

# Holland & Knight

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October 25, 2021

## **VIA IZIS**

Zoning Commission for the  
District of Columbia  
441 4<sup>th</sup> Street, N.W., Suite 210-S  
Washington, DC 20001

**Re: ZC Case No. 20-12  
850 South Capitol Street, SE – Application for Design Review  
11-I DCMR § 701.3 / Public Hearing Notice Requirement**

Dear Commissioners:

On October 22, 2021, we were informed by the Office of Zoning, Legal Division (“OZLD”) that the hearing notice published in the *D.C. Register* for the above-referenced design review case did not include the variance requested by the Applicant, as required under 11-I DCMR § 701.3. For the reasons discussed below, despite this minor technical defect in the hearing notice, the Commission may proceed with the public hearing as scheduled on November 8, 2021, as there has been ample public notice of the application, including the Applicant’s variance request. Further, to the extent a waiver is necessary to resolve the minor technical defect in notice, the Applicant respectfully requests said waiver.

The Applicant filed the subject application on July 30, 2021, which included a request for variance from the street wall requirement under 11-I DCMR § 616.7(f). As set forth in the Applicant’s initial statement, the need for the variance is not a function of the Applicant’s proposed design, but rather is a result of the unique constraints of the subject property. Specifically, the presence of District-owned property (Lot 805) and perpetual highway easements between the proposed building and the edge of the South Capitol Street right-of-way make it impossible to comply with the street wall requirement regardless of the design.

There has been ample public notice of the subject application, including the above-described variance that is part of the subject application, as follows:

- July 12<sup>th</sup> and 13<sup>th</sup>, prior to filing the application - the Applicant informed the affected Advisory Neighborhood Commission (“ANC”)<sup>1</sup> of its **intent to request the variance**;
- July 30<sup>th</sup> – **Detailed discussion of the variance** request included in the Applicant’s initial statement in support (Exhibit 22). A full copy of the application was served upon the Affected ANC on the same day;
- August 27<sup>th</sup> – Notice of Public Hearing for the subject application was published in the *DC Register* (Exhibit 5);
- September 7<sup>th</sup> and 13<sup>th</sup> – The Applicant presented the application, **including the requested variance**, to ANC 6D at its monthly executive meeting and duly noticed business (public) meeting;
- September 24<sup>th</sup> – The Applicant posted the subject property with the Notice of Public Hearing (Exhibit 11);
- October 22<sup>nd</sup>, 18 days prior to the public hearing – Applicant posted an updated notice on the subject property immediately upon being informed by OZLD of the minor technical defect in the published hearing notice. **The updated notice includes the requested variance**. Photographs of the updated notice are attached hereto.

Pursuant to 11-Z DCMR 402.12, the Commission may hold the public hearing on the application [as scheduled on November 8<sup>th</sup>] despite the minor technical defect in the published Notice of Public Hearing based on the following considerations:

- a) The nature and extent of the actual notice received by the parties and the public from all sources;
- b) Attendance, or lack thereof, at the public hearing; and
- c) The nature and extent of the construction and/or use involved in the application.

Importantly, the amount of public notice required under the Zoning Regulations has been provided. As stated above, the Affected ANC and the public were first notified of the application (**including the variance request**) in mid-July. Since then, additional notice has been provided at subsequent ANC 6D meetings, in the *DC Register*, and through posting of the subject property (**which now reflects the variance request**). Further, the Applicant has coordinated with OZ staff to have an updated hearing notice published in the *DC Register* as soon as possible.

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<sup>1</sup> The “Affected ANC” in this case includes ANC 6D and ANC 6B. On September 1, 2021, ANC 6B informed the Applicant that it would not be formally participating in the design review case, and instead would defer to the interests and experience of ANC 6D.

Zoning Commission  
850 South Capitol Street, SE  
October 25, 2021

Finally, as stated above, the requested variance is not a result of the Applicant's proposed design, but rather is due to the unique constraints of the subject property. There is no possible way the Applicant can comply with the street wall requirement. **Thus, the nature and extent of construction in the application would be the exact same with or without the requested variance.**

For the foregoing reasons, we respectfully request the Commission to waive the requirement under 11-I DCMR § 701.3 and proceed with the public hearing on November 8<sup>th</sup>.

Sincerely,

HOLLAND & KNIGHT, LLP



Leila M. Jackson Batties

cc: Certificate of Service

Joel Lawson, Office of Planning (via email, with attachments)

Steve Cochran, Office of Planning (via email, with attachments)

Kimberly Vacca, District Department of Transportation (via email, with attachments)

Aaron Zimmerman, District Department of Transportation (via email, with attachments)

Edward Daniels, ANC 6D07, Chair (via email at 6d07@anc.dc.gov, with attachments)

Jennifer Samolyk, SMD 6B01, Chair (via email at 6b01@anc.dc.gov, with attachments)

**CERTIFICATE OF SERVICE**

I hereby certify that on October 25, 2021, a copy of the foregoing correspondence was served on the following by email.

Ms. Jennifer Steingasser  
District of Columbia Office of Planning  
1100 4<sup>th</sup> Street, SW, Suite 650E  
Washington, DC 20024  
jennifer.steingasser@dc.gov

via email

Advisory Neighborhood Commission 6D  
6d@anc.dc.gov

via email

Advisory Neighborhood Commission 6B  
6b@anc.dc.gov

via email

*Leila Batties*

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Leila M. Jackson Batties

# ZONING COMMISSION

## NOTICE OF PUBLIC HEARING

APPLICATION NO: 2021-12

APPLICANT: SHAKE 695, INC.

