

1244 SOUTH CAPITOL RESIDENTIAL, L.L.C.

PREHEARING STATEMENT OF THE APPLICANT

**TO THE DISTRICT OF COLUMBIA ZONING COMMISSION
FOR REVIEW AND APPROVAL OF BUILDINGS AND STRUCTURES
ON SOUTH CAPITOL STREET AND IN SQUARE 700,
PURSUANT TO THE CAPITOL GATEWAY OVERLAY DISTRICT PROVISIONS**

Z.C. CASE NO. 14-15

HEARING DATE: NOVEMBER 13, 2014

**HOLLAND & KNIGHT LLP
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**Norman M. Glasgow, Jr.
Dennis R. Hughes**

October 24, 2014

I. **INTRODUCTION**

This statement is submitted on behalf of 1244 South Capitol Residential, L.L.C. (the "Applicant") in support of an application to the Zoning Commission for review, pursuant to the provisions of the Zoning Regulations (11 DCMR) applicable to the Capitol Gateway (CG) Overlay district, of a proposed apartment building with retail/entertainment/commercial uses in Square 700, at the northeast corner of the intersection of N Street, SE, and South Capitol Street. The application was submitted pursuant to sections 1605 and 1610 of the Zoning Regulations, which apply to new construction on any lot that abuts South Capitol Street as well as to any lot located within Square 700. Pursuant to section 1610.7 of the Zoning Regulations, the Applicant also requests: (i) special exception approval to provide a penthouse that does not meet the 1:1 setback requirement of section 630.4(b); (ii) area variance relief from the court dimension requirements, set forth in section 638.2, to provide a court along the north wall of the proposed building; and (iii) area variance relief from the loading requirements of section 2201.1 of the Zoning Regulations. As discussed below, the application satisfies the various requirements of the CG Overlay and is deserving of the requested special exception approval and variance relief.

II. **BACKGROUND**

A. Site and Vicinity Characteristics

1. The Property

The Property is located in Square 700 and consists of Lots 37, 38, 39, 45, 46, 803 and a public alley which has been closed by act of the District of Columbia Council and is in process of formal closure through the District of Columbia Surveyor. Square 700 is bounded by N Street

on the south, South Capitol Street on the west, M Street on the north, and Van Street on the east. The Property is located in the southern portion of the square, with frontage on N Street, South Capitol Street, and Van Street. It is bounded to its north by private property (Lot 44), which is improved with a five-story brick self-storage building.

The Property is rectangular in configuration and measures approximately 29,626 square feet. Except for a canopy remaining from the site's past use as a gas station, is currently vacant and utilized as a temporary seasonal surface parking lot for baseball games. Nationals Park is located immediately to the south of the Property, across N Street, SE.

2 Zoning Parameters

The Property is included in a mixed use Commercial Residential (CR) zone district and, as noted above, is located in the CG overlay. See Exhibit A.

Within the CG Overlay, section 1601.2 of the Zoning Regulations provides that for residential developments subject to the set-aside requirements of Chapter 26 Inclusionary Zoning, within the CR District such developments shall not exceed a maximum building density of 8.2 FAR, including a 1.0 FAR bonus that must be devoted to residential uses. To accommodate this bonus density, section 1601.3 provides that the maximum building height shall be the height permitted by the General Height Act of 1910 (the "Act"). As a result of the Property's frontage on South Capitol Street, 130 feet of height is permitted under the Act.

Section 1602 of the Zoning Regulations further provides that two or more lots within the CG Overlay may be combined for the purpose of allocating residential and nonresidential uses regardless of the normal limitation on floor area by uses on each lot. This allocation is accomplished by combined lot development (CLD) covenant approved by the District of

Columbia and recorded in the land records of the District of Columbia. The Zoning Commission may, at its discretion, grant an additional transfer of density of 1.0 FAR maximum to or within Squares 700, 701, and 702, subject to an applicant addressing to the satisfaction of the Zoning Commission the objectives and guidelines of sections 1601 and 1604-1607, as applicable. To that end, the Applicant submits the present application and request for approval to permit residential and commercial construction on the Property totaling approximately 9.08 FAR.

