

Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

August 6, 2015

VIA IZIS AND HAND DELIVERY

Zoning Commission
of the District of Columbia
441 4th Street, N.W., Suite 210
Washington, DC 20001

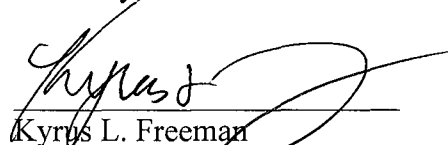
Re: Zoning Commission Case No. 14-19 – 300 M Street, N.E.
Applicant's Proposed Proffers and Conditions

Dear Members of the Commission:

On behalf of M Street Development Group, LLC and Square 772 Development Group, LLC, (the "Applicant"), we hereby submit the Applicant's list of proffers and corresponding conditions, in compliance with the Zoning Commission's procedures of 11 DCMR § 2403.15 *et seq.*

Thank you for your attention to this matter.

Sincerely,



Kyros L. Freeman
Jessica R. Bloomfield
800 17th Street, N.W. #1100
Washington, DC 20006
(202) 955-3000

Enclosure

cc: Alan Bergstein, D.C. Office of the Attorney General (w/enclosure, via Email)
Jacob Ritting, D.C. Office of the Attorney General (w/enclosure, via Email)
Advisory Neighborhood Commission 6C (with enclosures, Via U.S. Mail)
Tony Goodman, Single Member District 6C06 (with enclosures, Via U.S. Mail)
Stephen Cochran, D.C. Office of Planning (with enclosures, Via U.S. Mail)
Anna Chamberlin, District Department of Transportation (with enclosures, Via U.S. Mail)
Jay Wilson, District Department of the Environment (with enclosures, Via U.S. Mail)

Z.C. Case No. 14-19
M Street Development Group, LLC and Square 772 Development Group, LLC
Consolidated PUD and Related Map Amendment @ Square 772, Lots 1, 2, 6, 7, 19, 801, 802

<u>PROFFER</u>	<u>CONDITION</u>
<u>Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a))</u> - The building will have a positive impact on the visual and aesthetic character of the immediate neighborhood and will further the goals of urban design while enhancing the streetscape. The project is sensitive to its varied context and responds in size, form, and in its use of materials. The organization of the ground floor provides a sense of neighborhood activity and security at the street level, and the overall project involves a significant amount of landscape, garden, and open space features.	The PUD shall be developed in accordance with the Architectural Plans and Elevations dated June 19, 2015, (Ex. 23A), as modified by the revised architectural plans submitted at Exhibits 29 and 35A (together, the “Plans”), as modified by the guidelines, conditions and standards of this Order. In accordance with the Plans, the PUD shall be a mixed-used project consisting of approximately 418,798 square feet of gross floor area (6.21 FAR), with approximately 408,496 square feet of gross floor area devoted to residential use and approximately 10,302 square feet of gross floor area devoted to retail use. The project shall have 416 residential units, plus or minus 10%, and shall have a maximum height of 110 feet.
<u>Housing and Affordable Housing (11 DCMR § 2403.9(f))</u> – The Applicant will develop a total of approximately 408,496 square feet of gross floor area for new housing. Of the housing, a minimum of 8% (approximately 32,680 square feet of gross floor area and 35 units) will be devoted to IZ units. Within that 8%, approximately 26,993 square feet of gross floor area (28 units) will be devoted to households earning up to 80% of the AMI, and approximately 5,687 square feet of gross floor area (7 units) will be devoted to households earning up to 50% of the AMI. Given that the PUD Site’s existing zoning does not permit any residential use as a matter-of-right, all of the housing and affordable housing proposed for the PUD Site is treated as a project amenity pursuant to 11 DCMR § 2403.9(f).	The PUD shall be developed in accordance with the Architectural Plans and Elevations dated June 19, 2015, (Ex. 23A), as modified by the revised architectural plans submitted at Exhibits 29 and 35A (together, the “Plans”), as modified by the guidelines, conditions and standards of this Order. <u>Prior to the issuance of a Certificate of Occupancy for the building and for the life of the project,</u> the Applicant shall dedicate a minimum of 8% of the residential gross floor area of the building, as computed by the CIZC Form (approximately 32,680 square feet of gross floor area and 35 units) to IZ units. Within that 8%, approximately 26,993 square feet of gross floor area (28 units) shall be devoted to households earning up to 80% of the AMI, and approximately 5,687 square feet of gross floor area (7 units) shall be devoted to households earning up to 50% of the AMI. The IZ units shall maintain affordability in accordance with all applicable requirements of Chapter 26 of the Zoning Regulations.

