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May 12, 2016

VIA IZIS AND HAND DELIVERY

Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Request for Minor Modification
Z.C. Case No. 06-46B
Capitol Gateway (CG) Overlay Review at Square 701, Lots 857, 858, and 859

Dear Members of the Commission:

On behalf of Half Street Residential PJV, LLC (the “Applicant”), we hereby submit this application for a minor modification to the above-referenced CG Overlay design review case, approved pursuant to Z.C. Order No. 06-46B, dated June 29, 2015, and effective on July 31, 2015. A copy of Z.C. Order No. 06-46B is attached hereto as Exhibit A.

This minor modification request is made pursuant to the Zoning Commission's authority established under Sections 411.24 and 3030.1 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). Included with this filing is Z.C. Form 151, Application for a Minor Modification, and a check in the amount of \$520.00 to cover the cost of the filing fee.

A. Subject Property

Square 701 is bounded by M Street, SE on the north, N Street on the south, First Street on the east, and Half Street on the west (the “Square”). The development site, treated as a theoretical building site for purposes of zoning under §2517 of the Zoning Regulations, encompasses the southern portion of existing Record Lot 168, and consists of approximately 67,835 square feet of land area (the “Subject Property”). The northern portion of Record Lot 168 is developed with an office building located at 55 M Street, SE, which resides on a separate theoretical building site. The Subject Property is located in the southwest corner of the Square, fronting on Half and N Streets, and includes Lots 857, 858, and 859, which are three separate assessment and taxation (A&T) lots according to the records of the District of Columbia Office of the Surveyor. The Subject Property is zoned CG/CR.

A. Previous Zoning Commission Approval

On June 29, 2015, the Zoning Commission voted 5-0-0 to approve Zoning Commission Case No. 06-46B ("Z.C. Case No. 06-46B"), a case concerning modifications to a previously approved new mixed-use building (Z.C. Case No. 06-46 and Z.C. Case No. 06-46A) located on the Subject Property (the "Modified Building"). The Modified Building was approved for residential and retail and service uses, with the potential for a hotel. Overall, the Modified Building was approved for a maximum height of 110 feet and maximum density of 6.83 FAR. The maximum residential gross floor area (GFA) has an approved range of approximately 318,400 – 402,800 square feet, the maximum retail GFA range is approximately 55,100 – 69,200 square feet, and the maximum hotel GFA range is between 0 – 78,300 square feet.

The Commission reviewed the Modified Building in accordance with Sections 1607 and 1610 of the Zoning Regulations, which apply to new construction within the CG Overlay District with frontage along Half Street, SE, south of M Street, SE, and to properties within the Square. The Commission found the Modified Building to be consistent with the provisions of Sections 1607 and 1610, and with the zoning relief that had been granted previously in Z.C. Case No. 06-46. The areas of relief included variances from required loading (§2201.1), required percentage of the ground floor devoted to preferred uses (§1607.3), the requirement that 100% of the Half Street frontage be devoted to preferred uses (§1607.4), and the minimum floor-to-ceiling height at the ground floor (§1607.5). In addition, the Zoning Commission granted special exceptions from the roof structure setback requirements (§400.7)¹, and the CG Overlay District requirement that any portion of a building along Half Street, SE in excess of 65 feet be setback a minimum of 20 feet (1607.2). In addition, as part of its approval of the Modified Building, the Commission granted a special exception to allow multiple roof structures not meeting the single enclosure requirement (§411.3), and variances from the CR residential lot occupancy requirement (§634) and the Half Street setback requirement (§1607.2). Finally, the Commission granted flexibility to adjust/vary certain aspects of the Modified Building design and program.

B. Minor Modifications Requested

As shown on the plans attached hereto as Exhibit B (the "Minor Modification Plans"), the Applicant requests approval to modify the approved use and design of the Modified Building's penthouse, including the addition of penthouse habitable space. The Applicant's request is made pursuant to 11 DCMR, §§411.24 and 3030.1, which allows placement of the request on the Commission's consent calendar for consideration as a minor modification.

