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December 22, 2014

HAND DELIVERY

Zoning Commission of the District of Columbia
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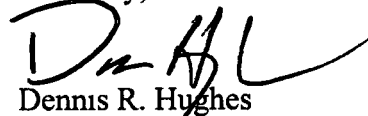
Re Zoning Commission Application No 14-15

Dear Commissioners

Pursuant to the Commission's request, enclosed is the Applicant's Proposed Findings of Fact and Conclusions of Law in advance of the January 12, 2015, public meeting

Thank you for your consideration of these materials

Sincerely,



Dennis R. Hughes

Enclosure
CC- ANC 6D

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ZONING COMMISSION
District of Columbia
CASE NO. 14-15
ZONING COMMISSION
EXHIBIT NO. 28
CASE NO. 14-15
EXHIBIT NO. 28

Applicant's Proposed Findings of Fact/Conclusions of Law/Decision
December 22, 2014

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 14-15

Capitol Gateway Overlay Review
1244 South Capitol Residential, L.L.C.
@ Square 700, Lots 37-39, 45, 46, and 803 and closed alley

January 12, 2015

Pursuant to notice, the Zoning Commission of the District of Columbia (the "Commission") held a public hearing on November 13, 2014, to consider an application filed by 1244 South Capitol Residential, L L C (the "Applicant") for review and approval of a new mixed-use residential and retail/service building pursuant to Sections 1605 and 1610 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"), which apply to new construction within the Capitol Gateway Overlay with frontage along South Capitol Street, and to properties within Square 700. The application also included request for special exception approval of a penthouse not meeting required setback, pursuant to 11 DCMR § 630 4(b), and variance relief from the loading requirements established in 11 DCMR § 2201 1¹. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

1. On August 6, 2014, the Applicant filed an application for review and approval of a new mixed use building containing residential and retail/service uses, pursuant to Sections 1605 and 1610 of the Zoning Regulations, which apply to new construction on any lot within the Capitol Gateway ("CG") Overlay District with frontage along South Capitol Street as well as properties within Squares 700 and 701 north of the Ballpark site. The subject property is located in Square 700 and consists of Lots 37, 38, 39, 45, 46, 803 and a closed alley (the "Property").
2. The Applicant filed a prehearing submission in support of the application on October 24, 2014 (the "Prehearing Submission") (Exhibits 17 and 18). The Prehearing Submission included an additional request for relief from the loading requirements, as established in 11 DCMR § 2201 1. The Applicant requested the loading relief so as not to be required to provide a 55-foot loading berth to address concerns raised by the Department of Transportation ("DDOT") regarding the ability to undertake turning operations onto Van Street, SE.
3. The Commission held a hearing on the application on November 13, 2014. Parties to the case included the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the

¹ The Application originally included request for variance relief from the court dimension requirements established in 11 DCMR § 638 2(a), which request was later withdrawn by the Applicant by letter dated November 12, 2014 (Exhibit 22).

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

4. Per letter from ANC 6D dated October 26, 2014, the ANC reported that at its duly-noticed meeting on October 20, 2014, ANC 6D voted 7-0-0 to recommend that the Commission approve the proposed apartment building and the requested variance relief and special exception approval (Exhibit 14) By letter dated December 14, 2014, the ANC reported that at its regularly-scheduled meeting on December 8, at which a quorum was present, the ANC voted 4-0-0 to support the Applicant's proposed revision to the penthouse structure on the building and its request to withdraw that request from its application (Exhibit 26)
5. Witnesses appearing at the hearing on behalf of the Applicant included Bryan Moll of the JBG Companies, David Pontarini of Hariri Pontarini Architects, Eric Colbert of Eric Colbert and Associates, Architects, and Daniel Van Pelt of Gorove / Slade
6. At the conclusion of the public hearing on November 13, 2014, the Commission requested that the Applicant further study certain aspects of the project's design, particularly the setback of the penthouse from the central courtyard, and to provide additional information regarding the proposed location of building signage, and to submit revised materials to the record
7. The Applicant submitted materials responsive to the Commission's comments on December 15, 2014, including select revised architectural drawings to address the Commission's questions and requests raised at the public hearing The revised sheets were intended to serve as replacement and supplemental sheets to the package of drawings submitted to the record on October 24, 2014 (collectively, the "Final Architectural Drawings")(Exhibits 18 and 27). As a result of the refinements made by the Applicant to the penthouse design as a result of the Commission's direction, the Applicant requested withdrawal of its court variance request as part of its December 15, 2014, submission to the record Per the Commission's request, the Applicant submitted proposed findings of fact and conclusions of law, pursuant to 11 DCMR § 3026 on December 22, 2014 (Exhibit __)
8. At its January 12, 2015, public meeting, the Commission took final action by a vote of [- -] to approve the application The Commission determined that the project satisfies all applicable requirements of the CG Overlay District, and the application satisfies the burden of proof for variance relief from the loading requirements of the Zoning Regulations

