

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



August 8, 2016

David Avitabile
Goulston & Storrs
1999 K Street NW, 5th Floor
Washington, DC 20006

Re: 1701 E Street NW / 500 17th Street NW / 1700 New York Avenue NW
(Square 171, Lot 34) ("Property")

Dear Mr. Avitabile:

The purpose of this letter is to confirm our discussion on January 14, 2016 regarding the above-referenced property. For the reasons set forth below, I confirm that the proposed infill of the closed courtyard is permitted under the Zoning Regulations as a matter of right.

Background

The Property is improved with an existing structure that is a historic landmark that was historically and continues to be used as a museum and university ("**Corcoran**"). The property is located in the SP-2 Zone District under the existing 1958 Zoning Regulations. As we have previously discussed, the property has been used for a college or university use since the late 1800s. Therefore, the university use predated the 1978 amendment to the Zoning Regulations that imposed a special exception requirement for university use, and, accordingly, university is permitted to remain as a conforming use. (See Section 199, definition of "Nonconforming Use" and Section 3104.2). (The property will be located in the D-2 Zone District under the adopted 2016 Zoning Regulations, and university use will become permitted as a matter of right.)

The George Washington University ("University") is undertaking a comprehensive renovation of the Corcoran that includes upgrades to building systems, accessibility, and other code requirements. Portions of the interior as well as the exterior are designated as a historic landmark, which severely constrains the ability to accommodate improvements within or on top of the existing structure. The University proposes to construct a three story, open air mechanical platform that will infill an existing closed courtyard, not visible from the street, with mechanical equipment and a code required egress stairs ("**Project**"). See Exhibit A, pages Z100, Z111 – Z114. The Project will consist of approximately 4,271 square feet of gross floor area.

Under the SP-2 Zone, the Property is limited to a height of 90 feet and a maximum nonresidential FAR of 3.5. The Property is also part of a single lot of record with a commercial office structure located on New York Avenue. The structures are combined as a single building for zoning purposes. When the office structure was constructed, it received approval for a FAR of 3.52 (240,240.50 SF) pursuant to BZA Order No. 18227.

Categorization of the Top Portion of the Corcoran

A penthouse is defined under Section 199.1 as a structure on or above the roof of any part of a building. Both mechanical and habitable space is now permitted within a penthouse. Penthouse mechanical space is defined as enclosed space within a penthouse devoted to mechanical equipment for the building, elevator overrides, or stair towers. Under Section 411.13 of the Zoning Regulations, penthouse mechanical space is not chargeable against the total floor area ratio of the building. By contrast, an attic is considered to be a “story”, which is defined as the space between the top floor and the ceiling or underside of the roof framing; the “top story” is also defined as the uppermost portion of any building or structure that is used for purposes other than penthouses. Attics are chargeable against the total floor area of the building. Therefore, portions of the Corcoran that are considered to be penthouse mechanical space will not count toward FAR, while portions of the Corcoran that are considered to be an attic will count toward FAR.

The existing gross floor area calculations for the Corcoran that accompanied the approvals for the office structure categorized the top portion of the Corcoran as an attic, and included the entire floor as gross floor area. However, as shown on the photographs attached as Exhibit B, a portion of the top floor is not conditioned space; rather, it is devoted to skylights, laylights (glass floors that permit light to transmit from the skylight level into the floors below) ductwork, and mechanical space.

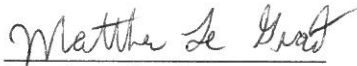
You propose to categorize a portion of the unconditioned skylight space measuring approximately 4,460 square feet, as penthouse space rather than attic space.¹ See Exhibit A, pages Z200 - Z201, Z211 - Z215. The proposed space that is categorized as “penthouse” space would be occupied with mechanical equipment typically allowed and located within penthouse space. Therefore, the space meets the definition of “penthouse mechanical space” because it is space within a structure above the main roof of the building that is devoted to mechanical equipment. (Approximately 7,685 square feet of the top level would remain as attic space, chargeable toward GFA.)

With the categorization of the unconditioned space as penthouse, the 4,460 square feet of floor area would not be chargeable toward the gross floor area of the Corcoran. This would offset the 4,271 square feet of floor area that is proposed to be added in the courtyard for the Project. Therefore, the Corcoran, and the entire building on Lot 34, would remain below the gross floor area and FAR approved by the BZA in Application No. 18227.

¹ Alternatively, the unconditioned skylight space could merely be categorized as skylights, which do not even count as a penthouse. See Section 199.1, definition of “Penthouse.” However, given that mechanical equipment is proposed to be located within the skylight, it is appropriate to construe the skylights as penthouse mechanical space.

Based on the foregoing, I conclude that the Project will not increase the gross floor area of the Corcoran beyond the maximum previously approved in Application No. 18227. Furthermore, since the Project will not increase the gross floor area of the Corcoran, the Project will not otherwise represent the extension or enlargement of the existing museum and university use under Section 3104.2 of the Regulations.

Please let me know if you have any further questions.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments: Exhibit A- Plan Set dated 1-14-16
Exhibit B- Photos