Pursuant to 11 DCMR §411.24 of the recently adopted penthouse regulations, a request to add penthouse habitable space to a building approved by the Zoning Commission through the CG Overlay design review process prior to January 8, 2016, may be filed as a minor modification for placement on the Zoning Commission's consent calendar, pursuant to 11 DCMR §3030, provided (a) the item shall not be placed on a consent calendar for a period of 30 days minimum following the

¹ Pursuant to Z.C. Order No. 14-13, the Commission adopted a new penthouse regulations which went into effect on January 8, 2016. As part of this new set of regulations, the term "penthouse" was established, and by definition includes all structures previously regulated as "roof structures" by §411 prior to January 8, 2016.

filing of the application; and (b) the Office of Planning shall submit a report with a recommendation a minimum of seven days in advance of the meeting. In addition to meeting the requirements of §3030, an application made pursuant to 11 DCMR §411.24 shall include the following:

- a. A fully dimensioned copy of the approved and proposed roof plan and elevations as necessary to show the changes;
- b. A written comparison of the proposal to the Zoning Regulations; and
- c. Verification that the affected Advisory Neighborhood Association (ANC) has been notified of the request.

This application complies with the requirements of §411.24(a)-(c). As shown in the Minor Modification Plans, the Applicant has provided fully dimensioned plans and elevations showing the approved and proposed penthouse, and a written comparison of the proposal is provided herein. In addition, the Applicant has provided information on proposed materials, an updated rooftop landscape plan, and a perspective rendering of the revised penthouse and roof plan.

In addition, on April 1, 2016, the Applicant informed ANC Single Member District (SMD) 6D02, Commissioner Stacy Cloyd, of its intent to file the subject minor modification request and offered to formally present the modification to the full ANC at its regularly scheduled meeting. Upon discussion with the ANC Chair, Commissioner Cloyd informed the Applicant that a formal presentation would not be necessary. Rather, at the ANC's regularly scheduled and duly noticed meeting held on April 11, 2016, Commissioner Cloyd informed the full ANC of the Applicant's proposal. No objections were raised by the ANC or the public. The Applicant will submit a copy of the ANC's meeting minutes once they are published. Finally, as shown on the attached Certificate of Service, ANC 6D was further informed of the requested minor modification via hand delivery of a copy of the Applicant's application.

Previously Approved Penthouse Use and Design

As shown on Sheet A1 of the Minor Modification Plans, the previously approved penthouse included four separate penthouse structures, screened mechanical equipment, outdoor recreation space, an elevated pool structure (less than four feet in height), and unscreened mechanical equipment (i.e. individual condenser units). Two of the penthouse structures contained indoor accessory recreation space that did not exceed 20% of the roof area devoted to exterior accessory recreation space, totaling approximately 3,600 gross square feet. Under the new penthouse regulations, the approved indoor accessory recreation space would fall within the definition of penthouse habitable space, and would be considered communal rooftop recreation or amenity space for the primary use of residents of the building. The two other previously approved penthouse structures consisted entirely of enclosed mechanical equipment and egress stairs, which would be treated as "penthouse mechanical space" under the new penthouse regulations. All four approved penthouse structures had a height of 18'-6".

As stated above, the previously approved penthouse plan included an elevated pool structure and unenclosed mechanical equipment, all of which had a height of less than four (4) feet. The pool was located on the central east-west wing of the building, had a height of approximately 3'-11 1/2" above the building roof, and provided the required 1:1 setback from all exterior walls. The unenclosed mechanical equipment was concentrated on the northern portion of

the roof, and consisted primarily of individual condenser units that served the residential dwelling units in the building. The remaining portions of the roof level not occupied by the components described above were devoted to outdoor recreation/amenity spaces for use by residents of the building, or to green roof/landscaped areas. As shown on Sheet L2 of the Minor Modification Plans, the green roof areas on the previously approved plans covered approximately 8,670 square feet of roof area.

Revised Penthouse Use and Design

As shown on Sheets A1 – A6, the Applicant proposes to modify the previously approved penthouse plan to include additional penthouse habitable space. Overall, the amount of penthouse habitable space proposed within the revised penthouse is approximately 9,369 GFA, of which approximately 3,360 GFA will be devoted to communal recreation/amenity space (Exhibit B, Sheet A3). In addition, the revised penthouse plan will contain approximately 2,199 GFA of penthouse mechanical space, and approximately 3,044 GFA of unenclosed screened mechanical equipment.

