

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

Application of Half Street Residential PJV, LLC

Square 701 Lots 857, 858, 859

**REVIEW OF MODIFICATIONS TO PREVIOUSLY
APPROVED PLANS FOR PROPOSED MIXED-USE
DEVELOPMENT WITHIN THE
CAPITOL GATEWAY OVERLAY DISTRICT**

DEVELOPMENT TEAM

Owner / Developer	Half Street Residential PJV, LLC
Residential Architect	HORD COPLAN MACHT
Retail Architect:	MV+A
Landscape Architect	HORD COPLAN MACHT
Civil Engineer.	Bohler Engineering
Structural Engineer	SK & A Engineers, PLLC
Mechanical / Electrical / Plumbing	Girard Engineering
Counsel	Holland & Knight LLP

LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
Letter of authorization from property owner	A
Completed application form (Form 108)	B
Copy of filing fee check and completed fee calculator form (Form 116)	C
Surveyor's plat	D
Map of Subject Property and surrounding context	E
Statement of existing and proposed uses	F
Preliminary statement of compliance	G
Architectural plans and drawings	H
Zoning Commission Order No 06-46	I
Zoning Commission Order No 06-46A	J
Property owner listing (200' radius)	K

PRELIMINARY STATEMENT OF COMPLIANCE

I. INTRODUCTION

This statement is submitted for Zoning Commission Review of Buildings, Structures and Uses, pursuant to §1610 of the Zoning Regulations of the District of Columbia (“the Zoning Regulations”), on behalf of Half Street Residential PJV, LLC (“the Applicant”), present owners of Lots 857, 858, and 859 in Square 701 (“the Subject Property”). The Applicant seeks Zoning Commission approval for modifications to previously approved plans pursuant to the provisions of the Capitol Gateway Overlay District. The Applicant proposes to construct a 461,700 square foot, mixed-use development consisting of residential and retail uses, with an option for hotel use as well. The Applicant is also seeking a special exception pursuant to §411.11 and the Zoning Commission’s authority under §1610.7 from the roof structure requirement that penthouses and mechanical equipment be located within a single enclosure (§411.3).

Square 701 is bounded by M Street, SE on the north, N Street on the south, First Street on the east, and Half Street on the west. The Subject Property fronts on Half Street and N Street, SE in the southwest quadrant of the Square and comprises approximately 63,183 square feet of land area. While the Subject Property is comprised of three separate assessment and taxation lots, according to the records of the District of Columbia Office of the Surveyor, it is also considered one theoretical building site for purposes of zoning under §2517 (Exhibit D). The Subject Property is currently zoned CG/CR (Exhibit E).

The previous approval the Applicant seeks to modify was approved by the Zoning Commission in February, 2007, and entailed construction of two, mixed-use buildings: (1) an office building with ground floor retail (the “North Building”) and (2) a residential building containing residential, hotel, and ground floor retail (the “South Building”). In January, 2008, the Zoning Commission approved a minor modification to its prior approval. Since approval of the original development and subsequent minor modification, the North Building has been constructed and is fully occupied.¹ However, the South Building was never constructed as a result of the 2006 economic downturn. Since then, ownership of the South Building portion of the property, the Subject Property, has transferred to the Applicant and is again before the Zoning Commission for approval of modifications to previously approved plans.

II. JURISDICTION OF THE ZONING COMMISSION

The Zoning Commission has jurisdiction to review and approve the proposed modifications to previously approved plans for development within the Capitol Gateway Overlay District (CG Overlay District), and the requested special exception from the roof structure requirements of §411.3, pursuant to 11 DCMR §§ 1610, 411.11, and 3104.

¹ The below-grade parking garage constructed with the North Building also extends onto the northern portion of the Subject Property by approximately 125 feet.

