

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

November 6, 2017



Meridith Moldenhauer
Cozen O'Connor
1200 19th St. NW, 3rd fl.
Washington DC, 20036

Re: 525 A Street NE - Square 840, Lot 26 (the "Property")

Dear Ms. Moldenhauer,

This letter is in reference to discussions I had with you on July 26th and August 7th, 2017 regarding your client's intended development of a portion of the Property.

The Property, which is located in the RF-3 zone, is known as Lot 26 in Square 840. Square 840 is bounded by A Street NE to the north, 6th Street NE to the east, East Capitol Street to the south, and 5th Street NE to the west. A zoning map highlighting the portion of the Property that is the subject of the proposed development (the "Development Area") is attached here at **Exhibit "A"**. The Property is located on a corner lot with a total land area of 22,909 square feet. The Property is located within the Capitol Hill Historic District. The Development Area is 11,340 sq ft. in size.

The Property is bounded by A Street NE to the north, 6th Street NE to the east, lots 801, 29, 28, 27, and 805 to the south, and lots 837 and 845 to the west. The Property fronts upon both A Street NE and 6th Street NE. It is improved with an existing church building owned and operated by Capitol Hill Baptist Church (the "Church"). In addition to Lot 26, the Church owns neighboring lots 837 and 845 which are developed with the Sunday school wing, a four-story brick building, and a portion of a parking lot located behind the church building. *See* zone plan on sheet A-05 of architectural plans ("Plans"), attached here at **Exhibit "B"**. The parking lot is accessed via existing curb-cuts with gated entries at the southern extent of the Property from both 5th Street NE and 6th Street NE. The Development Area is unimproved. It fronts on 6th Street NE and is generally bounded by the Church building to the north, the Church's parking lot to the rear, and Church-owned Lots 801, 805, and 27-29 to the south.¹

Your client proposes to subdivide the Development Area to create five new lots along the Property's 6th Street NE frontage (the "Site"), and construct a new flat on Lots 2 through

¹ The Church also owns Lots 841, 842, 843, and 844 which comprise an easement providing access to the parking lot from 5th Street NE. Lots 837, 845, 841, 842, 843, and 844 are not subject to the proposed project described below.

5, and a new semi-detached dwelling with a wet bar on Lot 1 comprising a total of nine new units (the "Project").² All new lots would continue to be owned by the Church. The design of the Project was approved by the Historic Preservation Review Board ("HPRB") in HPA 17-417, and further review was delegated to HPO Staff. *See* Historic Preservation Office staff report and recommendation at **Exhibit "C"**.

The off-street parking space associated with the new semi-detached dwelling on proposed Lot 1 will be provided on its lot, while the off-street parking spaces associated with the flats on proposed Lots 2-5 will be designated spaces located in the Church's existing parking lot in compliance with the requirements of Subtitle C-701.8.

In summary, I have determined that the Project would be permitted as a matter of right. Additionally, I found the following:

The Project meets the requirements for Subdivision in the RF-3 Zone

As a general matter, "Where a lot is divided, the division shall be effected in a manner that will not violate the provisions of this title for yards, courts, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to that lot or any lot created." *See* Subtitle C-302.1. Furthermore, "Each new primary building and structure shall be erected on a separate lot of record in all R, RF, and RA zones" except under certain circumstances that do not apply in this situation. Subtitle C-302.2.

As will be discussed below, the Project satisfies the RF-3 Zone development standards.

Further, Subtitle C-304.2 requires, "Each new lot being created to be used and occupied by a single dwelling unit or flat building, shall have a street frontage measured along the street lot line a distance equal to at least forty percent (40%) of the required minimum width of lot and in no case less than fourteen feet (14 ft.)." As shown on the Plans, the complete width of each lot is street frontage, and the minimum width of each lot exceeds 14 feet.

Accordingly, the Project satisfies the Subdivision requirements of Subtitle C-302.

