



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**

July 15, 2020

**Via Emailed PDF**

Meridith Moldenhauer  
Cozen O'Connor  
1200 19<sup>th</sup> Street NW  
Washington, DC 20036

**Re: 1150 1<sup>st</sup> Street NE - Square 0673, Lot 846 (the “Property”)**

Dear Ms. Moldenhauer,

This letter is in reference to the PDRM meeting you and your client had with my office on February 5, 2020 (the “**PDRM**”) regarding your client’s finalization of the plans for a mixed-use development at the Property (the “**Project**”). The PDRM follows from the January 10, 2019 meeting that you and your client had with the Zoning Administrator to discuss the Project (the “**2019 Zoning Administrator Meeting**”). During that meeting, the Zoning Administrator confirmed that the Project could be constructed as a matter of right. Following the 2019 Zoning Administrator Meeting, the Zoning Administrator issued a January 29, 2019 confirmation email. Further, following the PDRM, the Zoning Administrator a follow up February 11, 2019 email regarding certain penthouse setbacks. Copies of all of the Zoning Confirmation emails and their exhibits are referenced collectively as the “**Zoning Confirmation Emails**,” and are attached as **Tab “A”**.

The Property is in the D-5 Zone District within Northeast Washington. A copy of the Zoning Map identifying the Property is attached at **Tab “B”**. Within the D-Zone, the Property is located in the NoMa Sub-Area, and First Street is designated as a “primary street.” The Property is 37,572 s.f. in size and is currently vacant. The Property is bounded by First Street to the east, Pierce Street to the north, and Lots 848 and 847 to the west and south, respectively. First Street is 110’ in width as shown on the image attached at **Tab “C”**.

The Property is located on Record Lot 34 (“Record Lot 34”), which is a through lot bounded on three streets by First Street to the east, Pierce Street to the north, and L Street to the south. Record Lot 34 has a total land area of 145,962. Record Lot 34 is composed of four A & T Lots: Lots 846, 847, 848, and 849.

Since 2007, your office has reviewed certain zoning issues and single lot covenants (the “**Covenants**”) related to Record Lot 34. Copies of previous zoning determination letters and written confirmations are attached at **Tab “D”**.

Record Lot 34 is improved with three buildings, all constructed under the 1958 Zoning Regulations (“**ZR-58**”). Lot 847 is improved with the 1100 First Street Office Building (“**1100 First Street Office Building**”), a matter of right, 14-story office building with three levels of below grade parking completed in 2009. Lots 848 and 849 (“**Camden I Building**” and “**Camden II Building**”, respectively) are improved with a 14-story residential building completed in two phases with a total of approximately 727 units. The Camden I Building was completed in 2013, and the Camden II Building was completed in 2017. Images of these existing structures were reviewed during the meeting and are attached here at **Tab “E”**.

The Board of Zoning Adjustment (“BZA”) approved necessary zoning relief for the Camden I and Camden II in Application No. 17721 in 2008 and the subsequent time extension – 17721-A – in 2010 (collectively the “**Camden BZA Approval**”). The Camden BZA Approval remains valid until 2020. Copies of the Camden BZA Approval orders are attached here at **Tab “F”**. The Camden BZA Approval references the requirement for an above-grade connection to a building at 1150 First Street in order to achieve Camden’s 130’ height. *See* BZA No. 17721, Footnote # 2.

For zoning purposes, the 1100 First Street Office Building, the Camden I and Camden II are to constitute one, single building with the new building at 1150 First Street pursuant to the Covenants.

Your client has acquired the Property and is beginning processing permits for a matter of right Project on the Property. Anticipated permit plans for the Project were reviewed during the PDRM, and relevant pages are attached here at **Tab “G”** (the “**Permit Plans**”). The Permit Plans are consistent with the plans provided and reviewed by the Zoning Administrator in 2019, which were confirmed to satisfy the Zoning Regulations. *See* **Tab “A”**.

