

**WEST HALF RESIDENTIAL II, L.L.C.,
WEST HALF RESIDENTIAL III, L.L.C.**

SQUARE 700, LOTS 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, 875

APPLICATION NO. ZC 08-30B

HEARING DATE: FEBRUARY 25, 2016

SUPPLEMENTAL STATEMENT OF THE APPLICANT

**TO THE DISTRICT OF COLUMBIA ZONING COMMISSION
FOR REVIEW AND APPROVAL OF BUILDINGS AND STRUCTURES
PURSUANT TO THE CAPITOL GATEWAY OVERLAY DISTRICT PROVISIONS**

February 5, 2016

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I.
Introduction

This statement is submitted on behalf of West Half Residential II, L.L.C. and West Half Residential III, L.L.C. (collectively, the “Applicant”) in support of its modification to previously approved plans pursuant to the provisions of the District of Columbia Zoning Regulations (11 DCMR) applicable to the Capitol Gateway (CG) Overlay district.

The Property consists of Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875 in Square 700 with a total lot area of approximately 87,991 square feet. Square 700 is bounded by M Street, SE, on the north, South Capitol Street on the west, Half Street, SE, on the east, and N Street, SE, on the south. Van Street bisects the square, running in a north-south orientation. The Property is located in the eastern portion of the square, with frontage on M Street, N Street, Half Street, and Van Street. Nationals Ballpark is located immediately south of the Property across N Street, SE. The Property is included in a CR Zone District and is located in the Capitol Gateway (CG) Overlay District. The current use of the Property is as temporary seasonal entertainment on Washington Nationals baseball game days.

The modification application is submitted pursuant to sections 1604, 1607 and 1610 of the Zoning Regulations, which apply to new construction that (1) abuts M Street, SE; (2) is located within Square 700; or (3) is the recipient of density through combined lot development. The modification application also includes request for the following area variances: from the percentage of lot occupancy requirements (§ 634.1), setback requirement for buildings along Half Street, SE (§ 1607.2), compact parking space percentage and location requirements (§§ 2115.2 and 2115.4), loading (§ 2201.1), and the closed court dimensional requirements of section 638. The Zoning Commission is authorized to approve such relief pursuant to section 1610.7 of the Zoning Regulations and previously approved variance relief for the Property relating to

percentage of lot occupancy, setback from Half Street, and loading. After further study, the Applicant has determined that the unusual court configuration provided does satisfy the dimensional requirements for a non-rectangular court and therefore requests permission to withdraw that variance request. Further, the Applicant has reconfigured its parking arrangement to provide sufficient standard-sized spaces such that relief from the required percentage of compact spaces is no longer needed. At the same time, the Applicant requests permission to supplement its request for flexibility to include special exception, pursuant § 411.11 from the requirement to provide a penthouse with enclosing walls of equal height, as required in § 411.9. As discussed below, the application satisfies the various requirements of the CG Overlay and is deserving of the requested variances and special exception.

II. Background

The Property is zoned mixed-use Commercial Residential (CR) and is located within the boundaries of the Capitol Gateway (CG) Overlay. Exhibit A. The CG Overlay District regulations require review by the Zoning Commission of any proposed building on a lot in the CG overlay that satisfies any of the following criteria, among others: (1) abuts M Street, SE; (2) is located within Square 700; or (3) is the recipient of density through combined lot development. The Property satisfies all of these criteria. As such, an application for Zoning Commission review was submitted by predecessor owners of the Property in 2008, pursuant to sections 1604, 1607 and 1610 of the Zoning Regulations. That application was approved in 2009 by the Zoning Commission in Order No. 08-30, and in 2011 the design of the approved project was modified pursuant to Order No. 08-30A.

Through Orders No. 08-30 and 08-30A, the Zoning Commission approved redevelopment of the Property with a mixed-use building measuring 110 feet in height and

containing approximately 288,242 square feet of residential use, approximately 369,292 square feet of office use and approximately 51,624 square feet of retail use (“Approved Building”). The footprint of the Approved Building occupies the entirety of the eastern half of Square 700 and is bound on all sides by public streets: M Street to the north, Half Street to the east, N Street to the south, and Van Street to the west. The Approved Building consists of two primary sections: a northern section consisting of office and ground floor retail uses fronting on M Street and a southern section consisting of the residential use as well as office and ground and second floor retail uses. A dedicated 30-foot wide pedestrian right of way running in an east-west orientation (“Via”) separates the two sections of the Approved Building, with building connections provided through two footbridges above.

