”; Ex. 27D.) The CTR concluded that the Project’s trip generation is below the DDOT vehicular trip generation threshold of 25 peak hour vehicle trips in the peak direction and therefore detailed vehicular capacity analyses are not required, and the TDM and LMP will reduce vehicular demand promoting non-auto modes of transportation and reduce loading operation impacts within the public space, respectively;
 - An April 5, 2022 pre-hearing submission, including updated plans reflecting design changes in response to OP and the ANC. The balconies and bays were modified, the retention of the façade/footprint of the existing rowhouse on South Capitol was eliminated, among other things; (Ex. 21-21B2.)
 - An April 18, 2022 supplemental pre-hearing submission (the “April Pre-Hearing Submission”), which included the Applicant’s detailed responses to agency comments and a Racial Equity analysis, a complete updated set of plans for the Project, and requested design flexibility language; (Ex. 27-27I)
 - An April 20, 2022 hearing submission with the Applicant’s hearing presentation (the “April Hearing Submission”.); (Ex. 31A1-31A2.)

- A May 26, 2022 supplemental pre-hearing submission in anticipation of the originally scheduled June hearing, (the “May Pre-Hearing Submission”), which included updated architectural plans and a summary of design changes such as modifying and relocating balconies, removing porthole windows, and retaining the façade of the existing rowhouse on N Street, among other things, a timeline of ANC outreach, truck and vehicle turn diagrams, a status update on the agreement with Party Opponents, updated proposed conditions and design flexibility, and a proposed agreement with ANC 6D; (Ex. 34-34E.)
- A September 13, 2022 supplemental pre-hearing submission (the “September Pre-Hearing Submission”), which included updated architectural plans and a summary of design changes such as a reduced closed court, eliminating the retention of the façade of the existing rowhouse on N Street, adjusting the landscaping along both the South Capitol and N Street frontages, and moving the location of trash exit toward the residential entrance of the building, among other things, 3D images, a request for additional zoning flexibility from front setback requirements to provide 3 and a half bays along South Capitol, an update on the proposed settlement agreement with Party Opponents, a summary of the ANC discussions and Public Space Committee status, and updated proposed conditions and a request for flexibility to extend the first floor of the building to cover the existing three feet by 13 feet 11 in, closed court on the south side of the building; (Ex. 38-38F.)
- A September 30, 2022 hearing submission, including updated plans and renderings adjusting the floor plans, elevations, arrangement of balconies, and depicting hardscape fronting the western retail bay on N Street along with the Applicant’s hearing presentation (the “September Hearing Submission”); (Ex. 42-42A2, 43A1-43A2.)
- A November 30, 2022 supplemental pre-hearing submission), (the “November Pre-Hearing Submission”), which included updated renderings and plans matching the 2D plans and 3D renderings, the submission also withdrew a request for design flexibility related to the closed court relief on the first floor of the Building;
- A January 4, 2023 hearing submission with the Applicant’s hearing presentation (the “January Hearing Submission”.); and (Ex. 47-47B, 50.)
- Submitted on February 2, 2023, the Applicant’s proposed findings of fact and conclusions of law. (Ex. 54.)

RELIEF REQUESTED

32. The Applicant requested (Ex. 2, Ex. 38.): Design Review approval of the Project, including the following zoning flexibility (which is described in greater detail below) from the rear yard (Subtitle K § 502.7.), closed court (Subtitle K § 502.9.), and front setback requirements (Subtitle K § 510.1(b).) of the CG-2 zone.

33. The Applicant also requested the following design flexibility: (Ex. 34D.)³

³ These requests for flexibility have been slightly revised herein, at the end of the Order, to provide more detail with respect to the LEED certification; to change the request for flexibility for only +/- 1 unit, not 2 units.

- 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;
- 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;
- 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 of appearance of the building;
- To vary the number of residential units +/- two units;
- To vary the final mix of IZ units in the event that floor plan changes impact the required IZ, so long as the Applicant complies with all IZ requirements in the Zoning Regulations, the Applicant meets a 12% set-aside requirement and sets aside at least one of the units at 50% MFI as requested by DHCD (Ex. 24, p. 17), and the units do not appear stacked;
- To vary the roof plan as it relates to the green roof areas, solar panels, planters, and terraces, provided that total GAR is not reduced below the permitted GAR in the zone and that the Applicant provide solar panels;
- To modify the streetscape design and areas in public space in response to DDOT and the public space permitting process; and
- To vary the items on the LEED Scorecard so long as the project receives LEED GOLD Certification.

APPLICANT'S JUSTIFICATION

CG Design Review (Subtitle K, § 512.3)

34. CG zone Purposes (Subtitle K § 512.3(a)). The Applicant is proposing a Project that will include a mixture of residential and commercial use. The height and density of the Building are appropriate for this area and are within the height and density permitted in the CG-2 zone. Further, the Building envelope is not inconsistent with its medium density residential and moderate density commercial designation on the FLUM. Specifically, the addition of 49 residential units, neighborhood-serving retail space, and office space will contribute to the desired use mix in the Capitol Gateway zones, particularly along South Capitol Street. Additionally, the Project uses high-quality materials that complement the existing and planned buildings along South Capitol Street and in the neighborhood along with employing a building form that sets back from and defers to South Capitol Street. This Building materiality and configuration allows for the framing South Capitol as a monumental boulevard between the Capitol Dome. (Ex. 2, 47A-47B.)
35. Desired Use Mix (Subtitle K § 512.3(b), Subtitle X § 604.7(b)). The Project provides the multifamily residential and retail uses identified as desired uses in Subtitle K § 512.3(b). (Ex. 2, 47A-47B.)

36. Context with the Surrounding Neighborhood and Street Patterns (Subtitle K § 512.3(c), Subtitle X § 604.7(c)). The Project is consistent with the medium density residential and moderate density commercial development encouraged along this portion of South Capitol in the CG-2 zone. The Property is abutting the developments at 1319 South Capitol and 1345 South Capitol Street, S.W. Although those buildings are of a similar height to the proposed building, approximately 110 feet in height, the nearby projects are much larger. For example, the development at 1319 S. Capitol proposes 300+ units. The neighboring buildings, and many other similar residential and mixed-use projects along South Capitol Street near the Property frame the vistas along this corridor similarly to the Project. The Project will be consistent with the build-out of this area and allow for the infill of these corner lots. The development will also encourage pedestrian activity along South Capitol Street through the inclusion of well-designed streetscape improvements, a robust landscaping and hardscaping strategy, and multiple pedestrian entrances to the residential and retail spaces. The design reflects the character of this neighborhood through its use of materiality – specifically brick material and massing and how it builds to the corner to emphasize the monumentality of the corner. (Ex. 2, 47A-47B.)
37. Minimize Pedestrian and Vehicular Conflicts (Subtitle K § 512.3(d), Subtitle X § 604.7(a) and (f)). The proposed design promotes a safe and efficient pedestrian experience with the removal of all existing curb cuts, as there is no proposed on-site parking or loading, which will naturally limit conflict between vehicles and pedestrians (Ex. 2, 47A-47B.)
38. Minimize Unarticulated Blank Walls Adjacent to Public Spaces (Subtitle K § 512.3(e), Subtitle X § 604.7(a) and (d)). The building facades are highly articulated and differentiated at each elevation and there are no blank walls or facades. (Ex. 2, 47A-47B.)
39. Minimize Environmental Impact (Subtitle K, § 512.3(f), Subtitle X, § 604.7(e)). The Project is designed to a minimum of LEED v.4 Gold and incorporates a green roof and solar panels on the rooftop. (Ex. 2, Ex. 47A-B.)
40. Massing, Materials and Design Promote South Capitol Street as Monumental Boulevard (Subtitle K § 512.6(a)). The proposed Building is designed to frame the South Capitol Street boulevard in a manner sensitive to its importance. This is achieved through building articulation, honoring the setback for the upper stories along South Capitol Street, and streetscape improvements and plantings along the street, all as demonstrated by the Plans. The design reflects the character of this neighborhood through its use of materiality – specifically brick material and massing and how it builds to the corner to emphasize the monumentality of the corner (Ex. 2, Ex. 47A-47B.)
41. Massing, Access, and Service Areas Recognize Nearby Residential Neighborhood (Subtitle K, § 512.6(b)). The pedestrian access to, and experience of, the Property will be from both N Street and South Capitol Street. The Project has been designed to respect the importance of being located on such a highly visible and high-trafficked corner. The Applicant revised the design to relocate the loading area, but the revised design required a curb cut on N

