

**BEFORE THE
ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA**

**APPLICATION FOR DESIGN REVIEW
IN THE
M AND SOUTH CAPITOL STREETS SUB-AREA**

**850 South Capitol Street, SE
SQUARE 695, LOTS 31 & 34**

July 30, 2021

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I. BACKGROUND

Square 695 LLC (the “Applicant”), hereby submits this application to the Zoning Commission of the District of Columbia (the “Zoning Commission”) for review and approval of a residential development project located at 850 South Capitol Street, SE (Square 695, Lots 31 and 34¹) (the “Subject Property”). The Subject Property is zoned D-5 and is located in the M and South Capitol Streets Sub-Area.

This application is submitted pursuant to the design review provisions of Subtitle I, Section 616.8 and Subtitle I, Chapter 7 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The Subject Property is subject to design review by the Zoning Commission due to its location within the M and South Capitol Streets Sub-Area. *See* 11-I DCMR §§ 616 and 701.²

A. The Subject Property

The Subject Property is located within Square 695, which is bounded by Virginia Avenue, SE to the north, New Jersey Avenue, SE to the east, Eye Street, SE to the south, and South Capitol Street to the west. Of the two lots that comprise the Subject Property, Lot 34 is currently vacant and Lot 31 is currently improved with a car wash use.

The Subject Property contains approximately 118,364 square feet of land area, and has several unique characteristics. As shown on the context map attached hereto as Exhibits A and B, the Subject Property is oddly shaped, and the northern portion of the site (approximately 28,000 square feet) is located below the SE/SE Freeway, rendering this portion of the site unbuildable. In addition, the site’s direct frontage along South Capitol Street is constrained by the SE/SW Freeway and by Lot 805, a 24-foot wide District-owned property located between the Subject Property and South Capitol Street. Combined, the freeway and Lot 805 limit the Subject Property’s actual buildable frontage on South Capitol Street to approximately 54 feet and 73 feet to the north and south of Lot 805, respectively. However, these portions of the Subject Property are encumbered by easements established in the early-1960s that grant the District perpetual rights to “construct, use, maintain, repair and renew” highway infrastructure on or above these areas (Instrument Nos. 1961012287 and 1963025950).

As shown on the Zoning Map attached hereto as Exhibit C, the Subject Property is located in the D-5 zone.

¹ These lots will be subdivided into a single lot of record.

² The application is not subject to the design review flexibility or standards set forth in 11-X DCMR, Chapter 6. *See* Design Review Applicability at 11-X DCMR § 601.1, stating that “[*except for Subtitle I*, this chapter applies to any instance when the Zoning Regulations require Zoning Commission review of any building, structure, or use other than a campus plan” (emphasis added).

B. The Surrounding Neighborhood

The Subject Property is located in the Capitol Riverfront neighborhood of the District, just south of Capitol Hill. To the north and northeast of the Subject Property, on the opposite side of the freeway, are CSX rail lines, the U.S. Capitol power plant (part of the Capitol Complex), Garfield Park, and Capitol Hill row homes (approximately 850 feet away, or almost the length of four football fields). To the south and east is the high-density Capitol Riverfront neighborhood, which is comprised of residential, commercial, and mixed use developments, as well as Nationals Park, Canal Park, and Yards Park. Immediately west of the Subject Property, along South Capitol Street, is Randall Recreation Center, the Capitol Skyline Hotel, and other existing and planned high-density residential developments. Further west, beyond the South Capitol Street corridor, is the Southwest neighborhood which is characterized by moderate- to high-density residential developments interspersed with commercial uses, parks, public amenities and municipal uses. A number of recently completed or ongoing residential and mixed-use projects, including the Southwest Town Center and the Wharf, are located along M Street and on the western end of the Southwest neighborhood. The Subject Property is located approximately 0.3 miles from both the Capitol South and Navy Yard – Ballpark Metrorail Stations.

C. The Project

Overall Program

The Project has been designed to relate to its prominent location along the South Capitol Street corridor, and to the context of the Navy Yard / Capitol Riverfront neighborhood. The overall exterior massing of the Project responds to the unique conditions created by Lot 805, a sliver of District-owned property, and the easements along the west side of the Subject Property, the freeway to the north, and the site's proximity to the U.S. Capitol.

As shown on the Architectural Plans and Elevations submitted herewith and attached as Exhibit D (the "Plans"), the Applicant proposes to develop the Subject Property with a residential project containing approximately 520 dwelling units, ground-floor and rooftop amenity space, and approximately 296 vehicle parking spaces (the "Project"). The Project will contain approximately 720,900 square feet of gross floor area ("GFA") (approximately 6.09 floor area ratio ("FAR")), and have a maximum building height of 130 feet, with an upper-level setback at 110 feet fronting South Capitol Street. At the roof level, the Project will contain two, 20-foot penthouse enclosures that contain amenity space and mechanical space. The roof level will also include outdoor terraces and amenity spaces.

Pedestrian, Bicycle, and Vehicle Access

As shown in Sheets 11 and 12 of the Plans, pedestrian access to the Project is provided via primary and secondary lobbies along South Capitol Street, as well as a pedestrian connection from Eye Street. These locations were chosen with consideration given to likely resident travel patterns, and with an interest in activating and increasing safe pedestrian connectivity below the freeway. The Applicant has placed a specific emphasis on providing safe and convenient bicycle access to the Subject Property. As shown in the Plans, the Applicant is providing a dedicated bike lane along

the Eye Street access drive that will lead directly to a large bike storage room in the Level 1 garage and pedestrian corridor that leads to a building lobby. From the bike storage room, the bike lane will connect to a dedicated bike lane along Eye Street that runs between Canal Blocks Park and the Wharf.