As shown, the Project satisfies the current zoning regulations (“**ZR-16**”), because it will be a 14-story, mixed-use, residential project with approximately 500 units, 177 parking spaces and 10,522 s.f. of ground floor retail. The Project would front on First Street NE, which is 110’-feet in width. As such, the Project would have a maximum height of 130’ as measured from the Building Height Measuring Point (“**BHMP**”). Further, the Project would maximize the Floor Area Ratio (“**FAR**”) based on the 130’-height. The Project would have three open courts, as discussed further below, and a habitable penthouse with the required setbacks. Further, while the Project would satisfy ZR-16, it proposes a trellis connection to the Camden II Building, as vested in the Camden BZA Approval, to satisfy the Covenants (the “**Connector**”). The Connector is shown on Sheets A103 – A104, A213, A300 of the Project Plans at **Tab “G”**.

In summary, based on the above, at the PDRM, my office found the following:

**The Project on the Property complies with the Zoning Regulations**

**1. Height**

Subtitle I § 540.1 permits a building fronting upon a street with a right-of-way width of greater than or equal to 110 feet to reach a maximum permitted height of 130 feet.

The Project would front on First Street NE, which is 110' wide. Accordingly, the Project's proposed maximum 130' height would comply with Subtitle I § 540.1. Pursuant to Subtitle B § 370.6, the BHMP shall be measures at the level of the curb on First Street NE, opposite the middle of the front of the building, and the building height shall be measured from the BHMP to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height. The BHMP is shown on Sheets A201 - A204, A210-A212 of the Project Plans at **Tab "G"**.

**2. Floor Area Ratio ("FAR")**

Subtitle I § 539.1 states that for a mixed-use residential building, "the maximum permitted FAR for a building in the D-5 zone shall be the density achievable within the height and bulk permitted by the zone and any applicable subarea regulations...(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 539.3 is devoted to residential use." Accordingly, the project will not develop the full FAR allowable for a residential, mixed-use development.

As a residential, mixed-use building the Project would be entitled to achieve a maximum FAR limited by the site area and the maximum allowable height of 130 ft. As shown on Sheet 004 of the Project Plans at **Tab "G"**. The Project will be compliant with FAR. Accordingly, no Transferable Development Rights or other development Credits would be necessary for the Project to achieve the maximum bulk available up to 130' in height, as would be necessary for an all-non-residential development. The Project would be able to generate development credits pursuant to Subtitle I § 802.1(a).

**3. Lot Occupancy**

Pursuant to Subtitle I §202.1, a lot occupancy of 100% is permitted.

Therefore, the Project could have 100% lot occupancy. The Project's anticipated lot occupancy is 83% shown on Sheet 004 of the Project Plans at **Tab "G"**. Accordingly, the Project will satisfy the lot occupancy requirement.

**4. Inclusionary Zoning**

The D-5 zone is exempt from the affordable housing requirements of IZ. *See* Subtitle C §1001.5; Subtitle I §539.2. Accordingly, IZ is not required for the Project.

However, the Project would still be required to satisfy the IZ requirement associated with 8% of the habitable penthouse. It is anticipated that this IZ requirement will be satisfied through a contribution to the District's affordable housing fund. Copies of the draft CIZC Form and Penthouse Addendum Form are attached as **Tab "H"**.

## **5. Rear Yard**

Pursuant to Subtitle I §205.2 (b), a rear yard is not required on a through lot, including a lot fronting on three or more streets.

Accordingly, no rear yard is required for the Project because it is located on a through lot, fronting on Pierce Street NE, First Street NE, and L Street NE.

## **6. Courts**

Pursuant to Subtitle I § 207.1, for a residential building with more than three units, the minimum width requirement for an open court is 4in./ft. of height of court bounding wall with a 10 ft. minimum. As defined in Subtitle B § 100.2, "court width" is "the minimum horizontal dimension substantially parallel with the open end of an open court or the lesser horizontal dimension of a closed court; or, in the case of a non-rectangular court, the diameter of the largest circle that may be inscribed in a horizontal plane within the court." Further, Subtitle B § 322.3 states "Court width requirements are expressed as a ratio of required width to height of a court. The height of a court is measured from the base of the court, even where the base may be on an upper story of a building."

In Subtitle B § 100.2, an "open court" is defined as "An unoccupied space, not a court niche, open to the sky, on the same lot with a building, which is bounded on two (2) or more sides by the exterior walls of the building or by two (2) or more exterior walls, lot lines, or yards. A court may also be bounded by a single curved wall of building" that "opens onto a street..."

The Project has three courts, which we have previously identified as Court "A", Court "B", and Court "C". Court "A" is a nonrectangular, open court consistent with a design the Zoning Administrator approved in 2007. Courts "B" and "C" are rectangular, open courts. All courts are compliant for the reasons discussed below.

