

# Holland & Knight

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January 5, 2018

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## BY ELECTRONIC (IZIS) AND HAND DELIVERY

District of Columbia Zoning Commission  
441 4<sup>th</sup> Street, NW  
Second Floor  
Washington, DC 20001

Re: Zoning Commission Order No. 15-23  
Request for Minor Modification – Penthouse Habitable Space  
Square 700, Lots 878, 7001, 7003 (collectively, the "Property")

Dear Members of the Zoning Commission:

On behalf of AG/MR SQ700 Residential Owner, L.L.C., owner of the Property, we submit this request for minor modification approval, pursuant to 11-C DCMR §1504.3, to add penthouse habitable space to a building that was previously reviewed by the Zoning Commission as part of a design review application approved prior to January 8, 2016. This minor modification request is made pursuant to the Zoning Commission's authority established in 11-Z DCMR § 703, which allows the Commission to approve minor modifications without a public hearing.

### **I. BACKGROUND**

By Order No. 15-23, dated December 14, 2015, and published January 15, 2016, the Zoning Commission approved the request of predecessor owner and related entity, SQ700 Trust, LLC, for review and approval of the design of a 13-story apartment house on the Property, which comprises a portion of Lot 48 in Square 700. The Property is located mid-block along South Capitol Street, SE, between M and N Streets, SE, with frontage also along Van Street, SE. A copy of Order No. 15-23 is attached for your reference at Exhibit A. At the time of the approval, the Property was zoned CG/CR, and the application was processed and approved pursuant to §§ 1605 and 1610 of the 1958 Zoning Regulations, which established a design review requirement for new construction on certain properties located within the Capitol Gateway (CG) overlay district, particularly, those properties with frontage along South Capitol Street, SE, and properties located in Square 700. Pursuant to the vesting provisions of 11-A DCMR § 102.4, this minor modification application shall conform to the provisions of the 1958 Zoning Regulations, and reference herein to the Zoning Regulations shall be to

the 1958 Zoning Regulations unless otherwise noted.<sup>1</sup> References herein to procedural requirements and authorities are made to the 2016 Zoning Regulations.

## **II. MINOR MODIFICATION REQUESTED**

As reflected in the set of architectural drawings attached as Exhibit B (hereinafter, the “Drawings”), the Applicant proposes to add approximately 2,280 square feet of penthouse habitable space to the approved residential building, to be accomplished by relocating certain mechanical equipment on the penthouse and elsewhere in the building, and slightly redesigning the layout of the green roof and hardscaping on the roof. The Applicant is also proposing to refine the materials palette for the penthouse, replacing what was originally a penthouse composed primarily of aluminum panel with masonry that is also used on the primary facades and a corten tile product that replicates a stone finish. The increase in habitable space will yield one new one-bedroom dwelling unit and the expansion of a second dwelling unit by adding a second floor to that unit. The floor area ratio (“FAR”) of the proposed penthouse habitable space is approximately 0.12 FAR. The amount of green roof provided as well as the Green Area Ratio provided will increase as a result of the proposed refinements to the penthouse level, as identified in the Drawings.

The penthouse heights and setbacks comply with the requirements set forth in the penthouse regulations established in §§ 630.4 and 411.18 of the Zoning Regulations, respectively. With regard to height, as shown on Sheet 9 of the Drawings, the penthouse will have a primary maximum height of 18 feet, 4 inches, with a lower height of 14 feet 6 inches for the penthouse habitable space in accordance with § 411.9. The addition of the penthouse habitable space does not create any additional parking or loading requirement for the building.

The approved residential building generated an Inclusionary Zoning set aside equating to 16 units of the 171 units in the building, including 5 2-bedroom IZ units, all of which are being provided in the building. With respect to the small additional amount of Inclusionary Zoning set aside created by the proposed penthouse habitable space addition (approximately 180 square feet), the Applicant will satisfy this requirement through a contribution to the Housing Production Trust Fund in accordance with § 2607.9 and consistent with the formula contained in §§ 414.12 through 414.16 of the Zoning Regulations.