Street that the Public Space Committee denied. Because of this, the Project will have on-street loading and the Applicant worked with DDOT on a loading management plan to minimize impacts on the neighborhood. (Ex. 2, Ex. 47A-47B, 51.)

42. View Analysis to Assess Openness of Views and Vistas (Subtitle K § 512.6(c)). The Applicant's view analysis demonstrates that the Project will not detract from the views of the Capitol Dome and Nationals Park (Ex. 47A-47B.)

General Design Review (Subtitle X, § 604)

43. The Applicant asserted:

- a. The Application meets the requirements of Subtitle X § 604.6 as the CG-2 zone permits a broad mix of residential, commercial, and other uses, including multiple dwelling residential buildings. Aside from the flexibility requested for the closed court, rear yard, and South Capitol Setback requirements for some of the projecting bays, the Project will meet all applicable CG-2 development standards. Most notably, the Project is within the 110-foot height limit, the 7.2 FAR limit and, at approximately 70% lot occupancy, is well below the 90% lot occupancy allowed in the CG-2 zone. The Project's proposed roof structure, including habitable space, is compliant with all zoning requirements relating to roof structures, including setbacks, heights and enclosures such that it, too, will be in harmony with the purpose and intent of the Zoning Regulations:
- i. With respect to the closed court relief, the court itself is not required but allows for a better floorplan layout as it permits windows on the south side of the building. Without the closed court, the only option for windows would be on the south façade, and those windows would be at-risk. This solution with the court permits additional light into the units on that side of the building and breaks up the only blank façade. Accordingly, the court flexibility will not tend to adversely affect the use of neighboring property and will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- ii. With respect to the rear yard setback, the requested flexibility pertains to the first and second floors only. The Applicant did this to facilitate shifting the location of the delivery corridor and trash exit towards the residential entrance instead of the rear setback space to reduce impacts on the N street rowhomes. Accordingly, the rear yard flexibility will not tend to adversely affect the use of neighboring property and will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and
- iii. With respect to the South Capitol Street setback, the Applicant only seeks flexibility from the South Capitol setback requirement of Subtitle K, § 510.1(b) for three and a half bay projections along the front setback on the South Capitol side which are set back 12 feet instead of the required 15 feet. The flexibility is minor—only a few feet for a small number of bays, but allows for a more

inviting, interesting, and dynamic design on the South Capitol façade. Accordingly, the setback flexibility will not tend to adversely affect the use of neighboring property and will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; (Ex. 2, 38C.)

- b. The proposal meets Subtitle X § 604.7(a) with Street frontages designed to be safe, comfortable, and encourage pedestrian activity, including: (1) multiple pedestrian entrances for large developments; (2) no driveway or garage access to the street; (3) commercial ground floors contain active uses with clear, inviting windows; (4) no blank facades; and (5) wide sidewalks; (11-X DCMR § 604.7(a); Ex. 2, 47A-47B.)
- c. The proposal meets Subtitle X § 604.7(b), with public gathering and open spaces. The Project includes a landscaped and hardscaped plaza that allows for public use adjacent to the Building's main entrance and extending into the interior of the site. The Project also includes improvements to the South Capitol and N Street streetscapes; (11-X DCMR § 604.7(b); Ex. 2, 47A-47B.)
- d. The proposal meets Subtitle X § 604.7(c) as the development respects the historic character of Washington's neighborhoods. The Project is located on a major boulevard and reinforces the existing urban form. The Project also respects the continuity of neighborhood architectural character with its detailing on the N Street side of the building, while also respecting and protecting key landscape vistas and axial views of landmarks and important places on the South Capitol side; (11-X DCMR § 604.7(c); Ex. 2, 47A-47B.)
- e. The proposal meets Subtitle X § 604.7(d) as the building has attractive and inspired façade design, which reinforces the pedestrian realm with elevated detailing and design of first and second stories and incorporates contextual and quality building materials and fenestration; (11-X DCMR § 604.7(d); Ex. 2, 47A-47B.)
- f. The proposal meets Subtitle X § 604.7(e) as the site is designed with sustainable landscaping and will meet or exceed LEED Gold standards and provide a green roof and solar panels on the roof; and (11-X DCMR § 604.7(e); Ex. 2, 47A-47B.).
- g. The proposal meets Subtitle X 604.7(f) as the site is developed to promote connectivity both internally and with surrounding neighborhoods. The Project includes streetscape improvements to the adjacent components of South Capitol and N Street to enhance the pedestrian experience and increase mobility. The development includes bicycle facilities within and adjacent to the Building. (11-X DCMR § 604.7(f); Ex. 2, 47A-B.)

Design Review Flexibility (Subtitle X, § 603.1)

44. Rear Yard. The Applicant justified the requested flexibility from the CG-2 zone requirement under Subtitle K § 502.7(a) to provide no rear yard on the first floor and a minimum rear yard of 11 feet on the upper stories instead of the required 15 feet. The flexibility meets the intent of the regulations as the majority of the rear yard is provided, the flexibility is only requested for the balcony projections into the rear yard for the upper stories. (Ex. 38C.)
45. South Capitol Setback. The Applicant justified the requested flexibility from the CG-2 zone South Capitol Setback requirement under Subtitle K § 510.1(b)(1). The flexibility meets the intent of the regulation as it would simply allow the bays along South Capitol Street to project three feet into the required 15-foot setback from South Capitol Street, and only on the first two stories. (Ex. 38C.)
46. Closed Court. The Applicant justified the requested flexibility from the CG-2 zone closed court requirements under Subtitle K § 502.9 to allow a three feet by 13 feet, 11 inches (45 sq. ft.) closed court on the first floor and a 15 feet by 14 feet (210 sq. ft.) closed court on upper floors. The flexibility meets the intent of the regulations as a closed court is not required in this zone. The Property is subject to easement restrictions and the proposed location of the closed court allows for the easement to remain open and permits additional light to units on the south side of the building. (Ex. 2, 38C-D.)

III. RESPONSES TO THE APPLICATION

OP

47. OP submitted a report dated April 11, 2022 (“OP Report”) that recommended approval of the design review application, including the flexibility for the closed court⁴. OP evaluated the application against the general design review criteria set forth in Subtitle X, § 601 through 604 as well as against the CG-specific design review criteria in Subtitle K, § 512. OP also provided a detailed evaluation of the Project against the CP, including through a racial equity lens, and concluded that the Project was not inconsistent with the CP. (Ex. 24.)