III. Description of Modified Building Proposal

The Applicant has acquired all of the lots comprising the Property with the exception of the northernmost lot, Lot 873 (the Property, excepting Lot 873, herein the “Applicant’s Property”). The Applicant’s Property comprises the land on which the southern portion of the Approved Building and the Via would be located. The Applicant proposes to modify only that portion of the Approved Building located on the Applicant’s Property (the “Southern Portion”). The present modification application does not propose any changes to the design and uses for that portion of the Approved Building located north of the Via other than the location of the building connection. The Applicant understands that a modification application for the northern portion of the Approved Building has recently been filed by the owner of that portion of the Property (Application No. 06-30C).

Enclosed with this submission at Exhibit B are architectural drawings identifying the proposed revisions to the design and use mix of the Southern Portion of the Approved Building.

As noted on the cover sheet, the package of drawings have been refined from the drawings filed in December 2015 as part of the modification application. The Applicant requests that the Commission replace the earlier-filed set of drawings, included at Exhibit 11 of the hearing record, with this revised set. As modified, the residential use would increase to approximately 383,000 square feet of gross floor area (including penthouse habitable space) and the retail use in would increase to approximately 87,000 square feet of gross floor area, all with a corresponding reduction in overall office use in the Approved Building. Overall FAR for the Approved Building would decrease from 8.06 to 7.64 (including the reduction requested as part of Application No. 08-30C). Maximum building height would remain 110 feet from a measuring point taken midpoint along Van Street. While the general mix of uses, density and height of the Approved Building would remain largely unchanged by the proposed modification, the configuration and architectural vocabulary of the building have been significantly refined.

The Applicant is proposing to modify the design of the Southern Portion of the Approved Building to provide a dramatically sculptured presence at this central location within the Capitol Gateway overlay. In footprint, the Southern Portion takes the form of an inverted C-shape, with court opening onto Van Street. Along Half Street and N Street, the building undulates through the use of terracing and stepbacks, such that it effectively disappears from view from a northern vantage of the Property from M Street, thereby opening up views to the centerfield entrance to Nationals Park. See Sheet A406. This terracing effect is carried through to the interior of the building in the form of cantilevering above the landscaped courtyard. Sheet A410. Masonry and precast materials utilized in the earlier approval would be replaced with a palette of glass, metal panels, and extensive plantings. See Sheet A420.

The Southern Portion is proposed to include a mixture of residential uses and retail uses, with three levels of below-grade parking. As a result of the recent revisions to the penthouse regulations, the Applicant also proposes to include a small number of units in the penthouse level, some of which will contain mezzanines. These units will generate an inclusionary zoning requirement under the revised regulations, which the Applicant will satisfy within the project.

Currently, the Applicant anticipates that a portion of the residential uses within the project would be for-sale condominium units (identified in green on the drawings) and a portion would serve as rental units (identified in orange). Each of these components would have a separate entrance along Van Street, where the parking and loading operations also would occur in keeping with the restrictions of the CG overlay. Retail spaces would be provided throughout the ground and second levels with various entrances to be located directly along each street frontage as well as the Via. Given the proposed replacement of the office use with residential use south of the Via, the sky bridges connecting the portions of the Approved Building are no longer feasible. To replace these bridges, the Applicant and the owner of the northern portion of the Property have collaborated on a sculptural connection consisting of aluminum spandrels to connect the retail elements of the building, which is anticipated to serve as a point of interest to draw pedestrians into and through the Via to Van Street. See Sheets A408, A409.

Given the Property's central location within the CG overlay and particularly its frontage along Half Street, SE, south of M Street, the Applicant is focused on providing an active and engaging pedestrian-level experience. To that end, the Applicant is collaborating with adjacent landowners along both sides of Half Street and the Department of Transportation (DDOT) to develop an inviting streetscape experience and also will work with retail tenants to maximize an active street presence, through tenant mix and building signage. To that end, the Applicant has

identified locations where it requests flexibility from the Commission to locate signage, including electronic signage as permitted by applicable code. See Sheets A401 – A403.

IV. **Community Input**

The Applicant shared its plans for modification of the Approved Building at meetings with Advisory Neighborhood Commission (ANC) 6D, and is pleased to note that the project was positively received as an attractive mixed-use building that will draw foot traffic and more residents to the neighborhood. To that end, at its January 11, 2016, public meeting, the ANC voted unanimously to support the Application.

