

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



September 26, 2013

David Avitabile
Goulston & Storrs, P.C.
1999 K Street, 5th Floor
Washington, DC 20006

Re: 3000 M Street NW (Square 1197, Lot 70) (“Property”)

Dear Mr. Avitabile:

The following letter summarizes the issues we discussed at our September 12, 2013 meeting and follow up correspondence regarding the Property.

I. Existing Conditions

The Property is located at 30th and M Streets NW and contains approximately 19,798 square feet of land area. The Property is split-zoned C-2-A and W-1, with most of the Property (approximately 17,058 s.f.) in the C-2-A Zone District and the balance of the Property (approximately 2,740 s.f.) in the W-1 Zone District. The Property slopes downward from north to south.

The Property is improved with a ten-story hotel (“**Latham**”). All or part of the lower five stories are below grade when viewed from M Street. The Latham was constructed in the late 1970s pursuant to the Comp Sheet attached as Exhibit A:

- The Latham was constructed to a height of 56.50 feet, which was within the then-permitted height of 60 feet.
- The Latham was constructed to a total density of approximately 47,931.75 square feet according to the Comp Sheet, which was within the total permitted gross floor area of 48,372.32 square feet that, according to the Comp Sheet, was based on the blending of the Property’s permitted FAR in each zone.
- The C-2-A Portion of the Property was not subject to a lot occupancy limitation, because no such limit applied to hotels in the C-2-A zone. The W-1 portion of the Latham

occupied approximately 1,760 square feet, or 64%, of the W-1 portion of the Property, which was within the 75% lot occupancy permitted in the W-1 Zone.

- The Latham provided a 27-foot rear yard, which exceeded the requirement of 12 feet.

The relevant Zoning Computation Sheet is numbered 77-999, which indicates that the underlying building permit was filed sometime in 1977. The Comp Sheet is date-stamped as approved on November 16, 1978.

You have also indicated that, based on the Zoning Computation Sheet's summary of the review of the building permit plans that were reviewed and approved by the District in conjunction with the building permit ("**Approved Plans**"), the gross floor area of the Latham was calculated starting at the fifth floor (that is, the M Street level) according to the Approved Plans. Lower stories were apparently excluded because they were below the "grade plane" established by the M Street elevation. The Approved Plans are also date-stamped as approved on November 16, 1978.

II. Conversion of the Latham to Residential Use

You are proposing to convert the existing hotel to residential and retail use and eliminate the existing vehicular drop-off driveway, and excavate down two floors to bring daylight to the lower levels ("**Project**"). For the reasons set forth below, I confirm that the Project is permitted under the matter of right height, FAR, lot occupancy, rear yard, and court requirements for the underlying C-2-A and W-1 Zone Districts.

A. Height

Under the current Zoning Regulations, the C-2-A Zone now only permits a maximum height of 50 feet. Therefore, the Latham exceeds the height limit and the structure is a legal nonconforming structure that may be converted to other permitted uses, such as residential and retail uses.

B. Floor Area Ratio

C-2-A Portion. Section 771.3 of the Zoning Regulations explicitly authorizes an apartment house or other residential use to "occupy all or any portion of a building or structure" for which a building permit application was filed prior to November 17, 1978. Here, the Computation Sheet indicates that the Latham building permit was filed prior to November 17, 1978. Accordingly, pursuant to Section 771.3, the entire C-2-A portion of the existing structure may be converted to and used for residential use.

Section 771.3 limits the maximum permitted FAR of the non-residential portions of the structure to 1.5 FAR which is the non-residential FAR limit in the C-2-A Zone District. Here,

the Project will provide a total of approximately 12,100 square feet of retail space. Even if all such space is considered to be gross floor area, the Project would have approximately .6 non-residential FAR, which is well under the 1.5 FAR maximum, and therefore it would comply with Section 771.3.

W-1 Portion. The Zoning Regulations permit a 2.5 FAR for residential use and a 1.0 FAR for nonresidential use in the W-1 Zone. According to the Comp Sheet and Approved Plans, the majority of the W-1 portion of the Latham is located below the 5th floor “grade plane” that was used to calculate FAR and therefore does not contribute to the building’s gross floor area or FAR. Accordingly, the lower portions of the Latham within the W-1 Zone may be converted to residential or retail use as a matter of right.

Small portions of the 5th floor are located within the W-1 portion of the Property but these elements are well within a 2.5 FAR. Accordingly, the conversion and use of the 5th floor portions of the Latham within the W-1 Zone is permitted as a matter of right.

Finally, I note that even if the entire portion of the Latham located within the W-1 Zone District was considered to be gross floor area, the structure constitutes less than two and a half floors, of which less than one floor contains retail use. Therefore, the entire structure would still conform to the FAR limitations in the W-1 Zone District.

C. Inclusionary Zoning

As discussed above, the conversion of the existing Latham does not increase the FAR of the existing building. Per Section 2602.1(c) of the Zoning Regulations, inclusionary zoning applies only to existing buildings when a new addition will increase the gross floor area of the entire development by 50% or more. Here, the conversion of the Latham to residential use will not increase the gross floor area of the existing building. Accordingly, inclusionary zoning does not apply to this Project.

D. Lot Occupancy

C-2-A Portion. Again, Section 771.3 of the Regulations explicitly authorizes an apartment house to “**occupy all**” of a building for which a permit was issued prior to November 17, 1978. I find that the specific language within Section 771.3 supersedes the general lot occupancy limitation of 60% for residential uses. Based on the foregoing, I conclude that Section 771.3 permits the entire C-2-A portion of the structure to be occupied for residential use as a matter of right, regardless of whether the underlying structure conforms to the lot occupancy limitation in the C-2-A Zone District. This is consistent with my previous determinations, which authorized residential uses to exceed the maximum permitted lot occupancy when provided within a pre-1978 nonresidential building that was converted to residential uses. See, e.g., Letter re: 1711 Florida Avenue NW dated June 17, 2013, attached as Exhibit C.

W-1 Portion. The Zoning Regulations now permit a lot occupancy of 80% for residential uses in the W-1 Zone District. As set forth in the Computation Sheet, the existing structure occupies approximately 64% of the W-1 portion of the Property. Accordingly, the entire W-1 portion of the Property may be occupied for residential use as a matter of right.

Commercial Uses. Both the C-2-A and W-1 Zone districts do not impose a lot occupancy limitation on commercial uses. Therefore, I conclude that the lot occupancy regulations will not limit the conversion of a portion of the Latham to retail uses.

E. Rear Yard

The Comp Sheet indicates that, at the time of construction, the Latham was required to provide a 12-foot rear yard and in fact provided a 27 foot rear yard. The rear yard is generally located on the W-1 portion of the Property. The Zoning Regulations generally state that any required rear yard should be unoccupied “from the ground up.” The W-1 Zone District, however, states that the rear yard may be provided starting at the “residential plane” and shall be 3 feet per foot of height measured from the horizontal plane at which residential use begins, but not less than 12 feet. See Section 933.3. Here, according to the Approved Plans, the “residential plane” began at the 5th floor, because that is the level at which hotel guest rooms were first located; accordingly a rear yard of 12 feet was required.¹ This conforms to the Computation Sheet, which states a required rear yard depth of 12 feet was required.

Based on the foregoing, the rear yard was only required to be provided starting at the 5th floor. The Approved Plans indicate that the Latham is generally set back from the rear yard 27 feet starting at the 5th floor, and the Comp Sheet confirms that a 27-foot rear yard was provided.² Accordingly, I conclude that the existing building conforms to the rear yard requirement.

The proposed conversion will lower the “residential plane” of the Latham to the 2nd floor, such that the “residential plane” is lowered and portions of the structure will now be located within the required rear yard. Again, Section 771.3 of the Regulations explicitly authorizes an apartment house to **occupy all** of a building for which a permit was issued prior to November 17, 1978. I find that the specific language within Section 771.3 supersedes the general rear yard limitation. Based on the foregoing, I conclude that Section 771.3 permits the entire structure to be occupied for residential use as a matter of right, regardless of whether the underlying structure conforms to the rear yard requirement.

¹ The height of the rear yard as measured from the residential plane to highest point of the roof yields a required depth that is less than the minimum of 12 feet. Accordingly, the minimum depth of 12 feet controls.

² Portions of the 5th floor only contain structures that extend into the rear yard and provide stairs and locker rooms related to the pool. According to the Approved Plans, these are separate structures from the Latham hotel and are only accessible from the pool deck. They were likely considered to be accessory buildings that were permitted to encroach into the required rear yard under Section 2500.