II. BACKGROUND

On February 12, 2007, the Zoning Commission voted 5-0-0 to approve Zoning Commission Case No 06-46 (Z C 06-46), a case concerning a mixed-use development located within the CG Overlay District, located on property in the Southeast quadrant of Washington, DC, and generally bounded by M Street on the north, Half Street on the west, N Street on the south, and Cushing Place, a partially unimproved, 30-foot alley, on the east (Exhibit I). Collectively, the property consisted of approximately 102,494 square feet of land area and included Lots 3, 98-118, 144-147, 161, 162, 167, 815, and 824 in Square 701, and portions of public alleys in Square 701.²

The applicant for the original case was WMATA, MR N Street SE, LLC and MR Ball Park 5, LLC Pursuant to the CG Overlay District provisions, the Zoning Commission approved a 762,800 square foot, mixed-use development consisting of two buildings 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 As approved by the Zoning Commission, the development included 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 two buildings were approved for a maximum height of 110 feet, not including roof structures, and a maximum floor area ratio (FAR) density of 7.44. To achieve the maximum permitted FAR, the development included the transfer of non-residential density from Square 700 through combined lot development In addition to its CG Overlay District approval, the Zoning Commission also approved several special exceptions and variances in accordance with 11 DCMR §1610.7 A discussion of the previously granted zoning relief and whether the current proposal is consistent with what has already been granted is included below

On January 28, 2008, the Zoning Commission voted 5-0-0, to approve Zoning Commission Case No 06-46A (Z C 06-46A), a modification to the previously approved development The modification included several changes to the gross floor area of the various uses, 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

A reduction in the overall FAR from 7.44 to 7.35

In addition to the changes in gross floor area, the proposed modification also included a number of design modifications Upon review of the proposed modifications, pursuant to 11 DCMR §3030, the Zoning Commission determined the changes to be consistent with the intent of the its prior approval, and therefore, approved the request as a minor modification without a public hearing

² The Council of the District of Columbia approved the alley closing pursuant to Closing of Portions of a Public Alley System on the West Side of Square 701, S O 06-3392, Emergency Act of 2006, effective December 28, 2006 (D C Act 16-657)

III. PREVIOUSLY APPROVED ZONING RELIEF

As part of its CG Overlay District review and approval of Z C 06-46, the Zoning Commission also approved several requests for variances and special exceptions in accordance with 11 DCMR §1610.7. The Zoning Commission granted variances from required loading, required percentage of the ground floor devoted to preferred uses, the requirement that 100% of the Half Street frontage be devoted to preferred uses, and the minimum floor-to-ceiling height at the ground floor. In addition, the Zoning Commission granted special exceptions from the roof structure setback requirements, and the CG Overlay District requirement that any portion of a building along Half Street, SE in excess of 65 feet be setback a minimum of 20 feet. The following table describes the relationship of the current proposal to the previously approved variances and special exceptions.

Zoning Regulation	Current Proposal
Loading (§2201.1)	Consistent with previously approved variance. The proposed building provides the same number and configuration of loading berths and service delivery spaces as the previously approved plans for the South Building.
Ground floor preferred uses (§1607.3)	Variance no longer necessary. Complies with requirement to devote 75% of the ground floor to preferred uses.
Half Street frontage (§1607.4)	Variance no longer necessary. Complies with requirement to devote 100% of the frontage along Half Street to preferred uses, with the exception of space devoted to building entrances or required for fire control.
Minimum floor-to-ceiling height at ground floor (§1607.5)	Variance no longer necessary. Complies with requirement to provide a 14' minimum floor-to-ceiling height at the ground floor.
Roof structure setback (§400.7)	Special exception still required. However, the extent of relief has been substantially reduced.
Half Street setback (§1607.2)	Consistent with previously approved special exception. The proposed building provides a 12-foot setback above 80 feet along Half Street.

IV. DESCRIPTION OF MODIFIED BUILDING PROPOSAL

Zoning Description

The Applicant proposes to develop the Subject Property with a mixed-use development consisting of residential, retail, and hotel uses. The Applicant is currently considering two development scenarios. The first scenario proposes a 461,700 square foot development consisting of approximately 401,600 square feet of residential and 60,100 square feet of retail (Scenario 1). The second scenario also proposes a 461,700 square foot development with a different use makeup (Scenario 2). The use makeup for Scenario 2 includes approximately 326,500 square feet of residential, 75,100 square feet of hotel, and 60,100 square feet of retail. The area identified for possible hotel use is specified as "FLEX. MF / HOTEL" in Exhibit H, Drawing A3 & A4. Additionally, both development scenarios include the option for Level 2 of the proposed building's south wing, located along N Street, to be programmed for retail rather

than residential use depending on market conditions. This area is identified as “FLEX. RETAIL / RESIDENTIAL 2” in Exhibit H, Drawing A2. Allocation of this level to retail use would increase retail area by approximately 7,900 square feet, and an equivalent reduction in residential area. For comparison purposes, the following table shows the distribution of uses – in square feet – for the previously approved South Building, as modified by Z C 06-46A, and the Applicant’s two proposed development scenarios, including the option of additional retail.

