

**SQUARE 700, LOT 48
CAPITOL GATEWAY OVERLAY DISTRICT**

PREHEARING STATEMENT OF THE APPLICANT

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

Z.C. CASE NO. 15-23

OCTOBER 16, 2015

HEARING DATE: November 5, 2015

**HOLLAND & KNIGHT LLP
800 17th Street, NW
Suite 1100
Washington, DC 20006
(202) 955-3000
Dennis R Hughes**

I.

INTRODUCTION

This statement is submitted on behalf of SQ700 Trust L L C (the "Applicant") in support of an application to the Zoning Commission for review and approval of a 13-story residential building on the southern portion of Lot 48 in Square 700 (the "Property")¹ The Property is located in the CR District and is within the Capitol Gateway ("CG") Overlay The application was submitted pursuant to sections 1605 and 1610 of the Zoning Regulations, which apply to new construction in the CG Overlay on any lot that abuts M Street, SE, South Capitol Street, SE, or is within Square 700 The application also includes requests for area variances from (i) the lot occupancy requirements of 11 DCMR 634.1 and 1601.1, and (ii) the loading requirements of 11 DCMR § 2201.1 As discussed below, the application satisfies the requirements for CG Overlay review as set forth in Chapter 16 of the Zoning Regulations, and for area variances pursuant to 11 DCMR § 3103.2

II.

BACKGROUND

A. The Property

The Property consists of Lot 48 in Square 700 Square 700 is located in the southeast quadrant of the District and 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, which is rectangular in shape and measures approximately 35,558 square feet, is located in the northern portion of Square 700 and has frontage on M Street, South Capitol Street, and Van Street The proposed residential building will be located on the southern portion of the Property and has frontage only on South Capitol Street and Van Street (no frontage on M Street) To the south, the Property is bounded by private

¹ Lot 48 was established by plat of subdivision recorded in the records of the DC Surveyor on September 17, 2015, consolidating former Lots 43 and 866 in Square 700 into a single record lot

property (Lot 44), which is improved with a five-story brick building. The Property is currently unimproved and is utilized as a temporary seasonal surface parking lot for baseball games.

B. Zoning Requirements

The Property is located in a mixed commercial-residential ("CR") zoning district and is located in the CG Overlay District. The southern portion of the Property is situated along South Capitol Street running north-south, which serves as the primary arterial for vehicular traffic between Anacostia to the South and Capitol Hill to the north.

Within the CG Overlay, the Zoning Regulations provide that the residential and nonresidential floor area on each individual parcel within the CR District shall not exceed a maximum density of 8.5 floor area ratio ("FAR") on parcels for which a height of 130 feet is permitted by the General Height Act of 1910 (the "Act"). 11 DCMR § 1602.1(a). As a result of the overall Property's frontage on South Capitol Street, 130 feet of height is permitted under the Act. In addition, 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 the applicant addressing the objectives and guidelines of 11 DCMR §§ 1601 and 1604-1607 to the satisfaction of the Zoning Commission, as applicable. To that end, the Applicant submits the present application for the proposed new residential building on the Property.

C. Prior Zoning Approval

Pursuant to Z.C. Case No. 15-11, dated July 27, 2015, and effective on August 21, 2015, the Zoning Commission reviewed and approved the Applicant's request for a 10-story office building to occupy the northern portion of the Property. While the office building and the proposed residential building are contemplated to operate as separate buildings and will not be connected, they will ultimately 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 proposed residential building.

D. Description of Proposed Construction

The Applicant proposes to develop the southern portion of the Property with a new 13-story residential building. Three levels of below-grade parking will be provided with access from Van Street, SE. The building will have a maximum height of 130 feet, approximately 176,485 square feet of gross floor area, and a lot occupancy of 88.2%.

The building presents as a 13-story, 130-foot tall, masonry and glass residential building, stepping back along South Capitol Street above the 11th floor consistent with the requirements of the CG overlay. The building's aesthetic relates to its surroundings in the southeast waterfront, engages the surrounding community in context, creates a sense of place for the building's residents and connects with the area's growing amenities. These aspects of place are materialized in a palette that includes molded brick, glazed brick, granite and metal panel system. The molded brick has a strong tie to the neighborhood's industrial history and is used extensively as a strong masonry frame that ties all the building elements together. This framework allows the two facades at South Capitol and Van Streets to respond to their distinct neighborhoods.