### **a. Nonrectangular Court "A"**

Court "A" is a single, nonrectangular, "T-Shaped" court that opens to the front on First Street and on the sides at the L and Pierce Street ends of the alley that separates the 1100 First Street Office Building and the Project from the Camden I and Camden II. As discussed at the PDRM, the 2019 Zoning Administrator Meeting and confirmed in the Zoning Confirmation Emails, the shape, width and building setbacks shown in Court "A" are set forth in the Covenants' "Alley" and "Plaza" requirements. As such, Court "A" shown in **Tab "G"** is consistent with the "Single Court Scheme" for redevelopment of

Record Lot 34 reviewed by Office of the Zoning Administrator (“OZA”) on July 17, 2007 and memorialized in the Zoning Administrator’s August 30, 2007 letter and the “Single Court Scheme” diagrams, attached at **Tab “I”** (the “**August 30, 2007 Court Letter**”).

In the August 30, 2007 Court Letter, OZA found that “there will be a single “T”-Shaped court separating the two office phases [now the 1100 First Street Office Building and the Project] and separating the office phases from the residential phases [Camden I and Camden II]... The court is clearly not rectangular...[and] the width is the diameter of the largest circle that may be inscribed in a horizontal plane within the court.” Further, in the August 30, 2007 Court Letter, OZA determined that the nonrectangular, “T”-Shaped court should be measured under the residential court standard, which in 2007 was 4 in./ft. of court bounding wall. Accordingly, the August 30, 2007 Court Letter found that the proposed nonrectangular, “T”-Shaped court satisfied the ZR-58 “open court” requirements because the minimum width at the lowest level was 46’-8”, while 44.67’ was required. See **Tab “I”**.

As we discussed during the PDRM meeting, the 2019 Zoning Administrator Meeting, and as confirmed in the Zoning Confirmation emails, the current zoning regulations do not change the open court requirements applicable to the Project. The open court width requirements remain 4 in./ft. of court bounding wall, which in the case of the Project require a court width of 43’-4” (4”/ ft x 130’-height). See Subtitle I § 207.1. Further, as in 2007, under ZR-16, the diameter of the largest circle may be used to determine the width of a nonrectangular court. See Subtitle B § 322.4.

Accordingly, the Court “A” design shown in **Tab “G”** does not modify or change this office’s interpretation in the August 30, 2007 Court Letter and/or the Zoning Confirmation Emails. As such, because Court “A” is depicted in the Project Plans an open, nonrectangular, “T”-Shaped court with a circle diameter of approximately 46’, the requirements of Subtitle I § 207.1 are satisfied. See Sheet 004 of the Project Plans at **Tab “G”**.

#### **b. Rectangular Courts “B” and “C”**

After reviewing the definitions of “Open Court” referenced above, it has been determined that Courts “B” and “C” are open courts because they open onto Court “A”. See Zoning Confirmation Emails.

As shown on Sheets A105, A203, A205-A206, A215, A313-315 of the Project Plans at **Tab “G”**, the base of Courts “B” and “C” will be the trellis above the Project’s second floor, which is currently shown at an elevation of 20.53’. Therefore, pursuant to Subtitle B § 322.3, the heights of the Courts “B” and “C” bounding walls are 109.47 ft. (130 ft. Building Height – 20.53’ ft. base of court). The height of the base of these courts may be adjusted as the Project is further refined.

Therefore, as shown on the Plans, the court width requirement for Courts “B” and “C” is 36’-4” ( $4 \times 109/12 = 36’-4”$ ). Courts “B” and “C” are compliant as they each are shown at 38 ft. wide. *See* Sheets A105, A108-A109, A115 – A117S.

## **7. Front Build-To-Line**

Pursuant to Subtitle I § 541.1 and Subtitle I § 203.1(a), the Project is subject to the “front build-to” line requirements of Subtitle I § 203.1. Accordingly “at least seventy-five percent (75%) of each newly constructed building wall fronting a street shall be constructed to or within four feet (4 ft.) of the property line between the subject lot and the abutting street right-of-way, to a height of at least fifteen feet (15 ft.) above the higher of the building’s measuring point or the level of the curb from which the building is drawing its height.”

