

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Z.C. ORDER NO. 17-07

Z.C. Case No. 17-07

**JW Capital Partners, LLC and Geolo Capital II, LLC on behalf of
Forest City SEFC, LLC and the United States General Services Administration
(Southeast Federal Center Zone Design Review @ Square 771, Lot 800)
June 1, 2017**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on June 1, 2017 to consider an application by JW Capital Partners, LLC and Geolo Capital II, LLC (collectively, the “Applicant”) regarding property owned by the United States General Services Administration (“GSA”) subject to a master development agreement with affiliates of Forest City Washington for design review approval to construct a new mixed-use hotel building with ground-floor and penthouse retail/eating and drinking establishment uses (the “Project”) in the SEFC-2 zone on the northern third of the property known as Parcel L in The Yards (Square 771, Lot 800, or the “Property”). Because Parcel L abuts the SEFC-4 open space area, design review for the Project and approval of the proposed hotel use is required pursuant to Subtitle K §§ 238.3(a)-(b), 241, and 242 of the SEFC zone provisions of the District of Columbia Zoning Regulations (“Zoning Regulations”), Title 11 of the District of Columbia Municipal Regulations (“DCMR”). In addition, as permitted under Subtitle X § 603.1, the Applicant also requested a variance from the side yard requirements of Subtitle K § 218 and special exception relief for penthouse setback and penthouse use pursuant to Subtitle C §§ 1500 and 1501 (collectively, the “Zoning Relief”).

The Commission considered the application for the Project pursuant to Subtitles X and Z of Title 11 DCMR. The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 4. For the reasons below, the Commission hereby approves the application.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The Property consists of approximately 69,385 square feet of land and is located in the SEFC-2 zone. The Property is located in the neighborhood commonly known as “The Yards” and on land that is currently owned by the federal government but authorized for private development by an act of the U.S. Congress in 2000. (*See* Southeast Federal Center Public-Private Development Act of 2000, Pub. Law. 106-407 (2000) (the “Development Act”). Forest City Washington prepared a master plan (the “Master Plan”) for The Yards, and, under the authority of the Development Act, GSA selected the

Applicant as the master developer to implement the Master Plan. The Master Plan was presented by GSA and the Applicant to the Commission for review and approval, and the Commission approved special zoning (now known as the SEFC zones) in order to ensure that future development of The Yards would proceed according to the Master Plan.

2. The instant application follows the coordinated development of The Yards pursuant to the Master Plan. On February 3, 2017, the Applicant delivered a Notice of Intent to file a design review application to all property owners within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which the Property is located. (Exhibit [“Ex.”] 2C.) The Applicant presented the Project at a duly noticed public meeting of ANC 6D in April 2017. (Ex. 4.) The ANC was a party to this proceeding. There were no other parties.
3. On March 29, 2017, the Applicant filed the Application for design review and approval of the Project pursuant to Subtitle K, §§ 238.3(a)-(b), 241, and 242 of the Zoning Regulations. In addition, the Applicant also requested the Zoning Relief. (Ex. 2-2I5.)
4. At its regularly scheduled and duly noticed public meeting on April 3, 2017, ANC 6D voted 7-0-0 to provide comments on the design. (Ex. 4.) Among those comments was that building’s massing and strictly repeating façade, may give it a Lego-like quality. Accordingly, the ANC asked that the designers consider creating some small differences across the façades to break up the repetition. The ANC also thought that the building may feel monolithic because of what the ANC considered to be its subdued base and limited set back on the northern side. The ANC, therefore, asked that the designers consider adding more detail or creating a vertical break on the western side to denote the main entrance and to consider greater accentuation of the top and base.
5. On April 13, 2017, the Applicant filed a Comprehensive Transportation Review for the Project. (Ex. 10.)
6. On May 12, 2017, the Applicant filed a pre-hearing statement with revised plans reflecting feedback from and discussions with numerous District and Federal agencies. (Ex. 12.)
7. On May 22, 2017, the District Office of Planning (“OP”) and District Department of Transportation (“DDOT”) submitted reports on the Application. (Ex. 13, 14.) Both agencies recommended approval of the application, with DDOT recommending mitigation measures, which were agreed to by the Applicant and which are made conditions of the approval of this Order.
8. Written comments on the Project were also submitted from the Executive Director of the National Capital Planning Commission (“NCPC”) and from GSA. (Ex. 11, 12B.) The NCPC Director indicated that through delegated action he found that the Project was not inconsistent with the Comprehensive Plan for the National Capital and will not adversely affect other federal interests. GSA indicated that it had determined that the design with

the Southeast Federal Center 2016 Amendment #1 to the revised Master Plan and the Historic Preservation Guidelines.