With respect to penthouse height, as permitted under Section 411.9, the modified penthouse plan includes a single enclosure with three separate heights. As shown on Exhibit B, Sheet A4, the proposed penthouse habitable space, both communal and non-communal, will have a maximum height of 16'-0" above the roof, and the areas proposed to contain unenclosed screened mechanical equipment will have a maximum height of 17'-0" above the roof.

With regard to the proposed penthouse mechanical space, the main building cores (elevator and egress stairs) will have a maximum height of 18'-6", as will the elevator located at the north end of the building. There will also be a mechanical room and two egress stairs that have a slightly lower height of 16'-0" above the roof as it is unnecessary for them to be any higher and, as shown on Exhibit B, Sheet A4, will correspond to the lower heights of adjacent penthouse habitable space and screened mechanical equipment, thus simplifying the overall massing of the revised penthouse.

The Applicant believes lowering the height of these three areas of penthouse mechanical space is consistent with the intent and purpose of Section 411.9 of the Zoning Regulations, which allows penthouses to have up to three different heights, with elevator overrides allowed to have a fourth separate height. However, should the Commission decide that a special exception under Section 411.11 is required to permit a lower height for these three areas, the Applicant respectfully requests such relief. Pursuant to Section 3030.13, the Commission may grant this request if it determines the relief is consistent with the intent of the Commission's original approval, and will not substantially impair the intent, purpose, or integrity of the Zone Plan. The proposal for these three isolated areas of penthouse mechanical space to have a lower height than the main building cores is consistent with the Commission's original approval of the project, and with the intent of the newly adopted penthouse regulations as it will simplify the penthouse massing and, as described below, meet all 1:1 setback requirements. Thus, granting the relief would not have a substantial impact on the Zone Plan.

As shown on Exhibit B, Sheets A5 and A6, the revised penthouse will meet the 1:1 setback requirements with the exception of the small portion of the penthouse where the Zoning Commission has already granted setback relief. In fact, as shown on Exhibit B, Sheet A2, the extent of noncompliant setback has been slightly reduced as a result of the proposed modifications.

To accommodate the proposed penthouse modifications, the Applicant has made revisions to the outdoor rooftop amenity space and landscape plan. The pool continues to be located on the central east-west wing of the building, and the height of the pool platform remains 3'- 11 1/2" above the adjacent roof. As part of the revised plan, a trellis structure has been added to the pool area. The combined height of the pool platform and trellis is approximately 14'-1 1/2" above the roof level, and is setback 1:1 from the edge of the roof.

The Applicant's revised rooftop landscape plan is shown in Exhibit B, Sheet L1. Similar to the previously approved plans, the main outdoor amenity spaces continue to be located at the intersection of the Half Street and N Street portions of the building. The outdoor amenity spaces will primarily consist of temporary furnishings, planters, a grilling area, and a trellis structure. The landscaped areas of the roof extending along Half and N Streets are now devoted to a collection of private roof terraces and additional landscaped/green roof areas. Additional green roof has also been added on portions of the roof level that face Cushing Place. As shown on Exhibit B, Sheet L2, the revised rooftop landscape plan increases the total amount of green roof from approximately 8,670 square feet to approximately 10,208 square feet, or by approximately 1,538 square feet.

Modifications to Penthouse Facades

The materials proposed for the revised penthouse design are consistent with the materials that were previously approved by the Commission for the main building, and consist of glass storefront windows, darker color fiber cement panels, and differentiated metal panel cladding. These materials are shown on Exhibit B, Sheet A7, and the previously approved materials palette is shown in Exhibit B, Sheets X1 – X3). As shown on the elevations included on Exhibit B, Sheets A8 and A9, the proposed penthouse materials will be applied in a simplified pattern so as not to compete with the carefully articulated building facades along Half and N Streets, an important criteria of the CG Overlay provisions. In addition, the darker color of the penthouse materials will allow the penthouse to recede from view, thereby maintaining the visual prominence of the building.

Compliance with Penthouse Regulations

Under the new penthouse regulations, penthouses within the CR Zone District are permitted a maximum height of 20 feet, for both habitable and mechanical space, can contain one story plus a mezzanine for habitable space, and a second story for mechanical space; and can contain up to three separate heights, with elevator overrides allowed to have a fourth separate height. The revised penthouse design contains multiple heights for penthouse habitable space, penthouse mechanical space, and screened mechanical equipment. The majority of the proposed penthouse has a uniform height of 16'-0", with limited areas of screened mechanical equipment and penthouse mechanical space having separate heights of 17'-0" and 18'-6". Notwithstanding the multiple heights proposed, all spaces and screened equipment will be placed in one enclosure that, as shown on Exhibit B, Sheets A7 and A14, harmonize with the main structure in architectural character, material, and color.

