GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 10-24
Z.C. Case No. 10-24
Southeast Federal Center Overlay Review
Forest City SEFC, LLC on behalf of the United States General Services Administration
December 2, 2010

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on December 2, 2010 to consider an application by FCW SEFC, LLC (the "Applicant") for property owned by the United States General Services Administration ("GSA"), for design review and approval of a proposed development fronting M Street, S.E. within the SEFC/CR Zone District, pursuant to § 1803.8 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. In addition, as permitted under § 1809 of the Zoning Regulations, the Applicant also requested special exception approval of a building height of 110 feet pursuant to § 1803.6 and roof structure flexibility pursuant to § 411.11. Furthermore, as permitted under § 1809, the Applicant also requested variance relief from the building setback requirement of § 1803.10 and from the driveway limitation of § 1803.11.

The property that is the subject of this application is a portion of the Southeast Federal Center that is identified as Parcel D and is known as Square 771, Lot 12 (the "Property"). The Commission considered the application pursuant to Chapter 30 of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The Property consists of approximately 101,376 square feet of land and is located in the SEFC/CR Zone District.

2. The Property is located on land that is controlled by the federal government, but was authorized for private development by an Act of Congress in 2000. (*See*, Southeast Federal Center Public-Private Development Act of 2000, Pub. Law. 106-407 (2000) (the "Act").) The Applicant prepared a master plan for the entire Southeast Federal Center and, under the authority of the Act, GSA selected the Applicant as the master developer for the site. The Master Plan was presented by GSA and the Applicant to the

Commission for review and approval, and the Commission approved the Southeast Federal Center Overlay District (the "SEFC Overlay") in order to ensure that future development of the Southeast Federal Center would proceed according to the Master Plan.

3. The SEFC Overlay calls for the development of a mix of residential and commercial uses within the Southeast Federal Center, including high-density residential development and a variety of retail and service uses, within the context of a transit- and pedestrian-oriented design. The SEFC Overlay also calls for compatibility with historically significant properties within the Southeast Federal Center as well as the adjacent Navy Yard. (11 DCMR § 1802.)

4. The Commission previously approved a mixed-use office, residential, grocery, and retail development for the site in Z.C. Order No. 08-01. In conjunction with that approval, the Commission also granted special exception approval for a building height of 110 feet and roof structure relief, as well as variance relief from the rear yard and loading requirements of the Zoning Regulations.

5. On October 4, 2010, the Applicant filed an application, on behalf of GSA, for design review and approval of a proposed development fronting M Street, S.E., pursuant to § 1803.8 of the Zoning Regulations. In addition, as permitted under § 1809 of the Zoning Regulations, the Applicant also requested special exception approval of a building height of 110 feet pursuant to § 1803.6 and roof structure flexibility pursuant to § 411.11. Furthermore, as permitted under § 1809, the Applicant also requested variance relief from the building setback requirement of § 1803.10 in order to permit balconies along a portion of the 4th Street, S.E. façade and from the driveway limitation of § 1803.11 in order to permit a driveway from M Street, S.E. (Exhibit 3.)

6. After proper notice, the Commission held a hearing on the application on December 2, 2010. Parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the Property is located.

7. At a duly noticed meeting on October 12, 2010, ANC 6D voted 7-0 to support the application for design review, special exception approval, and variance relief. In its report dated October 22, 2010, ANC 6D noted that the proposed development would not have a negative impact on the community. (Exhibit 9.)

8. The Office of Planning ("OP") filed a report and testified in support of the application at the public hearing. (Exhibit 13.) OP found that the proposal is consistent with the Comprehensive Plan as well as the Near Southeast target area objectives within the Anacostia Waterfront Initiative Framework Plan. OP further found that the proposal was consistent with the CR Zone District and the SEFC Overlay regulations and guidelines. OP found that the project would encourage the viability of the area neighborhood,

activate Tingey Street, S.E., and further the development of the Anacostia River as a community and regional destination. Based on the above conclusions, OP recommended approval of the application, including the requested zoning relief.

