

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



February 14, 2012

Steven E. Sher  
Director of Zoning and Land Use Services  
Holland & Knight LLP  
2099 Pennsylvania Avenue, N.W. - Suite 100  
Washington, DC 20006

Re: Processing of Permit Applications under the CG Overlay District

Dear Mr. Sher:

This is to confirm the substance of our discussion on Wednesday, December 21, 2011, concerning property located at 1111 New Jersey Avenue, S.E., on the west side of New Jersey Avenue between L and M Streets in Square 743-N. The property is zoned C-3-C and is in the Capitol South Receiving Zone for the use of transferable development rights. A portion of the property is also included within the Capitol Gateway Overlay.

Because the southern portion of the property fronts on M Street, pursuant to §1610 of the Zoning Regulations, a proposed building on the property is subject to the review and approval of the Zoning Commission. In Case No. 07-32, NJA Associates and WMATA sought approval of an office building with ground floor retail. By the applicable Zoning Commission Order dated March 10, 2008, effective November 14, 2008, the Commission approved the proposed building with alternative plans allowing for access from either New Jersey Avenue or the alley on the west side of the property. Neither the Zoning Regulations themselves nor the specific language of the order contain any time requirement within which an application for a building permit must be filed or by when construction must start.

You advised that NJA Associates is now considering the possibility of constructing an apartment house on the subject property. Because that would be a different building than the approved office building, a new approval from the Zoning Commission must be obtained. You advised that NJA Associates intends to file such an application.

Assuming that the Commission approves that application, you asked whether NJA Associates could apply for and process applications for building permits for both the office building and the apartment house at the same time. I find nothing in the Zoning Regulations that would preclude NJA from having both zoning approvals in hand and seeking building permits from the District of Columbia for both buildings. I note that the Board of Zoning Adjustment has approved separate applications for zoning relief on a property, one for an apartment house and one for an office building (see BZA Orders No. 17684, 17684-A and 17806), which were effective at the same time.

Accordingly, I hereby confirm that I would approve for zoning purposes applications for building permits for both an office building and an apartment house, as long as:

- You file two separate permit applications, each of which is accompanied by all the required plans, specifications and documentation and that you pay the appropriate fees for each application; and
- There is nothing in the approvals granted by the Zoning Commission, one of which is yet to be obtained, that precludes you from going forward with two permit applications at the same time.

Please let me know if I may be of further assistance.

Sincerely,   

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Matthew Le Grant  
Zoning Administrator