The Project satisfies this requirement because, as shown on Sheet 004 of the Project Plans at **Tab “G”**, 96% of the Project’s street walls will be within 4’ of the property line.

## **8. Front Setback**

Pursuant to Subtitle I § 542.1, no front setback is requirement.

## **9. Vehicle Parking**

Pursuant to Subtitle I §543.2, automobile parking is not required in the D-Zones.

However, as it is anticipated the Project will provide vehicular parking, we discussed that under Subtitle C § 701.5, for residential buildings, 1 parking space is required per 3 dwelling units in excess of 4 units, and for retail and service (both general and financial), 1.33 parking spaces are required per 1,000 sq. ft. in excess of 3,000 sq. ft. Accordingly, if the Project provides 500 residential units and 10,522 sq. ft. of commercial space, 172 parking spaces would be required (165.3 spaces for the residential and 7 spaces for the retail). We have discussed that the number of residential units may change, but the Project would meet the parking requirements of Subtitle C § 701.5 and would provide no fewer than 177 parking spaces in two levels of below-grade parking. *See* Sheet 004, A101-A102S of the Project Plans at **Tab “G”**.

Further, as discussed during the PDRM, the 2019 Zoning Administrator Meeting and in the Zoning Confirmation emails, we reviewed Subtitle C § 707, which requires the implementation of transportation mitigation measures when more than two times (2 X) the minimum parking is provided in a development. During the meeting, we confirmed that Subtitle C § 707.2(b) expressly states that “Within the D and CG zones, *where there is no minimum parking requirement*, the minimum number of parking spaces otherwise required for that use pursuant to Subtitle C § 701.5.” (emphasis added). Accordingly, even though the D-Zones have zero parking requirements, for the purpose of implementing Subtitle C

§ 707, OZA applies the “minimum” parking requirements of Subtitle C § 701.5 when establishing the trigger for required transportation mitigation measures.

Accordingly, the Project would only require transportation mitigation measures under Subtitle C § 707 if it provides more than 344 parking spaces (twice the 172 parking spaces required by the Project). As the Project only proposes 177 parking spaces, Subtitle C § 707 is not triggered. Also, the “parking maximum” requirements of Subtitle C § 706 do not apply because the Project’s parking area does not exceed 100,000 s.f.

## **10. Bicycle Parking**

Pursuant to Subtitle C § 802.1, bicycle parking is required. For residential use, the maximum requirement is one space per three units (long term) and one space per 20 units (short term). For retail use, the requirement is one space per 10,000 square feet (long term) and one space per 3,500 square feet (short term). Based on the requirements the below calculations shows the long-term and short term Bicycle requirements for a 500 unit residential project with 10,522 square feet of retail.

$$\begin{aligned}\text{Long-Term: } [(500 \text{ Units}) \div (1 \text{ space}/3 \text{ Units})] &= 166.66 \approx 167 \text{ spaces;} \\ &= [(50 \text{ spaces}) + (167 - 50 \div 2)] \\ &= 50 + 58.5 \approx 50 + 59\end{aligned}$$

**= 109 LT Spaces Required**

$$\text{Short-Term: } [(500 \text{ Units}) \div (1 \text{ space}/20 \text{ Units})] \quad \mathbf{= 25 \text{ ST Spaces Required}}$$

Retail: 10,522 ft.<sup>2</sup>

$$\begin{aligned}\text{Long-Term: } (\text{Retail GFA} \div 10,000 \text{ ft.}^2) &= (10,522 \text{ ft.}^2 \div 10,000 \text{ ft.}^2) \\ &= 1.051 \approx 1\end{aligned}$$

**= 1 LT Space Required**

$$\begin{aligned}\text{Short-Term: } (\text{Retail GFA} \div 3,500 \text{ ft.}^2) &= (10,522 \text{ ft.}^2 \div 3,500 \text{ ft.}^2) \\ &= \mathbf{3.01 \text{ ST Space Required}}\end{aligned}$$

Accordingly the project would require 109 Long-Term Bicycle Residential Parking Spaces and 25 Short-Term Residential Bicycle Spaces Based on a total of 500 Residential Apartment Units. For Retail use the project would require 25 Long-Term Retail Bicycle Parking Spaces and 1 Short-Term Retail Bicycle Parking Space based on 10,522 ft.<sup>2</sup> of retail use. All Long-Term Spaces shall be provided inside the building on the 1<sup>st</sup> floor or in a cellar level no lower than the 1<sup>st</sup> cellar below grade. Furthermore, no Showers, Lockers or Changing Facilities are required since the retail/commercial use is less than 25,000 ft.<sup>2</sup>

As shown on Sheets 004 and A102 of the Project Plans at **Tab “G”**, the Project provides 174 long-term bicycle spaces in the P1 level and 30 short-term spaces in the Public Space and entry court off of First Street. At the time of permitting, the amount of bicycle parking spaces may be reduced as permitted by Subtitle C § 802.2 and Subtitle C § 802.3.

