

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

**Application of Jemal's Lazriv Water, LLC
1900 Half Street, S.W. (Square 666, Lot 15)**

**REVIEW OF BUILDINGS AND STRUCTURES
IN THE CG/W-2 DISTRICT**

I. BACKGROUND

A. The Applicant and Property

This application is submitted on behalf of Jemal's Lazriv Water, LLC (the "Applicant"), owner of property located at 1900 Half Street, SW (Square 666, Lot 15) (the "Property"). The Property is located in the W-2 District and is within the Capitol Gateway ("CG") Overlay District. Square 666 is located in the southwest quadrant of the District and is bounded by T Street to the north, the Anacostia River to the east, U Street to the south, and Water Street and Half Street to the west.

The Property is the only lot in Square 666 and has an angled rectangular shape with a total land area of approximately 110,988 square feet. The Property is presently improved with an existing and mostly vacant nine-story office building that was constructed circa 1976. The existing building has a height of 90 feet and approximately 665,928 square feet of gross floor area (6.0 floor area ratio ("FAR")). On-site parking for 691 vehicles is located within the building and on-site loading is located on the south side of the building. The building was originally constructed for use by the General Services Administration ("GSA") for Federal occupancy and was used as an office building for several decades.

B. The Proposed Development

As shown on the architectural drawings included with this application, the Applicant proposes to redevelop the Property by renovating and adaptively reusing the existing building as a mixed-use apartment house with approximately 462 residential units and approximately 24,032 square feet of retail use. In order to maximize views and take full advantage of the building's location along the Anacostia River waterfront, the Applicant proposes to remove significant portions of the existing building by cutting out approximately 184,693 square feet of gross floor area (1.66 FAR). Removing density from the building in this manner will result in the creation of two large open courts and a sideways "E"-shaped building that faces the river.

The renovated building will include approximately 481,235 square feet of gross floor area (4.34 FAR), with approximately 404,608 square feet of gross floor area devoted to residential use and approximately 24,032 square feet of gross floor area devoted to retail use. Two and a half levels of parking will be provided for 324 vehicles (312 zoning-compliant spaces and 12 tandem spaces), with ingress and egress from T Street. On-site loading will be provided in its existing location on the south side of the building adjacent to the parking entrance. The overall building height will remain at 90 feet for the majority of the building, except for a new 2

foot, 3 inch roof slab located on the center portion of the roof to reinforce the new rooftop mechanical equipment and amenity space, and a new 5 foot pool deck.

The CG Overlay regulations require review by the Zoning Commission for any proposed use, building, structure, or exterior renovation to any existing building or structure that would result in an alteration of the exterior design, for any of properties located within the CG/W-2 District. 11 DCMR § 1610.1-1610.2. The Property satisfies this criteria, and this application is therefore submitted pursuant to 11 DCMR §§ 1603 and 1610.

The application also includes a request for (i) a variance from the maximum building height requirements of 11 DCMR § 1603.4 for a small portion of the roof; (ii) a variance from the loading requirements of 11 DCMR § 2201.1; and (iii) special exception relief to provide multiple penthouses at multiple heights (§§ 411.6 and 411.9) and to provide penthouses that do not comply with the setback requirements from an open court where existing stairwells are located that do not face a street and do not directly face the river (§ 411.18(c)(5)). Relief is technically required pursuant to 11 DCMR §§ 936.1 and 1601.7 as well, which make 11 DCMR § 411 applicable to penthouses in the Waterfront Zone Districts and the CG Overlay District, respectively. The Zoning Commission is authorized to approve such relief pursuant to 11 DCMR § 1610.7. Following herein is a preliminary statement indicating how the Applicant meets its burden of proof.

