

June 4, 2018

**Via IZIS and Hand Delivery**

Anthony Hood, Chairperson  
District of Columbia Zoning Commission  
441 4th Street, NW, Suite 200-S  
Washington, DC 20001

**Re: Zoning Commission Case No. 03-12/03-13: Modification of Consequence of the Approved Planned Unit Development (“PUD”) and Zoning Map Amendment for the Property Located at 250 M Street SE (Square 769, Lot 824 and Part of Lot 825) (“Property”)**

Dear Chairperson Hood:

Square 769, LLC (the “Applicant”), hereby requests a modification (Modification of Consequence) of Order No. 03-12/03-13, as amended and extended by 03-12C/03-13C, and 03-12/03F-13F, 03-12K/03-13K, 03-12N/03-13N, 03-12S/03-13S, and 03-12U/03-13U (collectively, the “Order”). The Order approved an office project with ground floor retail at 250 M Street, SE. The project was reviewed and approved by the Zoning Commission pursuant to its PUD authority of 11-X DCMR §300. An application form and an agent authorization letter are attached as Exhibit A. This Modification of Consequence will allow the Applicant to complete and lease out the Property for the District Department of Transportation (“DDOT”), the proposed tenant at the Property.

A. Background

On March 21, 2003, Capper/Carrollsbury Venture, LLC, the District of Columbia Housing Authority, and Square 769, LLC filed applications requesting First-Stage and Consolidated approval of a PUD for a large area of multiple properties located in the southeast quadrant of Washington, D.C. These properties were generally bound by Virginia Avenue on the north, 7<sup>th</sup> Street on the east, M Street on the south, and 2<sup>nd</sup> Street on the west. The property consists of approximately 927,000 square feet of land area and was the site of the former Arthur Capper/Carrollsbury Dwellings and a privately owned parcel that formerly operated as a Shell gas station.

Pursuant to Order No. 03-12/03-13, the Zoning Commission granted preliminary and consolidated approval for the overall development, including the preliminary approval for an office building to be constructed at 250 M Street, S.E. on the southern portion of Square 769

(the "Project"). On May 14, 2007, the Commission approved Case No. 03-12C/03-13C, which granted Second-Stage PUD approval of an office building at 250 M Street, SE (the "Building"). A modification of the Second-Stage PUD for the Building was approved by the Zoning Commission on September 26, 2008, pursuant to Order No. 03-12F/03-13F. Thereafter, the Zoning Commission extended approval of the Building pursuant to Order Nos. 03-12K/03-13K, 03-12N/03-13N, 03-12S/03-13S, and 03-12U/03-13U such that the Applicant must file a building permit application for the Building no later than September 26, 2018, with construction to begin no later than September 26, 2019. A copy of Order Nos. 03-12C/03-13C and 03-12F/03-13F are attached hereto as Exhibit B.

The Applicant pursued extensions of the Project with the Zoning Commission with the ultimate goal of developing an office building at the Property. The community has continued to support the effort to secure an office tenant to keep the approved mix of uses (office, residential, retail) in the Capitol Riverfront community. The Applicant is pleased that it is secured DDOT as the proposed office tenant for the Project. The Applicant now needs to modify certain aspects of the Project to meet DDOT's needs as the sole tenant at the Property, and reflect the expected market demand for office space in this submarket.

B. Modification Request and Applicant's Satisfaction of the Standards for Approving a Modification of Consequence

Condition Nos. 2, 3, and 4 of Order 03-12F/03-13F requires that the approved Project be built in accordance with the approved plans at 130 feet in height with a maximum gross floor area of 234,182 square feet (Order No. 03-12F/03-13F, p. 6-7). Section 703 of Subtitle Z of the 2016 Zoning Regulations establishes the standards and requirements for approval of Modifications of Consequence, without a public hearing. Section 703.4 notes that examples of Modifications of Consequence:

[i]nclude, but are not limited to, **a proposed change to a condition in the final order**, a change in position on an issue discussed by the Commission that affected its decision, or **a redesign or relocation of architectural elements** and open spaces from the final design approved by the Commission. (emphasis added in bold).

