

Bray, Kinley

From: LeGrant, Matt (DCRA) [matthew.legrant@dc.gov]
Sent: Tuesday, June 21, 2011 6:13 PM
To: Bray, Kinley
Cc: Ausubel, Lawrence M.; Kathy Ausubel
Subject: RE: 2750 32nd Street N.W.

Kinley Bray-

Sorry for the delay in my response. I did receive the information about the circumference of the key trees; however given the fact now that no regulated trees are proposed to be removed, and that the Oak tree is exempt from the removal limitations set forth in Section 1514, there is not a need to calculate the sum of all the lot's trees' circumference.

The plans are, as you are aware, public information. You may request a copy from DCRA's Fileroom if the owner has not yet provided you with a copy.

Best Regards,

Matthew Le Grant

Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
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Washington, DC 20024
Phone: 202 442-4652
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Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/DC/DCRA/Permits/Certificates+of+Occupancy+and+Zoning>

From: Bray, Kinley [mailto:bray.kinley@arentfox.com]
Sent: Tuesday, June 14, 2011 5:20 PM
To: LeGrant, Matt (DCRA)
Cc: Ausubel, Lawrence M.; Kathy Ausubel
Subject: RE: 2750 32nd Street N.W.

Matt,

Thank you for the update, however, we are disappointed that we have not had an opportunity to review revised plans. Last we spoke, you were still awaiting a detailed tree inventory that provided information on the *circumference* of trees on the property, rather than the diameter of existing trees, which had previously been provided, and was, we think, quite misleading. Have you now received such information?

Kinley

Kinley R. Bray
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From: LeGrant, Matt (DCRA) [<mailto:matt.legrant@dc.gov>]
Sent: Tuesday, June 14, 2011 5:18 PM
To: Bray, Kinley
Cc: Ausubel, Lawrence M.; Kathy Ausubel
Subject: RE: 2750 32nd Street N.W.

Kinley Bray:

I received a report from the Urban Forestry Administration regarding the Voorhees' White Oak tree with 100.5" circumference (attached). It appears, based on this report, that the tree meets the requirements of 11 DCMR 1514.1(b) of the Zoning Regulations, in that it is an unhealthy tree that is creating an unsafe condition. Therefore it is exempt from the removal limitations set forth in Section 1514.

I have further reviewed the revised plans and additional materials submitted by Mr. Voorhees and his counsel. Based on this information, I find that the proposed addition is in compliance with the underlying R-1-A base zone and applicable TSP provisions set forth in Sections 1513 and 1514.

Accordingly I will proceed to approve the revised plans for submitted building permit application #B1103986.

Please let me know if you have any questions.

Best Regards,

Matthew Le Grant
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From: Bray, Kinley [mailto:bray.kinley@arentfox.com]

Sent: Thursday, April 21, 2011 11:45 AM

To: LeGrant, Matt (DCRA)

Cc: Ausubel, Lawrence M.; Kathy Ausubel

Subject: Follow up on 2750 32nd Street N.W.

Importance: High

Matt,

I am writing to check in on the status of your review of Building Permit Application No. B1103986, which we discussed when we last met on April 5, 2011. The Ausubels have had at least one discussion with the Applicant about their plans, and now understand that the applicant is preparing to submit, or has perhaps already submitted, revised plans showing a slight change in the location of the proposed addition. Nevertheless, we continue to have serious concerns over compliance with the applicable Tree and Slope Protection Overlay Zone requirements.

As we discussed in our meeting, we troubled that the plans do not provide an accurate inventory of trees subject to the TSP regulations on the property, and that to the extent trees are identified on the plans that have been submitted, they are identified by *diameter*, rather than *circumference*, the proper unit of measurement under the TSP regulations. As a result, we believe both the number and size of the existing trees on the property and the impact of construction on significant trees that the TSP regulations were designed to protect are misrepresented.

We also remain concerned that the plans depict removal of trees in violation of 11 DCMR § 1514.1(c), which states that "no tree that has a circumference of seventy-five inches (75") or more at a height of four and one-half feet (4 ½ ft) above ground may be removed or cut down." It is our understanding that the plans depict outright removal of one or more significant trees in violation of 11 DCMR § 1514.1(c), and that construction of the new addition in an area defined as the "Minimum Clearance Zone," (equal to six inches for every inch of tree diameter) from any such tree will result in fatal damage to that tree within five years. Based on the information that has been supplied by the Applicant to date, we believe the Minimum Clearance Zone for all trees is at least 15 feet. The Applicant's initial plans show the addition with approximately five feet of several trees.

Both the independent arborist hired by the Ausubels and representatives of DC's own Urban Forestry department have stressed that construction within the Minimum Clearance Zone violates standard industry practice and will result in swift death of these trees, which is tantamount to removal of the trees under the TSP regulations, which prohibit removal, cutting down, and *fatally damaging* significant trees. The Applicant's addition would not only result in fatal damage to significant trees in violation of 11 DCMR § 1514.1(c), but the cumulative effects of the construction within the Minimum Clearance Zone of the numerous trees on the Applicant's property will likely violate the restrictions in 11 DCMR §§ 1514.1(d) and (e) as well.

We respectfully request that you require the Applicant to revise whatever plans it has or will submit to your office so that the circumference of all trees with a circumference of 12" or greater at a height of four and one-half feet (4 ½ ft.) above ground (the relevant standard under 11 DCMR § 1514) is clearly labeled, and that a chart calculating the total circumference inches of all such trees on the lot be included with the plans in order to determine compliance with 11 DCMR § 1514(e) specifically.

Again, we would very much appreciate the opportunity to review final plans with you prior to your decision in this matter. Should you have any questions of us, please let me know. In the meantime, would you please confirm whether or not you have received new plans from the Applicant, so that we may request a copy?

Thank you,

Kinley

Kinley R. Bray
Attorney

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