OP concluded that the Project would not be inconsistent with the CP land use maps, the GPM, and the FLUM. With respect to the FLUM, OP found the following:

- The Future Land Use Map designates the site as appropriate for Medium Density Residential and Moderate Density Commercial mixed use. The Framework Element describes Medium Density Residential as a designation used for:
neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may

⁴ At the time of the OP Report, the Project did not require relief from minimum rear yard requirements; however, OP requested further information from the Applicant to demonstrate that the Project complied with front setback requirements for South Capitol Street.

exist within these areas, Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 zone is consistent with the Medium Density Residential category, and other zones may also apply. (227.7.)

- Moderate Density Commercial is described as follows:

This designation is used to define shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas. Retail, office, and service businesses are the predominant uses in Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a FAR of 2.5 and 4.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-5 and MU-7 zones are representative of zones consistent with the Moderate Density Commercial category, and other zones may also apply. (227.11.)

- The proposed development would not be inconsistent with the land use designations shown on the Plan's land use and policy maps and described in the Framework Element. The development is consistent with the existing zoning, including an FAR of 7.07⁵, which is achieved through the provision of inclusionary zoning units. Furthermore, "The Future Land Use Map is intended to be used in conjunction with the Comprehensive Plan's policies and actions" (227.1), and this proposed development would be consistent with a number of Plan policies from the Land Use, Transportation, Urban Design, and Lower Anacostia Waterfront and Near Southwest Elements. (Ex. 24.)

48. The OP Report concluded that the Project would not be inconsistent with the CP Citywide Elements, including Land Use, Transportation, and Urban Design, and the Lower Anacostia Waterfront Near Southwest Area Element. OP found that the Project would advance CP land use policies encouraging infill development on underutilized land located along major corridors and near metro stations (LU-1.2.4, LU-1.4.1, LU-1.4.2, LU-1.5.1); and that the Project would advance CP transportation and urban design policies that support transit-oriented development, pedestrian improvements near metro, and protecting views toward the Capitol (T-1.14, UD-1.2.4, UD-1.4.1, UD-1.4.3). Also, the Project would further the Lower Anacostia Waterfront Near Southwest Area Element policies that seek to transform South Capitol Street into a great urban boulevard and walking street, befitting its role as a gateway to the U.S. Capitol. (AW-2.2.1; Ex. 24.)

⁵ The Project's FAR was subsequently increased to 7.195 in the Architectural Plans. (Ex. 38A1.)

49. The OP Report concluded that the Project would not be inconsistent with the CP when viewed through a racial equity lens. One of the ways the CP addresses racial equity is through supporting additional housing development and recognizing the importance of IZ in providing affordable housing opportunities for households of varying income levels. The Project would support the Planning Area’s goal to create 7,960 new housing units and 850 affordable housing units and provide approximately 49 new residential units, including market rate and affordable housing under the IZ Program, within walking distance to transit, and ground floor retail, which could bring a level of amenity to future building residents and employment opportunities to the neighborhood. (Ex. 24.)
50. The OP Report concluded that the Project would help achieve a number of the Southwest Neighborhood Plan goals for the neighborhood, including:
- Enhancing pedestrian connections and safety throughout the neighborhood;
 - Supporting the transformation of South Capitol Street into a high density, urban boulevard that establishes a robust pedestrian realm; and
 - Ensuring that future development is compatible with the existing design of the community. (Ex. 24.)
51. The OP Report included the following requests and recommendations:
- a. Address design comments from OP’s Urban Design Division;
 - b. Provide a LEED checklist. The design should, at a minimum, meet LEED Gold standards and the applicant should commit to actual certification;
 - c. Provide solar energy generation on-site;
 - d. Submit elevation drawings for south and west façades;
 - e. Identify on the plans the locations of the IZ units;
 - f. Describe or quantify the penthouse IZ contribution;
 - g. Demonstrate that the design complies with Subtitle K § 510.1(b)(1), which stipulates that a minimum percentage of the building façade must be built to the setback line;
 - h. Clarify whether the existing rowhouses that are part of this proposal are currently occupied as residential units; and
 - i. Provide analysis through a Racial Equity lens as required under the Comprehensive Plan. (Ex. 24.)
52. In response to OP’s requests and recommendations, the Applicant provided a supplemental pre-hearing submission, (the “April Pre-Hearing Submission”), which included the Applicant’s detailed responses to agency comments and a Racial Equity analysis, a complete updated set of plans for the Project, and requested design flexibility language. (Ex. 27-27I.)
53. At the April 21, 2022 public hearing, OP testified in support of the Application but noted that it would continue to work with the Applicant to refine the design if the hearing was continued. (Tr. p. 84-87; hearing April 21, 2022.)

54. OP submitted a supplemental report dated September 23, 2022 (“OP Supplemental Report”) that recommended approval of the design review application, including flexibility from closed court, rear yard, and front setback requirements and stated that the Applicant satisfied most of OP’s outstanding concerns from the April 21, 2022 public hearing. OP made further recommendations that the Applicant consider more hardscape in front of the western retail bay on N Street, and aligning the balconies across both the north and east sides of the building and unifying the guardrails. (Ex. 39.)
55. In response to OP’s requests and recommendations, the Applicant provided an updated set of plans and renderings on September 30, 2022. (Ex. 42-42A2.)
56. At the October 3, 2022 public hearing, OP did not testify as the hearing was continued to allow more time for the Applicant to resolve outstanding issues with the Party Opponents and the ANC.
57. At the January 5, 2023 public hearing, OP testified in support of the Application, noting that the Applicant worked closely with OP’s design division to achieve the final design for the building and public space realm. (Tr. P. 60-62; hearing January 5, 2023.)

DDOT

58. DDOT submitted a report dated April 8, 2022 (“DDOT Report”). (Ex. 23.) DDOT noted its support of the Project not providing any off-street parking, as allowed in the CG-2 zone, given its proximity to transit; and its support of the Project providing loading, move-ins/outs, and trash pick-up along N Street rather than create a new curb cut for back-in loading. DDOT indicated that it has no objection to approval of the design review application subject to Applicant implementing the Transportation Demand Management (“TDM”) Plan as proposed in the Applicant’s CTR, subject to the following revisions:
 - Clarify that a minimum of 12 long-term bicycle parking spaces (50%) will be designed to be installed horizontally on the ground;
 - Clarify that a minimum of two long-term bicycle parking spaces will be designed to accommodate larger tandem and cargo bicycles. The current language states only one (1) will be provided, while the CTR Guidelines calls for at least two; and
 - Revise bullet: Transportation Coordinator will demonstrate to goDCgo that tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law and participate in one of the three transportation benefits outlined in the law (employee paid pre-tax benefit, employer-paid direct benefit, or shuttle service), as well as any other commuter benefits related laws that may be implemented in the future, such as the Parking Cash-out Law.
59. The DDOT report also noted that its support was subject to Applicant implementing the Loading Management Plan (“LMP”) as proposed in the Applicant’s CTR (Ex. 18.), subject to the following revisions:
 - Clarify that “No Parking: Loading zone” or comparable signage and placards, to be determined by Curbside Management Division (CMD), will be used;