Project Overview

9. The Property is rectangular in configuration and measures approximately 29,626 square feet of land area in the southern portion of Square 700. Square 700 is bounded by M Street on the north, South Capitol Street on the west, N Street on the south, and Van

Street on the east in southeast Washington, D C Nationals Park ballpark is located immediately south of the Property, across N Street, SE Except for a canopy remaining from the site's past use as a gas station, the Property is currently vacant and utilized as a temporary seasonal surface parking lot for baseball games

- 10 The Applicant intends to construct a mixed use apartment building with ground and second floor retail/service uses on the Property As shown in the Final Architectural Drawings, the proposed building will have a height of 130 feet and will measure approximately 268,971 square feet of gross floor area for an overall density of approximately 9.08 FAR as permitted pursuant to §§ 1602.1(a) and 1602.1(e) of the Zoning Regulations. The building also will include two below grade parking levels, including bicycle parking, in full satisfaction of the parking requirements of Chapter 21 of the Zoning Regulations The building also will comply with all applicable loading requirements of Chapter 22 of the Zoning Regulations, aside from providing a 55 foot loading berth, for which the Applicant has requested variance relief 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. The parking and loading facilities will be accessed from Van Street, to the east of the Property. 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.
- 11 As shown in the Final Architectural Drawings, 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 double-height retail/service, consisting largely of operable and moveable "window walls" and which will be further animated by distinctive tenant signage and treatments in areas identified in the Final Architectural Plans
- 12 The Applicant has treated the narrow Van Street façade with a similar level of attention and finish as the two 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 The Applicant also has continued the commercial uses up the Van Street frontage from its intersection with N Street 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.

- 13 The north, at-risk, façade of the building also has been treated with a heightened level of finish, including the large and glass-filled break created in the center of the north wall. This break, capped by a trellis, leads to an articulated penthouse structure on the main roof of the building, complete with large louvered 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 and green wall treatments.
- 14 Pursuant to the Commission's request for further study, the Applicant submit revised drawings showing the penthouse structure relocated such that it complies with the setback requirements of the Zoning Regulations. As a result, the Applicant requests permission from the Commission to withdraw the request for special exception approval for a penthouse not meeting the required setback dimensions. The Commission approves the Applicant's request to withdraw the penthouse special exception component of the application.
- 15 The building will incorporate a number of elements to enhance its sustainability, and the Applicant represented that it expects the finished building would qualify for at least LEED Silver NC 2009 certification. To that end, included in the Final Architectural Drawings, the Applicant submitted a draft LEED checklist identifying those elements and features the Applicant may pursue in satisfaction of its sustainability commitment.

Description of the Surrounding Area and Zoning Classification

- 16 The Property is located in the southern half of Square 700, which is bounded by M Street on the north, South Capitol Street on the west, Van Street on the east, and N Street on the south. The Property is bounded to its north by private property (Lot 44), which is improved with a five-story brick self-storage building. An office building with ground floor retail uses has been proposed for the northern portion of Square 700, fronting on M Street. To the east of the Property, across Van Street, in Square 701, the Commission has approved a mixed-use office, retail and residential project spanning from M Street to N Street. Nationals Park is located to the immediate south of the Property, across N Street, SE.
- 17 The Property is zoned CG/CR (Capitol Gateway Overlay / Commercial Residential), as are all the adjacent properties south of M Street and west of First Street. East of First Street the properties are zoned SEFC/CR (Southeast Federal Capital Overlay), and on the north side of M Street properties are zoned CG/C-3-C.
- 18 Within the CG Overlay, residential and nonresidential floor area on each individual parcel within the CR District shall not exceed a maximum building density of 8.5 FAR on parcels for which a height of 130 feet is permitted by the General Height Act of 1910, pursuant to 11 DCMR §1602.1(a). As a result of the Property's frontage on South Capitol Street, 130 feet of height is permitted under the Act.