VI. **BURDEN OF PROOF**

A. Capitol Gateway Overlay District (Sections 1604, 1607 and 1610)

1. The Building Complies with the Requirements of Section 1604

Section 1604 of the Zoning Regulations sets forth a number of specific requirements that apply to all new buildings, structures, and uses with frontage on M Street, SE, within the CG Overlay. As outlined in the table below, the proposed project satisfies the requirements of section 1604.

Section	Requirement	Compliance	Explanation
1604.1	The following provisions apply to new buildings, structures, or uses with frontage on M Street, SE, within the CG Overlay.	Applies	Section 1604 is triggered in this case because the Building will have frontage along M Street, SE, within the CG Overlay.

Section	Requirement	Compliance	Explanation
1604.2	No driveway may be constructed or used from M Street to required parking spaces or loading berths in or adjacent to a new building.	Yes.	The Approved Building's design complies with this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.
1604.3	The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than 15 feet measured from the face of the adjacent curb along M Street, SE.	Yes.	The Zoning Commission previously granted variance relief for the design of the Approved Building relating to this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.
1604.4	Each new building shall devote not less than 35 percent of the ground floor GFA to retail, service, entertainment and arts uses. Such preferred uses shall occupy 100 percent 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 Approved Building's design complies with this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.
1604.5	For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space by non-preferred uses...	N/A	
1604.6	Not less than 50 percent of the surface area of the street wall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass... and to entrances to commercial uses of the building.	Yes.	The Approved Building's design complies with this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.
1604.7	The minimum floor-to-ceiling clear height for portions of the ground level devoted to preferred uses shall be 14 feet.	Yes.	The Approved Building's design complies with this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.
1604.8	A building that qualifies as a Capitol South Receiving Zone site 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.	N/A	

Section	Requirement	Compliance	Explanation
1604.9	Where preferred use retail space is required under this section and provided, the requirement of 11 DCMR §633 to provide public space at ground level shall not apply.	Applies	Preferred retail and service uses are required for new construction on the Property.

2. The Building Complies with the Requirements of Section 1607

Section 1607 of the Zoning Regulations sets forth a number of specific requirements that apply to all new buildings, structures, and uses with frontage on Half Street, SE south of M Street, SE within the CG Overlay. As outlined in the table below, the proposed project satisfies the requirements of section 1607:

Section	Requirement	Compliance	Explanation
1607.2	Any portion of a building or structure that exceeds sixty-five (65) feet in height shall provide a minimum step-back of twenty (20) feet in depth from the building line along Half Street, S.E. 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.	No	The Zoning Commission previously granted variance relief for the design of the Approved Building relating to this restriction. While the building design along Half Street has been extensively revised, the Applicant is confronted with the same difficulties given the mixed-use nature of the building and multiple design and use requirements applicable to the Property. As before, the building presents as highly articulated along Half Street, with terracing and a mixture of projections and setbacks along this elevation. The result is that this elevation complies with, and exceeds, the setback requirement in places but is noncompliant in others. As the Zoning Commission previously found, the proposed design will enhance the pedestrian experience and create visual interest. Grant of variance relief will not be detrimental to the public good. The project as modified will not diminish views of surrounding landmarks or neighboring buildings, but rather increase and enhance those views as compared to the design of the Approved Building.

1607.3	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).	Yes	The Zoning Commission's approval in Order No. 08-30 included grant of variance relief from this requirement, as the Approved Building provided approximately 69 percent of the ground floor to preferred uses. As proposed to be modified, the retail provided in the southern portion of the Approved Building is increased by approximately 15,000 square feet. The revised building would comply with this requirement.
1607.4	Preferred uses shall occupy 100% of the building's street frontage along Half Street, S.E., except for space devoted to building entrances or required to be devoted to fire control.	Yes	As modified, the building's design will continue to comply with this restriction.
1607.5	The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.	Yes	As modified, the building's design will continue to comply with this restriction.
1607.6	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.	N/A	The Applicant is not requesting authorization for interim occupancy as part of this application.
1607.7	No private driveway may be constructed or used from Half Street, S.E. to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007.	Yes	As modified, the building's design will continue to comply with this restriction.
1607.8	Where preferred use retail space is required under this section and provided, the provisions of DCMR 11 § 633 shall not apply.	Yes	Pursuant to § 1607.4, preferred uses shall occupy 100 percent of the building's street frontage along Half Street S.E., except for space devoted to building entrances or required to be devoted to fire control.