- Revise the division name from PGTD to Curbside Management Division (CMD) and remove reference to supplemental BZA report;
 - Clarify that the loading zone manager will “encourage and facilitate obtaining ‘Emergency No Parking’ signs...;”
 - Include a bullet addressing trash operations; and
 - When entering the LMP into the Draft Zoning Order, revise wording of bullets to be closer to the language on page E-4 in Appendix E of the CTR Guidelines. Several other bullets in the LMP may need to be further refined.
60. The Applicant revised the LMP and TDM Plan accordingly and submitted its revisions. (Ex. 27D.)
61. At the initial April 21, 2022 public hearing, DDOT testified in support of the Application and confirmed that the Applicant’s responses satisfactorily addressed DDOT’s recommendations. (Tr. April 21, 2022, pp. 89-90.)
62. DDOT submitted a supplemental report dated January 18, 2023 (the “DDOT Supplemental Report”) at the request of the Commission to relay the events and procedure surrounding the Public Space Committee (“PSC”) hearing on October 27, 2022. (Ex. 51.)
63. DDOT’s supplemental report stated that at the PSC hearing, DDOT reiterated its objection to the curb cut on N Street as noted in the original report to the Commission for the following reasons:
- The curb cut would interrupt the streetscape along N Street and remove green space from the right-of-way;
 - The curb cut would create a new conflict point between pedestrians and backing trucks;
 - Parking and loading are not required by the Zoning Regulations;
 - The curb cut would result in loss of an on-street parking/loading space;
 - DDOT does not support a curb cut in the shown location or anywhere else along the frontage on N Street. A driveway closer to South Capitol Street could pose additional conflicts with turning vehicles;
 - The PSC concurred with DDOT and took action to deny the curb cut on N Street and approve the closure of the existing curb cuts. The PSC letter is included as Attachment 1 to Ex. 51;
 - **“DDOT Recommendation:** Given the tradeoff between the two loading schemes, neither of which are perfect, DDOT continues to support the site layout below that does not include a driveway and off-street loading, as previously agreed to with the Applicant. The on-street scheme better meets DDOT standards and vision for public spaces and is safer for pedestrians;” and
 - Since the January 5, 2023 public hearing, DDOT has been in communication with Commissioner Hamilton (6D08) to clarify all items.

ANC 6D Reports

64. The ANC submitted three reports. The first is dated April 18, 2022, and states that the ANC voted 6-0-0 to oppose the Applicant's submission, specifically noting concerns over traffic and parking, and design of the façade, and landscaping and related issues. (Ex. 28.) With respect to traffic and parking, the ANC expressed concerns that the Project's proposed elimination of on-street parking in front of the building on N Street to facilitate PUDO/loading/trash pick-up will create impacts given the narrowness of N Street; and the expectation that remote garages will satisfy off-street parking needs is unrealistic even though the Project is not required to provide parking. With respect to the design of the façade, the ANC expressed concerns that the Project does not embrace the character of the neighborhood's historic garden style apartments and the proposal to raze the two rowhomes on N and South Capitol Streets instead of preserving them is a missed opportunity to have incorporated historic context into the design; the ANC also noted that the addition of bay windows to the ground and second floor of the Project does not reflect Southwest. With respect to landscaping, the ANC expressed concerns that landscaping be increased and aligned with rowhomes on either side. The Applicant responded to the ANC's issues regarding loading, parking/traffic, and trash; and regarding the status of a Public Space Committee hearing for a curb cut on N Street. (Ex. 34C, pp.5-8, 38E.)
65. The ANC's second report was submitted on September 29, 2022. (Ex. 40.) The ANC voted 6-0-0 to conditionally support the Project contingent on the Public Space Committee approving the proposed curb cut on N Street so that the newly proposed interior alley is widened to permit off-street loading. The report stated that the ANC had two continuing concerns, traffic and parking concerns, and concerns about the aesthetics and design of the Project. The ANC noted that the Applicant had revised the design to move the trash route to an interior space closer to the center of the building, eliminating disturbance to the neighboring properties from waiting trash trucks.
66. The ANC's third report was submitted on December 16, 2022. (Ex. 48.) The report stated the ANC voted 6-0-0 to oppose the Project. The report stated two concerns: traffic and parking, and aesthetics and design. Within those categories, the report listed several sub-issues as follows.
- Traffic and Parking
 - ANC 6D claims the loading and parking design, which eliminates on street parking in front of building, using the 3-space curbside section for PUDO/rideshare, and an adjoining 50-foot section for loading and trash pickup, will have adverse effects in the form of:
 - Conflicts created by sharing curb space for residential and commercial trash;
 - Double parking on N Street; and
 - Other conflicts on nearby streets;
 - Suggests that had the Applicant created a "workable solution" for relocating the N Street curb cut, DDOT would have approved a curb cut;

- Aesthetics and design
 - “The design remains largely as was and offers little to create a striking entrance to Old Southwest”;
 - Would prefer that the “ground and second floor treatments visually recognize the scale and aesthetic of the rowhouses”;
 - “Bay windows are not an architectural feature of Southwest ..., the lintels and window placements are unrelated, and the houses on either side are at best incidental; and
 - Asks for “a commitment to building materials and brick color to ensure that the final execution reflects the aesthetic of other Southwest buildings.”
67. At the January 5, 2023 public hearing, ANC Commissioners Fredrica Kramer and Rhonda Hamilton testified that the ANC’s primary concern was the lack of a curb cut and the potential impacts on traffic and loading along N Street. (Tr. January 5, 2023, pp. 65-67.)
 68. The Applicant’s team responded by providing an explanation of the attempts to obtain a curb cut and parking and why the Public Space Committee ultimately denied the curb cut. (Tr. January 5, 2023, pp. 76-87.)
 69. The Applicant’s architect responded to the ANC’s design related comments during the hearing noting that the Applicant reviewed the surrounding brick pattern, specifically the Syphax School, and are looking in the same color family for the brick color for the subject Building, which is also what they used for the proposed adjacent building at 1319 South Capitol Street. The Applicant also presented slides showing the relationship of the building to the adjacent buildings. The slides showed that the Project is surrounded by the 1319 building and relatively small in comparison, and the Project is located on the corner of South Capitol and N Streets. The Project therefore fronts on both streets and must turn the corner between them. The Applicant demonstrated how the lower-level façade of the Project “steps up” visually using materials that complement the adjoining rowhouses on N Street to the monumental scale on South Capitol Street. The Project also contains commercial uses on the bottom two levels, unlike the residential uses in the adjoining rowhouses on N Street. (Tr. January 5, 2023, pp. 18-21, 32-34, 36, 55-60.)

Party Status and Subsequent Withdraw

70. On April 7, 2022, Sheila Samaddar and Greg Keagle filed a request for Party Status (the “Party Opponents”). (Ex. 22.)
71. The Applicant responded to the Party Status request on April 14, 2022. (Ex. 25.)
72. The Commission granted party status to the Party Opponents at the April 21, 2022 public hearing.
73. Through its counsel, Aristotle Theresa, the Party Opponents testified at the April 21, 2022 public hearing, that their concerns were related to the validity of the easement. The Party

Opponents also alleged a number of technical defects with the Application. (Tr. April 21, 2022, at pp. 104-109.)

74. Ultimately, the Party Opponents withdrew their opposition as they reached an agreement with the Applicant, including changes to the building’s design, and conditions to limit the Applicant’s use of the easement to pedestrian emergency egress only. (Ex. 46.)

CONCLUSIONS OF LAW

AUTHORITY- DESIGN REVIEW

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 Repl.)), the Commission may approve a Capitol Gateway design review application consistent with the requirements of Subtitle K § 512, Subtitle X, Chapter 6, and Subtitle Z § 301.
2. Subtitle K § 512 requires design review approval from the Commission for development on properties abutting South Capitol Street, such as the Property. Subtitle K §§ 512.3 and 512.6 provide the applicable CG design review criteria, in addition to the general design review criteria of Subtitle X § 604.
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, provided that FAR is measured as the aggregate of all buildings within a Voluntary Design Review boundary;*
 - (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 FAR beyond that allowed within the overall Voluntary Design Review application boundary 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, yards, lot occupancy, courts, and building transitions; as well as any specific design standards of a specific zone ... [but] shall not be used to vary 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 from the standards authorized by Subtitle X § 603.1 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. . .”