B. Description of Proposed Construction

The Applicant intends to construct on the Property a 13-story apartment building with retail/entertainment/commercial uses on portions of the ground and second floors. See Exhibit B, which updated drawings replace the package of drawings originally submitted with the Application. The proposed building will measure approximately 268,971 square feet of gross floor area for an overall density of approximately 9.08 FAR and will rise to a maximum height of 130 feet. The building will also include two below grade parking levels, providing a total of 139 automobile parking spaces and 110 bicycle parking spaces, in full satisfaction of the parking requirements of Chapter 21 of the Zoning Regulations. Parking and loading operations are designed to be accessed from Van Street at the northeast corner of the Property. The building will include a total of four stacked loading berths/delivery spaces (2 @ 30 feet deep and 2 @ 20 feet deep), all accessible from Van Street. As discussed below, the Applicant requests area variance relief to provide the second 20 and 30 foot berths in lieu of providing one 55 foot berth as required pursuant to Chapter 22 of the Zoning Regulations, given the extreme difficulty of maneuvering a 55 foot truck into the building from Van Street.

In response to the challenges of the Property's location immediately across from the baseball stadium and its orientation along three streets with unique characteristics, the Applicant

proposes an apartment building with significant ground floor retail/entertainment/commercial uses along all three street frontages, with such uses continuing to a large portion of the second floor of the building

The building has been designed to actively engage each of its three street frontages. Along South Capitol, it presents a strong street wall with extensive masonry and a prominent and substantial grid framework above an active and open commercial base, consistent with the policy direction of the CG Overlay to provide for the establishment of South Capitol Street as a monumental civic boulevard. At the same time, at the upper levels of this façade, the building steps back, forming a large central courtyard, and exposing a very different and lighter architectural vocabulary and materials palette, one largely consisting of glass and metal.

Using a similar mixture of glass and metal atop a strong masonry grid, the building's N Street frontage incorporates an additional textural layer through the use of balcony projections and metal/steel accents, all floating above the open and inviting double-height retail/entertainment/commercial, consisting largely of operable and moveable "window walls" and which are anticipated to be further animated by distinctive tenant signage and treatments

Even though Van Street has an exceedingly narrow right of way and has historically been utilized as an alley rather than a street, the Applicant has treated this façade with a similar level of attention and finish as the two much more public street frontages. The same materials and combination of masonry grid topped by more open and light glass and metal can be seen on this frontage as on South Capitol Street. Likewise, the Applicant has continued the commercial uses well up the Van Street frontage from its intersection with N Street. Importantly, this frontage serves as the entry to the residential portion of the building, as demonstrated both by the

continued use of high end primary materials and accents as well as innovative landscaping incorporated into the building fabric.

While not a primary or public frontage of the building, the north, at-risk, façade of the building also has been treated with a heightened level of finish, including the large and glass-filled court created in the center of the north wall. This court leads to an articulated penthouse structure on the main roof of the building, complete with large openings and a similar grid pattern to that showing on all the street frontages of the building. The roof of the building offers extensive landscaping and recreational amenities for building residents, including multiple green roof areas.

The building will incorporate a number of additional elements to enhance its sustainability and expects the finished building would qualify for at least LEED Certified NC 2009 should the Applicant pursue certification. To that end, the Applicant has included a draft LEED checklist identifying those elements and features the Applicant may pursue in satisfaction of its sustainability commitment (Exhibit B at Page A107).

C. Community Input

The Applicant shared its plans for redevelopment of the Property at meetings with Advisory Neighborhood Commission (ANC) 6D in September and October, and is pleased to note that the project was positively received. To that end, at its October 20, 2014, public meeting, the ANC voted unanimously (7-0-0) to support the Application, including the areas of special exception and variance relief requested. With respect to the loading variance, the ANC requested that the Applicant provide the ANC a copy of its loading management plan with regard

to 55-foot trucks once approved by the D.C. Department of Transportation ("DDOT") and before enacted, which the Applicant has agreed to do.

III. BURDEN OF PROOF

A. Capitol Gateway Overlay District (Sections 1605 and 1610)

1 The Proposed Project Complies with the Requirements of Section 1605

Section 1605 of the Zoning Regulations sets forth a number of specific requirements that apply to all new buildings, structures, and uses with frontage on South Capitol Street within the CG Overlay. As outlined in the table below, the proposed project satisfies the requirements of section 1605.

Section	Requirement	Compliance	Explanation
1605 1	The following provisions apply to new buildings, structures, or uses with frontage on South Capitol Street within the CG Overlay	Applies	Section 1605 is triggered in this case because the proposed building will have frontage along South Capitol Street within the CG Overlay
1605 2	Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet.	Yes	The building's design complies with this subsection.
1605 3	Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one (1 1) step-back from the building line along South Capitol Street	Yes	The building's design complies with this subsection

Section	Requirement	Compliance	Explanation
1605.4	No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007	Yes	There will be no driveways along South Capitol Street. The below-grade parking garage and the building's loading facilities will be accessed from Van Street, SE.
1605.5	For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line	Yes	The design of the building complies with this requirement.

