GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-30C
Z.C. Case No. 08-30C
25 M Street Holdings, LLC
(Modification to an Approved Project within the CG Overlay Zone @ Square 700, Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875)

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on March 31, 2016 to consider an application from 25 M Street Holdings, LLC ("Applicant") for modification to the previously approved plans for Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875 in Square 700 ("Property") pursuant to §§ 1604, 1607, and 1610 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR" or "Zoning Regulations"). The modification application sought continued relief from: the setback requirements along M Street, S.E. (§ 1604.3); and the setback requirements along Half Street, S.E. (§ 1607.2).[1]

FINDINGS OF FACT

1. On January 11, 2016, the Applicant filed an application for modification of the office building portion of the mixed-use project that was approved in Z.C. Order Nos. 08-30 and 08-30A. The Applicant noted that this application only applies to a portion of the building on Lot 873 that was approved in Z.C. Case Nos. 08-30 and 08-30A.[2]

2. Prior to the public hearing, the Applicant supplemented its application with additional information on March 11, 2016. In that supplemental statement, the Applicant requested relief from the penthouse setback requirements along the Via. At the March 31, 2016 public hearing in this case, the Applicant withdrew that request for relief. (Exhibit ["Ex."] 15.)

3. A public hearing was held on March 31, 2016. Parties to the case included the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the ANC in which the Property

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[1] The original application noted that relief from the ground-floor preferred retail requirements of §1607.3 was also required. At the public hearing, the Applicant noted that such relief was no longer necessary.

[2] The Applicant noted that a separate application (Z.C. Case No. 08-30B) was filed to modify the portion of the building that will be located on Lots 33, 802, 840 841, 850, 864, 865, 868, 871, 872, 874, and 875 in Square 700. Although part of the same building, these modification applications should be viewed as separate and distinct applications.

is located. Proper notice of the hearing was provided by the Office of Zoning pursuant to 11 DCMR § 3015.

4. Testimony was presented by the Applicant's project team which included Adam Gooch on behalf of the Applicant and William Hellmuth of HOK Architects. Mr. Hellmuth was qualified by the Commission as an expert in the area of architecture.

5. ANC 6D submitted a resolution in support of the application, dated March 22, 2016, into the record. (Ex. 19.)

6. At the conclusion of the public hearing, the Commission indicated support for the proposed modification of the office building component of the project as an overall improvement of the previously approved design, and requested that the Applicant: revise the treatment of the proposed architectural embellishment on the roof of the building and provide fully dimensioned sections and plans for the roof; provide additional details on the operable windows for the retail use on the second floor; and provide additional information on the digital signage proposed for the building.

7. The Applicant submitted a post-hearing submission on April 21, 2016 which addressed the comments raised at the March 31, 2016 public hearing. The Applicant submitted its proposed Findings of Fact and Conclusions of Law, pursuant to 11 DCMR § 3026 on April 28, 2016. (Ex. 23-23C2, 24.)

8. At a regularly scheduled public meeting on May 9, 2016, the Commission reviewed the Applicant's post hearing submission. The Commission stated that it did not think the design of the proposed rooftop embellishment was appropriate. The Commission further stated that it did not approve of the Applicant's proposed digital signage. The Commission requested that the Applicant consider a revised rooftop design and remove the references in the plans to the signage.

9. The Applicant submitted a second post-hearing submission on May 26, 2016 that addressed the comments raised by the Commission at its May 9, 2016 public meeting. The Applicant attached revised plans showing a revised rooftop design and stating that it was no longer requesting the Commission's approval for the size and location of the digital signage. (Ex. 25, 25A.)

10. At a regularly scheduled public meeting on June 13, 2016, the Commission took Final Action to approve the application. The Commission determined that the project satisfies all applicable requirements of the CG Overlay District and that the Applicant met its burden of proof regarding the requested variance relief.

<u>Background</u>

11. The Property is located in the CG/CR Zone District. Pursuant to Chapter 16 of the Zoning Regulations, the Commission originally approved a mixed-use project on the

Property that included approximately 260-300 residential units, approximately 370,019 square feet of office space along M and Half Streets, S.E., approximately 53,840 square feet of ground-floor retail throughout the entirety of the building, and a maximum building height of 110 feet. The original approval became effective on April 10, 2009 with the issuance of Z.C. Order No. 08-30. In 2011, the Commission approved a minor modification of the approved plans (Z.C. Order No. 08-30A), which resulted in a project that consisted of approximately 288,242 square feet of residential use, approximately 369,292 square feet of office space, and approximately 51,624 square feet of retail space. The maximum height of the building remained 110 feet.