## **III. PROCESSING MINOR MODIFICATIONS**

Pursuant to 11-C DCMR § 1504.3, a request to add penthouse habitable space to a building approved by the Zoning Commission prior to January 8, 2016, may be filed as a minor modification for placement on the Zoning Commission’s consent calendar, pursuant to 11-Z DCMR § 703, provided (a) the item shall not be placed on a consent calendar for a period of 30 days minimum following the filing of the application; and (b) the Office of Planning shall submit a report with a recommendation a minimum of seven days in advance of the meeting.

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<sup>1</sup> It is the Applicant’s understanding that the penthouse regulations, including minor modification approval without a hearing, is unchanged between the 1958 and 2016 Zoning Regulations.

In addition to meeting the requirements of 11-X DCMR Chapter 9, an application made pursuant to 11-C DCMR § 1504.3 shall include the following:

- a. A fully dimensioned copy of the approved and proposed roof plan and elevations as necessary to show the changes;
- b. A written comparison of the proposal to the Zoning Regulations; and
- c. Verification that the affected Advisory Neighborhood Commission has been notified of the request.

This application complies with the requirements of 11-C DCMR § 1504.3(a) through (c). At Exhibit B, the Applicant has provided fully-dimensioned plans, elevations, and sections of the proposed penthouse design as well as renderings comparing the approved and proposed penthouse designs. A written comparison of the proposal addressing the applicable Zoning Regulations is provided herein. Finally, as shown on the Certificate of Service attached at the end of this statement, the Applicant has notified the affected Advisory Neighborhood Commission, ANC 6D, of the request. The Applicant has been corresponding with the ANC regarding the request and will make a formal presentation to the ANC on January 8, 2018, at the regularly-scheduled monthly meeting of the ANC. The Applicant has also discussed the minor modification proposal with the Office of Planning and received and incorporated questions and recommendations from that office in the Drawings presented herein.

#### **IV. THE REQUEST FOR MINOR MODIFICATION MEETS THE STANDARDS OF 11-Z DCMR § 703, AND NO HEARING IS NECESSARY**

Subtitle Z, Section 703, of the Zoning Regulations provides for an expedited "Consent Calendar" procedure, in the interest of efficiency, for minor modifications, modifications of consequence, and technical corrections to previous approvals without need for a public hearing.

The minor modification requested is not a substantial change to the penthouse envelope as originally approved. The request allows for one additional dwelling unit and the expansion of an existing dwelling unit to be constructed as part of the project and results in an increase in the amount of green roof and Green Area Ratio provided as part of the project. The proposed revision also includes enhancements to the materials used to enclose the penthouse. Otherwise, the design of the building remains unchanged in terms of building envelope and general appearance.

As noted above, the Applicant has copied ANC 6D on the present request for minor modification. The Applicant also has shared its request with the District of Columbia Office of Planning.

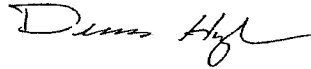
**V. CONCLUSION**

In light of this demonstration of good cause and for the reasons stated herein, the Applicant respectfully requests approval of its request for minor modification to provide penthouse habitable space as provided in the Drawings.

The Applicant respectfully requests that the Zoning Commission consider this request for minor modification at its earliest available public meeting.

Respectfully submitted,

HOLLAND & KNIGHT LLP



Dennis R. Hughes

Attachments

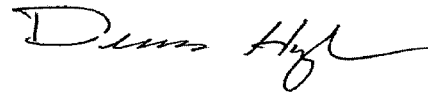
cc: Advisory Neighborhood Commission 6D  
DC Office of Planning

**CERTIFICATE OF SERVICE**

I hereby certify that on January 5, 2018, a copy of this request for Minor Modification to Zoning Commission Order No. 15-23 was served on the following in accordance with 11-C DCMR § 1504.4(c) and 11-Z DCMR § 703.13.

Advisory Neighborhood Commission 6D  
1101 4th Street, SW  
Suite W130  
Washington DC 20024

Via Hand Delivery



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Dennis R. Hughes