III. Proposed Modifications to the Latham

In connection with the Project, you have also proposed two modifications to the existing building. The first modification would extend the existing pool terrace (“**Terrace**”) to the east and enclose the loading dock (“**Loading Enclosure**”). The second modification would convert the existing gabled roof third story of the northern portion of the Latham into a full third story with a flat roof (“**Third Story Conversion**”).

A. Loading Enclosure

The Terrace and related parking and loading curb cuts are approximately 27 feet wide. The southern 20 feet of the Terrace is located on the W-1 portion of the Property, and the northern 7 feet of the Terrace is located on the C-2-A portion of the Property.

As discussed above, the Terrace is located at the 5th floor level, which is the “grade plane” level that was utilized to calculate the FAR of the Latham. Accordingly, the Loading Enclosure does not add to the gross floor area within the Latham or increase the FAR of the Latham, assuming the Property continues to be assessed by the grade plane method.

As discussed above, the Latham’s existing rear yard complies with the Zoning Regulations based on the level at which the residential use begins – the 5th floor. As discussed in Section II.E. above, the proposed redevelopment will have residential use starting on the 2nd floor and for the reasons discussed above the existing structure may be completely occupied and used for residential use regardless of how it impacts the required rear yard. However, I find that for any new construction on the Property, the residential use now begins below grade, and the rear yard must be provided from the ground level at the rear of the structure pursuant to Section 933.2. The Loading Enclosure would be located within the required rear yard. Accordingly, I conclude that the Loading Enclosure requires variance relief from the rear yard requirements.

The Loading Enclosure will also increase the lot occupancy of the W-1 portion of the Property to 100%. Under Section 932.3, lot occupancy is calculated at a horizontal plane beginning at the lowest level where residential use begins. Residential use begins at the 2nd level, and the Loading Enclosure is located at the 4th level. Therefore, the lot occupancy limit applies to the Loading Enclosure. Accordingly, I conclude that the Loading Enclosure requires variance relief from the lot occupancy requirements.

B. Third Story Conversion

The third story of the northern portion of the Latham is located under a sloped roof and contains the second level of existing duplex hotel units. Only a portion of the third story contains headroom greater than 6’6” in height and counts toward the Latham’s gross floor area.

The conversion of the partial third story to a full third story will therefore add gross floor area to the existing structure.

As we discussed, the additional gross floor area represents an increase in gross floor area under the grade plane method unless one is able to demonstrate that any increase is offset by corresponding decreases in gross floor area also located at or above the 5th floor, which is the grade plane. Furthermore, assuming that the existing Latham is built to the maximum permitted FAR, the third story enclosure represents an enlargement of a nonconforming structure. Accordingly, if the grade plane method is applied, the Third Story Conversion requires variance relief from both the FAR and nonconforming structure provisions (Section 2001.3) the Zoning Regulations based on the assumptions set forth above. The Third Story Conversion would not increase the lot occupancy of the building or impact the rear yard.

C. Perimeter Wall Test Calculations

The Board of Zoning Adjustment has affirmed that both the grade plane and perimeter wall methods are reasonable methods for calculating the gross floor area of buildings on sloping sites that create partial basements and partial cellars, and the Zoning Administrator retains discretion to choose the most appropriate method for calculating gross floor area. See BZA Appeal No. 17109 at 14. Here, for the reasons set forth in Section II, the choice of method is irrelevant to the conversion of the existing building to residential use, because Section 771.3 permits the use of the entire building for residential use regardless of FAR. The choice of method is only relevant to the evaluation of the proposed Loading Enclosure and Third Story Conversion Modifications.

You have also provided calculations, attached as Exhibit B, that evaluate the gross floor area of the building under the perimeter wall test. Under the perimeter wall test, the proposed Third Story Conversion (and the Loading Enclosure) are offset by other gross floor area and perimeter changes on the Property, such that the proposed building will contain less gross floor area than the existing Latham. Under the perimeter wall test, no FAR variance would be required to accommodate the Third Story Conversion or the Loading Enclosure, nor would either modification represent an enlargement or addition of the existing nonconforming structure.

You have proposed evaluating the building based on the perimeter wall method going forward. I concur that the perimeter wall method is the appropriate method to evaluate the FAR of the Latham going forward for the following reasons:

- The Computation Sheet indicates that the existing building was evaluated based on the aggregation of the maximum permitted FAR in the C-2-A and W-1 zones. As I have previously determined, such an approach is not permitted under the current interpretation of the Zoning Regulations. See Letter re: 3050 K Street NW, dated November 7, 2012, attached as Exhibit D.

- The 4th floor of the Latham is located at street level on 30th Street, contains a primary building entrance, and otherwise constitutes a “main floor” under the Zoning Regulations. Therefore, it is appropriate to consider the contribution of the 4th floor toward the building’s gross floor area.
- Adoption of the perimeter wall test going forward does not impact the evaluation of any other zoning parameters: the adaptation of the existing building continues to be permitted under Section 771.3 without triggering a need for FAR, lot occupancy, or rear yard relief; however, the Loading Enclosure still requires rear yard and lot occupancy relief.

All the adaptation of the perimeter wall method does is confirm that the Third Story Conversion, when considered within the context of the Project as a whole, does not increase the Latham’s gross floor area or FAR. Accordingly, I conclude that the Third Story Conversion (and the Loading Enclosure as well) will not increase the gross floor area of the existing structure or constitute “enlargements or additions” of the existing structure under Section 2001.3. Furthermore, because such changes do not result in any additional gross floor area, inclusionary zoning is not triggered for the reasons set forth in Section II above. Finally, I note that the design of the Third Story Conversion will be reviewed pursuant to the Old Georgetown Act and the Historic Landmark and Historic District Preservation Act.

If you have any questions about this matter, please do not hesitate to contact me.

Sincerely,



Matthew Le Grant
Zoning Administrator

Attachments: A – Comp Sheet

B – Perimeter Wall Calculations

C – 1711 Florida Avenue NW Determination Letter

D – 3050 K Street NW Determination Letter

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



November 7, 2012

By US Mail and Email PDF

Allison C. Prince
Goulston & Storrs
1999 K Street, NW, 5th Floor
Washington, DC 20006

Re: 3050 K St, NW (Lot 102, Sq 1173, aka "Washington Harbour") (the "Record Lot")

Dear Mrs. Prince:

The purpose of this letter is to confirm the matters discussed in our meeting on October 22, 2012 concerning the above-referenced Property. Specifically, among other items, the issues discussed were whether the proposed project on the "EE Parcel" of the Record Lot (the "Property") could be developed with a residential use as a matter-of-right and whether the proposed project on the Property otherwise complies with the District of Columbia Zoning Regulations. I have concluded that the proposed project complies with the Zoning Regulations as described below.

The 219,372 square foot Record Lot is split-zoned such that it is located in both the W-2 and W-3 Zone Districts. An approximately 68,005 square foot portion of the Record Lot is located in the W-2 Zone District and an approximately 151,367 square foot portion of the Record Lot is located in the W-3 Zone District. Based on the Zoning Computation Sheets, attached heretoe as Exhibit A, the Record Lot contains a building of approximately 691,505 square feet of gross building area (for a total building FAR on the Record Lot of approximately 3.15), of which approximately 173,060 square feet is estimated to be located on the W-2-zoned portion of the Record Lot and approximately 518,445 square feet is estimated to be located on the W-3-zoned portion of the Record Lot (the "Building").¹ The Building is comprised of several components consisting of residential, retail, and office uses which together are treated as one building for zoning purposes.

It is my understanding that the Property is being considered for the construction of an approximately 70,500 square foot structure comprised approximately 88 residential units or an

¹ I note that the Zoning Computation Sheets do not provide separate calculations for the square footage in each of the two zones that comprise the Record Lot. Such estimates were calculated by the project architect and are shown on page 9 of Exhibit B.

inn of approximately 120 units (the "Project"). Information on the Record Lot, the Building, and the Project is shown on Exhibit B.

Use and Floor Area Ratio ("FAR")

Multi-family uses and inns are permitted as residential uses (for FAR purposes) in the W-2 Zone District as a matter-of-right. The W-2 Zone District permits a maximum FAR of 4.0 to be constructed, consisting of 2.0 FAR of commercial and 2.0 FAR of residential uses.

At the time of the approval of the building permit(s) for the Building, the then-Zoning Administrator apparently blended the maximum permitted FAR in the two zones in calculating the allowable square footage for the entirety of the site. Such approach would not be permissible at the present time under the current interpretation of the Zoning Regulations.