9. The District Department of Transportation ("DDOT") filed a report in support of the application, stating that the design would avoid adverse impacts. (Exhibit 14.) In its report, DDOT specifically lauded the location of the truck loading area and use of the service accessed from M Street at the rear of the property and removed from 4th Street, which would minimize potential impacts on traffic, pedestrian movement, and adjacent development.

10. The National Capital Planning Commission ("NCPC") found that the proposed development would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other federal interests. (Exhibit 10.)

11. Expert witnesses appearing on behalf of the Applicant included: Shalom Baranes, FAIA, and Mark Gilliand, AIA, of Shalom Baranes Associates; Kenneth Park, AIA, of Kenneth Park Architects; and Erwin Anders, PE, of Gorove/Slade Associates.

12. The Commission took action at the December 2, 2010 public hearing to approve the plans submitted into the record and the relief requested.

<u>Description of the Surrounding Area</u>

13. The Property is located within the 42-acre site known as the Southeast Federal Center or SEFC. The SEFC is a former annex of the U.S. Navy Yard and is being redeveloped into a mixed-use waterfront neighborhood known as "The Yards" that will include office, residential, retail, other commercial uses, a waterfront park, and open space.

14. The Property is bounded by M Street, S.E. on the north, 4th Street, S.E. on the west, and Tingey Street, S.E. on the south.

15. An entrance to the Navy Yard Metrorail Station is located approximately three blocks to the west, and the Green Line Metrorail passes under the southwest corner of the Property.

16. The southeast corner of the Property abuts the 100-year floodplain.

17. The Property is located within the boundaries of the Washington Navy Yard Annex Historic District. A brick structure, typically 12 feet in height known as the "Sentry Tower and Wall," which is a recognized historic resource associated with the nearby Navy Yard, serves as the Property's northern boundary. "Building 202," also a recognized historic resource, is located immediately to the east of the Property. Immediately to the west of the Property, across 4th Street, S.E., is the historic Boilermaker Shop.

18. The Property is subject to a Programmatic Agreement that sets forth historic preservation design guidelines for the SEFC and provides the State Historic Preservation Office, surrounding property owners and other stakeholders with an opportunity to review and comment on the proposed development and its impact on the SEFC's historic resources. The Property is also subject to Memoranda of Understanding between the Applicant, GSA, and the Commission of Fine Arts and NCPC that reinforce the Master Plan and related design guidelines and standards for the SEFC and set forth a process for continuing review and comment by these federal agencies.

19. To the west of the Property directly across 4th Street, S.E. is the federal Department of Transportation headquarters.

Project Overview

20. Consistent with the purposes and objections of the SEFC Overlay and the SEFC/CR Zone District, the Applicant designed a mixed-use building containing residential apartments and neighborhood-oriented retail uses, including a grocery store (the "Project").

21. The height, massing, and scale of the proposed building design has been balanced to serve as both a place-making gateway to the Yards and yet complement the historic structures and character of the Yards through the use of rectilinear forms, repetitive structural bays, and strong horizontality.

22. The uses within the proposed Project, which include up to 115,000 square of retail and service uses including a grocery store and up to 225 residential units, will capitalize on the Property's strategic location near Metrorail and at a gateway entrance to the Yards.

23. The lower stories of the Project are devoted primarily to retail uses. The grocery store will be located on the northern two-thirds of the Project, with its main entrance near the corner of 4th and M Streets, S.E., in a double-height volume. The remaining retail and service uses will be located on lower floors of the southern portion of the Project.[1]

24. The upper stories of the Project are devoted to residential uses, and will contain up to 225 residential uses. The Applicant will set aside 20% of the units as affordable housing for households earning up to 50% of the area median income.

25. The Project will contain a total of approximately 347 parking spaces. Approximately 180 spaces will be located in a single below-grade level of parking, accessed from a driveway on 4th Street, S.E. Approximately 167 spaces will be located in a single level of parking

[1] The Applicant requested flexibility to use up to 16,000 square feet of retail space on the third floor of the Project as office use, as well as flexibility to reallocate the residential and retail space on the fourth floor, depending on the final retail program. (Exhibit 3; Exhibit 12.)

above the grocery store, and will be accessed from a proposed service drive along the eastern boundary of the Property.