The Project Complies with the general zoning requirements in the RF-3 Zone

Uses

Both one-family dwellings and flats are permitted uses in the RF-3 Zone. *See* Subtitle U-301.1(a) and (b). The Zoning Regulations define "building, semi-detached" as "a building that abuts or shares one (1) wall, on a side lot line, with another building on an adjoining lot and where the remaining sides of the building are surrounded by open areas or street lot lines." *See* Subtitle B-100.2. Accordingly, the proposed uses, both flats and a semi-detached dwelling, are permitted as a matter of right.

² The wet bar in the semi-detached dwelling on Lot 1 could include a small sink, mini-refrigerator, and plug-in microwave, but no stovetop, oven or automatic dishwasher.

Lot Dimensions

Pursuant to Subtitle E-201.1, the minimum lot width for a semi-detached dwelling is 30 feet, and the minimum lot area is 3,000 sq ft. The minimum lot width for a flat is 18 feet, and the minimum lot area is 1,800 sq ft.

As set out in Subtitle C-304.1(a-c), lot width is measured as follows: “(a) Establish two points by measuring along each side lot line a distance of thirty feet (30 ft.) from the intersection point of each side lot line and the street lot line; (b) Measure the distance of a straight line connecting the two points described in paragraph (a) of this subsection; and (c) The distance of the straight line connecting the two points described in paragraph (b) of this subsection shall be the “lot width” of the lot.”

In the Project, proposed Lot 1 has a width of 37’ and proposed Lots 2-5 have widths ranging from 20’-2” to 20’- 8”, as shown on in the Plans on sheet A-17. Accordingly, the lot width requirements are satisfied, though the proposed lots are narrower in the rear.

As to lot area, Lot 1 has 3,047 sq ft., Lot 2 has 1,843 sq ft., Lot 3 has 1,800 sq ft., Lot 4 has 1,825 sq ft., and Lot 5 has 1,818 sq ft. Therefore, the lot requirements of Subtitle E-201.1 are satisfied.

Height and Stories

Pursuant to Subtitle E-503.2, the general maximum permitted building height in the RF-3 zone is 35 feet and three stories. However, Subtitle E-503.3 permits the new construction of three (3) or more immediately adjoining residential row dwellings or flats, built concurrently on separate record lots, to be a maximum of 40’ in height and three stories. Subtitle B-308 governs rules of measurement for building height in the RF zone. Under Subtitle E-503.1, in the RF-3 Zone, the building height “shall be measured from the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line.” Furthermore, the building height measuring point (“BHMP”) is established “at the existing grade at the mid-point of the building façade of the principal building that is closest to the street lot line.” *See* Subtitle B-308.2.

In the case of buildings with flat roofs such as here, height is measured “from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.” *See* Subtitle B-308.3. As shown on the plans at sheet A-25 of **Exhibit “B”**, the height of the four flats and semi-detached dwelling is proposed to be 38’, thereby meeting the requirement.

Furthermore, the Zoning Regulations defines “story” as, “The space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of the building is measured. For the purpose of determining the maximum number of permitted stories, the term “story” shall not include cellars or penthouses.” The term “cellar” is defined as “That portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade.” *See* Subtitle B-100.1.

In this case, each building in the Project will be three stories in height, because the ceiling of each building’s lowest level is less than four feet above its adjacent finished grade.

Accordingly, the Project's proposed height and three stories comply with the zoning regulations.

Penthouse

There are no residential penthouses in the proposed plans for the Project. The Project does propose private patios on proposed Lots 1 and 3, as depicted on sheet A-21 included with **Exhibit "B"**. Access to those areas will be provided to the rooftop in a manner that does not create a penthouse as depicted on sheet A-21 included with **Exhibit "B"**. Any roof terrace guardrails would be setback from the front, rear and side roof lines at a 1:1 dimension pursuant to Subtitle C-1502.1(a-b).