II. BURDEN OF PROOF

A. Capitol Gateway Overlay District

1. Section 1603 – Buildings, Structures, and Uses in the CG/W-2 District

Subsection 1603.1 of the Zoning Regulations states that the provisions of 11 DCMR §§ 1603.2 through 1603.5 apply to new buildings, structures, or uses within the CG/W-2 District. Although the project involves the adaptive reuse of an existing building, the proposed residential and retail uses are new uses, thus making 11 DCMR § 1603 applicable to this case. The project complies with the requirements of 11 DCMR § 1603 as follows:

1603.2 No private driveway to any parking or loading berth areas in or adjacent to a building or structure constructed after January 7, 2005 shall directly face the waterfront.

This section does not apply since the building was constructed prior to January 7, 2005.

1603.3 All buildings or structures constructed after January 7, 2005 on a lot that faces or abuts the Anacostia River shall be set back by no less than seventy-five (75) feet from the bulkhead, unless the Zoning Commission finds that such setback creates an undue economic hardship for the owner of the lot and in no case less than fifty (50) feet from the bulkhead.

This section does not apply since the building was constructed prior to January 7, 2005.

1603.4 In the CG/W-2 District, the Zoning Commission, at its discretion, may grant bonus density for residential development in a building or a combined lot development, using a guideline of 1.0 FAR in excess of the normally-allowed maximum of 4.0 FAR and an additional ten (10) feet in excess of the normally-allowed maximum height of sixty (60) feet; provided that:

- (a) The building or combined lot development shall include at least 2.0 FAR of residential development;*
- (b) The Zoning Commission, at its discretion, may allow construction of such bonus density on the property zoned CG/W-2 or may allow only for the bonus density to be transferred off-site to a lot or lots zoned CG/CR; and*
- (c) The provisions of §§ 1709.6 through 1709.12 and § 1709.14 shall govern the procedures for transferring bonus density off-site if permitted by the Zoning Commission.*

The existing building on the Property is non-conforming with respect to height and density. Section 1603.4 permits a maximum height of 70 feet and a maximum density of 5.0 FAR; however, the existing building has a height of 90 feet and a density of 6.0 FAR. In order to successfully adaptively reuse the existing building, the Applicant will maintain the existing building height of 90 feet (except for a small portion of the roof which will have an additional roof slab), and will reduce the Property's density from 6.0 FAR to 4.34 FAR, which is less than the maximum density permitted.

The project will comply with 11 DCMR § 1603.4 (a)-(c), listed above, as follows:

- (a) Complies. The project will include approximately 3.6 FAR of residential development, which is more than the 2.0 FAR required under 11 DCMR § 1603.4(a).
- (b) The Applicant requests that the Commission preserve the Applicant's right to transfer any off-site bonus density credits that are created through this project.
- (c) The Applicant will comply with the provisions of 11 DCMR §§ 1709.6 through 1709.12 and § 1709.14 regarding transferable development rights.

1603.5 The Zoning Commission, at its discretion, may also provide for additional on-site or off-site bonus density to be earned for setbacks required under this section, based on the land area of the setback and the proposed features for public open space uses; provided, that 2.0 FAR based on the land area of the open space setback shall be used as a general guideline.

Section 1603.5 is not applicable.

2. Section 1610 – Zoning Commission Review of Buildings, Structures, and Uses

Pursuant to 11 DCMR §§ 1610.1 and 1610.2, for property located in the CG/W-2 District, 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, are subject to review and approval by the Zoning Commission in accordance with the provisions of 11 DCMR §§ 1610.3 through 1610.9. In this case, 11 DCMR §§ 1610.5 and 1610.6 are not applicable, since they regulate buildings with frontage on Half Street, SE, south of M Street, SE, or on Front Street, SE, south of M Street, SE (§ 1610.5) and on South Capitol Street, SE (§ 1610.6), which do not apply to the Property.

Pursuant to 11 DCMR § 1610.3, an Applicant requesting approval under the CG Overlay District review provisions must demonstrate that the proposed building's architectural design, siting, landscaping, sidewalk treatment, and operation are of a superior quality, pursuant to the design and use requirements of 11 DCMR §§ 1610.3(a)-(f). As set forth below, and as will be supplemented by the Applicant at the public hearing and in its prehearing submission, the application satisfies the criteria of 11 DCMR § 1610.3, as follows:

1610.3(a) Help Achieve the Objectives of the CG Overlay as set forth in §1600.2

The project satisfies the following stated objectives for the CG Overlay, as provided in 11 DCMR § 1600.2, including: (i) assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings; (ii) encouraging a variety of support and visitor-related uses, such as retail and service uses; and (iii) providing 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.

