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ZONING COMMISSION
District of Columbia
CASE NO. 06-46B
EXHIBIT NO. 25
ZONING COMMISSION
District of Columbia
CASE NO. 06-46B
EXHIBIT NO. 25

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-46B
Z.C. Case No. 06-46B
Half Street Residential PJV, LLC
(Capitol Gateway Overlay Review @ Square 701, Lot 168)
June 29, 2015

Pursuant to notice, the Zoning Commission of the District of Columbia ("Commission") held a public hearing on May 28, 2015, to consider an application filed by Half Street Residential PJV, LLC ("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, S.E., south of M Street, S.E., 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 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, 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, S.E., south of M Street, S E, 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 ("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 ("Pre-hearing Submission"). (Exhibits ["Ex."] 7, 7A, 7B1, 7B2, 7C, 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 ("ANC") 6D, 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. (Ex. 5.) The letter indicated that the ANC would like to see increased architectural differentiation between the condominium and rental sections of the property. The letter further stated that although the ANC was informed that the project was not subject to the Inclusionary Zoning regulations, the ANC was nevertheless disappointed that the project was 100% market rate.
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.
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 ("OP"); 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 OP (Ex. 9), and to submit these revised materials to the record.
10. On June 15, 2015, the Applicant submitted the information requested by the Commission ("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 ("Final Plans"), responses to outstanding comments received from DDOT and DCOP, and responses to the Commission's questions and requests raised at the public hearing. (Ex. 21, 22.) The Final Plans supplanted the plans submitted to the record on May 8, 2015 as part of the Pre-hearing Submission. Pursuant to the Commission's request, the Applicant submitted proposed findings of fact and conclusions of law, pursuant to § 3026 on June 15, 2015. (Ex. 20.)

11. At its June 29, 2015, public meeting, the Commission took final action 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 Commission voted to approve Z.C. Case No 06-46 for the property now designated as Record Lot 168 ("Previous Plans").
13. The Previous Plans depicted a 762,800-square -foot, mixed-use development consisting of two buildings ("North Building" and "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 density of 7.44 floor area ratio ("FAR")
14. To achieve the maximum permitted building height and density, 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 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 Commission voted to approve minor modifications to the Previous Plans (Z.C. Case No. 06-46A). The modifications 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 space from 105,560 square feet to 106,269 square feet, an increase in retail space from 51,010 square feet to 51,022 square feet, an increase in residential space from 320,100 square feet to 320,511 square feet, and a reduction in the overall density from 7.44 FAR to 7.35 FAR.

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, S.E. and N Street, S.E. 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, S.E. 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 façades 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 façades of the courtyards facing Cushing Place continue the pattern of materials expressed on the Half and N Street façades.
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 Commission, and will provide one 55-foot-deep loading berth, three 30-foot loading berths, and two 20-foot service delivery spaces. 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 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. (Ex. 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, S.E., and approximately 250 feet of frontage on N Street, S.E. 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, S.E., 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, S.E.
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, S.E. are zoned SEFC/CR (Southeast Federal Center Overlay/Commercial Residential), and properties north of M Street, S.E. 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 Zone 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 § 1607 of the Zoning Regulations because the proposed building will be located along Half Street, S.E., south of M Street, S.E., within the CG Overlay.
30. Subsection 1607.2 requires any portion of a building or structure exceeding 65 feet to be set back from the building line along Half Street, S.E. 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, 11 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. Subsection 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. Subsection 1607.4 requires 100% of a building's street frontage along Half Street, S.E., 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. Subsection 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. Subsection 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 § 1610

35. The Final Plans are subject to Commission review and approval pursuant to § 1610 of the CG Overlay. Subsection 1610.3 provides that in addition to demonstrating that the proposed building meets the standards set forth in § 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). Subsection 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. Subsection 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, S.E., 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, S.E. (§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 §§ 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 DDOT and through recommended signal timing adjustments. (§ 1610.3 (d).)
 44. The proposed building's façades 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. Subsection 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; 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 set back 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.

Property Is Affected by Several Exceptional Situations or Conditions

53. The Property is affected 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)

54. Within the CR Zone District, non-residential uses are allowed 100% lot occupancy, while residential uses are assigned a maximum lot occupancy of 75%.
55. 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.
56. The strict application of the Zoning Regulations would require the Applicant to reduce the second-floor building area by approximately 3,400 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)

57. Subsection 1607.2 of the CG Overlay requires buildings along Half Street, S.E., south of M Street, S.E., to be set back a minimum of 20 feet above a height of 65 feet. Pursuant to § 1607.2, the Commission previously granted a special exception from this requirement to allow a setback of 12 feet above a height of 80 feet.
58. The Final Plans are consistent with the previously granted relief with the exception of 11 balconies that project less than six feet into the previously approved 12-foot setback.
59. 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

60. 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.
61. 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 set back from the building line which will contribute to the amount of light and air reaching the street level.

Office of Planning Report

62. By report dated May 18, 2015, OP stated that it was very supportive of the overall design of the proposal, although clarification and further details should be submitted. (Ex. 9.)
63. In its report, OP stated that the application successfully addresses many of the criteria of the CG Overlay. Specifically, OP 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. OP 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.
64. With regard to zoning relief, OP 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. OP also expressed support for lot occupancy relief for the second level of the building should relief be necessary or requested by the Applicant.
65. OP made several recommendations and requests for additional detail; including: (a) relocate the second-floor retail lobby entrance proposed at the corner of Half Street and Monument Place to the south or east; (b) clarify the number of guests room for the potential hotel; (c) clarify how the potential hotel use will affect the amount of the ground floor devoted to preferred uses; (d) clarify how residents will access bike parking; and (e) provide additional detail regarding the design of Monument Place and Cushing Place, including materials and renderings. On June 9, 2015, the Applicant met with OP to discuss these items. The Applicant's responses to each of these items are included below.
66. The Commission finds the Applicant has addressed all of the recommendations and requests made by OP.

DDOT Report

67. By report dated May 18, 2015, 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. (Ex. 8.) 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 TDM Plan and additional measures will adequately mitigate any impacts.

68. 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 and 15 of the DDOT report, and to prohibit deliveries within three hours of a scheduled ballpark event. The Applicant committed to these conditions.
69. 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 D.C. Official Code § 50-1641.01-.09. 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 by way 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.
70. 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

71. At the public hearing, OP 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

72. At the public hearing, OP 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, OP 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 the 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 OP'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 OP 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 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 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 § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC, which in this case is ANC 6D. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances.

12. As noted, ANC 6D voted 4-0-2 in support of the application. In its letter, the ANC expressed its preference that there be greater architectural differentiation between the condominium and rental portions of the building and expressed its disappointment that no affordable housing would be provided. As to the former issue, the Applicant modified the N Street façade such that the primary material was masonry, as opposed to the Half Street façade where glass remained the primary material. With respect to affordable housing, the Applicant offered testimony that the provision of affordable housing was considered, but in view of the difficult task of reinvigorating this project, the inclusion of such housing was not economically viable. The Commission found this position to be reasonable.
13. 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, OP, 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.
14. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990, (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) to give great weight to OP recommendations. The Commission concludes that the project is generally consistent with the recommendations made by OP except for its recommendation 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. For the reasons stated in Findings of Fact 74 through 78, the Commission did not find this recommendation to be persuasive.
15. Based upon the record before the Commission, including witness testimony, the reports submitted by the OP, 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 and the guidelines, conditions, and standards below. (Ex. 22.)
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, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination 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.

On June 29, 2015, upon the motion of Commissioner Miller, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order application by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

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 July 31, 2015.