

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

**Application of West Half II, L.L.C., and West Half III, L.L.C.
Square 700, Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, 875**

PROPOSED MODIFICATION TO ORDERS NO. 08-30 AND 08-30A

**REVIEW OF BUILDINGS AND STRUCTURES ON
HALF STREET AND M STREET, SE
CAPITOL GATEWAY OVERLAY DISTRICT**

I. Background

The Property consists of Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875 in Square 700 with a total lot area of approximately 87,991 square feet. Square 700 is bounded by M Street, SE, on the north, South Capitol Street on the west, Half Street, SE, on the east, and N Street, SE, on the south. Van Street bisects the square, running in a north-south orientation. The Property is located in the eastern portion of the square, with frontage on M Street, N Street, Half Street, and Van Street. Nationals Ballpark is located immediately south of the Property across N Street, SE. The Property is included in a CR Zone District and is located in the Capitol Gateway (CG) Overlay District. The current use of the Property is as temporary seasonal entertainment on Washington Nationals baseball game days.

The CG Overlay District regulations require review by the Zoning Commission of any proposed building on a lot in the CG overlay that satisfies any of the following criteria, among others: (1) abuts M Street, SE; (2) is located within Square 700; or (3) is the recipient of density through combined lot development. The Property satisfies all of these criteria. As such, an application for Zoning Commission review was submitted by predecessor owners of the Property in 2008, pursuant to sections 1604, 1607 and 1610 of the Zoning Regulations. That application was approved in 2009 by the Zoning Commission in Order No. 08-30, and in 2011 the design of the approved project was modified pursuant to Order No. 08-30A. Copies of the Zoning Commission orders are included with this submission.

Through Orders No. 08-30 and 08-30A, the Zoning Commission approved redevelopment of the Property with a mixed-use building measuring 110 feet in height and containing approximately 288,242 square feet of residential use, approximately 369,292 square feet of office use and approximately 51,624 square feet of retail use ("Approved Building"). The footprint of the Approved Building occupies the entirety of the eastern half of Square 700 and is bound on all sides by public streets: M Street to the north, Half Street to the east, N Street to the south, and Van Street to the west. The Approved Building consists of two primary sections: a northern section consisting of office and ground floor retail uses fronting on M Street and a southern section consisting of the residential use as well as office and ground and second floor

retail uses. A dedicated 30-foot wide pedestrian right of way running in an east-west orientation (“Via”) separates the two sections of the Approved Building, with building connections provided through two footbridges above.

West Half Residential II, L.L.C. and West Half Residential III, L.L.C. (collectively, the “Applicant”) have acquired all of the lots comprising the Property with the exception of the northernmost lot, Lot 873 (the Property, excepting Lot 873, herein the “Applicant’s Property”). The Applicant’s Property comprises the land on which the southern portion of the Approved Building and the Via would be located. The Applicant proposes to modify only that portion of the Approved Building located on the Applicant’s Property. No changes are proposed to the design and uses for that portion of the Approved Building located north of the Via other than the location of the building connection.

Enclosed with this submission are architectural drawings identifying the proposed revisions to the design and use mix of the southern portion of the Approved Building. Please see Sheet A106. As modified, the residential component of the Approved Building would increase to approximately 362,385 square feet and retail uses would increase by approximately 15,000 square feet, all with a corresponding reduction in overall office use. Resulting total gross floor area for the building would be reduced by approximately 2,000 square feet. Maximum building height would remain 110 feet. While the overall density and height of the Approved Building would remain largely unchanged by the proposed modification, the configuration and architectural vocabulary of the building have been significantly revised, and the Applicant is eager to share the dynamic new design with the Zoning Commission.¹

The modification application also includes request for the following area variances: from the percentage of lot occupancy requirements (§ 634.1), setback requirement for buildings along Half Street, SE (§ 1607.2), compact parking space percentage and location requirements (§§ 2115.2 and 2115.4), and loading (§ 2201.1). Given the complex cantilevering design proposed for the courtyard, the Applicant has not yet confirmed that the closed court provided is technically compliant with the dimensional requirement of section 638 and is therefore preliminarily requesting relief from that requirement. The Zoning Commission is authorized to approve such relief pursuant to section 1610.7 of the Zoning Regulations and previously approved variance relief for the Approved Building relating to percentage of lot occupancy, setback from Half Street, and loading.

Following herein, is a preliminary statement indicating how the Applicant meets its burden of proof.

II. Burden of Proof

A. Capitol Gateway Overlay District

1. Section 1610.3

¹ The proposed modification includes penthouse habitable space for the southern portion of the Approved Building, consistent with the recent changes approved by the Zoning Commission in Application No. 14-13, which are currently pending publication.

Section 1610.3 of the Zoning Regulations states that an Applicant requesting approval under the CG Overlay District review provisions must demonstrate that the proposed building's architectural design, siting, landscaping, sidewalk treatment, and operation are of a superior quality, pursuant to several design and use requirements. As set forth below and will be supplemented by the Applicant in its prehearing submission and at the public hearing, the Approved Building was determined to satisfy these requirements, and the modification application continues to satisfy the criteria of section 1610.3, as follows:

a. *Help Achieve the Objectives of the CG Overlay as set forth in §1600.2*

The project as modified will continue to satisfy the following stated objectives for the CG Overlay, as provided in section 1600.2, including: (1) assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings; (2) requiring suitable ground-level retail and service uses and adequate sidewalk width along M Street, SE, near the Navy Yard Metrorail station; (3) encouraging a variety of support and visitor-related uses, such as retail, service, entertainment, and other uses; and (4) providing for the development of Half Street, SE, as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street facade to ensure adequate light and air, and a pedestrian scale.

To that end, the project as modified will provide approximately 362,000 square feet of residential use, including a mixture of condominium and rental units, and approximately 345,000 square feet of commercial uses, including 15,000 square feet more retail/service uses than was included in the Approved Building. The pedestrian Via will be retained in the modified design, and the vibrant new design of the southern portion of the Approved Building will further activate Half Street and provide appropriate scale and setbacks through its extensive and innovative use of terracing.

b. *Help Achieve the Desired Mix of Uses in the CG Overlay District as set forth in §§ 1600.2(a) and (b)*

The project as modified will continue to provide a mix of residential, office and retail/preferred uses in furtherance of the objectives of the CG Overlay.

c. *Be in Context with Surrounding Neighborhood and Street Patterns*

As demonstrated in the enclosed drawings set, the project as modified is exceedingly contextual to the surrounding neighborhood and street patterns, especially along its Half Street and N Street frontages, where a mixture of stacking and terracing of volumes allows for the building mark this important corner at the centerfield entrance to the Nationals Ballpark while drawing visual interest from multiple vantage points. The Via remains an important component of the project in facilitating and encourage pedestrian circulation in an east-west direction, including residents of the building, while vehicular ingress/egress for parking and loading operations remains provided from Van Street.

d. *Minimize Conflict between Vehicles and Pedestrians*

As noted above, the loading and parking operations for the building occur on the least trafficked of the street frontages, along Van Street. Pursuant to sections 1604.2 and 1607.7 of the Zoning Regulations, no driveway may be constructed or used from M Street, SE, or from Half Street, SE. Where the loading and parking operations occur along Van Street, the pedestrian will have an uninterrupted sidewalk with similar paving patterns to the typical Van Street sidewalks and public space.

e. *Minimize Unarticulated Blank Walls Adjacent to Public Spaces through Façade Articulation*

The building as modified will continue to offer extensive façade articulation for all street elevations as well as the Via elevation. The proposed modifications to the southern portion of the Approved Building include extensive modulation of building volume along the Half Street and N Street elevations, and to a somewhat lesser extent the Van Street elevation, where the C-shaped orientation of the residential portion is expressed. In addition to shifts of building volume, the building is articulated through use of balconies, extensive landscaping incorporated into the elevations, and innovative materials.

f. *Minimize Impact on the Environment (LEED)*

The Applicant continues to explore opportunities to maximize sustainability in the design, construction and operation of the residential portion of the building. At this time, the Applicant contemplates that the residential portion will meet or exceed LEED Silver standards. A draft LEED checklist is included with the enclosed drawings set. The Applicant intends to consult with the DC Department of the Environment (DDOE) for its input in enhancing project sustainability.

2. Section 1610.5 – Half Street, SE

Given the Property's location fronting along Half Street, SE, south of M Street, SE, the following additional considerations must be incorporated into the design and operation of any new construction:

- a. *The building or structure shall provide for safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses including retail, entertainment, cultural, and pedestrian concourse space;*

The building as modified satisfies these criteria through innovative building articulation and use of materials, extensive landscaping and streetscape, which is being coordinated with other property owners fronting Half Street, and extensive pedestrian-focused retail with appropriate signage.

- b. *The building or structure shall provide for safe and convenient movement to and through the site, including to public transit, the Ballpark, and to the Anacostia River;*

The Commission has previously determined that the Approved Building satisfies this directive. The building as modified will continue to provide safe and convenient movement to and through the site. Half Street remains the primary pedestrian pathway, linking the Navy Yard Metrorail Station and the Nationals Ballpark. The 30-foot wide pedestrian Via remains an important design element of the project. Retail entrances will be located primarily along Half Street, with residential entrances and parking and loading operations along Van Street.

