

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

Application of 1244 South Capitol Residential, L.L.C.

**Square 700, Lots 37, 38, 39, 45, 46, 803 and alley to be closed
1244 South Capitol Street, SE**

**REVIEW OF BUILDINGS AND STRUCTURES ON
SOUTH CAPITOL STREET
CAPITOL GATEWAY OVERLAY DISTRICT**

I. Background

The Property consists of Lots 37-39, 45, 46 and 803 in Square 700, along with an east-west alley in the process of being closed, with a total lot area of approximately 29,626 square feet. Square 700 is bounded by M Street, SE, on the north, South Capitol Street on the west, Van Street, SE, on the east, and N Street, SE, on the south. The Property is located in the southern portion of the square, with frontage on N Street, South Capitol Street, and Van Street. It is also bounded to its north by private property (Lot 44), which is improved with a five-story brick building and is occupied by a self-storage operator. The Property is included in a CR Zone District and is located in the Capitol Gateway (CG) Overlay District. The Property is currently utilized as a temporary seasonal surface parking lot for baseball games.

The Applicant, 1244 South Capitol Residential, L L C , proposes to develop the Property with a new 13-story apartment building with ground and second floor retail. Three levels of below-grade parking will be provided with access from Van Street, SE. Overall building height will not exceed 130 feet, and total gross floor area will total approximately 271,160 square feet. Approximately 290 dwelling units (+/- 10 percent) are proposed for the building.

The CG Overlay District regulations require review by the Zoning Commission of any proposed building on a lot in the CG overlay that satisfies any of the following criteria: (1) is located within Square 700, or (2) abuts South Capitol Street. The Property is subject to both of these criteria. As such, this application is submitted pursuant to sections 1605 and 1610 of the Zoning Regulations.

Following herein, is a preliminary statement indicating how the Applicant meets its burden of proof.

**ZONING COMMISSION
District of Columbia**

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EXHIBIT NO. 4

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II. Burden of Proof

A. Capitol Gateway Overlay District

1. Section 1610.3

Section 1610.3 of the Zoning Regulations states that an Applicant requesting approval under the CG Overlay District review provisions must demonstrate that the proposed building's architectural design, siting, landscaping, sidewalk treatment, and operation are of a superior quality, pursuant to several design and use requirements. As set forth below and will be supplemented by the Applicant at the public hearing and in its prehearing submission, the application satisfies the criteria of section 1610.3, as follows:

a *Help Achieve the Objectives of the CG Overlay as set forth in §1600.2*

The Project satisfies the following stated objectives for the CG Overlay, as provided in section 1600.2, including (1) assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, (2) encouraging a variety of support and visitor-related uses, such as retail, service, entertainment, and other uses; and (3) providing for the establishment of South Capitol Street as a monumental civic boulevard.

To that end, the Project will provide approximately 245,529 square feet of new residential use and approximately 25,811 square feet of retail uses in a vibrant new building with public frontages on three streets, including a principal street central to the design objectives of the CG Overlay, namely South Capitol Street.

b *Help Achieve the Desired Mix of Uses in the CG Overlay District as set forth in §§ 1600.2(a) and (b)*

The project provides a mix of residential and retail uses in furtherance of the objectives of the CG Overlay.

c *Be in Context with Surrounding Neighborhood and Street Patterns*

As demonstrated in the enclosed drawings set, the project is contextual to the surrounding neighborhood and street patterns, offering distinct façade designs for each of the building's elevations. Ground floor retail wraps around all three of the building's street frontages. Entrance to the residential portion of the building, along with parking and loading operations, is provided on the least trafficked of the three streets, Van Street, maximizing the retail linear frontage along South Capitol Street.

d *Minimize Conflict between Vehicles and Pedestrians*

As noted above, the loading and parking operations for the building occur on the least trafficked of the three street frontages, along Van Street. Pursuant to section 1605.4 of the

Zoning Regulations, no driveway may be constructed or used from South Capitol Street. Where the loading and parking operations occur along Van Street, the pedestrian will have an uninterrupted sidewalk with similar paving patterns to the typical Van Street sidewalks and public space. The vehicular entrances will ramp up to the sidewalk, further calming all traffic entering or exiting the site.

e *Minimize Unarticulated Blank Walls Adjacent to Public Spaces through Façade Articulation*

The building offers extensive façade articulation across all four elevations, including the at-risk north elevation along the lot line it shares with Lot 44. Along South Capitol Street, the building provides a significant courtyard above the sixth level. Facades along each of the street elevations provide a subtle layering including angled fenestration, bay projections and a mixture of masonry and metal and glass. While providing a unified palette of materials, each of the building's elevations offer a distinct and richly articulated façade treatment.

f *Minimize Impact on the Environment (LEED)*

The Applicant is still in process of exploring opportunities to maximize sustainability in the design, construction and operation of the building. At this time, the Applicant contemplates that the building would meet LEED NC certification standards if pursued. A draft LEED checklist is included with the enclosed drawings set.

2. Section 1610.6 – South Capitol Street

Given the Property's location fronting along South Capitol Street, SE, the following additional considerations must be incorporated into the design and operation of any new construction.

a *The building shall incorporate massing, materials, and buildings and streetscape landscaping to further the design and development of properties in a manner that is sensitive to the establishment of South Capitol Street, SE, as monumental civic boulevard*

The building has been specially designed to reflect and respond to the vision of the monumental character of South Capitol Street.

b *The building shall incorporate massing, location of access to parking and loading, and location of service areas to recognize the proximate residential neighborhood use and context, as applicable*

Given the building's frontage on both South Capitol and N Streets, the preferred location for the ingress and egress from parking and loading and service areas is off Van Street, which is what is shown on the plans. This best recognizes the proximate uses and context of the site within the overlay.

- c *The application shall include a view analysis that assesses the openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront*

The Applicant has provided the required view analysis as part of its package of architectural drawings submitted herewith (Sheets A407 and A412). As shown therein, the building will have no detrimental impact on views and vistas of the identified monumental properties and focus areas

3. Section 1605 – South Capitol Street

As a result of the Property's frontage along South Capitol Street, any new development thereon is required to comply with the following additional restrictions

- a *Each new building shall be set back for its entire height and frontage not less than fifteen feet*

The building's design complies with this restriction

- b *Any portion of a building that exceeds 110 feet in height shall provide an additional one-to-one setback from the building line along South Capitol*

The building's design complies with this restriction, as identified at Sheet A501 of the attached drawings.

- c *No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to building*

The building's design complies with this restriction

- d *For each new building located on South Capitol Street, a minimum of 60 percent of the street-wall shall be constructed on the setback line*

The building's design complies with this restriction

B. Area Variance Relief and Special Exception Approval

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 court requirement, set forth in section 638 2 of the Zoning Regulations, and special exception approval to provide a penthouse that does not meet the 1 1 setback requirement of section 630 4(b)

1. Area Variance from Court Requirement:

The Applicant 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 further addressed in the Applicant's prehearing submission and at the public hearing, variance relief is appropriate in this application.

a 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 establishes required setbacks, percentage of street wall requirements and prohibitions in terms of location of required loading and parking egress.

b 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 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. The Applicant is proposing a court that is 10 feet wide and contains an area of approximately 330 square feet. The Regulations require that for a building that is 110 feet in 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 will result in a significant portion of the residential building that will not be able to have access to natural light

c 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.

2. Penthouse Setback Special Exception

Special exception approval also is required from the roof structure 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 the required 11' distance along the open court of the building. All other portions of the roof structure comply with the setback requirement from exterior walls, particularly where the roof structures are on walls parallel to a street.

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 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 11' 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 40 feet back from the western elevation of the building. For the above stated reasons, special exception relief from the roof setback requirement of section 630 4(b) is appropriate in the instant case.