

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



August 31, 2015

Christy Moseley Shiker
Holland & Knight LLP - Suite 100
2099 Pennsylvania Avenue, NW
Washington, DC 20006

Re: Development of 22 M Street, NE - Lot 858, Square 672 (Part of Record Lot 259)

Dear Ms. Shiker:

This is to confirm the substance of our discussions on March 4, 2015, regarding the proposed development of the property located at 22 M Street, NE (Part of Record Lot 259, Assessment & Taxation Lot 858, Square 672) (the "22 M Property"), highlighted in yellow on the attached plat. The 22 M Property is the fourth phase of the overall development of Record Lot 259 in Square 672 (the "Record Lot"). Phase I was constructed in or around 2009 and is located on Lot 856 ("1200 First Property"). Phases II and III are known as 88 and 44 M Streets respectively and will be located on Lot 855 ("88 M Property") and Lots 854 and 857 ("44 M Property") respectively. The Record Lot is zoned C-3-C and is located within the North Capitol Receiving Zone for transferable development rights ("TDRs").

Based on the Record Lot's frontage on First Street, the single building is permitted a maximum height of 130 feet. Based on my determination letter dated March 26, 2012, a copy of which is attached, the single building on the Record Lot will front on three streets, and height may be measured from the street elevation which allows the greatest height. As stated in that letter, the measuring point will be the level of the curb opposite the middle of the front of the building on Patterson Street, which will be elevation 53.00. This will be the ultimate measuring point for the overall single building.

You have asked me to review and confirm the following zoning issues for the development of the 22 M Property with a residential building with ground floor retail:

Roof Structure Setback – Closed Court

The roof structure is shown on the attached 22 M Roof Plan. The roof structure will have a height of 18 feet, 6 inches and will constitute a single enclosure. The roof structure will be set back 1:1 from the exterior walls (i.e., the walls of the building fronting M and Patterson Streets, NE). The roof structure will also be set back 1:1 from the open court to the east of the building. The roof structure will not be set back 1:1 from the closed court abutting the internal property

line on the west side of the building. This office has determined that there is no setback requirement for a roof structure along closed courts or lot line walls pursuant to the Zoning Regulations or the 1910 Height Act. Accordingly, no zoning relief is required for the roof structure as shown on the attached 22 M Roof Plan.

Closed Court

The project incorporates a non-rectangular closed court. 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 fifteen feet (15 ft.). For a closed court, Section 776.4 provides that in the case of a closed court for a building or portion of 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.

You informed me that this court has a lower and upper court within it, which we refer to as stacked or layered courts. Based on the attached 22 M Court Plans, the lower court (identified as Court 1) starts at the 2nd level, or Elevation 67' and has a height of the court that is 16 feet, 8 inches. Based on the height of court, the required width is 15 feet. Because the court is a non-rectangular court, the width of court may be measured as the diameter of the largest circle that can be inscribed in a horizontal plane within the court. In addition, the required area of the court is 350 square feet. According to the 22 M Court Plans, the width of the lower court is 31 feet and the proposed area is 3,732 square feet.

The upper court (identified as Court 2) starts 4' below the 4th level, or Elevation 83' 8" and has a height of court that is 99 feet, 3 inches. Based on the height of court, the required width is 33' 4". Because the court is a non-rectangular court, the width of court may be measured as the diameter of the largest circle that can be inscribed in a horizontal plane within the court. In addition, the required area of the court is 2,222 square feet. According to the 22 M Court Plans, the width of the upper court is 38 feet and the proposed area is 4,104 square feet.

Based on these calculations, I would approve the lower (Court 1) and upper (Court 2) as in compliance with the minimum width requirements of Section 776 of the Zoning Regulations.

Single Building Connection

The improvements on the 22 M Property are the fourth phase in the development of the single building on Record Lot 2590. 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

August 31, 2015

Page 3

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.

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 covered connectors, provided that the roof is at least 51 percent solid and provides the necessary supporting columns or walls. This office has further found that if trellis-type roof is used, it must be at least 51% solid, with the horizontal members being at least 24" on center.

The connection of the improvements constructed on the 1200 First Property and the proposed improvements on the 88 M Property has been reviewed and approved as part of Building Permit No. B1307538. The proposed improvements on 88 M Property will be connected to the proposed improvements on the 44 M Property and the 22 M Property as shown on the Meaningful Connection Plan.

I have reviewed the proposed building connection from 44 M Street to 22 M Street and have determined that it is sufficient to meet the current requirements of the Zoning Regulations. The proposed roof between the improvements on the 44 M Property and the 22 M Property is supported by columns or walls and has a roof that is at least 51 percent solid and that the walkway leads to and from a door opening into a common area of the building at each end. Accordingly, the walkway across the private property will be sufficient to create a single building.

You asked if there is any requirement for the building connection to comply with the ADA requirements. The Zoning Regulations do not include a specific requirement for ADA accessibility to create the meaningful connection.

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, 
Matthew Le Grant
Zoning Administrator

August 31, 2015
Page 4

Attachments:

March 12, 2012 Determination Letter
22 M Roof Plan
22 M Court Plans
Record Lot Meaningful Connection Plan
Zoning Map showing site