

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

November 23, 2010



Norman M. Glasgow, Jr.
Steven E. Sher

Director of Zoning and Land Use Services
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W. Suite 100
Washington D.C. 20006

Re: 14th and U Streets, N.W. , Square 205

Gentlemen:

This is to follow-up on our discussion on Monday, November 8, 2010, concerning the above-referenced property (Square 205, Lots 70, 71, 73, 830 and 831) located at the southwest corner of the intersection of 14th and U Streets, N.W. The property is proposed to be redeveloped with an apartment house with retail and service uses on the ground floor. Certain existing historic buildings are to be incorporated into the new building. The zoning which applies to the property is a combination of C-3-A and CR in the ARTS Overlay.

The redevelopment as proposed required relief from the Board of Zoning Adjustment (BZA), because the project did not comply with the lot occupancy requirements of §772, the rear yard requirements of §774, the public space at ground level requirements of §633 and the prohibition of §1903.2 against having a driveway on 14th Street leading to required parking spaces. By Summary Order dated November 13, 2008, in Application No. 17831, the Board granted the requested variances and special exceptions for the project, pursuant to Exhibit No. 28, plans, as modified by the two additional sheets marked as Exhibit No. 40. By Order No, 17831-A, dated July 1, 2010, the Board granted a two year extension of the original approval, meaning that the applicant has until November 13, 2012, to file an application for a building permit under the approval.

The application submitted to the Board made it clear that the number of apartment units was not fixed at that time. The plans, dated November 5, 2010, filed with the Board contain a note on the 2nd Floor Plan (Sheet 4) and all higher level floor plans stating: "The interior configuration of the units shown is preliminary and subject to change. No zoning relief is being sought relating to the size, number and composition of units."

You indicated that the current plans now show that a total of 263 units will be contained in the building. That number may range between 255 and 279 units as the plans are

finally refined. The plans will comply in all other respects with the plans approved by the Board. Since the plans and the Applicant's statement indicate that the number of units might change, the relief requested of the Board had nothing to do with the number of units and the Board imposed no condition relating to the number of units, it is my conclusion that plans which show 263 units and are otherwise the same as the plans approved by the Board would be consistent with and in compliance with the Board's Order.

You presented computations to me showing that even with the increased number of units, the number of parking spaces required by the Regulations would be provided, as follows:

- Under the new arrangement of units, sixty-four units would be on the portion of the site zoned ARTS/C-3-A. Parking for dwelling units in C-3-A is required at a minimum of one space for every two units; sixty four units would require thirty-two parking spaces.
- The new arrangement of units would provide 199 units on the portion of the site zoned CR. Parking for dwelling units in CR is required at a minimum of one space for every three units; 199 units would require sixty-six parking spaces.
- The residential units therefore require ninety-eight parking spaces.
- The existing historic buildings used for retail require no parking. The other retail space on the ground floor includes 11,130 square feet zoned C-3-A and 9,220 square feet zoned CR. Prorating the 3,000 square foot exemption for retail uses between the two zones and applying the respective rates under §2101.1, thirty-two spaces are required for the retail zoned C-3-A and ten spaces are required for the retail zoned CR, for a total of forty-two spaces.
- The total amount of parking required is therefore 140 parking spaces. The plan approved as part of the application show that 148 conforming zoning parking spaces are to be provided on two underground levels, in excess of the minimum number required.

Accordingly, no further relief from the Board would be needed based on the parking requirements.

I note that the Board's order approving the application was final on November 13, 2008. The approval therefore predates the effectiveness of the Inclusionary Zoning requirements set forth in Chapter 26 of the Regulations, which became effective on August 14, 2009, upon publication of the first rent and purchase price schedule in the D.C. Register. Under §3202.6:

All applications for building permits authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date those orders are promulgated; Provided, that all applications for building permits shall be accompanied by the plans and other information required by § 3202.2, which shall be sufficiently complete to permit processing without substantial change or deviation.

Because the ability to increase the number of units in the building was specifically provided for by note on the plans, because you have not made any substantial changes to the plans as they were approved by the BZA and because the extension granted by Order

No. 17831-A had the effect of continuing in place all the relief granted by the original order, I conclude that you are entitled to proceed with this construction on the basis of the regulations in effect on November 13, 2008, and Inclusionary Zoning is not applicable to this building as it is now proposed. If the plans change, then I will be required to determine whether you have met the requirements of §3202.6.

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

Sincerely,



Matthew Le Grant
Zoning Administrator

File: Determination Ltr re 14th and U Streets to Sher 11-23-10