The modifications proposed in this application are related to the redesign of the following architectural elements:

- Ground Floor Modifications: Use part of the ground floor as space for DDOT, including a multi-purpose conference room along M Street, SE, which reduces the overall amount of ground floor retail space provided in the project;
- Height and Gross Floor Area Reduction: Reduce the height and gross floor area ("GFA") of the building from 130 feet to 110 feet and from 234,182 square feet to approximately 189,000 square feet, respectively;

- Vehicular Parking Reduction: Reduce the number of parking spaces from 235 spaces on four below-grade levels to 177 spaces on three below-grade levels;
- Bicycle Parking Modification: Revise the bicycle parking amount and plans to match the current GFA and the 2016 Zoning Regulations; and
- Loading Reduction: Reduce the number of loading berths from three berths and one delivery space to two loading berths and one delivery space, consistent with the requirements of the 2016 Zoning Regulations.

These modifications are explained in more detail below and are depicted in the plans attached as Exhibit C (the “Plans”).

#### 1. Ground Floor Modifications

The Applicant seeks to revise the ground floor level to accommodate DDOT’s programmatic needs as the sole office tenant at the Building. The originally proposed ground floor consisted of approximately 10,661 square feet of retail space, which included all of the M Street frontage of the Building. As shown on Sheet 16 of the Plans, the revised proposal includes approximately 6,800 square feet of general retail space at the Building along 2<sup>nd</sup> Street SE, which fronts on Canal Park. The M Street frontage will be largely occupied by programmatic space for DDOT, including a storefront of approximately 600 square feet and a conference center of approximately 2,800 square feet<sup>1</sup>.

This change from the original plans does not impair the street activation of the ground floor or negatively impact the Project. The corner of 3<sup>rd</sup> and M Street, SE is not an optimal location for retail, as the neighborhood retail clusters have evolved along secondary, more pedestrian oriented streets in the Capitol Riverfront area, such as Tingey, Water, New Jersey, First, lower 8<sup>th</sup>, 4<sup>th</sup>, and Half Street. In addition, the Applicant believes that locating a significant retail presence at 2<sup>nd</sup> Street and M Street, SE reinforces the retail and restaurants that are clustering along both sides of Canal Park, thereby reinforcing its presence as a significant public park and providing convenience retail and food service to park patrons.

Even without retail use along the entirety of the M Street frontage, the Project will continue to create an active and dynamic streetscape. The proposed DDOT storefront along M Street, SE will be used to help the public understand all of the multi-modal transportation options that are available. This will include information about car share, bike share, dockless bikes and

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<sup>1</sup> Under the original PUD, the ground floor of the Building was subject to certain requirements, due to its location in the Capitol Gateway Overlay. Because the Applicant is proposing to modify the ground floor of the Building, the modifications to the ground floor are now subject to the 2016 Regulations, pursuant to 11-A DCMR §102.4. Under the 2016 Zoning regulations, in the Capitol Gateway Zone Districts the ground floor retail requirements only apply on the *south side* of M Street S.E. and S.W. Therefore, the ground floor use and design restrictions of the Capitol Gateway zones no longer apply to the Project because it is located on the north side of M Street.

scooters, DC Circulator, DC Streetcar, and future options. The storefront is expected to also include a retail component that will allow the public to purchase memberships in the programs noted above, as well as the possibility of purchasing branded merchandise from affiliated organizations.

The proposed conference and training center will be used by DDOT to hold meetings, training, and larger agency related events to discuss deployments or plans. It is vital that this use be on the ground floor of the Building where DDOT staff and others needed during meetings and events can immediately access the room. The windows of the conference center will be lined with digital screens to animate the M Street experience, as illustrated on Sheets 17 and 18 of the Plans. This digital screens will not be used for commercial advertising purposes<sup>2</sup>, but will instead be used to convey information regarding car share, bike share, dockless bikes and scooters, DC Circulator, DC Streetcar. No flashing lights or sound will emanate from these screens. Numerous individual screens are anticipated, rather than a single large screen, as these screens are intended to be viewed by pedestrians walking along the north side of M Street and are not intended to be seen by passengers in vehicles traveling along M Street, or to pedestrians on the south side of M Street. For these reasons, the Applicant does not believe that these screens will create any safety concerns for vehicular traffic along M Street.

The Applicant is pleased to offer Advisory Neighborhood Commission (“ANC”) 6D the opportunity to use the conference center/training space for public meetings and programs. The Applicant proposes that the following condition be added to the Zoning Commission’s approval of the Project:

For the life of the Project, the Applicant will allow ANC 6D to utilize the ground floor conference room/training center for public meetings or programs, subject to the approval of an annual schedule by the District for so long as the conference room/training center constitutes a portion of the premises leased by the District. No costs will be associated with such use unless due to negligence or willful misconduct.

## 2. Height and Gross Floor Area Reduction

The Applicant also proposes to reduce the overall height and GFA of the Building. The Applicant has worked for years to ensure the Project could be delivered as office space, as originally contemplated in the PUD. Having office use at this critical location has been important to the community to ensure diverse land use in this area of the District. DDOT’s need for an office building is enough to occupy all but approximately two floors of the initially proposed Project. Because such a small remainder of office space in this location would be difficult to lease in this submarket, the Applicant proposes to revise the Building by removing two floors and approximately 45,000 square feet of GFA.

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<sup>2</sup> These screens are not intended to be deemed to be digital signage which would otherwise be subject to the Nationals Ballpark and Ballpark District Designated Entertainment Signage Regulations Amendment Act of 2016.

In reducing the Building by two floors, the Applicant is proposing minor refinements to the architecture of the Building by removing the fifth floor and the tenth floor and reducing the overall height of the tower element. The modified Building was designed to be 130 feet in height; the revised Building measures 110 feet in height. By removing these two floors, the overall Building shape and massing remains the same. Removing a floor in the middle of the Building simply shrinks the height of the Building. Removing a floor toward the top of the Building ensures that the Building's shape remains true to the original design intent of the Project. With the exception of a slight modification to the height of the tower element, the design of the top floor of the Building remains the same, providing a set-back floor to minimize the appearance of the height of the Building and provide an articulated façade and roof.

The GFA of the Building is reduced from approximately 234,182 square feet to approximately 189,000 square feet. This reduction is solely a result of removing the two floors discussed above. The reduction in GFA results in modifications to the: (1) vehicular parking, (2) bicycle parking, and (3) loading requirements. The Building complies with the 2016 Zoning Regulations in these areas.

### 3. Vehicular Parking Reduction

The Applicant is also seeking to remove one level of below-grade parking from the approved building. The approved plans included four levels of below-grade parking for a total of 235 parking spaces. As a result of the removal of the two stories of office space, the Applicant is now proposing to provide three levels of below-grade parking space that will include approximately 177 parking spaces. Under the 2016 Zoning Regulations, there is no parking requirement for the Project because it is in a Capitol Gateway Zone District east of South Capitol Street. However, if parking was required, the office use would require approximately 90 parking spaces and the retail use would require approximately five parking spaces, for a total of approximately 95 parking spaces. The Project will dedicate seven of the parking spaces to the retail uses in the Building. The remaining 170 parking spaces will be utilized by the office tenant, DDOT. The Applicant believes these spaces are sufficient to meet the parking demand of the Project.

The Applicant and DDOT have analyzed DDOT's use of the parking facilities included in their existing building (located two blocks away at 55 M Street, SE), as well as DDOT's expected utilization of the parking facilities that will be provided in the new 250 M Street, SE Building. Based on this analysis, the Applicant and DDOT have made the following assumptions:

- The number of DDOT employees that will work at the 250 M Street, SE Building will be the same as currently work at 55 M Street, SE – approximately 350 employees. DDOT is not consolidating its operations from other locations outside of this neighborhood in the 250 M Street, SE Building.