Floor Area Ratio (FAR)

There is no FAR requirement in the RF-3 zone.

Lot Occupancy

Subtitle E-504.1 dictates a maximum lot occupancy of 60% for "Detached dwellings; *Semi-detached dwellings*; Attached dwellings and *flats*; Places of worship." (emphasis added) Lot occupancy is the "percentage of the total area of a lot that is occupied by the total building area of all buildings and structures on the lot."

Proposed Lot 1 has a lot area of 3,047 sq ft. Accordingly, a maximum building footprint would be 1,828.2 sq ft. (3,047 x .6). As shown on sheet A-17, the proposed Lot 1 structure has a footprint of 1,005 sq ft., which is a lot occupancy of approximately 33%.

Proposed Lot 2 has a lot area of 1,843 sq ft. Accordingly, a maximum building footprint would be 1,105.8 sq ft. (1,843 x .6). As shown on sheet A-17, the proposed Lot 2 structure has a footprint of 968 sq ft., which is a lot occupancy of approximately 53%.

Proposed Lot 3 has a lot area of 1,800 sq ft. Accordingly, a maximum building footprint would be 1,080 sq ft. (1,800 x .6). As shown on sheet A-17, the proposed Lot 3 structure has a footprint of 968 sq ft., which is a lot occupancy of approximately 54%.

Proposed Lot 4 has a lot area of 1,825 sq ft. Accordingly, a maximum building footprint would be 1,095 sq ft. (1,825 x .6). As shown on sheet A-17, the proposed Lot 4 structure has a footprint of 968 sq ft., which is a lot occupancy of approximately 53%.

Proposed Lot 5 has a lot area of 1,818 sq ft. Accordingly, a maximum building footprint would be 1,090.8 sq ft. (1,818 x .6). As shown on sheet A-17, the proposed Lot 5 structure has a footprint of 992 sq ft., which is a lot occupancy of approximately 55%.

Accordingly, all proposed structures on proposed lots would comply with the RF-3 lot occupancy requirement.

Rear Yard

Pursuant to Subtitle E § 506.1 a property in the RF-3 zone must provide a rear yard of 20 feet.

As shown on sheet A-10 of **Exhibit "B"**, 47.5' rear yards are provided for all five lots. Accordingly, the Project complies with the RF-3's rear yard requirement.

Further, as set forth in Subtitle E § 205.4, "a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property."

In the Project, the rear wall of all proposed structures will not extend farther than 10 feet beyond the farthest rear wall of any other adjoining principal residential building, as shown on sheet A-17. Accordingly, the rear yard requirement is satisfied.

Side Yard

Subtitle E § 507.1, states, "When a new dwelling or flat is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side." Also, pursuant to Subtitle E § 507.3, "A side yard shall not be required for a principal building; however, any side yard provided for any portion of a principal building shall be at least five feet (5 ft.) except as provided in this section."

In this situation, proposed structures on Lots 2-4 will all share a common division wall with other proposed structures as shown on sheet A-17. The proposed structure on Lot 5 will directly abut the existing church building to the north. Accordingly, no side yard is required for the structures on these lots. The proposed structure on Lot 1 provides a 10'-8" side yard to the southern property boundary, meeting the requirement.

Front Setback

Pursuant to Subtitle E § 505.1, "For residential dwellings in the RF-3 zone, a front setback shall be provided that is within the range of existing front setbacks of all structures on the same side of the street in the block where the building is proposed."

As shown on sheet A-10, the front setbacks of the proposed structures on the proposed lots are within the range of existing setbacks on the same side of the street. Accordingly, this requirement is satisfied.

Courts

There are no court requirements for flats in the RF-3 Zone. *See* Subtitle E § 203.1.