3 The Proposed Project Complies with the Requirements of Section 1610

Section 1610.2 of the Zoning Regulations provides that new construction on any lot located within Square 700 (also applicable to any new construction along South Capitol Street) requires the review and approval of the Zoning Commission. Section 1610.3 further provides that the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation of any such building must comply with the specific requirements set forth in that section. As discussed herein, the proposed project is consistent with each of these requirements.

Under section 1610.3(a), any new building subject to the Zoning Commission's review pursuant to section 1610 must help achieve the objectives of the CG Overlay as set forth in section 1600.2 of the Zoning Regulations. As illustrated in the table below, the proposed building is consistent 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 proposed 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 and commercial uses contemplated by 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 proposed building will include significant space at the ground and second floor levels devoted to commercial uses which are anticipated and will be marketed as retail, entertainment, or other preferred uses. This space will be designed to accommodate precisely the types of retail, service, and entertainment uses encouraged by section 1600 2(b)
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 Property is not currently used for industrial purposes, section 1600.2(c) is not applicable to this application.
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 Property is not located along the Anacostia riverfront, section 1600 2(d) is not applicable to this application.

Section	Requirement	Compliance	Explanation
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	n/a	Because the Property is not located along M Street, SE, section 1600 2(e) is not applicable to this application
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	Yes	The building offers a clean and linear architectural vocabulary, ground floor commercial uses and extensive landscaping to activate the streetscape, all of which elements further the monumental focus of South Capitol Street
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	n/a	Because the Property is not located on Half Street, section 1600 2(h) is not applicable to this application.
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 development will meet each of the specific requirements set forth in section 1610.3 as illustrated 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 because the Property is located in Square 700 and abuts South Capitol Street
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 project 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 loading, court dimension and penthouse setback requirements, the proposed building will comply with all applicable zoning requirements. As described herein, approval of the requested special exception and variance requests 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 project will further the objectives set forth in section 1600 2. Specifically, the project assures development of the area with a mixture of uses and a suitable height, bulk and design
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	The building offers the blend of residential and commercial uses contemplated for the CG Overlay District. Further, the height and bulk of the building is suitable and consistent with the Property's designation for High Density Residential / High Density Commercial uses on the Comprehensive Plan's Future Land Use Map Extensive landscaping and sidewalk treatment along all three street elevations will further activate the preferred residential and commercial uses provided
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 design of the building will be consistent with the height and massing of other existing and proposed buildings in the surrounding area. The extensive and attractive landscaping and sidewalk treatment will meet or exceed District standards and connect the building to the surrounding neighborhood

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 placement of access to the building's loading and parking facilities along Van Street will help minimize potential conflicts between vehicles and pedestrians. Further, the Applicant has requested variance relief to provide loading berths that do not all meet the dimensional requirements of the Regulations. This relief, which has been discussed with DDOT, is requested given the narrowness of Van Street and will further minimize potential conflicts as trucks will not be travelling across sidewalks to accomplish their turning. The Applicant's traffic impact study confirms that the project minimizes negative impacts to 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	As noted above and demonstrated in the drawings package, the Applicant has creatively addressed the Property's frontage along three public rights of way. The building offers strong façade lines and treatment along all three street elevations, using a mixture of projections and voids to further vary the façade articulation. Angled fenestration within the strong masonry gridlines provides further depth and texture. Along the north elevation, the Applicant has proposed a court with extensive fenestration along with patterned masonry and punched windows along the north façade to animate this at-risk elevation.
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 project 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 project will include a number of sustainable features, including low-E insulated glazing and green roofs, and will be designed to qualify for a minimum of LEED NC 2009 Certification should the Applicant pursue such certification.

B. Special Exception Approval - Penthouse (Section 630.4)

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 the Property 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 this provision, the Applicant requests special exception approval for a penthouse structure not meeting the setback requirements of section 630 4(b) of the Zoning Regulations. The Applicant requests this approval to allow a roof structure which does not set back the required 1:1 distance along the open court of the building All other portions of the roof structure comply with the setback requirement from exterior walls

Section 630 4 provides in relevant part, "if housing for mechanical equipment or a stairway or elevator penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows (a) it shall meet the requirements of § 411; and (b) it shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located."

