

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



August 17, 2013

Christy Moseley Shiker
Holland & Knight LLP
800 17th Street, N.W. - Suite 1100
Washington, DC 20006

Re: Development on Lot 260, Square 672 - Capitol Point South

Dear Ms. Shiker:

This is to confirm the substance of our discussions on July 29, 2015, regarding the proposed development of property located in the north half of Square 672. The north half of the square is bounded by N Street to the north, First Street to the east, Patterson Street to the south and North Capitol Street to the west in Northeast Washington. The development site is a single lot of record known as Lot 260 in Square 670 (the "Property"). The Property is comprised of four Assessment and Taxation Lots generally as shown on the attached and known as the following: Lot 859 (33 N Street, N.E.) ("33 N Residential Parcel "); Lot 860 (51 N Street, N.E.); Lot 861 (1250 First Street, N.E.); and Lot 862 (50 Patterson Street, N.E.). Lots 860, 861 and 862 are herein referenced as the "Mixed Use Parcel".

The Property is zoned C-3-C and is located within the North Capitol Receiving Zone for transferable development rights ("TDRs"). You informed me that the Property will be developed with a single building having frontage on three streets. Height may be measured from the street elevation which allows the greatest height. Regardless of which street is used for the point of measurement, the width of First Street (110 feet) may be used to determine the maximum permitted height, which is 130 feet under the TDR Receiving Zone. Accordingly, pursuant to Section 1709.21 of the Zoning Regulations, a maximum FAR of 10.0 is permitted for the single building, provided that sufficient TDRs are vested in the property.

The 33 N Residential Parcel will be developed as a residential building with ground floor retail use. By letter dated August 2, 2013, a copy of which is attached (the "2013 ZA Determination Letter"), this office made various determinations regarding the development of the 33 N Residential Parcel as the proposed first phase of development of the single building on the Property. The Board of Zoning Adjustment also approved variance relief to allow a 30-foot loading berth in place of the required 55-foot loading berth for the residential use and a special exception for relief from the roof structure setback requirements. A copy of BZA Order No. 18636-A is attached.

The Mixed-Use Parcel will be developed with residential, retail, office and movie theater use. You requested that I review certain questions relating to the development of the Mixed-Use Parcel as part of the single building. In our meeting, we discussed the following items:

Meaningful Connection

The improvements on the 33 N Residential Parcel and the Mixed-Use Parcel will be connected to create a single building on the Property. The Zoning Regulations provide that the existence of communication below the level of the main floor does not make a single building. Conversely, the existence of communication at or above the level of the main floor does create a single building. Assuming that the separate structures (i.e., each phase) are connected at or above the level of the main floor (the floor on which the principal entrance to the building is located), as required by the regulations currently in effect, the entire building will be considered as a single building.

Section 199 of the Zoning Regulations defines the term "building" as:

a structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

Both the Board of Zoning Adjustment and the Zoning Administrator's office have interpreted the term "building" to include covered connectors, provided that the roof is at least 51 percent solid and provides the necessary supporting columns or walls.

The proposed improvements on the 33 N Residential Parcel and on the Mixed-Use Parcel will be connected as shown on the Meaningful Connection Plan. I have reviewed the proposed building connections as shown on the Meaningful Connection Plan and have determined that they are sufficient to meet the current requirements of the Zoning Regulations.

Court in Lieu of a Rear Yard

In the C-3-C District, a corner lot may provide a court complying with the width requirements for a court as specified in Section 776 in lieu of a rear yard. 11 DCMR § 774.9(b). The court must be provided above a horizontal plane beginning not more than 20 feet above the curb grade opposite the center of the front of the building, and the width of the court must be computed for the entire height of court.

The Property is zoned C-3-C and is a corner lot as defined in Section 199 of the Zoning Regulations. Accordingly, a court in lieu of a rear yard may be provided. As shown on the Site Plan, you have identified the court labeled as the East Court as the court in lieu of a rear yard. The East Court is a closed court and consists of a ground court and an upper court. The ground

court has a height of court of 14 feet, 5 inches, which is less than 20 feet above the curb grade opposite the center of the front of the building. Based on the height of court, the required width of the ground court would be 15 feet and the required minimum area would be 350 square feet. The ground court has a proposed width of approximately 22 feet, 1 inch, which is in excess of the minimum requirement of 15 feet, and a proposed area of 755 square feet, in excess of the minimum requirement of 350 square feet. Accordingly, this ground court within the East Court satisfies the requirement to provide a court complying with the width requirements for a court in lieu of a rear yard.

