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December 28, 2012

VIA HAND DELIVERY

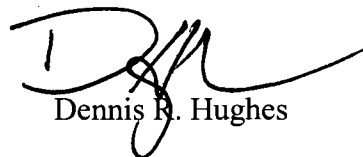
D.C. Zoning Commission
441 4th Street, N.W.
Suite 210S
Washington, D.C. 20001

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Re: Prehearing Statement, Z.C. Case No. 09-22

On behalf of MR Ballpark 4 LLC, we hereby submit an original and 20 copies of the prehearing statement in support of the application scheduled for public hearing on January 17, 2013. Thank you for your consideration of these materials.

Sincerely,



Dennis R. Hughes

Enclosures

cc: Advisory Neighborhood Commission 6D (Hand Delivery)
Steve Mordfin, Office of Planning (Hand Delivery)
Jamie Henson, Department of Transportation (Hand Delivery)

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ZONING COMMISSION
District of Columbia

CASE NO. _____

EXHIBIT NO. _____

ZONING COMMISSION
District of Columbia
CASE NO.09-22
EXHIBIT NO.15

**1 M STREET, SE
WASHINGTON, DC
CAPITOL GATEWAY OVERLAY DISTRICT**

PREHEARING STATEMENT OF THE APPLICANT

**TO THE DISTRICT OF COLUMBIA ZONING COMMISSION
FOR REVIEW AND APPROVAL OF BUILDINGS AND STRUCTURES
ON M STREET AND SOUTH CAPITOL STREET, SE,
PURSUANT TO THE CAPITOL GATEWAY OVERLAY DISTRICT PROVISIONS**

Z.C. CASE NO. 09-22

DECEMBER 28, 2012

HEARING DATE: JANUARY 17, 2013

HOLLAND & KNIGHT LLP
800 17th Street, NW
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Dennis R. Hughes

I.

INTRODUCTION

This statement is submitted on behalf of MR BALLPARK 4 LLC (the "Applicant") in support of an application to the Zoning Commission for review and approval of a proposed office building at the southeast corner of the intersection of M Street and South Capitol Street, with premises address of 1 M Street, SE. The application was submitted pursuant to sections 1604, 1605, and 1610 of the Zoning Regulations, which apply to new construction on any lot that abuts M Street and South Capitol Street, SE, and includes requests for variance from: (1) the requirement of section 1605.5, which regards street-wall setbacks for buildings along South Capitol Street, SE; and (2) the loading requirements of section 2201.1 of the Zoning Regulations. As discussed below, the application satisfies the requirements of the Capitol Gateway (CG) Overlay District and the requirements for special exception and variance relief.

II.

BACKGROUND

A. Site and Vicinity Characteristics

1. The Property

The Property consists of Lots 43 and 866 in Square 700. Square 700 is bounded by M Street on the north, South Capitol Street on the west, Van Street on the east, and N Street on the south. The Property is located in the northern portion of the square, with frontage on M Street, South Capitol Street, and Van Street. It is bounded to its south by private property (Lot 44), which is improved with a five-story brick building. The Property is included in a CR Zone District and is located in the Capitol Gateway (CG) Overlay District. See Exhibit A. The

Property, which measures approximately 35,558 square feet, is currently unimproved and utilized as a temporary seasonal surface parking lot for baseball games.

Within the CG Overlay, the Zoning Regulations provide that the residential and nonresidential floor area on each individual parcel within the CR District shall not exceed a maximum floor area ratio of 8.5 on parcels for which a height of 130 feet is permitted by the General Height Act of 1910 (the "Act"). 11 DCMR §1602.1(a). As a result of the Property's frontages on M Street and South Capitol Street, 130 feet of height is permitted under the Act. Section 1602 further provides that two or more lots within the CG Overlay may be combined for the purpose of allocating residential and nonresidential uses regardless of the normal limitation on floor area by uses on each lot. This allocation is accomplished by combined lot development (CLD) covenant approved by the District of Columbia and recorded in the land records, pursuant to section 1602.