26. Loading and service is located in a shared covered loading area located off the proposed service drive adjacent to the eastern boundary of the Property. The Applicant proposed a preferred truck routing plan that would direct truck traffic to access the service drive directly from M Street S.E., and DDOT endorsed this approach.[2]

Zoning Overview

27. The CR Zone District permits a mix of residential and commercial uses, with a maximum height of 90 feet, a density of 6.0 floor area ratio ("FAR") (3.0 for nonresidential uses), and lot occupancy of 75%.

28. The SEFC Overlay District includes additional site-specific provisions for properties mapped in the underlying CR zone, which are detailed in § 1803 of the Zoning Regulations. As applied to Parcel D, the regulations permit a height of up to 110 feet, if approved as a special exception and lot occupancy of 100% on the first and second floors of buildings containing residential and other preferred uses. The SEFC Overlay also requires a 15-foot setback along M Street, S.E. and a 20-foot setback along 4th Street, S.E. Both setbacks are measured from the face of the adjacent curb. Finally, the Overlay does not permit a driveway from M Street, S.E. to required parking spaces or loading berths.

29. In total, the Project will feature a total of up to 390,000 square feet of gross floor area, including up to 115,000 square feet of commercial use, and up to 295,000 square feet of residential use, for a total density of 3.84 FAR. The Project will have a height of 110 feet. The first two floors of the project will occupy approximately 87% of the underlying lot, the third floor will occupy approximately 55% of the underlying lot, and the upper floors will occupy approximately 40% of the underlying lot. As permitted under § 636.5 of the Zoning Regulations, no rear yard is required for buildings constructed on a corner lot fronting on three or more streets.

30. The Project will provide approximately 347 parking spaces, and will include a total of eight loading berths and delivery spaces, in the sizes and amounts required under the Zoning Regulations.

[2] The Applicant also proposed an alternate truck routing plan, where trucks would access the service drive by maneuvering around Building 202.

Design and Height Approval

31. Because the property fronts M Street, the Applicant was required to obtain design approval of the Project pursuant to § 1803.8 of the Regulations. In addition, the Applicant requested approval of a building height of 110 feet pursuant to § 1803.

32. The proposed Project meets the Commission review standards set forth in § 1808 of the SEFC Overlay as follows:

    a. The design and height will further the purposes and objectives of the SEFC Overlay, through its proposed mix of retail space and residential units, close to Metro and within the context of a pedestrian-oriented street design and a historically compatible building design, at a major pedestrian entry point into the Yards.

    b. The Project will provide views to and from the waterfront through its north-south building orientation, which corresponds to the waterfront-oriented rhythm of other buildings in the Yards and reinforces the north-south oriented street grid.

    c. The Project places the majority of its parking underground, and limits the visibility of the portion of the project that is above grade through a combination of setbacks and screening.

33. The proposed Project also furthers the additional criteria for approval set forth in § 1808.2 of the SEFC Overlay as follows:

    a. The Project has been shaped to be compatible with surrounding buildings through modulations in mass and height as well as through location of building entrances and streetscape improvements. The Project has been reviewed and approved as consistent with surrounding historic properties and development by the State Historic Preservation Officer, Commission of Fine Arts, and NCPC.

    b. The Project adheres to high standards of environmental design, through features that will reduce water consumption, manage stormwater quality, reduce the heat island effect, and optimize energy performance.

    c. The project design uses façade articulation on all four sides to provide an attractive and engaging face to all surrounding public spaces as well as private properties.

    d. The project design uses high quality landscape and streetscape design and materials to provide an inviting pedestrian experience.

    e. The Project provides a balance of residential and preferred retail uses, including a grocery store, and has located the entrances to these uses to activate the surrounding streetscape.

34. As required under § 1803.8, the Project provides a superior architectural design, site plan, landscaping, and sidewalk treatment.

