Exhibit

Zoning Administrator Meaningful Connection Interpretations Requiring Compliance with All Provisions Under B-309.1

- 2018 Zoning Determination Letter 1311 R Street NW
- 2017 Zoning Determination Letter and Plans 2800 16th
 Street NW
- 2013 Zoning Determination Letter 33 N Street NE
 The 'existence of communication below the level of the main floor does not make a single building."



DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS OFFICE OF THE ZONING ADMINISTRATOR

May 7, 2018

Meridith Moldenhauer Cozen O'Connor 1200 19th Street NW Washington, DC 20036

Re: 1311 R Street NW - Square 0239; Lot 0129 (the "Property")

Dear Ms. Moldenhauer,

This letter is in reference to the meeting we had on January 31, 2018, regarding your client's intended use of the Property. The Property is known as Lot 0129 in Square 0239 and has a total land area of 4,000 square feet. To describe the Property in more detail, Lot 0139 is improved with an existing, semi-detached single-family dwelling on the western portion of the lot (1313 R Street NW). Your client, 1311 R Street NW LLC, intends to subdivide the lot and construct a flat on the eastern, unimproved portion of the lot (future 1311 R Street NW) (the "Project").

The Property is located in the RF-1 Zone. The square is split-zoned, with the western portion in the Arts-3 Zone, and the remainder of the square in the RF-1 Zone. A copy of the Zoning Map is attached here at Tab "A." The Property is surrounded by attached row dwellings consisting of single-family homes and flats, as well as the commercial and eating and drinking establishment corridor along 14th Street NW.

Your client proposes to construct a new flat with a front unit ("Front Unit") facing on R Street NW, as well as a rear unit ("Rear Unit") to the rear of the lot, toward the alley. The Front and Rear Units (collectively, the "Units") will be attached by a meaningful connection, resulting in one building with two dwelling units. A copy of the architectural plans is attached at Tab "B."

MEANINGFUL CONNECTION

Subtitle B § 309.1 requires that a meaningful connection be (a) Fully above grade; (b) Enclosed; (c) Heated and artificially lit; and (d) Either:

- (1) Common space shared by users of all portions of the building, such as a lobby or recreation room, loading dock or service bay; or
- (2) Space that is designed and used to provide free and unrestricted passage between separate portions of the building, such as an unrestricted doorway or walkway.

The proposed structure will comply with the requirements for a meaningful connection because a hallway connection ("Common Corridor") between the Units will be constructed fully above grade, satisfying subsection (a), and it will be enclosed, heated and artificially lit, in compliance with subsections (b-c). See Tab "B." In addition, the Common Corridor will be a space designed to provide free and unrestricted passage from the Units to the shared courtyard space, fulfilling subsection (d)(2). Both Units will have unrestricted access to the Common Corridor through doors opening from each Unit into the

corridor. Because the design satisfies Subtitle B § 309.1, the Project meets the Zoning Regulations for a single building with a meaningful connection between the Units.

ACCESS TO REAR UNIT

The Rear Unit will have two means of access. First, the Project will include an easement over lot 0120 which will allow passage to a side entrance into the Common Corridor and, consequently, to the Rear Unit. The recorded easement area will be a path in the adjacent rear yard, and as such will not be enclosed, heated, or artificially lit, but it will be at grade. The first access via easement fully complies with the all Zoning Requirements once on the lot for the Property. Second, an entrance on R Street NW through a semi-below grade hallway will provide access to the Rear Unit. This entrance will not serve to satisfy the Zoning Regulations but will be a private entrance for the Rear Unit, and the Front Unit will not have access to this hallway.

The proposed Project is designed in such a way so as to provide adequate means of private access to the Rear Unit, while at the same time preserving the Common Corridor for passage to the Front and Rear Unit and to the shared courtyard. The second means of access to the Rear Unit is not intended to satisfy the meaningful connection requirements of the Zoning Regulations outlined above.

CONCLUSION

Based on the above analysis, the proposed design meets the Zoning Regulations Subtitle B § 309.1 for a singular building with a meaningful connection between the Units. Therefore, your client may also provide two means of access to the Rear Unit.

This determination letter constitutes the first writing reflecting the administrative decision. Therefore, under Subtitle Y § 302.5 of the District's Zoning Regulation, no subsequent document, including a building permit or certificate of occupancy, can be appealed unless the document modifies or reverses this letter or reflects a new decision.

