

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



May 30, 2014

Meridith H. Moldenhauer
Griffin, Murphy, Moldenhauer & Wiggins, LLP
1912 Sunderland Place, NW
Washington DC, 20036

Re: 770-774 Girard Street NW (the "Property") – Square 2885, Lot 883

Dear Ms. Moldenhauer,

This letter is in reference to discussions at my meeting with the property owner on Tuesday, November 5th, 2013 and subsequent dialogue with you and your client regarding you client's intended development on property located at 770-774 Girard Street NW, referred to herein as the Property. I would like to memorialize our discussion regarding your client's proposed development of the Property.

The Property is in the R-4 District. The current lot is improved with two attached buildings at the rear of the Property originally built as a helicopter manufacturing facility. The project entails subdivision of the lot into two new compliant record lots, reestablishing the 1911 tax lot division along the existing party wall. The proposed development of the Property will incorporate the existing structures into two apartment buildings, one on each lot, facing Girard Street NW. The western portion of the existing structure will be incorporated into the apartment building on the newly subdivided western lot. The eastern portion of the existing structure will be incorporated into the apartment building on the newly subdivided eastern lot. The existing Property has a lot area of 14,250 square feet and has 100 feet of frontage along Girard Street NW. In summary, at the November 5, 2013 meeting and during our subsequent dialogue, I found as follows:

The Proposed Apartments Comply with the Zoning Regulations

The proposed development constitutes the conversion of the existing structure into two apartment house buildings. An apartment house is defined in 11 DCMR §199.1 as "any building or part of a building in which there are three (3) or more apartments, or three (3) or more apartments and one (1) or more bachelor apartments, providing accommodation on a monthly or longer basis." With respect to the proposed apartment house on the western lot, the 1-foot wide trestle bridge gate structurally tied to both buildings constitutes a meaningful connection¹ between the units at the front and the unit at the rear of the Property and establishes a single structure. With respect to the proposed apartment on the eastern lot, the covered

¹ "In order to qualify as a 'meaningful' connection, it must be (1) above-grade, (2) closed to the sky, and (3) accessible (albeit not necessarily available for access). The connection can be between any portion of either building." Zoning Determination Letter, August 24, 2012, *Square 622, Lot 91: Rear Yard Measurement, Measuring Point for Height, and Connection between Buildings*.

walkway constitutes a meaningful connection between the units at the front and the unit at the rear of the Property also establishes a single structure. Therefore, the proposed development constitutes the conversion of the existing structure into two single-structure apartments.

Lot Area

The R-4 District requires a minimum lot area of 900 square feet per dwelling unit in the context of a conversion to an apartment house use. The western lot will have a lot area of 7,050 square feet and have 7 units. The eastern lot will have a lot area of 7,200 square feet and have 8 units. Therefore, both the western and eastern lots will have a lot area of 900 square feet per unit, or greater, and therefore meet the requirements in §401.

Lot Occupancy

The R-4 District permits a maximum lot occupancy of “the greater of 60% or the lot occupancy as of the date of conversion.” 11 DCMR §403. The eastern lot would have a lot occupancy of 60% and the proposed lot occupancy of the western lot is 60.4%. As we discussed, I have reviewed your request seeking minor flexibility from an increase in lot occupancy under Section 407.1. After reviewing this request, I have decided to grant the request of a .4% lot occupancy increase, as I do not see any adverse impacts to adjacent properties and note the request is within the 2% minor flexibility allowed for area deviations.

Existing Nonconforming Rear Yard

Under §404.1, the rear yard requirement in the R-4 District is 20 feet. The existing structure abuts the rear property line and provides no rear yard. The project preserves and renovates the existing structure. There will be no additional height added to the existing structure. As a result of demolition at the rear of the structure on the western lot, a small rear yard will be provided. While not meeting the rear yard requirement, the creation of the rear yard reduces the degree of nonconformity currently existing. Therefore, the rear yard is an existing nonconforming aspect that may continue as a matter of right.

Penthouse

Under §411.3 all penthouses and mechanical equipment must be placed in one enclosure and must not exceed 1/3 of the total roof area and under §400.7 must be setback from all exterior walls a distance at least equal to its height above the roof upon which it is located and not exceed 18'- 6". The roof structures proposed meet the requirements of §411 and §400.²

Inclusionary Zoning

Section 2602.1, regarding applicability of the Inclusionary Zoning (“IZ”), indicates that the Inclusionary Zoning requirements apply to developments with ten (10) or more dwelling units and that are one of the three types of developments described in §2602.1(c). Sections 2602.1(c)(1) and (2) refer to new dwellings. Section 2602.1(c)(1) applies to new multiple dwellings. Section 2602.1(c)(2) refers to one-family dwellings, row dwellings, or flats constructed concurrently or in phases on contiguous lots or lots divided by an alley, if such lots were under common ownership at the time of construction.

² The 1:1 setback is not required for party walls where the adjacent property has a matter-of-right height of equal or greater than the property at issue.

In this instance, §2602.1(c)(1), regarding new multiple dwellings of 10 units or more, does not apply because neither of the proposed apartments has more than ten units. Section 2602.1(c)(2), regarding one-family dwellings, row dwellings, or flats constructed concurrently, does not apply because the proposed apartments are not a one-family dwellings, row dwellings, or flats. Therefore, the proposed development is not subject to the IZ requirements and is not entitled to the IZ bonus.

Parking

Under §2101.1, an apartment use in the R-4 Zone has a parking requirement of 1 space for every 3 dwelling units. The western lot has 7 units and thus has a parking requirement of 2 spaces. The proposed P-1 and P-2 parking spaces meet the requirement for the western lot. The eastern lot has 8 units and thus has a parking requirement of 3 spaces. P-8 and the two parking spaces located in the garage meet the requirement for the eastern lot. The remaining spaces, including P-3 through P-7 are surplus spaces. While a joint easement will be necessary for access to and use of several of the spaces, from a zoning perspective both lots meet the parking requirements as a matter of right.

Conclusion

Based on the attached drawings, *see Exhibit A*, the proposed subdivision and construction of two apartments complies with the R-4 District requirements and is permitted as a matter-of-right. Accordingly, when you file the plans for a building permit, I will approve drawings that are consistent with the plans attached to this letter. Please let me know if you have any further questions.

Sincerely,



Matthew Le Grant
Zoning Administrator

Attachments:
Exhibit A: Architectural Plans