3. The Building Complies with the Requirements of Section 1610

Section 1610.2 of the Zoning Regulations provides that all proposed uses, buildings, and structures on a lot abutting South Capitol Street, M Street, or within Square 700 shall be subject to review and approval by the Zoning Commission. Section 1610.3 further provides that the proposed use, building, or structure must meet the standards set forth in 11 DCMR § 3104, and the applicant must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will comply with the specific requirements set forth in 11 DCMR § 1610.3(a)-(f). As described in the table below, the proposed project is consistent with each of these requirements and with all of the applicable purposes of the CG overlay:

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.	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 Approved Building's height and FAR are allowed at this location, and the proposed use is consistent with the Property's designation on the Future Land Use Map. The residential, office and retail/preferred uses contemplated for the project will help foster an appropriate mix of uses within the square and the surrounding area.
1600.2(b)	Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel or inn uses.	Yes.	The project as modified will continue to provide retail/preferred uses in furtherance of the objectives of the CG Overlay.
1600.2(c)	Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment.	N/A	Because the Applicant's Property is not currently used for industrial purposes, section 1600.2(c) is not applicable to this application.

Section	Requirement	Compliance	Explanation
1600.2(d)	Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points.	N/A	Because the Applicant's Property is not located along the Anacostia riverfront, section 1600.2(d) is not applicable to this application.
1600.2(e)	Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, SE, near the Navy Yard Metrorail station.	Yes.	The Approved Building's design complies with this requirement and includes ground-level retail and service uses along M Street, SE.
1600.2(f)	Provide for development of Squares 702-706 and Reservation 247 as a ballpark for major league sports and entertainment and associated uses.	N/A	Section 1600.2(f) does not apply to this application.
1600.2(g)	Provide for the establishment of South Capitol Street as a monumental civic boulevard.	N/A	Because the Property is not located on South Capitol Street, section 1600.2(g) is not applicable to this application
1600.2(h)	Provide for the development of Half Street, SE, as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street façade to ensure adequate light and air, and a pedestrian scale.	Yes.	The Approved Building, as proposed to be modified, is designed to provide an engaging and pedestrian-oriented Half Street frontage. The Applicant is coordinating with neighboring property owners along Half Street to provide an enhanced streetscape plan, as reflected in the enclosed drawings. Multiple retail entrances are proposed to be located along this frontage of the Approved Building, as modified. The building contains extensive terracing back from the street façade to ensure adequate access to light and air as well as provide a suitable scale and public engagement.
1600.2(i)	Provide for the development of First 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.	N/A	Because the Property is not located on First Street, section 1600.2(i) is not applicable to this application.

In addition to requiring compliance with the purposes set forth in section 1600.2 and with the special exception standards of section 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 Applicant's project satisfies the general standards of section 3104.1.

Furthermore, the Building will meet each of the specific requirements set forth in section 1610.3,

as demonstrated in the table below:

Section	Requirement	Compliance	Explanation
1610.1	The following provisions apply to properties located ... on a lot that abuts M Street, SE, ... on a lot located within Squares 700 or 701, north of the Ballpark site; ... on a lot that abuts South Capitol Street ...	Applies	Section 1610 is triggered for multiple criteria: the Property abuts M Street, SE; it is located within Square 700; it is the recipient of density through combined lot development.
1610.2	With respect to ... all proposed uses, buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions.	Yes.	The Applicant has filed an application for review and approval by the Zoning Commission as required by section 1610.2, and the Applicant's proposed modification to the Approved Building complies with all applicable requirements of section 1610.
1610.3	The proposed building or structure must satisfy the standards set forth in section 3104 of the Zoning Regulations.	Yes.	The 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. With the exception of the requested relief from the lot occupancy requirements, setback requirements for buildings along Half Street, SE, compact parking space percentage and location requirements, loading requirements, closed court dimensional requirements, and penthouse enclosing walls, the Approved Building, as proposed to be modified, will comply with all other applicable zoning requirements. As described below, approval of the requested relief will have no adverse effects on surrounding property and will not impair the purpose or intent of the Zoning Regulations.