Cellar

The current Zoning Regulations define a cellar as the "portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade." Subtitle B §100.2. Moreover, the zoning regulations establish "For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses." Subtitle B §100.2. As shown on sheet A-23, each of the proposed structures feature a staircase leading down to living space that satisfies the definition of a cellar because the height of the ceiling of the lowest level is no more than 4' above the adjacent finished

grade. Accordingly, the lowest level of each proposed structure satisfies the definition of a cellar, and would not be considered a “story” as discussed above.

Vehicle Parking

Under Subtitle C § 701.5, a residential single dwelling unit in the RF zone must provide one parking space and residential, multiple dwelling development must provide one parking space per two dwelling units. Further, according to Subtitle C § 701.8, “Required parking spaces shall be located... (b) On another lot, subject to the following provisions: (1) The off-site location shall be a maximum of six hundred feet (600 ft.) from the use or structure that the parking spaces serve, as measured from the nearest lot line;”.

Nine new dwelling units are proposed to be constructed. The Project satisfies the off-street parking requirements because one parking space is provided on Lot 1 for the semi-detached one-family dwelling, and a total of four designated parking spaces would be provided on the Church’s parking lot for the other four proposed structures (flats). The parking spaces would be located within 600 feet of the proposed structures, and all lots are under common ownership (the Church), the applicable off-street parking requirements of Subtitle C § 701.8 (b) and (c) are met. Access to the designated parking spaces in the lot would be through a rear entry for each proposed structure.

Bicycle Parking

No bicycle parking is required pursuant to Subtitle C § 802.1. However, the Project proposes seven bicycle parking racks located on Lot 1, as shown on sheet A-17.

Loading

No loading is required pursuant to Subtitle C § 901.1. The Project proposes nine dwelling units and, accordingly, no loading berth or service/delivery area is required.

Inclusionary Zoning

Subtitle C § 1001.2 states that a development will be subject to IZ requirements when the project proposes new gross floor area that results in ten (10) or more dwelling units, or the project proposes penthouse habitable space. Here, the Project proposes nine (9) dwelling units, and no habitable penthouse. Therefore, it follows that the Project is not required to set aside any Inclusionary Zoning units in accordance with the zoning regulations.

Pervious Surface

Pursuant to Subtitle E § 204.1, a residential use on a lots between 1,800 and 2,000 sq ft. must provide 10% minimum pervious surface. As shown on sheet A-21, proposed Lots 2-5 fall within this range. Lot 2 provides green roof area of 791 sq ft. which translates to a pervious surface area of approximately 42%. Lot 3 provides green roof area of 493 sq ft. (approximately 27%), Lot 4 provides green roof area of 791 sq ft. (approximately 43%), and Lot 5 provides green roof area of 826 sq ft. (approximately 45%). Lot 1 has over 2,000 sq ft. and has a 20% requirement. The green roof area for the proposed

structure on this lot is 542 sq ft. which translates to a pervious surface area of approximately 17.7%. Additional pervious surface is provided to the side and rear of the lot to surpass the 20% minimum.

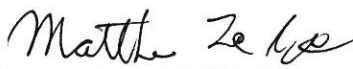
The Project, therefore, exceeds the minimum pervious surface requirements for the zone.

Conclusion

Based on the review of the attached plans and exhibits, the Subdivision into Lots 1-5 of the Site complies with the RF-3 development standards. Accordingly, the Project may be permitted as a matter-of-right. Therefore, when a Subdivision plat and the building permit application(s) for the Project are filed, my office will approve drawings that are substantially consistent with the plans attached to this letter at **Exhibit "B"**.

This determination letter constitutes the first writing reflecting the administrative decision. Therefore, under Subtitle Y § 302.5 of the District's Zoning Regulation, no subsequent document, including a plat of subdivision, building permit, or certificate of occupancy, can be appealed unless the document modifies or reverses this letter or reflects a new decision.

Please let me know if you have any further questions.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments:

Exhibit "A": Development Area

Exhibit "B": Architectural Plans

Exhibit "C": Historic Preservation Office staff report and recommendation

File: Det Let re 525 A St NE to Moldenhauer 11-6-17