As to vehicular access, the Subject Property suffers from unique access constraints that do not exist anywhere along the South Capitol Street corridor. Namely, the Subject Property lacks public or covenanted private alley access, has extremely limited street frontage along Eye Street, and is inaccessible from the north due to the CSX rail lines and freeway support columns. As a result of these constraints, and given the existing level of service at the intersection of South Capitol Street and Eye Street, the Applicant is proposing to reuse the two access points that currently serve the Subject Property to ensure efficient circulation in and out of the site. Along South Capitol Street, the Applicant is proposing to reuse an existing curb cut near the northern end of the building for right-in / right-out access. To ensure this access is viable, the Applicant recently obtained concept approval for this curb cut from the Department of Transportation, Public Space Committee (“PSC”). The South Capitol Street entry will be used to access the Project’s loading facilities and parking garage, which are located along the north side of the building, facing the freeway, as well as a dedicated pick-up / drop-off (“PUDO”) area for deliveries and rideshares. In addition, residents will be required to use the South Capitol Street access to enter the parking garage.

Along Eye Street, vehicular circulation along the access drive will be limited to resident egress from the parking garage. This is due to the narrow, 20-foot width of the Eye Street access drive, and the likelihood that residents will use the access drive as shortcut to reach the Navy Yard – Ballpark Metrorail Station at Half Street and M Streets. As shown on Sheet 18 of the Plans, to emphasize pedestrian and bicycle safety the Eye Street access drive will have a single vehicle lane that provides southbound-only access to Eye Street. The remainder of the access drive will be dedicated to pedestrian and bicycle circulation. The bicycle facilities will connect to an existing bike lane along Eye Street, and the pedestrian facilities will provide safe passage to the Metrorail and neighborhood destinations to the east and southeast.

As will be fully demonstrated in the Applicant’s transportation analysis, the above-described access and circulation proposed for the Project is the safest and most efficient solution given the site’s access constraints and unique situation relative to the freeway.

Massing and Articulation

As shown on Sheets 13 and 16 of the Plans, the Project is anchored to the South Capitol Street corridor by a dynamic, sculptural podium that contains lobbies, residential amenity space, dwelling units, and parking and loading. Due to the presence of Lot 805 and easements on the Subject Property, no portion of the proposed building can be constructed to the 15-foot setback line as required under the M and South Capitol Street Sub-Area. *See* 11-I DCMR § 616(f). A similar constraint affects the existing building to the immediate south, which was not subject to Commission design review at the time of its construction. As such, to maintain consistency along this particular block of South Capitol Street the podium is aligned with the main façade of the adjacent building.

Along the west side of the podium, two double-height lobbies and residential amenity spaces will activate the ground-level along South Capitol Street. The design and visual access into these spaces will add activity to this end of the corridor once the freeway ramp is removed as part of Phase IV of the South Capitol Street reconstruction project. The primary lobby entrance at the northwest corner of the podium is efficiently located near a proposed drop off area on the north side of the building, which together will activate the area below the freeway thus improving pedestrian safety and connectivity to Capitol Hill. A secondary lobby is located at the southwest corner of the podium for residents heading south toward the Metrorail and other points south. Above the lobbies and amenities, a row of single-loaded dwelling units facing South Capitol Street will further activate the podium level and South Capitol streetscape. The lobbies, amenity spaces, and dwelling units on the west side of the podium fully buffer vehicle parking and loading facilities located to the east. Given complex construction logistics and the potential for future development to occur to the immediate east of the Subject Property, the proposed location of vehicle parking in this portion of the podium is an effective use of this space that will not cause any unsafe pedestrian conflicts or adverse design impacts.

Above the podium, ten floors of dwelling units are organized around two generously-sized courtyards. Along South Capitol Street, the massing of this part of the Project is multi-layered and reinforces views to the U.S. Capitol and South Capitol Street as a monumental civic boulevard. Beginning on the south, the façade of the building aligns with the main façade of the neighboring development to extend the continuity of the street wall. As the main façade extends north toward the freeway, a series of four, progressive step backs reduce the primary mass of the building, and maximize corner exposures, opportunities for private outdoor space, and views toward the U.S. Capitol. Each step back is four window modules wide. As the step backs recede moving north along the face of the building, they also step up in height, culminating with an architectural embellishment at the northwest corner of the building. As shown in the Plans, the southern end of the South Capitol Street façade has an initial height of 110 feet, which aligns with the building to the south and other buildings along the corridor. As required under the M and South Capitol Street Sub-Area, a 1:1 setback is provided above the initial 110 foot height. *See* 11-I DCMR § 616.7(d). Moving northward, each recess of the façade is paired with a one-story step up in height, eventually reaching the maximum permitted height of 130 feet. Despite these increases in height, the building is able to maintain the 1:1 setback above 110 feet since the entire building is set back from South Capitol Street approximately 24 feet due to Lot 805 and the above-described easements, and because of the progressive setbacks along the face of the west façade.

The massing and articulation above the podium along the north side of the building, facing the freeway, has a different character than the west façade. As shown in the Plans, the 130-foot high bay and architectural embellishment along South Capitol Street is wrapped around to the northern façade, creating a distinct architectural tower at the corner of the building that is visible from both South Capitol Street and the freeway. Moving east, the northern façade maintains a consistent height of 130 feet, and steps away from the freeway in regular, two-bay modules resulting in a recognizable sawtooth pattern. Like the South Capitol Street façade, the step backs along the north façade maximize corner exposures and opportunities for private outdoor space.

The eastern façade of the building will be constructed face on line with the neighboring U.S. Capitol Power Plant coal yard. As such, any openings along this façade will be at risk of being covered in the future if the coal yard site is redeveloped. As such, the Applicant has programmed this side of the building with a single-loaded corridor with dwelling units facing the interior courtyards. Despite the potential to be covered up, the Applicant has incorporated some of the rhythm and patterning found in the north and west facades on this side of the building. The Applicant has added additional interest to the east façade by inserting a random arrangement of vertical stacks of windows. These windows are located along the single-loaded corridor running along this side of the building, which will provide a modest amount of activation to the east façade for the time period that this side of the building is exposed.

Materials

A simple palette of high-quality materials further elevates the design of the Project while also relating to the surrounding context. Generally, the material palette consists of brick and metal panel cladding, colored precast concrete panels, aluminum storefront and punched window systems, and glass guardrails.