6. Subtitle X § 603.4 provides that “[a]n application for a special exception or variance that would otherwise require the approval of the Board of Zoning Adjustment may be heard simultaneously with a Design Review application, and shall be subject to all applicable special exception criteria and variance standards . . .”

SPECIFIC CG DESIGN REVIEW (SUBTITLE K § 512)

7. Based on the case record and the Findings of Fact above, the Commission concludes that the Application satisfies the applicable design review requirements of Subtitle K § 512.3 as detailed below:

- ***The proposed building will achieve the objectives of the Capital Gateway as defined in Subtitle K §500.1. (Subtitle K § 512.3(a).)***

The Project will achieve the applicable objectives of the Capitol Gateway as defined in Subtitle K § 500.1 as follows:

- o Subtitle K § 500.1(a) – The Project provides a mix of medium-density residential and moderate-density commercial uses in line with the CP. (FF 35.)
- o Subtitle K § 500.1(b) – The Project encourages a variety of support and visitor-related uses such as retail and service uses. (FF 34-35.)
- o Subtitle K § 500.1(g) – The Project provides for the establishment of South Capitol Street as a monumental civic boulevard because of its design. (FF 34.)
(The remaining purposes of the CG zone are not applicable to the Property.)

- ***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. (Subtitle K § 512.3(b).)***

The Project will help achieve the desired use mix by providing residential, retail, and service uses. (FF 35.)

- ***The proposed building will be in context with the surrounding neighborhood and street patterns. (Subtitle K § 512.3(c).)***

The Project will be in context with medium-density residential and moderate density commercial development encouraged along South Capitol Street in the CG-2 zone. The Project will redevelop an underutilized site currently devoted to a small commercial liquor store, a parking lot, and two small row buildings and will further the overall revitalization of the immediate vicinity consistent with the vision for South Capitol Street. (FF 36.)

- ***The proposed building will minimize conflict between vehicles and pedestrians. (Subtitle K § 512.3(d).)***

The Project will minimize conflict between vehicles and pedestrians as there are no proposed curb cuts. The Project also includes an appropriate LMP to further minimize conflicts. (FF 37, 58, 59, 60, 63.)

- The proposed building will minimize unarticulated blank walls adjacent to public spaces through façade articulation. (Subtitle K § 512.3(e).)**

The Project will minimize unarticulated blank walls adjacent to public spaces through highly articulated and differentiated on each elevation, thus eliminating unarticulated blank walls adjacent to public spaces. The façade articulation includes high-quality building materials, brick, and glass patterning to play into the monumental corner, and balconies. There are no blank walls or facades. (FF 38.)
- The proposed building will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards. (Subtitle K § 512.3(f).)**

The Project will minimize impact on the environment through a commitment to being certifiable at the LEED Gold level and through specific measures such as solar panels, and a green roof. (FF 39.)
- The building or structure shall incorporate 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. (Subtitle K § 512.6(a).)**

The Project incorporates massing, materials, and streetscape landscaping to further the establishment of South Capitol Street as a monumental civic boulevard. The Project is designed to frame the South Capitol Street right of way in a manner sensitive to its importance, which is achieved through facade articulation, specifically designing the brick and glass to build to the corner of South Capitol Street and N Street. (FF 40.)
- The building or structure shall incorporate massing, location of access to parking and loading, and location of service areas to recognize the proximate residential neighborhood use and context, as applicable. (Subtitle K § 512.6(b).)**

The pedestrian access to, and experience of, the Property will be from both N Street and South Capitol Street. The Building has been designed to respect the importance of being located on such a highly visible and high-traffic corner. The larger commercial space is located along primarily along South Capitol Street, directly across from Nationals Park, and has two pedestrian entrances- one on South Capitol and one on N Street. The smaller retail space has one entrance on the west side of the building, along N Street. The Applicant revised the design of the Project to relocate the loading area, but the revised design required a curb cut on N Street that the Public Space Committee denied. Because of this, the Project will have on-street loading and the Applicant worked with DDOT on a loading management plan to minimize impacts on the neighborhood. (FF 41, 58, 59,60.)
- 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. (Subtitle K § 512.6(c).)**

The Application includes the required view analyses, which shows that the Project will positively contribute to the views north towards the Capitol and Nationals Park and the Capitol. Further, the bulk of the Building is set back from South Capitol Street, which will allow a more expansive viewshed facing toward both the Capitol. (FF 42.)

GENERAL DESIGN REVIEW CRITERIA (SUBTITLE X § 604.)

8. Based on the case record 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.
9. 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 applicable to the Property because the Application satisfies Subtitle K §§ 512.3 and 512.6 as discussed above.
10. Pursuant to 10A DCMR §§ 2501.4-2501.6, the Commission is tasked with evaluating the Application’s consistency with the Comprehensive Plan through a racial equity lens.⁶ Consideration of equity is intended to be based on the policies of the Comprehensive Plan and is a part of the Commission’s consideration of whether the Application is “not inconsistent” with the Comprehensive Plan, rather than a separate determination about the Project’s equitable impact. The Comprehensive Plan Implementation Element states that “[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas in the District.” (10-A DCMR § 2501.6.)
11. The Commission concludes that the Application satisfies the requirement of Subtitle X § 604.5 to not be inconsistent with the Comprehensive Plan and with other adopted public and active programs related to the Property, and would further racial equity goals because the Project:
 - Includes a mix of residential and commercial uses on an underutilized site at a height and density that is not inconsistent with the Property’s Mixed Use Medium Density Residential / Moderate Density Commercial and Neighborhood Enhancement Area designations on the FLUM and GPM. Although the Project’s FAR of 7.195 is greater than the density of 4.0 FAR contemplated by the Property’s FLUM designations, both designations acknowledge that greater density is possible when complying with Inclusionary Zoning. In this case, the Project’s Inclusionary Zoning set aside will exceed Zoning Regulation requirements setting aside 12% of residential gross floor area for IZ units. In addition, the Project will further CP Citywide Element and Lower Anacostia Waterfront Near Southwest Area Element policies; (FF 22-23, 29, 47, 48, 49.)

⁶ The Commission released a revised Racial Equity Analysis Tool on February 3, 2023, and took final action on February 9, 2023; the Commission did not utilize the revised tool in its evaluation of this Application as its substantive proceedings and relevant submissions preceded the release of the revised tool.

- Will create approximately 49 new housing units, including approximately 6affordable housing units, as well as office, and retail, on a site that is currently occupied by a parking lot, a liquor store with only two employees, and two units of market rate housing. This will increase housing opportunities and affordable housing opportunities in a soon-to-be amenity-rich neighborhood and potentially provide employment opportunities that are not currently available on site, all of which also further racial equity goals of the CP. Additionally, the creation of new housing and affordable housing will support the Planning Area’s goal to create 7,960 new housing units and 850 affordable housing units (FF 25, 28-29, 48.) Although the Project will displace the existing tenants in the rowhouses on N and South Capitol Streets, the Applicant has agreed to assist with relocating the tenants as a condition of this Order; and (FF 28.)
- Is not inconsistent with the relevant objectives of the CP and the Southwest Neighborhood Small Area Plan as it will enhance pedestrian connections and safety and support showcasing the Southwest neighborhood as a steward of green, sustainable practices, and maintaining a mix of affordable and market-rate residential units that better serve community needs. (FF 24-25, 50.)