To that end, the project will provide approximately 404,608 square feet of gross floor area devoted to new residential use and approximately 24,032 square feet of gross floor area devoted to new ground floor retail uses in a vibrant, rehabilitated, and adaptively reused building. The renovated design removes density to provide an appropriate overall bulk and creates step-backs and height step-downs to maximize riverfront views and create an aesthetically-pleasing design. Moreover, the project includes continuous public open space along the waterfront through the extension of the Anacostia Riverwalk Trail.

1610.3(b) Help Achieve the Desired Mix of Uses in the CG Overlay District as set forth in §§ 1600.2(a) and (b)

The project provides a mix of commercial and support retail/preferred uses in furtherance of the objectives of the CG Overlay.

1610.3(c) Be in Context with Surrounding Neighborhood and Street Patterns

As shown on the architectural drawings included with the application, the project is contextual to the surrounding neighborhood and street patterns. The renovated and redesigned building provides distinct façade articulation at each elevation and creates an innovative design

to connect the building to the surrounding street frontages, the Anacostia River, and nearby buildings. The Applicant will remove the existing parking access point at the southern portion of the Property in order to provide a consolidated parking and loading area at the northern portion of the Property from T Street, thus eliminating curb cuts and minimizing potential pedestrian/vehicular conflicts.

1610.3(d) Minimize Conflict between Vehicles and Pedestrians

As stated above, access for parking and loading will be located on the north side of the Property. This new configuration eliminates the existing parking access point at the south side of the Property and significantly reduces the width of the existing curb cut on the north side of the property. The result will minimize any potential pedestrian and vehicle conflicts.

1610.3(e) Minimize Unarticulated Blank Walls Adjacent to Public Spaces through Façade Articulation

The redesigned building offers extensive façade articulation across all of its elevations. Each façade is distinctly and extensively conveyed through irregular patterns and mixture of materials and fenestration.

1610.3(f) Minimize Impact on the Environment (LEED)

The Applicant is still in the process of exploring opportunities to maximize sustainability in the design, construction, and operation of the building. At this time, the Applicant is pursuing LEED Gold.

1610.4 Buildings to be Constructed on a Lot Within the CG/W-2 District

Since the proposed project is an alteration of an existing building, the Applicant submits that subsection 1610.4 does not apply. However, in the event that the Zoning Commission determines the provisions to be applicable, the Applicant has addressed subsection 1610.4 as follows:

- (a) *The building or structure shall provide suitably designed public open space along the waterfront*

As shown on the architectural drawings included with the application, the project includes well-designed public open space along the waterfront that is inviting to the public, easily accessible, and particularly appropriate for the Property's unique location.

- (b) *A plan shall be included in the application for suitable open space treatment of the setback area for such uses as walkway and bikeway, passive or active recreational use, and including provisions assuring private maintenance of the space, convenient and permanent public access to the space, and suitable connections to adjacent public space along the waterfront*

The architectural drawings provided with the application include plans for suitable open space treatments and public access and use of the setback area.

- (c) *The application shall include a view analysis that assesses openness of waterfront views and vistas, and views and vistas toward the Capitol Dome, other federal monumental buildings, existing neighborhoods, South Capitol Street, and the Frederick Douglass Bridge*

The architectural drawings provided with the application include a view analysis that assesses the views and vistas set forth in 11 DCMR § 1610.4(c). As shown therein, since the building's height and mass along the river and Half Street exist and are unchanged, the building alteration will have no detrimental impact on views and vistas of the identified monumental properties and focus areas.

