

EXHIBIT H

From: [Avitabile, David](#)
To: ["Ndaw, Mamadou \(DCRA\)"](#)
Cc: ["Ilan Scharfstein"; Epting, John](#)
Subject: FW: 2121 M Street -- Review of our discussion
Date: Friday, November 22, 2013 12:20:04 PM
Attachments: [2121M Roof Plan.pdf](#)

Mamadou,

Below is Matt's determination approving the uses within the roof structure (I've highlighted his determination). I've also attached the plan that he reviewed as well so that you can see it is consistent with what is in the permit set.

Thanks and let me know if you have questions. We appreciate all of the time you have devoted to us on this!

-Dave

David M. Avitabile

Associate

Direct (202) 721-1137

Direct Fax (202) 263-0537

DAvitabile@goulstonstorr.com

goulston&storrs

From: LeGrant, Matt (DCRA) [mailto:matthew.legrant@dc.gov]
Sent: Sunday, October 27, 2013 4:36 PM
To: Avitabile, David
Cc: Epting, John
Subject: RE: 2121 M Street -- Review of our discussion

David Avitabile:

Thanks for the clarification, as well as illustrative plans that were attached to your email. By this email I am confirming my agreement with its analysis, and its conclusion that the areas of the rooftop structure comply with Section 411 of the Zoning Regulations.

Best Regards,

Matthew Le Grant

Zoning Administrator

Dept of Consumer and Regulatory Affairs

Government of the District of Columbia

1100 4th St SW - Room 3100
Washington, DC 20024
Phone: 202 442-4652
Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/service/zoning-dcra>

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From: Avitabile, David [mailto:DAvitabile@goulstonstorrs.com]
Sent: Wednesday, October 16, 2013 1:07 PM
To: LeGrant, Matt (DCRA)
Cc: Epting, John
Subject: RE: 2121 M Street -- Review of our discussion

Matt,

Please see attached for the whole roof plan and then a second page outlining the outdoor terrace and the interior accessory space. The outdoor terrace (B) is 1,687 s.f., and the interior space (A) is 480 s.f. This means that the interior space is 28-29% of the exterior space – however, our client noted that this is a function of the lot size and building configuration, which limits the size of the exterior space. In the absolute, the 480 s.f. interior space is small.

We welcome your thoughts and thank you for your attention to this. Please let me know if you'd like to discuss further by phone.

Best,
Dave

David M. Avitabile
Associate
Direct (202) 721-1137
Direct Fax (202) 263-0537
DAvitabile@goulstonstorrs.com

goulston&storrs

From: LeGrant, Matt (DCRA) [mailto:matthew.legrant@dc.gov]
Sent: Friday, October 11, 2013 5:49 PM
To: Avitabile, David
Cc: Epting, John
Subject: RE: 2121 M Street -- Review of our discussion

David Avitabile:

Two things on the roof structure:

- 1- Do you have an image of the entire roof and the structures on it?
- 2- What is the percentage of the accessory interior rooftop penthouse space compared to the outdoor roof area that it serves?

Best Regards,

Matthew Le Grant

Zoning Administrator

Dept of Consumer and Regulatory Affairs

Government of the District of Columbia

1100 4th St SW - Room 3100

Washington, DC 20024

Phone: 202 442-4652

FAX: 202 442-4871

Email: matt.legrant@dc.gov

Web: <http://dcra.dc.gov/DC/DCRA/Permits/Certificates+of+Occupancy+and+Zoning>

New, expanded library hours start **Oct. 1**. More hours for story time. More hours for community meetings. More hours to use free computers. Check out the library's new hours at dclibrary.org/newhours.

From: Avitabile, David [mailto:DAvitabile@goulstonstorrs.com]

Sent: Wednesday, October 09, 2013 12:28 PM

To: LeGrant, Matt (DCRA)

Cc: Epting, John

Subject: FW: 2121 M Street -- Review of our discussion

Hello Matt,

I just wanted to follow up about this issue. Our client is eager to, at a minimum, get feedback on whether the revised roof sketch (attached) is acceptable. Please let me know if it is or if you would like us to come in for additional discussion. Thank you so much.