- Approximately 15 of the 350 DDOT employees that currently work at 55 M Street, SE purchase monthly parking permits from the operator of that building. DDOT does not expect that number to change when it moves to 250 M Street, SE.
- DDOT currently has 124 fleet vehicles that park in the 55 M Street, SE building. These vehicles consist of sedans, pick-up trucks, and passenger vans. DDOT expects that it will utilize 140 parking spaces in the 250 M Street, SE Building for fleet vehicles (which will be the same types of vehicles that are currently used by DDOT).
- The DDOT fleet vehicles typically enter and leave the building at times that are not in the typical morning or evening rush hour periods.
- The 55 M Street, SE building currently has showers, changing rooms, and lockers that are used by DDOT employees that bike, walk, or take public transportation to work. The 250 M Street, SE Building will have similar facilities that will encourage DDOT employees to travel to work by means other than personal vehicles. These facilities can also be used by DDOT employees that are coming to the building after their field work or after they exercise during or after the work day.

Based on this information, the Applicant concludes that the 170 parking spaces dedicated for the DDOT use will be sufficient to meet the needs of the fleet vehicles (140 spaces), DDOT employees (15-20 spaces) and visitors (10-15 spaces). The Applicant requests flexibility to vary the final parking amount by up to 10% in finalizing the Plans during permitting.

#### 4. Bicycle Parking Modification

As a result of the proposed modifications, the Applicant proposes to revise the bicycle parking at the Building. Based on the modification, the Project will require 63 long term bicycle parking spaces (1 space for retail use, 62 for office use) and 7 short term bicycle parking spaces (2 for retail use, 5 for office use). As shown on Sheet 15 of the Plans, the Project will meet the 2016 Zoning Regulations bicycle parking requirements by providing 64 long term spaces on the first below-grade level of the parking garage and 7 short term spaces outside of the Building.

#### 5. Loading Reduction

By decreasing the amount of GFA in the Building, the Applicant proposes to similarly reduce the loading at the Project to reflect the revised Building needs. Based on the revised office square footage at the Project, only two loading berths and one delivery space are required for the Project. The Applicant will provide these loading facilities, as shown on Sheet 16 of the Plans. The loading facilities are accessed from the shared private alley, as originally planned, and the Applicant will take all necessary actions to prevent cars and delivery trucks from parking in the shared private alley. Trucks using the loading facilities will not be allowed to idle and must follow all District guidelines for heavy vehicle operation, including, but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling).

C. Service on Party

The only party in Zoning Commission Case No. 03-12C/03-13C and the subsequent cases affecting the Property was ANC 6D. Therefore, ANC 6D is being served with this application (in satisfaction of Section 703.13 of Subtitle Z). (See attached Certificate of Service). The Applicant made an initial presentation regarding these modifications at ANC 6D's May 14, 2018 regularly scheduled public meeting and has held an additional meeting with the ANC 6D Chairperson. The Applicant will return to ANC 6D on June 11, 2018, at which time the Applicant expects that ANC 6D will vote on this application.

D. Conclusion

The proposed modifications are consistent with the Zoning Commission's previous PUD approval. Now that the Applicant has secured an office tenant for the Building, the Applicant has made modest changes to the Building to accommodate DDOT's specific needs and to reflect the expected demand for office space in this submarket. The Applicant has been in communication with government agencies, including the Office of Planning, DDOT, and ANC 6D regarding the modifications. Given the nature of the modifications proposed, the use of the Modification of Consequence process outlined in Section 703 of Subtitle Z of the 2016 Zoning Regulations is appropriate for this application. All other conditions of the Order will remain as approved.

Given the tight delivery date that DDOT requires for the Building, it is very important that the Zoning Commission review this application as expeditiously as possible. Reviewing this case as a Modification of Consequence is essential for the Applicant to maintain its proposed construction schedule and meet DDOT's required delivery date.

Enclosed is a check made payable to "DC Treasurer" in the amount of \$520, which represents the filing fee for this application. Please feel free to contact the undersigned if you have any questions or comments regarding this consent calendar modification application.

Respectfully Submitted,



Paul Tummonds



Meghan Hottel-Cox

Certificate of Service

I hereby certify that I sent the foregoing document to the addresses below on June 4, 2018, by first class mail and hand delivery.

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Meghan Hottel-Cox