Proposed Modification Application

12. The Applicant requested modifications to the office building along M Street, S.E. in order to better respond to current office market demand and further refine and enhance the architectural treatment of the building. The Applicant noted that the modifications respond to the office market's demand for more column free spaces and more natural light flowing into the interior offices. The distance between the interior core of the building and the exterior windows will be reduced from 62 feet to 45 feet. The ground-floor lobby space has been slightly altered and new outdoor terraces at the third, fourth, and ninth levels of the building along Half Street, S.E. and M Street, S.E. have been introduced into the building. No changes are proposed to the height of the building, which remains 110 feet. (Ex. 15.)

13. The Applicant noted that these changes result in a decrease in the amount of office space gross floor area of approximately 23,030 square feet. The Applicant believes that this new design is a significant and necessary change that will result in a higher quality building and allow this portion of the project to move forward in an expeditious manner. (Ex. 15.)

14. The Applicant presented written statements and testimony that the proposed modifications still allow for a strong three story presence at the corner of Half Street, S.E. and M Street, S.E. to allow the building to "hold" that important corner. The ground-floor retail spaces will have a floor-to-floor height of up to 20 feet and the second floor will have a floor-to-floor height of up to 15 feet, which will allow for retail or office uses on the second floor. The new outdoor terraces will help further the vitality and dynamism of the building which is created by the active retail spaces at the street level. The exterior materials of the building continue to be of a very high quality and reflect a uniqueness that has not been previously constructed along M Street. (Ex. 15.)

15. The Applicant removed the previously approved third level of below-grade parking for this site. This will result in the provision of 157 parking spaces for the office and retail uses. The Zoning Regulations require 149 parking spaces for these proposed uses. (Ex. 15.)

16. The proposed building also includes modifications to the previously approved architectural embellishment on the roof. In response to the Commission's comments at the March 31, 2016 public hearing and at the May 9, 2016 public meeting, the Applicant revised the proposed embellishment and noted that the embellishment returns to the previously approved concept of more pronounced tower elements at the northern and southern ends of the embellishment. (Ex. 25, 25A.)

17. The Applicant noted that the modifications to the office building are entirely consistent with the intent of the CG Overlay and the original approvals of this project. These changes do not create any new areas of relief needed from the requirements of Chapter 16 of the Zoning Regulations. The areas of relief that were previously granted for this building, setbacks along M Street and Half Street are not exacerbated by this modification as follows:

    a. Subsection 1604.3 requires 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. The modified building continues to provide a 15-foot setback from the streetwall of the building to the face of the curb along M Street at the ground floor of the building. The modified building continues to propose a projection into this 15-foot setback area above the ground floor for the portion of the façade which is located above the office lobby entrance.

       The Commission previously noted that the granting of this relief:

       > [w]ill not have an adverse impact on the streetscape. The required setback is provided at the ground floor to allow for wide sidewalks to promote the pedestrian experience. Pedestrians will be able to patronize the retail spaces with ease, but will also be able to experience the punctuations the proposed projection creates along the streetscape… The projection occurs above twenty feet and helps create the dynamic streetscape that the CG overlay regulations intended to create." (See Z.C. Order No. 08-30, p. 16.)

       The Applicant stated that all of the same reasons and rationale for the proposed projection into the 15-foot setback area along M Street are applicable in this modification application; and (Ex. 15.)

    b. Subsection 1607.2 requires a building to step-back a minimum of 20 feet along Half Street above a height of 65 feet. In Z.C. Case No. 08-30, the project architects noted that the purpose of this requirement was to encourage buildings with articulated façades rather than a uniform streetwall to help ensure a pedestrian environment. The approved project included projections and recessions throughout the building wall, starting at ground level to enhance the pedestrian experience and to create interesting focal points along Half Street. The

Commission determined that granting relief from the Half Street setbacks is not detrimental to the public good, that the projections will not diminish views of surrounding landmarks and will not have a negative effect on the light and air for neighboring uses, and the building will create a more exciting and interactive experience for pedestrians along Half and M Streets. (See Z.C. Order No. 08-30, p. 15.)