B. Variance Relief

Subsection 1610.7 of the Zoning Regulations provides that the Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the subject 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 variances from (i) the maximum building height limitations set forth in 11 DCMR § 1603.4 and (ii) the loading requirements set forth in 11 DCMR § 2201.1.

Height: Subsection 1603.4 of the Zoning Regulations permits a maximum building height of 70 feet. The existing building has a height of 90 feet, which the Applicant proposes to maintain for the majority of the building. However, relief is necessary because the Applicant proposes to install a 2 foot, 3 inch roof slab on the center portion of the roof, such that approximately 20% of the building at the upper roof level will have a height of 92 feet, 3 inches. The Applicant also proposes to install a five foot tall pool deck on the existing roof, such that approximately 4% of the building will have a height of 95 feet. Approximately 76% of the upper roof level will remain at 90 feet.

Loading: Relief from the loading requirements of 11 DCMR § 2201.1 is required because the Applicant proposes to maintain the building's existing loading facilities, which complied with the Zoning Regulations in effect as of the time that the building was constructed, but do not meet the minimum loading requirements set forth in the current Zoning Regulations.

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 further addressed in the Applicant's prehearing submission and at the public hearing, variance relief is appropriate in this application.

1. Exceptional Condition or Situation

The Property is exceptional due to the presence of the existing nine-story office building, which the Applicant will adaptively reuse and renovate as part of this application. *See Clerics of St. Viator, Inc. v. D.C. Board of Zoning Adjustment*, 320 A.2nd 291, 294 (D.C. 1974) (stating that

the phrase “exceptional situation or condition” applies not only to the land, but also to the existence and configuration of a building on the land). The existing building is exceptionally large, with existing heights, density, setbacks, core elements, column spacing, siting, ingress and egress locations, ceiling heights, and parking and loading facilities, much of which cannot be modified or redesigned without significantly altering or destroying the building’s structural integrity. The Applicant proposes to remove a substantial amount of the building’s gross floor area in order to provide appropriate massing, create enhanced public access points to the river, and maximize views. In doing so, the Applicant has to maintain the majority of the existing structure, which has a direct impact on the ability to comply with the height and loading requirements.

In addition, the Property itself is exceptional due to its sloping topography, which ranges from a low point of approximately 9 feet in elevation, to a high point of 19.29 feet in elevation, and its location directly adjacent to the Anacostia River.

2. Resulting Practical Difficulty

The strict application of the Zoning Regulations would result in a practical difficulty to the Applicant, since doing so would significantly constrain the Applicant’s ability to adaptively renovate the existing building with a mix of new uses.

i. *Building Height*

Subsection 1603.4 of the Zoning Regulations provides that in the CG/W-2 District, the Zoning Commission, at its discretion, may grant bonus density for residential development in a building or a combined lot development, using a guideline of 1.0 FAR in excess of the normally-allowed maximum of 4.0 FAR and an additional 10 feet in excess of the normally-allowed maximum height of 60 feet, provided that the requirements set forth in 1603.4(a)-(c) are met.

In this case, the Applicant cannot meet the height limitation of 70 feet because it is reusing an existing building which already has a height of 90 feet. Reducing the height of the building to 70 feet would result in the demolition of approximately two floors of the existing building, plus the roof level. Moreover, the Applicant has to install a 2 foot, 3 inch roof slab on top of the existing 90 foot building in order to reinforce the existing roof slab to support the heavier live load requirements for the proposed mechanical equipment and amenities on the roof. The Applicant proposes to provide a new pool deck and infinity pool on the roof, which requires a 5 foot deck on top of the existing 90 foot building. The proposed increased height will only be located in the center leg of the “E”-shaped building. As stated above, approximately 76% of the roof will remain at the 90 foot level.

