

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

March 21, 2016



Samantha Mazo
Griffin, Murphy, Moldenhauer & Wiggins, LLP
1912 Sunderland Place, NW
Washington DC, 20036

Re: 1514 Q Street NW- Square 194, Lot 27 (the “Property”)

Dear Ms. Mazo,

The purpose of this letter is to confirm the matters discussed at our PDRM on November 4, 2015 and subsequent meeting on January 22, 2016 concerning the above-referenced property. Further, I am aware that on February 12, 2016, there was a meeting on the Property with Ruben Legaspi, DCRA building inspector, Abigail Nichols, SMD 2B05, the property owner and the property owner’s architect during which the measurements discussed below were taken and observed (the “February 12, 2016 Site Meeting”).

I would like to memorialize our discussions and the observations of the February 12, 2016 Site Meeting regarding your client’s proposed redevelopment of the Property. As explained more fully below, based on the evidence provided to me and attached hereto, the project proposed for the Property satisfies the requirements of Title 11 of the District of Columbia Municipal Regulations in effect as of the date of this letter (the “Zoning Regulations”) and can be constructed as a matter of right.

Property Background

The Property is currently an existing row dwelling in the R-5-B Zone/Dupont Circle overlay. The Property is also a contributing building in the Greater 14th Street Historic District. The Property has approximately 2,200 s.f. of lot area. The property owner proposes to redevelop the Property into a four-unit apartment house with two parking spaces (the “Project”). The plans for the Project are included herein as Exhibit “A”.

The Proposed Project complies with the Zoning Regulations

Uses

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.” Because the Project proposes a four-unit building, it is considered to be an “apartment house”.

The apartment house use on the Property is permitted as a matter of right in the R-5-B Zone District pursuant to 11 DCMR § 350.4(f), which states “Multiple dwellings... provided, that in an apartment house, accommodations may be provided only to residents who stay at the premises a minimum of one (1) month” is “permitted as a matter of right.”

Cellar

A “cellar” is defined in 11 DCMR § 199.1 as “that portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade.” This definition has been interpreted to find that a cellar condition exists when the bottom of the ceiling of the lowest level is not more than four feet above the adjacent, finished grade, as measured in the middle of the front of a building. (See December 6, 2011 Zoning Determination Letter for 1155 21st Street NW, and October 31, 2012 Zoning Determination Letter for 1725 C Street SE).

I was provided with photos of the Property taken during the February 12, 2016 Site Meeting, which are attached as Exhibit “B”. These photos have been authenticated by the property owner who participated in that meeting, pursuant to the affidavit included as Exhibit “B”. It is my understanding that the photos as Exhibit “B” accurately reflect the observations and conclusions made by the February 12, 2016 Site Meeting’s attendees.

These photos depict the measurements from the adjacent, finished grade at the middle of the front of the building to the top of the mock-up of the proposed lower level ceiling (the “Cellar Area”).¹ The photos as Exhibit “B”, which were taken in the presence of a DCRA inspector and the Property’s SMD Commissioner, document that the distance between the adjacent, finished grade and the ceiling of the lower-level story is 3’ -11”.² In addition, I have been provided evidence, in the form of an elevation plan attached here as Exhibit “C”, that depicts the ceiling location vis-a-vis the window, further confirming that the distance between the adjacent, finished grade and the ceiling of the lower-level story is 3’ -11”.

It is my understanding that the attendees at the February 12, 2016 Site Meeting observed the measurement between the adjacent, finished grade and the bottom of the ceiling of the lower-level story to be 3’ -11”, which is consistent with the photographs and plans as Exhibit “B” and “C”.³ Therefore, it is my understanding that the February 12, 2016 Site Meeting attendees

¹ The mock up is necessary because the property owner does not yet have the building permits to construct the proposed ceiling.

² The photos also show that the distance between the concrete turn up at the adjacent grade and the ceiling of the lower-level story is 3’ -9 ½”.

³ I note that Exhibit “C” also demonstrates that the floor to ceiling height of the Cellar Area is proposed to be 7’ - 10”.

concluded that the Cellar Area is a “cellar” as defined by the Zoning Regulations, based on these observations.

I also note that you propose to lower the existing ceiling of this lowest level of the building. The measurement of the 3’ 11” cellar dimension would then be from this lowered ceiling level. This is permissible as there is no limitation in the Zoning Regulations from altering the ceiling level, and it has been this office’s long standing practice to allow changes to the bottom of the ceiling level to measure the cellar minimum dimension. I also note that the reason for lowering the ceiling level is documented in two letters dated March 18, 2016 that you submitted to me from the project’s architect KC Price and structural engineer Alex Sallah, P. E. as Exhibit “D”. In the letter from Mr. Price, he states:

“The existing floor joists that span the length of the structure are 2x10’s (9 ½” in depth) that do not meet current code or load limits to support the proposed use and are required to be maintained by the HPO office. This requires the new floor joists be placed 16” o.c. between the existing floor joist to maintain their integrity.[Also] The minimum required insulation between floors is R-19 and we must also provide an uninterrupted 1 hour fire separation between the cellar level and 1st floor....”

The effect of the larger joists is to lower the ceiling by 7 ¼ inches.