The upper court is a closed court which must comply with the minimum width requirements of Section 776 of the Zoning Regulations. The upper court has a height of court of 113 feet, 2 inches. Based on the height of court, the required width of the lower court would be 37 feet, 8 inches and the required minimum area would be 2,838 square feet. The upper court has a proposed width of 50 feet, in excess of the minimum requirement of 37 feet, 8 inches and a proposed area of 3,050 square feet, in excess of the minimum requirement of 2,838 square feet. Accordingly, the upper court within the East Court comply with the minimum width and area requirements of Section 776 of the Zoning Regulations. Compliance of the West Court and the Center Court as shown on the Site Plan with the minimum width and area requirements is set forth in the 2013 ZA Determination Letter.

Width of Non-Rectangular Open Court – Stacked Courts

The improvements on the Mixed-Use Parcel will incorporate a non-rectangular open court that includes a lower court and an upper court. Section 776.3 provides that when a court is provided for a building devoted to residential uses, the width of court shall be a minimum of 4 inches per foot of height, measured from the lowest level of the court to that elevation; provided, that in no case shall the width of court be less than 15 feet. This office reviewed the proposed lower and upper courts, which are referred to as stacked courts, and issued a determination letter dated February 10, 2014, a copy of which is attached (“2014 ZA Determination Letter”). The 2014 ZA Determination Letters finds that the lower and upper courts as proposed were in compliance with the minimum width requirements of Section 776 of the Zoning Regulations.

As the project has been further designed, the dimensions of the lower and upper courts have been refined. Based on the Lower Court Plan, the lower court starts at Elevation 51.9' and has a height of the court that is 17 feet, 7 inches. Based on the height of court, the required width is 15 feet. Because the court is a non-rectangular court, the width of court may be measured as the diameter of the largest circle that can be inscribed in a horizontal plane within the court. According to the Lower Court Plan, the width of the lower court is 58 feet, 10 inches.

Based on Upper Court Plan, the upper court starts at Elevation 69.5' and has a height of court that is 113 feet, 11 inches. Based on the height of court, the required width is 37 feet, 11 inches. Because the court is a non-rectangular court, the width of court may be measured as the diameter of the largest circle that can be inscribed in a horizontal plane within the court. According to the Upper Court Plan, the width of the upper court is 58 feet, 10 inches.

Based on these calculations, the upper and lower courts continue to be in compliance with the minimum width requirements of Section 776 of the Zoning Regulations.

Roof Structure Setback

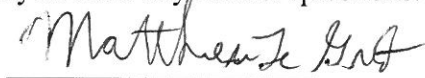
The roof structures for the portion of the single building on the Mixed-Use Parcel is shown on the attached Roof Plan. Two roof structures for this portion of the project are proposed, each having a height of 18 feet, 6 inches. Multiple roof structures are permitted for separate elevator cores pursuant to Section 411.4 of the Zoning Regulations.

The roof structure will be set back 1:1 from the walls of the building fronting N and Patterson Streets, N.E. For purposes of the Zoning Regulations, a roof structure must be set back 1:1 from the wall of an open court. To the extent that the roof structure is not set back from the court wall, you must seek special exception relief from the Board of Zoning Adjustment as provided by Section 411.11 of the Zoning Regulations.

One of the roof structures will not be set back 1:1 from the closed court abutting the internal property line on the west side of the building and identified as the East Court on the Site Plan. This office has determined that there is no setback requirement for a roof structure along closed courts or lot line walls pursuant to the Zoning Regulations or the 1910 Height Act. Accordingly, no zoning relief is required for the roof structure abutting the East Court.

I believe that I have addressed the issues which we discussed and agreed upon. Please let me know if you have any further questions.

Sincerely,



Matthew Le Grant
Zoning Administrator

Attachments: Location Plat
2013 ZA Determination Letter
BZA Order No. 18636-A
Meaningful Connection Plan
2014 ZA Determination Letter
Lower and Upper Court Plans
Site Plan
East Court Section