The South Capitol Street façade responds with a formal, symmetrical façade with a vertical expression that book-ends the building. These strong brick towers contain the building within its own site and internal context. The metal panel system is a modern industrial material used to stitch the two towers together through the courtyard facade creating a dynamic, modern expression. At the ground level, the brick towers are joined together with the townhouse units. These prominent brick and stone silhouettes are evocative of the surrounding neighborhood's

traditional row houses. The townhouse expression provides individual identity and human scale, while providing an element of monumentality along South Capitol Street.

The Van Street façade faces the Southeast waterfront and takes its cues from that neighborhood and historical context. This façade uses the same brick framework as along South Capitol, thereby tying the facades together. Projections and niches utilize the modern industrial materials of glazed brick and metal panel systems to establish a dynamic elevation with a modern, industrial design motif. Townhouse units are provided on this facade as well but their massing is smaller in the context and the human scale of Van Street. The building's main entrance is located along Van Street with a thru-lobby to tie the South Capitol and Van Street entrances together in an amenity space meant to foster a sense of community for the residents.

The Applicant also intends that the building will incorporate a number of elements to enhance its sustainability. The Applicant expects that the finished building would qualify for LEED Silver should the Applicant choose to pursue certification. To that end, the Applicant has included a draft LEED checklist identifying those elements and features that the Applicant may pursue in satisfaction of its sustainability commitment. The building also satisfies the Green Area Ratio ("GAR") requirements of Chapter 34 of the Zoning Regulations.

Following the submission of its initial application in September, the Applicant has continued to study and refine elements of the building's design, particularly perspective renderings of the proposed elevations and materials, as illustrated in the revised architectural drawings (the "Revised Plans") attached hereto as Exhibit A. The Applicant requests that the Revised Plans supersede and replace the architectural drawings filed with the application and included as Exhibit 2 of the record in this case. Refinements included in this updated booklet include the following:

- **P. 10:** Updated building massing for window arrangement as described in elevations below
- **P. 14:** Updated interior doors at townhome units to illustrate their interior connection to the

building.

- **P. 23:** Updated elevation to revise window pattern (from 3 window bay to 4 window bay) based on available window sizes
- **P. 24:** Updated elevation to revise window pattern (from 3 window bay to 4 window bay) based on available window sizes
- **P. 26:** Updated rendering to revise window pattern (from 3 window bay to 4 window bay) based on available window sizes
- **P. 27:** Updated rendering to revise window pattern (from 3 window bay to 4 window bay) based on available window sizes.
- **P. 28:** Updated rendering to revise window pattern (from 3 window bay to 4 window bay) based on available window sizes
- **P. 29:** Updated rendering to revise window pattern (from 3 window bay to 4 window bay) based on available window sizes

E. Community Input

The Applicant shared its plans for redevelopment of the Property at meetings with Advisory Neighborhood Commission (ANC) 6D in March, September and October. The ANC is scheduled to make its formal recommendation at its October 19, 2015, public meeting.

**III.
BURDEN OF PROOF**

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

1. The Project Complies with the Requirements of Section 1605

Section 1605 of the Zoning Regulations sets forth a number of specific requirements that apply to all new buildings, structures, and uses with frontage on South Capitol Street within the CG Overlay District. As outlined in the table below, the proposed project satisfies the requirements of 11 DCMR § 1605.

Section	Requirement	Compliance	Explanation
1605 1	The following provisions apply to new buildings, structures, or uses with frontage on South Capitol Street within the CG overlay	Applies	Section 1605 is triggered in this case because the proposed building will have frontage along South Capitol Street within the CG Overlay District
1605 2	Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet	Yes	The building's design complies with this subsection
1605 3	Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one (1:1) step-back from the building line along South Capitol Street	Yes	The building's design complies with this subsection
1605 4	No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007	Yes	The building's design complies with this subsection
1605 5	For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line	Yes	The building's design complies with this subsection

2 The Proposed Project Complies with the Requirements of Section 1610

Section 1610 2 of the Zoning Regulations provides that all proposed uses, buildings, and structures on a lot abutting South Capitol Street, M Street, or within Square 700 shall be subject to review and approval by the Zoning Commission. Section 1610 3 further provides that the proposed use, building, or structure must meet the standards set forth in 11 DCMR § 3104, and the applicant must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will comply with the specific requirements set forth in 11 DCMR § 1610.3(a)-(f). As described in the table below, the proposed

project is consistent with each of these requirements and with all of the applicable purposes of the CG overlay

Section	Requirement	Compliance	Explanation
1600 2(a)	Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area	Yes	The height, bulk, and design of the proposed project are consistent with the requirements of the Zoning Regulations and with the property's designation on the Future Land Use Map. The proposed building's height and FAR are allowed at this location, and the proposed use is consistent with the Property's designation on the Future Land Use Map.
1600 2(b)	Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel or inn uses	n/a	
1600 2(c)	Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment	n/a	Because the Property is not currently used for industrial purposes, section 1600 2(c) is not applicable to this application.
1600 2(d)	Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points	n/a	Because the Property is not located along the Anacostia riverfront, section 1600 2(d) is not applicable to this application.
1600 2(e)	Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, SE, near the Navy Yard Metrorail station	Yes	Because the proposed residential building on the Property is not located along M Street, SE, section 1600 2(e) is not applicable to this application. However, the approved office building to be located on the northern portion of the Property along M Street provides ground level retail and service uses and adequate sidewalk width along M Street.
1600 2(f)	Provide for development of Squares 702-706 and Reservation 247 as a ballpark for major league sports and entertainment and associated uses	n/a	Because the Property is not located in Squares 702-706 or Reservation 247, section 1600 2(f) does not apply to this application.

Section	Requirement	Compliance	Explanation
1600 2(g)	Provide for the establishment of South Capitol Street as a monumental civic boulevard	Yes	The building design includes significant setbacks on South Capitol Street, assuring adequate sidewalk width and facilitating the establishment of South Capitol Street as a monumental boulevard
1600 2(h)	Provide for the development of Half Street, SE, as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street façade to ensure adequate light and air, and a pedestrian scale	n/a	Because the Property is not located on Half Street, section 1600 2(h) is not applicable to this application
1600 2(i)	Provide for the development of First Street, SE, as an active pedestrian-oriented street with active ground floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront	n/a	Because the Property is not located on First Street, section 1600 2(i) is not applicable to this application

In addition to requiring compliance with the purposes set forth in section 1600 2 and with the special exception standards of section 3104 1, section 1610 3 further provides that

an applicant requesting approval under this section must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will [satisfy the specific requirements of this section]

11 DCMR § 1610 3 The Applicant's project satisfies the general standards of section 3104 1, since the project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map Furthermore, the development will meet each of the specific requirements set forth in section 1610 3 as set forth in the table below

Section	Requirement	Compliance	Explanation
1610 1	The following provisions apply to properties located on a lot that abuts M Street, SE, on a lot located within Squares 700 or 701, north of the Ballpark site, on a lot that abuts South Capitol Street	Applies	Section 1610 is triggered because the Property abuts M Street, SE, is located in Square 700, and abuts South Capitol Street
1610 2	With respect to all proposed uses, buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions	Yes	The Applicant has filed an application for review and approval by the Zoning Commission as required by section 1610 2, and the Applicant's project complies with all applicable requirements of section 1610
1610 3	The proposed building or structure must satisfy the standards set forth in section 3104 of the Zoning Regulations	Yes	The project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. With the exception of the requested relief from the lot occupancy and loading requirements, the proposed building will comply with all other applicable zoning requirements. As described below, approval of the requested variances will have no adverse effects on surrounding property and will not impair the purpose or intent of the Zoning Regulations
1610 3(a)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will help achieve the objectives of the CG Overlay District as set forth in section 1600 2	Yes	As outlined in the immediately preceding table, the project will further the objectives set forth in section 1600 2
1610 3(b)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will help achieve the desired mix of uses in the CG Overlay District as set forth in sections 1600 2(a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses	Yes	As noted above, the proposed building will include significant and thoughtfully-designed space devoted to residential use, as encouraged by section 1600 2(a)

Section	Requirement	Compliance	Explanation
1610 3(c)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will be in context with the surrounding neighborhood and street patterns	Yes	The design of the building will be consistent with the height and massing of other existing and proposed buildings in the surrounding area. The attractive landscaping and sidewalk treatment will meet or exceed District standards and engage the building to the surrounding neighborhood. The proposed building has distinct façade designs on South Capitol and Van Streets, and provides an innovative design motif that is consistent with that of the surrounding neighborhood. The materials palette for the building includes multiple colors and finishes of brick, granite, and metal panels. This extensive use of brick, which includes dark glazed brick for the townhouses along the South Capitol and Van Street elevations, and red brick for the pier-like vertical elements, is reminiscent of the neighborhood's industrial history. At the same time, the aluminum panels in the building's courtyard and the Van Street elevation ties into the modern construction evident throughout the immediate area. Furthermore, the individual townhouse unit entries on both public elevations include stoops and adjacent planting areas that are evocative of traditional row house entrances seen in the neighborhood and throughout the District. The townhouse units, with their prominent masonry silhouettes, also provide a human scale at the ground level for the larger building, which contributes to the monumental scale intended for South Capitol Street in terms of massing, height, and materials. The streetscape along South Capitol Street includes the primary residential entrance to the building, as well as private walk-up entrances to the townhouse units. The streetscape along Van Street incorporates a second residential entrance, private townhouse entrances, and the entrance for parking and loading facilities. The streetscapes will include new trees and specialty plantings, bicycle racks, and a mix of DC-standard pavers and specialty paving. Especially along Van Street, the palette of plantings and paving materials is being coordinated with other projects within Square 700 on either side of Van Street.

Section	Requirement	Compliance	Explanation
1610 3(d)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize conflict between vehicles and pedestrians	Yes	The entrance to the parking and loading operations for the building occur on Van Street, which is the least trafficked street frontage. Moreover, pursuant to 11 DCMR § 1605 4, no driveway may be constructed or used from South Capitol Street, SE. Along Van Street, pedestrians will have an uninterrupted sidewalk with similar paving patterns to the typical Van Street sidewalks and public space. Upon guidance from DDOT, the Applicant is providing parking and loading access through a singular vehicular entrance, which ramps up to the sidewalk, further calming all traffic entering or exiting the building. As described in the Comprehensive Transportation Review ("CTR") Report, prepared by Gorove Slade Associates and attached hereto as <u>Exhibit B</u> , Van Street is a short local roadway between South Capitol Street and Half Street, and between M and N Streets. Due to its location and the specific requirements of the CG Overlay District, Van Street operates in many respects as an alley, since the buildings on either side are not permitted to provide vehicular access from their other adjacent streets.
1610 3(e)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize unarticulated blank walls adjacent to public spaces through façade articulation.	Yes	The building offers extensive façade articulation along South Capitol and Van Streets. The facades are distinctly and extensively articulated through irregular patterns, varying setbacks, and a mix of materials and fenestration. The southern, at-risk façade abutting the property to the south is also articulated with masonry banding.
1610 3(f)	The proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.	Yes	The project has been designed and will be constructed and operated with a goal toward sustainability and minimizing negative impacts to the environment. To that end, the project will include a number of sustainable features and will be designed to qualify for a minimum of LEED Silver certification should the Applicant pursue such certification.

B. Area Variance Relief

Pursuant to 11 DCMR § 1610 7, the Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the subject 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 lot occupancy of 11 DCMR §§ 634 1 and 1601 1 and the loading requirements of 11 DCMR § 2201 1

The test for variance relief is three-part. (1) demonstration that a particular piece of property is affected by some exceptional situation or condition, (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner, and (3) that the relief requested can be granted without substantial detriment to the public good or substantial impairment of the zone plan As set forth below and will be addressed at the public hearing, variance relief is appropriate in this application

1 Exceptional Condition or Situation

The Property is exceptional in that it 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, at both the ground level and above 110 feet in height, percentage of street wall requirements, and prohibitions in terms of the location of required parking and loading egress These exceptional conditions establish a complex relationship among the design components within a building, including restricting where core and service spaces and parking and loading access and operations may be located

The exceptional nature of the Property is further demonstrated through the history of the Zoning Commission's prior review of the Property in Z C Case No 09-22, wherein the Zoning

Commission expressed its concurrence with the position of ANC 6D that the Property was uniquely cited and of exceptional importance to the neighborhood and, as such, required exceptional design. Moreover, pursuant to Z C Order No 15-11, the Zoning Commission found that the Property was affected by an exceptional situation and condition in approving an office building to be located on the northern portion of the Property. See Z C Order No 15-11, Finding of Fact No 49. The Applicant returns with the present request to construct a residential building on the southern portion of the Property.

2 Resulting Practical Difficulty

Strict application of the lot occupancy and loading requirements of the Zoning Regulations will result in a practical difficulty upon the Applicant, as described below.

a *Lot Occupancy*

The Applicant requests an area variance from 11 DCMR §§ 634.1 and 1601.1 to provide a lot occupancy of 88.2% where a lot occupancy of 80% is required. The proposed building will be devoted exclusively to residential uses, and therefore the percentage of lot occupancy is determined at the ground level. As proposed, the ground level incorporates residential units, multiple building entrances (for the multi-family and the townhouse units), lobby, recreation, and service uses, and the parking and loading access points. Given the relatively narrow Site, which acts as a through-lot given the location of the approved office building, the required ground level operational spaces, building core, and the need to provide vehicular egress from Van Street, the Applicant is unable to provide any open space on the ground floor other than the required setback from South Capitol Street and court niches along Van Street, thus resulting in a lot occupancy of approximately 8% more than allowed under the Zoning Regulations.

As noted above, the Applicant, upon guidance from DDOT, is consolidating the curb cuts providing access to the Property to a total of three cuts, leaving a single curb cut for the residential building to provide both parking and loading access. As a result, the loading is required to be provided as an off-shoot of the parking ramp, essentially in the center of the residential building's footprint. This location creates a number of inefficiencies within the building in terms of location of building core, stairways, lobbies, and entrances. Given these operational constraints, strict compliance with the lot occupancy requirement creates a practical difficulty for the Applicant.

b *Loading*

The Applicant requests an area variance from 11 DCMR § 2201.1, which requires the following loading facilities: one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep. Instead of a 55-foot deep berth, the Applicant proposes to provide a 30-foot deep berth, thus requiring variance relief. As determined by DDOT in other applications before the Zoning Commission, the Van Street right of way is too narrow to accommodate the requisite turning radius for a 55-foot truck under safe operations, and it is therefore practically difficult for the Applicant to provide a loading berth that accommodates 55-foot trucks.

3. No Harm to Public Good or Zone Plan

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. The proposed 88.2% lot occupancy will not result in any negative impacts on surrounding properties due to the significant setbacks and open courts that are required and will be provided. A significant courtyard garden is provided at the second level of the building (atop the loading area), where many high-rise buildings would typically measure lot occupancy, bringing that level very close to full compliance with the maximum

occupancy requirement, Furthermore, above the fourth floor of the building, the building footprint further opens to a C-shaped courtyard, which provides an extensive amount of light, air, and open space, well in excess of the requirement

The proposed loading facilities will also not result in any negative impacts, since they will adequately serve the anticipated loading demand for the Property, given the size of the residential units As described in the CTR Report, the single 30 foot loading berth will be sufficient to accommodate the anticipated amount of residential loading activity at the building Moreover, the loading facilities will be coordinated through a loading management plan (as set forth in the CTR Report), which will ensure that move-ins and move-outs do not conflict with other residential deliveries to the building

IV. LIST OF WITNESSES

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

- 1 Amy Phillips, representative of the Applicant,
- 2 Brad King, Gensler, project architect
- 3 Daniel Van Pelt, Gorove/Slade Associates, transportation consultant
- 4 Shane Dettman, Director of Planning Services, Holland & Knight LLP

V. EXHIBITS IN SUPPORT OF THE APPLICATION

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

- Exhibit A Updated Architectural Elevations, Plans, Renderings and Materials;
- Exhibit B CTR Report conducted by Gorove/Slade, and
- Exhibit C Witness Resumes

VI.
CONCLUSION

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

Respectfully submitted,

HOLLAND & KNIGHT LLP

By 
Dennis R. Hughes
800 17th Street, NW
Suite 1100
Washington, DC 20006
(202) 955-3000