

EXHIBIT H-5

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



January 28, 2013

Norman M. Glasgow, Jr.
Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
800 17th St N.W. - Suite 1100
Washington, D.C. 20006

Re: 400 6th Street, S.W. Application of Rear Yard and Court Requirements

Gentlemen:

This is to confirm the substance of our discussion on Thursday, November 1, and Wednesday, December 5, 2012, concerning the rear yard and court requirements applicable to the potential future development of the property at 400 6th Street, S.W., known as Lot 31 in Square 494 (the "Subject Property.") The Subject Property is zoned C-3-C and is located in the Southwest Receiving Zone for the use of transferable development rights (TDRs). The Subject Property is located in the northwest corner of Square 494. Per a plat, dated June 30, 2011, edited as of July 7, 2011, prepared by Wiles Mensch Corporation, the lot has frontage of 166.00 feet on 6th Street, 186.33 feet on D Street and 35.76 feet on Virginia Avenue. A copy of that plat is attached.

We had previously discussed whether the project was entitled to a height of 130 feet and an FAR of 10.0. I issued to you a letter, dated August 8, 2011, confirming that the project fronted on a street wide enough to allow the 130 foot height and 10.0 FAR and referencing the three street frontages noted above.

The C-3-C District (§774.1) requires a minimum rear yard equal to 2 1/2 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet. Per §774.11, for a corner lot abutting three or more streets, the depth of the rear yard may be measured from the center line of the street abutting the lot at the rear of the building or other structure.

A corner lot is defined in the Regulations (§199.1) as a lot fronting on two or more streets at their junction, with the streets forming with each other an angle of 45° up to and including 135°. The plat evidences that the junction of 6th and D Streets is at a right angle, 90°, and the property is therefore a corner lot.

Accordingly, I conclude that the rear yard may be measured either by using 6th Street as the front and measuring the rear yard from the centerline of Virginia Avenue or by using Virginia Avenue as the front and measuring the rear yard from the centerline of 6th Street.

The main wall along the south façade of the building will be set back from the property line a distance of 22', 2". At the ground floor, this area will be covered and used as the loading area for the building. At the level of the fifth floor, that space will be covered by a trellis which will have its principal structural members and interspersed cables no further apart than 24 inches on center. Plans showing the trellis are attached. As long as the horizontal members of the trellis are no further apart than 24 inches on center, that trellis would be deemed to constitute a roof. The area under the trellis would be included in gross floor area and would count against FAR.

The area above the trellis would be open to the sky and would therefore constitute a court. The court would be an open court because it opens onto 6th Street. In accordance with §776.1 of the Zoning Regulations:

Where a court is provided for a building or portion of a building devoted to nonresidential uses, at any elevation in the court, the width of court shall be a minimum of three inches per foot (3 in./ft.) 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 twelve feet (12 ft.).

Assuming that the trellis is designed so as to constitute a roof (see above), the lowest level of the court would be the top of the trellis, at elevation 65', 3". The highest point of the bounding wall is at the roof of the building, at elevation 151', 8". The height of the court is therefore 86', 5". Based on that height, the minimum width of the court is 21.61 feet. As shown on the plans, the width of the court is 22', 2", which exceeds the minimum width requirement.

The Applicant should be aware that this application may be subject to Public Space Committee and/or Public Space permitting approval. Prior to the rendering of such a decision by the Public Space Committee or other administrative body, the District Department of Transportation (DDOT) will be asked to assess the impact of the proposed project on the District's transportation network. In order to complete its review and provide a recommendation, DDOT may require some form of a transportation analysis. This may include the completion of a Transportation Impact Study, Comprehensive Transportation Review, Transportation Demand Management (TDM) plan, and/or a Construction Management Plan/Maintenance of Traffic Plan. These materials should be provided to DDOT before any Preliminary Design Review Meeting is scheduled. The Applicant should contact DDOT in order to determine what materials, if any, are needed for DDOT to complete its transportation impact assessment.

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

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments

File: Det Let re 400 6th St SW to Sher 1-28-2013