The Building is non-conforming as to the commercial FAR for the W-2-zoned portion of the Record Lot since its commercial FAR exceeds 2.0 FAR, at approximately 173,060 square feet (or 2.544 FAR for the W-2-zoned portion of the Record Lot). The proposed Project contains approximately 70,500 square feet of multi-family or inn use on the Property. Such amount equates to approximately 1.04 FAR (on the W-2-zoned portion of the Record Lot). After the Project, the total FAR on the W-2-zoned portion of the Record Lot would be approximately 3.58 FAR comprised of the existing approximately 2.54 FAR of commercial use and the new approximately 1.04 FAR of residential FAR.

Since the Project conforms to the lot occupancy limit (as discussed below), and does not extend the commercial FAR nonconformity, and since the use and structure requirements of the Project conform to the W-2 Zone, the Project's additional proposed residential FAR complies with the Zoning Regulations.

Height

The maximum building height in the W-2 Zone District is 60 feet. Therefore, the Project may be constructed to 60 feet. The proposed Project's height of 60 feet complies with the Zoning Regulations.

Lot occupancy

The maximum lot occupancy for the W-2 and W-3 Zone Districts is 75%. The Project's lot occupancy will be approximately 62%, as shown on page 3 of Exhibit B. Since the maximum lot occupancy for both Zone Districts is the same, the lot occupancy is calculated utilizing the entirety of the lot area of the Record Lot as the denominator. The Project's proposed lot occupancy complies with the Zoning Regulations.

Inclusionary Zoning ("IZ")

Since the Property is located in the W-2 Zone District and the Georgetown Historic District, and since the Project will not expand the gross floor area of the Building by 50% or more, IZ will not apply to the Project under Sections 2602.1(c)(iii) and 2602.3(e).

Rear and Side Yards

For residential buildings (including inns), the W-2 Zone District requires a rear yard with a minimum depth of three (3) inches per foot of building height measured from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve (12) feet. When the residential use begins above grade, the minimum depth of the rear yard is measured from the vertical distance from the horizontal plane upon which the residential use begins to the highest point of the main roof. Such rear yard would be required at and above the residential plane. At 60 feet, the Project would require a rear yard of fifteen (15) feet. Per the Zoning Computation Sheets, the Building provides a rear yard of approximately 52 feet, presumably between the Building and the Potomac River. Such rear yard is not changing as a result of the Project. Therefore, the proposed rear yard complies with the Zoning Regulations.

A side yard is not required in the W-2 Zone District. Here, no side yards have been created on the Record Lot and none are required.

Courts

For residential buildings (not including inns), the W-2 Zone District requires open courts to have a minimum width of four (4) inches per foot of height and no less than ten (10) feet. Inns (and hotels) are required to provide courts of three (3) inches of width per foot of height and no less than ten (10) feet. Therefore, the court shown as "Open Court #1" on page 3 of Exhibit B would require a court of approximately 23 feet, six (6) inches. Since "Open Court #1" is an irregular court, the diameter of the largest circle able to be drawn within such court space may be used to satisfy the court width requirements. Here, a court is required to be a minimum width of 23 feet, six (6) inches. Therefore, the proposed rear yard complies with the Zoning Regulations. Note that an inn would require a court width of approximately seventeen (17) feet, eight (8) inches.

Parking & Loading

In the W-2 Zone District, one (1) parking space is required for each three (3) dwelling units and one (1) parking space is required for each two (2) rooms usable for sleeping (plus one (1) space for each 150 square feet of floor area in the largest function room or exhibit space). A project including 88 residential units would require 29 additional parking spaces and a project including 120 inn rooms would require 60 additional parking spaces. The Zoning Computation Sheets show seventeen (17) residential parking spaces required and provided on the Record Lot, and 125 commercial parking spaces required and provided on the Record Lot. The Zoning Computation Sheets note that a significant amount of additional accessory spaces exists on the Property. Per page 3 of the plans attached as Exhibit B, the Project proposes to furnish 29 parking spaces if the Project provides 88 residential units, and 60 parking spaces if the Project provides 120 inn rooms. Provided that these additional spaces comply with the required parking space size and aisle width dimension requirements of Chapter 21, the proposed parking complies with the Zoning Regulations

In the W-2 Zone District, one (1) 55 foot loading berth, one (1) twenty (20) foot loading space, and one (1) 200 square foot loading platform are required for a multi-family building of 50 or more residential units, and one (1) 30 foot loading berth, one (1) twenty (20) foot loading space, and one (1) 100 square foot loading platform are required for an inn with 30 to 200 rooms. The Project proposes to include an additional loading berth (of 55 feet of depth if the Project is a residential building, or 30 feet of depth if the Project is an inn), a twenty (20) foot deep loading space, and loading platform (of 200 square feet if the Project is a residential building, or 100 square feet if the Project is an inn). Therefore, the proposed loading complies with the Zoning Regulations.

Roof structures

The Project proposes a new penthouse of twelve (12) feet, in compliance with the maximum penthouse height permitted under the Zoning Regulations. Further, such penthouse will be set back from the exterior walls of the building a distance greater than the height of such penthouse. Page 3 of Exhibit B depicts the roof plan for the Project. The proposed roof structure will include the elevator override for the proposed new structure. Therefore, the proposed roof plan complies with the Zoning Regulations.

If you have any questions about this matter, please do not hesitate to contact me.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments: A – Comp Sheet
B – Plan Set

File: Det Let re 30350 K ST NW to Prince 11-7-12

11-2-3
5/1/78

DISTRICT OF COLUMBIA GOVERNMENT
DEPARTMENT OF LICENSES AND INSPECTIONS
ZONING DIVISION

FILE NO.....

2A 77-999

ZONING COMPUTATION SHEET - COMMERCIAL USE

1. Owner <i>Gus Levathas</i>		2. Location <i>3000 M St N-W</i>		3. Square <i>1197</i>	
4. Lot <i>118</i>		5. Zone <i>C-2-A W-1</i>		6. Use of Building or Structure <i>170 sq. office retail parking</i>	
7. New <input checked="" type="checkbox"/>		8. Type of Structure Conforming <input checked="" type="checkbox"/> Nonconforming		9. Use of Structure Conforming <input checked="" type="checkbox"/> Nonconforming	
10. Width of Adjacent Streets <i>570 St - 82 1/2' 30 St - 60'</i>		11. Width of Adjacent Alleys <i>None</i>		12. Width of Restriction Lines <i>None</i>	
13. Application of Act of June 1, 1970 Height of Bldg. <i>102.50</i> Excess Height -		14. Type of Lot Corner <input checked="" type="checkbox"/> Through Triangular Alley Interior		15. Number of Dwelling Units <i>420 sq. ft. 102 *</i>	
16. Lot Area <i>19,811.72</i> Required - Provided -		17. Lot Occupancy <i>NIP-C24</i> Allowed - Provided <i>7760 *</i>		18. Gross Floor Area Total <i>47,931.75</i>	
19. Cellar Area Total		20. Floor Area Ratio <i>C-2 2.0 = 33,941.0 P.H. 1.97 = 7330.08 W-1 2.5 = 49,374.25</i> Allowed - <i>71,015.33</i> Provided <i>41,174.04</i> <i>47,931.75</i>		21. Number of Residential Parking Spaces Required <i>56 51 *</i> Provided <i>56 52</i> Open Area Within Bldg. <i>✓ garage</i>	
22. Number of Commercial Parking Spaces Required <i>None</i> Provided <i>None</i> Open Area Within Bldg. <i>✓</i>		23. Number of Loading Berths Required <i>1</i> Provided <i>1</i>		24. Height of Bldg. Allowed Curb, to first floor <i>60'</i> to high point of roof <i>60'</i> Grade, to first floor <i>2.83</i> to ceiling top story <i>53.00</i> to high point of roof <i>56.50</i>	
25. Number of Stories Allowed <i>6</i> Provided <i>6</i> Basement <i>Partial</i> Cellar <i>1</i>		26. Rear Yard Depth Required <i>12'</i> Provided <i>27'</i>		27. Side Yard Width Open Court Width Closed Court Width Closed Court Area	

REMARKS: *P.H. = 71.75* *P.H. approved 3-38-78* *pt-42.50*
City approved 10-18-78 *777 per 0*

[Signature]

Archit called 7/19/78
Archit called - 4 times
last - Feb. 10-78
Referring to file

NOV 18 1978

* Revised 10/11/79

15X6 60

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



June 17, 2013

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

Re: 1711 Florida Avenue, NW - Square 2562, Lot 95

Dear Mr. Sher:

This is to confirm the substance of discussions on Thursday, January 24, 2013, and the follow-up communications by e-mail with representatives of 1711 Florida Avenue Property, LLC, concerning the development of the above-referenced property located at the northeast corner of the intersection of Florida Avenue and Champlain Street, N.W. The site is known as Lot 95 in Square 2562. The property contains approximately 25,920 square feet of land area and is zoned RC/C-2-B.