Section	Requirement	Compliance	Explanation
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 above, the Approved Building, as modified, will further the objectives set forth in section 1600.2. The modified building will provide approximately 383,000 square feet of residential use (including penthouse habitable space), in a mixture of condominium and rental units, and approximately 316,000 square feet of commercial uses, including approximately 15,000 square feet more retail/service uses than was included in the Approved Building. The pedestrian Via will be retained in the modified design, and the vibrant new design of the southern portion of the Approved Building will further activate Half Street and provide appropriate scale and setbacks through its extensive and innovative use of terracing.
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 project as modified provides a much desired mixed use building in the neighborhood and will include multi-family residential, in a variety of configurations, sizes, and ownership types, and significant space devoted to preferred retail uses on the ground floor, precisely the types of 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 project as modified is exceedingly contextual to the surrounding neighborhood and street patterns, especially along its Half Street and N Street frontages, where a mixture of stacking and terracing of volumes allows for the building to mark this important corner at the centerfield entrance to the Nationals Ballpark while drawing visual interest from multiple vantage points. The Via remains an important component of the project in facilitating and encouraging pedestrian circulation in an east-west direction, including residents of the building, while vehicular ingress/egress for parking and loading operations remains provided from Van Street. Landscaping and sidewalk treatment along Half Street is proposed to be provided in coordination with adjacent property owners.

Section	Requirement	Compliance	Explanation
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 loading and parking operations for the building occur on the least trafficked of the street frontages, along Van Street. Pursuant to sections 1604.2 and 1607.7 of the Zoning Regulations, no driveway may be constructed or used from M Street, SE, or from Half Street, SE. Where the loading and parking operations occur along Van Street, the pedestrian will have an uninterrupted sidewalk with similar paving patterns to the typical Van Street sidewalks and public space.
1610.3(e)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize unarticulated blank walls adjacent to public spaces through façade articulation.	Yes.	The Approved Building, as proposed to be modified, will continue to offer extensive façade articulation for all street elevations as well as the Via elevation. The proposed modifications to the southern portion of the Approved Building include extensive modulation of building volume along the Half Street and N Street elevations, and to a somewhat lesser extent the Van Street elevation, where the C-shaped orientation of the residential portion is expressed. In addition to shifts of building volume, the building is articulated through use of balconies, extensive landscaping incorporated into the elevations, and innovative materials.
1610.3(f)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.	Yes.	The building as modified has been designed and will be constructed and operated with a goal toward sustainability and minimizing negative impact upon the environment. To that end, the Approved Building, as modified, will continue to satisfy the requirements established in Order No. 08-30A, namely, the residential portion of the Approved Building will qualify for a minimum of LEED NC 2009 Silver certification should the Applicant pursue such certification.

Section 1610.5 of the Zoning Regulations sets forth a number of specific requirements that apply to a building or structure with frontage on Half Street, SE south of M Street, SE or Front Street, SE south of M Street, SE. As outlined in the table below, the proposed project satisfies the requirements of section 1610.5:

Section	Requirement	Compliance	Explanation
1610.5(a)	The building or structure 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.	Yes	The Approved Building, as proposed to be modified, satisfies these criteria through innovative building articulation and use of materials, extensive landscaping and streetscape, which is being coordinated with other property owners fronting Half Street, and extensive pedestrian-focused retail with appropriate signage, including potential electronic signage as permitted by code.
1610.5(b)	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.	Yes.	The Commission has previously determined that the Approved Building satisfies this directive. The building as modified will continue to provide safe and convenient movement to and through the site. Half Street remains the primary pedestrian pathway, linking the Navy Yard Metrorail Station and the Nationals Ballpark. The 30-foot wide pedestrian Via remains an important design element of the project. Retail entrances will be located primarily along Half Street, with residential entrances and parking and loading operations along Van Street.
1610.5(c)	The application shall include a view analysis that assesses the openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront	Yes.	The Applicant has provided a view analysis and contextual images as part of its package of architectural drawings submitted herewith (Sheets A100-A102, A404-A409, A411, A413). As shown therein, the building will have no detrimental impact on views and vistas of the identified monumental properties and focus areas. Rather, the Applicant believes the dynamic design of the proposed modification will significantly enhance views from points north and from the Ballpark.

