

**1111 NEW JERSEY AVENUE, S.E.
WASHINGTON, D.C.**

CAPITOL GATEWAY OVERLAY DISTRICT

**OUTLINE OF STATEMENT OF LINDSLEY WILLIAMS
APPLICANT'S LAND USE, PLANNING, AND ZONING CONSULTANT
WITH ADDITIONAL GRAPHICS**

TO THE

DISTRICT OF COLUMBIA ZONING COMMISSION

**FOR REVIEW AND APPROVAL OF BUILDINGS, STRUCTURES, AND USES WITH FRONTAGE
ON M STREET, S.E., PURSUANT TO THE CAPITOL GATEWAY OVERLAY DISTRICT PROVISIONS**

Z. C. CASE No 07-32

JANUARY 11, 2008

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**ZONING COMMISSION
District of Columbia**

**CASE NO. 07-32
ZONING COMMISSION
District of Columbia
EXHIBIT NO. 15**

I.

INTRODUCTION

This outline, with supplemental graphics and brief remarks, is submitted by Lindsley Williams on behalf of NJA Associates LLC and the Washington Metropolitan Area Transit Authority (collectively referred to as the "Applicant") in support of an application to the Zoning Commission for review and approval of a proposed office building at 1111 New Jersey Avenue, S.E. pursuant to Sections 1604 and 1610 of the Zoning Regulations, which apply to new buildings, structures or uses on any lot that abuts M Street, S.E. within the Capitol Gateway Overlay Zone District (ZC Case 07-32).

The statement addresses the relevant review criteria. In addition, since the Applicant is also seeking special exception relief from the rear yard depth requirements of Section 774 pursuant to Sections 1610 and 3104 of the Zoning Regulations, my testimony will address that as well.

Overall, I conclude that this application satisfies all of the requirements of the Capitol Gateway Overlay District and all of the requirements for special exception relief.

II.

BACKGROUND

A. Site and Vicinity Characteristics

1. The Subject Property

As noted in the Applicant's pre-hearing report, the subject property includes Lots 48, 52, 53, 74, and 78 in Square 743-N and covers approximately 22,041 square feet of land area. Additional information is set out in the full pre-hearing report.

The subject property is located within the C-3-C District also falls within the Capitol South Transferable Development Rights ("TDR") Receiving Zone (see diagram on following page and the Zoning Map attached as Exhibit B of the Pre-Hearing Statement).

The southern portion of the site—including Lots 48, 52-53, 74, and the portion of Lot 78 formerly known as Lots 44, 45, 46, 47, 816, and 817—is located within the Capitol Gateway ("CG") Overlay District (see Map attached as Exhibit C of Pre-Hearing Statement). The CG Overlay extends into the subject property for a depth of approximately 150 feet from M Street and covers approximately sixty percent of the site.

The Future Land Use Map of the District's recently adopted (2006) Comprehensive Plan designates the subject property for high-density commercial use (see Future Land Use Map below as well as being included as Exhibit D of the Pre-Hearing Statement).