The proposed modifications to the approved building actually reduce the amount of building area which is located in the required Half Street setback. Almost all of the 23,030 square feet of office space that has been removed from the building was located in this Half Street setback area, above the 2nd floor of the building. Any impact on neighboring uses or buildings as a result of the previous relief has been reduced. The Applicant noted that this removal of office gross floor area does not diminish the exciting and interactive experience of the building along Half Street which was noted in Z.C Order No. 08-30. (Ex. 15.)

18. The Applicant stated that its representatives had discussions with representatives of DDOT regarding the proposed vehicular entrances to the loading dock and parking garage from Van Street, S.E. DDOT requested that the Applicant provide information as to why the proposed curb cuts could not be separated by at least 24 feet, rather than the seven feet, six inches proposed by the Applicant. The Applicant noted that several factors require the clustering of the curb cuts, including: the prohibition of curb cuts on M and Half Streets and the lack of public alley access to the site; building code requirements related to the location of the garage exhaust vents; and the desire of the Applicant to create active and vibrant retail spaces along Van Street adjacent to the Via and closer to the intersection of M Street and Van Street. The Applicant also noted that if it is required by DDOT to re-locate the curb cuts so that they are 24 feet apart, it would result in the loss of approximately 1,500 square feet of ground-floor retail space and approximately 10 parking spaces. The loss of these additional parking spaces would require the Applicant to excavate the third parking level. The construction of a third parking level will trigger significant additional costs related to remediation of environmental issues and water removal. (Ex. 15.)

19. The Applicant proposed Transportation Demand Management ("TDM") and Loading Management Plans that were similar to the plans that have been proposed and adopted by the other projects in the immediate area that will also be utilizing Van Street for vehicular access. The Applicant's TDM plan included the following elements:

- The Applicant will comply with zoning requirements to provide bicycle parking/storage facilities. This includes secure parking located in the garage for tenants;
- The Applicant will provide a bicycle maintenance facility within the building;

- The Applicant will identify a TDM Leader (for planning, construction, and operations). The TDM Leader will work with goDCgo staff to create free customized marketing materials and a TDM outreach plan for tenants;

- The building management will provide updated contact information for the TDM Leader and report TDM efforts and amenities to goDCgo staff once per year;

- The building management will stock Metrorail, Metrobus, DC Circulator, Capital Bikeshare, Guaranteed Ride Home, DC Commuter Benefits Law, and other brochures;

- The Applicant will provide shower and locker facilities to tenants of the building to encourage cycling as a mode of transportation;

- The Applicant will place an electronic message board in the lobby that provides real-time information on nearby transit services; and

- The Applicant will install two electric car charging stations within the parking garage. (Ex. 15B.)

20. Due to the need for back-in loading from Van Street, a loading management plan was proposed by the Applicant. The loading management plan included the following components:

- Deliveries will be permitted between 7:00 a.m. and 4:00 p.m., seven days a week, except for when events occur at Nationals Park. Deliveries cannot be scheduled for the period between two hours when an event begins and one hour after an event is completed, including during the event itself;

- Building management will not schedule delivers during Nationals Park events as defined above when there could be heavier than typical pedestrian traffic on Van Street;

- Unscheduled deliveries such as FedEx, UPS, US Postal Service or courier are not subject to these restrictions;

- A loading dock manager will supervise deliveries to the loading dock. For vehicles larger than 20 feet in length, the loading dock manager or designated representative will assist vehicles backing into the loading facilities to manage conflicts with pedestrian and vehicle traffic on Van Street;

- Building management will post a sign in a highly visible location within the loading area that states that all loading activities must be scheduled through building management; and

- Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 - Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System. (Ex. 15B.)

Office of Planning ("OP") Report

21. By report dated March 21, 2016, OP noted that the application generally successfully addresses the criteria of the CG Overlay and OP strongly supports the application as the project would help create a vibrant pedestrian environment and contribute to the architectural character of the area. OP requested that the Applicant address the following issues prior to the public hearing in this case:[3] submission of additional detail on the look and functionality of operable windows for potential retail uses on the second floor; refinements to the roof embellishment that will lighten the feel of the embellishment or differentiate it from the diagonal element below; clarification that all guardrails at the roof level meet the setback requirements; provide an estimation of the monetary contribution to the Housing Production Trust Fund resulting from the penthouse habitable space; and provide an additional rendering looking down Half Street toward the ballpark. (Ex. 18.)