In addition to the amount of density that may be transferred in accordance with section 1602.1(a), the Zoning Commission may, at its discretion, grant an additional transfer of density of 1.0 FAR maximum to or within Squares 700, 701, and 702, subject to the applicant addressing to the satisfaction of the Zoning Commission the objectives and guidelines of sections 1601 and 1604-1607, as applicable. To that end, the Applicant submits the present application and has recorded a CLD covenant in the land records involving the necessary allocations of use and density to permit non-residential construction on the Property totaling 9.5 FAR (approximately 337,801 square feet).

The Property is located in perhaps the most pivotal of all sites within the CG Overlay at the intersection of the two main axes of the district: M Street, running in an east-west direction and South Capitol Street, running north-south. It marks the informal entrance from the west

north to the Southeast Federal Center and Navy Yard as well as the ballpark district. At the same time, South Capitol Street serves as a primary arterial for vehicular traffic between Anacostia to the South and Capitol Hill to the north.

B. Description of Proposed Construction

The Applicant intends to construct a twelve-story office building with ground floor retail uses on the Property. The proposed building will measure approximately 328,802 square feet of gross floor area for an overall density of approximately 9.25 FAR and will rise to a maximum height of 130 feet. The building will also include four below grade parking levels, providing a total of 310 parking spaces in full satisfaction of the parking requirements of Chapter 21 of the Zoning Regulations. The parking garage is designed to be accessed from Van Street, which runs to the west of the Property. The building will also include two loading berths and a separate service and delivery space. The Applicant is requesting area variance relief as part of the present application to provide one fewer loading berth than is required pursuant to Chapter 22 of the Zoning Regulations, so as to minimize the extent of curb cut length along Van Street, which is also proposed to serve as the access point for the loading facilities. The Regulations applicable to the CG Overlay prohibit access to parking or loading facilities along either of the M Street or South Capitol frontages of the Property, leaving Van Street as the Applicant's only option for accessing its required parking and loading facilities.

In response to the unique and pivotal nature of the Property, the Applicant proposes a distinctive geometrical building composition with differing architectural treatment for each of its three street elevations. The Applicant's plans for new construction on the Property are illustrated in the booklet of drawings submitted to the Commission on September 28, 2012, and included in

the record as Exhibit 8. By virtue of step backs of the top two floors along South Capitol Street and the use of angled façade planes, the Applicant is able to break down the volume of the building along its extensive South Capitol frontage while also passively directing attention toward the intersection with M Street and the building's corner lobby entrance. At the same time, the Applicant employs a floating angled façade treatment and parapet along the M Street elevation to again focus attention toward the prominent intersection, while the building's twelve-story height along the shorter M Street frontage (compared to South Capitol) presents a heightened verticality, which is reinforced through the fenestration design of this façade. Finally, the building's frontage along Van Street, a much narrower public right of way which conveys more of the personality of an alley, is presented with a heavier, pseudo-industrial architectural treatment evocative of the neighborhood's history.

The materials and finish palette for the building is simple, contextualizing with the more contemporary fabric of the district while respecting the need for a clean geometry along South Capitol Street. Materials for the façade include glass and metal panel along the M Street and South Capitol frontages, with precast, glass and metal accents along Van Street and the building's south elevation. The building's roof will include terraces and green roof elements. The Applicant intends the building to incorporate a number of elements to enhance its sustainability and expects the finished building would qualify for at least LEED Silver NC 2009 should the Applicant pursue certification.

Following to the September submission, the Applicant has continued to study and refine its design in discussions with District agencies and the community, particularly Advisory Neighborhood Commission 6D. To that end, the Applicant submits further updated architectural renderings of the street elevations for the project along with streetscape and roof plans

responsive to those discussions and more fully defining the building experience, especially along its street level. See Exhibit B. Included among the refinements, the Applicant has further opened the lobby up to the street, creating a glassier facade and creating a more engaging interior space. The Applicant has created a strengthened corner retail presence at the intersection of M Street and South Capitol Street by turning the east wall of the lobby's vestibule to glass, allowing the retail to be seen more clearly from the corner. The Applicant also has extended the retail storefront glass design further along Van Street to strengthen the connection between the corner retail and the Van Street retail. Finally, the Applicant has enhanced its landscape/streetscape design such that it satisfies or exceeds the District's streetscape standards and provides a more softened and inviting edge to the site and experience for the public.¹

