GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR

September 30, 2013

Norman M. Glasgow, Jr.
Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
800 17th Street, N.W. - Suite 1100
Washington, DC 20006

Re: Lafayette Centre -1133 and 1155 21st NW

Gentlemen:

This is to confirm the substance of our discussion over the last several months concerning various issues regarding the above referenced property. This letter addresses all of the issues which we have discussed. The property is located in the center of the Square bounded by 20th, 21st, L and M Streets, N.W. The property is part of the Lafayette Centre development, which consists of four buildings all in that Square. The property is zoned C-3-C.

The project was approved in a series of planned unit developments (PUDs) as an office project with retail on the lower levels.

- Phase I of the development is the building located at 1120 20th Street, which was approved by Zoning Commission Order No. 189, dated November 1, 1977, effective November 17, 1977.
- Phases II and III of the development are the buildings located at 1133 and 1155 21st Street, both of which were approved by Zoning Commission Order No. 279, dated June 14, 1979, effective, June 18, 1979.
- Phase IV of the development was a contemplated building on the south side of M Street which was never submitted to the Commission or approved.
- Phase V of the development is the building located at 2001 L Street, which was approved by Zoning Commission Order No. 445, dated December 10, 1984, effective December 21, 1984.

You advised that the owner is considering a proposal to lease part of the premises to an organization which would use a portion of the property for medical offices and/or a clinic and other related uses. The premises at issue are located in Phases I, II and III, which are located on lots 116, 118 and 119, which are contiguous.

Pursuant to Orders No. 189 and 279, Phases I, II and III may be used for any use permitted in a C-3-C District, provided that there shall be some retail and service uses on the ground floor. Medical offices and clinics are both permitted as a matter-of-right in a C-3-C District. Accordingly, as long as the ground floor retail is provided, the proposed uses may occupy the remaining parts of the building.

The land area of lots 116, 118 and 119 totals approximately 106,730 square feet. The buildings were approved to have a total of 7.0 FAR, which would be approximately 747,000 square feet of gross floor area. We have previously determined that the Phase I, II and III buildings were built to less than the maximum permitted density by about 27,000 square feet. The three buildings thus contain a total of approximately 720,000 square feet of gross floor area.

Pursuant to §2101.1 of the Zoning Regulations, the number of required parking spaces for medical office use or a clinic is the same as required for general office use if the space devoted to medical offices or clinics is less than 25% of the gross floor area of the entire structure. Since this is a PUD, under which the FAR is aggregated pursuant to §2405.2, I will treat the three buildings on the contiguous lots as if they were one building for the purpose of the 25% computation. Accordingly, as long as the medical office or clinic space does not exceed 180,000 square feet of gross floor area, no additional parking will be required.

You have further advised that MedStar Health, the potential user of the space, proposes to take part of the ground floor (also known as the plaza level) in the Phase II building (1133 21st Street) and devote it to both retail and service type uses, as shown on the plan, dated June 10, 2013, attached. Notwithstanding that the Orders refer to retail uses, it is clear from the transcript of the hearings before the Zoning Commission that the term "retail" also included service uses. You furnished to me portions of the transcript of the hearing held on March 12, 1979, in which the applicant and the Commission discussed the nature and potential locations for service uses, including a tailor shop, valet, dry cleaners and shoe repair. The uses that are proposed for this 2,200 square foot space include an orthotics retail space, health and wellness services, a café and/or sale of sundry medical items, a wall display for MedStar's Regional Information Center, an information desk and circulation space leading from the entrance to the elevators which provide access to MedStar's upper level offices. I conclude that all of that space may be counted toward the minimum area required to be devoted to retail (and service) uses.

There is space in the building which has been used by Gold's Gym for a health club use. That space is located on both the plaza level (ground floor) and the mall level (first level below ground) of the Phase I building (1120 20th Street). MedStar Health proposes to use that space for its Sports Health Services and Physical Culture program. The space would be laid out for the uses as shown on the plans dated July 1, 2013, also attached. It is my view that the uses proposed for the space are the modern equivalent of a "public bath, physical culture or health service" use, which is a group of uses included within the overall category of "Service Establishments" permitted in C-2 (and therefore C-3-C) Districts. Such space could therefore be counted toward meeting the area devoted to retail (and service) uses.