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

The Applicant has provided preliminary view analyses and contextual images as part of its package of architectural drawings submitted herewith (Sheets A100-A102, A404-A406, A410). As shown therein, the building will have no detrimental impact on views and vistas of the identified monumental properties and focus areas. Rather, the Applicant believes the dynamic design of the proposed modification will significantly enhance views from points north and from the Ballpark.

3. Section 1604 – M Street, SE

As a result of the Property's frontage along M Street, SE, any new development thereon is required to comply with the following additional restrictions:

- a. *No driveway may be constructed or used from M Street to required parking spaces or loading berth areas in or adjacent to building*

The Approved Building's design complies with this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.

- b. *The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than 15 feet measured from the face of the adjacent curb along M Street, SE.*

The Zoning Commission previously granted variance relief for the design of the Approved Building's design relating to this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.

- c. *Each new building shall devote not less than 35 percent of the ground floor GFA to preferred retail, service, entertainment or arts uses, and such preferred uses shall occupy 100 percent of the*

building's street frontage along M Street except for space devoted to entrances or for fire control.

The Approved Building's design complies with this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.

- d. *The Zoning Commission may authorize interim occupancy of the preferred use space for non-preferred uses for up to a five-year period*

Not applicable.

- e. *Not less than 50 percent of the surface area of the street-wall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass except for decorative accent, and to entrances to commercial uses of the building*

The Approved Building's design complies with this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.

- f. *The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen feet.*

The Approved Building's design complies with this restriction. The proposed modification does not include any revisions to the northern portion of the Approved Building, which is the portion that fronts M Street, SE.

- g. *Where preferred use retail space is required under this section and provided, the requirement of section 633 of the Regulations to provide public space at ground level shall not apply.*

Preferred retail and service uses are required for new construction on the Property.

4. Section 1607 – Half Street

As a result of the Property's frontage along Half Street, SE, south of M Street, SE, any new development thereon is required to comply with the following additional restrictions:

- a. *Any portion of a building or structure that exceeds sixty-five (65) feet in height shall provide a minimum step-back of twenty (20) feet in depth from the building line along Half Street S.E. Pursuant to § 3104, the Zoning Commission may grant relief from this requirement, to a maximum of fifteen (15) feet in height and eight (8) feet in depth, for the provision of reasonable development footprints.*

The Zoning Commission previously granted variance relief for the design of the Approved Building relating to this restriction. The proposed modification continues to require variance relief. While the building design along Half Street has been extensively revised, the Applicant is confronted with the same difficulties given the mixed-use nature of the building and multiple design and use requirements applicable to the site. As before, the building presents as highly articulated along Half Street, with terracing and a mixture of projections and setbacks along this elevation. The result is that this elevation complies with, and exceeds, the setback requirement in places but is noncompliant in others. As the Zoning Commission previously found, the proposed design will enhance the pedestrian experience and create visual interest. The variance requested is comparatively minimal and does not result in, substantial, if any, additional gross floor area for the building than would otherwise be allowed. Grant of variance relief will not be detrimental to the public good. The project as modified will not diminish views of surrounding landmarks or neighboring buildings, but rather increase and enhance those views as compared to the design of the Approved Building.

- b. *Each new building shall devote not less than seventy-five percent (75%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of this Title; provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building).*

The Zoning Commission's approval in Order No. 08-30 included grant of variance relief from this requirement, as the Approved Building provided approximately 69 percent of the ground floor to preferred uses. As proposed to be modified, the retail provided in the southern portion of the Approved Building is increased by approximately 15,000 square feet. The revised building would comply with this requirement.

- c. *Preferred uses shall occupy 100% of the building's street frontage along Half Street S.E., except for space devoted to building entrances or required to be devoted to fire control.*

As modified, the building's design will continue to comply with this restriction.

- d. *The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.*

As modified, the building's design will continue to comply with this restriction.

- e. *For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required by § 1607.2 by non-preferred uses for up to a five (5) year period; provided, that the ground floor space is suitably designed for future occupancy by the preferred uses.*

The Applicant is not requesting authorization for interim occupancy as part of this application.

- f. *No private driveway may be constructed or used from Half Street S.E. to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007.*

As modified, the building's design will continue to comply with this restriction.

- g. *Where preferred use retail space is required under this section and provided, the provisions of DCMR 11 § 633 shall not apply.*

Pursuant to § 1607.4, preferred uses shall occupy 100 percent of the building's street frontage along Half Street S.E., except for space devoted to building entrances or required to be devoted to fire control.

B. Area Variance Relief

Section 1610.7 of the Zoning Regulations states that the Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the Property and that such requests shall be advertised, heard, and decided together with the application for review and approval for compliance with the CG overlay provisions. Pursuant to that authority, this modification application also includes requests for the following area variances: from the percentage of lot occupancy requirements (§ 634.1), setback requirement for buildings along Half Street, SE (§ 1607.2), compact parking space percentage and location requirements (§§ 2115.2 and 2115.4), and loading (§ 2201.1). Given the complex cantilevering design proposed for the courtyard, the Applicant has not yet confirmed that the closed court provided is technically compliant with the dimensional requirement of § 638.2 and is therefore preliminarily requesting relief from that requirement.

The Zoning Commission previously determined that the Property and the Approved Building satisfy the three-prong test for variances set forth in the Zoning Regulations and

approved variance relief for the Approved Building relating to percentage of lot occupancy, setback from Half Street, and loading.

The test for variance relief is three-part: (1) demonstration that a particular piece of property is affected by some exceptional situation or condition; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or substantial impairment of the zone plan. The Zoning Commission has previously recognized a number of unique conditions affecting the Property, including its extraordinarily large size, unusual lot depth, location at a very prominent location within the CG Overlay that requires a mixture of uses and dictates design features. As preliminarily set forth below and will be further addressed in the Applicant's prehearing submission and at the public hearing, variance relief is appropriate in this modification application.

1. Area Variance from percentage of lot occupancy requirement:

The Zoning Commission earlier approved, and the Applicant continues to request, area variance relief from the requirement of section 634 that limits maximum lot occupancy for the Property at 75 percent. As proposed to be revised, maximum lot occupancy for the entire building will total approximately 92 percent. As the Commission previously recognized, the strict application of the Zoning Regulations will result in a practical difficulty upon the Applicant in that it would unnecessarily restrict the development envelope for the office portion of the Building and detrimentally affect the design of the residential portion, given the portions are connected and considered a single building for zoning purposes.

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. The residential portion of the building provides ample access to natural light through provision of open and closed courts and extensive use of terraces and balconies. Furthermore, given the dramatic terracing of the building, the building's footprint decreases dramatically above the lowest levels. (See Sheets A404 and A411).

2. Area Variance from Setback Requirement along Half Street:

As discussed in Section 4(a) above, the Zoning Commission earlier approved, and the Applicant continues to request, area variance relief from the requirement of section 1607.2, which requires that any portion of a building or structure that exceeds sixty-five (65) feet in height shall provide a minimum step-back of twenty (20) feet in depth from the building line along Half Street S.E.

As the Commission previously recognized, the strict application of the Zoning Regulations in this case will result in a practical difficulty upon the Applicant. The requested relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan. The extensively-terraced design provides compliance with the spirit of the regulation and technical compliance along a part of the Half Street elevation. The design as modified will not compromise the pedestrian experience nor have a negative effect on light and air for neighboring uses. The design also will not have a detrimental impact on views of federal buildings or public spaces.

3. Area Variance from Parking Requirement –Compact Spaces:

The Applicant requests variance relief to provide more than 40 percent of the required number of parking spaces as compact spaces (§ 2115.2) and to allow compact spaces not to be provided in groups of five or more spaces as required pursuant to § 2115.4. The Zoning Commission has recognized the extraordinary size of the Property and resulting redevelopment. As will be discussed at the public hearing, as a result of the structural column spacing for the building resulting from the size of the project and multiple design requirements of the CG Overlay, there may be areas within the parking levels that are not large enough to accommodate standard-sized parking spaces but can accommodate compact-sized spaces. The grant of these areas of relief will have no detrimental impact upon the public good.

4. Area Variance from Loading Requirement:

As was previously approved by the Zoning Commission in Order No. 08-30, the Applicant continues to require loading relief for the proposed modification to the Approved Building. This modification application involves relief only for the southern portion of the Approved Building. No change is proposed for the northern portion of the Approved Building as part of this application.

The Applicant cannot satisfy the requirement to provide 55-foot loading berths given the narrow dimension of Van Street, which is the street frontage where loading operations are required to be provided. As the Zoning Commission previously recognized, relief can be provided without substantial detriment to the public good. The Applicant has consulted with the DC Department of Transportation (DDOT) and will submit a transportation and loading analysis as part of its prehearing statement and is coordinating with DDOT to finalize a loading management plan for the project.

5. Potential Area Variance from Court Requirement:

The extraordinary design of the revised building, involving layers upon layers of stepbacks and related cantilevers, results in a very unusual court feature within the residential portion of the building. The Applicant has not yet confirmed that the width and area provided in the closed court area technically satisfy the dimensional requirements of section 638.2. Out of an abundance of caution, the Applicant is requesting variance relief from this provision. In the event that relief is not determined to be necessary, the Applicant will later withdraw this request. Should relief be required, the Applicant believe it meets its burden of proof in that the depth and size of the Property, coupled with the unusual and multiple design requirements, especially along Half Street, demand an exceptional design response, as proposed. There is no detriment to the public good or zone plan as the multiple courts (closed and open) provide ample light and ventilation for building residents and neighboring properties.