The property was previously owned by Verizon and was used as a parking garage for Verizon's service trucks and office space for Verizon. In a letter, dated September 27, 2007, I ruled that the premises could be used for the public parking of automobiles as a continuation of the previous use and that no BZA approval would be required for that use.

In a letter, dated June 11, 2008, I further ruled that since the building was devoted to conforming nonresidential uses, changing the use of that space to other conforming nonresidential uses permitted in C-2-B and not prohibited by the RC Overlay would be allowed under §2001, even to the extent of making structural alterations to the building, as long as you do not increase the degree of nonconformity; i.e., you do not increase the amount of gross floor area in the building. Leveling out the existing sloping ramps by adding concrete above the existing slab would therefore be permitted, since it would not increase the gross floor area. I noted that any new uses you put in the building would have to provide off-street parking spaces in accordance with Chapter 21 of the Regulations and, therefore, you could reduce the amount of parking provided only until you reach the minimum amount of parking that you must provide for your replacement uses.

The existing building contains three stories fully above grade and a partial basement/cellar level. The existing building is within the maximum permitted floor area ratio (FAR) but is nonconforming as to nonresidential FAR.

In the recent conversations, you advised that you were considering two alternate options for developing the property, as follows:

1100 4th Street, SW 3rd Floor Washington, D.C. 20024
Phone: (202) 442-4576 Fax: (202) 442-4871

- Option 1 would be a 40 foot high building. You are proposing to convert approximately 25,656 square feet of commercial/garage gross floor area (GFA) and 7,835 square feet of area not included in GFA to 30,564 square feet of residential GFA. This is allowed pursuant to §771.3 of the DC Zoning Regulations:

For a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, ... the maximum floor area ratio to be devoted to an "other permitted use" shall be as shown in the table in § 771.2. An "apartment house or other residential use" may occupy all or any portion of the building or structure.

The footprint of the building would remain unchanged. Lot occupancy on each of the renovated/converted levels of the existing structure remains the same at 89%, or less. The percentage of lot occupancy calculated on a horizontal plane through the third floor (the lowest new level) would be 51.4%. The building would no longer be a non-conforming structure with respect to nonresidential FAR as total nonresidential FAR would be 1.19. The overall FAR would be 2.44, within the maximum allowed in an RC/C-2-B District.

- Option 2 is an alternate scenario intended to apply §1402.1 of the Zoning Regulations to the proposed modifications. Option 2 would be a 50 foot building. You propose to convert the same area of the existing building (25,656 square feet of GFA and 7,835 square feet not included in GFA) to 30,564 square feet of residential GFA, again pursuant to §771.3 of the Zoning Regulations. The footprint of the building would remain unchanged. In addition, you propose to add a total of 19,635 square feet of new residential gross floor area to the third and fourth floors of the structure. The fourth floor would be the only level above 40 feet and the additional gross floor area made possible by the height bonus is 14,139 square feet. As set forth in §1402.1, you would be required to provide a minimum of 50% of the space on the fifth floor, or 7,070 square feet, devoted to units serving low and moderate income household units, as those households are defined by Chapter 26 of the Regulations. Lot occupancy on each of the renovated/converted levels of the existing structure remains the same at 89% or less. The percentage of lot occupancy on the third and higher floors, calculated on a horizontal plane at the level of the third floor, would be 66% or less. The resulting building in this case would also be a conforming structure with respect to FAR as total commercial FAR would be 1.34 and overall FAR would be 3.13.

A copy of the calculations, dated January 31, 2013, prepared by Bonstra | Haresign, Architects, is attached.

For both options, both this office and the Board of Zoning Adjustment (BZA) have determined that an existing nonresidential building may be converted to a residential use even if the building is over the lot occupancy limitation that applies to the latter and not the former. No relief from the BZA would be required.

June 17, 2013

Page 3

The existing building fronts on two streets but the building is built to the lot line at the rear of whichever street was selected as the front. Accordingly, there is no existing rear yard. The C-2-B District requires a minimum rear yard of 15 feet. The property is therefore nonconforming as to rear yard. Pursuant to §2001.3:

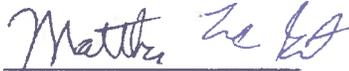
Enlargements or additions may be made to [a nonconforming structure devoted to a conforming use] the structure; provided:

- (a) The structure shall conform to percentage of lot occupancy requirements ... and
- (b) The addition or enlargement itself shall:
 - (1) Conform to use and structure requirements; and
 - (2) Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.

If the addition at the third and higher floors provides a 15 foot rear yard, then you have complied with the requirements of §2001.3(b)(2).

Please let me know if I may be of further assistance.

Sincerely,



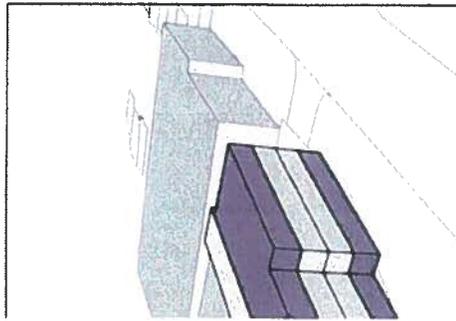
Matthew Le Grant
Zoning Administrator

Attachment

CELLAR	0	12,83
FIRST FLOOR	23,058	0
SECOND FLOOR	21,967	1,09
THIRD FLOOR	11,605	7,82
FOURTH FLOOR	0	11,60
TOTAL EXISTING SF/FAR	56,630	2.18
TOTAL ALLOWABLE COMMERCIAL SF/FAR (1.5 x 25,920)		
TOTAL ALLOWABLE SF/FAR (3.5 x 25,920)		

OPTION 1: 40' HEIGHT

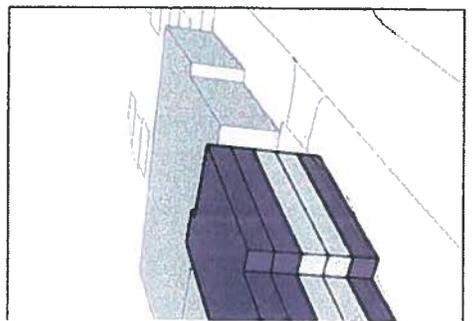
FLOOR	FAR GROSS FLOOR AREA - PARKING/ COMMERCIAL		FAR GROSS FLOOR AREA - RESIDENTIAL		NON FAR	
	SF		SF		SF	
CELLAR/GROUND FLOOR	0		4,169		12,83	
FIRST FLOOR	15,325		7,381		0	
SECOND FLOOR	12,688		10,370		0	
THIRD FLOOR (FIRST FLR OF ADDITIONAL SPACE)*	2,961		10,370		9,72	
FOURTH FLOOR	0		0		2,96	
TOTAL PROPOSED SF/FAR	30,974	1.19	32,290	1.25	25,52	
TOTAL ALLOWABLE COMMERCIAL SF/FAR (1.5 x 25,920)						
TOTAL ALLOWABLE SF/FAR (3.5 x 25,920)						



NEW FAR AREA

OPTION 2: 50' HEIGHT

FLOOR	FAR GROSS FLOOR AREA - PARKING/ COMMERCIAL		FAR GROSS FLOOR AREA - RESIDENTIAL		NON FAR	
	SF		SF		SF	
CELLAR/GROUND FLOOR	0		4,169		12,83	
FIRST FLOOR	15,325		7,381		0	
SECOND FLOOR	12,688		10,370		0	
THIRD FLOOR (FIRST FLR OF ADDITIONAL SPACE)*	6,730		10,370		5,95	
FOURTH FLOOR	0		14,139		2,96	
TOTAL PROPOSED SF/FAR	34,743	1.34	46,429	1.79	21,75	
TOTAL ALLOWABLE COMMERCIAL SF/FAR (1.5 x 25,920)						
TOTAL ALLOWABLE SF/FAR (3.5 x 25,920)						



NEW FAR AREA

*ALL NEW CONSTRUCTION IS RESIDENTIAL

Preliminary

Latham Hotel Courts

Existing Conditions:

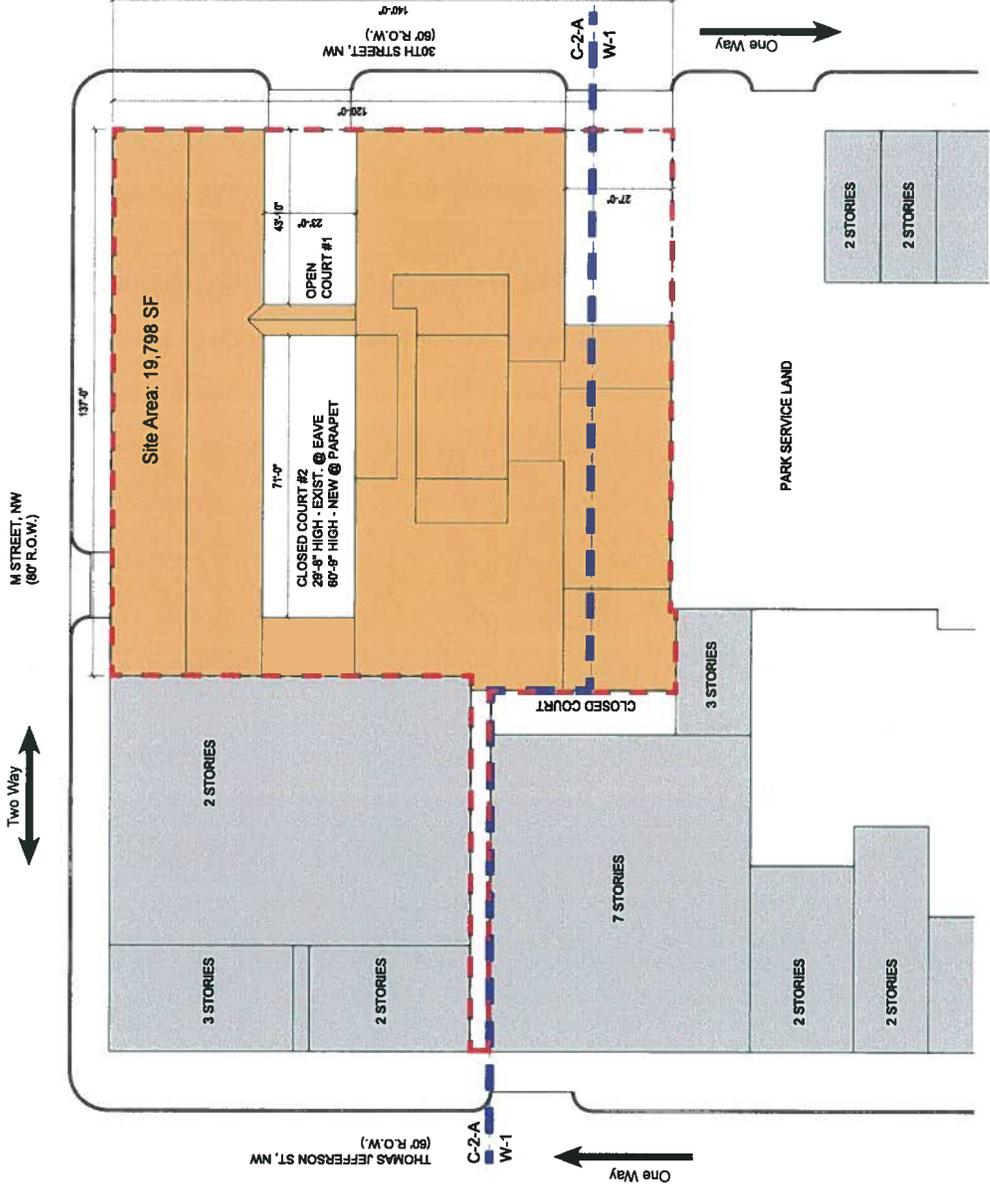
- A. Open Court #1 - Non-Residential
 - W = Height x 3'/FT of Height (12' Min)
 - W = 29'-8" x (3'/FT) = 7.42 FT (12')
 - 23.0' > 12.0' = **COMPLIANT**
- B. Closed Court #2 - Non-Residential
 - W = Height x 3'/FT of Height (12' Min)
 - W = 29'-8" x (3'/FT) = 7.42 FT (12')
 - 23.0' > 12.0' = **COMPLIANT**
 - A = 2 x w² (250 SF Min)
 - A = 2 x (23)² = 1,058 SF
 - 1,633 SF > 1,058 SF = **COMPLIANT**

Proposed Conditions:

- A. Open Court #1 - Residential
 - W = Height x 4'/FT of Height (15' Min)
 - W = 60'-9" x (4'/FT) = 20.25 FT
 - 23.0' > 20.25' = **COMPLIANT**
- B. Closed Court #2 - Residential
 - W = Height x 4'/FT of Height (15' Min)
 - W = 60'-9" x (4'/FT) = 20.25 FT
 - 23.0' > 20.25' = **COMPLIANT**
 - A = 2 x w² (350 SF Min)
 - A = 2 x (23)² = 1,058 SF
 - 1,633 SF > 1,058 SF = **COMPLIANT**

KEY:

- - - SITE BOUNDARY
- - - ZONE BOUNDARY
- EXISTING BUILDING VOLUME



Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

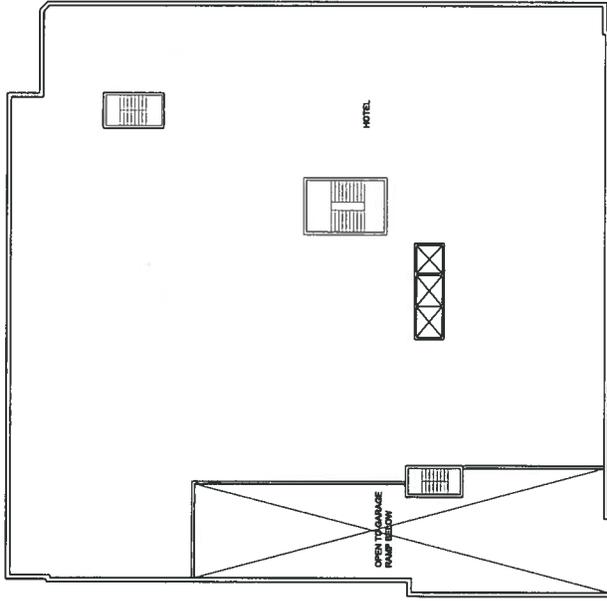
FAR: 3.44

Site Area: 19,798 SF

Penthouse 11: 1,407 SF

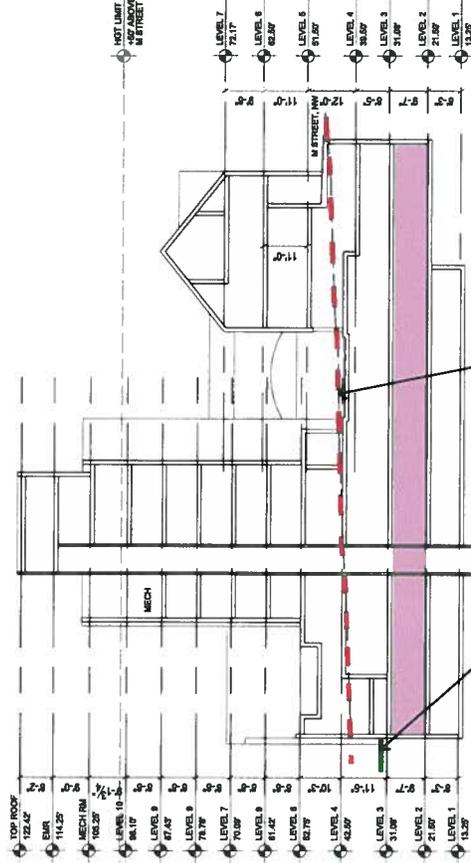
Penthouse 12: 848 SF

Total Penthouse: 2,255 SF



LEVEL 2 - EXISTING

Total FAR Area: 0 GSF



SECTION

LOWEST ELEVATION @ SOUTH SIDE

LINE OF 30TH STREET BEHIND

KEY:

- AREA BOUNDARY
- ▨ EXISTING OUTDOORS, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