Sincerely,

Matthew Le Grant Zoning Administrator

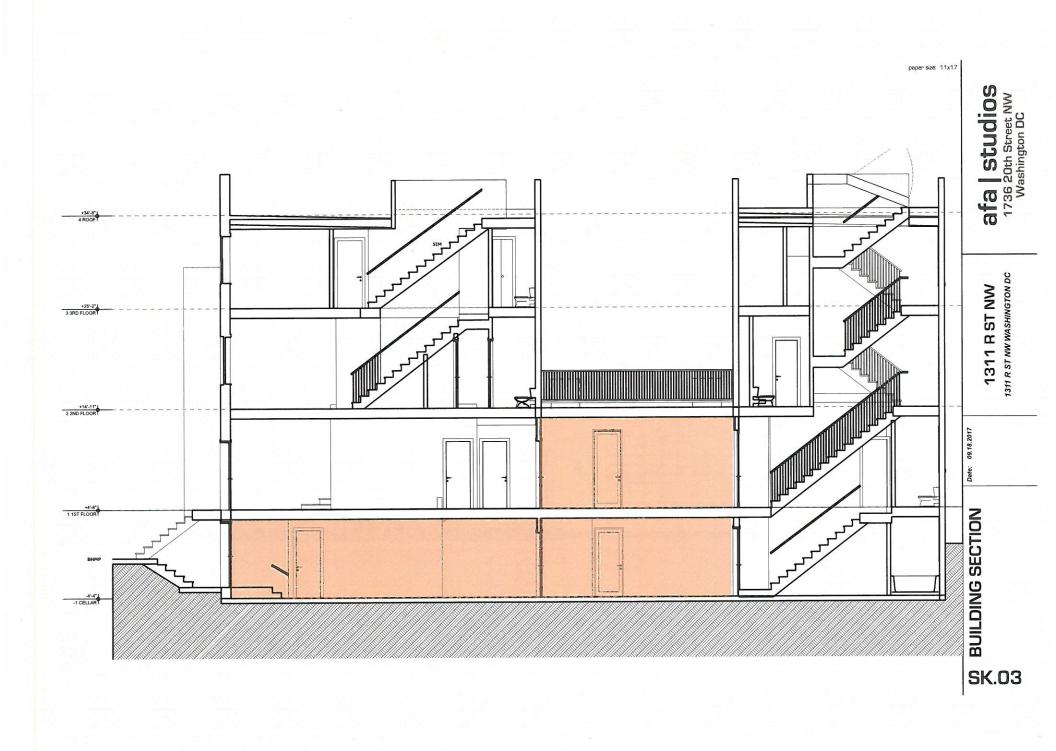
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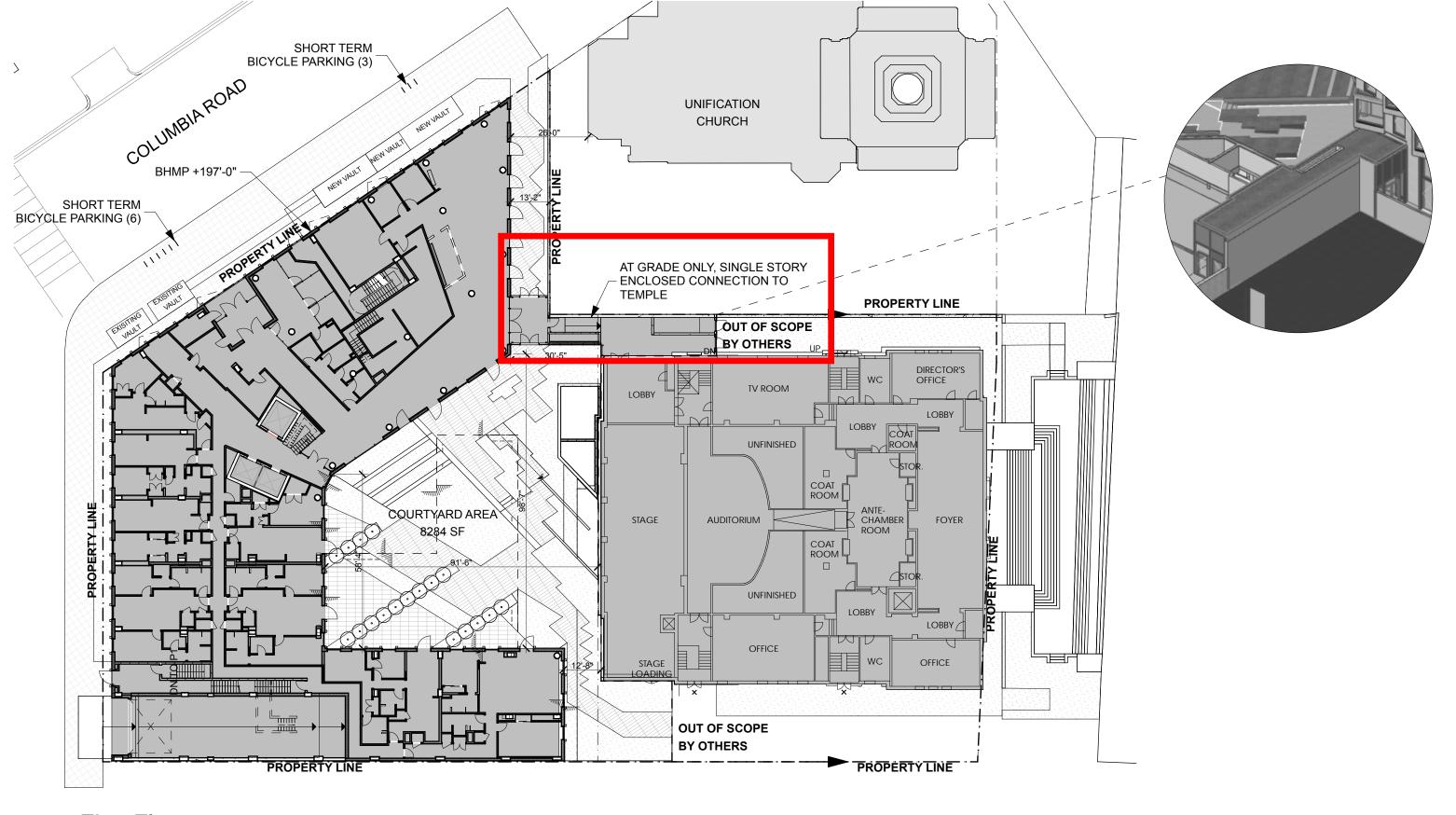
DISCLAIMER: This letter is issued in reliance upon, and therefore limited to, the questions asked, and the documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in 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-302.5 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 provisions established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