12. The Commission concludes that the Application satisfies the relevant requirements of Subtitle X § 604.6, which provides that the Project will not adversely affect adversely the use of neighboring property and meet the general special exception criteria of Subtitle X § 901.2. The relevant criteria of Subtitle X, § 901.2 are: (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:

- ***Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.***
The Building and its uses are, on the whole, consistent with the CG-2 zone goals and requirements. The requested zoning flexibility from rear yard, front setback, and closed court requirements are modest in scope. Accordingly, the Project is in harmony with the Zoning Regulations and Maps; and (FF 43, 44-46, 54.)
- ***Will not tend to affect adversely, the use of neighboring property.***
The design of the Building and uses within the building fit well within the surrounding existing and planned uses and includes ground-floor retail which will contribute positively to the broader Southwest neighborhood and this portion of South Capitol Street. The Commission finds the planned on-street loading area on the N Street side of the building is appropriate and the Applicant worked with DDOT on a loading management plan to mitigate the potential adverse effects on neighbors. The Commission notes that the Zoning Regulations do not require off-street parking or loading for the Building because of its location in the CG-2 zone and its proposed number of units. (FF 58.) Inevitably, there will be potential conflicts between those wishing to utilize on street parking spaces, and the proposed loading zone on the street,

but the Commission is satisfied with the Applicant's proposed solution to these issues, notes that DDOT supported this solution, concurs with the statements and recommendations in DDOT's final report, and concludes that the potential conflicts do not rise to the level of an adverse effect of the Project. Accordingly, the Commission concludes the Project will not adversely affect the use of neighboring property. (FF 31, 41, 43, 58-60, 63-65.)

13. 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 Project's creative massing, detailing, materials selection, and other design features, based on the following criteria:

- **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. (Subtitle X § 604.7(a).)**

The Project will encourage a vibrant and active pedestrian environment surrounding the Property, with setbacks along South Capitol Street and N Street to create generous pedestrian zones and highly articulated facades to establish a dynamic streetscape. There is no proposed on-site loading or parking, which eliminates any driveway access. The proposed commercial lower level contains active uses with clear and inviting windows. (FF 36-38, 43.)

- **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. (Subtitle X § 604.7(b).)**

Open space adjacent to the Building's main entrance and new proposed retail uses on the ground floors is being provided, in a location adjacent to central transit stations, and near the Washington National's baseball stadium. The Project also includes improvements to the South Capitol and N Street streetscapes. (FF 43.)

- **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. (Subtitle X § 604.7(c).)**

The Project will further the promotion of the South Capitol Street corridor as a monumental boulevard by revitalizing an underutilized site and replacing the current uses, which are not compatible with this important civic avenue and viewshed. The first and second floor will utilize a similar or the same brick color as the approved project next-door at 1319 South Capitol, which has also committed to a brick color that is typical of the neighborhood. (FF 36, 43.)

- **Buildings strive for attractive and inspired facade design, including: (1) Reinforce the pedestrian realm with elevated detailing and design of first (1st) and second (2nd) stories; and (2) Incorporate contextual and quality building materials and fenestration. (Subtitle X § 604.7(d).)**

The Project reinforces the pedestrian realm and focuses the design of the lower-level façades on creating a welcoming pedestrian environment through the use of bay window projections to enhance the sense of openness and invitation. (FF 38, 43.)

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

The Project incorporates sustainable landscaping and will include green roof features, landscaping adjacent to retail, LEED Gold certification, and solar panels. (FF 39, 43.)

- **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. (Subtitle X § 604.7(f))**

The Project is designed to facilitate connectivity not only through the site but to the surrounding community. The Project includes streetscape improvements to the adjacent components of South Capitol and N Street to enhance the pedestrian experience and increase mobility. The development includes bicycle facilities within and adjacent to the Building. (FF 37, 43.)

14. The Commission concludes that the Applicant satisfied the requirements for the requested zoning flexibility from the rear yard requirements, South Capitol front setback requirements, and closed court requirements.

As discussed above, Subtitle X § 603 authorizes the Commission to grant zoning flexibility from certain Zoning Regulations through a design review application, “if the relief is required to enable the applicant to meet all of the standards of Subtitle X § 604.” Above, the Commission concluded that the Project met the requirements of Subtitle X, § 604 and therefore grants the requested rear yard, front setback, and closed court flexibility. (Conclusions of Law 4, 5, 9-12.)

The requested rear yard flexibility is very modest in scope. It permits the Project to achieve balcony projections. (FF 43.)

The requested South Capitol front setback flexibility is only for a few bays on the lower levels of the building and is generally consistent with the intent of the setback requirements to preserve viewsheds along South Capitol while allowing the inviting façade for the proposed retail spaces. (*Id.*)

The requested flexibility from the closed court requirements is required so that the Applicant can comply with the easement restrictions on the Property and permits additional light to units on the south side of the Building. (FF 43, 46.)

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

15. 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).)
16. The Commission finds OP’s evaluation of the Application as having satisfied the applicable design review requirements to be persuasive, concurs with OP that the Applicant has satisfactorily addressed OP’s recommendations, and concurs with OP’s recommendation to approve the Application. (FF 47-57.)

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

17. 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. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n. 10 (1978) (citation omitted).)
18. ANC 6D submitted a total of three reports expressing issues and concerns about the application. The Commission continued the case twice to allow the Applicant and ANC to resolve their differences. The Applicant made changes to the Project to address many of the issues and concerns raised in the initial two reports. (FF 30, 64-66.)
19. ANC 6D’s third report acknowledged this evolution of the Project, stating that it had met with the Applicant multiple times and that the Project has benefitted from the changes made as a result of this dialogue. The Commission therefore considered this third report the relevant statement of the ANC’s issues and concerns about the Project. (FF 66.)
20. ANC 6D’s third report listing the following issues/concerns. The report stated the concerns were in two categories: traffic and parking, and aesthetics and design, and a complete listing of the issues and concerns is as follows:

- Traffic and Parking
 - ANC 6D claims the loading and parking design, which eliminates on street parking in front of building, using the 3-space curbside section for PUDO/rideshare, and an adjoining 50 foot section for loading and trash pickup, will have adverse effects in the form of:
 - conflicts created by sharing curb space for residential and commercial trash;
 - double parking on N Street; and
 - other conflicts on nearby streets;
 - Suggests that had the Applicant created a “workable solution” for relocating the N Street curb cut, DDOT would approve a curb cut;
- Aesthetics and design
 - “The design remains largely as was and offers little to create a striking entrance to Old Southwest”;
 - Would prefer that the “ground and second floor treatments visually recognize the scale and aesthetic of the rowhouses”;
 - “Bay windows are not an architectural feature of Southwest ..., the lintels and window placements are unrelated, and the houses on either side are at best incidental; and
 - Asks for “a commitment to building materials and brick color to ensure that the final execution reflects the aesthetic of other Southwest buildings.”

(*Id.*)

Commission response to the ANC’s traffic and parking concerns

21. The ANC’s traffic and parking concerns were centered around the design of the Building without a dedicated loading area and the consequential need for these activities to occur in the street, which it believes will create spillover effects resulting from the presence of an on-street loading area and the consequential concerns cited in the report.