Preliminary

Existing

Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

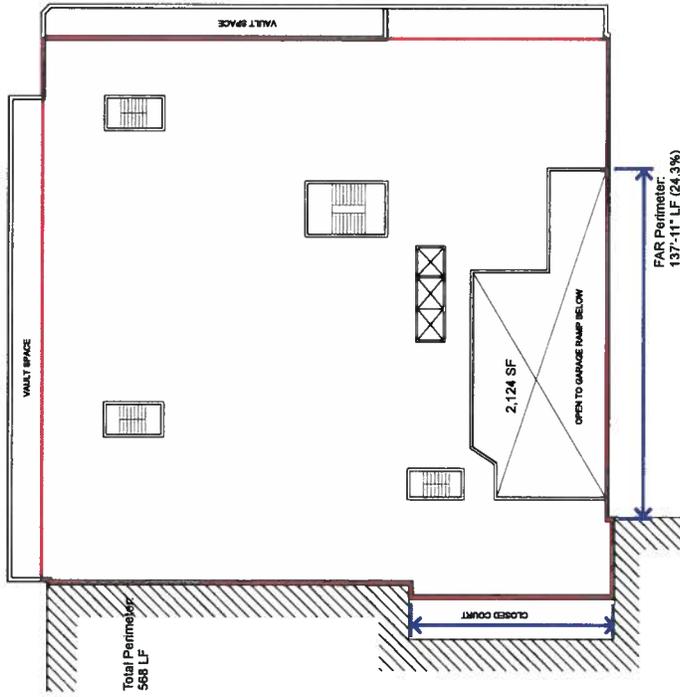
FAR: 3.44

Site Area: 19,798 SF

Penthouse 11: 1,407 SF

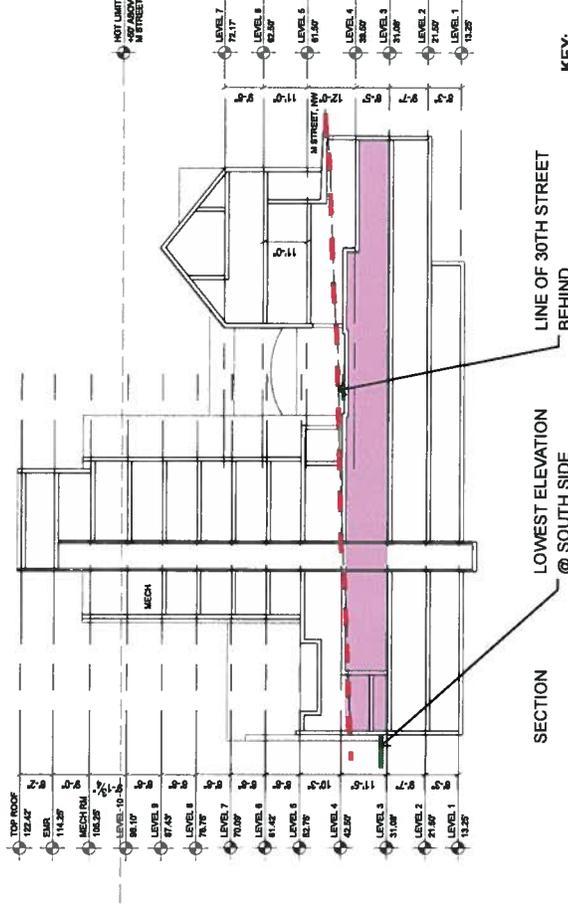
Penthouse 12: 848 SF

Total Penthouse: 2,255 SF



LEVEL 3 - EXISTING

Total FAR Area:	17,534 GSF
Perimeter Method:	x 0.243
Total FAR Gross:	4,261 SF
2% Shaft Deduct:	- 85 SF
Total FAR Area:	4,176 GSF



SECTION
LOWEST ELEVATION @ SOUTH SIDE
LINE OF 30TH STREET BEHIND

KEY:

- AREA BOUNDARY
- ▨ EXISTING OUTDOORS, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



Preliminary

Existing

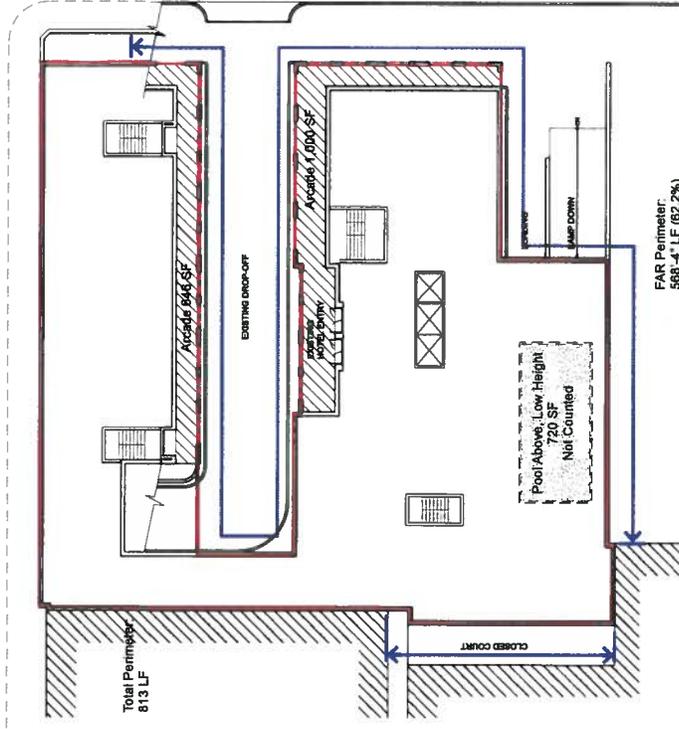
Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

FAR: 3.44

Site Area: 19,798 SF

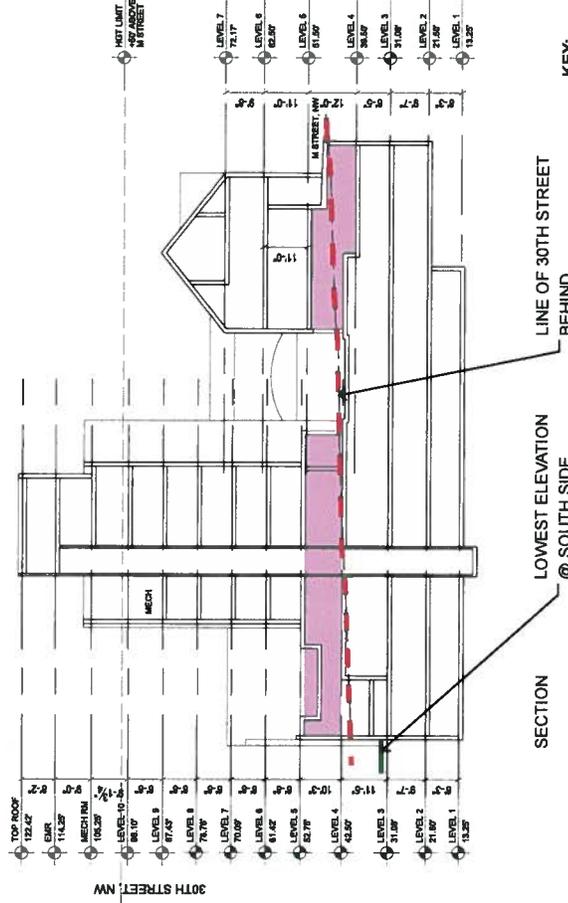
Penthouse 11: 1,407 SF
 Penthouse 12: 848 SF
 Total Penthouse: 2,255 SF



LEVEL 4 - EXISTING

FAR Gross Area:	15,522 SF
Perimeter Method:	X0.672
Total FAR Gross:	10,431 SF
2% Shaft Deduct:	- 209 SF
Pool Room Deduct:	- 720 SF
Total FAR Area:	9,502 GSF

Lot Occupancy: 78.1%



KEY:

- AREA BOUNDARY
- ▨ EXISTING OUTDOORS, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