Under section 411.11 of the Zoning 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 section 630.4, where it would be impractical because 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 section 1610.7, has the power to approve a roof structure under section 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 only portion of the penthouse that does not technically comply with the 1:1 setback is that portion that fronts along the north line of the open, central court in the building, and is located approximately 55 feet back from the western lot line and almost 40 feet back from the western elevation of the building. See Exhibit B, Sheet A310. As shown in the referenced roof plan, the portion of the penthouse that does not meet the required setback is utilized to house a cooling tower, mechanical equipment, exhaust and air shafts, elevator and stair access. Given the large central courtyard provided in the building and the residential floor layout, especially the location of the elevator core resulting from the location of the residential lobby access point along Van Street, the proposed footprint of the penthouse provides an efficient solution with no practical negative impacts upon the building or adjacent buildings. Furthermore, the large cooling tower component is efficiently sited between the elevator core and the isolated residential stair egress tower and other necessary mechanical equipment and would negatively impact the roof level recreational space if required to be relocated. For the above stated reasons, special exception approval for the roof setback requirement not meeting the set back requirement of section 630.4(b) is appropriate in the present case.

C. Area Variance from Court Requirement (§ 638.2(a))

Pursuant to the Zoning Commission's authority established in section 1610.7 of the Zoning Regulations, the Applicant also requests area variance relief to provide a court along the north elevation that does not meet the dimension requirements for the CR Districts. Whereas the

Zoning Regulations require that the width of a closed court in the CR Districts be provided that is not less than 4 inches for every foot of building height, and in any event not less than 15 feet, the Applicant proposes a court that measures ten feet wide. Similarly, the proposed court does not meet the minimum court area requirement of twice the square of the required court width.

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. As set forth below and will be addressed at the public hearing, variance relief is appropriate in this application.

1. Exceptional Condition or Situation

The Property is exceptional in that it is comparatively a very long and narrow site that fronts on three streets within the CG Overlay, which overlay establishes required setbacks, percentage of street wall requirements and prohibitions in terms of location of required loading and parking egress along South Capitol Street. The result of these conditions is to significantly limit the available footprint for efficient residential development of the Property, which utilizes double-loaded corridors and requires access to natural light

2 Resulting Practical Difficulty

The strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant. In order to maximize access to natural light and views, the Applicant is pursuing a residential development with a double-loaded corridor around a central courtyard, which is a

combination of a closed court at lower levels and an open court above the sixth level. Given the dimensions of the Property, combined with the required 15-foot setback from South Capitol Street and the requirement to provide at least 60 percent of the building along the South Capitol street wall, the Applicant is significantly constrained in the residential floor plate it can pursue, particularly along the north, at-risk lot line. Along this north lot line, the Applicant is proposing a court that is approximately 114 feet high, 10 feet wide and contains an area of approximately 330 square feet. The Zoning Regulations (§ 638.2(a)) require that for a court of this proposed height the Applicant must provide a court that is at least 38 feet wide and contains an area of almost 2,900 square feet. Application of the court regulations to the northern courtyard of the building will result in a practical difficulty to the Applicant in that it cannot feasibly provide a complying courtyard along the north lot line while simultaneously providing the proposed residential footprint. Likewise, without providing a courtyard along the north elevation, a significant portion of the residential building, that portion along the interior lot line, will not be able to have access, or will have very limited access to natural light (based upon windows punched into the at-risk northern wall, which, while not required, enhance the residential units). The proposed court allows for additional and more efficiently-demised units within the building.

3 No Harm to Public Good or Zone Plan

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. The courtyard provides an interesting visual element along this at-risk lot line wall that is in keeping with the spirit of section 1610.3(e), which emphasizes articulation of walls adjacent to public spaces. Further, the provision of the court has no impact upon development on Lot 44 to the immediate north nor will have any

detrimental impact upon the general public. In the event the adjacent lot is redeveloped in the future, and in the event such redevelopment necessitated construction immediately adjacent to this portion of the building, the units along the closed court would still have meaningful access to natural light provided by the court.

D. Area Variance Relief from the Loading Requirements (§ 2201.1)

The Applicant also requests the Zoning Commission approve its request for area variance relief from the loading requirements, set forth in section 2201 of the Regulations. This request is a supplement to the initial application, where the Applicant originally included a 55 foot loading berth in its building plans. As a result of discussions with DDOT and further study regarding necessary turning patterns for a 55 foot truck to access the loading berth, the Applicant has determined that the narrowness of Van Street precludes reasonable access for such large trucks and therefore proposes to substitute a second 30 foot berth and a second 20 foot berth in lieu of the earlier-proposed 55 foot berth. As such, area variance relief is required.

Section 2201.1 of the Zoning Regulations requires that apartment buildings in all zoning districts with 50 or more dwelling units provide one loading berth measuring 55 feet in depth, along with a service/delivery space measuring 20 feet in depth. The Applicant's project provides a total of four berths/spaces, two of which have a depth of 30 feet and two have a depth of 20 feet, as shown on Sheet A301 of the plans for the building.

As a result of further study of the truck turning patterns to allow access from the very narrow Van Street, SE, the Applicant has determined that access to a 55 foot berth, as required by the Zoning Regulations, would require a turning pattern involving crossing over the sidewalk and public realm in front of the building, or in front of the public space abutting the property to

the north. In light of this information, the Applicant proposes to substitute two smaller stacked berths for the required 55 foot berth and is working with DDOT on the terms of a loading management plan to address loading operations in general, and larger trucks specifically

1. Exceptional Condition or Situation:

As noted above, the Property is exceptional in the CG Overlay in that it fronts on three streets, two of which serve as very public axes of the overlay, leaving only the third frontage, Van Street, which has historically served as an alley and is comparatively very narrow, as a viable location for service and access. With respect to loading and vehicular access, the CG Regulations specifically prohibit vehicular access to the Property from its South Capitol Street frontage. Also, given the comparatively long and narrow configuration of the Property, the site is comparatively constrained in terms of options for providing required loading within the footprint of the building.

2. Resulting Practical Difficulty

The strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant. As noted above, the Applicant has determined in discussions with DDOT, that the earlier-proposed 55 foot loading berth could not practically be accessed and utilized because it would require unacceptable truck turning and maneuvering in the public realm, including across the "public parking" as defined in 24 DCMR, and as a result create a potential conflict with pedestrian and vehicular traffic. Further, given the limitations on development of the site pursuant to the CG Overlay there is no practical alternative for the Applicant to provide a loading a compliant 55 foot loading berth with acceptable turning maneuvers from Van Street. If the

Applicant were to pursue an angled berth arrangement in order to allow access, such an arrangement would negatively impact the residential lobby access to the building, reduce the amount of preferred commercial uses to be provided in the ground floor, and potentially require larger curb cuts.

3 No Harm to Public Good or Zone Plan.

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. As demonstrated in the transportation impact study included as Exhibit C, the proposed number, size, and arrangement of loading facilities is sufficient to meet the demands of the residential and commercial uses proposed for the building, particularly given industry experience with the size of units proposed for the building, and will minimize any potential negative impacts upon public space. Further, as set forth at Page 21 of the study, the Applicant proposes several measures to minimize impacts of its loading operations, including: (i) building management requiring that all tenants schedule deliveries in advance to the extent possible; (ii) permitting deliveries between 7:00 AM and 4:00 PM, seven days a week, except for when events occur at Nationals Park, at which time deliveries cannot be scheduled for the period between two (2) hours when an event begins and one (1) hour after an event is completed (including during the event itself); (iii) building management supervising all deliveries to the loading dock, for 30-foot trucks or larger and posting a sign in a highly visible location within the loading area that states that all loading activities must be scheduled through building management; and (iv) building management not allowing trucks using the loading dock to idle and requiring that they follow all District guidelines for heavy vehicle operation.

IV.
LIST OF WITNESSES

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

1. Bryan Moll, The JBG Companies, on behalf of the Applicant,
2. David Pontarini, Hariri Pontarini Architects;
3. Eric Colbert, Eric Colbert & Associates PC,
4. David Seiter, Future Green Studio;
5. Daniel Van Pelt, Gorove/Slade Associates, Inc.

V.
EXHIBITS IN SUPPORT OF THE APPLICATION

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

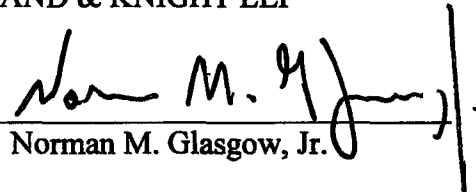
- Exhibit A.** Excerpt of the Zoning Map Illustrating the Property;
- Exhibit B.** Updated Architectural Renderings and Plans;
- Exhibit C.** Transportation Impact Study conducted by Gorove/Slade;
- Exhibit D.** Witness Resumes.

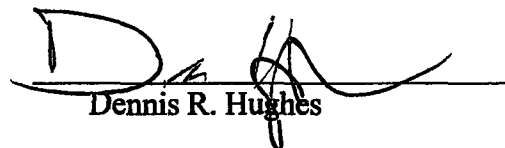
VI.
CONCLUSION

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

Respectfully submitted,

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