The podium will be clad in an elongated gray brick installed in a running bond pattern. The horizontal pattern of the brick will be interrupted by a regular pattern of vertical bands that consist of standard-sized bricks of the same color. The vertical bands will provide additional texture, rhythm, and visual interest at the ground plane by extending slightly beyond the primary brick face of the podium. At the ground-floor lobby and amenity level, large storefront windows will activate the streetscape by providing expansive views into and out of the building. Sculptural metal frames will accent the double-height storefront windows at the north and south entrances of the building. Above the ground-floor, the podium level dwelling units will have punched aluminum windows that will mark the top of the podium and transition to the upper massing of the building.

Above the podium, a lighter gray brick establishes a primary grid pattern for Floors 4 – 13. The primary grid has a more prominent vertical orientation by establishing a consistent pattern that is one-window bay wide by multiple window bays high. This presents a strong contrast from the strong horizontal expression of the podium. Along South Capitol Street, as the building steps up from south to north, the number of windows within the uppermost grid bay also increases to accentuate the verticality of the massing. Along the north and west sides of the building, where the building maintains a consistent 130 foot height, the width and height of the grid pattern stays consistent. Within each bay of the primary grid of the upper floors, a contrasting dark metal panel cladding and aluminum window system that is slightly recessed behind the light grey brick facade is proposed. This recess and the use of darker-colored materials will allow the lighter-color primary grid to read prominently.

Landscape

As stated above, the numerous step backs and recesses of the South Capitol Street and freeway-facing facades of the Project maximize opportunities for private outdoor terraces and balconies. As shown in the Plans, a high percentage of the dwelling units in the Project contain balconies. In addition, many of the dwelling units facing the interior closed courtyards will also

have balconies. As currently proposed, a substantial percentage of the dwelling units in the Project will have a balcony or terrace. In addition to private outdoor space, the proposed building will also have several common outdoor amenity spaces that are shared by all residents. Two large courtyards will be provided at Level 4 that will contain landscaping, seating, and other gathering areas. The roof level will contain additional outdoor amenity spaces, including a pool. Landscaping in the courtyards and on the roof will include green roof areas that offer higher storm water retention and opportunities to create a diverse planting palette. Native and adaptive species will be maximized to foster biodiversity and create a microhabitat. In addition, small and medium trees and large shrubs will be planted in the courtyard and on the roof where possible.

Sustainability

As shown on Sheet 49 of the Plans, the Project has been designed to achieve a minimum LEED Silver v.4 rating.

Streetscape

The streetscape surrounding the Subject Property will include DDOT-standard paving with the potential for special paving at the lobby entrances. A variety of pedestrian-scaled streetscape features will be installed, including new lighting, bicycle racks, and trash and recycling receptacles.

D. Project Flexibility

The Applicant requests the following minor design flexibility as it relates to the proposed development:

- a. Interior Components: To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the order;
- b. Exterior Materials – Color: To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the plans approved by the order;
- c. Exterior Details – Location and Dimension: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details include, but are not limited to, doorways, canopies, railings, and skylights;
- d. Landscape: To vary the final selection of landscaping materials based on availability at the time of construction;
- e. Number of Units: To provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%);

- f. Parking Layout: To make refinements to the approved parking configuration, including layout and number of parking space plus or minus ten percent (10%), so long as the number of parking spaces is at least the minimum number of spaces required by the Zoning Regulations;
- g. Streetscape Design: To vary the location, attributes, and general design of the approved streetscape, including curb cuts, to comply with the requirements of, and the approval by, the DDOT Public Space Division;
- h. Signage: To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order and are compliant with the DC signage regulations; and
- i. Sustainable Features: To vary the approved sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below the minimum required for the LEED standard specified by the order.

II. DESIGN REVIEW APPROVAL

A. Design Review Requirements for the M and South Capitol Streets Sub-Area (11-I DCMR Chapter 6)

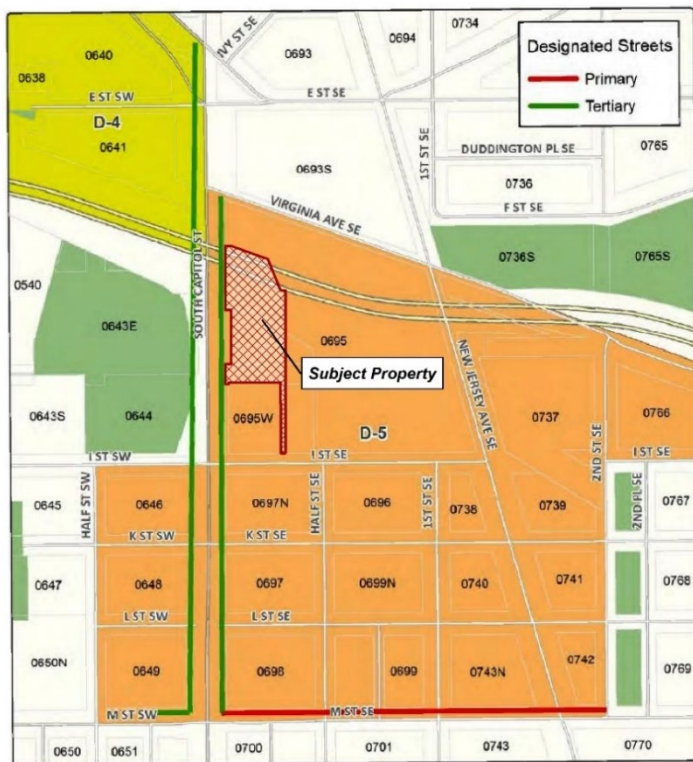


Figure 1: Subject Property super imposed on Figure I § 615 of ZR16

The objectives of the M and South Capitol Streets Sub-Area are to ensure the preservation of the historically important axial view of the Capitol Dome and further the development of a high-density mixed-use corridor north of the Capitol Gateway neighborhood. 11-I DCMR § 616.1. The general location of the M and South Capitol Streets Sub-Area is the D-5 zoned property with frontage on either side of the designated tertiary street segments of South Capitol Street north of M Street, and the D-5 zoned property with frontage on the designated primary street segments on the north side of M Street, SE, between South Capitol Street and the Canal Blocks Park. See 11-I DCMR § 616.2 and Figure I § 615 copied to the right. As shown on Figure 1, the Subject Property is included in this designated area due to its location on

the east side of the designated tertiary street segment of South Capitol Street.