22. At the public hearing, the Applicant presented testimony that the expected contribution to the Housing Production Trust Fund, as a result of the penthouse habitable space, will be approximately $248,000 and provided the requested additional rendering looking down Half Street toward the ballpark. The Applicant's post-hearing submission provided the additional information requested in the OP Report. (Ex. 23, 23A, 23B.)

Department of Transportation ("DDOT") Report

23. By report dated March 21, 2016, DDOT noted that it has no objection to the requested approval, but the separation of the two curb cuts on Van Street does not meet DDOT standards. The DDOT report stated that the Applicant is expected to continue to work with DDOT outside of the Commission process on the following matters:

    a. Public space, including curb and gutter, street trees and landscaping, street lights, sidewalks, and other features within the public rights-of-way, are expected to be designed and built to DDOT standards. Careful attention should be paid to pedestrian and bicycle connections along the site's perimeter and adjacent infrastructure;

[3] The OP report also requested that the Applicant provide more detail regarding why full compliance with the penthouse setback requirements would be unduly restrictive. At the public hearing, the Applicant noted that it was not seeking penthouse setback relief.

b. DDOT expects the Applicant to coordinate with DDOT on curb cut location and design to meet DDOT standards and to apply for the appropriate public space permits; and

c. A unified streetscape design for the entirety of Half Street between M and N Streets as design details are coordinated between DDOT, Office of Planning, and all property owners who front on Half Street. A design must be finalized by the time the site is ready for occupancy as a temporary streetscape is not acceptable.

ANC 6D Report

24. By report dated March 21, 2016, ANC 6D noted that at its duly noticed meeting with a quorum present, a quorum being four Commissioners, ANC 6D voted 6-0-0 to submit a letter to the Commission noting its support for the modification application. The ANC 6D letter noted that the proposed modifications do not change the height of the building but do reduce the amount of office space by over 22,000 square feet. The ANC 6D report stated a number of issues and concerns:

a. First, ANC 6D noted that it still expects the Applicant to abide by the conditions of the Community Benefits Agreement ("CBA") that was part of the initial Commission approval in Z.C. Case No. 08-30, including the LEED commitments;

b. Second, with respect to the specific relief requested in the application, the report stated that the ANC did not oppose the requests for relief, and that the ANC supports the design of the building. The ANC further stated that it expected that Applicant's public space permit request will include extensive landscaping on the public-facing portions of the street level, and would plan for the presence of many dogs;

c. Third, the report stated that the ANC supported green building, noted that Z.C. Order 08-30A required the project to achieve LEED-Gold certification, and that the CBA provides the Applicant is willing to target LEED-Platinum certification. The ANC requested that the Commission not reduce the Applicant's LEED obligation, and that it expected the Applicant to adhere to the CBA. The ANC's report further stated the it supports reducing glazing reflectivity and/or the introduction of "visual noise" to reduce bird collisions; and

d. Fourth, with respect to construction and operation phases of the project, the ANC requested that the Commission include a condition in this Order related to after-hours construction of the project. The ANC further stated a number of issues and concerns related to the transportation related aspects of the project, namely, that the Applicant should include transportation management and loading management plans as conditions of the Order, that the transportation and loading management plans must include an adequate plan for situations when an emergency services are required at the building. The ANC 6D report also noted its support for the use of underground parking spaces for special event parking (including Nationals' games). Finally, the ANC 6D letter noted its support for efforts to encourage pedestrian, bicycle, and public transit access to the site and the special treatment of the public spaces on Van and Half Streets to "increase the draw and character of the street", to facilitate pedestrian circulation when events occur at Nationals Park", and the use of permeable pavers for stormwater management. (Ex. 19.)