Attachments:

<u>Tab "A"</u>: Zoning Map Tab "B": Architectural Plans

File: Det Let re 1311 R St NW to Moldenhauer 5-7-18







Scale: 1" = 30'

CORE

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EASTBANC Project Number

18007.00 SITE PLAN Printed 4/10/19
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18007.00

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

WASHINGTON

February 13, 2017

Meridith H. Moldenhauer Griffin, Murphy, Moldenhauer & Wiggins, LLP 1912 Sunderland Place NW Washington DC, 20036

Re: 2800 16th Street NW (Square 2578, Lot 25) - Scottish Rite Temple

Dear Ms. Moldenhauer,

This letter is in reference to multiple discussions I had with you and your colleagues in October and November 2016 and on January 26, 2017, regarding your client's intended rear addition to the existing structure at 2800 16th Street NW (Square 2578, Lot 25) (the "Property"). I would like to memorialize the discussion regarding this development under the 2016 Zoning Regulations ("ZR-16"). This letter is also a follow up to the Zoning Determination letter dated November 23, 2015 regarding the required parking for the existing structure on the Property. A copy of that letter is attached hereto at <u>Tab "A"</u>, and the findings are incorporated herein.

The Property is located in the RA-4 Zone District and the Meridian Hill Historic District. The Property is bounded by 16th Street NW to the east, Mozart Place NW to the west, the Italian Embassy to the south and the Unification Church to the north. The Property satisfies the definition of a "corner lot" at Subtitle B § 100.2 because it fronts on 16th Street NW, Mozart Place NW, and Columbia Road NW, and the intersection of Columbia Road and Mozart Place forms an angle of 124 degrees, as shown on yard diagram attached hereto at Tab "B".

The Property is improved with the Scottish Rite Temple ("Temple") that fronts on 16th Street. Your client proposes to construct a "U- shaped" rear addition to the Temple with approximately 176 residential units, including the required Inclusionary Zoning ("IZ") set aside units, off-street loading, vehicle and bicycle parking spaces and resident amenity space (the "Project"). Your client intends to process this matter under ZR-16, although we had previously discussed the possibility of your client's project "vesting" under the 1958 Zoning Regulations because of the HPRB approval.