Use	ZC 06-46A [South Building]	Modified Proposal	
		Scenario 1*	Scenario 2*
Residential	320,511	401,600 (393,700)	326,500 (318,600)
Hotel	106,269	0	75,100
Retail	37,130	60,100 (68,000)	60,100 (68,000)
Total	463,910	461,700	461,700
* Numbers shown in parentheses reflect square footage distribution if Level 2 of the proposed building’s south wing is allocated to retail use. This option results in approximately 7,900 additional square feet of retail and an equivalent reduction in residential use.			

Under both development scenarios, the maximum proposed building height is 110 feet, measured from the midpoint along Half Street, SE, and the overall FAR is 7.31. Both the proposed building height and FAR are consistent with the maximum permitted under the CG Overlay District provisions. The Applicant’s modified proposal is also consistent with the lot occupancy, rear yard, side yard, court, and parking requirements applicable to projects zoned CG/CR. A full tabulation of the proposed building’s consistency with applicable zoning requirements is included in Exhibit G, Drawing D1. In addition, a discussion of the project’s consistency with specific CG Overlay District provisions and with the Zoning Commission’s previously granted variances and special exceptions is included below. Finally, as currently designed, the proposed building requires one additional roof structure special exception. A discussion of how the Applicant meets the burden of proof to warrant approval of this special exception is also included below.

Architectural Description

The proposed development is located within the rapidly developing Ballpark District, directly across the street from Nationals Park and along the important Half Street gateway. The proposed building design and material palette is based upon a modern architectural concept. The building employs a range of unified materials in a variety of ways to differentiate the uses, and reinforce the mixed-use character of the surrounding neighborhood and Half Street gateway.

The retail and residential building forms the major portion of the Half Street frontage. Varied architectural treatments reinforce the different uses. The Half Street façade is comprised of regularly spaced bays and shallow courts above two levels of retail. At the intersection of Half Street and N Street, the retail expression grows to three stories to mark the significance of this corner adjacent to the Ballpark’s main gate. The retail levels are primarily composed of a masonry frame with a high percentage of transparent storefront windows. The first floor retail is recessed slightly to soften and define the intersection of Half Street and Monument Place. 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 the retail modulate the scale of the building and provide greater opportunities for corners and balconies. They are conceived as simple masonry frames with two-story glass and aluminum infill. Balconies accent and further enliven the body of 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. At the corner of Half and N Streets, the building is pulled back above the third level and designed to emphasize this important gateway. The top two stories of the N Street façade are slightly recessed and composed of metal panels. The facades of the courtyards facing Cushing Place continue the pattern of materials expressed on the Half and N Street facades.

V. BURDEN OF PROOF

Capitol Gateway Overlay District

Zoning Commission Review of Buildings, Structures, and Uses (§1610)

Pursuant to §1610 1(c), the project is subject to review and approval by the Zoning Commission in accordance with the following provisions:

- a *In addition to proving that the proposed use, building, or structure meets the standards of §3104, an applicant under this section must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will*

Help achieve the objectives of the CG Overlay District as set forth in §1600 2,

The proposed development will help achieve the objectives of the CG Overlay. Specifically, the objectives that are directly applicable to the Subject Property include:

- Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area,
- Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel or inn uses,
- Provide for the development of Half Street, SE, as an active pedestrian-oriented street with active ground floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront.