25. The Commission considered the ANC's issues and concerns and finds as follows:

a. First, with respect to the CBA, the Commission did not include compliance with its terms as a condition of its approval of that application of Z.C. Order No. 08-30 because, "[the Commission's] review of the application is limited to the standards established in § 1610 of the Zoning Regulations, which do not include consideration of the benefits and amenities provided by the Applicant to the community. The Commission believed that conditioning the approval of the application on such benefits and amenities was therefore inappropriate." (Z.C. Order 08-30 at p. 21.) The Commission continues to hold that position. Nevertheless, the CBA is a private agreement between the parties and the Commission does not intend this Order to affect its terms. Z.C. Order No. 08-30 includes a requirement that the Applicant achieve a minimum number of LEED points because the building's environmental features are within the scope of the Commission's review of the application. (11 DCMR § 1610.3(f).) This Order continues to include the LEED commitment in its conditions;

b. Second, with respect to the ANC's comments related to the future Applicant's public space permit application, the Applicant is free to include whatever it chooses in its application before the Public Space Committee as long as it is consistent with the plans approved by the Commission;

c. Third, with respect to the ANC's stated environmental concerns, this Order continues to include a condition requiring the northern portion of the building to be certified at the LEED-Gold level. The Commission believes this is adequate to satisfy the standard established by 11 DCMR § 1610.3(f). As previously stated, the Commission believes the Applicant's CBA commitments are outside of the scope of its review of the application, thus declines to require compliance with all of its terms. With respect to the suggestions aimed at reducing bird collisions, the Commission does not include them as requirements of its approval because the Commission concludes the Applicant has met its burden of proof for 11 DCMR § 1610.3(f); and

d. Fourth, with respect to the ANC's site management concerns, the Commission finds that the request for conditions in this Order related to after-hours construction permits is outside of the scope of the Commission's review, which is limited to the standards established in § 1610 of the Zoning Regulations. The

Commission has incorporated the Applicant's proposed transportation management and loading management plans as conditions of this Order. The Commission believes they are adequate to satisfy the requirements of its review pursuant to 11 DCMR § 1610. The Commission notes that the plans do not include a provision for situations when emergency services are required at the building. The Commission believes that the plans nonetheless are adequate to meet the burden of proof established by § 1610.

CONCLUSIONS OF LAW

1. The Applicant filed an application for review and approval of a modification to previously approved plans pursuant to 11 DCMR §§ 1604, 1607, and 1610. The Commission concludes that the Applicant has met its burden of proof.

2. The Commission provided proper and timely notice of the public hearing on the application by publication in the D.C. Register and by mail to ANC 6D, OP, and owners of property within 200 feet of the Property.

3. Pursuant to 11 DCMR §§ 1604.1, 1607.1, and 1610.1, the Commission required the Applicant to satisfy all applicable requirements set forth in DCMR §§ 1607.2 through 1607.8 and 11 DCMR §§ 1610.2 through 1610.5. Pursuant to 11 DCMR § 1610.7, the Commission also required the Applicant to meet the requirements for variance relief set forth in 11 DCMR §§ 3103, 1604.3, and 1607.2. The Commission concludes that the Applicant has met its burden.

4. The proposed development is within the applicable height, bulk, and density standards for the CG/CR (Capitol Gateway Overlay/Commercial Residential) Zone District and will not tend to affect adversely the use of neighboring property. The overall project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.

5. The Commission concludes that the proposed project will further the objectives of the CG Overlay District as set forth in 11 DCMR § 1600.2 and will promote the desired mix of uses set forth therein. The design of the proposed building meets the purposes of the CG Overlay and meets the specific design requirements of 11 DCMR §§ 1604, 1607, and 1610, except as noted above.

6. No person or parties appeared at the public hearing in opposition to the application.

7. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The affected ANC in this case is ANC 6D. As discussed in finding of fact 24 above, the Commission carefully considered ANC 6D's recommendation for approval and concurs in its recommendation in support of the application, and considered the issues and concerns stated in its report.

8. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP's recommendations. The Commission carefully considered the OP report and finds that the Applicant's post-hearing submission adequately addressed the outstanding issues noted in the OP report. The Commission agrees with OP's support for the proposed design modifications, the project's satisfaction of the CG Overlay criteria, and that the project will create a vibrant pedestrian environment and will contribute to the architectural character of the area. The Commission finds that the proposed revisions to the architectural embellishment address the previous concerns that the embellishment looked like an extension of the building's façade. The Commission finds that the additional information presented by the Applicant regarding the appearance and operation of the potential retail windows on the second floor of the building and the removal of the proposed digital signage adequately addressed the Commission's concerns.