FAR: 3.44

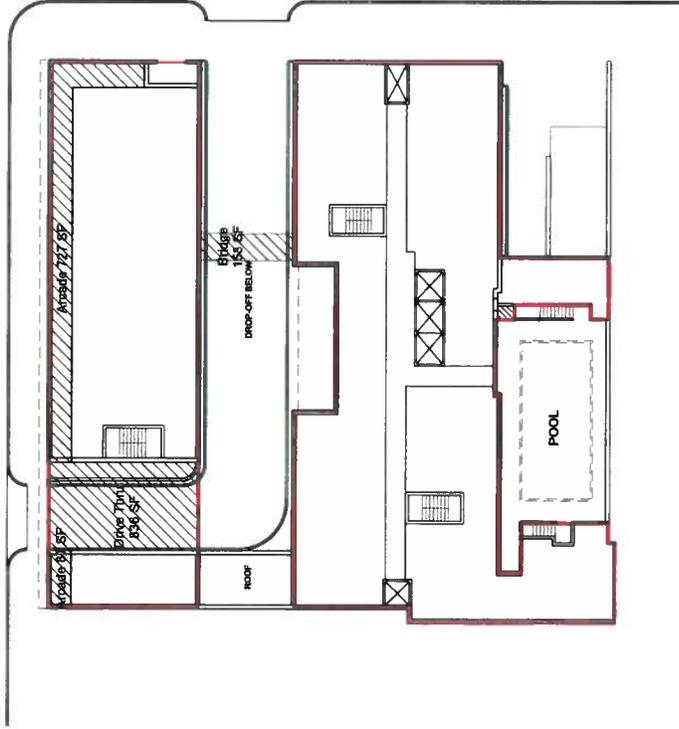
Site Area: 19,798 SF

Penthouse 11: 1,407 SF

Penthouse 12: 848 SF

Total Penthouse: 2,255 SF

M STREET, NW



LEVEL 5 - EXISTING

FAR Gross Area:	13,248 SF
2% Shaft Deduct:	- 285 SF
Total FAR Area:	12,963 GSF

Lot Occupancy: 62.9%



SECTION
LOWEST ELEVATION @ SOUTH SIDE
LINE OF 30TH STREET BEHIND

KEY:

- AREA BOUNDARY
- ▨ EXISTING OUTDOORS, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



shalom baranes associates architects

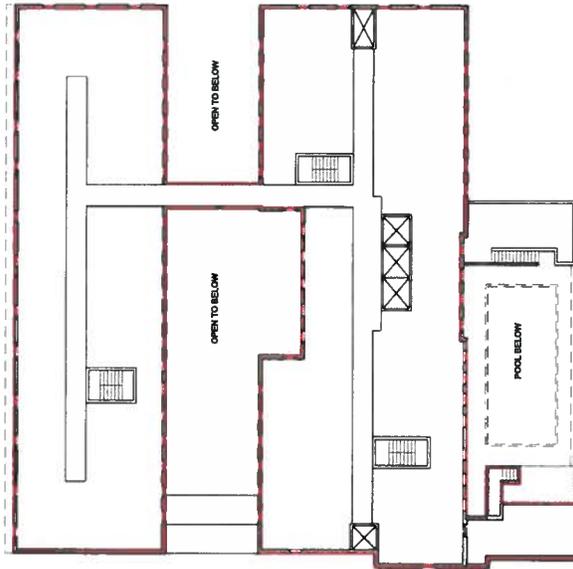
Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

FAR: 3.44

Site Area: 19,798 SF

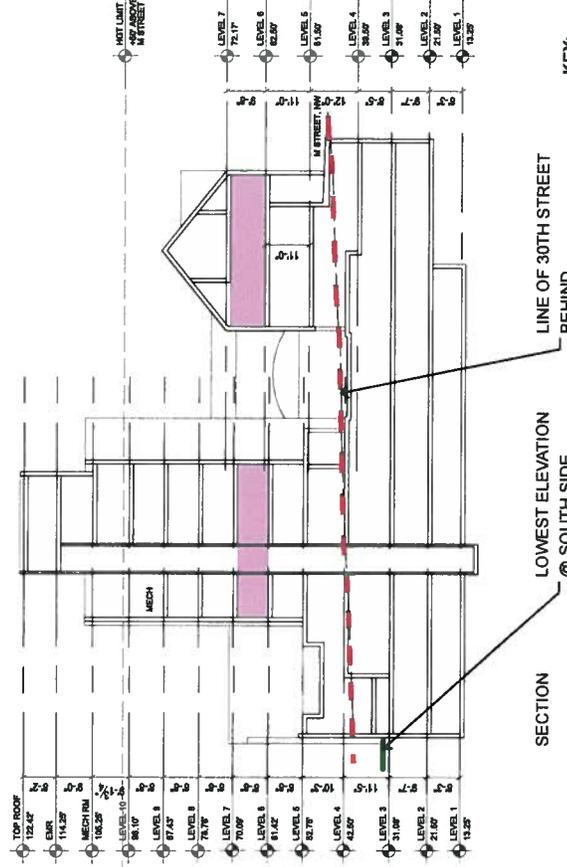
Penthouse 11: 1,407 SF
 Penthouse 12: 848 SF
 Total Penthouse: 2,255 SF



LEVEL 6 - EXISTING

FAR Gross Area: 12,628 SF
 2% Shaft Deduct: - 253 SF
 Total FAR Area: 12,375 GSF

Lot Occupancy: 63.8%



SECTION

LOWEST ELEVATION @ SOUTH SIDE

LINE OF 30TH STREET BEHIND

KEY:

- AREA BOUNDARY
- ▨ EXISTING OUTDOORS, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

FAR: 3.44

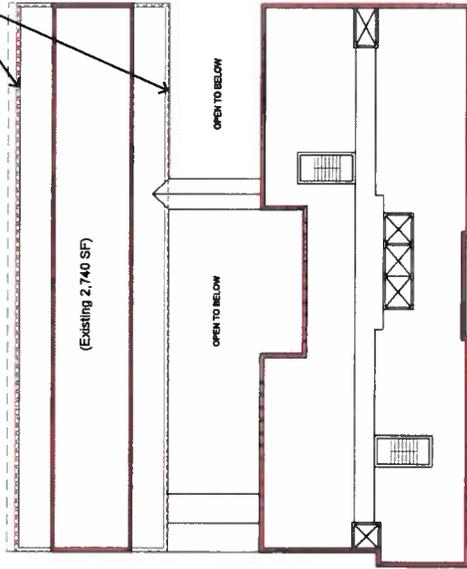
Site Area: 19,798 SF

Penthouse 11: 1,407 SF

Penthouse 12: 848 SF

Total Penthouse: 2,255 SF

EXISTING EAVE LINE
FOR LOT OCCUPANCY
CALCULATION



LEVEL 7 - EXISTING

FAR Gross Area:	9,543 SF
2% Shaft Deduct:	-191 SF
Total FAR Area:	9,352 GSF

Lot Occupancy: 60.7%

KEY:

- AREA BOUNDARY
- ▣ EXISTING OUTDOORS, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD

Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

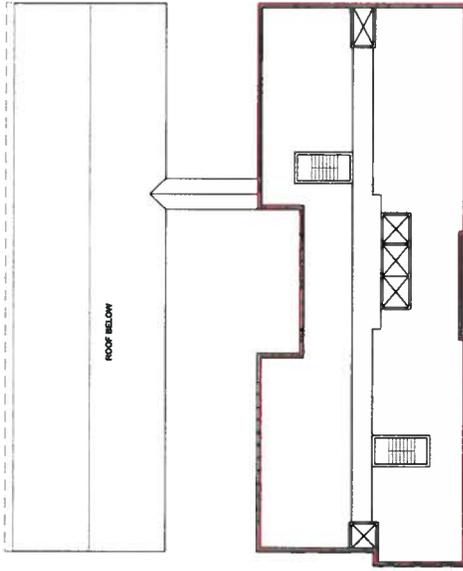
FAR: 3.44

Site Area: 19,798 SF

Penthouse 11: 1,407 SF

Penthouse 12: 848 SF

Total Penthouse: 2,255 SF



LEVEL 8 & 9 - EXISTING

FAR Gross Area: 6,803 SF
 2% Shaft Deduct: -136 SF
 Total FAR Area: 6,667 GSF X 2 = 13,334 GSF
 Lot Occupancy: 34.4%



SECTION
 LOWEST ELEVATION @ SOUTH SIDE
 LINE OF 30TH STREET BEHIND

KEY:

- AREA BOUNDARY
- ▨ EXISTING OUTDOORS, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



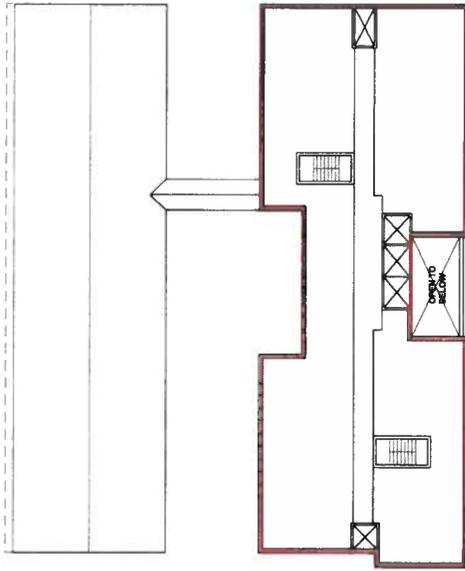
Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