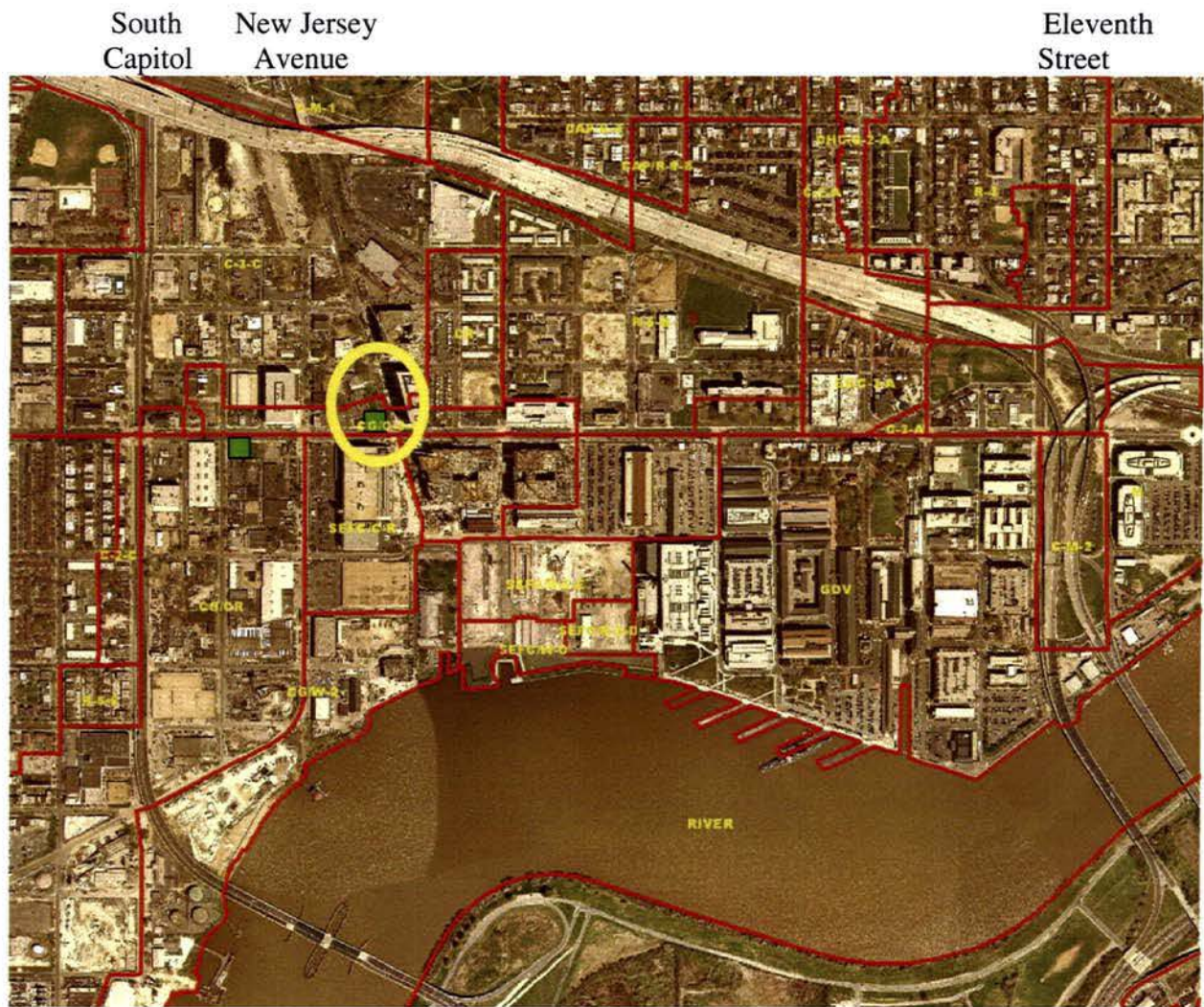
2. The Vicinity

The subject property is located between St. Matthew's Baptist Church on the north and M Street, S.E. on the south. The property is separated from the western half of Square 743-N by a public alley that is approximately fourteen feet in width. A twelve-story office building (100 M Street, S.E.) and a fourteen-story residential building (1100 First Street, S.E.) are currently under construction on the western portion of the square. A large office building completed in 2003 (1100 New Jersey Avenue, S.E.) is located directly across the street from the subject property. All of these buildings rise or will rise to a height of 130 feet at the level of their main roof (roof structures are set back as required and rise to some additional height not to exceed 18' 6").

Much of the surrounding property is zoned C-3-C to the north and west and CR to the south. The area to the west, north, and east of the subject property is designated on the Future Land Use Map for high-density commercial use, while the property across M Street to the south is designated for mixed-use development including high-density commercial and high-density residential land uses. The site is located northwest of the new U.S. Department of Transportation headquarters and Federal Center Southeast and west of the Capper/Carrollsborg planned unit development and the proposed Canal Blocks Park. Although much of the surrounding property is currently vacant or underutilized, the area is quickly becoming a magnet for both public and private investment due to its proximity to the Anacostia Waterfront, the Southeast Federal Center, and the proposed Washington Nationals Baseball Stadium.

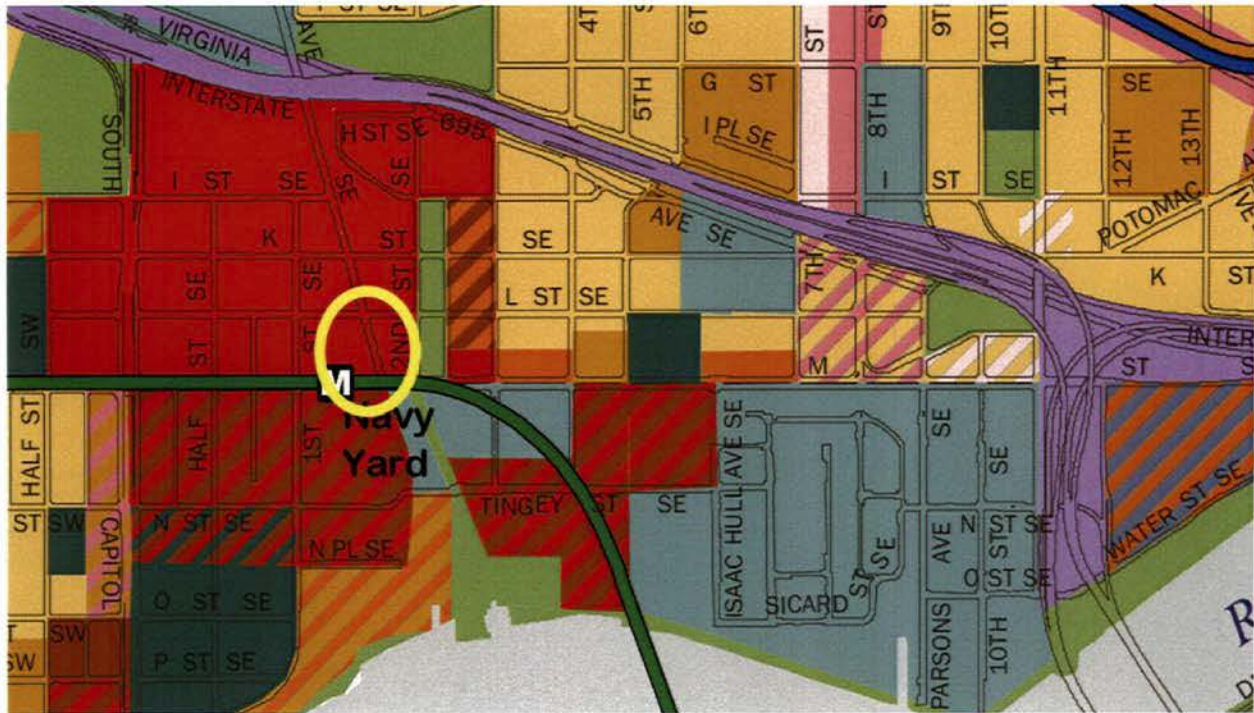
Aerial View of Southeast Washington, DC (Photography from Calendar 2005) –

Distance of About One Mile between South Capitol Street and Eleventh Street. Site is Approximately ¼ Mile East of South Capitol Street at Intersection of M Street and New Jersey Avenue and Includes the Eastern Entrance to the “Green Line’s” “Navy Yard” Metro Station.



Note that image date is before start of work on Nationals Ball Park and numerous other developments within the overall area. The dome of the Capitol Building is located on the axis of New Jersey Avenue just under one mile northwest of the site. New Jersey Avenue has a right of way that is 160 feet wide.

Portion of Generalized Land Use Map Approved December 28, 2006 Covering “Near Southeast” Washington D.C. Highlighting Site’s Location



B. Description of Proposed Construction

The Applicant intends to construct an eleven-story commercial office building on the subject property. The proposed building will have an overall density of approximately 10.0 FAR and will rise to a maximum height of 130 feet. The building will contain approximately 220,410 square feet of gross floor area devoted to office and retail use and will also include a three-level underground parking garage. The garage will provide a total of 177 parking spaces, more than ninety of which will be counted towards the off-street parking requirements. Required bicycle spaces are also provided in one or more racks within the garage levels. Thus, the proposed development will fully satisfy all the requirements of Chapter 21 of the Zoning Regulations. The parking garage is presently designed to be accessed from the adjacent north-south public alley along the west side of the property, a change made at the request of the Department of Transportation.

The proposed building will also include three loading berths and a separate service and delivery space. These facilities, which will comply with all applicable requirements set forth in Chapter 22 of the Zoning Regulations, will also be accessed from the north-south public alley that divides Square 743-N.

III.

BURDEN OF PROOF

A. Capitol Gateway Overlay District (Sections 1604 and 1610)

1. The Proposed Project Complies with the Requirements of Section 1604

As outlined in the table in the Pre-Hearing Statement, the proposed project satisfies all the requirements of Section 1604. **Comments on selected entries highlighted.**

Section	Requirement	Compliance	Explanation
1604.1	The following provisions apply to new buildings, structures, or uses with frontage on M Street S.E. within the CG overlay.	Applies	Building has frontage on M Street in the CG overlay (lots 52, 53, and 74). Initial project extended into CG but not on lots fronting M Street; thus no CG review at that time.
1604.4	Each new building shall devote not less than thirty-five percent (35%) 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). Such preferred uses shall occupy 100% of the building's street frontage along M Street, except for space devoted to building entrances or required to be devoted to fire control.	Yes.	The proposed building will provide approximately 5,726 square feet of preferred retail uses on the ground floor. This represents approximately thirty-five percent of the building's gross floor area on the ground floor. One hundred percent of the building's street frontage along M Street will be occupied by preferred retail uses. Applicant could satisfy requirement with any of the "preferred uses", not just "retail" ones but expects that retail will be the nature of the tenants when occupied.

2. The Proposed Project Complies with the Requirements of Section 1610

Section 1610.2 of the Zoning Regulations provides that new construction on any lot abutting M Street, S.E. within the CG Overlay District requires the review and approval of the Commission. 11 DCMR § 1610.2. Section 1610.3 further provides that the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation of any building along M Street must comply with the specific requirements set forth in that section. As discussed below, the proposed project is consistent with each of these requirements.

Under Section 1610.3(a), any new building constructed along M Street, S.E. must help achieve the objectives of the CG Overlay District as set forth in Section 1600.2 of the Zoning Regulations. As illustrated in the table included in the Pre-Hearing Statement, the proposed building is consistent with all of the applicable purposes of the CG Overlay. **Comments on selected entries are highlighted.**

Section	Requirement	Compliance	Explanation
1600.2(a)	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.	Yes.	<p>The height, bulk, and design of the proposed project are consistent with the requirements of the Zoning Regulations and with the property's designation on the Future Land Use Map. The proposed building's height and FAR are allowed as a matter of right at this location, and the proposed use is consistent with the subject property's designation on the Future Land Use Map. The commercial and retail uses contemplated by the proposed project will help foster an appropriate mix of uses within the square and the surrounding area. When this project is complete, Square 743-N will be improved with two office buildings, a residential building, and a number of ground-floor retail establishments. Square 742, which is located across New Jersey Avenue, is improved with an office building. Square 741 to the northeast is improved with an apartment house and a hotel. A new residential building is being constructed on Square 699-N to the northwest. The Southeast Federal Center development, which will include both residential and commercial uses, is located directly across M Street to the south.</p> <p>The portion of the CG overlay that is established in areas the Comprehensive Plan calls for mixed use mostly falls south of M Street.</p>
1600.2(e)	Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, S.E., near the Navy Yard Metrorail station.	Yes.	<p>As noted above, the proposed project will provide approximately 5,726 square feet of ground-floor retail uses. One hundred percent of the building's street frontage along M Street will be occupied by preferred retail uses. Section 1604.3 requires all new buildings along M Street to be set back at least fifteen feet from the face of the adjacent curb. <u>The proposed building will be set back an additional sixteen feet, eight inches from the fifteen-foot setback line, resulting in a sidewalk that is more than thirty feet wide.</u></p> <p>Some of this wide area is utilized for the escalator and stairs providing access to the "Navy Yard" Metrorail station on the "Green Line."</p>

In addition to requiring compliance with the purposes set forth in Sections 1600.2 and 3104.1, Section 1610.3 further provides that:

an applicant requesting approval under this section must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will [satisfy the specific requirements of this section.]

11 DCMR § 1610.3.

The proposed project will satisfy the general standards of Section 3104.1 that require that the plans be “in harmony with the intent and purposes of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property.”

Furthermore, the development will meet each of the specific requirements set forth in Section 1610.3 as illustrated in the table within the Pre-Hearing Statement. Critical observations noted there or additional comments are highlighted.

Section	Requirement	Compliance	Explanation
1610.3	The proposed building or structure must satisfy the standards set forth in section 3104 of the Zoning Regulations.	Yes.	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 use of neighboring property in accordance with the Zoning Regulations and Zoning Map.
1610.3(a)	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 section 1600.2.	Yes.	As outlined in the table presented in Section III.A.2 above, the proposed project will further the objectives set forth in Section 1600.2. See excerpts and comments about 1600.2 above.

Section	Requirement	Compliance	Explanation
1610.3(b)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will help achieve the desired mix of uses in the CG Overlay District as set forth in sections 1600.2(a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses.	Yes.	As noted above, the proposed building will include 5,726 square feet of space devoted preferred uses on the ground floor and will be designed to accommodate precisely the types of retail, service, and entertainment uses encouraged by section 1600.2(b).
1610.3(c)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will be in context with the surrounding neighborhood and street patterns.	Yes.	The height, bulk, and architectural design of the proposed building will be in harmony with the context of the surrounding neighborhood and will have no effect on the existing street grid. In fact, the building will frame New Jersey Avenue at M Street with the building across from it, which already rises to 130 feet.
1610.3(d)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize conflict between vehicles and pedestrians.	Yes.	The applicant, its traffic consultants, and representatives of the District of Columbia Department of Transportation are studying the site to locate vehicular ingress and egress so that conflicts between vehicles and pedestrians are minimized.

B. Special Exception Relief from the Minimum Rear Yard Depth Requirement (Section 774)

Legal Standards That Apply: See Pre-Hearing Statement (Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning district, provided the specific regulatory requirements for the requested relief are satisfied.

What Relief is Sought? Section 774.1 of the Zoning Regulations requires all structures located in the C-3-C District to provide a rear yard with a minimum depth of 2.5 inches for each foot of vertical distance between the mean finished grade at the rear of the building and the highest point of the structure's main roof or parapet wall. 11 DCMR § 774.1. Where a lot directly abuts a public alley in the C-3-C District, however, no rear yard is required below a horizontal plane drawn twenty feet above the mean finished grade at the middle of the building's rear wall. 11 DCMR § 774.9(a).

The proposed building will rise to a maximum height of approximately 124 feet above the finished grade at the middle of the building's rear wall. The strict application of this provision would thus require the Applicant to provide a rear yard that is 25 feet, 10 inches deep. The proposed project, however, will include a rear yard that is only seven feet in depth.¹ Sections 774.2 and 1610.7 of the Zoning Regulations authorize the Commission to waive the rear yard requirement for the C-3-C District in accordance with the requirements of section 3104 for special exceptions, provided the specific standards set forth in sections 774.3 through 774.6 are met. The Board of Zoning Adjustment previously granted an application for special exception relief from the rear yard requirement for a nearly identical building at this location. *See BZA*

¹ Although the proposed building is built out to the rear lot line, the lot abuts a fourteen-foot public alley. Under section 774.9(a) of the Zoning Regulations, the rear yard of a structure on a lot that abuts a public alley may be measured from the rear wall of the building to the centerline of the adjacent alley. 11 DCMR § 774.9(a).

Application No. 17604 of NJA Associates LLC (effective December 13, 2007). As discussed in the Pre-Hearing Statement and below, the requirements of Sections 774 and 3104 are satisfied in this case as well. The Commission should therefore grant the requested relief.

1. The Proposed Building Will Be Sufficiently Removed from Adjacent Structures to Provide Adequate Light and Air and Protect the Privacy of Building Occupants

The Applicant seeks to build an eleven-story office building on the subject property. As shown on the architectural plans and elevations for the project (attached as Exhibit F of the Pre-Hearing Statement), the rear elevation of the proposed building directly abuts a fourteen-foot public alley to the west. A twelve-story office building and a fourteen-story residential building are being constructed on the property located across the alley. Section 774.3 of the Zoning Regulations provides that "[a]partment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants." 11 DCMR § 774.3. The proposed building will be sufficiently separated from all adjacent structures and will not interfere with the light, air, or privacy of building occupants.

Although the rear yard of the proposed building will measure only seven feet in depth, the minimum distance between the rear wall of that building and the office building across the alley will range between fourteen and thirty-five feet. The rear wall of the proposed building is located approximately 14 feet from the northeast corner of the 100 M Street building. The rest of the 100 M Street building is separated from the alley by a vacant lot that has little potential for future development.² The presence of this vacant lot and the adjacent public alley will provide sufficient light and air and will adequately protect the privacy of each building's occupants.

² The vacant lot (Lot 800 in Square 743-N) covers less than 1,500 square feet of land area and has a maximum width of thirty feet.

The residential building to the northwest is being set back approximately five feet from the public alley. Additionally, the residential units in that building are located along First and L Streets, S.E. and are separated from the proposed office building by two elevated gardens and a large courtyard. The average distance between the proposed building and the **facing** windows of these units will be nearly 100 feet. In other words, the configuration of these two buildings provides far more separation than the rear yard required by section 774.

2. The Angle of Sight Lines and the Distance of Penetration of Sight Lines into Habitable Rooms Will Be Sufficient to Provide Adequate Light and Privacy to the Rooms

Section 774.4 of the Zoning Regulations provides that in "determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms." 11 DCMR § 774.4. There will be no habitable rooms in either the Applicant's building or the office building located directly across the alley; both buildings will be devoted exclusively to commercial uses. Visual penetration into the windows along the north side of the adjacent office building will be minimized by the relative orientation of the two buildings. The rear elevation of the Applicant's proposed building runs parallel to New Jersey Avenue and the public alley through the square. The north façade of the building across the alley, on the other hand, will be nearly perpendicular to the rear wall of the Applicant's building, thus minimizing visual penetration into the office windows of both buildings. As noted above, the facing windows of the residential building to the northwest will be separated from the rear wall of the Applicant's building by distances that range from 50 feet to more than 100 feet. The facing windows with the most direct sight lines will be separated from each other by a distance of approximately 100 feet, which is a distance wider than the right of way of M Street, S.E.

3. The Proposed Project Will Provide Adequate Off-Street Service Functions, Including Parking and Loading Areas and Access Points

Section 774.5 of the Zoning Regulations requires that the "building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points." 11 DCMR § 774.5. Under sections 2101 and 2104 of the Zoning Regulations, the proposed building is required to provide ninety-one off-street parking spaces.³ As shown on the architectural plans for the project, the proposed building will include a total of 177 spaces, which will be located in a below-grade parking garage that is accessed from New Jersey Avenue, S.E. Ninety-four of these spaces will be counted towards the off-street parking requirements.⁴ The parking garage and the parking spaces meet the size, location, access, maintenance, and operational requirements contained in Chapter 21 of the Zoning Regulations. The project also includes three thirty-foot loading berths as well as the service and delivery area and loading platforms required by Chapter 22 of the Zoning Regulations. In sum, the proposed project will provide for adequate off-street service functions and therefore meets the requirement of section 774.

4. The Requested Special Exception Relief Will Be in Harmony with the General Purpose and Intent of the Zoning Regulations and Maps and Will Not Tend to Affect Adversely the Use of Neighboring Property

In addition to satisfying the specific requirements set forth in section 774, the Applicant must also demonstrate that the requested special exception relief meets the more general requirements of section 3104.1 of the Zoning Regulations. The partial waiver of the rear yard

³ Section 2104.1 of the Zoning Regulations allows a 25-percent reduction in the number of parking spaces required under section 2101.1 for nonresidential buildings that are located within 800 feet of a Metrorail station entrance, provided that: (a) the building is located in a nonresidential district and is at least 800 feet from the nearest R-1, R-2, R-3, or R-4 District; and (b) the Metrorail station is currently in operation. 11 DCMR § 2104.1. The subject property is directly adjacent to the Navy Yard Metrorail Station and, as illustrated in Exhibit G of the Pre-Hearing Statement, is not located within 800 feet of any R-1, R-2, R-3, or R-4 District.

⁴ Eighty-three of the parking spaces in the underground garage are located in vaults beneath public space and are thus not counted towards the off-street parking requirements.

requirement sought by the Applicant in this case is consistent with the purpose and intent of the Zoning Regulations and Map, and it will not have any adverse impacts on neighboring properties.

The requested special exception relief is in harmony with the purposes of the Zoning Act and Regulation set out in the Pre-Hearing Statement.

- The new building will be sufficiently set back from all nearby structures and will not interfere with the light and air of the buildings' occupants.
- The proposed reduction in the depth of the rear yard, moreover, will not obstruct vehicular traffic or undermine the efficient provision of public services.
- The existing public alley is wide enough to accommodate emergency vehicles, delivery trucks, garbage trucks, and any other large vehicles that may need to travel along the alley.
- The requested relief will not result in an excessive concentration of population on the subject property. The proposed building will have an overall density of no more than 10.0 FAR, which is allowed as a matter of right at this location with transferred rights as expressly contemplated by the Zoning Regulations and Comprehensive Plan.

Finally, it should be noted and understood that the design calls for a mechanical penthouse and roof structure that is set back from the two streets the project fronts, M Street and New Jersey Avenue at least 50 percent more than is required. This means this element of the building will only be visible at great distance from the site (at street level) and will not add to the appearance of height from flanking or facing sidewalks or rights of way. If the area to be enclosed or surrounded needs to increase at all, it can be done within the allowed 1:1 limits on

the west and north sides of the roof structure or on the sides facing streets while still maintaining a setback of 1.5/1 on the two public street frontages.

IV.

CONCLUSION

For the foregoing reasons, I find as an expert in land use, planning and zoning, that the Zoning Commission approvals and relief sought in this case are fully warranted.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: _____

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