- dave

David M. Avitabile

Associate

Direct (202) 721-1137
Direct Fax (202) 263-0537
DAvitabile@goulstonstorrs.com

***goulston*&storrs**

From: Avitabile, David
Sent: Wednesday, October 02, 2013 12:24 PM
To: 'LeGrant, Matt (DCRA)'
Cc: 'Ilan Scharfstein'; Epting, John
Subject: FW: 2121 M Street -- Review of our discussion

Hello Matt,

I wanted to follow up with you regarding whether revised roof structure shown on the attached plan is acceptable and also confirmation of the remaining items in my initial email. Please let me know if you would like to discuss this further. Thank you so much.

Best,
Dave

David M. Avitabile
Associate
Direct (202) 721-1137
Direct Fax (202) 263-0537
DAvitabile@goulstonstorrs.com

***goulston*&storrs**

From: Avitabile, David
Sent: Thursday, August 29, 2013 4:30 PM
To: 'LeGrant, Matt (DCRA)'
Cc: 'Ilan Scharfstein'; Epting, John
Subject: FW: 2121 M Street -- Review of our discussion

Matt,

Sorry to follow up with you so soon on this one. If at all possible, we'd greatly appreciate it if you could just quickly review the revised roof terrace sketch and give us a read on whether it is acceptable. Thanks so much.

- Dave

David M. Avitabile
Associate
Direct (202) 721-1137

Direct Fax (202) 263-0528
DAvitabile@goulstonstorrs.com

goulston&storrs

From: Avitabile, David
Sent: Monday, August 26, 2013 6:36 PM
To: 'LeGrant, Matt (DCRA)'
Cc: 'Ilan Scharfstein'; Epting, John
Subject: 2121 M Street -- Review of our discussion

Matt,

Thank you for meeting with us to review the current development plans for 2121 M Street NW and confirm (or in some cases, reconfirm) the application of the Zoning Regulations. The property is located in Square 70, Lot 880 (part of record lot 190) ("Property") in the CR Zone District. We propose to construct a hotel with 168 rooms, some ground floor retail and function room spaces, and 34 parking spaces, as shown on the attached plans ("Project").

The following email summarizes our discussion for your confirmation. We have also included a revised roof plan, as discussed below.

Lot:

- Our property is located on the same single record lot as the Washington Marriott and some ground floor retail establishments. Our Project will be connected to the other structures on the record lot through (a) the Marriott's hotel stair tower, which will exit into a vestibule within our building before discharging people out to M Street and (b) through doors at the rear of the retail spaces that provide access through and across a corridor on our parcel to the rear loading area and private alley. These connections are at street level and are therefore at or above the main floor of the structures. Accordingly, you confirmed the structures will constitute one building for zoning purposes.

Height:

- We will use the same measuring point as the Washington Marriott, which according to the Marriott's Comp Sheet (attached) was on M Street NW.
- Our Project will be constructed to a maximum height of 90 feet as measured to the top of the roof and excluding our parapet, which will be less than three feet in height.
- Accordingly, you agreed that the Project complies with height requirements of the Zoning Regulations.

Density:

- Pursuant to your prior determination letters (including most recently the letter dated December 6, 2010 and attached to this email), approximately 120,639.91 square feet of density remains available on the lot. Our Project contains 110,173 square feet of gross floor area.
- We have concluded that, of the total amount of available remaining density, only 8,459

square feet remains available for nonresidential uses. As indicated on the plans and development summary, only 7,041 square feet of gross floor area within the Project will be devoted to the nonresidential components of a hotel use. The balance is devoted to guest rooms and service areas, which constitute residential uses under Section 631.2 of the Zoning Regulations.

- Accordingly, you confirmed that the Project conforms to the density limitations of the Zoning Regulations.

Public Space at Ground Level:

- As we discussed, the public space requirement was adopted in 1974 as a part of the text and map amendments that created the CR Zone District. See Z.C. Order No. 108 at 26. Therefore, the public space requirement applied to the property when the Marriott was constructed in 1978.
- According to Section 633.1, the public space requirement is based on the total lot area. Since the public space requirement is assessed based on total lot area, the public space requirement for the entire record lot must have been satisfied in 1978 with the initial construction of the Marriott. Subsequent construction on the property does not expand or increase the requirement.
- The Comp Sheet does not indicate how the public space requirement was met, but based on the issuance of the building permit and subsequent CO for the Marriott, we agreed that the requirement must have been met at that time by the Marriott. The issuance of permits and COs for an addition to the Marriott in 1988 as well as for the Walgreens and other retail within the last decade provide further evidence that the District has repeatedly affirmed the property has met the public space requirement.
- Accordingly, you agreed that the requirement for public space at ground level has been met, and no further public space at ground level is required for the Project.

Lot Occupancy:

- The Zoning Regulations permit a lot occupancy of 100% for nonresidential uses; for purposes of lot occupancy, hotel use is considered to be a nonresidential use under Section 634.3 of the Zoning Regulations. The uses on the lot consist entirely of hotel and retail uses; that is, non-residential uses under Section 634. Upon completion of our Project, all improvements on the underlying record lot will occupy 90.3% of the lot. Accordingly, you agreed that the lot will continue to conform with the lot occupancy requirements upon completion of the Project.

Rear Yard:

- Pursuant to Section 636.5, no rear yard is required for a corner lot abutting three or more streets. The lot fronts on three streets – M Street, 22nd Street, and Ward Place. The Comp Sheet confirms that no rear yard was required for the Marriott. According, as an addition to an existing single building for zoning purposes that fronts on three streets, you agreed that no rear yard is required for the Project.

Courts:

- The CR District requires that hotels provide courts with a width of 2.5 inches per foot of

height, and, for closed courts, an area that is twice the square of the required court width.

- Pursuant to your prior determination letter, you concluded that the Project would create two courts – one closed court on the west side of our Project, and one open court on the east side of our Project.
- As we discussed, the closed court has a height of 76'9", width of 33' 0 ¾", and area of 4,69 square feet. Accordingly, you affirmed that this court complies with the Zoning Regulations.
- As we discussed, the open court is a part of a "chain of courts" extending to Ward Place and it is therefore an open court. We also discussed that the open court actually consists of two contiguous open courts: the loading area and private alley, which has a height of 89'6" and width of 22' 3 7/8"; and the court above the first floor, which has a height of 76'9" and width of 16' 3 3/8". Accordingly, you confirmed that both open courts comply with the open court requirements of the Zoning Regulations.

Parking:

- A hotel in the CR District requires one parking space per 4 rooms and one parking space per each 300 square feet in the largest function room or exhibit space. The Project contains 168 rooms and a 1,710 square-foot function space, for a total parking requirement of 48 spaces.
- As we discussed, the existing Marriott hotel has more parking than is required under the Zoning Regulations. 32 spaces were required and 140 were provided, for a surplus of 108 parking spaces.
- Pursuant to your prior determination letter, you concluded that the Project could meet its parking requirement by using excess parking at the Marriott, because it is still within the single record lot. As we discussed, our Project will have a total parking requirement of 48 spaces, which will be satisfied for zoning purposes with 34 parking spaces within the Project and the remaining 14 spaces within the Marriott garage. Accordingly, you agreed that the Project complies with the parking requirements

Loading:

- As we discussed, the Project triggers a loading requirement for one 30-foot deep berth, one 100 square foot platform and one 20-foot deep delivery space. This loading may be located anywhere on the record lot and will be provided as shown on the proposed plans.

Roof Structure

- As we discussed, the proposed Project contains a roof structure that is set back from all exterior walls (that is, the south wall that faces M Street and the north wall that faces the open court). No setback is required from the east wall, which is a lot line wall that abuts another 90-foot tall building, or from the west wall, which faces a closed court within the single record lot.
- Pursuant to our discussion, we have modified the roof structure to reduce the amount of accessory space within the structure and clarify that the enclosed space is intended to be used for uses that are accessory to the rooftop recreation space , as shown on the attached plan. Please confirm that the revised roof plan is acceptable.

Thank you very much for your time and attention to this matter; we hope that it will help expedite the permit review of this “matter of right” project.

Best,
Dave

Pursuant to IRS Circular 230, please be advised that, to the extent this communication contains any tax advice, it is not intended to be, was not written to be and cannot be used by any taxpayer for the purpose of avoiding penalties under U.S. federal tax law.