I also note that a concern was expressed by a neighboring resident over a possible change in the window sill height for the window that is at the front of the building that leads into the cellar area. Such a change to the window sill height does not have any effect on the cellar dimension measurement.

Based on the evidence provided to me, I concur with the observations and conclusions made at the February 12, 2016 Site Meeting. Accordingly, I have determined that the Cellar Area satisfies the Zoning Regulations’ definition of a “cellar”, because this evidence included as Exhibit “B” and Exhibit “C”, as authenticated, demonstrates that the ceiling of the Cellar Area “is less than four feet (4 ft.) above the adjacent finished grade” in satisfaction of the definition of “cellar” at 11 DCMR § 199.1 referenced above.

Floor Area Ratio (“FAR”)

The Zoning Regulations define FAR as, “a figure that expresses the total gross floor area as a multiple of the area of the lot. This figure is determined by dividing the gross floor area of all buildings on a lot by the area of that lot.” 11 DCMR § 199.1. The term “gross floor area”, is then defined as, “the sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings.” 11 DCMR § 199.1. The term “gross floor area” further expressly states:

The term "gross floor area" **shall not** include **cellars** and outside balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building. 11 DCMR § 199.1 (**emphasis added**).

Accordingly, as I have determined that the evidence provided to me demonstrates that the Cellar Area satisfies the definition of a “cellar” in the Zoning Regulations, I hereby confirm that the Cellar Area will not be counted against the FAR permitted in this zone.

In the R-5-B Zone District, the maximum FAR is 1.8. *See* 11 DCMR § 402.4. As shown on the plans as Exhibit “A”, the proposed Project will have an FAR of 1.8. Accordingly, the Project’s FAR satisfies the requirements of the R-5-B Zone District.

Height

The R-5-B Zone District permits a maximum height of 50 feet and no limit on stories. *See* 11 DCMR § 400.1. Pursuant to 11 DCMR § 400.18, the height of the Project will be measured as follows:

From the [established at the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line – known as the BHMP] to the average level between the highest eave, not including the eave of a dormer and the highest point of the roof; and

Where there are no eaves, the average level shall be measured between the top of the highest wall plate and the highest point of the roof.

As shown on the plans as Exhibit “A”, the Project’s proposed height is 45’- 3 ¾ ” measured in accordance with 11 DCMR § 400.18. Therefore, because the proposed height is lower than the 50-foot maximum height in the Zone, the Project’s height satisfies the requirements of the R-5-B Zone District.

Lot Occupancy

The R-5-B Zone District permits a maximum of 60% lot occupancy. *See* 11 DCMR § 403.2. As shown on the plans as Exhibit “A”, the Project’s proposed lot occupancy is 60%. Accordingly, the Project’s lot occupancy satisfies the requirements of the R-5-B Zone District.

Rear Yard

Pursuant to 11 DCMR § 404.1, properties in the R-5-B zone must satisfy the following rear yard requirements:

4 inches per foot of vertical distance 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 15 feet.

Based on the 45’- 3 ¾ ” height, the Project requires a rear yard 11’ 4” in size, which would be increased to 15 feet pursuant to 11 DCMR § 404.1, referenced above. The Project satisfies this requirement, because a 25’-7” is proposed as shown on the plans at Exhibit “A”. Accordingly, the Project’s rear yard satisfies the requirements of the R-5-B Zone District.

Side Yard

Pursuant to 11 DCMR § 405.9, no side yard is required for an apartment house in the R-5-B Zone. Accordingly, this Project does not provide a side yard, which satisfies the requirements of the R-5-B Zone District.

Parking

Pursuant to 11 DCMR § 2120.3, no parking spaces are required for this Project because the Property is a contributing building to the Greater 14th Street Historic District that does not trigger the parking requirement set forth in 11 DCMR § 2120.3 (a-b). However, the Project proposes two (2) parking spaces on a 418 s.f. parking pad in the rear. Accordingly, the number of parking spaces provided by this project exceeds the required number, and the Zoning Regulations' parking requirements have been satisfied.

Conclusion

After consideration of the representations made at the November 4, 2015 PDRM, January 22, 2016 meeting, my understanding of the observations and conclusions made at the February 12, 2016 Site Meeting, the plans and photos included herein at Exhibits A-C, including the applicable provisions of the Zoning Regulations discussed above, I have determined that there is sufficient evidence to determine the Cellar Area satisfies the definition of a "cellar" under 11 DCMR § 199.1. Therefore, the Project satisfies the requirements of the R-5-B Zone District.

Accordingly, it is my determination that the Project may be constructed as a matter of right, provided that the project plans filed with the applicable building permit do not substantially deviate from the plans attached here as Exhibit "A". My approval does not obviate the need to obtain all of the other approval required for a building permit.

I finally note that since the project is in the Greater 14th Street Historic District, and is subject to all applicable requirements administered by the Historic Preservation Office of the Office of Planning. No building permit can be issued without HPO's approval. Any authorized construction must also adhere to HPO's requirements.

Please let me know if you have any further questions.

Sincerely,



Matthew Le Grant
Zoning Administrator

Exhibits:

- A) Proposed plans
- B) Photos of Cellar Area measurements
- C) Plan showing Cellar Area measurements
- D) Letters dated 3-18-16 from KC Price and Alex Sallah, P. E.