The uses for a building with frontage on a designated tertiary street segment are governed by the zone district in which they are located. *See* 11-I DCMR §§ 616.5 and 11-I DCMR § 603.2. Multiple-dwelling residential is a permitted use on the Subject Property.

The street-wall of buildings located on the east and west sides of South Capitol Street are required to be setback for their entire height and frontage no less than 15 feet from the property line adjacent to South Capitol Street, with certain exceptions. *See* 11-I DCMR § 616.7. The goal of this setback requirement is to create a boulevard having a consistent view corridor towards the U.S. Capitol Dome. The proposed development complies with this requirement in that the building is set back from the Subject Property's lot line along South Capitol Street a minimum of 24 feet due to Lot 805 and easements along South Capitol Street.

The proposed building is also subject to the requirement set forth in 11-I DCMR § 616.7(f), which states “[a] minimum of seventy-five percent (75%) of the street-wall on the east side of South Capitol Street shall be constructed on the [15-foot] setback line.” As shown on Sheets 10 and 26 of the Plans, and in Exhibit E, the Applicant is physically unable to satisfy this requirement due to the presence of Lot 805 and easements along the west side of the Subject Property. There is simply no way the Applicant can design the Project to have any portion of the proposed building located on the setback line. As such, the Applicant is requesting variance relief from this requirement. A detailed discussion of how the Applicant satisfies the burden of proof for the requested variance is provided in Section D of this statement.

The following additional setback requirements of 11-I DCMR § 616.7(d) and (e) apply to the Subject Property, and are met as follows:

- d. *Any portion of a building that exceeds one hundred ten feet (110 ft.) in height shall provide an additional one-to-one (1:1) setback from the building line along South Capitol Street;*

As shown in the Plans, the building provides a 1:1 setback from the building line along South Capitol Street above 110 feet in height.

- e. *There shall be no openings in building frontages adjacent to South Capitol Street that provide entrances or exits for vehicular parking or loading;*

As shown on the Plans, there are no openings in the building adjacent to South Capitol Street that provide entrances or exits for parking or loading. Entrances to parking and loading are located along the north and south facades of the building, which face the SE/SW Freeway and Eye Street, respectively.

B. General Design Review Requirements for D Zones (11-I DCMR Chapter 7)

All proposed buildings and structures facing the street segments in the M and South Capitol Streets Sub-Area are subject to review and approval by the Zoning Commission in accordance with the provisions in 11-I DCMR Chapter 7. *See* 11-I DCMR §§ 616.8 and 701.1. The Subject Property is located on a tertiary street segment of South Capitol Street and is therefore subject to the design review regulations. The Project complies with the design requirements as set forth below.

- a. 11-I DCMR § 701.2(a) - *In addition to proving that the proposed use, building, or structure meets the special exception standards set forth in Subtitle X, Chapter 9, an applicant requesting approval under this section shall prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:*
 1. *Help achieve the objectives of the sub-area, as set forth in Subtitle I, Chapter 6, in which it is located;*

The proposed Project complies with the objectives of the M and South Capitol Streets Sub-Area set forth in 11-I DCMR Chapter 6. The objectives of this Sub-Area are to ensure the preservation of the historically important axial view of the Capitol Dome and further the development of a high-density mixed-use corridor north of the Capitol Gateway neighborhood. *See* 11-I DCMR § 616.1. As shown in the visual analysis provided in the Plans, the Project preserves the important view of the Capitol Dome by strengthening the street-wall definition along South Capitol Street through the redevelopment of a largely vacant site with a new, high-density, dynamically-designed residential building. Consistent with zoning and new developments along the South Capitol Street corridor, the Project will be set back for its entire height at least 15 feet from South Capitol Street and will provide additional upper-level setbacks above 110 feet.

In addition, the Project significantly advances South Capitol Street as a vibrant, high-density, mixed-use corridor. The prominent podium-level will reinforce the pedestrian scale along this important boulevard, and activate a portion of the corridor that is currently severely encumbered by transportation infrastructure. The street-level activation provided by the podium – including the lobby and amenities at the ground-level and the third-level units – will improve pedestrian connectivity and safety below the freeway between Capitol Hill and the corridor to the south. The adjacent streetscape will be a welcome improvement compared to the existing elevated freeway ramp that exists along the west side of the Subject Property, and include new paving, street trees, understory plantings, and pedestrian-scaled features including new lighting, bicycle racks, and trash and recycling receptacles. Taken together, the architecture of the building podium, use of high-quality materials, large ground-floor window openings, and significant streetscape improvements will encourage activity, improve safety, and enhance the pedestrian experience along South Capitol Street.

2. *Be in context with the surrounding neighborhood and street patterns;*

As shown in the Plans, the Project is contextual to the surrounding neighborhood and street patterns. The Project offers distinct façade designs for the building elevations facing South Capitol Street and the freeway. Active ground floor lobbies and amenity space will enliven the streetscape and improve pedestrian connectivity and safety between Capitol Hill and the South Capitol Street corridor, particularly below the freeway. The massing, articulation, and materials respond to the context along the South Capitol Street corridor and other nearby developments, many of which are constructed with similar materials. In particular, the use of brick as the primary façade material and incorporation of balconies give the building a residential expression and scale that harmonizes with the residential building to the immediate south, and several other recent residential and mixed-use projects along the corridor and to the east. In addition, a residential building in this location is appropriate given the proximity to the Metrorail, the National Mall, Capitol Hill, and several parks, attractions, and neighborhood-serving amenities.