In December 2015, your client obtained approval from DDOT's Public Space Committee for Tracking No. 117408 regarding the Project. Furthermore, in April 2016, your client obtained approval for the Project's massing, height and design from the Historic Preservation Review Board ("HPRB") in HPA Case No. 16-309. Further historic preservation review of progressed design plans has been delegated to the Historic Preservation Office ("HPO") staff.

1100 4th Street, SW 3rd Floor Washington, D.C. 20024 Phone: (202) 442-4576 Fax: (202) 442-4871 The Project will front on Columbia Road and will be 90' in height as measured from the Building Height Measuring Point ("BHMP") on Columbia Road. As discussed below, the Project will be connected to the Temple through a "meaningful connection". The design also includes an approximately 8,000 sq. ft. closed court between the Project and the Temple. The design also includes bay projections into public space. The size and length of these projections into Public Space are not within the scope of my office, but are subject to the regulations administered by DDOT's Public Space Management Administration. Accordingly, I would encourage your client to coordinate with DDOT and obtain any additional public space approvals that may be necessary.

In summary, at our meetings, I have found the following:

Temple and Project are Single Building for Zoning Purposes.

As stated above, your client proposes to construct an addition to the existing Temple that will provide approximately 176 residential units. For the reasons discussed below, the Project is an addition to an existing structure because it is proposed to be connected to the Temple through a proposed connection (the "Proposed Connection") that satisfies the requirements of a "meaningful connection", as that term is set out in 11 DCMR Subtitle § B 309.1, which reads:

For purposes of this chapter, structures that are separated from the ground up by common division walls or contain multiple sections separated horizontally, such as wings or additions, are separate buildings. Structures or sections shall be considered parts of a single building if they are joined by a connection that is:

- (a) Fully above grade;
- (b) Enclosed;
- (c) Heated and artificially lit;
- and (d) Either:
- (1) Common space shared by users of all portions of the building, such as a lobby or recreation room, loading dock or service bay; or
- (2) Space that is designed and used to provide free and unrestricted passage between separate portions of the building, such as an unrestricted doorway or walkway.

As illustrated in the Proposed Connection diagram at <u>Tab "C"</u>, the Proposed Connection between the Project and the Temple satisfies the above requirements because it is (a) abovegrade, (b) an enclosed windowed walkway that includes windows that can be opened when weather permits but otherwise will be closed and secured to provide protection against the elements; (c) heated and artificially lit; and (d) common space that is designed and used to

provide free and unrestricted passage between separate portions of the building. To constitute free and unrestricted access, each building owner (your client and the Scottish Rite) must have reciprocal access rights through the Proposed Connection, although access is not required to be provided for occupants of the separate portions of the building.

Yards

No side yards required

Generally, no side yard is required in the RA-4 Zone District. 11 DCMR F § 306.1(b). However, Subtitle F § 306.3 requires a side yard "[w]hen a new dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building" Here, because the Project is an addition to an existing structure, rather than a "new" multiple dwelling, no side yards are required.

Rear Yard calculated from the Centerline of 16th Street

As a corner lot, the Project will identify Mozart Place NW as the front lot line, with the rear lot line along 16th Street and the side lot lines as shown in the yards diagram image at <u>Tab</u> "B".

As stated above, there is no side yard requirement because the Project is a single building with the Temple. Moreover, the RA-4 Zone has no front yard requirement.

Accordingly, the only yard requirement is for the rear yard. The rear yard requirement in the RA-4 is 15 ft. or 4 in. per ft. of building height. Subtitle F § 305.1. Here, the proposed height for the Project is 90 ft., resulting in a rear yard requirement of 30 ft. Under Subtitle F § 305.2, because the Property is a corner lot, the depth of the rear yard is measured from the centerline of 16th Street, which is the street abutting the rear lot line. As shown in the 1913 Baist map attached to this letter at Tab "D", the 16th Street right of way is 160-feet wide, making the center line of 16th Street 80 ft. from the Property's rear lot line. Accordingly, the rear yard calculation more than satisfies the zoning requirements for rear yards in the RA-4 Zone District.

