

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

**Application of SQ700 Trust L.L.C.
Square 700, Lots 43 and 866**

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

I. Background

The Property consists of Lots 43 and 866 in Square 700 with a total lot area of approximately 35,558 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 northern portion of the square, with frontage on M Street, South Capitol Street, and Van Street. It is also bounded to its south 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.

SQ700 Trust L.L.C., on behalf of AG/MR SQ700 Office Owner, L.L.C., and AG/MR SQ700 Residential Owner, L.L.C. ("Applicant"), proposes to develop the northern portion of the Property with a new 10-story office building with ground floor retail/preferred uses. 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 for the building will total approximately 128,726 square feet. The Applicant is currently finalizing proposed drawings for a 13-story multi-family residential building to occupy the southern portion of the Property and plans to submit application for the project to the Zoning Commission in the very near future. While the two buildings are contemplated to operate as separate buildings and will not be connected, they ultimately will share a single record lot once the current lots comprising the Property are consolidated by subdivision plat. Access to the parking garage for the office building will be provided under a portion of the residential building.

As the Commission is aware, the Applicant recently withdrew a longstanding pending application (09-22) related to the Property submitted by the previous owner of the Property, which application proposed an office building with ground floor preferred uses. Advisory Neighborhood Commission (ANC) 6D, the ANC within whose boundaries the Property is located, expressed opposition to the earlier design as not sufficiently addressing the unique and important gateway location of the Property into the neighborhood along M Street as well as its important location along this stretch of South Capitol. As demonstrated in the enclosed drawings, the design for the building has been completely reconsidered, with a focus on the Property's unique and important location in this neighborhood, including opposite the historic St.

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Vincent De Paul Church immediately across M Street, as well as the efforts to a more monumental presence along South Capitol Street. Further driving the innovative design for the new office building is the fact that it has been uniquely designed for its future occupant, the National Association of Broadcasters, which sought out the prominent site in order to relocate its headquarters to this burgeoning and increasingly vibrant community.

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) abuts M Street, SE; (2) is located within Square 700; or (3) abuts South Capitol Street. The Property is satisfies all of these criteria. As such, this application is submitted pursuant to sections 1604, 1605 and 1610 of the Zoning Regulations.

The application also includes a request for variance from the requirement of section 1604.3, which regards street-wall setbacks for buildings along M Street, SE, and for special exception approval relating to penthouse setbacks for CR-zoned properties, as set forth in section 630.4(b). The Zoning Commission is authorized to approve such relief pursuant to section 1610.7 of the Zoning Regulations.

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

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) requiring suitable ground-level retail and service uses and adequate sidewalk width along M Street, SE, near the Navy Yard Metrorail station; (3) encouraging a variety of support and visitor-related uses, such as retail, service, entertainment, and other uses; and (4) providing for the establishment of South Capitol Street as a monumental civic boulevard.

To that end, the Project will provide offer approximately 128,726 square feet of new commercial use, including approximately 4,764 square feet of ground floor retail/preferred uses in a vibrant new building with public frontages on three streets, including two principal streets

central to the design objectives of the CG Overlay, namely M Street and South Capitol Street, SE. The building design includes significant ground level setbacks along both frontages, assuring adequate sidewalk width along M Street and facilitating establishment of South Capitol Street as a monumental boulevard.

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 commercial and support retail/preferred 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 and providing an innovative design to connect the distinct characters of each of the street frontages as well as immediately neighboring buildings.. Entrance to the parking and loading operations, is provided from Van 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 sections 1604.2 and 1605.4 of the Zoning Regulations, no driveway may be constructed or used from M Street, SE, or 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 three street elevations. These facades are distinctly and extensively articulated through irregular patterns and mixture of materials and fenestration.

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 will meet LEED CS-2009 Silver 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, 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 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, as reflected in the linear massing and extensive use of cast stone materials.

- 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 M Streets, the preferred and only available location for the ingress and egress from parking and loading and service areas is from Van Street, as 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 33 and 34). As shown therein, the building will have no detrimental impact on views and vistas of the identified monumental properties and focus areas.

3. Section 1604 – M Street, SE

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

- a. *No driveway may be constructed or used from M Street to required parking spaces or loading berth areas in or adjacent to building*

The building's design complies with this restriction.

- b. *The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than 15 feet measured from the face of the adjacent curb along M Street, SE.*

The building's design employs a wave-like projection at the third level and above along a portion of its M Street façade and thus does not comply with this restriction. Area variance relief is requested from this requirement, as discussed below.

- c. *Each new building shall devote not less than 35 percent of the ground floor GFA to preferred retail, service, entertainment or arts uses, and such preferred uses shall occupy 100 percent of the building's street frontage along M Street except for space devoted to entrances or for fire control.*

The building will comply with this restriction.

- d. *The Zoning Commission may authorize interim occupancy of the preferred use space for non-preferred uses for up to a five-year period*

At this point, the Applicant does not contemplate requesting permission to occupy the ground floor space for non-preferred uses.

- e. *Not less than 50 percent of the surface area of the street-wall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass except for decorative accent, and to entrances to commercial uses of the building*

The building's design complies with this restriction.

- f. *The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen feet*

The building's design complies with this restriction.

- g. *Where preferred use retail space is required under this section and provided, the requirement of section 633 of the Regulations to provide public space at ground level shall not apply.*

Preferred retail and service uses are required for new construction on the Property.

4. 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 24 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 requirement that the streetwall of each new building shall be set back for its entire height and frontage along M Street, SE, not less than fifteen feet from the face of the adjacent curb, as set forth in section 1604.3 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 M Street Setback requirement:

The Applicant requests area variance relief to provide an unusual wave-like projection along the third level and above along the M Street elevation, along with a small awning above

the building entrance. This wave-like projection is paired with a similarly-dimensioned wave-shaped recess carved into the M Street façade. Because the Zoning Regulations require that the streetwall along M Street setback for its entire height and frontage along M Street not less than fifteen feet, the Applicant requests variance relief.

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 fronts on three streets within the CG Overlay, arguably the most prominent intersection within the Overlay, and as such is exceptional in being subject to multiple required setbacks, percentage of street wall requirements and prohibitions in terms of location of required loading and parking egress. The exceptional nature of the Property is further demonstrated through the history of the Zoning Commission's earlier review in Application No. 09-22, wherein the Zoning Commission expressed its concurrence with the position of ANC 6D that the Property was a uniquely sited property of exceptional importance to the neighborhood and, as such, required exceptional design.

b. Resulting Practical Difficulty

The strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant in that it will significantly constrain the Applicant's efforts to provide an exceptional design for this unusual and extremely prominent property, with significant frontages and related design requirements along both its primary facades. The wave-shaped projection, coupled with the related wave-shaped indentation in the M Street façade, allows the design to transition from the solid linear massing provided to emphasize the monumentality along South Capitol Street to the more active and pedestrian-focused M Street elevation. Absent relief from the setback requirement, the Applicant's efforts to provide an iconic focal point at this critical intersection while harmoniously relating the designs of the principal facades of this corner location will be significantly compromised.

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 projection will provide an interesting visual element from both vantages along M Street as well as from traffic along southbound South Capitol Street. Furthermore, given that the projection does not begin until the third level of the building and above, there will be no negative impact upon pedestrian traffic along M Street, as provided in section 1600.2(e). Please see Sheets 31-33 of the enclosed drawings.

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 1:1 distance along one small "pinch point" of the penthouse, where a setback with a ratio of roughly 0.84:1 is provided. 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 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 18'6" tall penthouse that does not technically comply with the 1:1 setback is that portion that is immediately adjacent to the elevator control room in order to provide adequate access to that space. In turn, the location of the elevators is required by the location and dimension of the loading facilities in the building as well as the curvature proposed for the design of the building. In this one location of the penthouse, a slightly reduced setback of 15'5" is provided. Please see Sheets 19 and 20 of the enclosed drawings. For the above stated reasons, special exception approval from the penthouse setback requirement of section 630.4(b) is appropriate in the instant case.