The Project is responsive to the surrounding street pattern, as well as the very unique access constraints that affect the Subject Property. Given the existence of the freeway to the immediate north, the Subject Property is a transition site between the U.S. Capitol Complex to the north and the mixed-use South Capitol Street corridor and Capitol Gateway neighborhood to the south. The Project embraces this transitional role by establishing a strong architectural presence generally, and in particular at the pedestrian scale along South Capitol Street. The strengthen the Project's design will greatly enhance the definition of the South Capitol Street corridor once the existing freeway ramp is removed, particularly given the lack of definition on the opposite side of South Capitol Street at Randall Recreation Center.

3. *Minimize conflict between vehicles and pedestrians;*

The Project minimizes conflict between vehicles and pedestrians by distributing vehicular access to two access points and establishing a safe and efficient circulation pattern. As shown in the photographs on Sheet 6 of the Plans, the sidewalk along South Capitol Street is narrow and poorly lit as it travels below the freeway. Following removal of the freeway access ramp, the Project will significantly improve the safety and quality of pedestrian circulation by reconstructing the streetscape adjacent to the proposed building in accordance with DDOT standards for South Capitol Street, including along Lot 805.

Regarding vehicle access, unlike all other buildings and properties fronting the east side of South Capitol Street, the Subject Property lacks any public or covenanted private alley access. In addition, while the developments to the south have alley systems that connect to multiple side streets, the Subject Property's sole side street access (Eye Street) is only 20 feet wide, which is insufficient to safely

and efficiently handle the Project's full parking and loading demand. As such, the Applicant proposes to reuse an existing curb cut on South Capitol Street, just south of the freeway, for access to parking and loading.

As discussed below, an access point at this location will not be detrimental to pedestrian safety or circulation. Instead, given unique access constraints the Applicant's proposed vehicle access and circulation plan will reduce pedestrian conflicts. Further, given the impact that app-based delivery and rideshare services have on traffic flow the Applicant is proposing to utilize the South Capitol Street access to accommodate all visitor and delivery pick up and drop off activity onsite, rather than leaving it to occur randomly on South Capitol Street.

The basis for the South Capitol Street entrance begins with the narrowness and length of the Subject Property's Eye Street frontage and potential conflicts with other adjacent parking and loading entrances on Eye Street. The Subject Property's Eye Street frontage is approximately 20 feet wide. Thus, directing all in-bound and out-bound vehicle and loading trips to this entrance would result in unmanageable congestion along the driveway, conflict with other parking and loading next door and directly across the Eye Street, and exacerbate congestion at the South Capitol Street and Eye Street intersection. In addition, it would result in a significant number of vehicle and truck trips crossing the sidewalk along Eye Street.

To avoid these impacts, the Applicant proposes to use the South Capitol Street entrance for right-in / right-out vehicle and loading access, and limit the Eye Street access to resident outbound traffic. This will establish an efficient circulation pattern that will not overwhelm the narrow Eye Street frontage, and the restriction to right-in / right-out access minimizes the potential for pedestrian conflicts and vehicular congestion. The South Capitol Street entrance is located at the extreme north end of the corridor, immediately adjacent to the freeway and the railroad infrastructure to the north. Given this location, the access point will likely relate more to the freeway and other infrastructure than the more active and vibrant parts of South Capitol Street to the south. In addition, the proposed access point is located in the vicinity of where the at-grade intersection will be constructed when the existing ramp is removed during Phase 4 of the South Capitol Street rebuild project.

Finally, by eliminating truck trips and dramatically reducing vehicle trips on Eye Street, the Applicant can take advantage of the Eye Street entrance to provide safe and efficient bicycle access to the existing bike lane on Eye Street. As shown on Sheets 11 and 18 of the Plans, the Applicant is limiting vehicular circulation to outbound only along the Eye Street driveway, and providing dedicated pedestrian and bicycle facilities along the remaining portion of the driveway. The bicycle facilities will connect to an existing bike lane along Eye Street, and the pedestrian facilities will provide a safe shortcut to the Navy Yard – Ballpark Metrorail Station at Half Street and M Streets.

4. *Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and*

As shown on the Plans, the Project includes extensive articulation across the facades facing South Capitol Street and the SE/SW Freeway. The ground-floor will be activated by the primary and secondary residential lobbies and residential amenities that will be visible through clear inviting windows and exciting architectural expression. Above the podium, the South Capitol Street massing is layered across the face of the building, pulling back as the façade approaches the freeway to maximize views of the U.S. Capitol. Further articulation of this façade is achieved through the upper-level setbacks above 110 feet. Additional depth and detail of this façade is provided through exterior balconies and the mix of glass and masonry materials. This same massing and articulation is extended to the northern façade facing the freeway. Along the north, the saw-tooth expression of the building façade steps away from the freeway, thus providing additional architectural interest when viewed from the freeway and point further north. The significant setbacks and outdoor courts and terraces created by the building's massing will provide added visual interest and enhance the overall aesthetic of the building within its context. Further, the stepping and massing of the building's upper levels are utilized for exterior balconies for further activation of the façades.

In addition to the massing and stepping of the facades, additional articulation will be gained through variation in window types and patterns, and the use of high-quality materials on all visible sides of the building. At the ground floor, a double-height storefront system will provide open views into the residential lobby and amenities. Immediately above the ground-level, a story of residential units with punched window openings will mark the top of the podium level. Above the podium, the residential units will have floor to ceiling windows that are set behind the strong masonry frame of the building. Finally, the Project will utilize high-quality materials including differentiated brick colors and patterns, metal panel cladding, and high-performance glazing.

5. *Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards; and*

The Project will be designed to meet the standards of LEED Silver. A preliminary LEED scorecard for the Project is included at Sheet 49 of the Plans.

- b. 11-I DCMR § 702.1(b) - *With respect to a building or structure in a D zone that has frontage on South Capitol Street, S.E. or North Capitol Street south of M Street, N.W.:*
 1. *The building or structure 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, respectively, South Capitol Street or North Capitol Street as monumental civic boulevards;*

As demonstrated in the Plans, the massing and materials of the Project will advance the establishment of South Capitol Street as a monumental civic boulevard. As set forth in long-term planning documents by both the Office of Planning and the National Capital Planning Commission, South Capitol Street is envisioned as a grand urban boulevard defined by a 160-foot cross-section with consistent street walls, upper level building setbacks, and a spacious pedestrian realm. Despite some unique site conditions, the Project will advance this urban design vision by replacing a largely vacant site with a well-defined street wall that aligns with the building to the south and provides the requisite upper level setbacks above 110 feet. While the general volume of the proposed building will help establish an urban design consistency along the corridor, the articulation and materials of the building will give the Project a unique character that still responds to the surrounding context. The unique, yet contextual design of the building that fits within the consistent urban design vision for the corridor is exactly the type of Project that is envisioned for monumental South Capitol Street.

2. *The building or structure 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; and*

The height and massing of the Project is compatible other high-density residential, commercial, and mixed-use developments along the South Capitol Street corridor and to the east of the Subject Property. The height and massing of the Project will not have any adverse impacts on lower-scale residential developments. To the west, the closest lower-scale development is located approximately 800 feet away, and is separated from the Subject Property by South Capitol Street and Randall Recreation Center. To the northeast, moderate density residential uses can be found approximately 850 feet away on the opposite side of the freeway, CSX rail lines, and Garfield Park.

As discussed above, the Project's access to parking and loading is located in a manner that will minimize pedestrian and vehicle conflicts given the constraints of the site and the surrounding context. The proposed South Capitol Street vehicle entrance reuses an existing curb cut, which the Applicant has received conceptual approval for from the PSC. The location and operation of this entrance will not cause any adverse transportation impacts. Rather than overburden the single, narrow access on Eye Street, use of the South Capitol Street entrance for loading, parking access, and PUDO will facilitate safer, more efficient circulation in and out of the site.

Finally, the Applicant's proposed bicycle facilities will ensure safe connections to the bike facilities along Eye Street. Specifically, the dedicated bike lane along the Eye Street driveway will directly connect residents to a large bike storage room within the parking garage. From the storage room, a dedicated

corridor will allow residents to directly access the secondary residential lobby or South Capitol Street.

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

A view analysis is provided on Sheets 20 - 21 of the Plans. As clearly shown by the view analysis, the Project will improve the vista toward the U.S. Capitol by strengthening the eastern edge of the view corridor. In response to the openness of Randall Recreation Center on the west side of South Capitol Street, and the unique condition presented by the freeway, the west façade of the building recedes and steps up in height as it approaches the freeway. A sculptural, architectural tower element is proposed at the northwest corner of the building marking the transition between the U.S. Capitol Complex and the Capitol Gateway neighborhood.

The view to the south towards the new Fredrick Douglass Bridge and monumental oval is also improved by the Project. As the west façade moves south the massing steps down to align with the initial 110-foot height of the adjacent building and other developments along the corridor, marking the transition into the Capital Gateway neighborhood when one emerges from under the freeway. While the proposed building cannot be constructed to the 15-foot setback line due to the presence of Lot 805 and the easements affecting the Subject Property, the alignment with the building to the south successfully achieves the streetscape consistency intended under the M and South Capitol Street Sub-Area requirements.

C. Special Exception Standards (11-I DCMR Chapter 7 and 11-X DCMR § 901.2)

Pursuant to 11-I DCMR § 701.2(a), new buildings or structures on a designated street segment within the M and South Capitol Streets Sub-Area must meet the special exception standards set forth in 11-X DCMR Chapter 9. Accordingly, pursuant to 11-X DCMR § 901.2, the Commission must find that the Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

In this case, the Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The overall purpose of the Zoning Regulations is to establish minimum standards for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare, by (i) providing adequate light and air; (ii) preventing undue concentration of population and overcrowding of land; and (iii) distributing population, business, and industry, and the use of land in a manner that creates favorable conditions. See 11-A DCMR § 101.1. As demonstrated in the Plans, the Project complies with all of the development and use standards for the D-5 zone.

One of the primary purposes of the Downtown (“D”) zones is to provide for the orderly development of areas deemed appropriate for high-density mixed-use development. See 11-I

DCMR § 100.1. As related to the project, the D zones are intended to, among other things, (i) promote the growth of well-design mixed-uses and streetscapes on portions of...South Capitol Street, ...including a mechanism for selective design review by the Zoning Commission; (ii) provide for adequate and visually acceptable parking and consolidated loading facilities that do not interfere with active, pedestrian-oriented sidewalks and the flow of vehicular traffic; and (iii) guide the design of buildings into being not inconsistent with the policies of the Central Washington Element and other relevant elements of the Comprehensive Plan. See 11-I DCMR § 100.2. Specifically, the D-5 zone is intended to “promote high-density development of commercial and mixed uses.”

The Project will be in harmony with the general purpose and intent of the Zoning Regulations, and is consistent with the purposes of the D-5 zone. The Project will promote public health and safety by redeveloping vacant and underutilized property with a well-designed residential project that will advance District and Federal goals for the South Capitol Street corridor. The design of the Project will not cause adverse impacts to light and air, and the added residential units will not result in undue concentration of population. Indeed, the new residential units will add vitality to a part of the South Capitol Street corridor that needs additional activation due to the presence of the freeway and CSX rail lines.

Overall, the proposed Project will create favorable conditions related to housing, urban design, pedestrian circulation, and sustainability. Consistent with the general purposes of the D zones and specific purpose of the D-5 zone, the Project will redevelop the Subject Property with a well-designed, high-density residential building that is compatible with the surrounding context and will elevate the vibrancy and architectural quality of the South Capitol Street corridor. Further, as envisioned under the M and South Capitol Street Sub-Area the Project will help ensure the preservation of the historically important axial view of the U.S. Capitol by adhering to the requirements of the Sub-Area except where physical constraints prevent strict compliance. Where physical constraints do exist (i.e. Lot 805 and highway easements), the Project design is informed by the immediate context such that the overall urban design goal of establishing South Capitol Street as a monumental boulevard with consistent street walls and upper-level setbacks, and a high-quality public realm is achieved.