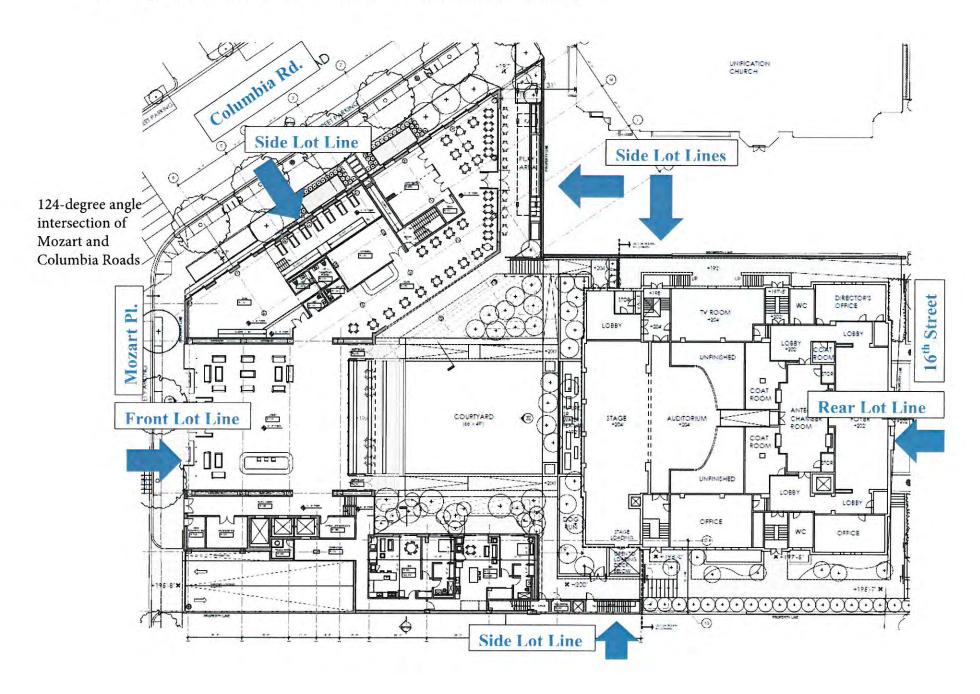
Compliance with Other RA-4 Development Standards

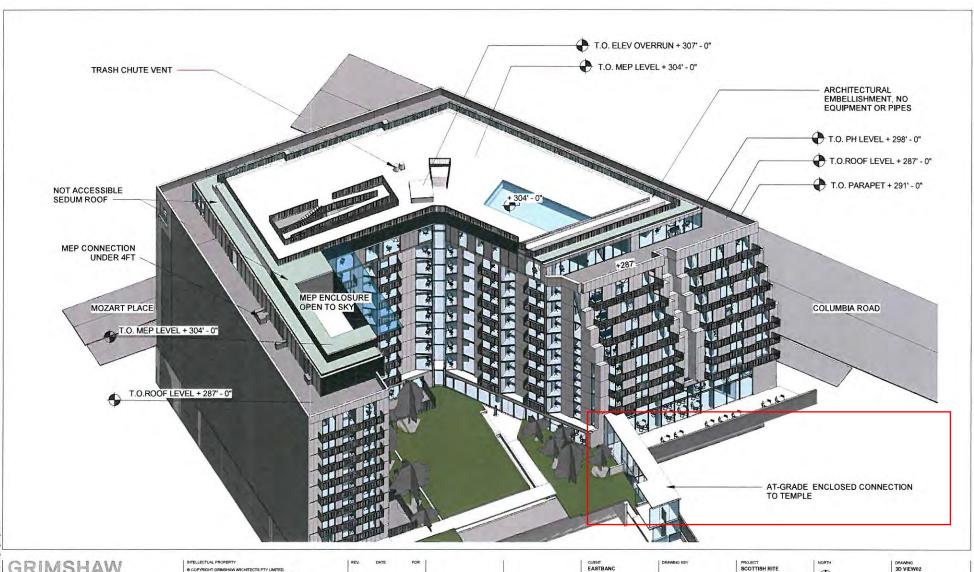
In addition to the aspects of the Project discussed above, you have indicated that the Project will comply with the matter-of-right development standards for the RA-4 Zone District as follows:

Floor Area Ratio ("FAR")

The maximum permitted FAR in the RA-4 Zone District is 3.5; however, a 20% bonus density is permitted when a development complies with IZ requirements. Subtitle F § 302.1; Subtitle C § 1002.3. As shown on Sheet SK-13 of the Architectural Plans included as <u>Tab</u> <u>"E"</u>, the Project and the Temple will have a maximum combined FAR of 4.2 FAR, which is

Yard Diagram (Mozart Road as Front Lot Line for Rear Yard Measurement)