In addition to these ground level refinements, the Applicant has made a series of subtle refinements to the decorative and material aspects of the façades, including the following: added textured metal panels (resembling waves) to the upper floor sill areas along South Capitol to draw reference to the nearby Anacostia River; provided a warmer color to the precast panels along Van Street and the building's south elevation; and strengthened the connection between the facade of the upper floors at the corner of M and Van Streets with the remainder of the Van Street facade by adding a similar color banding to the sill areas as existing in the majority of the Van Street facade. The Applicant is also continuing to study an upper level terrace along the South Capitol elevation above the 10th floor and includes conceptual renderings animating that area.

¹ Based upon a number of conversations with various District agencies, the Applicant has provided alternative streetscape/site plans for the Project identifying locations for utility vaults along the building's M Street setback and along Van Street in public space.

III.
BURDEN OF PROOF

A. Capitol Gateway Overlay District (Sections 1604, 1605 and 1610)

1. The Proposed Project Complies with the Requirements of Section 1604

Section 1604 of the Zoning Regulations sets forth a number of specific requirements that apply to all new buildings, structures, and uses with frontage on M Street within the CG Overlay District. As outlined in the table below, the proposed project satisfies the requirements of section 1604.

Section	Requirement	Compliance	Explanation
1604.1	The following provisions apply to new buildings, structures, or uses with frontage on M Street S.E. within the CG Overlay.	Applies	Section 1604 is triggered in this case because the proposed building will have frontage along M Street, S.E. within the CG Overlay District.
1604.2	No driveway may be constructed or used from M Street to required parking spaces or loading berths in or adjacent to a new building.	Yes.	There will be no driveways along M Street. The below-grade parking garage and the building's loading facilities will be accessed from Van Street, SE.
1604.3	The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than fifteen (15) feet measured from the face of the adjacent curb along M Street, S.E.	Yes.	The building's entire streetwall along M Street will be set back a minimum of fifteen feet from the face of the adjacent curb at all points.

Section	Requirement	Compliance	Explanation
1604.4	Each new building shall devote not less than thirty-five percent (35%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of this Title; provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building). Such preferred uses shall occupy 100% of the building's street frontage along M Street, except for space devoted to building entrances or required to be devoted to fire control.	Yes.	The proposed building will provide at least 35 percent of the building's gross floor area on the ground floor. One hundred percent of the building's street frontage along M Street will be occupied by preferred retail or other preferred uses.
1604.5	For good cause shown, the Commission may authorize interim occupancy of the preferred use space required by § 1604.4 by non-preferred uses for up to a five (5) year period; provided, that the ground floor space is suitably designed for future occupancy by the preferred uses.	n/a	The Applicant is not requesting interim occupancy by non-preferred uses at this time. If such interim relief becomes necessary, the Applicant will modify this application accordingly.

Section	Requirement	Compliance	Explanation
1604.6	Not less than fifty percent (50%) of the surface area of the streetwall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass except for decorative accent, and to entrances to commercial uses of the building.	Yes.	At least fifty percent of the surface area of the proposed building's streetwall along M Street will be covered by display windows with clear or low-emissivity glass and commercial entrances.
1604.7	The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.	Yes.	The portions of the building's ground floor devoted to retail uses along M Street will have a clear floor-to-ceiling height of no less than fourteen feet.
1604.8	A building that qualifies as a Capitol South Receiving Zone site under § 1709.18 and for which a building permit has been applied for prior to August 31, 2001, shall not be subject to the requirements of this section.	n/a	Because the Applicant has not yet applied for a building permit for the proposed project, section 1604.8 is not applicable to this application.
1604.9	Where preferred use retail space is required under this section and provided, the requirement of 11 DCMR § 633 to provide public space at ground level shall not apply.	Yes	The building's design complies with this subsection.

2. The Proposed Project Complies with the Requirements of Section 1605

Section 1605 of the Zoning Regulations sets forth a number of specific requirements that apply to all new buildings, structures, and uses with frontage on South Capitol Street within the CG Overlay District. As outlined in the table below, the proposed project satisfies the requirements of section 1605.