35. As required under § 1803.6, the Project's height is consistent with historic preservation and design guidelines that establish the appropriate scale, massing, and height for new construction in the SEFC, and will therefore not impose an adverse impact on the nearby Navy Yard.

36. The proposed Project's design and height is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will tend not to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps. The proposed design and height is appropriate for the site, and will further the specific goals of the SEFC Overlay for this location as set forth in the Zoning Regulations.

Special Exception Relief: Roof Structures

37. The Applicant requested special exception relief, pursuant to 11 DCMR § 411.11, from § 411.3, which requires all penthouses to be in one enclosure, and § 411.5, which requires penthouses be of equal height, as well as § 630.4(b), which requires all mechanical equipment or stairway or elevator penthouses be set back from all exterior walls a distance equal to their height above the roof, to permit roof structures on the Project not meeting the above requirements.

38. The proposed design makes it impracticable to construct a single roof structure of equal height, since the residential component has been located in offset "bars" that are intended to reduce the mass and scale of the Project and reinforce the rectilinear, north-south orientation of the Yards. The proposed design similarly makes it impracticable to set back the central roof structure containing the elevator override by the required amount, because the connecting "bar" is purposefully intended to be a minimal connection that preserves the primacy of the north-south orientation.

39. The proposed roof structure design will not cause objectionable conditions or adversely affect neighboring or nearby property. The relief is consistent with the intent of the Zoning Regulations and Zoning Map and does not compromise the character of the SEFC/CR Zone District.

Variance Relief

40. Pursuant to §§ 1809.1 and 3103.2, the Applicant requested variance relief from the design requirements of the SEFC/CR Zone District, including relief from § 1803.10 in order to permit the construction of residential balconies that will project into the required 4th Street, S.E. setback area, and relief from § 1803.11 to permit the construction of a driveway on M Street, S.E.

41. Under the three-prong test for an area variance, an applicant must demonstrate (1) that the property is affected by an exceptional or extraordinary situation or condition, (2) that the strict application of the Zoning Regulations will result in a practical difficulty to the owner, and (3) that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. *Palmer v. D.C. Bd. of Zoning Adj.*, 287 A.2d 535, 541 (D.C. 1972). In order to prove "practical difficulty," an applicant must demonstrate first that an exceptional condition exists with respect to its property and then show that as a result of that exceptional condition compliance with the area restriction would be unnecessarily burdensome.

Exceptional Condition

42. The Property is subject to exceptional conditions that arise from a confluence of factors that are unique to the Property itself. First, the lot itself is unusually long and narrow. Second, as discussed in Finding of Fact 18, the Property is subject to a Programmatic Agreement that governs the development of the site and sets forth historic preservation design guidelines that dictate the massing, shape, and orientation of any construction on the Property. Third, as the only parcel in the SEFC Overlay subject to setback requirements on both M Street, S.E. and 4th Street, S.E., the site is subject to a unique combination of limitations on the buildable area of the lot driven by the SEFC Overlay requirements. These limitations combine with other unique site limitations that impact the buildable area of the lot, including the underground WMATA improvements and the 100-year floodplain discussed in Findings of Fact 15 - 16 above.

43. The above unique limitations on building area combine with the narrowness and shape of the lot and the historic preservation design guidelines to create an exceptional condition for developing a functional building orientation on the Property.

Practical Difficulty

44. The practical difficulty in constructing a development that complies with the setback and curb cut requirements results from the unique and exceptional circumstances related to the narrowness of the lot, effective limitations on development due to various setback requirements, and the relationship of the lot to the street grid. Specifically, these constraints reduce the developable area of the lot by over 9,000 square feet and further narrow an already irregularly narrow lot. Within this smaller and narrower footprint, the Applicant must design a building that accommodates the mix of residential and commercial uses called for under the SEFC Overlay, yet also adheres to historic design guidelines that proscribe a north-south rectilinear form. Further, complete adherence to the setbacks would result in residential units that are less than optimal as a living experience.

45. The Commission finds that the Applicant has met the burden of this prong, based on the narrowness of the lot and importance of balancing the design of the north tower's 4th Street façade design with the design of the south tower's 4th Street façade design and other facades of the residential components. The Commission also finds that requiring removal of or modification to the balconies would have a functional impact on the design of the Project as well as on the layout of the residential units and their economic viability. (Tr. 95-100.)