+01 646 293 3600 637 West 27th Street

New York NY 1000 -architects.com USA

ADDRESS 1630 COLUMBIA RD NW, WASHINGTON, DC 20009 GRIMSHAW PROJECT NO. 14160

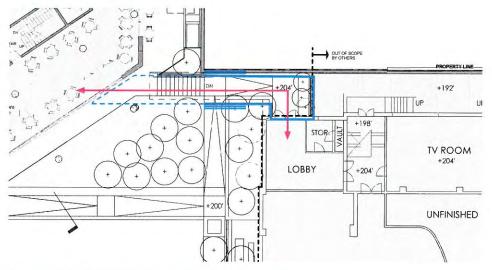
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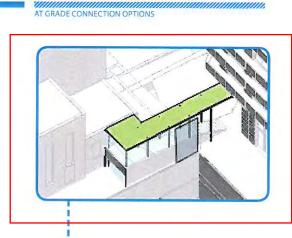
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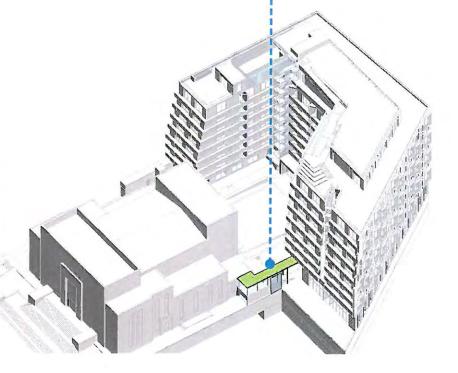
OPERABLE ENCLOSURE











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



August 2, 2013

Christy Moseley Shiker Holland & Knight LLP 800 17th Street, N.W. - Suite 1100 Washington, DC 20006

Re: Residential Development on Single Record Lot 33 N Street, N.E. (Lot 254, Square 672)

Dear Ms. Shiker:

This is to confirm the substance of our discussions on January 17, 2013, and April 22, 2013, regarding the proposed development of property located in the north half of Square 672. The north half of the square is bounded by N Street to the north, First Street to the east, Patterson Street to the south and North Capitol Street to the west in Northeast Washington. The development site includes the property known as 33 N Street, N.E. (Lot 254, Square 672) (the "Residential Property") highlighted in yellow on the attached plat and properties fronting on N Street (Lot 847, Square 672), First Street (Lot 848, Square 672), and Patterson Street (Lot 247, Square 672) (collectively the "Remaining Property"), highlighted in green on the attached plat. The Residential Property and the Remaining Property are collectively referred to as the "Subject Property." Your client, or entities related to your client, own the Subject Property.

The Subject Property is zoned C-3-C and is located within the North Capitol Receiving Zone for transferable development rights ("TDRs"). The Residential Property is improved with a 2-story office building, and the Remaining Property is improved in part by an existing 7-story office building and in part with surface parking lots. Your client proposes to raze the improvements on the Residential Property to construct a residential building. In the interim phase, the residential building will be connected to the existing office building on the Remaining Property. In the final phase of development, the existing office building will be razed, and a new development will be constructed on the Remaining Property.

You requested that I review certain questions relating to the combination of the Residential Property and the Remaining Property into a single lot of record and relating to the interim and final development of a single building on the Subject Property. In our meeting, we discussed the following items:

Subdivision for Single Lot of Record:

In order to create a single building with frontage on First Street, the Subject Property must be subdivided into a single lot of record. The existing improvements on the Residential Property will be demolished to allow for the development of the residential building and a connection will be made from the residential building to the existing office building as described below. However, the existing improvements on both the Residential Property and the Remaining Property will be in place as of the date of the subdivision, and these improvements will not be connected at that time so as to be considered a single building.

Section 2517.1 of the Zoning Regulations permits two (2) or more principal buildings or structures to be erected as a matter of right on a single subdivided lot that is not located in, or within twenty-five feet of, a Residence District. Section 2517.2 states that the number of principal buildings permitted by this section shall not be limited; provided, that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter (such as use, height, bulk, and open spaces around each building), as provided by §§ 3202.2 and 3202.3 are met. Sections 3202.2 and 3202.3 specify what information must be provided at such time as a building permit application is submitted.

The existing improvements on the Residential Property and the Remaining Property either conform to the lot on which they presently sit, or would constitute a nonconforming structure on the existing lot in accordance with Section 2001 of the Zoning Regulations. The creation of the new record lot will neither expand nor enlarge such nonconformity, if one exists. Because no changes are proposed to the existing structures and no permit applications are required or proposed to effectuate the subdivision, a further showing under Section 2517 is not required. Accordingly, I will approve and sign the subdivision, after it is has been processed through and approved by the applicable agencies. At such time as a building permit application is submitted for the erection, construction or conversion of a building or structure on the new record lot, such application must show compliance with Sections 2517.2, 3202.2, and 3202.3 in order to secure the building permit.

