

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001

Appeal by DC for Reasonable Development

BZA Appeal No. 20191

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS’
RESPONSE TO REQUEST FOR EVIDENCE PURSUANT TO BZA MEMO DATED
JUNE 26, 2020**

The D.C. Department of Consumer and Regulatory Affairs (“DCRA”) in response to the Board of Zoning Adjustment’s (the “Board” or “BZA”) request for evidence and documents pursuant to BZA Memo dated June 26, 2020, states as follows:

On June 26, 2020, the Board requested: “. . .written evidence on how the plans approved by the foundation permit relate to those approved by the Zoning Commission in the case that underlies this appeal, along with a written explanation of how the plans comply or not with 11-Z DCMR § 702.8.” *See*, BZA Memo, Exhibit 40.

Zoning Commission Case No. 13-14 reviewed the Applicants’ planned unit development for Lot 800 in Square 3128 (“PUD”) which is the site of the McMillan Reservoir Slow Sand Filtration Site (“PUD Site”). The PUD Site has approximately 1,075,356 square feet (24.69 acres) of land area divided into development parcels. The south one-third of the PUD Site, known as Parcel 6, is to be developed as an eight-acre park, a community center building, and a South Service Court comprised of retained historic structures. *See*, Z.C. Order 13-14(6), p. 13.¹

With respect to Parcel 6, Z.C. Order 13-14(6), provides:

Parcel 6, which includes the South Service Court, shall be developed as a Park including a 6.2-acre open space **with a community center**, as shown on the drawings prepared by

¹ For a overview of the Parcels and related architectural plans, See Z.C. Case No. 13-14: Exhibits 32A1A1-32A1A26; 32A2A1-32A2A72; 832A1-832A3; 849A1-849A2 and Exhibit 952D.

EEK Perkins Eastman Architects dated April 11, 2014, marked as Exhibit 32A to the record, and as supplemented by drawings submitted on June 23, 2014, marked as Exhibit 832A in the record. **The community center shall be constructed** to a maximum height of 26 feet and contain approximately 17,500 square feet of GFA, or a density of approximately .07 FAR. The community center shall include gallery space with exhibits on the history of the McMillan site, a 25-meter swimming pool, a multipurpose community meeting room with a catering kitchen, outdoor gathering space, fitness studio, and locker and shower facilities. This amenity shall be open to the public and provide a user-friendly and convenient space for public gatherings and community events. The multipurpose community meeting room shall include moveable partitions to create smaller and larger spaces for gathering. Parcel 6 shall have 21 dedicated parking spaces and a dedicated loading area located in the South Service Court.

See, Z.C. Order 13-14(6), pp. 86-89 (emphasis added).

Thus, Z.C. Order 13-14(6) expressly mandates the construction of a community center on Parcel 6. Turning to Foundation Permit at issue, it allows: “DGS MCMILLAN FOUNDATION FOR NEW COMMUNITY CENTER” for Square 3128, Lot 800.² Moreover, the underlying foundation plans are in conformity with Z.C. Order 13-14(6) as the foundation is the community center in Parcel 6, as approved by the Zoning Commission. (See, DCRA Group Exhibit 1 Foundation Permit Plans, Parts 1-9). Thus, the Foundation Permit is allowed for by Z.C Order 13-14(6). More importantly the Zoning Administrator’s approval of the Foundation Permit complies with Subtitle Z §702.8 as the plans conform in all respects to what was approved by the Zoning Commission.³

Moreover, the Demolition Permit and plans also conform to Z.C. Order 13-14(6) in all respects. (See, DCRA Group Exhibit 2, Demolition Plans Parts 1-38). As the permits fully comply

² BZA Appeal 20183 Exhibit 4 – Copy of Foundation Permit.

³ Subtitle Z §702.8 provides: The Zoning Administrator shall not approve a permit application unless the plans conform in all respects to the plans approved by the Commission, as those plans may have been modified by any guidelines, conditions, or standards that the Commission may have applied. Nor shall the Zoning Administrator accept the establishment of an escrow account in satisfaction of any condition in the Commission’s order approving the PUD.

with Z.C. Order 13-14(6), the Zoning Administrator did not err in issuing the permits, nor did he violate Subtitle Z §702.8.

CONCLUSION

For the foregoing reasons, DCRA respectfully requests that the Board dismiss this Appeal.

Respectfully submitted,

/s/ Esther Yong McGraw

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/s/ Melanie Konstantopoulos

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Date: July 8, 2020

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CERTIFICATE OF SERVICE

I certify that on this July 8, 2020 a copy of the foregoing was served via electronic mail to:

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