46. The SEFC/CR Zone District requires that the building be set back 20 feet from the face of the 4th Street, S.E. curb. Here, the building face itself complies with the setback, but the Applicant requests variance relief to permit the construction of balconies for the residential units on the portion of the building that is adjacent to the setback area. These balconies, which only start at the fourth floor above grade, provide a typical residential amenity for prospective tenants as well as provide articulation and design enrichment of the facades.

47. The SEFC/CR Zone District does not permit driveways from M Street, S.E. to required parking or loading. Here, however, the desire to create a positive pedestrian experience on 4th Street, combined with restrictions precluding the location of a loading entrance on Tingey Street or directly on M Street, drives the location of the loading area off of the service drive on the eastern side of the Property. Similarly, the desire to promote a safe and inviting pedestrian experience along 4th Street and Tingey Street drives the need to route truck traffic directly from M Street, which is also a more efficient circulation plan and design.

<u>No Detriment to the Public Good</u>

48. A variance from the setback requirement can be granted without substantial detriment to the public good and without impairing the intent, purpose, and integrity of the zone plan. The setback variance will have no negative impact, as the portion of the Project's frontage requiring such relief consists of three sets of projecting balconies located only on the upper stories of one wing of the Project. Furthermore, the variance does not impair the intent or purposes of the Zoning Regulations since the face of the building itself still conforms to the setback requirement.

49. The Commission finds that the 4th Street setback already provided a significant setback from the public right-of-way, and that the introduction of the balconies would not adversely affect the intent of the Zoning Regulations regarding that setback. The Commission also finds that the balconies improved the design and function of the residential portion of the Project and therefore furthered the purposes of the SEFC Overlay and Zoning Regulations regarding the superior design and mix of uses planned for the Property. (Tr. 95-100.)

50. A variance from the driveway limitation can also be granted without substantial detriment to the public good and without impairing the intent, purpose, and integrity of the zone plan. Again, the variance will have no negative impact, as confirmed by DDOT in its report, and instead will actually benefit the public good by reducing truck traffic on 4th and Tingey Streets. In addition, the variance will not impair the intent or purposes of the Zoning Regulations because it will result in improved pedestrian access to the site as well as improved truck circulation throughout the Yards.

CONCLUSIONS OF LAW

1. The applicant was submitted, pursuant to 11 DCMR §§ 1803.6 and 1809, for review and approval by the Commission. The applicant, pursuant to 11 DCMR § 1809, also requested special exception and variance relief for the proposed development.

2. 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 ANC 6D, OP, and to owners of property within 200 feet of the Property.

3. Pursuant to 11 DCMR § 1803.6, the Commission required the Applicant to satisfy the burden of proof to approve the overall design of the project, in accordance with the standards set forth in § 1808 and procedures set forth in § 1809. Pursuant to 11 DCMR §§ 1809.1 and 3104, the Commission also required the Applicant to establish the case for special exception approval for the requested building height of 110 feet. Pursuant to 11 DCMR §§ 1809.1, 411.11, and 3104, the Commission also required the Applicant to establish the case for special exception relief from the roof structure requirements of §§ 630.6 and 411.11.

4. Lastly, pursuant to 11 DCMR §§ 1809.1 and 3103, the Commission required the Applicant to satisfy the requirements for variance relief from the 4th Street setback requirement of § 1803.10 and the M Street driveway limitation of § 1803.11. Under the three-prong test for an area variance, an applicant must demonstrate (1) that the property is affected by an exceptional or extraordinary situation or condition, (2) that the strict application of the Zoning Regulations will result in a practical difficulty to the owner, and (3) that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan.

5. The Commission concluded that the Applicant had satisfied all the necessary elements for all the relief requested. In particular, the Commission concluded after deliberation that the Applicant had satisfied the variance test with regard to the request for relief from the 4th Street setback requirement, for the reasons discussed in the Findings of Fact above.