9. The Commission notes that DDOT had no objection to the application, but determined that the proposed curb cuts for the loading docks and access to the parking spaces are not separated by 24 feet. While this is ultimately an issue for the District of Columbia Public Space Committee, the Commission notes the negative implications to the ground-level streetscape, and in particular the impact on the retail experience at the corner of the Via and Van Street, that would exist if the Applicant is required to create a 24-foot separation between the two curb cuts on Van Street.

10. Based upon the record before the Commission, including witness testimony, the reports submitted by OP, DDOT, and ANC 6D, and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR §§ 1604, 1607, and 1610 of the Zoning Regulations and for special exception and variance relief pursuant to 11 DCMR §§ 3103 and 3104.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application consistent with this Order. The term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of any condition that occurred while an owner.

This approval is subject to the following guidelines, standards, and conditions, which impact the development of the office building on Lot 873 in Square 700, and supersede those guidelines, standards, and conditions that were listed in Z.C. Order Nos. 08-30, 08-30A, and 08-30A1:

1. The approval of the proposed development shall apply to Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875 in Square 700.

2. The project shall be built in accordance with the final architectural drawings, dated April 21, 2016 and submitted as Exhibits 23C1 and 23C2, as modified by the drawings dated May 26, 2016 and submitted as Exhibit 25A showing the revised rooftop design and removal of the digital signage.

3. The overall density on the Property shall not exceed 9.5 FAR as permitted pursuant to 11 DCMR § 1602, and pursuant to the Commission's approval of this modification application. In order to achieve the maximum permitted density, the Applicant shall transfer non-residential density from other lots within the CG Overlay District and shall transfer residential density to those same lots by the process set forth in accordance with the limitations of §§ 1602.1(a) and 1602.1(e).

4. The Applicant shall implement the following loading management plan for the life of the project:

    a. Deliveries will be permitted between 7:00 a.m. and 4:00 p.m., seven days a week, except for when events occur at Nationals Park. Deliveries cannot be scheduled for the period between two hours when an event begins and one hour after an event is completed, including during the event itself;

    b. Building management will not schedule delivers during Nationals Park events as defined above when there could be heavier than typical pedestrian traffic on Van Street;

    c. Unscheduled deliveries such as FedEx, UPS, US Postal Service or courier are not subject to these restrictions;

    d. A loading dock manager will supervise deliveries to the loading dock. For vehicles larger than 20 feet in length, the loading dock manager or designated representative will assist vehicles backing into the loading facilities to manage conflicts with pedestrian and vehicle traffic on Van Street;

    e. Building management will post a sign in a highly visible location within the loading area that states that all loading activities must be scheduled through building management; and

    f. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 - Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.

5. The Applicant shall implement the following TDM measures for the life of the project:

a. The Applicant will comply with zoning requirements to provide bicycle parking/storage facilities. This includes secure parking located in the garage for tenants;

b. The Applicant will provide a bicycle maintenance facility within the building;

c. The Applicant will identify a TDM Leader (for planning, construction, and operations). The TDM Leader will work with goDCgo staff to create free customized marketing materials and a TDM outreach plan for tenants;

d. The building management will provide updated contact information for the TDM Leader and report TDM efforts and amenities to goDCgo staff once per year;

e. The building management will stock Metrorail, Metrobus, DC Circulator, Capital Bikeshare, Guaranteed Ride Home, DC Commuter Benefits Law, and other brochures;

f. The Applicant will provide shower and locker facilities to tenants of the building to encourage cycling as a mode of transportation;

g. The Applicant will place an electronic message board in the lobby that provides real-time information on nearby transit services; and

h. The Applicant will install two electric car charging stations within the parking garage.

6. The office building/northern portion of the project shall be certified at the LEED-Gold level or higher.

7. The Applicant shall have flexibility with the design of the project in the following areas:

a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the buildings;

b. To vary the selection of exterior materials within the color ranges provided (maintaining or exceeding the same general level of quality) as proposed, based on availability at the time of construction;

c. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals; and

d. To have retail or office uses on the second floor of the building.

8. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On June 13, 2016, upon motion of Chairman Hood, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** this application and **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve and adopt).

In accordance with the provisions of 11 DCMR Section 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 1, 2016.

Anthony J. Hood

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING