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June 15, 2015

VIA HAND DELIVERY

Zoning Commission of the District of Columbia
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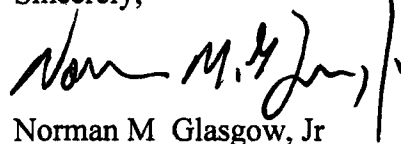
Re: Zoning Commission Case No. 06-46B

Dear Commissioners

Pursuant to the Commission's request, enclosed is the Applicant's proposed Findings of Fact and Conclusions of Law in advance of the June 29, 2015 public meeting

Thank you for your consideration of these materials

Sincerely,



Norman M Glasgow, Jr

NMG/rcf

Enclosures

cc Advisory Neighborhood Commission 6D

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 06-46B**

**Capitol Gateway Overlay Review
Half Street Residential PJV, LLC
Square 701, Lot 168**

June 29, 2015

Pursuant to notice, the Zoning Commission of the District of Columbia (the "Commission") held a public hearing on May 28, 2015, to consider an application filed by Half Street Residential PJV, LLC (the "Applicant") for review and approval of modifications to previously approved plans for a new mixed-use building consisting of residential and retail and service uses, with the potential for a hotel, pursuant to §§1607 and 1610 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"), which apply to new construction within the Capitol Gateway Overlay with frontage along Half Street, SE, south of M Street, SE, and to properties within Square 701. The initial application also included a request for special exception approval to allow multiple roof structures without a single enclosure, pursuant to §§630.4(a) and 411.3. The public hearing was conducted in accordance with the provisions of §3022. At the public hearing, the Applicant requested additional variances from the residential lot occupancy requirement for the second floor of the building, pursuant to §634, and from the Half Street building setback requirement of §1607.2. These additional areas of relief did not result from changes made to the plans submitted to the Zoning Commission, but rather, the request was of a technical nature that the Applicant sought out of an abundance of caution to ensure all potential areas of relief were obtained prior to pursuing permits for the project. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

- 1 On February 26, 2015, the Applicant filed an application for review and approval of modifications to previously approved plans for a new mixed-use building consisting of residential and retail and service uses, with the potential for a hotel, pursuant to §§1607 and 1610 of the Zoning Regulations, which apply to developments on any lot within the Capitol Gateway ("CG") Overlay District with frontage along Half Street, SE, south of M Street, SE, as well as properties within Squares 700 and 701 north of the Ballpark site.
- 2 The subject property is located in Square 701 and encompasses the southern portion of Record Lot 168 (the "Property"), and is considered a theoretical building site for purposes of zoning.
- 3 The Applicant filed a pre-hearing submission in support of the application on May 8, 2015 (the "Pre-hearing Submission") (Exhibits 7, 7A, 7B1, 7B2, 7C, and 7D).
- 4 The Commission held a hearing on the application on May 28, 2015. The Applicant was the only Party to the case to appear at the public hearing. Advisory Neighborhood

Commission 6D (the "ANC"), the ANC within which the Property is located, did not participate in the hearing. Proper notice of the hearing was provided by the Office of Zoning pursuant to 11 DCMR §3015

5. By letter dated March 22, 2015, the ANC reported that at its duly-noticed meeting on March 9, 2015, ANC 6D voted 4-0-2 to recommend that the Commission approve the proposed modifications to previously approved plans and the requested special exception from the single roof structure enclosure requirement of §411.3 (Exhibit 5)
6. Witnesses appearing at the hearing on behalf of the Applicant included Jair Lynch of JAIR LYNCH Development Partners, Chris Harvey and Chris Schein of HORD | COPLAN | MACHT, Chris Kabatt of Wells+Associates, and Shane Dettman of Holland & Knight LLP
7. Messrs Harvey and Schein were qualified as experts in architecture and landscape architecture, respectively. Mr. Kabatt was qualified as an expert in transportation planning, and Mr Dettman was qualified as an expert in land use planning
8. At the public hearing the Applicant requested additional variances from the residential lot occupancy requirement for the second floor of the building (§634), and from the Half Street building setback requirement of §1607.2. These additional areas of relief did not result from changes made to the plans submitted to the Zoning Commission, but rather, the request was of a technical nature that the Applicant sought out of an abundance of caution to ensure all potential areas of relief were obtained prior to pursuing permits for the project
9. At the conclusion of the public hearing on May 28, 2015, the Commission requested additional detail regarding the design of Monument Place and Cushing Place; a revised streetscape plan for Half Street that responds to comments made by the District Department of Transportation (DDOT) and the District of Columbia Office of Planning (DCOP), information regarding the Applicant's coordination with adjacent property owners regarding the design of Half Street; additional detail regarding the proposed roof plan; and responses to outstanding questions contained in the report submitted by DCOP (Exhibit 9), and to submit these revised materials to the record
10. On June 15, 2015, the Applicant submitted the information requested by the Commission (the "Post-hearing Submission") consisting of a revised set of plans, including a revised roof plan showing greater detail and enlarged interior penthouse accessory recreation space and revised plans for Half Street and Monument Place (the "Final Plans")(Exhibit __), responses to outstanding comments received from DDOT and DCOP, and responses to the Commission's questions and requests raised at the public hearing (Exhibit __). The Final Plans supplanted the plans submitted to the record on May 8, 2015 as part of the Pre-hearing Submission. Per the Commission's request, the Applicant submitted proposed findings of fact and conclusions of law, pursuant to §3026 on June 15, 2015 (Exhibit __).
11. At its June 29, 2015, public meeting, the Commission took final action by a vote of [- -] to approve the application. The Commission determined that the project satisfies all

applicable requirements of the CG Overlay District, and the application satisfies the burden of proof for the special exception requested for relief from the single roof structure enclosure requirement, and variances from the residential lot occupancy requirement for the second floor of the building and from the Half Street building setback requirement.

Overview of Previously Approved Plans

- 12 On February 12, 2007, the Zoning Commission voted 5-0-0 to approve Zoning Commission Case No. 06-46 (Z C 06-46) for the property now designated as Record Lot 168 (the “Previous Plans”)
- 13 The Previous Plans depicted a 762,800 square foot, mixed-use development consisting of two buildings (the “North Building” and the “South Building”) comprising office, residential, hotel, and retail uses. The North Building was approved for office and retail use while the South Building was approved for hotel, residential, and retail use. The Previous Plans were approved for 277,600 square feet of office space, 105,560 square feet of hotel space, 51,010 square feet of retail, and 320,100 square feet of residential. The Previous Plans showed a maximum height of 110 feet, not including roof structures, and a maximum floor area ratio (FAR) of 7.44.
- 14 To achieve the maximum permitted building height and FAR, the Previous Plans included the transfer of residential density from Square 700 through combined lot development that also involved the ballpark site to the south.
- 15 In addition to approving the Previous Plans pursuant to the provisions of the CG Overlay District, the Zoning Commission also granted the following areas of zoning relief: a variance from the loading requirements of §2201.1, a variance from the ground floor preferred use percentage requirement of §1604.3, a variance from the Half Street preferred use frontage requirement of §1607.4, a variance from the ground floor minimum floor-to-ceiling height requirement of §1607.5, a special exception from the Half Street setback requirement of §1607.2, and a special exception from the roof structure setback requirement of §630.4(b).
- 16 On January 28, 2008, the Zoning Commission voted 5-0-0, to approve minor modifications to the Previous Plans (Z C. Case No. 06-46A). The modification included a number of design changes and several changes to gross floor area, including: a reduction in office space from 277,600 square feet to 267,162 square feet, an increase in hotel from 105,560 square feet to 106,269 square feet, an increase in retail from 51,010 square feet to 51,022 square feet, an increase in residential from 320,100 square feet to 320,511 square feet, and a reduction in the overall FAR from 7.44 to 7.35.

Overview of Final Plans

- 17 The Property is “L” shaped in configuration and contains approximately 67,835 square feet of land area in the southwestern portion of Square 701 at the intersection of Half Street, SE and N Street, SE. Square 701 is bounded by M Street on the north, N Street on the south,

First Street on the east, and Half Street on the west. Nationals Park ballpark is located immediately south of the Property, across N Street, SE. The Property is currently vacant.

18. The Applicant intends to construct a mixed-use apartment building with ground- and second-floor retail and service uses and the potential for a hotel on the Property. As shown in the Final Plans, the proposed building will have a height of 110 feet and will contain approximately 460,900 - 462,900 square feet of gross floor area and an overall FAR between 6.79 – 6.83, as permitted pursuant to §1602.1(a) of the Zoning Regulations.
19. The proposed building has been designed to actively engage its two street frontages. Along Half and N Streets, the building will be constructed to the building lines and a range of materials will be applied in ways that will differentiate the uses, and reinforce the mixed-use character of the Half Street gateway and surrounding neighborhood. The Half Street façade comprises regularly spaced bays and shallow courts above two levels of retail. The retail levels are primarily composed of a masonry frame with a high percentage of transparent glass. At the second level, a projecting glass bay along Half Street gives the second story retail added presence, and wraps around to Monument Place to unite these two facades of the building. The residential bays above are simple masonry frames with two-story windows. Balconies accent and further enliven the residential building. The N Street frontage also has a two-story retail expression above which the residential use has a regular pattern of punched windows and balconies. The facades of the courtyards facing Cushing Place continue the pattern of materials expressed on the Half and N Street facades.
20. With regard to parking and loading, the Final Plans include three levels of below grade parking, in full satisfaction of the onsite parking requirements of Chapter 21 of the Zoning Regulations. The required amount of bicycle parking will be provided in two separate storage rooms located adjacent to the loading facilities on the first level. The building will be consistent with the loading relief that was previously granted by the Zoning Commission, and will provide one, 55-foot deep loading berth (1 @ 55' deep), three, 30-foot loading berths (3 @ 30' deep), and two, 20-foot service delivery spaces (2 @ 20' deep). The loading and underground parking facilities will be accessible from Cushing Place, along the east side of the Property.
21. As shown in the Final Plans, the proposed building still requires the roof structure setback relief that was previously granted by the Zoning Commission, however, the extent of relief has been substantially reduced. The area in which the Final Plans require roof structure setback relief is located along the south interior courtyard wall.
22. The building will incorporate a number of elements to enhance its sustainability. As part of the Pre-hearing Statement, the Applicant submitted a draft LEED for Homes Mid-rise Simplified checklist which indicates the building will qualify as LEED Silver (Exhibit 7C). Furthermore, at the public hearing the Applicant committed to pursuing LEED Silver for New Homes certification.

Description of the Surrounding Area and Zoning Classification

- 23 The Property is located in Square 701 (the "Square") which is bounded by M Street on the north, N Street on the south, First Street on the east, and Half Street on the west
- 24 The Property is located in the southwest corner of the Square and has approximately 365 feet of frontage on Half Street, SE, and approximately 250 feet of frontage on N Street, SE. Cushing Place, a currently unimproved 30' wide public alley, runs along the east boundary of the Property and will be constructed as part of this project.
- 25 The Property, treated as a theoretical building site for purposes of zoning pursuant §2517, encompasses the southern portion of Record Lot 168 and consists of approximately 67,835 square feet of land area. 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 Property 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. Nationals Park is located to the immediate south of the Property, across N Street, SE
- 26 The Property is zoned CG/CR, as are the rest of the properties within the Square as well as those across Half Street in Square 700. The properties to the east of 1st Street, SE are zoned SEFC/CR (Southeast Federal Center Overlay / Commercial Residential), and properties north of M Street, SE are zoned C-3-C or CG/C-3-C
- 27 Section 1602 of the CG Overlay 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 a combined lot development covenant approved by the District of Columbia and recorded in the land records of the Recorder of Deeds of the District of Columbia. The Property is part of a combined lot development covenant that was duly recorded on August 22, 2008
- 28 Section 1602 further provides that residential and nonresidential floor area on each individual parcel within the CR District shall not exceed a maximum building density of 8.0 FAR on parcels for which a height of 110 feet is permitted by the 1910 Height of Buildings Act, pursuant to §1602 1(a). As a result of the Property's frontage on N Street, a 90-foot wide street, a building height of 110 feet is permitted under the Act.

Capitol Gateway Overlay District Design Requirements

29. The proposed project is subject to the requirements of Section 1607 of the Zoning Regulations because the proposed building will be located along Half Street, SE, south of M Street, SE, within the CG Overlay.
- 30 Section 1607 2 requires any portion of a building or structure exceeding 65 feet to be setback from the building line along Half Street, SE a minimum of 20 feet. Pursuant to its

authority under §1610.7, the Commission's approval of the Previous Plans included a special exception from this requirement to allow a setback of 12 feet above a height of 80 feet. As shown in the Final Plans, eleven balconies that project into the previously approved 12-foot setback are proposed. As a technical matter, the Applicant requested variance relief from §1607.2 at the public hearing to allow the balconies to project into the previously approved setback.

- 31 Section 1607.3 requires each new building to devote not less than 75% of the ground floor to preferred uses. The Commission's approval of the Previous Plans included a variance from this requirement. As shown in the Final Plans, under Scenario 1, 75.9% of the ground floor will be devoted to preferred uses. Under Scenario 2, as a result of the hotel lobby and associated drop off, the percentage of the ground floor devoted to preferred uses will be reduced to 71.6%.
- 32 Section 1607.4 requires 100% of a building's street frontage along Half Street, SE, except for space devoted to building entrances or required to be devoted to fire control, to be occupied by preferred uses. As shown in the Final Plans, with the exception of a residential entrance and an entrance lobby to second-level retail, the Final Plans devote 100% of the frontage along Half Street to preferred uses.
- 33 Section 1607.5 requires portions of the ground floor devoted to preferred uses to have a minimum floor-to-ceiling height of 14 feet. The Commission had previously granted a variance from this requirement. As shown in the Final Plans, the proposed building complies with this requirement by providing a clear floor-to-ceiling height in excess of 14 feet on the ground floor. Therefore, the previously granted variance is no longer necessary.
- 34 Section 1607.7 prohibits the construction or use of any driveway accessing parking or loading along Half Street. As shown in the Final Plans, the proposed building does not include any driveways along Half Street.

The Project Meets the Requirements of Section 1610

- 35 The Final Plans are subject to Zoning Commission review and approval pursuant to Section 1610 of the CG Overlay. Section 1610.3 provides that in addition to demonstrating that the proposed building meets the standards set forth in Section 3104 of the Zoning Regulations, an applicant requesting approval under the CG Overlay provisions must also prove that the proposed building meets the requirements of §§1610.3(a) through 1610.3(f). Section 3104.1 of the Zoning Regulations provides that special exceptions should be granted when "the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps." (§3104.1)
- 36 Section 1610.3 further provides that the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation of the proposed building must comply with the specific requirements set forth in that section, and must help achieve the objectives of the CG

Overlay District as set forth in §1600.2 of the Zoning Regulations. The proposed building meets the requirements of §1610 and is consistent with all applicable purposes of the CG Overlay.

37. The proposed building's height and density are allowed at this location, and the proposed use is consistent with the Property's mixed-use (high-density commercial / high-density residential) designation on the Comprehensive Plan Future Land Use Map. The residential and retail/service uses contemplated by the project will help foster an appropriate mix of uses within Square 701 and the surrounding area. (§1600.2(a))
38. The proposed building is planned to include significant space devoted to preferred retail or service uses on the ground and second floors, including a clear floor to ceiling height on the ground floor in excess of 14 feet, and approximately 14-feet on the second floor where the Zoning Regulations have no minimum required height. This space will accommodate precisely the types of retail, service, and entertainment uses encouraged by the CG Overlay. (§1600.2(b))
39. The CG Overlay provides for 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. As shown in the Final Plans, the design of the building, including the setbacks, façade treatment and articulation, and materials, all work together to advance the CG Overlay goals for Half Street, SE. (§1600.2(g))
40. The proposed 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 neighboring property in accordance with the Zoning Regulations and Zoning Map. The project assures development of the area with a mixture of uses and a suitable height, bulk and design. (§1610.3(a))
41. The proposed building will help achieve the desired mix of uses in the CG Overlay as set forth in Sections 1600.2(a) and (b), with the identified preferred uses specifically being residential, hotel, and retail, or service uses. The ground and second level retail / service uses contemplated for the building along its Half and N Street frontages, with floor to ceiling heights and façade treatments that are intended to emphasize the preferred uses at a comfortable pedestrian scale, will substantially advance the achievement of the desired mix of uses in the CG Overlay. (§1610.3 (b))
42. The height, bulk, and architectural design of the proposed building, as shown in the Final Plans, will be in harmony with the context of the surrounding neighborhood and will have no effect on the existing street grid. The proposed building will be constructed to the building lines along Half and N Streets which will strengthen the street wall along both of these streets, and maintain views. (§1610.3 (c))
43. The proposed building has been sited to minimize conflicts between vehicles and pedestrians. Access to the building's loading and parking facilities along Cushing Place

will help minimize potential conflicts between vehicles and pedestrians. In addition, Monument Place will be a pedestrian-only thoroughfare rather than a vehicular street, thereby removing the curb cut along Half Street that was previously approved. The Applicant's traffic impact study confirms that any impacts to traffic caused by the project can be mitigated through the Applicant's transportation demand management (TDM) plan, which includes all mitigation measures proposed by the District Department of Transportation (DDOT) and through recommended signal timing adjustments. (§1610.3 (d))

- 44. The proposed building's facades have been designed to minimize unarticulated walls adjacent to public spaces through façade articulation and the use of courts, upper-level setbacks, and balconies (§1610.3 (e))
- 45. The proposed building will be designed, constructed, and operated in a manner that minimizes impact on the environment, and the Applicant has committed to seeking LEED-Silver certification (§1610.3(f))

Requested Areas of relief: Special Exception

- 46. The Applicant requested special exception relief pursuant to §411 of the Zoning Regulations to permit multiple roof structures not meeting the single enclosure requirement of §411.3. As shown in the Final Plans, a total of four roof structures will be located on the roof level.
- 47. Section 411.3 requires all penthouses and mechanical equipment to be located in one enclosure, and to be in harmony with the main structure in architectural character, material, and color. However, pursuant to §411.4, when separate elevator cores are required each one is permitted to have a separate enclosure.
- 48. As shown in the Final Plans, the proposed building will have three separate elevator cores which have separate enclosures of similar height, materials, and architectural style. In addition, one standalone stair tower will be located at the east end of the southern wing of the building. The stair tower will not be enclosed within one of the elevator core enclosures; and therefore a special exception is required.
- 49. Compliance with the roof structure regulations is impractical as it would add substantially to the overall mass and perceived height of the southern roof structure of the proposed building. The separate egress stair is a function of the stairway below and the building code which requires separation of means of egress.
- 50. As a result of the "L" shaped lot, the south wing of the proposed building is relatively narrow, which results in the south elevator core failing to meet the required setback from the south wall of the open court facing Cushing Place. Placing the elevator core and standalone egress stair in a single enclosure would unnecessarily increase the mass and visibility of the building's southern roof structure, and substantially increase the extent of

the nonconforming roof structure setback, which would likely have a negative impact on the light and air into the proposed open court

- 51 The requested special exception can be granted without impairing the intent and purpose of the Zoning Regulation and will not adversely affect the light and air of adjacent buildings. The intent of the provisions of §411 is to exercise a reasonable degree of control over the design and placement of roof structures. Allowing the standalone egress stair will result in less roof structure mass and increase light and air into the building's south courtyard. The proposed egress stair will continue to have architectural uniformity with the other three elevator cores through the use of similar materials and height. Finally, in accordance with §630 4(b), the egress stair will be setback from all exterior walls a distance equal to its height above the roof level

Requested Areas of relief: Variances

52. At the public hearing, the Applicant requested additional variances from the residential lot occupancy requirement for the second floor of the building, pursuant to §634, and from the Half Street building setback requirement of §1607 2
- 53 These additional areas of relief did not result from changes made to the plans submitted to the Zoning Commission, but rather, the request was of a technical nature that the Applicant sought out of an abundance of caution to ensure all potential areas of relief were obtained prior to pursuing permits for the project

Property Is Affected by Several Exceptional Situations or Conditions

- 54 The Property is effected by an exceptional condition that arises out of a confluence of factors. First, the Property is "L" shaped with the portion of the Property paralleling N Street being exceptionally narrow. Second, the extension of Cushing Place, a 30-foot public alley, across the Property to N Street through a dedicated easement is a condition that is unique to the Property, and is required pursuant to a recorded easement resulting from a prior alley closing proceeding. Finally, the mixed-use nature of the building design and the varying footprint requirements these uses have contributes to the Property's exceptional situation

Strict Application of the Zoning Regulations Would Result in Practical Difficulty Upon the Applicant

Residential Lot Occupancy Requirement (§634)

- 55 Within the CR District, non-residential uses are allowed 100% lot occupancy, while residential uses are assigned a maximum lot occupancy of 75%.
- 56 As shown in the Final Plans, the second level of the southern portion of the building may contain residential uses. Should this area of the building contain dwelling units, a variance would be required from the 75% lot occupancy limit on residential uses

- 57 The strict application of the Zoning Regulations would require the Applicant to reduce the second floor building area by approximately 3400 square feet which would be practically difficult for the Applicant as it would substantially disrupt building circulation and result in a loss of dwelling units on several floors. Reducing the second floor building area above the Cushing Place easement would eliminate a number of dwelling units and impact the circulation corridor on this level, cutting off the portion of the building east of Cushing Place. Furthermore, narrowing the northern or southern wings of the building would result in a significant loss and/or reconfiguration of dwelling units and an inefficient single-loaded corridor.

Half Street Building Setback Requirement (§1607.2)

- 58 Section 1607.2 of the CG Overlay requires buildings along Half Street, SE, south of M Street, SE, to be setback a minimum of 20 feet above a height of 65 feet. Pursuant to §1607.2, the Zoning Commission previously granted a special exception from this requirement to allow a setback of 12 feet above a height of 80 feet.
- 59 The Final Plans are consistent with the previously granted relief with the exception of eleven balconies that project less than six feet into the previously approved 12-foot setback.
- 60 The strict application of the Zoning Regulations would result in a practical difficulty as it would require the Applicant to narrow the width of the building by approximately six feet such that the balconies are behind the previously approved 12 foot setback. Due to the depth of the open courtyards facing Cushing Place, the Half Street façade of the building is already fairly narrow. Further narrowing the building to accommodate the balconies within the previously approved 12 foot setback would create inefficient floorplans and cause a substantial loss and / or reconfiguration of dwelling units.

Relief Can be Granted Without Substantial Detriment to the Public Good or Substantial Impairment of the Zone Plan

- 61 The requested variances can be granted without causing substantial detriment to the public good or substantial impairment to the Zone Plan. Relief from the residential lot occupancy requirement is limited to the second level of the building and will not result in a substantial increase in the overall density of the development. Furthermore, the variance will not result in substantial impairment to the Zone Plan as the intent of the residential lot occupancy requirement will still be achieved through the light, air, and openness provided by N Street and the proposed southern courtyard facing Cushing Place.
62. The variance from the Half Street building setback will not cause substantial impairment to the Zone Plan. The intent of the setback requirement is to permit adequate light and air to the street level along Half Street, which will still occur given the relatively small number and shallow depth of the balconies. Furthermore, a large percentage of the Half Street façade, starting at the street level and extending to the top of the building, is setback from the building line which will contribute to the amount of light and air reaching the street level.

Office of Planning Report

- 63 By report dated May 18, 2015, and marked as Exhibit 9 of the record in this case, DCOP expressed strong support for the project and recommended approval of the application pending submission of clarification and additional detail on certain items.
- 64 In its report, DCOP stated the application successfully addresses many of the criteria of the CG Overlay. Specifically, DCOP noted that the project should help achieve the goals of the CG Overlay to create an active, cohesive pedestrian and transit-oriented environment, and a vibrant entertainment district, especially north of the ballpark. DCOP specifically noted that the ground floor retail, the open-air retail on the upper levels at Half and N Streets, and the many residential balconies would help activate the area.
- 65 With regard to zoning relief, DCOP supported the requested relief from the requirement that roof structures be located in a single enclosure to allow a standalone stair tower on the southern wing of the building, noting that the stair and closest other penthouse could be put inside one enclosing wall but the result would be an overly large rooftop structure that is more visible than the multiple proposed roof structures. DCOP also expressed support for lot occupancy relief for the second level of the building should relief be necessary or requested by the Applicant.
- 66 DCOP made several recommendations and requests for additional detail, including 1) relocate the second floor retail lobby entrance proposed at the corner of Half Street and Monument Place to the south or east, 2.) clarify the number of guests room for the potential hotel, 3) clarify how the potential hotel use will affect the amount of the ground floor devoted to preferred uses; 4.) clarify how residents will access bike parking, and 5) provide additional detail regarding the design of Monument Place and Cushing Place, including materials and renderings. On June 9, 2015, the Applicant met with DCOP to discuss these items. The Applicant's responses to each of these items are included below.
- 67 The Commission finds the Applicant has addressed all of the recommendations and requests made by DCOP.

DDOT Report

- 68 By report dated May 18, 2015, and marked as Exhibit 8 of the record in this case, DDOT provided its analysis regarding the parking, loading, trip generation, and vehicle turning impacts of the project on the District's transportation network, and provided comments on streetscape and public space design. Regarding public transportation, DDOT found the site to be well served by Metrorail, Metrobus, DC Circulator, and bicycle facilities. With regard to roadway capacity and operations, DDOT found that the project may potentially impact four intersections significantly but that the Applicant's proposed Transportation Demand Management (TDM) Plan and additional measures will adequately mitigate any impacts.

- 69 DDOT stated no objection to the application, with the condition that the Applicant adopt the proposed loading management plan and amend the proposed TDM Plan included in the Comprehensive Transportation Review (April 2015) included as Exhibits 7B1 & 7B2 of the record in this case, to include all additional TDM measures proposed by the Applicant on May 13, 2015, which are included on Pages 14 & 15 of the DDOT report, and to prohibit deliveries within three hours of a scheduled ballpark event. The Applicant committed to these conditions.
- 70 Although not conditions, DDOT also made several comments / recommendations in its report, including (a) providing required long term bicycle parking in the garage or on the ground floor inside the building; (b) installing at least one 240-volt electric car charging station in the residential garage and in the retail garage; and (c) continuing to work with DDOT on public space issues, including the design of the streetscape along Half Street. As shown in the Final Plans, the Applicant is providing two bicycle storage rooms that meet the bicycle parking requirements of the Zoning Regulations and DC Code §50-1641. With regard to installation of an electric car charging station, the Applicant has committed to installing one charging station in the residential garage, but is unable to provide one in the retail garage as the Applicant does not own that building despite having access to a limited amount of parking in the adjacent garage byway of a reciprocal parking easement agreement. Finally, the Applicant is committed to continuing to work closely with DDOT and other property owners along Half Street on a streetscape design for Half Street.
- 71 The Commission finds that with the TDM Plan proposed by the Applicant, as amended to include the additional mitigation measures proposed to DDOT by the Applicant on May 13, 2015, and with the Applicant's commitment to restrict deliveries to the proposed building within three hours of a ballpark event, the project will not have a substantial negative impact on the surrounding transportation network.

Applicant's Responses to Areas Identified at the Public Hearing as Requiring Additional Information

Scope of the Potential Hotel Use

- 72 At the public hearing DCOP requested clarification on the potential hotel use noting the Pre-hearing Statement indicated the potential for 80 guest rooms while the transportation impact study indicated a higher number. As part of the Post-hearing Statement, the Applicant clarified that the potential hotel use will have approximately 80 guest rooms and reiterated its pre-hearing request for permission to adjust the number of guest rooms no more than $\pm 10\%$.

Access to Bike Parking from Residential Lobby

At the public hearing, DCOP and DDOT requested the Applicant to provide clarification on how residents will access the required bike storage areas. As shown on the Final Plans, two bike storage areas are shown adjacent to the building's loading facility. For the residential use located along Half Street, residents will access the north bike storage area from the north elevator.

core located just outside the storage room. From this area, direct access to Cushing Place and the courtesy lobby along Monument Place will be provided. For the residential use along N Street, residents will access the south bike storage area directly from the lobby. This area will also have direct access to Cushing Place. Access to the bike storage areas will be controlled and available only to residents of the building.

Relocation of Second-Level Retail Lobby at Half Street and Monument Place

- 73 In its report, DCOP recommended that the second-level retail lobby entrance proposed at the corner of Half Street and Monument Place be moved to the east along Monument Place, or south along Half Street, to allow a more active use to enliven the corner and complement the retail space across Monument Place to the north.
- 74 Subsequent to the public hearing, the Applicant studied alternatives to the proposed location of the entrance lobby and submitted additional information in support of the proposed location as part of the Post-Hearing Statement.
- 75 According to the Applicant's Post-Hearing Statement, the relocation of the entrance further south along Half Street would more negatively impact Half Street as an active, pedestrian-oriented street as required by the provisions of the CG Overlay as it would disrupt the consistent active retail frontage that would otherwise occur south of the lobby should its location remain at the corner of Half Street and Monument Place. In contrast, the proposed location of the entrance lobby will blend with the natural break in the street wall created by Monument Place. In addition, the retail on the north side of Monument Place, and the pedestrian activity along Monument Place generated from outdoor seating and programming, users of the proposed courtesy lobby, and the potential hotel use will serve to activate this corner.
- 76 The Applicant also submitted information related to programmatic challenges that would arise from the relocation of the proposed second-level retail entrance lobby, including impacts to a future tenant's ability to efficiently layout the retail space, uncertainty with regard to tenant preferences related to location of building entrance and street frontage, and potential tenant requirement for connection to courtesy lobby leading to underground retail parking.
- 77 The Applicant will design the proposed entrance lobby with the same design quality as the rest of the ground floor and building, and will not include unarticulated walls or opaque spandrel glass in the design of the lobby frontage.
- 78 The Commission is persuaded by the Applicant's response to DCOP's recommendation and finds the proposed location of the second-level retail entrance lobby, as shown in the Final Plans, to be acceptable, and can be designed in a manner that will contribute to the activity along Half Street.