The Project also will not tend to affect adversely the use of neighboring property. The majority of developed properties in the immediate area along South Capitol Street and to the east are improved with 110 to 130-foot tall, high-density mixed-use buildings. Thus, the proposed height and density of the Project will be consistent with the surrounding massing and neighborhood character and fully complies with the height and density standards for the D-5 zone. The proposed use for the Project is also fully consistent with the variety of residential and commercial uses in the surrounding area, and the ground-floor lobby and amenity spaces and significant streetscape improvements will further invigorate the northern end of the South Capitol Street corridor and advance the vision for the corridor as a safe, walkable and pedestrian-friendly urban boulevard. The proposal to provide vehicular access from both South Capitol Street and Eye Street will minimize potential conflicts between pedestrians and vehicles by establishing a more even distribution of potential trips rather than directing all vehicle and truck trips to Eye Street. Access restrictions such as right-in / right-out on South Capitol Street and outbound only on Eye Street will further ensure safe and efficient access to the Subject Property for all modes of travel. Based

on the foregoing, the Project will be fully consistent with existing development and will not affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

As stated above, new development at the Subject Property is required to meet the special exception standards of 11-X DCMR § 901.2. The Board of Zoning Adjustment (“BZA”) – and in this case, the Zoning Commission – is authorized to grant special exceptions where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the regulations. *See French v. Board of Zoning Adjustment*, 658 A.2d 1023, 1032 (1995). “Special exceptions, unlike variances, are expressly provided for in the Zoning Regulations. The Board’s discretion to grant special exceptions is limited to a determination whether the exception sought meets the requirements of the regulation. The burden of showing that the proposal meets the prerequisite enumerated in the particular regulation pursuant to which the exception is sought rests with the applicant. In sum, the applicant must make the requisite showing, and once he has, the Board ordinarily must grant his application.” *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C.1973) (emphasis added); *see also French*, 658 A.2d at 1033, stating that the “applicant has the burden of showing that the proposal complies with the regulation but once that showing has been made, ‘the Board ordinarily must grant [the] application.’” *See also Robey v. Schwab*, 307 F.2d 198, 201; *Hyman v. Coe*, 146 F. Supp. 24, 27, 32 (D.D.C.1956); *First Baptist Church v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695, 698 (D.C.1981).

Accordingly, based on the information provided above it is clear the Project is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property.

III. REQUEST FOR ZONING RELIEF

The Applicant is seeking a variance from the requirement that a minimum of 75% of the street-wall on the east side of South Capitol Street shall be constructed on the [15-foot] setback line under Subtitle I § 616.7(f). Under D.C. Code §6-641.07(g)(3) and 11 DCMR X §1000.1, an area variance may be granted if it is determined that three conditions exist:

1. the property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
2. the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
3. the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). Pursuant to Subtitle I § 701.3 of the

Zoning Regulations, the Commission is empowered to hear and decide the requested variance relief as part of its design review of the Project. As discussed below, the Applicant meets the three prongs of the area variance test for the requested variance.

(1) the property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;

The phrase “exceptional situation or condition” may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). In addition, the exceptional situation or condition can pertain not only to the land, but also to the existence and configuration of a building on the land. See *Clerics of St. Viator, Inc. v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Ultimately, the term “extraordinary or exceptional condition” was “designed to serve as an additional source of authority enabling the Board to temper the strict application of the zoning regulations in appropriate cases.” *DeAzcarate v. D.C. Bd. of Zoning Adjustment*, 388 A.2d 1233, 1237 (1978).

The requested variance is directly related to exceptional conditions that are unique to the Property. First, only 127 feet of the 342 foot west façade of the proposed building, or approximately 37%, has direct frontage on South Capitol Street. This is due to the presence of Lot 805 being located along the west side of the Subject Property between the proposed building and South Capitol Street. Lot 805 is currently owned by the District of Columbia, which acquired the property in 1961 and uses the property for highway purposes. Further, as described above the portions of the Subject Property lying north and south of Lot 805 are encumbered by easements that grant the District perpetual rights to construct highway infrastructure in these areas. As shown in Exhibit E, the 15-foot setback line referred to in Subtitle I § 616.7(f) runs through Lot 805 and the portions of Subject Property that are affected by the aforesaid easements. As a result, the proposed building cannot be constructed to the setback line without encroaching into the District’s property and the areas of the Subject Property where the District currently has perpetual rights to use for highway purposes. As such, the closest the Project can get to the 15-foot setback line is 9 feet.

The Subject Property is also affected by exceptional conditions relating to the neighboring property to the south (Lot 21), which is improved with a 130-foot, mixed-use building known as the Novel. The Novel building was constructed in accordance with the 1958 Zoning Regulations pursuant to BZA Order No. 19175. As such, it was not subject to the same setback and street wall requirements that are now applicable to the Subject Property under the M and South Capitol Street Sub-Area. In addition, it was not subject to Zoning Commission design review. Similar to the Subject Property, Lot 21 has a narrow, District-owned property to its immediate west (Lot 804) that is approximately 275 feet in length and 15 feet in width. According to the BZA record for the Novel building, the District obtained Lot 804 in 1961. The deed conveying Lot 804 to the District also included the dedication of a 9-foot perpetual easement over Lot 21 for pilings and a retaining wall for the support of a highway structure.³ As such, the presence of Lot 804 and the aforementioned 9-foot easement on Lot 21 resulted in the west façade of the Novel development to be located 24 feet from the edge of the adjacent South Capitol Street right-of-way, or 9 feet from

³ See BZA Case No. 19175, Exhibit 24, Page 2

the 15-foot setback line that would apply to the Novel development if it was constructed today.⁴ As described above, these are the same distances that impact the Project as a result of the [24-foot wide] Lot 805 and the [24-foot wide] easements recorded along the west side of the Subject Property.