As clearly demonstrated on Exhibit B, Sheets A1 and A2, the revised penthouse, as well as the pool, guardrails, and trellises, will meet all required 1:1 setback requirements, with the exception of the limited area where the Commission has already granted setback relief for the elevator core on the south wing of the building along the court that opens onto Cushing Place. While this particular area of the penthouse continues to require setback relief, as a result of the proposed modifications

the extent of the setback relief has been slightly reduced, and no penthouse habitable space has been extended into this area.

Pursuant to Section 411.13, the aggregate square footage of all space on all penthouse levels or stories having a ceiling height of 6'-6" or greater shall be included in the total FAR permitted for the building, with certain exceptions. These exceptions include, in relevant part, all penthouse mechanical space, all communal recreation space, and non-communal penthouse habitable space up to 0.4 FAR. Based on the proposed building's [theoretical] land area of 67,835, a total of 27,134 GFA of non-communal penthouse habitable space is permitted in the revised penthouse without it counting toward the FAR of the main building. As proposed, the revised penthouse will contain approximately 6,009 GFA of non-communal penthouse habitable space (Exhibit B, Sheet A3).

With respect to parking and loading, per the new penthouse regulations the GFA of penthouse habitable space, not including recreation space, is required to be counted toward off-street vehicular parking, bicycle parking, and loading. As approved by the Commission, the building contained 445 dwelling units. Consistent with the flexibility afforded by the Commission in its prior approval, the current design of the building contains approximately 433 dwelling units. As shown on Exhibit B, Sheet A3, the modified penthouse design will contain an six dwelling units, for a total of 439 dwelling units within the building. For an apartment house located within the CR zone district, the minimum parking requirement is one space for each three dwelling units , or in this instance 146 parking spaces. As currently designed, the building's below grade parking garage will contain 167 onsite parking spaces, with an additional 64 located within vault space. Thus, the building continues to comply with the minimum parking requirement.² The Applicant will also continue to provide the required amount of bicycle parking within the two previously approved bicycle storage rooms located in the building's loading area. Based on the total number of dwelling units, the Applicant is required to provide 146 bicycle parking spaces or, pursuant to Section 2119.6, a bicycle storage room, or rooms, totaling 1,752 square feet in area. The previously approved bicycle storage rooms provide a total of 2,000 square feet of bicycle storage.

Regarding loading, as part of its original approval under Z.C. Order No. 06-46, the Commission granted relief from the minimum loading requirements to allow one berth at 55-foot deep, three berths at 30-feet deep, and two delivery spaces at 20-feet deep. Pursuant to Z.C Order No. 06-46B, the Applicant's modified plans contained the same number and type of loading facilities. The addition of six dwelling units within the modified penthouse does not trigger the need for additional loading berths or delivery spaces; and therefore, does not increase the degree of the original relief granted, or give rise to any new areas of loading relief.

Compliance with Affordable Housing Requirement for Residential Buildings

Pursuant to Section 411.16 of the new penthouse regulations, the construction of penthouse habitable space in a residential building, except for space devoted exclusively to communal recreation or amenity space for the primary use of residents of the building, is subject to the Inclusionary Zoning (IZ) set aside provisions of Chapter 26, which requires 100% of inclusionary units resulting from penthouse habitable space to be set aside for eligible low-income households.

² Parking spaces for the retail space contained within the proposed residential building will be provided in the existing parking garage below the office building to the north (55 M Street, SE) through a reciprocal easement agreement between the Applicant and the owner of the adjacent office building.

Furthermore, Section 2607.9 requires inclusionary units that result from the set aside required for penthouse habitable space to be provided within the building, except under the following circumstances where the IZ set aside requirement attributable to the penthouse habitable space can be met through a contribution to a housing trust fund:

- a) The new penthouse habitable space is being provided as an addition to an existing building which is not otherwise undergoing renovations or additions that would result in a new or expanded IZ requirement within the building;
- b) The penthouse habitable space is being provided on an existing or new building not otherwise subject to IZ requirements; or
- c) The building is not otherwise required to provide IZ units for low-income households and the amount of penthouse habitable space would result in a gross floor area set-aside less than the gross floor area of the smallest dwelling unit within the building.

As was discussed at the May 28, 2015, public hearing held for Z.C. Case No. 06-46B, the proposed building is not subject to IZ since construction of the office building to the north, which was part of the Commission's initial approval that took place prior to the implementation of the IZ regulations (Z.C. Order No. 06-46), vested the proposed residential building. Thus, the Applicant intends to satisfy the IZ set aside requirement through a contribution to the District's Housing Production Trust Fund (HPTF). The total amount of the HPTF contribution, which must be calculated in accordance with Sections 414.13 – 414.16, will be based upon the approximate 6,009 GFA of proposed, non-communal/non-amenity penthouse habitable space and an 8.0 FAR, the maximum FAR permitted on the Subject Property. As required under Section 414.14, the assessed value used in the HPTF calculation shall be the fair market value as indicated in the property tax assessment records of the Office of Tax and Revenue no earlier than 30 days prior to the date of the building permit application to construct the penthouse habitable space.

C. Jurisdiction of the Zoning Commission and Compliance with Standards

Section 3030 of the Zoning Regulations provides for an expedited "Consent Calendar" procedure, allowing the Zoning Commission to make minor modifications and technical corrections to an approved PUD without a need for a public hearing. In addition, Section 3030 permits the Zoning Commission to consider a request to add penthouse habitable space pursuant to 11 DCMR §411.24 as a minor modification. The modifications requested herein do not affect the essential elements of the approval given by the Zoning Commission for this project. Accordingly, the request falls within the scope of this section.

If the Zoning Commission determines that the proposed modifications described herein are not minor, then the Applicant respectfully requests that the Commission treat this filing as a prehearing submission and schedule a public hearing on the modification application at the earliest available hearing date.

D. Conclusion

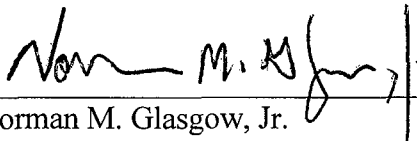
The Applicant respectfully requests approval of this request for a minor modification to the plans approved in Z.C. Order No. 06-46B. As required by 11 DCMR §3030.13, this minor

modification is consistent with the intent of the Commission in approving the original application, and it will not substantially impair the intent, purpose, or integrity of the zone plan as embodied in the Zoning Regulations and Zoning Map. Accordingly, a minor modification is appropriate.

As stated above, if the Zoning Commission determines that the proposed modifications are not minor, then the Applicant respectfully requests that the Commission treat this filing as a prehearing submission and schedule a public hearing on the proposed modification application as expeditiously as possible.

Respectfully submitted,

HOLLAND & KNIGHT LLP


Norman M. Glasgow, Jr.

cc: Jennifer Steingasser, Office of Planning (w/encl., via hand delivery)
Joel Lawson, Office of Planning (w/encl., via hand delivery)
Matthew Jesick, Office of Planning (w/encl., via hand delivery)
Anna Chamberlin, District Department of Transportation (w/encl., via hand delivery)
Advisory Neighborhood Commission 6D (w/encl., via hand delivery)
Marjorie Lightman, ANC 6D01 (w/encl., via hand delivery)
Stacy Braverman Cloyd, ANC 6D02 (w/encl., via hand delivery)
Rachel Reilly Carroll, ANC 6D03 (w/encl., via hand delivery)
Andy Litsky, ANC 6D04 (w/encl., via hand delivery)
Roger Mofatt, ANC 6D05 (w/encl., via hand delivery)
Rhonda N. Hamilton, ANC 6D06 (w/encl., via hand delivery)
Meredith Fascett, ANC 6D07 (w/encl., via hand delivery)

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2016, a copy of this Request for Minor Modification to a previously approved CG Overlay design review (Zoning Commission Order No.06-46B) was served via hand delivery on the following in accordance with 11 DCMR §3030.6.

Advisory Neighborhood Commission 6D
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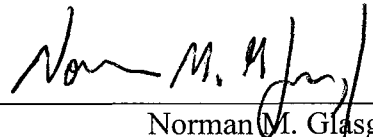
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