## **11. Loading**

Pursuant to Subtitle I § 213.1 and Subtitle C § 901.1, loading is required. For residential buildings with more than 50 dwelling units, one, 30’- loading berth and one, 20’- service/delivery space are required. For Retail areas between 5,000 and 20,000 sq. ft., one, 30’- loading berth and no 20’- service delivery spaces are required.

Further, pursuant to Subtitle C § 901.8, when two or more uses share a building, the uses may share loading as long as internal access is provided from all shared uses requiring loading. Pursuant to Subtitle C § 902.2, in calculating the required loading, when two or more uses in different categories share a building, the building is only required to provide enough berths and spaces to meet the requirement for the use category with the highest requirement, and not the combination of requirements for all use categories as long as access to the loading area is provided for all uses requiring loading.

As the residential component has the “highest requirement” of one 30’-loading berth and one 20’-service space, the Project is, therefore, only required to provide those spaces. Sheet A103 of the Project Plans at **Tab “G”** are compliant with the above loading requirements because they show 2 loading berths and one service delivery space.

In addition, pursuant to Subtitle C § 903.6, the “required loading berths may be provided in facilities designed to serve jointly two (2) or more adjoining buildings or structures on lots that share a party wall or lot line” provided that the number of loading berths provided in the joint facilities meets the combined requirement in Subtitle C § 901.1 and a binding covenant that is acceptable to the Zoning Administrator and filed with the Zoning Administrator and land records of the District of Columbia.”

Therefore, the Project could be compliant with the Zoning Regulations if it were decided that it would share loading with the 1100 First Street Office Building as long as the requirements of Subtitle C § 903.6 were satisfied.

## **12. Green Area Ratio (“GAR”)**

Pursuant to Subtitle I § 208.1 and Subtitle C § 600, the required GAR for the D-5 zone is 0.2.

As Sheet 004 of the Project Plans at **Tab “G”**, the Project will achieve a 0.29 GAR.



### 13. Penthouse

Pursuant to Subtitle I § 540.5, The maximum permitted height of a penthouse shall be 20' above the roof. The maximum permitted number of stories for penthouse habitable space is one plus a mezzanine, and a second story shall be permitted for penthouse mechanical space.

As shown on Sheet A201 of the Project Plans at **Tab “G”**, the maximum Penthouse height is 20', and the Project's habitable penthouse will be single story with a height of 11 ft. The mechanical space above will have a maximum height of 9'. Accordingly, the Penthouse height will comply with Subtitle I § 540.5.

Pursuant to the penthouse setback requirements set forth in Subtitle C § 1502.1(a, b & c(5)), the penthouse must be set back 1:1 from the front and rear roof walls and open courts. Further, pursuant to Subtitle C § 1502.1(d), it must be set back 1:1/2 “from any side building wall of the roof upon which it is located that is not adjoining another building wall and not meeting the conditions of paragraphs Subtitle C §§ 1502.1(c)(1) through (5).”

Accordingly, the Project's penthouse can have a 1:1/2 setback along Pierce Street NE, where there is no adjoining building wall, because the Project is not a detached dwelling, semi-detached dwelling, rowhouse or flat, and the other conditions of Subtitle C § 1502.1(c) are not triggered. However, we discussed that a 1:1 setback will be required from the penthouse roof's front along First Street NE and the penthouse roof's rear abutting the internal alley (the “T” of the nonrectangular open Court “A”) pursuant to Subtitle C § 1502.1(a)[requiring 1:1 from the front roof wall]; and Subtitle C § 1502.1(b)[requiring 1:1 from the rear roof wall]. Also, a 1:1 setback will be required from penthouse roofs abutting Courts “B” and “C” pursuant to Subtitle C § 1502.1(c)(5)[requiring 1:1 setbacks from “walls that border any court other than closed courts”].