(2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; and

As discussed below, the presence of the exceptional conditions described above results in a practical difficulty to the Applicant should the Zoning Regulations be strictly applied. To meet the standard for practical difficulty, “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” *Palmer v. D.C. Bd. of Zoning Adjustment*, 287 A. 2d 535, 542 (D.C. 1972). For an area variance, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2d 1362, 1365 (D.C. 1992), citing *Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). Finally, it is well settled that the BZA may consider “... a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’...” *Gilmartin*, 579 A.2d at 1171, citing *Barbour v. D.C. Bd. of Zoning Adjustment*, 358 A. 2d 326, 327 (D.C. 1976). See also, *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2d 1362, 1367 (D.C. 1992). Thus, to demonstrate practical difficulty, the Applicant must show that strict compliance with the regulations is burdensome, not impossible.

The strict application of the 75% street wall requirement under 11-I DCMR § 616.7(f) would result in a practical difficulty for the Applicant that is directly a result of the above-described unique conditions that affect the Subject Property. As shown in Exhibit E, due to Lot 805 and the recorded easement on the Subject Property along South Capitol Street, it is impossible for any part of the Project to be constructed on the 15-foot setback line. In addition, the Project cannot be modified in any way to comply with the street wall requirement. Thus, strict application of the street wall requirement would eliminate all potential for the Project, and any other project, to be constructed in a manner that would fully comply with the Zoning Regulations.

(3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The requested variance relief will not cause substantial detriment to the public good, and will not substantially impair the Zoning Regulations. The purpose of the 75% street wall requirement is to establish a strong, cohesive building line that helps achieve a consistent public realm and frames the axial view toward the U.S. Capitol. Despite the required variance, the Project will still advance this purpose. Between the freeway and Eye Street, there are only two buildings fronting South Capitol Street. These include the Applicant’s proposed building and the Novel building. As discussed above, the Novel building is setback approximately 24 feet from the edge of the South Capitol Street right-of-way due to circumstances similar to what exists at the Subject

⁴ According to the applicant’s prehearing statement for the Novel development, on September 25, 2015, the Zoning Administrator issued a determination letter concluding that Lot 804 should be considered part of the South Capitol Street right-of-way due to the permanent use by the District for highway purposes.

Property. As shown in the Plans, the entire length of the Project's podium level (Floors 1 – 3) aligns with the west façade of the Novel building. Above the podium, Floors 4 - 11 of the Project also align with the Novel building for approximately 150 feet. After that distance, the Project's west facade begins its progressive series of step backs and step ups to the proposed architectural embellishment. Considering the Project and the Novel building will be the only two buildings on the subject block, the consistent alignment of the two buildings will achieve the urban design aesthetic envisioned by the 75% street wall requirement. Further, despite the Project having a greater street wall setback than other existing and future buildings to the south, the difference will be imperceptible due to the alignment with the Novel building, the Project's 1:1 setback above 110 feet, and the separation provided by Eye Street.

Finally, the requested variance will not cause substantial detriment to the public good. The inability of the Project to be constructed on the 15-foot setback line results in an additional 9 feet of streetscape along South Capitol Street, for which the public can utilize. As shown on Sheet 38 of the Plans, this additional space offers increased pedestrian circulation space, and opportunities for greater landscaping, seating, and bike parking.

IV. NOTICE AND COMMUNITY ENGAGEMENT

Pursuant to 11-Z DCMR § 301.6, the Applicant served written notice of its intent to file the subject application on June 15 2021, which was 45 days prior to the filing of this application.

On July 12, 2021, the Applicant provided Advisory Neighborhood Commission (“ANC”) 6D with an initial presentation of the Project concept. Generally, the initial comments provided by ANC 6D primarily related to:

- Building access,
- Number and location of balconies, particularly along the freeway,
- Types of residential amenities,
- Opportunities for affordable housing,
- Exterior lighting,
- Amount and location of vehicle parking,
- Non-auto transportation amenities and connectivity to the planned South Capitol Street cycle track,
- Impacts to South Capitol Street and Eye Street intersection,
- Opportunities for publicly accessible open space below the freeway, and
- Construction management.

On July 13, 2021, the Applicant provided an initial presentation to ANC 6B. The comment provided by ANC 6B primarily related to:

- Impacts to Randall Recreation Center, including acoustical impacts,
- The general building design relative to other recent developments,
- Amount and location of vehicle parking, and
- Opportunities for affordable housing,

The Applicant will continue to work with ANC 6D, ANC 6B, and surrounding community. The Applicant anticipates meeting with representatives from both ANCs shortly after submission of this application to have a more detailed discussion of the Project design, including consistency with the design review criteria of Subtitle I, Chapter 7. It is expected that the Applicant will formally present the Project to both ANCs in September.

V. LIST OF EXHIBITS

<u>Exhibit A</u>	Surveyor's Plat
<u>Exhibit B</u>	Context map
<u>Exhibit C</u>	Portion of the Zoning Map showing the Subject Property
<u>Exhibit D</u>	Architectural Plans and Elevations
<u>Exhibit E</u>	15-foot setback line diagram
<u>Exhibit F</u>	Outlines of Witness Testimony
<u>Exhibit G</u>	Resumes of Expert Witnesses
<u>Exhibit H</u>	Certificate of Notice, Notice of Intent, and list of property owners within 200 feet of the site
<u>Exhibit I</u>	Form 100 – Application Signature Page
<u>Exhibit J</u>	Authorization Letters

VI. LIST OF WITNESSES

1. Matt Tsau, Vice President, Square 695 LLC.
2. Brian Pilot, Principal, Studios Architecture
3. Trini Rodriguez, Principal, ParkerRodriguez Inc.
4. Erwin Andres, Principal & Vice President, Gorove/Slade Associates
5. Shane Dettman, Director of Planning Services, Holland & Knight LLP

VII. CONCLUSION

For the reasons set forth above, the application meets the design review standards for properties in the M and South Capitol Streets Sub-Area pursuant to 11-I DCMR § 616 and 11-I DCMR, Chapter 7. Therefore, the Applicant respectfully requests that the Commission schedule a public hearing on the application at its earliest available date.