6. The Project provides a superior architectural design, site plan, landscaping, and sidewalk treatment. The proposed buildings are within the allowable height, bulk, and density

standards of the Zoning Regulations, and the height and density will not cause an adverse impact on nearby properties. The proposed development will further the objectives of the SEFC/CR Zone District through the addition of a mix of retail space and residential units, close to Metro and within the context of a pedestrian-oriented street design and a historically compatible building design, at a major pedestrian entry point into the Yards.

7. Approval of the proposed development is not inconsistent with the Comprehensive Plan.

8. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give "great weight" to the issues and concerns of the affected ANC expressed in its written report. As reflected in the Findings of Fact, at its duly noticed meeting held on October 12, 2010, ANC 6D, the ANC within which the Property is located, voted 7-0 to support the application for SEFC Overlay District review and related relief.

9. The Commission is also required to give great weight to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04). As reflected in the Findings of Fact, OP presented a report and testimony at the public hearing in support of the application.

10. The Commission finds these expressions of support to be persuasive and agrees with the recommendations that the application should be granted. In doing so the Commission has afforded the ANC and OP the great weight required by statute.

11. Based on the record before the Commission, having given great weight to the views of OP and the ANC, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR § 1808 as well as the burdens of proof for the requested special exception and variances.

12. The project that is the subject of this application will promote the development of the SEFC into a viable mixed-use neighborhood that is sensitive to the site's historic resources, and which is in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and the Zoning Map of the District of Columbia.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission **ORDERS APPROVAL** of the application for SEFC Overlay District review, including **APPROVAL** of all special exception and variance relief requested. This approval is subject to the following guidelines, conditions, and standards:

1. The Project shall be built in accordance with the plans and elevations dated November 12, 2010, and marked as Tab A of Exhibit 12 of the Record, and dated December 2, 2010, and marked as Exhibit 17 of the Record, but is granted the following areas of flexibility:

   - To modify the allocation of residential and commercial uses, provided that the total gross floor area of the Project will not exceed 390,000 square feet of gross floor area (Exhibit 12, p. 2 and Tab A, A18.)

   - To utilize up to 16,000 square feet of retail space on the third floor of the Project as office use. (Exhibit 12, p. 2 and Tab A, A18.)

   - To modify the truck routing plan based on further review and approval of changes to the Sentry Wall and Tower by the State Historic Preservation Officer (Exhibit 12, Tab A, A33-35.)

   - To modify the ground-floor residential entrance to potentially feature a "green wall" (Exhibit 17, p. 24.)

   - To modify the number of parking spaces and use valet and/or tandem parking, provided that the Project includes up to a maximum of 347 total parking spaces. (Exhibit 12, Tab A, A17-18.)

   - To modify the interior floor plan layouts. (Exhibit 12, Tab A, A17-18.)

   - To further reduce the dimension of the roof structures. (Exhibit 12, Tab A, A19, A21-24.)

   - To modify the retail signage to comply with tenant needs and code requirements. (Exhibit 12, A23-24.)

2. 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 appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On December 2, 2010, upon the motion of Commissioner May, as seconded by Chairman Hood, the Zoning Commission **APPROVED** the application for design review, as well as the proposed height and roof structure special exception approval, and variance relief from the M Street driveway provision at the close of its public hearing by a vote of **4-0-1** (Anthony J. Hood, Greg

M. Selfridge, Peter G. May, and Michael G. Turnbull to approve; Konrad W. Schlater not present, not voting).

On December 2, 2010, upon the motion of Chairman Hood, as seconded by Commissioner Selfridge, the Zoning Commission **APPROVED** the request for variance relief from the 4th Street setback provision at the close of it public hearing by a vote of **3-1-1** (Anthony J. Hood, Greg M. Selfridge, and Michael G. Turnbull to approve; Peter G. May to oppose; and Konrad W. Schlater not present, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register;* that is on July 15, 2011.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

Z.C. CASE NO.: 10-24

As Secretary to the Commission, I hereby certify that on JUL 12 2011 copies of this Z.C. Order No. 10-24 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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