

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION ORDER NO. 06-03
Z.C. Case No. 06-03
(100 M Street, S.E., LLC – 100 M Street, S.E.)
May 25, 2006**

CASE NO. 06-03 (Capitol Gateway Overlay District Review within Square 743-N, Lots 58-61, 63-66, 801-805, 813, part of lot 822, and a portion of a public alley to be closed – 100 M Street, S.E.) arising from the application from 100 M St. SE, LLC (the “Applicant”), on behalf of Square 743, Inc., et al, owners of the property.

The Applicant sought review and approval of new development along M Street, S.E., pursuant to the Capitol Gateway Overlay District provisions set forth in § 1604. In addition, the Applicant sought special exception approval, pursuant to 11 DCMR § 1604.9 for (a) special exception relief from the rear yard requirements set forth in § 774 and (b) variance relief from certain court requirements of § 776.

Note: The application was initially filed February 1, 2006, and a hearing was scheduled to take place April 6, 2006, seeking approval for overall design and relief from rear yard requirements. Subsequently, the Applicant determined relief would also be needed from the court requirements and amended the application to include this issue. The initial hearing was rescheduled to May 25, 2006, covering the entire scope of the issues noted above.

HEARING DATE: May 25, 2006

DECISION DATE: May 25, 2006 (Bench Decision)

SUMMARY ORDER

Self-Certified:

The zoning review requested in this case was self-certified as were the elements of zoning relief requested, the latter pursuant to 11 DCMR §§ 1604.9 and 3113.2.

The property that is the subject of this application consists of approximately 26,400 square feet of land area and is located at 100 M Street, S.E. The property is bounded to the east by a public alley, to the south by M Street, S.E., to the west by 1st Street, S.E., and to the north by adjacent

property. The property is currently vacant and is zoned CG/C-3-C, a district in which office uses are permitted as a matter-of-right within the Capitol Gateway Overlay.

The Applicant proposes to redevelop the property with a new twelve-story office building with ground floor retail. Four levels of below-grade parking will be provided. The floor area ratio ("FAR") of the property will be 10.0 FAR. The building height will measure no more than 130 feet. Vehicular access to required parking will be provided from 1st Street, S.E.

The Commission provided proper and timely notice of the public hearing on this application, by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission ("ANC") 6D, the Office of Planning ("OP"), and to owners of property within 200 feet of the site. The site that is the subject of the application is located within the jurisdiction of ANC 6D. ANC 6D provided a letter of support for the project to the Commission. OP submitted a report and testified at the hearing in support of the application.

As required by 11 DCMR § 1604, the Commission required the Applicant to satisfy the burden of proving the elements that are necessary to approve the overall project under § 1604; establish the case for relief from rear yard requirements under §§ 774, 1604.9, and 3104; and satisfy the requirements for variance relief from court requirements pursuant to §§ 776, 1604.9, and 3103.

A representative of the Anacostia Waterfront Corporation ("AWC"), whose jurisdiction includes the land in this case, offered testimony on the Applicant's consultation with it during the time leading up to the hearing, noting the improvements made as the design was refined and the Applicant's commitment to dedicate substantial ground floor area to "preferred" retail uses.

No persons or parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Commission to grant this application would not be adverse to any party. Based upon the record before the Commission, having given great weight to the views of the ANC, having considered the testimony of AWC, and having considered the report and testimony OP provided in this case, the Commission concludes that the applicant has met the burden of satisfying the applicable standards under 11 DCMR §§ 1604, 774, 776, 3103, and 3104, including the specific standards relating to exceptional or extraordinary situation related to the property that creates a practical difficulty for the owner to comply with the court requirements of the Zoning Regulations when the relief sought for that can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

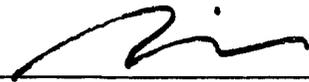
Pursuant to 11 DCMR § 3000.8, the Commission has determined to waive the requirement of 11 DCMR § 3028.8, that the Order be accompanied by findings of fact and conclusions of law. The waiver will not affect the rights of any party and is not prohibited by law.

It is, therefore **ORDERED** that this application be **GRANTED**.

VOTE: 4-1-0 (Gregory N. Jeffries, Anthony J. Hood, Carol J. Mitten, and Michael G. Turnbull to approve; John Parsons, opposed)

BY ORDER OF THE D.C. ZONING COMMISSION
Each concurring member approved the issuance of this Order.

ATTESTED BY:



JERRILY R. KRESS, FAIA
DIRECTOR, OFFICE OF ZONING

FINAL DATE OF ORDER: JUN 14 2006

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE 10 DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE COMMISSION ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL

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APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION THAT IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.