9. On June 1, 2017, the Commission held the Public Hearing on the application in accordance with Subtitle Z of the Zoning Regulations. (Transcript of the June 1, 2017 Public Hearing [“Tr.”] at 3-4.) At the Public Hearing representatives of the Applicant provided testimony and evidence in support of the Application and answered questions from the Commission. (*Id.* at 5-30.)
10. At the Public Hearing, OP, and DDOT rested on the record. (*Id.* at 30.) The ANC did not provide any testimony at the Public Hearing. (*Id.*)
11. One individual spoke in opposition to the application at the Public Hearing. (*Id.* at 32-39.)
12. At the close of the hearing, the Commission voted to approve the Application. (*Id.* at 41.)

Description of Surrounding Area and the Project

13. The Property is sometimes known as Parcel L and is located within the 42-acre site known as The Yards. The Yards is a former annex of the U.S. Navy Yard and is being redeveloped into a mixed-use waterfront neighborhood that will include office space, residential and commercial uses, a waterfront park, and open space. (Ex. 2-215.)
14. The Property is bounded by Tingey Street, S.E. to the north, 3rd Street, S.E. to the east, Water Street, S.E. to the south, and 2nd Street, S.E. to the south. (*Id.*) Neither Water Street, S.E. nor 2nd Street, S.E. adjacent to the Property have been constructed as streets open to vehicular travel. Tingey Square borders the Property to the northwest. (*Id.*)
15. The Property is located within the boundaries of the Washington Navy Yard Annex Historic District. (*Id.*)
16. The Property is currently used as a surface parking lot serving other uses in the vicinity. (*Id.*)
17. Consistent with the purposes and objectives of the SEFC-2 zone, the Applicant proposed a mixed-used building containing upper-level hotel use, ground-floor retail and/or restaurant space, and penthouse eating and drinking establishment use for the northern third of Parcel L (“Parcel L1”). (*Id.*) A separate phase of development anticipates a mixed-use retail and residential building on the southern two-thirds of Parcel L (“Parcel L2”). (*Id.*) Only Parcel L1 is the subject of this case; a design review application for Parcel L2 was approved in December 2016. (*Id.*) The Project shares a below-grade garage with the building on Parcel L2. The buildings on Parcel L1 and Parcel L2 are a single building under the Zoning Regulations.
18. The Project consists of approximately 6,723 square feet of gross floor area (“GFA”) for retail and/or eating and drinking establishment uses on the ground floor, 4,127 square feet

for such uses on the penthouse level, and approximately 109,650 square feet of gross floor area for hotel uses (including hotel use on the penthouse level). The Project's floor area ratio ("FAR") is 6.25, of which 0.3 is devoted to "preferred uses" as defined in the Zoning Regulations for the SEFC-2 zone. The Project will have a maximum height of 110 feet excluding the penthouse. (*Id.*)

19. The Project satisfies the requirements of the Zoning Regulations for design review and use as a hotel in the SEFC-2 zone. (Ex. 2 at 17-34.)
20. The Zoning Relief satisfies the applicable criteria. (Ex. 2 at 34-44.)

CONCLUSIONS OF LAW

1. The application was submitted, pursuant to Subtitle K §§ 238.3(a)-(b), 241, and 242, for design review and approval by the Commission. Pursuant to Subtitle X § 603.1, the application also sought a variance for the Project from the side yard requirements of Subtitle K § 218.1.
2. The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and to owners of property within 200 feet of the Property. The Commission properly and timely referred the matter to NCPC.
3. Pursuant to Subtitle K §§ 238.3(a)-(b), 241, and 242 and Subtitle X § 604, the Applicant has satisfied the required burden of proof necessary for the Commission to approve the overall design of the Project and grant the requested Zoning Relief. The Project's uses and preferred uses are in accordance with the standards specified in Subtitle K § 238.
4. The Commission is required under D.C. Official Code § 1-309.10(d) to give "great weight" to the issues and concerns of the affected ANC expressed in its written report. As noted, ANC 6D expressed two concerns with respect to the design. The Applicant provided testimony and enhanced renderings in its presentation at the Public Hearing that the design of the building addresses the ANC's comments by providing: (i) a heightened level of detailing and texture at the ground level (e.g., eight-inch window setbacks relative to the vertical pilasters, an integral brick reveal at the lower levels, and other pedestrian-scale finishing features at the lower level); (ii) operable windows that break up the mass and regularity of the façade on all three sides of the building; (iii) an extruded six-foot volume on the lower three levels to create differentiation between the base of the building and the top of the building along the northern façade (which is the façade with the longest horizontal dimension of the three façades facing a public right-of-way); and (iv) enhanced ornamentation on the canopy above the main entrance to the hotel along the Project's western façade in order to more strongly denote the importance of such access point. Finally, the Applicant testified that because the design team had recently been in conversations with the ANC for the design review application on the adjacent Parcel L2, the Applicant's design team was able to incorporate previous comments from the ANC into the design of the instant Project (e.g., providing for design elements to