- 19 Section 1602 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 covenant approved by the District of Columbia and recorded in the land records.
- 20 In addition to the amount of density that may be transferred in accordance with 11 DCMR §1602.1(a), 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 submitted this application for Zoning Commission review and approval. A combined lot development covenant has been recorded in the land records involving the necessary allocations of use and density to permit construction on the Property totaling up to 9.5 FAR.

Capitol Gateway Overlay District Design Requirements

The Project Meets the Requirements of Section 1605

- 21 The proposed project is subject to the requirements of Section 1605 of the Zoning Regulations because the new building will have frontage on South Capitol Street within the CG Overlay. The Commission finds that the project meets the requirements of § 1605.
- 22 As shown in the Final Architectural Drawings, the building complies with the requirement that 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 (§ 1605.2).
- 23 As shown in the Final Architectural Drawings, the building complies with the requirement that 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 (§ 1605.3).
- 24 The building complies with the requirement that 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. As shown in the Final Architectural Drawings, the below-grade parking garage and the building's loading facilities will be accessed from Van Street, SE (§ 1605.4).
- 25 As shown in the Final Architectural Drawings, the building complies with the requirement that a minimum of 60% of the street-wall shall be constructed on the setback line for each new building or structure located on South Capitol Street (§ 1605.5).

The Project Meets the Requirements of Section 1610

- 26 Sections 1610 1(c), 1610 1(d), 1610 1(f), and 1610 2 of the Zoning Regulations provide that new construction on a lot located within Square 700 or 701, north of the ballpark site, on a lot abutting South Capitol Street, or on any lot that is the recipient of density through the combined lot provisions of § 1602, require the review and approval of the Commission. Section 1610 3 of the CG Overlay provisions provides that in addition to demonstrating that the proposed building meets the standards set forth in Section 3104 of the Zoning Regulations, an applicant requesting approval under the CG Overlay provisions must also prove that the proposed building meets the requirements of §§ 1610 3 (a) through 1610.3(f) Section 3104 1 of the Zoning Regulations provides that special exceptions should be granted when "the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps " 11 DCMR § 3104 1
- 27 Section 1610 3 further provides that the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation of the proposed building must comply with the specific requirements set forth in that section, and must help achieve the objectives of the CG Overlay District as set forth in § 1600 2 of the Zoning Regulations. The Commission finds that the proposed building meets the requirements of § 1610 and is consistent with all of the applicable purposes of the CG Overlay
- 28 The proposed building's height and density 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 retail/service uses contemplated by the project will help foster an appropriate mix of uses within the square and the surrounding area (§ 1600 2(a))
- 29 The proposed building is planned to include significant space devoted to preferred retail or other preferred uses on the ground and second floors, including approximately 16-foot floor to floor heights This space will accommodate precisely the types of retail, service, and entertainment uses encouraged by the GC Overlay. (§ 1600.2(b))
- 30 The CG Overlay provides for the establishment of South Capitol Street as a monumental civic boulevard As shown in the Final Architectural Drawings, the design of the building, including the geometry, materials, and façade treatment all further the monumental focus of South Capitol Street (§ 1600.2(g))
- 31 The proposed project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the neighboring property in accordance with the Zoning Regulations and Zoning Map. The Commission finds that the project assures development of the area with a mixture of uses and a suitable height, bulk and design (§ 1610 3(a))
- 32 The proposed building will help achieve the desired mix of uses in the CG Overlay 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. The Commission finds that the ground and second level retail/service uses contemplated for the building along its three street frontages, with expansive floor to floor heights and façade treatment intended to emphasize the potential preferred uses and human scale, all of which help achieve the goals of the CG Overlay (§ 1610.3 (b))

33. The Commission finds that the height, bulk, and architectural design of the proposed building, as shown in the Final Architectural Drawings, will be in harmony with the context of the surrounding neighborhood and will have no effect on the existing street grid (§ 1610.3 (c))
34. The Commission finds that the proposed building has been sited to minimize conflicts between vehicles and pedestrians. 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 stacked its loading berths so as to minimize the width of the loading access curb cut and thereby further minimize potential conflicts. The Applicant's traffic impact study confirms that the project minimizes negative impacts to public space. (§ 1610.3 (d))
35. The Commission finds that the proposed building's facades have been designed to minimize unarticulated walls adjacent to public spaces through façade articulation. Through use of materials, breaks, and fenestration in the at-risk northern elevation of the Building, the Applicant minimizes unarticulated blank walls. (§ 1610.3 (e))
36. The proposed project will be designed with sustainability features which would qualify as LEED Silver should the Applicant pursue certification, and will have no significant adverse impacts on the natural environment. (§ 1610.3(f))
37. This application was referred to the Office of Planning ("OP") and the District Department of Transportation ("DDOT") for review (§ 774.6)

Loading Variance Request

38. 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 area variance relief from the loading requirement, set forth in section 2201.1 of the Zoning 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.

- 39 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.
- 40 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. The Commission finds that variance relief is appropriate in this application.
- 41 The Commission finds that 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.
- 42 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 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.

- 43 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 17 of the record, 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, 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.

Office of Planning Report

- 44 By report dated November 4, 2014, and marked as Exhibit 19 of the record in this case, OP indicated strong support for the project and recommended approval of the application. In its report, OP requested that the Applicant commit to achieve a higher LEED rating than the "Certified" level originally proposed and supported the requested loading and penthouse setback relief. OP recommended denial of the court variance request. OP indicated strong support for the overall design and materials palette proposed for the building.
- 45 As shown in the Final Architectural Drawings, the Applicant modified the architectural treatment along the north elevation to remove the court feature and correspondingly requested withdrawal of the court variance request. As also shown in the Final Architectural Drawings, the Applicant increased its sustainability commitment, as reflected in a revised LEED Scorecard, confirming to include sustainability elements in the project equivalent to a Silver level.
- 46 The report indicated that the proposed development does not require PUD or rezoning approval, and is generally consistent with most aspects of the zoning regulations, specifically height, FAR and use. The proposal is generally consistent with the Comprehensive Plan and would further certain Guiding Principles of the Plan, as outlined in Chapter 2, the Framework Element. The application is also consistent with major policies from various elements of the Comprehensive Plan including the Land Use, Transportation and Economic Development Citywide Elements, and the Lower Anacostia Waterfront / Near Southwest Area Element.

- 47 The report concluded that the project would generally further the objectives of the CG Overlay. The project would add a mix of uses to the area, including ground floor retail. The height and bulk of the building would be appropriate and as prescribed by the Comprehensive Plan, and would help establish South Capitol Street as a monumental civic boulevard. The proposal would provide residential and retail, appropriate uses in an area developing as a mixed use neighborhood with a focus on entertainment and hospitality uses, and the proposed development would respect and enhance the surrounding neighborhood and street patterns while generally helping to minimize conflict between vehicles and pedestrians. OP indicated no objection to the additional transfer of density through combined lot development pursuant to 11 DCMR § 1602.

DDOT Report

- 48 By report dated November 3, 2014, and marked as Exhibit 20 of the record in this case, DDOT provided its analysis regarding the parking, loading trip generation and vehicle turning impacts of the project on the District's transportation network. DDOT finds that the site is well served by both Metrorail and Metrobus, residents are likely to heavily utilize non-automobile modes of travel, new pedestrian trips will be introduced to Van Street, which lacks adequate pedestrian facilities, 110 secure, long-term bicycle spaces are proposed, truck access will utilize backing movement in the public space, and an acceptable loading management plan is proposed.
- 49 DDOT stated no objection to the application, with the condition that the Applicant should undertake the following: (a) complete the missing sidewalk link on the west side of Van Street to M Street; (b) provide a transportation information screen in the lobby displaying real time arrival/availability for nearby buses, trains, carshare and bikeshare; (c) install 11 short-term bicycle racks, the equivalent of 22 total bicycle spaces near the building's entrances, and (d) provide at least 1 parking space with a 240-volt electric car charging station located in the underground parking garage for use by the building's residents. The Applicant has agreed to implement these measures.
50. The Applicant also has committed to implement DDOT's additional proposed Transportation Demand Management (TDM) strategies set forth in its report, consisting of: (a) complying with Zoning requirement to provide bicycle parking/storage; (b) identifying a TDM leader for the building; (c) dedicating two parking spaces as available for a car sharing service, and (d) hosting a transportation mobility fair six months after the building's opening.
- 51 At the public hearing, DDOT indicated its support for the Applicant's request for variance relief from the requirement to provide a 55 foot loading berth based upon the loading proposed for the building and the Applicant's commitment to implement the loading management plan established in the DDOT report, consisting of: (a) requiring all tenants to schedule deliveries in advance to the extent possible; (b) restricting delivery times to between 7:00 am and 4:00 pm seven days per week, except for when events occur at Nationals Park; (c) restricting delivery times on event days for the period between two

hours before an event begins until one hour after the event ends; (d) assigning a building management representative to supervise all deliveries for trucks 30-feet or longer, (e) posting a sign in a visible location within the building stating that all loading activities must be scheduled through building management; and (f) requiring that trucks using the loading dock not be allowed to idle and must follow all District guidelines for heavy vehicle operation. The Applicant confirmed its agreement to the terms of the loading management plan.

CONCLUSIONS OF LAW

- 1 The application was submitted pursuant to 11 DCMR §§ 1605 and 1610 for special exception review and approval by the Commission, and pursuant to § 1607 for variance approval.
- 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, the Office of Planning, and owners of property within 200 feet of the site.
- 3 Pursuant to 11 DCMR §§ 1605.1 and 1610.1, the Commission required the Applicant to satisfy all applicable requirements set forth in 11 DCMR §§ 1605.2 through 1605.5 and §§ 1610.2 through 1610.7. 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) 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 § 1600.2 and will promote the desired mix of uses set forth therein. The design of the proposed building meets the purposes of the Capitol Gateway Overlay and meets the specific design requirements of § 1605 of the Zoning Regulations.
6. No person or parties appeared at the public hearing in opposition to the application.
- 7 The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A)(2001) to give "great weight" to the issues and concerns of the affected ANC. The ANC voted 7-0-0 in support of the proposed project and submitted its report supporting the project on October 26, 2014.
- 8 Based upon the record before the Commission, including witness testimony, the reports submitted by the Office of Planning, 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 §§ 1605 and 1610 and 3103.2 and 2200.1.

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. This approval is subject to the following guidelines, standards, and conditions:

- 1 The approval of the proposed development shall apply to Lots 37, 38, 39, 45, 46, 803 and the closed alley, all in Square 700
- 2 The project shall be built in accordance with the Final Architectural Drawings, dated October 24, 2014, as modified by the drawings submitted by the Applicant following the public hearing in response to questions raised by the Commission, and the guidelines, conditions, and standards below (Exhibits 18 and 27)
- 3 The overall density on the site shall not exceed 9.5 FAR as permitted pursuant to Section 1602 of the Zoning Regulations, and pursuant to the Zoning Commission's approval of this application
- 4 The Applicant shall implement the transportation demand management and loading management measures set forth in the DDOT report, as agreed to by the Applicant
- 5 The Applicant shall have flexibility with the design of the project in the following areas:
 - 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,
 - To vary the final selection of the exterior materials within the color ranges and material types (maintaining the same general level of quality) as proposed, based on availability at the time of construction,
 - To make refinements to exterior materials, details, and dimensions, including beltcourses, 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
 - To vary the exterior design and materials of the ground floor retail/service space based on the preferences of the individual tenant/occupant. The Applicant will not permit the individual tenant/occupant to modify the building footprint, or reduce the quality of the materials used on the exterior of the ground floor of the Project, as shown in the plans submitted with this application

- 6 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 *et seq* (the "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, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business Sexual harassment is a form of sex discrimination that 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 Violations will be subject to disciplinary action. The failure or refusal of the Applicant to comply with the Act shall furnish grounds for the denial or, if issued, the revocation of any building permits or certificates of occupancy issued pursuant to this Order

On January 12, 2015, the Zoning Commission approved this application by a vote of [] (Anthony J Hood, Marcie I Cohen, Peter G May, Robert Miller, Michael G. Turnbull,)

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D C Register*, that is on _____

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA BENJAMIN BARDIN
DIRECTOR
OFFICE OF ZONING