<u>Environmental Benefits (11 DCMR § 2403.9(h))</u> – The Applicant will ensure environmental sustainability through the implementation of sustainable design features and strategies to enhance the sustainable nature of the Property’s mixed-use, transit-rich location and to promote a healthy lifestyle for the project's residents. The project provides a host of environmental benefits consistent with the recommendations of subsection 2403.9(h), and the building will achieve LEED Gold certification under the USGBC’s LEED for New Construction v2009. The project will integrate many sustainable features, including green roofs, street-level stormwater collection/ bioretention planting areas, sustainable building materials, street and interior bike parking, provisions for electric car-charging stations in the parking garage, and an energy efficient building design and systems. The project will dedicate rooftop space to accommodate a apiary/bee hive, and will also incorporate PV panels to achieve 1% renewable energy for the building. If the Applicant is unable to achieve 1% renewable energy, it will instead demonstrate a minimum 26% savings relative to the appropriate baseline for the project as defined by ASHRAE 90.1-2007 Appendix G - Performance Rating Method and following the LEED v2009 EAp2: Minimum Energy Performance calculation methodology.	The PUD shall be developed in accordance with the Architectural Plans and Elevations dated June 19, 2015, (Ex. 23A), as modified by the revised architectural plans submitted at Exhibits 29 and 35A (together, the “Plans”), as modified by the guidelines, conditions and standards of this Order. <u>Prior to the issuance of a building permit,</u> the Applicant shall register the project with the USGBC to commence the LEED certification process under the USGBC’s LEED for New Construction v2009 standards. Within twelve months after the issuance of the Certificate of Occupancy, the Applicant shall submit a completed certification application to USGBC for review for LEED Gold certification by the Green Building Certification Institute or similar organization. <u>For the life of the project,</u> the Applicant shall dedicate rooftop space to accommodate and allow for an apiary/bee hive to be installed and maintained by residential or retail tenant(s). <u>Prior to the issuance of a Certificate of Occupancy for the building and for the life of the project,</u> the Applicant shall install rooftop PV panels to achieve 1% renewable energy for the building. In the alternative, if the Applicant is unable to achieve 1% renewable energy, the Applicant shall instead demonstrate a minimum 26% savings relative to the appropriate baseline for the project as defined by ASHRAE 90.1-2007 Appendix G - Performance Rating Method and following the LEED v2009 EAp2: Minimum Energy Performance calculation methodology.
d) <u>Transportation Benefits (11 DCMR §2403.9(c))</u> – The Applicant incorporated a number of elements designed to promote effective and safe vehicular and pedestrian access to the PUD Site, convenient connections to public transit services, and onsite amenities such as bicycle parking and	<u>Prior to issuance of a Certificate of Occupancy for the building and for the life of the project,</u> the Applicant shall undertake the following activities to promote effective and safe vehicular and pedestrian access to the PUD Site:

sufficient vehicular parking. The Applicant will undertake the following improvements:

- a. Widen by permanent easement the east-west alley located along the northern property line from 14.75' x 149.8' to 24' x 149.8', as shown on Sheets C01 and C07 of the Plans, which constitutes a significant improvement and will facilitate safe vehicular movement;
- b. Eliminate a total of eight existing curb cuts along the north side of M Street, the east side of 3rd Street, and the west side of 4th Street, which will restore approximately 265 linear feet of curb face for public parking;
- c. Request that DDOT remove the existing "Police Parking Only" spaces located on the east side of 3rd Street, adjacent to the PUD Site, which will result in the return of curb-side space to public on-street parking; and
- d. Furnish and install approximately 16 bicycle racks at the street level for public use. A minimum of two of the 16 bike racks will be installed along M Street.

The Applicant will implement the following transportation demand management ("TDM") strategies:

- a. Designate a TDM Coordinator to be responsible for organizing and marketing the TDM plan and serving as a point of contact with DDOT;
- b. Price all on-site parking at market rates at minimum, defined as the average cost for parking in a 0.25 mile radius from the PUD Site. All residential parking will be unbundled

- a. Widen by permanent easement the east-west alley located along the northern property line from 14.75' x 149.8' to 24' x 149.8', as shown on sheets C01 and C07 of the Plans;
- b. Eliminate a total of eight existing curb cuts along the north side of M Street, the east side of 3rd Street, and the west side of 4th Street;
- c. Request that DDOT remove the existing "Police Parking Only" spaces located on the east side of 3rd Street, adjacent to the Property; and
- d. Furnish and install approximately 16 bicycle racks at the street level for public use, with a minimum of two of the 16 bike racks installed along M Street.

Prior to issuance of a Certificate of Occupancy for the building and for the life of the project, the Applicant shall provide the following TDM strategies:

- a. Designate a TDM Coordinator to be responsible for organizing and marketing the TDM plan and serving as a point of contact with DDOT;
- b. Price all on-site parking at market rates at minimum, defined as the average cost for parking in a 0.25 mile radius from the PUD Site, and unbundle all residential parking from

from the cost of leasing apartments or purchasing condos; c. Provide bicycle parking that meets the existing regulatory minimums. Include a bicycle maintenance area in the bicycle room with a bike pump and toolset; d. Display an electronic message board in the residential lobby of the building that provides information on public transportation and other alternative transportation modes; e. Include in its residential leases a provision that prohibits tenants from obtaining a Residential Parking Permit ("RPP") from the D.C. Department of Motor Vehicles ("DMV"), under penalty of lease termination; f. Distribute move-in transportation welcome packets to each resident upon move in. The packets will include information such as: i. Promotion for DDOT's goDCgo website, ii. Brochures on carsharing, ridesharing, and bikesharing programs, iii. Tips on smartphone applications and websites to use to navigate public transportation options, iv. Maps for nearby bicycle routes and lanes, v. Maps for Metrorail, Metrobus and DC Streetcar routes, and	the cost of leasing apartments or purchasing condos; c. Provide bicycle parking that meets the existing regulatory minimums and include a bicycle maintenance area in the bicycle room with a bike pump and toolset; d. Display an electronic message board in the residential lobby of the building that provides information on public transportation and other alternative transportation modes; e. Include in its residential leases a provision that prohibits tenants from obtaining an RPP from the DMV under penalty of lease termination. <u>Upon initial residential move-in and for the life of the project,</u> the Applicant shall distribute move-in transportation welcome packets to each resident. The packets shall include information such as: i. Promotion for DDOT's goDCgo website, ii. Brochures on carsharing, ridesharing, and bikesharing programs, iii. Tips on smartphone applications and websites to use to navigate public transportation options, iv. Maps for nearby bicycle routes and lanes, v. Maps for Metrorail, Metrobus and DC Streetcar routes, and
---	---

vi. Information on how to efficiently maintain cars to maximize fuel efficiency. g. Offer an annual Capital Bikeshare membership to all initial renters of each residential unit and to the first 20 retail employees of the retailers in the building for the first three years that the project is open.	vi. Information on how to efficiently maintain cars to maximize fuel efficiency. <u>Upon initial residential and retail move-in and for the first three years after the issuance of a Certificate of Occupancy for the building</u>, the Applicant shall offer an annual Capital Bikeshare membership to all initial renters of each residential unit and to the first 20 retail employees of the retailers in the building.
<u>First Source Employment Agreement (11 DCMR § 2403.9(j))</u> – The Applicant will submit to the Department of Consumer and Regulatory Affairs (“DCRA”) a First Source Employment Agreement executed by the Applicant, consistent with the First Source Employment Agreement Act of 1984 and the Apprenticeship Requirements Amendment Act of 2004, and in substantially the same form as the First Source Employment Agreement included in the record as Exhibit 16I.	<u>Prior to the issuance of a Certificate of Occupancy</u>, the Applicant shall submit to DCRA evidence that the Applicant executed and submitted a First Source Employment Agreement to DOES, consistent with the First Source Employment Agreement Act of 1984 and the Apprenticeship Requirements Amendment Act of 2004, and in substantially the same form as the First Source Employment Agreement included in the record as Ex. 16I.
<u>Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(I))</u> – The Applicant will make the following contributions: a. Spend up to \$50,000 for the installation of public art on M Street at the terminus of Abbey Place; b. Contribute \$20,000 to Two Rivers Public Charter School for the relocation of concrete benches and sidewalk repair;	<u>Prior to the issuance of a Certificate of Occupancy for the building</u>, the Applicant shall submit to DCRA evidence that the Applicant has made the following contributions or expenditures. The Applicant shall provide proof to the Zoning Administrator that the items or services funded have been or are being provided in order to obtain a Certificate of Occupancy. The Applicant shall: a. Commission an artist for the installation of public art (in an amount up to \$50,000) on M Street at the terminus of Abbey Place; b. Contribute \$20,000 to Two Rivers Public Charter School for the relocation of concrete benches and sidewalk repair;

c. Contribute \$10,000 to Planned Parenthood of Metropolitan Washington for the purpose of purchasing furniture and equipment for the organization's community room; d. Contribute \$25,000 to Playable Art DC, a play and place-making initiative in partnership with OP and the District Department of Parks and Recreation ("DPR"), which brings innovative art-based play spaces to neighborhoods with underserved park space in the District through a design competition. The \$25,000 contribution will be made to a new Playable Arts DC site at one of the following locations: 1200 block of 4th Street, N.E.; the corner of N Street and Florida Avenue, N.E.; or along the Metropolitan Branch Trail between M Street and L Street; e. Contribute \$50,000 to WMATA for the installation of two additional fare gates/turnstiles at the M Street exit of the NoMa Metrorail station to increase capacity during rush hour; f. Install the following improvements adjacent to the PUD Site's property line on the north side of M Street, the east side of 3rd Street, and the west side of 4th Street: i. Replace the sidewalk with a new granite curb and gutter. Paving will include upgraded accent bands and granite cobble pavers, subject to DDOT approval, ii. Plant approximately 20 new canopy trees and 20 new ornamental trees,	c. Contribute \$10,000 to Planned Parenthood of Metropolitan Washington for the purpose of purchasing furniture and equipment for the organization's community room; and d. Contribute \$25,000 to Playable Art DC for a play and place-making initiative in partnership with OP and DPR to bring an innovative art-based play space to a neighborhood with underserved park space in the District through a design competition. The space will be located at one of the following locations: 1200 block of 4th Street, N.E.; the corner of N Street and Florida Avenue, N.E.; or along the Metropolitan Branch Trail between M Street and L Street; e. Contribute \$50,000 to WMATA for the installation of two additional fare gates/turnstiles at the M Street exit of the NoMA Metrorail station to increase capacity during rush hour; f. Install the following improvements adjacent to the PUD Site's property line on the north side of M Street, the east side of 3rd Street, and the west side of 4th Street: i. Replace the sidewalk with a new granite curb and gutter. Paving shall include upgraded accent bands and granite cobble pavers, subject to DDOT approval, ii. Plant approximately 20 new canopy trees and 20 new ornamental trees,
---	---

iii. Install planters and trash receptacles for public use, iv. Install Washington Globe street lights and other street level lighting, and v. Install bioretention planters along the north side of M Street. g. Expend up to \$140,000 to make the following off-site improvements: i. Demolish the existing sidewalk at the south side of the 300 block of M Street and replace it with a new sidewalk, curb, and gutter, in compliance with DDOT standards and specifications. The new sidewalk will be brick to match the existing condition; and ii. Replace existing street lights with NoMa's standard Washington Globe fixtures at the following locations: (a) on the south side of the 300 block of M Street; (b) Abbey Place; (c) 1100 block of 3rd Street – East Side Only; (d) 1100 block of 4th Street; (e) 400 block of M Street. Replacement of fixtures is subject to availability and adequate capacity of existing street light electrical infrastructure. iii. The \$140,000 will be allocated first to the work identified in section (i), and any remaining	iii. Install planters and trash receptacles for public use, iv. Install Washington Globe street lights and other street level lighting, and v. Install bioretention planters along the north side of M Street. <u>Prior to the issuance of a Certificate of Occupancy for the building</u>, the Applicant shall expend up to \$140,000 to make the following off-site improvements, or shall post a deposit with DDOT of up to \$140,000 to make the following off-site improvements: a. Demolish the existing sidewalk at the south side of the 300 block of M Street and replace it with a new sidewalk, curb, and gutter, in compliance with DDOT standards and specifications. The new sidewalk shall be brick to match the existing condition; and b. Replace existing street lights with NoMa's standard Washington Globe fixtures at the following locations: (a) on the south side of the 300 block of M Street; (b) Abbey Place; (c) 1100 block of 3rd Street – East Side Only; (d) 1100 block of 4th Street; (e) 400 block of M Street. Replacement of fixtures is subject to availability and adequate capacity of existing street light electrical infrastructure. c. The \$140,000 shall be allocated first to the work identified in section (i),
---	---

proceeds will then be allocated to the work in section (ii).	and any remaining proceeds shall then be allocated to the work in section (ii).
--	---