address the Audubon Society's Bird Safe Glass Guidelines). The Commission believes that the ANC's issues and concerns have been addressed.

5. The Commission is also required to give great weight to the recommendations of OP. D.C. Official Code § 6-623.04. The Commission gives OP's recommendation to approve the application great weight, concurs with OP's, and concludes that the Applicant's responses appropriately addressed OP's questions and concerns.
6. Accordingly, the Commission, having given great weight to the ANC's concerns and the OP recommendations and having considered all relevant facts and materials in the record, concludes that the design of the Project satisfies the requirements of the Zoning Regulations applicable to the design review of the Project and the Zoning Relief.
7. The Project will promote the continued development of SEFC into a vibrant mixed-use neighborhood, is sensitive to the site's historic resources, and is in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and the Zoning Map of the District of Columbia.

DECISION

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

1. **Project Development.** The Project shall be built in accordance with the plans and drawings dated May 11, 2017, Exhibit 12A1-12A3, as modified by those plans and drawings dated June 1, 2017, Exhibit 16A1-16A7, subject to the following areas of flexibility:
 - a. To make minor refinements to the design of the Project, if required by GSA in response to input from other stakeholders (including CFA, NCPC, and SHPO);
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
 - c. To vary final selection of the exterior materials within the color ranges of the materials types as proposed based on availability at the time of construction;
 - d. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;
 - e. To make minor refinements to exterior details and dimensions, including enclosures, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the Construction Codes;

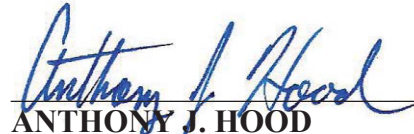
- f. To vary the final design of the retail storefront and signage, including the number, size, design, and location of windows, doors, awnings, canopies, and similar features, to accommodate the needs of tenants and code requirements, in accordance with the Signage Plan. (Ex. 12A3.).
2. **Transportation Demand Management (“TDM”) Measures.** Prior to the issuance of a Certificate of Occupancy for the Project, the Applicant shall demonstrate that it has or will adhere to the following measures as set forth in the DDOT Report:
 - a. Identify “TDM Leaders” (for planning, construction, and operations), who shall work with hotel employees and guests to distribute and market various transportation alternatives and options;
 - b. Provide hotel employees who wish to carpool with detailed carpooling information and refer such employees to carpool matching services sponsored by the Metropolitan Washington Council of Governments;
 - c. Establish a TDM marketing program that provides detailed transportation information to hotel guests at every step of the pre-reservation and reservation process through check-in and communicates what guests should expect with regards to parking and transportation, which information provided to guests shall emphasize and encourage alternative transportation modes;
 - d. Coordinate free daily Capital Bikeshare passes to hotel guests as a part of Capital Bikeshare’s Bulk Membership program for hotels, which passes shall be available upon request for hotel guests for the life of the hotel project or the life of the Capital Bikeshare Bulk Membership program (whichever ends first); and
 - e. Install a Transportation Information Center Display (electronic screens) within the lobby, containing real-time information related to local transportation alternatives.
3. The application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application for building permit must be filed as specified in 11-Z DCMR § 702.2. Construction must begin within three years after the effective date of this Order. (11-Z DCMR § 702.3.)
4. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. 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.

On June 1, 2017 upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at the conclusion of its public hearing by a vote of 5-0-0 (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on September 1, 2017.

BY THE ORDER OF THE D.C. ZONING COMMISSION

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



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING