

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



March 26, 2012

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

Re: Addition to Capitol Plaza Development  
16 -20 M Street, NE (Lots 251 and 839, Square 672)  
33 Patterson Street, NE (Lot 852, Square 672)

Dear Ms. Shiker:

This is to confirm the substance of our discussions on December 6, 2011, regarding the proposed development of the property located at 16 -20 M Street, NE (Lots 251 and 839, Square 672) ("M Street Property"), highlighted in yellow on the attached plat, and 33 Patterson Street, NE (Lot 852, Square 672) ("Patterson Street Property"), highlighted in pink on the attached plat. The M Street Property and the Patterson Street Property are collectively referred to as the "Subject Properties". At the time of the meeting, you advised me that your client was the contract purchaser of the Subject Properties, but the client has since become the owner of the Subject Properties.

You informed me that your client is also the owner of the property known as Lots 850 and 851 in Square 672, which are highlighted in green on the attached plat. Lots 850 and 851 are part of Record Lot 257, which is outlined in blue on the attached plat and for which a single building is contemplated pursuant to the Zoning Administrator Reliance Letter dated March 24, 2009 ("March Reliance Letter"), a copy of which is attached. Phase I of the Capitol Plaza building was constructed in or around 2009 and is located on Lot 849 within Record Lot 257. Phases II and III of the Capitol Plaza building are planned to be located on Lots 850 and 851, with Phase II being developed on the east side of the combined site adjacent to Lot 849 and Phase III being developed on the west side of the combined site.

The Subject Properties and Record Lot 257 are zoned C-3-C and are located within the North Capitol Receiving Zone for transferable development rights ("TDRs"). The Subject Properties are located to the west of Record Lot 257. You requested that I review whether the Subject Properties can be combined into a single lot with Record Lot 257 and asked that I respond to specific questions relating to expanding the single building to be known as Capitol Plaza. For purposes of this letter, the Patterson Street Property and the M Street Property are anticipated to be constructed together as Phase IV of the Capitol Plaza Building.

In our meeting, we discussed the following items.

- Subdivision for Single Lot of Record: In order to create a single building, you must subdivide the Subject Properties into a single lot of record with Record Lot 257. Assuming that a subdivision plat is drafted by the DC Surveyor's Office and is processed and approved by the required agencies, the Zoning Administrator's office will approve such a subdivision for zoning purposes.
- Measuring Point for Building Height: Because the single building will front on three streets, height may be measured from the street elevation which allows the greatest height. The width of 1<sup>st</sup> Street (110 feet) is used to determine the maximum permitted height, which is 130 feet under the TDR Receiving Zone. According to the March Reliance Letter, Phase I measured its height from the level of the curb opposite the middle of the front of the building on Patterson Street. As the subsequent phases are constructed, including the Phases II and III on Lots 850 and 851 and Phase IV on the Subject Properties, the middle of the building and the point of measurement for height will move further to the west on Patterson Street, which slopes up as it goes to the west. The middle of the front of the building of the currently constructed Phase I of the Capitol Plaza building is at elevation 48.09. The middle of the front of the building when Phases II and III of Capitol Plaza are added will be at elevation 50.98. Upon construction of Phase IV, 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 advised me that there will be in place a covenant allocating development rights among the four phases and committing the owners to maintain the building as a single building under the Zoning Regulations. Accordingly, given the facts stated above, you may measure the heights of all four phases from the ultimate measuring point which will result when all the phases are considered, which 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.
- 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. In the March Reliance Letter, the connection for Phase I and Phase II of Capitol Plaza was specifically identified and approved. The proposed connections for Phases III and IV have not yet been determined. 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.
- Alternate Phase Plan: You advised me that your client is considering an alternative phasing plan to develop Phase III or Phase IV in advance of Phase II. In the event that Phase III or

Phase IV is constructed before Phase II, you have indicated that a breezeway supported by columns and having a roof that is at least 51 percent solid would be constructed across a portion of the Phase II property, and Phase III property if applicable, to connect the new portion of the project to the existing Phase I structure.

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 breezeway is supported by columns or walls and has a roof that is at least 51 percent solid and that the breezeway leads to and from a door opening into a common area of the building at each end, the breezeway across a portion of the Phase II and Phase III property will be sufficient to create a single building until such time as Phase II and Phase III are constructed.

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

Attachments