FAR: 3.44

Site Area: 19,798 SF

Penthouse 11: 1,407 SF
 Penthouse 12: 848 SF
 Total Penthouse: 2,255 SF



LEVEL 10 - EXISTING

FAR Gross Area: 6,521 SF
 2% Shaft Deduct: -130 SF
 Total FAR Area: 6,391 GSF

Lot Occupancy: 32.9%

KEY:

- AREA BOUNDARY
- ▨ EXISTING OUTDOORS, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



Preliminary

Proposed

Overall Area Calculations (New):

Level 2:	0 GSF
Level 3:	3,674 GSF
Level 4:	7,149 GSF
Level 5:	11,573 GSF
Level 6:	11,918 GSF
Level 7:	11,918 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,667 GSF
Total Area:	66,233 GSF

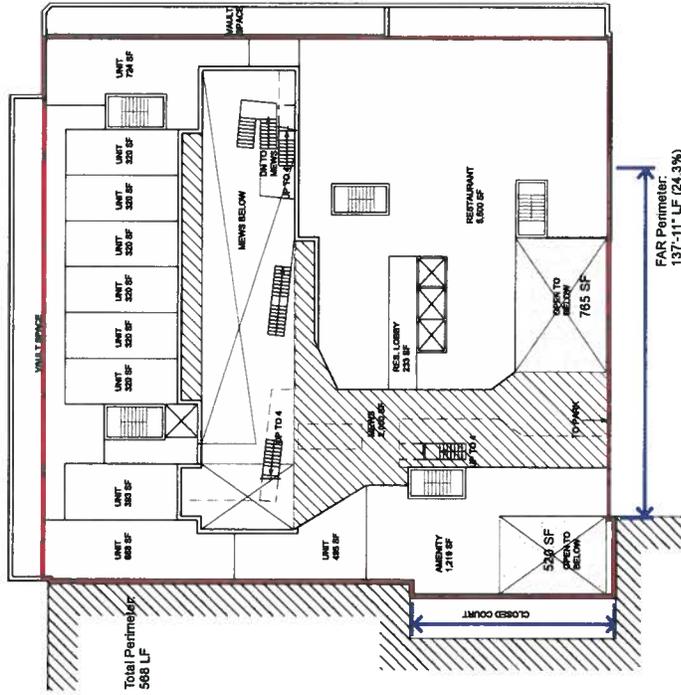
FAR: 3.35

Site Area: 19,798 SF

Penthouse 11: 1,407 SF

Penthouse 12: 848 SF

Total Penthouse: 2,255 SF



LEVEL 3 - NEW

Total FAR Area:	15,426 GSF
Perimeter Method:	x 0.243
Total FAR Gross:	3,749 SF
2% Shaft Deduct:	-75 SF
Total FAR Area:	3,674 GSF

Lot Occupancy: 83.6%



SECTION
LOWEST ELEVATION
@ SOUTH SIDE
LINE OF 30TH STREET
BEHIND

KEY:

- AREA BOUNDARY
- ▨ OUTDOOR SPACE, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



Preliminary

Proposed

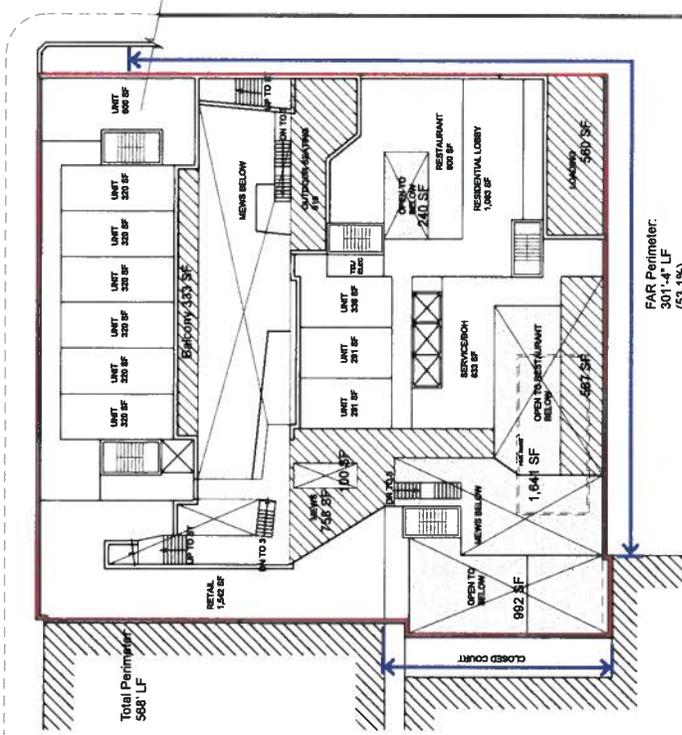
Overall Area Calculations (New):

Level 2:	0 GSF
Level 3:	3,674 GSF
Level 4:	7,149 GSF
Level 5:	11,573 GSF
Level 6:	11,918 GSF
Level 7:	6,667 GSF
Level 8:	6,667 GSF
Level 10:	6,667 GSF
Total Area:	66,233 GSF

FAR: 3.35

Site Area: 19,798 SF

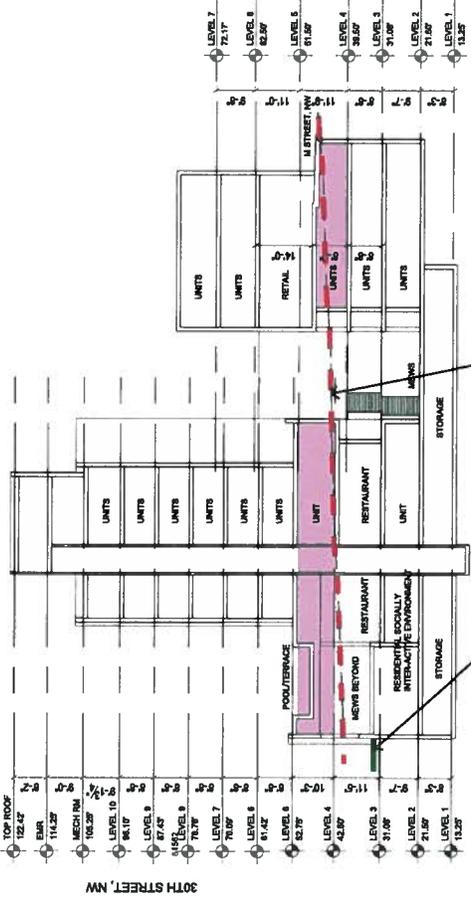
Penthouse 11: 1,407 SF
 Penthouse 12: 848 SF
 Total Penthouse: 2,255 SF



LEVEL 4 - NEW

FAR Gross Area:	13,738 SF
Perimeter Method:	X.0.531
Total FAR Gross:	7,295 SF
2% Shaft Deduct:	-146 SF
Total FAR Area:	7,149 GSF

Lot Occupancy: 83.6%



SECTION

LOWEST ELEVATION @ SOUTH SIDE

LINE OF 30TH STREET BEHIND

KEY:

- AREA BOUNDARY
- ▨ OUTDOOR SPACE, INCLUDED IN FAR
- AREA NOT INCLUDED IN FAR
- ↔ EXTENT OF PERIMETER METHOD



Preliminary

Overall Area Calculations (New):

Level 2:	0 GSF
Level 3:	3,674 GSF
Level 4:	7,149 GSF
Level 5:	11,573 GSF
Level 6:	11,918 GSF
Level 7:	11,918 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,667 GSF
Total Area:	66,233 GSF

FAR: 3.35

Site Area: 19,798 SF

Penthouse 11:	1,407 SF
Penthouse 12:	848 SF
Total Penthouse:	2,255 SF

Overall Area Calculations (Exist):

Level 2:	0 GSF
Level 3:	4,176 GSF
Level 4:	9,502 GSF
Level 5:	12,983 GSF
Level 6:	12,375 GSF
Level 7:	9,352 GSF
Level 8:	6,667 GSF
Level 9:	6,667 GSF
Level 10:	6,391 GSF
Total Area:	68,113 GSF

FAR: 3.44

Site Area: 19,798 SF

Penthouse 11:	1,407 SF
Penthouse 12:	848 SF
Total Penthouse:	2,255 SF