The Commission acknowledges that a design with an internal loading dock would ameliorate some of the issues and concerns listed in the ANC’s report. However, it would create another more serious issue. Because of site conditions, primarily the lack of adequate alley access, there is no good location for internal loading to occur. DDOT has expressed the opinion that the best possible loading location is on N Street, and a loading dock entrance would involve a curb cut for vehicular access on N Street. The presence of a loading dock accessed by curb cut would create conflicts between pedestrians using the sidewalk, and vehicles maneuvering into the loading dock. These conditions would have an impact on the safety of the pedestrians and vehicles, with the most dire being those of pedestrians. The curb cut would also result in a Building design that is less inviting to pedestrians because more attractive ground floor uses would be replaced with a loading dock. Accordingly, DDOT’s PSC denied the Applicant’s request for a curb cut necessary to access a loading dock from N Street. (FF 59, 63.)

The Commission carefully considered the opinion of DDOT in how to appropriately strike a balance between spillover effects created by an on-street loading zone and pedestrian and vehicular safety, and diminution of the pedestrian experience created by a curb cut loading dock. DDOT provided a detailed supplemental report explaining why it believed the Applicant's proposed design is the better option for the Property. Simply put, DDOT believes the loading dock option would be worse from a standpoint of pedestrian and vehicular safety because of the potential conflicts between the truck maneuvering into the dock, and those people walking on the sidewalk. (FF 59, 63.)

The Commission concludes that the ANC's concerns about the spillover effects from the proposed on-street loading zone can be adequately mitigated by the proposed Loading Demand Management conditions DDOT recommended in its report. (FF 59, 60.)

More importantly, the Commission agrees with DDOT that the Applicant's proposal is superior because it will not create the potentially dangerous pedestrian and vehicular conflicts that come with a loading dock accessed by curb cut. Finally, the Applicant's proposal would also create an inviting pedestrian experience and potential for additional retail space. Both are objectives of the regulations governing the design review process. The Commission therefore believes that the Applicant's proposal better satisfies the design review standard, and the ANC's advice, while totally understandable, is not persuasive under the circumstances. The Commission therefore does not find the ANC's advice persuasive on this point.

Commission response to the ANC's aesthetic and design concerns

22. The ANC expressed concerns regarding the design not incorporating the design elements typical of rowhouse in Old Southwest, and the related concern regarding the use of bay windows. The ANC's comments are correct that the lower level does not read as a rowhouse. The Commission believes that since the use of the lower levels of the building will be commercial, it is appropriate that it reads as commercial space. The Applicant's proposed design is attractive and of a type similar to other commercial storefronts found in historic neighborhoods in the District. The Commission finds that the Applicant has worked to find a brick color consistent with that of the Old Southwest as demonstrated on the plans, and one that will complement the brick color of the 1319 Building next door as expressed by the Applicant's architect at the hearing. Finally, the Commission agrees with the Applicant that the lower-level façade of the Project appropriately "steps up" visually using materials that complement the adjoining rowhouses on N Street to the monumental scale on South Capitol Street, given its location on the corner. (FF 69.)

The Commission therefore does not find the ANC's comments regarding aesthetics and the building design persuasive.

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:

- Design review approval pursuant to Subtitle K, Chapter 5 and Subtitle Z, Chapter 6 with flexibility from the minimum rear yard requirements of Subtitle K § 502.7 to provide no rear yard on the first and second floors and 11 feet on the upper floors instead of the required 15 feet; the closed court requirements of Subtitle K § 502.9 to provide a closed court of three feet by 13 feet, 11 inches on the first floor and 15 feet by 14 feet on upper floors; the minimum front setback requirements of Subtitle K § 510.1(b) to provide bay projections on South Capitol Street that are set back 12 feet instead of the required 15 feet; and such other design flexibility as are set forth in the conditions hereof.

Said approval is subject to the following conditions, standards, and flexibility. References to the "Applicant" in these conditions shall refer to the Applicant in this case and all successors in title to the Property.

A. PROJECT DEVELOPMENT

1. The Project shall be built in accordance with the plans and elevations marked Ex. 42A1-2 and 42B as modified by Ex. 47A-47B. ("Final Plans"), and with the following design flexibility, relating to 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 modify the streetscape design and areas in public space in response to DDOT and the public space permitting process;
 - d. 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 of appearance of the building; and
 - e. To vary the number of residential units +/- one unit.
 - f. To vary the roof plan as it relates to the green roof areas, solar panels, planters, and terraces, provided that total GAR is not reduced below the permitted GAR in the zone and that the Applicant still provides solar panels and green elements.

B. REQUIREMENTS – BUILDING PERMIT

LEED

1. The Project shall be designed to achieve LEED Gold v.4 certification, provided that the Applicant shall have the flexibility to vary the approved sustainable features of the Project as long as the total number of LEED points achievable for the Project does not decrease below the minimum required for the foregoing LEED standard. **Prior to the issuance of a building permit**, the Applicant shall submit evidence to the Zoning Administrator from its architect certifying compliance with this condition.

C. REQUIREMENTS – LIFE OF THE PROJECT (EXCEPT AS OTHERWISE NOTED)

Inclusionary Zoning

1. **For the life of the project**, the Applicant shall provide 12% of the GFA set-aside for IZ and at least one unit at a 50% MFI rate. The Applicant shall have the flexibility to vary the final mix of IZ units in the event that floor plan changes impact the required IZ, so long as the Applicant complies with all IZ requirements in the Zoning Regulations, the Applicant meets a 12% set-aside requirement and sets aside at least one of the units at 50% MFI as requested by DHCD (Exhibit 24, page 17), and the units do not appear stacked.

Residential Permit Parking Restriction

2. **For the life of the project**, the Applicant shall restrict Residential Permit Parking (RPP) for the residents of the building and put that language in the residential lease agreements.

Trash Pick-Up

3. **For the life of the project**, the Applicant shall limit trash pick-up to four times a week and trash will be kept inside until trash-pick up days and the Applicant shall provide the ANC a copy of the trash plan once a trash company is selected.

Community Commitments

4. **For the life of the Project**, the Applicant shall do the following:
 - a. Make the communal rooftop space available to the ANC 6D or direct affiliates 12 times per year, in two-hour increments, for official community business, at no charge. ANC and direct affiliates will be required to follow standard protocol for securing the space and for the use;
 - b. Set as its goal to hire 20% qualified DC residents, with an emphasis on ANC 6D residents, as property employees. Endeavor to employ up to two summer high school interns provided that they attend a to be determined number of

training sessions to be held at SWFEC. Make best efforts to forge relationships with local training and placement groups such as UDC and Building Futures;

- c. Work with ABRA to appropriately relocate its liquor store before and after construction;
- d. Prioritize local businesses in the commercial and retail spaces, as follows: advertise that commercial space is available for lease on the building (e.g., “New Commercial Space for Lease”) with contact details; when the spaces become available for lease, the Applicant will send a notice to the Syphax Village Board and the ANC with information about the lease and ask that they send to constituents and resident listservs to solicit local businesses for the space; and
- e. Send the existing tenants notice of similarly priced rental properties. When the construction schedule is finalized, tenants will be given at least six months’ notice as to the official construction date i.e., move out date, and the Applicant will continue to send on a monthly basis, notice of similarly priced rental properties in the area.

Easement and Egress Restrictions

5. **For the life of the Project**, the Applicant shall abide by the following:
 - a. No part of the Building will be located on the easement area OR on any other property;
 - b. The court area in the rear is for emergency egress only and will not be used as an everyday entrance- the Applicant will put “Emergency Exit Only” signs on the doors; and
 - c. No vehicles are permitted to use the rear as a drop off or access point.