B. Area Variance Relief and Special Exception

Section 1610.7 of the Zoning Regulations states that the Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for a project and that such requests shall be advertised, heard, and decided together with the application for review and approval for compliance with the CG overlay provisions. Pursuant to that authority,

this modification application also includes requests for the following area variances: from the percentage of lot occupancy requirements (§ 634.1), setback requirement for buildings along Half Street, SE (§ 1607.2), compact parking space percentage requirements (§ 2115.4), and loading (§ 2201.1). As noted above, the Applicant requests permission to withdraw its earlier requests for area variance from the court dimensional requirements (§ 638.2) and percentage of compact parking spaces (§ 2115.2) In addition, pursuant to discussion with the Office of Planning, the Applicant has determined that, as a result of the inclusion of mezzanine habitable space imbedded with mechanical equipment in the penthouse, special exception approval is needed to allow enclosing walls of the penthouse to be of unequal height pursuant to the recently revised penthouse regulations (§§ 411.11 and 630.4(a)). To that end, the Applicant requests waiver that the Commission allow this additional request for special exception.

The Zoning Commission previously determined in Order No. 08-30 that the Property and the Approved Building satisfy the test for variances set forth in the Zoning Regulations and approved variance relief for the Approved Building relating to percentage of lot occupancy, setback from Half Street, and loading.

The test for variance relief is three-part: (1) demonstration that a particular piece of property is affected by some exceptional situation or condition; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or substantial impairment of the zone plan.

With regarding to the exceptional condition of the Property, the Zoning Commission recognized a number of unique conditions affecting the Property in Order No. 08-30. Therein, the Zoning Commission found that “the Property is extraordinarily large in size at almost 90,000

square feet and is also very deep (or wide), with an east/west dimension of approximately 150 feet. The project site is located at a very prominent location in the CG Overlay (the intersection of Half and M Streets), which requires a mixture of uses and dictates design features with which the Applicant must comply simply as a result of its presence on both M Street and Half Street (such as a prohibition on curb cuts on two sides of the project, elevated ground floor ceiling heights, and the requirement to provide a "pedestrian scale" building on relatively narrow streets). The Applicant is also proposing to include three different types of land uses on the Property, which is encouraged by the CG Overlay regulations- but raises construction feasibility considerations. Finally, the Property is located directly north of the Ballpark which requires a building design that is cognizant of the building's context and respectful of the District of Columbia's objectives for development in and around the Ballpark.” Order No. 08-30, Finding of Fact No. 47.

1. Area Variance from percentage of lot occupancy requirement:

The Zoning Commission earlier approved, and the Applicant continues to request, area variance relief from the requirement of § 634 that limits maximum lot occupancy for the Property at 75 percent. As proposed to be revised, maximum lot occupancy for the entire building will total approximately 93 percent. As the Commission previously recognized, the strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant in that it would unnecessarily restrict the development envelope for the office portion of the building and detrimentally affect the design of the residential portion, given the portions are connected and considered a single building for zoning purposes.

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. As the Approved Building is considered one building for zoning purposes, the 75 percent lot occupancy restriction applies to the entire building (starting at the second floor—the horizontal plane where residential uses begin). The Commission granted variance relief in Order No. 08-30 where the residential portion of the Approved Building, if considered on its own, without the office portion, presented an approximately 80 percent lot occupancy. In the current modification proposal, the residential portion of the building, if considered separately, would have a lot occupancy measuring only approximately 70 percent. In addition, the residential portion of the building provides ample access to natural light through provision of open and closed courts and extensive use of terraces and balconies. Furthermore, given the dramatic terracing of the building, the building's footprint decreases dramatically above the lowest levels. (See Sheets A404 and A412).

2. Area Variance from Setback Requirement along Half Street:

As discussed above, the Zoning Commission earlier approved, and the Applicant continues to request, area variance relief from the requirement of section 1607.2, which requires that any portion of a building or structure that exceeds sixty-five (65) feet in height shall provide a minimum step-back of twenty (20) feet in depth from the building line along Half Street S.E.

As the Commission previously recognized, the strict application of the Zoning Regulations in this case will result in a practical difficulty upon the Applicant. The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. The extensively-terraced design provides compliance with the spirit of the regulation and technical compliance along a portion of the Half Street elevation. The design

as modified will not compromise the pedestrian experience nor have a negative effect on light and air for neighboring uses. The Applicant's Property is surrounded by a well-connected pedestrian network and most roadways within a quarter mile radius provide sidewalks and acceptable crosswalks and curb ramps, particularly along the primary walking routes. The proposed modification will add or widen sidewalks adjacent to the Property such that they meet or exceed DDOT requirements and provide an improved pedestrian environment, as demonstrated in the conceptual streetscape plans for Half Street included at Sheet L601 and L602.