Design of Monument Place and Cushing Place

79. At the public hearing, the Commission and DCOP requested additional information regarding the design of Monument Place and Cushing Place, including perspective renderings of both, and information regarding materials for Monument Place. The Applicant included the requested information in the Final Plans submitted as part of the Post-hearing Submission
80. The Commission finds the additional information provided by the Applicant useful to understanding the design of Monument Place and its relationship to Half Street. The design of Monument Place will provide an amenity to residents and works in the area, and offer an opportunity for outdoor seating and programming to support the retail and services uses along Half Street. The design of Cushing Place utilizes the same materials used on the building's street frontages despite this technically being the back side of the building.

Roof Plan

81. At the public hearing, the Commission noted that under the existing Zoning Regulations, the Applicant could, if desired, provide an amount of interior roof top accessory recreation space that, by current interpretation, does not exceed 20% of the total area devoted to roof top accessory recreation space
82. As part of the Post-Hearing Submission, the Applicant submitted a revised roof plan that includes interior accessory recreation space that does not exceed 20% of total roof area devoted to exterior accessory recreation space
83. The revised roof plan includes four separate roof structures, having equal height, with three of the roof structures consisting of accessory recreation space, mechanical equipment, and / or elevator cores, and one standalone egress stairway for which the Applicant has requested special exception relief for as part of its application.
84. As a result of the modifications made to the roof plan to include the interior accessory recreation space, the footprint of the proposed roof structures increased in size. Despite this increase, the extent of noncompliant roof structure setback is consistent with what was presented at the public hearing, and remains limited to the small portion of the south elevator core that is not set back from the wall of the open court facing Cushing Place
85. In addition to the four roof structures, the revised roof plan includes a pool that is less than four feet above the roof level, a trellis structure to provide shade, and glass guard rails. All of these structures meet the 1.1 setback requirement from the edge of the roof upon which they are located

Streetscape Design for Half Street

- 86 In response to comments made at the public hearing by the Commission and DDOT, the Applicant submitted a revised streetscape design concept for Half Street which is included in the Final Plans. Specifically, in response to comments made by DDOT, the design no longer includes bollards and catenary lighting spanning the width of Half Street. In addition, the street tree spacing has been adjusted to be consistent with DDOT standards.
- 87 As shown in the Final Plans, the revised streetscape design concept shows a curbless Half Street, which DDOT expressed general support for at the public hearing, and in subsequent conversations with the Applicant. However, DDOT noted that further coordination is required on the design of Half Street, and the public space adjacent to the project, and that final plans are subject to review and approval by DDOT, which may result in changes to what is depicted in the conceptual public space designs included in the Final Plans.
- 88 While the Applicant is only responsible for reconstructing the public space adjacent to the Property, according to the Post-Hearing Submission, the Applicant continues to coordinate with adjacent property owners on the long-term, permanent streetscape design for Half Street.

CONCLUSIONS OF LAW

- 1 The application was submitted pursuant to §§1607 and 1610 for review and approval by the Commission. The application, as amended at the public hearing, pursuant to §1610.7, included requests for special exception and variance relief for the Final Plans.
- 2 The Commission provided proper and timely notice of the public hearing on the application by publication in the *D C Register* and by mail to ANC 6D, the Office of Planning, and owners of property within 200 feet of the site.
- 3 Pursuant to §§1607.1 and 1610.1, the Commission required the Applicant to satisfy the burden of proving the elements that are necessary to approve the Final Plans pursuant to the provisions of the CG Overlay, establish the case for special exception relief from the roof structure requirement of §411.3; and establish the case for variances from the residential lot occupancy requirement of §634.1 and the Half Street building setback requirement of §1607.2.
- 4 The Commission concludes that the Final Plans are consistent with the areas of relief previously granted in this case, noting that some areas of relief are either no longer necessary or substantially reduced in extent, and that the Applicant has met its burden under the provisions of the CG Overlay.
- 5 Pursuant to §1610.7, the Commission concludes that the Applicant has met its burden under §§3104.1, 639.1, and 411.11 for a special exception from the requirement of §411.3 that all penthouses and mechanical equipment be placed in one (1) enclosure.