Loading Demand Management Plan Measures:

6. **For the life of the Project**, the Applicant shall adhere to the following Loading Demand Management Plan Measures:
 - a. A loading zone manager will be designated by building management who will be on duty during delivery hours. The loading zone manager will be responsible for coordinating and scheduling loading activities with vendors and tenants and will work with the community and neighbors to resolve any conflicts should they arise;
 - b. Lease provisions will require all tenants to use only the designated loading zone for all deliveries and move-in and move-out activities through coordination with the loading zone manager;

- c. All tenants will be required to schedule deliveries that utilize the loading zone (any loading operation conducted using a truck 20-feet in length or larger);
- d. The loading zone manager will schedule deliveries using the loading zone such that the zone's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the loading zone is full, that driver will be directed to return at a later time when the loading zone will be available so as to not compromise safety or impede N Street SW functionality;
- e. The loading zone manager will schedule residential loading activities so as not to conflict with retail deliveries. All residential loading will need to be scheduled with the loading zone manager and it is anticipated that residential loading will take place primarily during afternoons, when the retail loading activity is minimal;
- f. The loading zone manager will monitor inbound and outbound truck maneuvers and will ensure that trucks accessing the loading zone do not block vehicular, bike, or pedestrian traffic along N Street, S.W. except during those times when a truck is actively entering or exiting a loading zone;
- g. Service vehicle/truck traffic interfacing with N Street, S.W. traffic will be monitored during peak periods and management measures will be taken if necessary to reduce conflicts between truck and vehicular movements;
- h. The loading zone manager will monitor the timing of the retail and residential deliveries to see if any adjustments need to be made to ensure any conflicts with the retail loading and residential loading activities are minimized;
- i. Trucks using the loading zone 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 goDCgo Motorcoach Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map (godcgo.com/freight). The loading zone manager will also distribute flyer materials, such as the MWCOG Turn Your Engine Off brochure, to drivers as needed to encourage compliance with idling laws. The loading zone manager will also post these materials and other relevant notices in a prominent location within the loading area;
- j. The loading zone manager will be responsible for disseminating suggested truck routing maps to the building's tenants and to drivers from delivery services that frequently utilize the development's loading zone as well as notifying all drivers of any access or egress restrictions (ex. N Street SW one-way westbound only);
- k. "No Parking: Loading zone" or comparable signage and placards will be used to demarcate the loading zone, and "No Parking" signs will be used to

demarcate the pick-up/drop-off area. The exact restrictions and placards will be determined by DDOT's Curbside Management Division (CMD) during public space permitting;

- l. The loading zone manager will use traffic cones to block off the loading zone and actively manage deliveries and move ins/outs;
- m. The loading zone manager will call 311 to obtain DPW enforcement of the parking restriction in the loading zone and pick-up/drop-off zone as needed;
- n. The loading zone manager will encourage and facilitate residents obtaining "Emergency No Parking" signs from DDOT if there is observed non-compliance with the parking restriction in the loading zone;
- o. The Applicant will provide a curbside management and signage plan, as well as a copy of this LMP, in the public space construction permit application to remind the Curbside Management Division (CMD) of what was agreed to;
- p. The Applicant will submit and receive approval from DDOT for a curbside management plan; and
- q. Loading for trash pick-up will take place curbside on N Street, S.W. Trash containers will be stored internally to the building and rolled internally through the building then exit the building and placed on N Street. The loading manager will coordinate with trash pick-up to minimize the time trash trucks need to use the curbside loading area.

Transportation Management Measures:

- 7. **For the life of the Project**, the Applicant shall adhere to the following Transportation Demand Management Plan Measures:

Site-Wide TDM

- a. Identify Transportation Coordinators for the planning, construction, and operations phases of the office units within the development. There will be a Transportation Coordinator for each retail and office tenant and the entire residential component/building. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement;
- b. Will 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. All employer tenants must survey their employees and report back to the Transportation Coordinator;
- c. Transportation Coordinators will develop, distribute, and market various transportation alternatives and options to the employees, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications;

- d. Transportation Coordinators will subscribe to the applicable goDCgo's newsletters and receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan;
- e. Provide a copy of the Loading Management Plan (LMP) to the Transportation Coordinator so they are aware of this commitment;
- f. Post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised;
- g. Provide a SmarTrip card and a complimentary Capital Bikeshare coupon good for one ride to each new resident and employee;
- h. Provide residents and employees who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOC) or other comparable service if MWCOC does not offer this in the future;
- i. Will meet ZR16 short- and long-term bicycle parking requirements:
 - Short-term bicycle space will be provided free of charge. A minimum of four short-term bicycle parking spaces will be provided by the development.
 - Long-term bicycle space will be provided free of charge to residents. Twenty-four long-term bicycle parking spaces will be provided by the development, which represents six spaces, or 33%, of additional long-term bicycle parking beyond the zoning required 18 spaces. A minimum of 12 long-term bicycle parking spaces (50%) will be designed to be installed horizontally on the ground.
- j. Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids bikes with a minimum of two spaces designed for longer cargo/tandem bikes, and a minimum of 10% of spaces will be designed with electrical outlets for the charging of electric bikes. There will be no fee to the residents for usage of the bicycle storage room;
- k. Following the issuance of a Certificate of Occupancy for the Project, the Transportation Coordinator shall submit documentation 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 of the case;
- l. 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 substantial compliance with the transportation and TDM conditions in the Order, unless no longer applicable as confirmed by DDOT. If such letter is not submitted

on a timely basis, the Applicant shall have 60 days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter;

Residential TDM Plan

- m. 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;

Retail TDM Plan

- n. Will post "getting here" information in a visible and prominent location on the website with a focus on non-automotive travel modes. Also, links will be provided to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for customers and patrons discouraging parking on-street in Residential Permit Parking (RPP) zones;

Office TDM Plan

- o. Transportation Coordinator will notify goDCgo each time a new office tenant moves in and provide TDM information to each tenant as they move in;
- p. Transportation Coordinator will provide links to CommuterConnections.com and goDCgo.com on property websites;
- q. Transportation Coordinator will implement a carpooling system such that individuals working in the building who wish to carpool can easily locate other employees who live nearby;
- r. Distribute information on the Commuter Connections Guaranteed Ride Home (GRH) program, which provides commuters who regularly carpool, vanpool, bike, walk, or take transit to work with a free and reliable ride home in an emergency; and
- s. Transportation Coordinator will demonstrate to goDCgo that tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law and participate in one of the three transportation benefits outlined in the law (employee paid pre-tax benefit, employer-paid direct benefit, or shuttle service), as well as any other commuter benefits related laws that may be implemented in the future, such as the Parking Cash-out Law.

D. GENERAL

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 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 (Subtitle Z § 702.3.).

Final Action

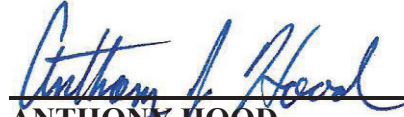
Vote (February 9, 2023): 4-0-1

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


In accordance with the provisions of Subtitle Z § 604.9, this Order No. 21-27 shall become final and effective upon publication in the *D.C. Register*; that is, on September 8, 2023.

BY ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY HOOD
CHAIRMAN
ZONING COMMISSION



SARA B. BARDIN
DIRECTOR
OFFICE OF ZONING

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (THE “ACT”). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE 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. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.