The proposal offers a mixed use development consisting of residential and retail uses, with the potential for hotel use as well, at a height and mass that is consistent with surrounding development and within the maximum height.

established by the Height of Buildings Act of 1910. Additionally, the proposed building has been designed to support the District's vision of a lively, pedestrian-oriented Half Street that is appropriately scaled and contains active ground floor uses that complement Nationals Stadium (the Ballpark)

Help achieve the desired mix of uses in the CG Overlay District as set forth in §§1600 2(a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses,

The proposed development will help achieve the desired mix of uses within the CG Overlay District. Sections 1600 2(a) and (b) encourage a mixture of residential and commercial uses, and a variety of support and visitor-related uses such as retail, service, entertainment, cultural, and hotel. As proposed, the Applicant will construct a mixed-use project consisting of residential and retail uses, with the potential for hotel as well. Under Scenario 1, the "all residential" scenario, approximately 401,600 square feet of residential use (445 dwelling units) would be constructed. Alternatively, the Applicant is proposing approximately 326,500 square feet of residential use (365 dwelling units) and approximately 75,100 square feet of hotel use (80 guest rooms). Both scenarios will also contain approximately 60,100 square feet of ground floor retail with the potential for this to grow to approximately 68,000 square feet depending on market conditions. Thus, the proposed development will offer the mix of uses desired for the CG Overlay District.

Be in context with the surrounding neighborhood and street patterns,

The proposed building has been designed to be in context with the surrounding neighborhood and street patterns. Within close proximity of the Subject Property, several new mixed use developments have been completed and several others are planned. The proposed building is within an area that is in the process of becoming a vibrant, entertainment district anchored by Nationals Park located across N Street from the Subject Property. The proposed building will relate to existing and proposed surrounding development in height, mass, and scale. The proposed ground floor retail and upper-level setbacks will enhance the pedestrian experience and advance the District's vision of Half Street as an activated streetscape and gateway into the Ballpark. Finally, the proposal fits within the surrounding street network and does not propose to close any streets. The completion of Cushing Place including its extension across the Subject Property to N Street, and the integration of Monument Place along the north side of the building, will improve pedestrian and vehicular circulation and break up the block pattern.

Minimize conflict between vehicles and pedestrians,

As required by §1607 7, no driveways leading to parking or loading are proposed to be located along Half Street and N Street. These functions are proposed along

Cushing Place, similar to the office building located to the north. The lack of driveways along Half Street and N Street eliminates potential conflicts with pedestrian circulation caused when vehicles need to cross the sidewalk to access parking and loading. In addition, in contrast to the previously approved plans, the current proposal is to make Monument Place a pedestrian-only street which eliminates a curb cut along Half Street and creates a continuous sidewalk from M Street all the way to the Ballpark. Moreover, the completion of Cushing Place and its extension across the Subject Property to N Street has been designed to include elements intended to protect pedestrians. Bollards with lights will separate the sidewalk from the roadway, and different paving will be used to demarcate cross walks. Finally, the Applicant is in the process of working with its transportation consultant to develop a thorough circulation plan that will assess transportation patterns and access requirements for both game days and non-game days. The circulation plan will be aimed at further minimizing vehicular and pedestrian conflicts programmatically. The Applicant will submit the circulation plan as part of its pre-hearing statement.

Minimize unarticulated blank walls adjacent to public spaces through façade articulation,

The Applicant has designed the building in a manner that avoids unarticulated blank walls adjacent to public spaces through façade articulation and a range of materials. Through the use of courts, upper-level setbacks, and balcony projections, the facades along Half and N Streets lend interest to the streetscape and provide opportunities for outdoor seating and dining at the ground level. The lower two levels of the building have a more horizontal orientation established by masonry bands that will accommodate signage and frame retail uses, while the upper levels have a slightly more vertical aesthetic. The Applicant also further articulates the upper levels through the use of several accent materials, particularly along the Half Street façade.

Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards

The Applicant is still in process of exploring opportunities to maximize sustainability in the design, construction, and operation of the building and landscape. At this time the Applicant is still considering whether to pursue a LEED certification versus another approach to sustainable design such as utilizing the International Green Construction Code. Additional information describing how the Applicant will meet this requirement will be submitted as part of the pre-hearing statement.

- b *With respect to a building or structure which has frontage on Half Street, SE, south of M Street, SE, or First Street SE, south of M Street, SE.*

The building or structures shall provide for safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses including retail, entertainment, cultural, and pedestrian concourse space,

The Applicant has designed the proposal to provide for safe and active streetscapes through building articulation, landscaping, and an activated ground floor level. As described above, through the use of courts, upper-level setbacks, and balcony projections, the facades along Half and N Streets lend interest to the streetscape and provide opportunities for outdoor seating and dining at the ground level. In addition, the proposed streetscape design includes adequately wide sidewalks to accommodate safe pedestrian circulation, opportunities for seating and outdoor dining, and a generous planting zone. Furthermore, the conversion of Monument Place to a pedestrian-only street results in a continuous sidewalk along Half Street from M Street and the Metrorail entrance to the Ballpark. It also facilitates safer pedestrian circulation along Monument Place. Finally, the proposed building includes active ground floor uses along the majority of Half and N Streets.

The building or structure shall provide for safe and convenient movement to and through the site, including to public transit, the Ballpark, and to the Anacostia River,

The proposal provides for safe and convenient movement through the provision of a continuous sidewalk along Half Street from M Street and the Metrorail to the Ballpark. The conversion of Monument Place to a pedestrian-only street will facilitate safe pedestrian movement between Half Street and Cushing Place. Finally, the use of differentiated paving to demarcate crosswalks and selective use of bollards along the Cushing Place extension across the Subject Property to N Street are known to be effective in facilitating safe pedestrian movement.

The application shall include a view analysis that assess openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront

The Applicant has completed a view analysis that assess the openness of views and vistas along Half and N Streets, including to and from the Ballpark (Exhibit H, Drawing D4). The analysis shows the benefit of placing the lower level building facades along these two streets at the property line, thereby maintaining views along the public rights-of-way and establishing a consistent street wall with existing development. In addition, as shown in the view analysis, the upper level facades along Half Street, as well as the southwest corner of the building are pulled back and articulated to provide additional light and air at the ground level, and to help mitigate the building scale along Half Street to support a comfortable pedestrian environment.

- c. *The Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.*

As discussed in detail below, as currently designed, the proposed development does require one additional special exception from §411.3 which requires all penthouses and mechanical equipment to be placed in one enclosure. The relief is required at the roof level of the residential portion of the project located along N Street where currently there are two separate roof structures. Therefore, the Applicant is requesting Zoning Commission review and approval of a special exception from the roof structure enclosure requirement of §411.3 pursuant to §§3104 and 411.11.

- d. *A building that qualifies as a Capitol South Receiving Zone site under §1709.18, and for which a building permit has been applied for prior to August 31, 2001, shall not be subject to the requirements of this section.*

The Subject Property is not within the Capitol South Receiving Zone.

Buildings, Structures, and Uses on Half Street, SE, South of M Street, SE (§1607)

As a result of the Subject Property's location along Half Street, SE, south of M Street, SE, the project is subject to the following additional requirements:

- a. *Any portion of a building or structure that exceeds sixty-five (65) feet in height shall provide a minimum step-back of twenty feet in depth from the building line along Half Street, SE. Pursuant to §3104, the Zoning Commission may grant relief from this requirement, to a maximum of fifteen (15) feet in height and eight (8) feet in depth, for the provision of reasonable development footprints.*

The proposed building design is consistent with the previously approved special exception granted by the Zoning Commission to allow a 12-foot step-back above a height of 80 feet. Between 65 feet and 80 feet, portions of the Half Street façade are also pulled back 12 feet from the building line through the use of two open courts. The southern court, located at the residential lobby, spans the entire height of the building, while the northern court begins at the third floor.

- b. *Each new building shall devote not less than seventy-five percent (75%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§701.1 through 701.5 and §§721.1 through 721.6 of this Title, provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building).*

The Applicant is proposing to devote approximately 75.9% of the gross floor area of the ground floor to retail uses as shown in Exhibit H, Drawing A2. In addition, no portion of the proposed ground floor retail area will be used for automobile, laundry, drive-through accessory to any use, or gasoline service station. As permitted by this section, any office use allowed on the ground floor will be strictly accessory to the administration, maintenance, or leasing of the residential building.

- c. *Preferred uses shall occupy 100% of the building's street frontage along Half Street, SE, except for space devoted to building entrances or required to be devoted to fire control*

The proposed building design devotes 100% of the Half Street frontage to retail with the exception of the second-level retail tenant entrance located at the northwest corner of the building and a residential entrance lobby located further south near N Street.

- d. *The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet*

While the previously approved plans necessitated relief from this requirement, the current proposal provides the minimum 14-foot clear ceiling height along the portions of the ground floor devoted to preferred uses, and for the full depth of these spaces.

- e. *For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required by §1607.2 by non-preferred uses for up to a five (5) year period, provided, that the ground floor space is suitably designed for future occupancy by the preferred uses*

The Applicant is not seeking interim occupancy of the ground floor by non-preferred uses at this time.

- f. *No private driveway may be constructed or used from Half Street, SE to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007*

The proposed building is designed so that access to required parking and loading will be provided from Cushing Place, as shown in Exhibit H, Drawing A2. No driveway will be constructed or used from Half Street to required parking or loading in or adjacent to the proposed building.

Cushing Place, a 30-foot alley that intersects with M Street and runs along the east side of the office building to the north of the Subject Property, will be extended south along the east side of the proposed building and across the southern portion of the Subject Property to N Street. Access to the office

building's parking and loading is already provided along Cushing Place. Locating the proposed building's parking and loading along Cushing Place will consolidate these utilitarian functions along the alley side of the building, thereby facilitating a safe, pedestrian-friendly, and consistent streetscape along Half and N Streets.

- g. *Where preferred use retail space is required under this section and provided, the provisions of 11 DCMR §633 shall not apply.*

The Applicant is providing the preferred use retail space as required under this section, and specifically §§1607.3 and 1607.4, and therefore the provisions of 11 DCMR §633 do not apply to the proposed development at this time.

Request for Approval of Additional Zoning Relief

Special exception from roof structure enclosure requirement

Special exception approval is also required from the requirement that all penthouses and mechanical equipment be placed in a single enclosure (§411.3). The Applicant requests this approval to allow two roof structures – one elevator core and one egress stairway – on the roof level of the southern wing of the proposed building.

Pursuant to §411.11 of the Zoning Regulation, the Board of Zoning Adjustment may grant a special exception from the location, design, number, and other aspects of roof structures regulated under §§ 411.3 through 411.6, if the Applicant can demonstrate that full compliance would be impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable. Pursuant to §1610.7, the Zoning Commission has the authority to approve the requested special exception as part of its CG Overlay District design review of the proposed modifications to previously approved plans, provided that the intent and purpose of the Zoning Regulations are not materially impaired by the nonconforming roof structure, and the light and air of adjacent buildings are not adversely affected.

The roof plan of the proposed building has been designed in keeping with the purpose and intent of the Zoning Regulations. Currently, there are four roof structures proposed. Three separate elevator cores, with separate enclosures, are proposed as permitted under §411.4. The three elevator cores each include a stairway within the same enclosure. The fourth roof structure is a standalone egress stair located at the far east end of the building's south wing. The proposed egress stair has a height of 18'6", equal to the three elevator cores, and is setback 18'6" from all exterior walls.

Full compliance with the requirement that all roof structures be placed in a single enclosure would be impracticable as it would add substantially to the overall mass and perceived height of the southern roof structure of the proposed building. 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 exterior wall of the open court facing Cushing Place. As noted previously, the Zoning Commission has already granted a special exception for roof structure setback. 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. It would also substantially increase the extent of the nonconforming elevator core setback, which would likely adversely affect the light and air into the proposed open court. Finally, requiring a single enclosure would require elimination of substantial roof top residential amenities and potentially affect views of the U.S. Capitol dome from Nationals Park as a result of the additional mass of the roof structure.

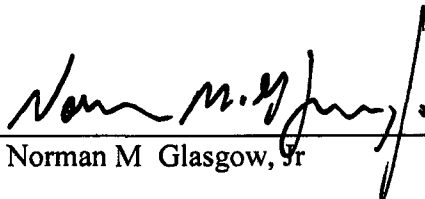
VI. CONCLUSION

For the reasons stated above, the proposed modifications to previously approved plans meet the applicable standards under the Capitol Gateway Overlay District and those governing the requested special exception from the single roof structure enclosure requirement of §411.3; and thus, can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations of the District of Columbia. The Applicant therefore requests that the Zoning Commission grant the application.

Furthermore, the Applicant respectfully requests Zoning Commission flexibility in building program commensurate with the development scenarios described above, and in the total number of residential dwelling units, hotel sleeping rooms, and parking spaces which may fluctuate slightly through the course of design development.

Respectfully submitted,

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