As shown on Sheet A117-A117S of the Project Plans at **Tab “G”**, the Project complies with the setback requirements of Subtitle C § 1502.1. Further, as we discussed with the Zoning Administrator on January 10, 2019 and as confirmed in the Zoning Confirmation Emails,<sup>1</sup> the Project may include a roof extension at the penthouse level along Courts “B” and “C”. Such as roof extension has been included. Accordingly, the penthouse along Courts “B” and “C” are properly setback 1:1 from the extended roof, and the Project's courts satisfy the court width requirements of Subtitle I § 207.1. See Sheets A216, A314 of the Project Plans at **Tab “G”**.

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<sup>1</sup> The Zoning Confirmation Emails include a February 11, 2020 email from the Zoning Administrator confirming that the penthouse setbacks near Court “B” and Court “C” can be measured from the roof extension over the courts, and that as measured, those penthouse setbacks comply with the requirements of Subtitle C § 1502.1. The February 11, 2020 email was obtained to address specific questions raised during the PDRM regarding the penthouse setbacks from the courts.

#### **14. NoMa Sub-Area/First Street Designation**

Pursuant to Subtitle I § 601, the Property fronts on First Street, which is a designated primary street of the NoMa Sub-Area. Accordingly, Subtitle I § 601.2 requires the following:

- Devoting not less than fifty percent (50%) of the ground floor gross floor area to one (1) or more of the following use categories: retail; entertainment, assembly, and performing arts; eating and drinking establishments; arts, design, and creation; or services, including both general and financial services;
- Devoting no more than twenty percent (20%) of the ground floor gross floor area uses required in Subtitle I § 601.2(a) to services (financial), fast food establishment, travel, or ticket offices; and
- Devoting one hundred percent (100%) of the building's street frontage along First Street to the required retail uses identified in Subtitle I § 601.2(a) except for space required for fire control or devoted to building entrances for pedestrians, or for required vehicular parking and loading entrances.

Also, Subtitle I § 602.1 also requires the following ground-floor design requirements for the mixed-use Project:

- (a) The ground floor shall have a minimum clear height of fourteen feet (14 ft.) for a continuous depth of at least thirty-six feet (36 ft.) from First Street, but not Pierce Street;
- (b) The ground story shall devote at least fifty percent (50%) of the surface area facing First Street to display windows or pedestrian entrances having clear low-emissivity glass, and ensure that the view through the display windows and pedestrian entrances is not blocked for at least ten feet (10 ft.) in from the building face; and
- (c) Ground floor pedestrian entrances, or areas where a future ground floor entrance could be installed without structural changes, shall be located no more than an average distance of forty feet (40 ft.) apart on the façade facing First Street. In no case shall there be less than one (1) door.

The Project will satisfy the requirements of Subtitle I §§ 601.2 and 602.1. *See* Sheet 004 of the Project Plans at **Tab "G"**.

#### **15. NoMa Sub-Area Uses on Primary Streets**

In addition, due to its location within the NoMa Sub-Area, pursuant to Subtitle I § 615.3, the retail/drinking and eating establishment use regulation of Subtitle I § 601, discussed above apply along First Street, to a depth of one hundred fifty feet (150 ft.) from the building line on the designated street.

The Project will satisfy the requirements of Subtitle I § 615.3. *See* Sheet 004 of the Project Plans at **Tab “G”**.

## **16. The Connector**

As noted above, while the Project is designed under ZR-16, it proposes a trellis connector between the Project and the Camden II, as vested the Camden BZA Approval. The Connector design, which satisfies ZR-58, is shown on Sheets A103 – A104, A213, A300 of the Project Plans at **Tab “G”**.

As we discussed during the 2019 Zoning Administrator Meeting, confirmed in the Zoning Confirmation Emails, and then discussed during the PDRM, this Connector design is permissible because the ZR-58 trellis design was vested through the Camden BZA Approvals, which remain valid. To that end, Subtitle A § 102.3, states,

An application for a building permit filed on or after the effective date of this title shall be considered a vested project if the building permit plans are consistent with... (a) An unexpired approval of a ... variance; special exception;... provided, the vote to approve occurred prior to the effective date of this title. *See also* Subtitle A § 301.7.