Measuring Point for Building Height:

The height of the building is measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet. Because the single building will front on three streets, height may be measured from the street elevation which allows the greatest height. Regardless of which street is used for the point of measurement, the width of First Street (110 feet) may be used to determine the maximum permitted height, which is 130 feet under the TDR Receiving Zone.

Your client will measure height from the curb opposite the front of the building on N Street. For construction of the residential building on the Residential Property, which will be an addition to the existing office building, the middle of the front of the building will be at elevation

55.37. However, at such time as the final development is constructed, the middle of the front of the building will be at elevation 54.50', as shown on the attached Measuring Point Plan. Elevation 54.50' will be the ultimate measuring point for the overall single building on the Subject Property. You advised me that there will be in place a covenant allocating development rights among the multiple phases and committing the owners to maintain the building as a single building under the Zoning Regulations.

Accordingly, given the facts stated above, you must measure the heights of each phase of development from the ultimate measuring point which will result when all the phases are constructed, which will be the level of the curb opposite the middle of the front of the building on N Street, which will be elevation 54.50'.

Single Building Connections:

The Zoning Regulations provide that the existence of communication below the level of the main floor does not make a single building. Conversely, the existence of communication at or above the level of the main floor does create a single building. Assuming that the separate structures (i.e., each phase) are connected at or above the level of the main floor (the floor on which the principal entrance to the building is located), as required by the regulations currently in effect, the entire building will be considered as a single building and will be eligible for a maximum height of 130 feet and a maximum FAR of 10.0, provided that sufficient TDRs are vested in the property.

You advised me that your client will provide a connection between the residential building and the existing office building. You indicated that this connection will consist of a trelliscovered connector supported by walls and having a roof that is at least 51 percent solid connecting the new portion of the project to the existing office building.

Section 199 of the Zoning Regulations defines the term "building" as:

a structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

Both the Board of Zoning Adjustment and the Zoning Administrator's office have interpreted the term "building" to include trellis-covered connectors, provided that the trellis roof is at least 51 percent solid and provides the necessary supporting columns or walls. Accordingly, so long as the proposed trellis-covered connector is supported by columns or walls and has a roof that is at least 51 percent solid and leads to and from a door opening into a common area of the building at

each end, the connector between the residential building and the existing office building will be sufficient to create a single building until such time as the full building is constructed.

Roof Structure

The Roof Plan shows the proposed mechanical penthouse above the roof and the proposed pool and pool terrace. The mechanical penthouse rises 18 feet, 6 inches above the roof. It must comply with all requirements set forth in Sections 411 and 770.6 of the Zoning Regulations. The attached Roof Plan indicates that the mechanical penthouse does not provide a 1:1 setback abutting the open court walls of the building. You informed me that your client will either present plans showing compliance with the 1:1 setback requirement from court walls or will seek relief from the Board of Zoning Adjustment.

The building is proposed to include a pool on top of the roof deck. According to the Roof Section, the pool will be less than four feet above the top of the roof, as there is no parapet. Pursuant to §411.17, "Roof structures less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section." This office has interpreted the construction of that language to exempt from compliance with §411 a structure that is less than four feet above the parapet wall. Accordingly, the pool deck proposed as shown on the attached Roof Plan and on the attached Roof Section complies with the requirements of the Zoning Regulations.

Courts for Interim Development:

In the interim phase, the Subject Property will only be improved with the residential building and the existing office building connected by the above-described trellis-connector. In this phase, there will be three courts. Section 776.3 provides that when a court is provided for a building devoted to residential uses, the width of court shall be a minimum of 4 inches per foot 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 15 feet. In the case of a closed court for a building devoted to residential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 350 square feet.

As shown on the attached Interim Court Plans, the courts are as follows:

West Court: As shown on Sheet SD-03 of the Interim Court Plans, the West Court is a closed court and consists of a ground court, a lower court and an upper court.

• The ground court has a height of court of 14 feet, 5 inches. Based on the height of court, the required width of the ground court would be 15 feet, and the required minimum area is 350 square feet. The ground court has a proposed width of 41 feet, 4 inches, in excess of the minimum requirement of 15 feet, and a proposed area of 1,820 square feet, in excess of the minimum requirement of 350 square feet.