### CASE SUMMARY:

- Air Rights     Modification     Map Amendment  
 Campus Plan (Further Processing)     Planned Unit Development

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF PUBLIC HEARING

THIS AND PLACE: Shake, 695, Inc. at 695...  
What is the subject? - Description will be provided on the 102 website by date of the hearing date.

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:  
CASE NO. 21-12 (Shake 695, LLC - Design Review of Shake 695, LLC 11 and 12)  
DCOZ CASE REVIEW REQUEST 2021-12

What are the issues?  
The applicant is requesting a change to the zoning classification of the property from S-1 to S-1A. The applicant is requesting a change to the zoning classification of the property from S-1 to S-1A. The applicant is requesting a change to the zoning classification of the property from S-1 to S-1A.

The property includes approximately 1.5 acres of land and the 11 and 12 units. The property is currently zoned S-1 and the applicant is requesting a change to S-1A. The property is currently zoned S-1 and the applicant is requesting a change to S-1A.

The applicant proposes to develop the property with a new residential project. The applicant proposes to develop the property with a new residential project. The applicant proposes to develop the property with a new residential project.

- A maximum total density of approximately 400 units per acre.
- A maximum building height of 170 feet with a maximum height of 150 feet, including one level of penthouse with architectural and residential amenity space.
- Approximately 120 residential units with residential amenity space on the ground floor and on the penthouse levels, and
- Approximately 100 parking spaces.

The applicant requests a change to the design treatment under D.C. CODE § 22-205. The applicant requests a change to the design treatment under D.C. CODE § 22-205. The applicant requests a change to the design treatment under D.C. CODE § 22-205.

The hearing will be conducted in accordance with the standard operating procedure of the Zoning Commission. The hearing will be conducted in accordance with the standard operating procedure of the Zoning Commission. The hearing will be conducted in accordance with the standard operating procedure of the Zoning Commission.

ANC: ANC 6D

Public Hearing Date/Time: Monday Nov 8, 2021 4:00 PM

Location: VIRTUALLY VIA WEBEX (SEE DCOZ.DC.GOV FOR DETAILS)

For more information please contact the District of Columbia Office of zoning:  
(202) 727-6311 • website: [www.dcoz.dc.gov](http://www.dcoz.dc.gov) • e-mail: [dcoz@dc.gov](mailto:dcoz@dc.gov)  
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PARK ANY TIME  
←

CLOSED



**ZONING COMMISSION**  
**NOTICE OF PUBLIC HEARING**

APPLICATION NO: ZC 21-12

APPLICANT: Squire LLC

**CASE SUMMARY:**

Air Rights     Modification     Map Amendment

Campus Plan (Further Processing)     Planned Unit Development

ANC: ANC 00

Public Hearing Date/Time: Monday Nov 8, 2021 4:00 PM

Location: VIRTUALLY VIA WEBEX (SEE DC.ZC.GOV FOR DETAILS)

For more information please contact the District of Columbia Office of Zoning: (202) 727-6311 • website: www.dcoz.dc.gov • e-mail: dcoz@dc.gov

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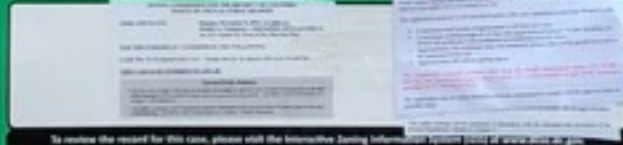
**ZONING COMMISSION  
NOTICE OF PUBLIC HEARING**

APPLICATION NO:

APPLICANT:

**CASE SUMMARY:**

- Air Rights
- Modification
- Map Amendment
- Campus Plan (Further Processing)
- Planned Unit Development



ANC:

Public Hearing Date/Time:

Location:

VIRTUALLY VIA WEBEX  
(SEE DCOZ.DC.GOV FOR  
DETAILS)

For more information please contact the District of Columbia Office of Zoning:  
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# SUMMARY:

## Map Amendment

Square 695, LLC (the "Applicant") filed an application (the "Application") with the Office of Zoning on July 30, 2021, requesting that the Zoning Commission (the "Commission") grant the following relief under the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, "Zoning Regulations of 2016," to which all references are made unless otherwise specified) for Lots 31 and 34 in Square 695, with an address of 850 South Capitol Street, S.E. (the "Property"): Design Review pursuant to Subtitle I, § 616.8 and Chapter 7. As a Design Review application under Subtitle I, the Application is not subject to the Design Review rules of Subtitle X, Chapter 6.

The Property includes approximately 118,364 square feet of land area in the D-5 zone and the M and South Capitol Streets Sub-Area in southeast Washington, D.C. (Ward 6). The Property is currently used as a car wash (Lot 31) or vacant (Lot 34).

The Application proposes to develop the Property with a new residential project (the "Project") with:

- A maximum total density of approximately 6.09 floor area ratio;
- A maximum building height of 130 feet with upper-level setbacks at 110 feet, including two 20-foot tall penthouses with mechanical and residential amenity space;
- Approximately 520 residential units with residential amenity space on the ground-floor and in the penthouse levels; and
- Approximately 296 vehicle parking spaces.

**The Application requests variance relief from the design requirement under 11-I DCMR § 616.7(f). The Commission is authorized to grant the request variance as part of the Application pursuant to 11-I DCMR § 701.3.**

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, Subtitle Z, Chapter 4.

Information System (IZIS) at [www.dcoz.dc.gov](http://www.dcoz.dc.gov).