In addition, there will be no detrimental impact on views and vistas of the identified monumental properties and focus areas. Rather, the dynamic design of the proposed modification will significantly enhance views from points north and from the Ballpark. See Sheets A405 and A406.

3. Area Variance from Parking Requirement –Compact Spaces:

The Applicant requests variance relief to allow compact spaces not to be provided in groups of five or more spaces as required pursuant to § 2115.4. As will be discussed at the public hearing, as a result of the structural column spacing for the building resulting from the size of the project and multiple design requirements of the CG Overlay, there are areas within the parking levels that are not large enough to accommodate standard-sized parking spaces but can accommodate compact-sized spaces. The grant of this area of relief will have no detrimental impact upon the public good as shown in the Transportation Impact Study, attached hereto as Exhibit C.

4. Area Variance from Loading Requirement:

As was previously approved by the Zoning Commission in Order No. 08-30, the Applicant continues to require loading relief for the proposed modification to the Approved Building. This modification application involves relief only for the southern portion of the Approved Building. No change is proposed for the northern portion of the Approved Building as part of this application.

The Applicant cannot satisfy the requirement to provide 55-foot loading berths given the narrow dimension of Van Street, which is the street frontage where loading operations are required to be provided pursuant to the various prohibitions of the CG overlay. As the Zoning Commission previously recognized, relief can be provided without substantial detriment to the public good. The Applicant has consulted with DDOT on this issue, arriving at a multi-point loading management plan, which is addressed as part of the Transportation Impact Study attached hereto as Exhibit C.

5. Special Exception for Penthouse with Enclosing Walls of Unequal Height:

Under § 411.11 of the Regulations, the Board of Zoning Adjustment may approve the location, design, number, or any other aspect of a roof structure even if it does not comply with the requirements of § 630.4, upon a showing of operating difficulties, size of building lot or other conditions relating to the building or surrounding area that would make full compliance unduly restrictive, prohibitively costly or unreasonable. The Board, and by extension the Zoning Commission pursuant to § 1610.7, has the power to approve a roof structure under § 411.11, provided that the intent and purpose of the chapter and title of the Zoning Regulations are not

materially impaired by the structure, and the light and air of adjacent buildings are not affected adversely.

The Applicant's roof level plan is in keeping with the purpose and intent of the Zoning Regulations. The Applicant proposes to provide penthouse walls of unequal height to satisfy the required setback ratio as well as to minimize the scale of the penthouse structure to the overall design. Pursuant to § 411.9, enclosing walls of a penthouse shall be of equal, uniform height as measured from roof level, with certain limited exceptions. One exception provides that enclosing walls of penthouse habitable space may be of a single different height than walls enclosing penthouse mechanical space (§ 411.9(a)). Thus, the Applicant's design complies with that exception but for the small amount of habitable mezzanine space embedded with the mechanical space.

The extensive terracing of the building, a product in part of the Half Street step back requirements of the CG overlay, make full compliance unduly restrictive as full compliance would result in a penthouse measuring 20 feet in height and not meeting the required setbacks or would compromise the terraced nature of the design.

The intent and purpose of the regulations will not be materially impaired nor will light and air of adjacent buildings be affected adversely.

VII.

LIST OF WITNESSES

The following witnesses may provide testimony at the public hearing on the application:

1. Bryan Moll, David Platter, representing the Applicant.
2. Eric Colbert, Paul Andresino - Eric Colbert & Associates P.C.
3. Eran Chen, Christian Bailey - ODA Architecture

4. Dan VanPelt - Gorove/Slade Associates, Inc.
5. Sam Lawrence – HM White
6. Shane Dettman - Director of Planning Services, Holland & Knight LLP

VIII.
EXHIBITS IN SUPPORT OF THE APPLICATION

The following exhibits are attached to this statement in further support of the application:

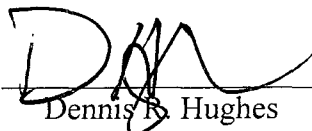
- Exhibit A: Excerpt of the Zoning Map Illustrating the Property;
- Exhibit B: Updated Architectural Renderings and Plans;
- Exhibit C: Transportation Impact Study, conducted by Gorove/Slade;
- Exhibit D: Expert Witness Resumes.

IX.
CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Zoning Commission approve the application.

Respectfully submitted,

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