- 6 Pursuant to §1610.7, the Commission concludes that the Applicant has met its burden under §3103.2 for variances from the lot occupancy requirement of §634.1, and from the Half Street building setback requirement of §1607.2
- 7 The Final Plans are within the applicable height, bulk, and density standards for the CG / CR (Capitol Gateway Overlay / Commercial Residential) District and will not tend to affect adversely the use of neighboring property. The overall project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.
8. The Final Plans are not inconsistent with the Comprehensive Plan.
9. The Commission concludes that the Final Plans will further the objectives of the CG Overlay District as set forth in §1600.2 and will promote the desired mix of uses set forth therein. The design of the proposed building meets the purposes of the Capitol Gateway Overlay and meets the purpose and intent of the design requirements of §1607 of the Zoning Regulations.
- 10 No person or parties appeared at the public hearing in opposition to the application.
- 11 The Commission is required under D.C. Code Ann. §1-309.10(d)(3)(A)(2001) to give "great weight" to the issues and concerns of the affected ANC. As is reflected in the Findings of Fact, at its duly noticed meeting held on March 22, 2015, ANC 6D, the ANC within which the Property is located, voted 4-0-2 in support of the application. The ANC did not appear at the public hearing. On June 15, 2015, the Applicant served the ANC with a copy of the Post-hearing Submission which included the Final Plans, responses to DDOT, DCOP, and the Commission's comments and requests, and an explanation of the two additional variances that were requested at the public hearing. No additional correspondence was received from the ANC in response to the Post-hearing Submission.
- 12 Based upon the record before the Commission, including witness testimony, the reports submitted by the DCOP, DDOT, and ANC 6D, and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under §§1607 and 1610, the independent burden for one additional special exception, and the independent burden for two additional variances.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application consistent with this Order. This approval is subject to the following guidelines, standards, and conditions:

- 1 The approval of the proposed development shall apply to the theoretical building site encompassing the southern portion of Record Lot 168 in Square 701, and extending from the southern façade of the existing office building located on the northern portion of Record Lot 168.

- 2 The project shall be built in accordance with the Final Plans, dated June 15, 2015 (Exhibit ____), and the guidelines, conditions, and standards below
- 3 The project shall be consistent with the development scenarios described in the Final Plans and include residential gross floor area ranging from approximately 318,400 – 402,800 square feet, retail gross floor area ranging from approximately 55,100 – 69,200 square feet, and hotel gross floor area ranging from zero to approximately 78,300 square feet
- 4 The overall density on the Property shall not exceed 6.83 FAR
- 5 The Applicant shall implement the transportation demand management and loading management measures set forth in the Comprehensive Transportation Review provided as part of the Applicant's Pre-hearing Statement, and the additional measures and mitigation strategies requested / recommended in the DDOT report, and as agreed to by the Applicant.
- 6 The Applicant shall have flexibility with the design of the project in the following areas.
 - To adjust the development scenarios included in the Final Plans, including adjustments to the number of dwelling units and hotel sleeping rooms not to exceed $\pm 10\%$, and corresponding adjustments to required parking which shall not be reduced below the minimum onsite parking required by the Zoning Regulations,
 - To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, stairways and mechanical rooms, provided that the variations do not materially change the exterior design and configuration of the building;
 - To vary the final selection of the exterior materials within the color ranges and material types (maintaining the same general level of quality) as proposed, based on availability at the time of construction,
 - To make refinements to exterior materials, details, and dimensions, including beltcourses, sills, bases, cornices, railings, and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
 - To vary the exterior design and materials of the ground floor retail / service space based on the requirements of the individual tenant / occupant provided these changes do not modify the building footprint, or reduce the quality of the materials used on the exterior of the ground floor of the project, as shown in the Final Plans;
 - To vary the exterior design, orientation, materials, and general location of the second-level retail entrance proposed at the corner of Half Street and Monument Place based on the requirements of the individual tenant / occupant provided these changes do not modify the building footprint, or reduce the quality of the materials used on the

exterior of the ground floor of the project, as shown in the Final Plans. The Applicant will ensure that the design for this space is consistent with the rest of the ground floor retail spaces with regard to exterior design, materials, and degree of transparency, and

- To vary the exterior building signage for the first and second levels of the proposed building with regard to placement, extent, and design based on the requirements of the individual tenant / occupant. The Applicant and all individual tenants / occupants shall erect, hang, place, paint, construct, display, and maintain all temporary and permanent building signage, both on the Property and in public space, in a manner that complies fully with all applicable signage regulations in effect at the time of permitting.

7 The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2-1401.1 *et seq* (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action. The failure or refusal of the Applicant to comply with the Act shall furnish grounds for the denial or, if issued, the revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On June 29, 2015, the Zoning Commission approved this application by a vote of [] (Anthony J Hood, Marcie I. Cohen, Peter G. May, Robert Miller, Michael G. Turnbull.)

In accordance with the provisions of 11 DCMR §3028, this Order shall become final and effective upon publication in the *D.C. Register*, that is on _____

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA BENJAMIN BARDIN
DIRECTOR
OFFICE OF ZONING