In order to adaptively reuse the existing building as a proposed, the Applicant must install a new roof slab on a portion of the building. The building’s existing roof slab is designed to only carry the live load of the existing stone ballast and snow (approximately 25 lbs. per square foot), and was intended to be accessed only by building maintenance. In order to reasonably adaptively reuse the building for residential purposes, the Applicant proposes to provide residential amenity spaces on the roof, including an indoor lounge and outdoor pool and terraces,

so that residents can take advantage of the spectacular views towards the Capitol and across the Anacostia River. The Applicant also proposes to provide new mechanical equipment, which is required for the proper functioning of the proposed residential and retail uses. The live load requirement to support the amenity spaces is approximately 100 lbs. per square foot, and the live load requirement to support the proposed mechanical equipment is approximately 150 lbs. per square foot. Due to the extent of these increased roof loads, it is not possible to utilize reinforcement methods under the roof slab without compromising the ceiling height below. The only solution to provide a strong enough slab to accommodate the increased live load is to build a new slab, framed and supported at the existing columns, so that no additional weight will be placed on top of the existing roof slab.

Furthermore, the Applicant proposes to install a 5 foot pool deck on a small portion of the roof, thus increasing the building height in this location to 95 feet. This new deck amounts to approximately 4% of the total roof area and is necessary to create a pool that is 42 inches deep. If the Applicant was designing a pool on a building with new construction, it could build the pool into and below the roof slab. In this case, however, the Applicant is maintaining the existing roof slab which requires a deck to be built above the roof slab into which the pool will fit. The 42 inch deep pool, plus 18 inches of concrete structure below to support the pool, require the 5 foot (60 inch) decking.

ii. *Loading Facilities*

Section 2201.1 of the Zoning Regulations requires the following loading facilities for the proposed retail and residential uses at the Property: (i) one loading berth at 55 feet deep and two loading berths at 30 feet deep; (ii) one loading platform at 200 square feet and two loading platforms at 100 square feet; and (iii) two service/delivery spaces at 20 feet deep. The Applicant proposes to maintain the building's existing loading facilities as follows: (i) one loading berth at 40 feet deep and one loading berth at 30 feet deep; (ii) one loading platform at 301 square feet and one loading platform at 211 square feet; and (iii) one service/delivery space at 20 feet deep. Thus, a variance is required to provide two berths whereas three are required (one of which will be 40 feet instead of 55 feet), and to provide one 20 foot deep service/delivery spaces whereas two service/delivery spaces are required.

The Applicant cannot meet the requirements of 11 DCMR § 2201.1 because it is reusing the building's existing loading facilities, which were located and dimensioned to comply with the Zoning Regulations in effect when the building was constructed. Providing an additional 30 foot loading berth and a 20 foot service/delivery space would require a significantly larger curb cut, which DDOT has indicated it will not approve. Moreover, as shown on the Enlarged Loading Plan included as Sheet 21 of the architectural drawings, the existing (and proposed) loading facilities are located outside of the building on its north side. The Applicant cannot provide additional loading facilities this area because there is not sufficient land area between the curb and the building façade to create another new berth or service/delivery space, or enlarge the existing loading berths. Furthermore, even if the Applicant could fit additional loading facilities adjacent to the building, DDOT has indicated that it will not approve a curb cut greater than 20 feet in width, which would make any new loading facilities inaccessible.

3. No Harm to Public Good or Zone Plan

The requested relief can be granted without substantial detriment to the public good and without substantial impairment to the zone plan. The majority of the building height will be maintained at 90 feet, with approximately 20% of the roof area being devoted to a taller roof terrace at 92 feet, 3 inches, and approximately 4% of the roof area being devoted to a pool deck at 95 feet. The Applicant will reduce the site density to 4.34 FAR, which will lessen the impact of the building on the surrounding streets and provide appropriate massing and design for the proposed residential and retail uses.

As will be further described at the public hearing and explained in a Comprehensive Transportation Review report, the existing building's loading facilities will adequately serve the loading needs of the proposed residential and retail uses. The two uses will realistically be able to share the loading facilities with no detriment to the public good or zone plan.