David M. Avitabile

Associate

Direct (202) 721-1137

Direct Fax (202) 263-0528

DAvitabile@goulstonstorrs.com

goulston&storrs

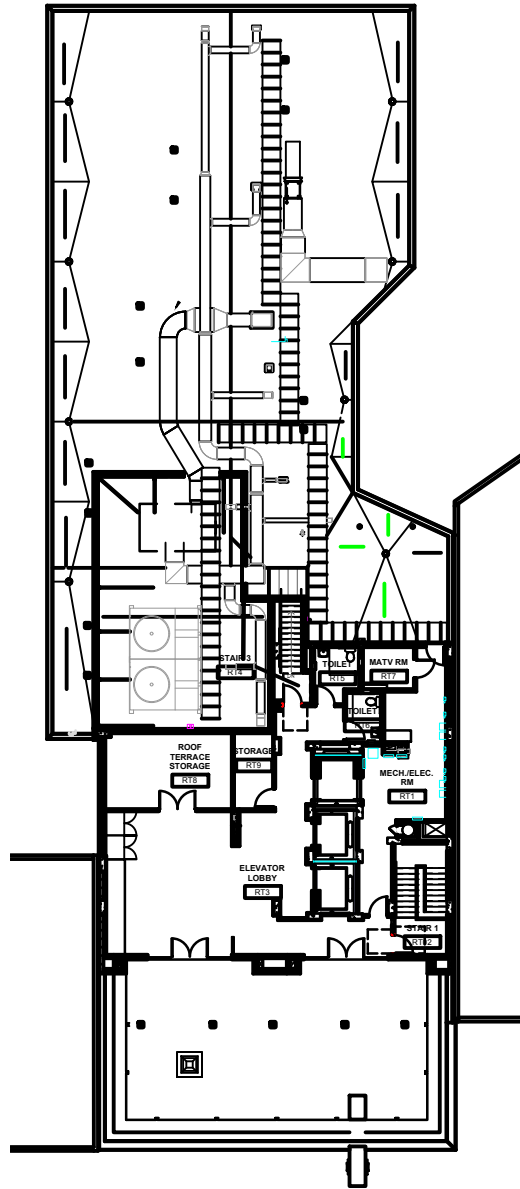
A Professional Corporation

1999 K Street, N.W., 5th Floor * Washington, DC 20006-1020

(202) 721-0011 * Fax (202) 721-1111 * www.goulstonstorrs.com

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HYATT PLACE HOTEL

2121 M St. NW, Washington DC 20036



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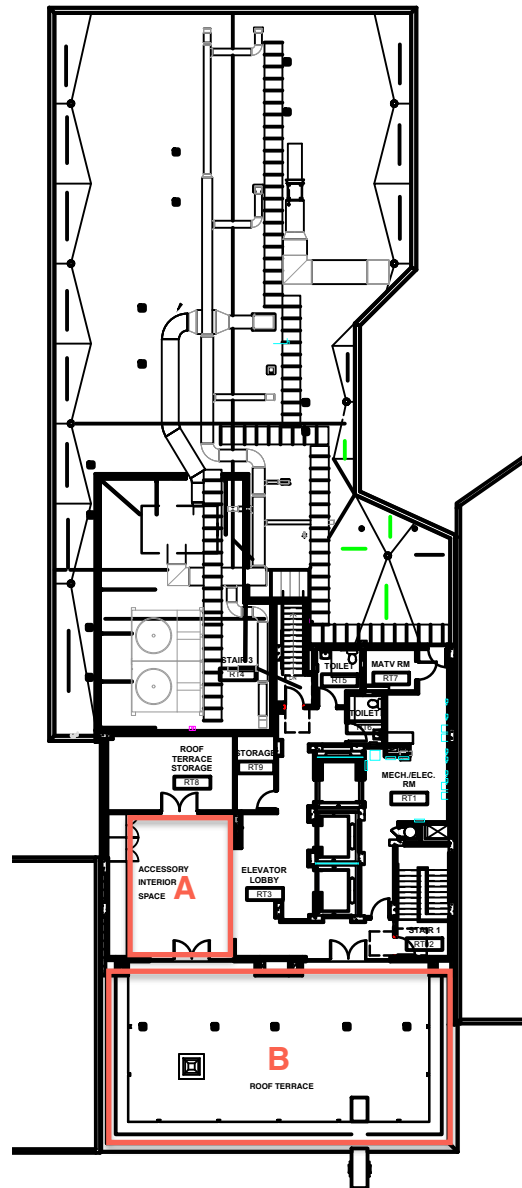
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7361 Calhoun Place Suite 310

Rockville, Maryland 20855

p: 301.670.1635 f: 301.670.9643

ROOF TERRACE



JONATHAN NEHMER + ASSOCIATES, INC.

HYATT PLACE HOTEL

2121 M St. NW, Washington DC 20036



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7361 Calhoun Place Suite 310

Rockville, Maryland 20855

p: 301.670.1635 f: 301.670.9643