Section	Requirement	Compliance	Explanation
1605.1	The following provisions apply to new buildings, structures, or uses with frontage on South Capitol Street within the CG Overlay.	Applies	Section 1605 is triggered in this case because the proposed building will have frontage along South Capitol Street within the CG Overlay District.

Section	Requirement	Compliance	Explanation
1605.2	Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet...	Yes.	The building's design complies with this subsection.
1605.3	Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one (1:1) step-back from the building line along South Capitol Street	Yes.	The building's design complies with this subsection.
1605.4	No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007.	Yes.	There will be no driveways along South Capitol Street. The below-grade parking garage and the building's loading facilities will be accessed from Van Street, SE.
1605.5	For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line...	No	The design of the building does not technically comply with this requirement, and the Applicant requests area variance relief as discussed herein.

3. The Proposed Project Complies with the Requirements of Section 1610

Section 1610.2 of the Zoning Regulations provides that new construction on any lot abutting M Street, SE, or South Capitol Street within the CG Overlay District requires the review and approval of the Commission. Section 1610.3 further provides that the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation of any building along M Street must comply with the specific requirements set forth in that section. As discussed herein, the proposed project is consistent with each of these requirements.

Under section 1610.3(a), any new building constructed along M Street, SE, must help achieve the objectives of the CG Overlay District as set forth in section 1600.2 of the Zoning

Regulations. As illustrated in the table below, the proposed building is consistent with all of the applicable purposes of the CG Overlay:

Section	Requirement	Compliance	Explanation
1600.2(a)	Assure development of the area 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.	Yes.	The height, bulk, and design of the proposed project are consistent with the requirements of the Zoning Regulations and with the property's designation on the Future Land Use Map. The proposed building's height and FAR are allowed at this location, and the proposed use is consistent with the Property's designation on the Future Land Use Map. The commercial and retail uses contemplated by the project will help foster an appropriate mix of uses within the square and the surrounding area.
1600.2(b)	Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel or inn uses.	Yes.	The proposed building will include significant space devoted to preferred retail or other preferred uses on the ground floor. This space will be designed to accommodate precisely the types of retail, service, and entertainment uses encouraged by section 1600.2(b).
1600.2(c)	Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment.	n/a	Because the Property is not currently used for industrial purposes, section 1600.2(c) is not applicable to this application.
1600.2(d)	Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points.	n/a	Because the Property is not located along the Anacostia riverfront, section 1600.2(d) is not applicable to this application.
1600.2(e)	Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, SE, near the Navy Yard Metrorail station.	Yes.	Aside from a corner lobby entrance, all of the building's street frontage along M Street will be occupied by preferred retail uses. Section 1604.3 requires all new buildings along M Street to be set back at least fifteen feet from the face of the adjacent curb. The proposed building complies with this requirement and will further the objectives of section 1600.2(e).

Section	Requirement	Compliance	Explanation
1600.2(f)	Provide for development of Squares 702-706 and Reservation 247 as a ballpark for major league sports and entertainment and associated uses.	n/a	Section 1600.2(f) does not apply to this application.
1600.2(g)	Provide for the establishment of South Capitol Street as a monumental civic boulevard.	Yes	The design of the project, including the stark geometry, clean materials, and specialized façade treatment with multiple horizontal planes, all further the monumental focus of South Capitol Street.
1600.2(h)	Provide for the development of Half Street, SE, as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street façade to ensure adequate light and air, and a pedestrian scale.	n/a	Because the Property is not located on Half Street, section 1600.2(h) is not applicable to this application.
1600.2(i)	Provide for the development of First Street, SE, as an active pedestrian-oriented street with active ground floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront.	n/a	Because the Property is not located on First Street, section 1600.2(i) is not applicable to this application.

In addition to requiring compliance with the purposes set forth in section 1600.2 and with the special exception standards of section 3104.1, section 1610.3 further provides that:

an applicant requesting approval under this section must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will [satisfy the specific requirements of this section.]

11 DCMR § 1610.3. The Applicant's project satisfies the general standards of section 3104.1. Furthermore, the development will meet each of the specific requirements set forth in section 1610.3 as illustrated in the table below:

Section	Requirement	Compliance	Explanation
1610.1	The following provisions apply to properties located ... on a lot that abuts M Street, SE, ... on a lot located within Squares 700 or 701, north of the Ballpark site; ... on a lot that abuts South Capitol Street ...	Applies	Section 1610 is triggered because the Property abuts M Street, SE, is located in Square 700, and abuts South Capitol Street.
1610.2	With respect to ... all proposed uses, buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions.	Yes.	The Applicant has filed an application for review and approval by the Zoning Commission as required by section 1610.2, and the Applicant's project complies with all applicable requirements of section 1610.
1610.3	The proposed building or structure must satisfy the standards set forth in section 3104 of the Zoning Regulations.	Yes.	The project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. With the exception of the requested relief from the street wall and loading requirements, the proposed building will comply with all applicable zoning requirements. As described below, approval of the requested variances will have no adverse effects on surrounding property and will not impair the purpose or intent of the Zoning Regulations.
1610.3(a)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will help achieve the objectives of the CG Overlay District as set forth in section 1600.2.	Yes.	As outlined in the table above, the project will further the objectives set forth in section 1600.2.
1610.3(b)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will help achieve the desired mix of uses in the CG Overlay District as set forth in sections 1600.2(a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses.	Yes.	As noted above, the proposed building will include significant and thoughtfully-designed space devoted preferred retail uses on the ground floor and will be designed to accommodate precisely the types of retail, service, and entertainment uses encouraged by section 1600.2(b).

Section	Requirement	Compliance	Explanation
1610.3(c)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will be in context with the surrounding neighborhood and street patterns.	Yes.	The design of the building will be consistent with the height and massing of other existing and proposed buildings in the surrounding area. The attractive landscaping and sidewalk treatment will meet or exceed District standards and engage the building to the surrounding neighborhood.
1610.3(d)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize conflict between vehicles and pedestrians.	Yes.	The placement of access to the building's loading and parking facilities along Van Street, as the only one of the Property's street frontages where such curb access is permitted, will help minimize potential conflicts between vehicles and pedestrians. Further, the Applicant has requested variance relief to provide fewer than the required number of loading berths so as to minimize the width of the loading access curb cut and thereby further minimize potential conflicts. The Applicant's traffic impact study confirms that the project minimizes negative impacts to public space.
1610.3(e)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize unarticulated blank walls adjacent to public spaces through façade articulation.	Yes.	As noted above, the Applicant has creatively addressed the Property's frontage along three public rights of way, including two very prominent public axes. Through building geometry along with varying material and finish palettes, the Applicant minimizes unarticulated blank walls.
1610.3(f)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.	Yes.	The project has been designed and will be constructed and operated with a goal toward sustainability and minimizing negative impact upon the environment. To that end, the project will include a number of sustainable features, including passive solar shading features, low-E insulated glazing, and green roofs, and will be designed to qualify for a minimum of LEED NC 2009 Silver certification should the Applicant pursue such certification.

B. Area Variance Relief from the Street Wall and Loading Requirements

Section 1610.7 of the Zoning Regulations states that the Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the Property and that such requests shall be advertised, heard, and decided together with the application for review and approval for compliance with the CG overlay provisions. Pursuant to this provision, the Applicant requests area variance relief from the street-wall setback requirements and loading requirements, set forth in sections 1605.5 and 2201.1 of the Regulations, respectively.

The test for variance relief is three-part: (1) demonstration that a particular piece of property is affected by some exceptional situation or condition; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or substantial impairment of the zone plan. As set forth below and will be addressed at the public hearing, variance relief is appropriate in this application.

1. *Street-Wall Setback Along South Capitol Street (§ 1605.5)*

Section 1605.5 of the Zoning Regulations provides, "for each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line." Given the Applicant's efforts to further the goals of the CG Overlay to minimize unarticulated public space and to enhance the monumental aspect of South Capitol Street, while addressing the Property's significant long frontage along South Capitol, the Applicant has arrived at a design solution that provides visual relief along this important frontage through an angled

step back, using multiple horizontal planes to maintain consistency and a horizontal focus. The street wall is maintained at the ground level. While meeting the spirit of this subsection of the Regulations, area variance relief is required, which relief is supported as follows:

A. Exceptional Condition or Situation:

The Property is unique in the CG Overlay in that it fronts on three streets, two of which serve as the main axes of the overlay and have designated setback and street wall requirements (South Capitol and M Streets). Also, with an underlying zone of CR, the Property is subject to section 633 requiring public space at the ground floor level, which the Applicant is providing. However, note section 1604.9 as preferred use retail space is required at the site and provided. Lastly, the Property is subject to review under three separate criteria under Chapter 16.

B. Resulting Practical Difficulty:

The strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant. In view of the foregoing extensive design regulation focused on this pivotal site, the Applicant has determined that, due to the numerous provisions and criteria affecting review of this site, the most important single aspect of design review was the frontage along South Capitol Street and the Applicant submits that the building design and further setback on the ground floor, particularly given the relationship of the existing five-story masonry building to the south, is not only acceptable but desirable and best addresses the monumentality of the South Capitol Street frontage.

C. No Harm to Public Good or Zone Plan:

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. As noted above, any impacts of the grant of variance relief from the setback requirements are not experienced at a pedestrian level, as the street wall is maintained at ground level. Further, as the perspective renderings included as Exhibit B demonstrate, the multiple decorative horizontal planes that are proposed in lieu of solid street wall near the corner of South Capitol and M Street, provide a strong visual character supporting the spirit of this regulation. At the same time, the carve out created by the Applicant's proposed design solution both creates unique and desirable view angles as well as provides significant sustainability advantages in terms of light and shading.

2. Loading Requirements (§ 2201.1)

Section 2201.1 of the Zoning Regulations requires that office buildings in the CR districts measuring greater than 200,000 square feet of gross floor area provide at least three loading berths measuring 30 feet in depth. The Applicant's project provides a total of two loading berths of 30 feet in depth, thereby necessitating variance relief. As a result of discussions the Applicant has held with District agencies, the Applicant requests variance from the loading requirements in order to minimize the length of curb cut needed to access the loading and parking facilities of the project along its Van Street frontage. As noted in the Applicant's traffic impact study, by providing such vehicular access along the comparatively low volume Van Street, the project minimizes potential negative impacts, including potential conflicts with pedestrian traffic.

A. Exceptional Condition or Situation:

As noted above, the Property is unique in the CG Overlay in that it fronts on three streets, two of which serve as the main axes of the overlay. With respect to loading and vehicular access, the CG Regulations specifically prohibit access to the Property from two of its three street frontages. Also, given the ground floor retail and public space requirements applicable to the Property and long and narrow configuration of the Property, the Applicant is limited in its options for providing required loading in the building.

B. Resulting Practical Difficulty:

The strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant. In view of the foregoing extensive design regulation focused on this pivotal site, particularly the strict limitation of vehicular access to the Van Street frontage of the Property, the Applicant has very limited practical options to provide the required amount of loading within the Property while adequately addressing the public sector concerns it has received regarding the length of the proposed curb cut along Van Street and the need to protect pedestrian traffic.

C. No Harm to Public Good or Zone Plan:

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. As demonstrated in its traffic impact study and through testimony at the public hearing, the Applicant has determined that the proposed amount of loading facilities is sufficient to meet the demands of the office and retail uses proposed for the building and will minimize any potential negative impacts upon public space.

IV.
LIST OF WITNESSES

The following witnesses may provide testimony at the Commission's public hearing on the application:

1. Amy Phillips/Russell Hines, on behalf of the Applicant;
2. Jordan Goldstein, Gensler;
3. Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP;
4. Daniel Van Pelt, Gorove/Slade Associates, Inc.

V.
EXHIBITS IN SUPPORT OF THE APPLICATION

The following exhibits are attached to this statement in further support of the application:

- Exhibit A: Excerpt of the Zoning Map Illustrating the Property;
- Exhibit B: Supplemental Architectural Renderings and Plans;
- Exhibit C: Traffic Impact Study conducted by Gorove/Slade dated December 3, 2012;
- Exhibit D: Witness Resumes.

VI.
CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Zoning Commission approve the application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 
Dennis R. Hughes

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