C. Special Exception Relief

Special exception approval is required from the roof structure number, height, and setback requirements of 11 DCMR § 411.6 (one penthouse permitted on each roof level), § 411.9 (enclosing walls shall be of an equal, uniform height); and § 411.18(c)(5) (1:1 setback required from open courts), and 11 DCMR §§ 936.1 and 1601.7, which make 11 DCMR § 411 applicable to penthouses in the Waterfront Zone Districts and the CG Overlay District, respectively.

Multiple Penthouses and Multiple Heights: Special exception approval is required pursuant to 11 DCMR § 411.6, which requires that all penthouses shall be placed in a single enclosure. The center leg of the "E"-shaped building will enclose a residential amenity space (12 feet tall), and mechanical equipment (16 feet, 1 inch tall), and a screen wall enclosing cooling towers and a designated outside air system ("DOAS") (14 feet).¹ The north and south legs of the building will each enclose an egress stairwell (14 feet, 3 inches tall), which are permitted to be separate enclosures pursuant to 11 DCMR § 411.6.² The north leg of the building will also include a separate penthouse enclosing a second DOAS (12 feet, 9 inches feet tall), thus necessitating relief from 11 DCMR § 411.6.

Out of an abundance of caution, the Applicant requests special exception relief from 411.9, in the event that the Commission interprets the Zoning Regulations to prohibit the separate DOAS mechanical penthouse on the north leg of the building to have a separate height from the rest of the mechanical equipment.

¹ The three separate heights are permitted pursuant to 11 DCMR § 411.9(a) and (c), which provide that "enclosing walls of the penthouse shall be of an equal, uniform height as measured from roof level, except that: (a) Enclosing walls of penthouse habitable space may be of a single different height than walls enclosing penthouse mechanical space... and (c) required screening walls around uncovered mechanical equipment may be of a single, different uniform height."

² Section 411.6 provides that "[a]ll penthouses shall be placed in one enclosure... except that a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure.

Penthouse Setbacks: Special exception approval is also required pursuant to 11 DCMR § 411.18(c)(5), which requires penthouses to be setback 1:1 from “walls that border any court other than closed courts.” In this case, the three stair towers that provide access to the roof are not setback from the open courts in the center of the building, thus necessitating relief from 11 DCMR § 411.18(c)(5).

Under 11 DCMR § 411.11, the Board of Zoning Adjustment may grant special exceptions under 11 DCMR § 3104 from 411.6 and 411.18 upon a showing that (a) operating difficulties such as meeting Building Code requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly, or unreasonable; (b) the intent and purpose of this chapter and this title will not be materially impaired by the structure; and (c) the light and air of adjacent buildings will not be affected adversely. The Board, and by extension the Zoning Commission pursuant to 11 DCMR § 1610.7, has the power to approve a roof structure under section 411.11.

The proposed roof plan is consistent with the purpose and intent of the Zoning Regulations. The Applicant cannot locate the northern-most DOAS unit within the larger mechanical screen wall on the southern portion of the roof because the two DOAS units need to maintain a physical separation and have separate duct work to provide fresh air into the residential units. The duct work for the DOAS units is located in the ceilings of the building’s corridors. If both DOAS units operated together from the same side of the roof, the duct work feeding fresh air from the roof into the units would have to be significantly larger (approximately two feet deep), which would be below the 7 foot, 6 inch minimum clearance that is required for the corridors. The Applicant could theoretically connect the main roof structure to the separate DOAS; however, to do so would be inconstant with the intent of the penthouse regulations, which is to exercise a reasonable degree of architectural control upon penthouses. Connecting the separate structures would add significantly more massing to the roof of the large, existing building, which is contradictory to the Zoning Regulations.

Moreover, regarding penthouse setbacks, the egress stairs are existing stair towers that are presently located in the core (middle) of the building. Because the Applicant is cutting out major interior portions of the building, the stair towers will become exposed at the building line, and therefore will not be setback from the open court wall at the roof level. However, these penthouses are setback at least 1:1 from all front, rear, and side building walls, including the River-facing facades, such that the setback relief will not result in any negative impacts, will not adversely affect the light and air of any future adjacent buildings, and will not impair the intent and purpose of the Zoning Regulations.