You advised that the owner also wishes to continue its updating of certain exterior elements of the project. Those changes would include removing two clocks from either end of the through block connection, replacing a sculpture that exists in an open area under the building on the east side, installing canopies in the street walls of the building on both 20th and 21st Streets, banners on the through square connection and address signs on the facades of the building and changing the materials of the paving in the public areas outside the enclosing walls of the building.

Order No. 189, approving Phase I of the PUD, includes the following conditions relevant to the questions you are asking:

1. The planned unit development shall be developed in accordance with the plans … marked as Exhibit 21 in the record, as such plans may be modified to conform to the specific standards enumerated below.

10. The applicant shall provided landscaping and other outdoor features in accordance with the landscaping plans approved by the Zoning Commission, marked as Sheets 2 and 6 of Exhibit 33 in the record and the narrative attachment thereto as revised, a copy of which is attached and made a part of this order.

Order No. 279, approving Phases II and III of the PUD, includes the following conditions relevant to the questions you are asking:

1. The planned unit development shall be developed in accordance with plans … marked as Exhibit 19 in the record, except as such plans may be modified to conform to the standards listed below.

5. Paving design and materials for Phases II and III shall be similar to those approved for Phase I.

7. The project shall include such street furniture as benches, planters, decorative water feature, public telephones and clocks …

10. Landscaping and other outdoor features should be provided in accordance with the plan marked as Sheet No. 2 of Exhibit 19 of the record.

Copies of excerpts from those plans and of the attachment to Order No. 189 are attached to this letter.

The approved plans are very general and do not contain specific details on the clocks, the sculpture and the paving. The locations for the clocks are not identified at all. Sheet 2, the Landscape Plan, shows a "sculpture area" located adjacent to the plaza area in Phase I, but gives no detail as to size, content or design. The landscape plan depicts a pattern, but gives no specific information as to materials. However, the attachment to Order No. 189 specifies the following

for paving materials: "Brick, exposed aggregate and/or paving blocks in a texture and color to blend with building façade."

You provided to me copies of photographs of the existing clocks, sculpture and paving. The clock at the 20th Street end of the through block connection is located in public space adjacent to the curb. The clock at the 21st Street end is located just inside the private property line adjacent to the public sidewalk.

In light of the language in the Orders, the attachment to Order No. 189 and the approved plans, I conclude that the clocks may be removed and need not be replaced. Clocks are not mentioned in the attachment to Order No. 189 and clocks are listed as an example of the kinds of street furniture to be provided. I do not read the Orders or the plans to require replacement clocks to be provided if you remove the existing cocks. Because one of the clocks is in public space, you will need appropriate permission to remove it from the District Department of Transportation. Should you wish to provide replacement clocks in a different kind of structure or in a different location, you will need appropriate building or public space permits, depending upon where you wish to place the new clocks.

With respect to the sculpture, it does not appear that the Zoning Commission ever saw or approved a specific design of a sculpture. Because Sheet 2 shows a sculpture area but does not identify the size or nature of the sculpture to go in that area, I conclude that you may remove the existing sculpture but that you <u>must</u> replace it with a new or different sculpture in that same general location. The size and design of that sculpture is open to be one of your choosing.

The proposed canopies, banners and signage are shown on the photographs attached, which have had the proposed materials applied to the exterior views. Since neither the plans nor the Orders contained any specifications as to those exterior elements, I conclude that those changes could be undertaken and not be in contradiction to the PUD approvals.

With respect to the paving, the language from the attachment to Order No. 189, quoted above, is the most specific approval of any of the items you propose to change. If you want to replace the existing paving, it must be with paving materials that are consistent with that condition. I reserve judgment until you present specific materials to me. Additionally, if any of the paving you may want to replace is in public space, such paving will require appropriate approvals and permits from DDOT but is outside the jurisdiction of the Zoning Commission orders even though shown on the plans. Should you desire to repave the space with materials that are not within the scope of what is described above, you will need to seek approval from the Zoning Commission for a PUD modification.

Except as to the paving materials, I further conclude that the proposed uses and changes to the exterior design elements of the building discussed herein are not modifications to the approved PUD. Rather, they are within the letter and overall intent of the PUD approvals and can be approved as consistent with the Zoning Commission's actions. Please let me know if you have any further questions.

Sincerely, _____
Matthew Le Grant
Zoning Administrator

Attachments: Plans for previous PUD Orders
Transcript Excerpts
Zoning Comp Sheet

File: Det Let re 1133 and 1155 21st NW to Sher 9-30-13