



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

July 15, 2020

Via Emailed PDF

Martin P. Sullivan
Sullivan & Barros, LLP
1155 15th Street, NW, Suite 1003
Washington, DC 20005

**Re: Minor Deviation Determination Letter-350 U Street, NE (Square 3563,
Lot 804) (the "Property")**

Dear Mr. Sullivan:

The Property is currently improved with a fourteen (14) unit multiple dwelling apartment house (the "Existing Building"). You are proposing to retain the Existing Building and maintain its fourteen (14) unit use, while also subdividing off two new record lots (Lots B and C on attached plat) on which will be constructed two new flats. This subdivision - and new construction footprint - is represented by the plat attached hereto as Exhibit A. As proposed, Lots B and C and the new flats thereon require minor deviation relief from lot occupancy and lot width requirements, as provided hereinbelow.

Minor Deviations- Lot Occupancy and Lot Width

You have asked for my approval of a request for a minor deviation from the maximum lot occupancy requirements of the RF-1 zone, so that you may provide a lot occupancy of sixty-point seven percent (60.7%) on proposed Lot B, and sixty-one-point nine percent (61.9%) on proposed Lot C. In addition, you have asked for a minor deviation for the minimum lot width for proposed Lot B.

Pursuant to 11-A DCMR § 304.2(a) of the 2016 Zoning Regulations, the Zoning Administrator is authorized to permit a deviation not to exceed two percent (2%) of the maximum percentage of lot occupancy, provided that the deviation will not impair the purpose of the otherwise applicable regulations. The maximum permitted lot occupancy in the RF-1 zone is sixty percent (60%). In this case, you are proposing to increase the lot occupancy on Lot B to sixty-point seven percent (60.7%), and on Lot C to sixty-one-point nine percent (61.9%). These proposed lot

occupancy percentages do not exceed two percent (2%) of the maximum percentage of lot occupancy. On Lot B, the additional point seven percent (0.7%) lot occupancy results in an additional thirteen-point one square feet (13.1 sq. ft.) of Building Area. On Lot C, the additional one-point nine percent (1.9%) lot occupancy results in an additional thirty-four-point three square feet (34.3 sq. ft.) of Building Area. Regarding the minimum lot width request, the owner is proposing a lot width for Lot B of 17'-7-7/8", or 17.66 feet. This would be a decrease of 1.9% from eighteen feet (18 ft). This lot width deviation does not increase the Building Area, but merely allows for the efficient allocation of lot width between the two new proposed lots (such total lot width being greater than thirty-six feet). This allocation is prompted by site planning in response to the existence of a fifteen-foot Building Restriction Line ("BRL") on U Street. This area of the Property as a whole has plenty of width to accommodate two matter-of-right lots. But because the BRL squeezes the building on Lot C fifteen feet, the buildings are limited to 14-foot widths, and the lot width for Lot B must be decrease slightly, as well as adjusted 7 inches at the 30-foot measurement point.

In accordance with 11-A DCMR § 304.3, I have considered the following issues in determining that the deviations would not impair the purpose of the otherwise applicable regulations:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of neighboring properties shall not be unduly compromised;
- (c) The level of noise in the neighborhood shall not be unduly increased;
- (d) The use and enjoyment of neighboring properties shall not be unduly compromised;
- (e) No trees which would otherwise be protected by this title or other District of Columbia regulation, shall be damaged or removed; and
- (f) The general scale and pattern of buildings on the subject street frontage and the neighborhood shall be maintained consistent with the development standards of [the Zoning Regulations].

I have determined that the proposed deviations meet the above requirements, as described below:

- (a) Providing the lot width relief, and the respective lot occupancies of sixty-point seven percent (60.7%) on Lot B and sixty-one-point nine percent (61.9%) on proposed Lot C, would not materially impact the size and scale of the proposed buildings. The additional lot occupancy results in a total additional Building area of approximately forty-seven point four square feet (47.4 sf), effectively at the rear of

the buildings (as the buildings are only 14-feet wide), and the rear yard requirement is still met. This square footage amounts to approximately 1.7 feet of additional building length. Lot B is adjacent to open space (the BRL) on its open side, and Lot C has an open court which increases as it approaches its rear lot line, leaving significant space between the proposed building and the side lot line at the rear of the building. Accordingly, I have determined that the light and air available to neighboring properties would not be unduly affected by these deviations.

(b) As noted in the above paragraph, the overall scale and size of the proposed buildings would not change materially if the deviations are granted. The additional lot occupancy results in a total additional Building area of approximately forty-seven point four square feet (47.4 sf), effectively at the rear of the buildings, and no additional windows or balconies are being added in the 1.7 additional length of the buildings. Accordingly, I have determined that the privacy of neighboring properties will not be unduly compromised by the requested minor deviations.

(c) The minor deviations do not provide any significant additional living space and will not increase the overall density or proposed use as a flat. For this reason, the level of noise in the neighborhood will not be unduly increased.

(d) For the reasons stated in (a) – (c), the use and enjoyment of neighboring properties will not be unduly compromised by the minor deviations.

(e) You have represented that there are some small trees and brush adjacent to the north side of Lot C (see photo attached as Exhibit B). While these brush and trees may be affected by the development, the additional 1.7 feet of building length resulting from the minor deviations will not alter whatever tree plan is necessary for the 60% lot occupancy construction. Therefore, I have determined that no trees will be damaged or removed because of these minor deviations.

(f) The deviations will result in approximately 1.7 feet of additional length in building area at the rear of the properties. Therefore, the general scale and pattern of buildings on the subject street frontage will be maintained consistent with the development standards of the zoning regulations.

For the above reasons, I have determined that the requested deviations will not impair the purpose of the otherwise applicable regulations, in accordance with A-304.3 (a) – (f). In addition, the requested deviation amounts comply with the percentage limits within A-304.2. Therefore, my determination is to approve the herein-requested minor deviations.

Please feel free to contact me if you have any questions.

Sincerely, Matthew Le Grant
Matthew Le Grant
Zoning Administrator

Enclosures

This letter is issued in reliance upon, and therefore limited to, the questions asked, and documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a “final writing”, as used in Section Y-302.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter based on the information submitted for the Zoning Administrator’s review. Therefore, this letter does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provision established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

File: Minor Flex Let re 350 U St NW to Sullivan 7-15-20