- The lower court has a height of court of 102 feet, 8 inches. Based on the height of court, the required width of the lower court would be 34 feet, 2 3/4 inches, and the required minimum area is 2,343 square feet. The lower court has a proposed width of 50 feet, in excess of the minimum requirement of 34 feet, 2 3/4 inches, and a proposed area of 2,600 square feet, in excess of the minimum requirement of 2,343 square feet.
- The upper court has a height of court of 10 feet, 4 inches. Based on the height of court, the required width of the lower court would be 15 feet, and the required minimum area is 350 square feet. The upper court has a proposed width of 51 feet, in excess of the minimum requirement of 15 feet, and a proposed area of 2,750 square feet, in excess of the minimum requirement of 350 square feet

<u>Center Court</u>: As shown on Sheet SD04 of the Interim Court Plans, the Center Court is a <u>closed court</u> and consists of a ground court and an upper court.

- The ground court has a height of court of 33 feet, 1 inch. Based on the height of court, the required width of the ground court would be 15 feet, and the required minimum area is 350 square feet. The ground court has a proposed width of 47 feet, 4 inches, in excess of the minimum requirement of 15 feet, and a proposed area of 2,488 square feet, in excess of the minimum requirement of 350 square feet.
- The upper court has a height of court of 94 feet, 4 inches. Based on the height of court, the required width of the lower court would be 31 feet, 5½ inches, and the required minimum area is 1,979 square feet. The upper court has a proposed width of 50 feet, in excess of the minimum requirement of 31 feet, 5½ inches, and a proposed area of 3,382 square feet, in excess of the minimum requirement of 1,979 square feet

<u>East Court</u>: As shown on Sheet SD05 of the Interim Court Plans, the East Court consists of a ground court, which is a <u>closed court</u>, and an upper court, which is an open court.

- The ground court has a height of court of 14 feet, 5 inches. Based on the height of court, the required width of the ground court would be 15 feet and the required minimum area is 350 square feet. The ground court has a proposed width of approximately 22 feet, 1 inch, in excess of the minimum requirement of 15 feet, and a proposed area of 755 square feet, in excess of the minimum requirement of 350 square feet.
- The upper court has a height of court of 75 feet, 8 inches. Based on the height of court, the required width of the upper court would be 25 feet, 3 inches. The upper court has a proposed minimum dimension of 50 feet, in excess of the minimum requirement of 25 feet, 3 inches. There is no required minimum area for an open court.

I believe that I have addressed the issues which we discussed and agreed upon. Please let me know if you have any further questions.

Sincerely, Matthe 2 ht

Matthew Le Grant Zoning Administrator

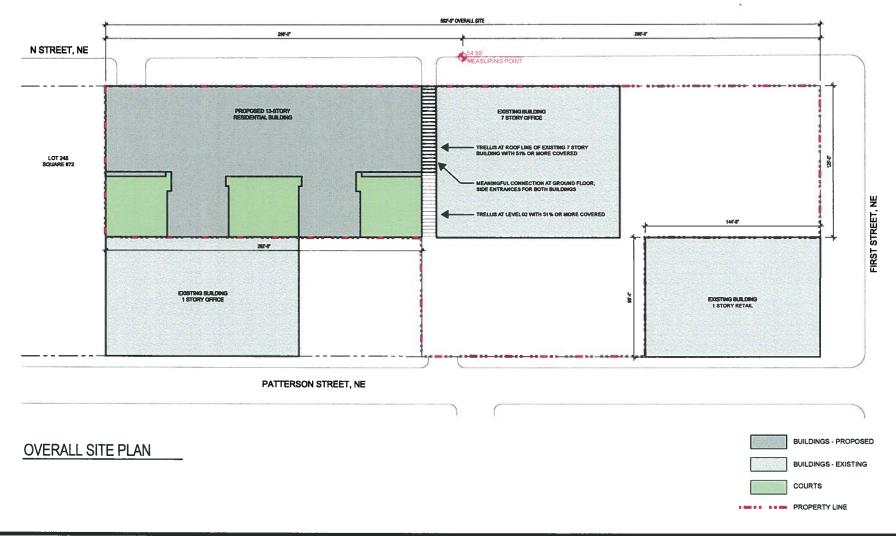
Attachments: Location Plat

Overall Site Plan

Roof Plan and Roof Section

Interim Court Plans

File: Det Let re 33 N St NE to Shiker 8-2-13





A2.1

PROJECT NAME 33 N Street NE Washington, DC Square 672 / Lot 254

DATE July 9, 2013