Specifically, the Camden BZA Approval states at Footnote 2 “[Camden] indicated an intent to establish in Phase 2 an above-grade connection to the office building development being constructed to the east in order to achieve a building height of 130 feet.” Accordingly, because the need for the Connector is expressly referenced in the Camden BZA Approval issued under ZR-58, the Zoning Administrator has determined that the Connector could be designed as a trellis in satisfaction of the ZR-58 in effect at the time of the Camden BZA Approvals. *See* Zoning Confirmation Emails.

Further, as discussed in the 2019 Zoning Administrator Meeting, confirmed in the Zoning Confirmation Emails, and then further discussed during the PDRM, on February 18, 2015, the Zoning Administrator issued a zoning confirmation email to Camden’s counsel (attached here at **Tab “J”**), specifically approving the Connector design as the trellis and breezeway, described in the following manner:

...trellis between the eastern façade of [Camden II] and the western side of [the Project]. The trellis will be comprised of painted metal and will have slats that are less than two feet apart and will provide at least 51% coverage. The trellis will connect to a doorway on the future [Project] and it will connect to a breezeway on [Camden II]. The breezeway will then connect to an egress stair on [Camden II]. An individual would be able to walk from the egress stair on [Camden II] to the doorway of the [Project] while all the while under cover of either the breezeway or the trellis.

Therefore, during the 2019 Zoning Administrator Meeting, confirmed in the Zoning Confirmation Emails, and then further discussed during the PDRM, the OZA has

determined that the Project's Connector, as designed and shown in the Project Plans, complies with the Zoning Regulations based on the February 2015 email and the Camden BZA Approvals' vesting.

In addition, as discussed in the 2019 Zoning Administrator Meeting, confirmed in the Zoning Confirmation Emails, and then further discussed during the PDRM, the Project would be connected to the 1100 First Street Office Building through a tie-in to that building's Loading Facilities, which are designed to be shared between that building and the Project. This connection is shown on Sheets A103 and A300 of the Project Plans at **Tab "G"**.

This proposed tie-in is consistent with permits issued for 1100 First Street Office Building. As such, this tie-in connection would be sufficient to establish the 1100 First Street Office Building and the Project as a single building under the Zoning Regulations, as confirmed during the 2019 Zoning Administrator Meeting, the Zoning Confirmation Emails, and the PDRM.

In sum, OZA has confirmed that the Connector between the Project and the Camden II (which connects to the Camden I) as depicted in the Project Plans and the tie-in of the Project to the 1100 First Street Office Building are sufficient to establish all improvements on Record Lot 34 as a single building under the Zoning Regulations.

## **17. Conclusion**

Based on the review of the attached Project Plans and attachments, the Zoning Confirmation Emails and the discussion at the February 5, 2020 PDRM, my office confirms that the Project on the Property complies with the requirements of the D-5 Zone District, including those of the NoMa SubArea and the Primary Street Segment designations. This confirms the Project may be permitted as a matter-of-right.

Accordingly, when the building permit application for the Project is processed, my office will approve drawings that are consistent with the Project Plans attached to this letter at **Tab "G"** and satisfy the applicable zoning regulations.

Please let me know if you have any further questions.

Sincerely,

**Matthew Le Grant**  
Matthew LeGrant  
Zoning Administrator

Attachments:

**Tab "A"**: January 29, 2019 and February 11, 2020 Confirmation Emails from the Zoning Administrator and all attachments

**Tab "B"**: Property Zoning Map

Tab "C": Image showing the width 110'-width of First Street NE

Tab "D": Previous, Property specific Zoning Determination Letters and Written Confirmations

Tab "E": Images of the Existing Structures on Record Lot 34

Tab "F": Camden BZA Approval Orders (BZA Case Nos. 17721 and 17721-A)

Tab "G": Relevant Pages of the Permit Plans

Tab "H": Draft CIZC and Penthouse Addendum Forms

Tab "I": August 30, 2007 Court Letter

Tab "J": February 18, 2015 Email to Christine Roddy confirming the Trellis Meaningful Connection design

Zoning Technician: David Vollin

Disclaimer: This letter is issued in reliance upon, and therefore limited to, the questions asked, and documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a "final writing", as used in Section Y-302.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter based on the information submitted for the Zoning Administrator's review. Therefore, this letter does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provision established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

File: Det Let re 1150 1<sup>st</sup> St NE to Moldenhauer 7-15-20