

April 22, 2024

Via Emailed PDF

Mr. Armstrong Kassa
SGA Cos, LLC
7508 Wisconsin Avenue, 4th Floor
Bethesda, MD 20814
Email: armstrong@sgacos.com

Re: 1514 - 1516 East Capitol Street NE -- Square 1070, Lot (under subdivision review to merge lots 087 & 088) (the "Project")

Dear Mr. Kassa,

This letter is in reference to the Preliminary Design Review Meeting [PDRM] discussion you had with my staff at the virtual meeting on 03/05/2024 regarding your client's intended residential development at the Property (the "**Project**").

The **Property** is located currently in Lot 087 & 088 in Square 1070. A Subdivision application has been submitted to the Office of the Surveyor to merge the above referenced lots into one. Square 1070 is bounded by A Street NE to the North, 15th Street NE to the west, East Capitol Street to the south and 16th Street NE to the east. Lots 087 & 088 have a total combined land area of 4,447 square feet. The Property is located in the MU-4 Zone District. The purpose of the MU-4 zone is to promote moderate-density mixed-use developments.

The Property is a regularly shaped corner lot that has street frontage on East Capitol Street NE, abuts Public Alleys to the North and East, and an apartment house to the West. Currently, the subject property consists of two existing vacant residential row buildings that are to be razed after issuance of a Raze Permit by the Department of Buildings.

The subject property is otherwise characterized by an almost flat topography with a maximum elevation change of approximately one and one-half feet (1.5 ft.) from its north to its south lot lines.

As represented in the revised conceptual plans attached as Exhibit "A" (Preliminary Architectural Plans_2024-04-11), the **Project** proposes a new residential building containing nineteen (19) dwelling units. Residential uses are permitted as a matter of right in the MU-4 zone. *See*, Subtitle U § 512.1.

In summary, I have determined the following:

The Project on the Property complies with the Noted Zoning Regulations

Height

Pursuant to Subtitle G § 703.2, the maximum permitted building height in the MU-4 zone is fifty (50) feet. In accordance with Subtitle B § 307.1, the height for the proposed building shall be established at the level of the curb, opposite the middle of the front of the building, and be measured by the vertical distance from the BHMP to the highest point of the roof or parapet; in this case, the BHMP is at the curb level on East Capitol Street NE, currently at Elevation 78.4 feet, as shown on Sheet SK-0 of Exhibit “A”. Additionally, pursuant to Subtitle C § 1501.3, “Architectural embellishments consisting of spires, tower, domes, minarets, and pinnacles may be erected to a greater height than any limited prescribed by these regulations or the Height Act...”

As shown on Sheet SK-8, the Project proposes a building height of 47.83 feet to the top of the roof. The building will have four stories and a habitable penthouse, over a cellar level. Therefore, the proposed Project complies with the height requirement.

Penthouse Height

Subtitle G § 205 states that the “maximum permitted height of a penthouse, except as limited by Subtitle C § 1501, shall be twelve feet (12 ft.), except fifteen feet (15 ft.) for penthouse mechanical space . . .” The penthouse may contain one story of habitable space, with a second story permitted for mechanical space.

As shown on page SK-11 of the attached Exhibit “A”, the Project proposes habitable penthouse space that is 11.75 feet in height. I find that the penthouse height complies with the penthouse requirements of the Zoning Regulations, as well as the Height Act.

Penthouse Setback

Pursuant to Subtitle C § 1504.1(a) and (b), “a penthouse or rooftop structure shall be set back from the edge of the roof upon which it is located...” a distance equal to its height from the front and rear building walls.

Pursuant to Subtitle C § 1504.1(c), “a penthouses or rooftop structure shall be set back from the edge of the roof upon which it is located...” a distance equal to its height from the side building wall if, among others, the side building wall faces a public or private street or alley right-of-way, or a public park.

As depicted on Sheet SK-10 of Exhibit “A”, the penthouse is setback 12 feet from the side building wall that is facing a 15-foot-wide public alley. No penthouse side setback is provided along the shared lot line against the adjoining property to the West. As shown on Sheet SK-11 of Exhibit “A”, the penthouse is setback 12 feet from the front and rear building walls. Therefore, the Project has penthouse setbacks that satisfy the above cited regulations.

Floor Area Ratio (FAR)

Under Subtitle G § 402.1, the maximum permitted FAR for a building located in the MU-4 zone is 2.5, which can be increased to 3.0 with Inclusionary Zoning. As discussed below, this Project incorporates Inclusionary Zoning [IZ]. The Property has a total land area of 4,447 square feet. The Project proposes a maximum of 13,341 square feet of gross floor area, which constitutes a FAR of 3.0. Therefore, the FAR complies with the requirement for the MU-4 zone.

The building areas calculated do not include architectural projections extending 2’-0” or less from the building face when the usable floor areas are not extended into those projections. These types of projections are considered similar to cornices & eaves permitted per Subtitle B, § 323. A two (2) foot cornice projection facing the rear yard, which falls within the purview of Zoning, does not encroach into the required 15-foot rear-yard setback and, as such, the proposed projection complies with the aforementioned code section.

All projections beyond lot lines and into the Public Space are not subject to the Zoning Regulations. Encroachments and projections into the Public Right-of-Way require compliance with all applicable requirements set forth in the DC Construction Code and the DC Department of Transportation (DDOT) Public Space regulations.

Lot Occupancy

Subtitle G § 404.1 establishes a maximum lot occupancy of 75% for a residential use in the MU-4 Zone for an IZ development. Lot occupancy is the “percentage of the total area of a lot that is occupied by the total building area of all buildings and structures on the lot.”

The attached proposed plans show a maximum Project size of 3,335.25 square feet of land area, which represents a lot occupancy of 75%, which is compliant.

Rear Yard

Pursuant to Subtitle G § 405.2 a property in the MU-4 zone must provide a rear yard of a minimum of fifteen (15) feet. As calculated pursuant to Subtitle B § 317, the Project provides a rear yard of 31.41’, which exceeds with this requirement.

Cellar

The Zoning Regulations define a cellar as the “portion of a story partly below grade where the finished floor of the ground floor is less than five feet (5 ft) above the adjacent natural or finished grade, whichever is the lower elevation”. As depicted on Sheet SK-9 of Exhibit “A”, the finished floor of the ground floor is 4.45’ above adjacent natural grade. Additionally, it has long been the practice of this office to permit dwelling units in a cellar, as long as such units are not designated as IZ dwelling units.

Vehicle Parking

Under Subtitle C § 701.5, a residential, multiple dwelling development must provide one (1) parking space per three (3) dwelling units in excess of four (4) units. In the MU-4 zone, the parking requirement may be reduced by 50% if the site is located “within one-half mile (0.5 mi.) of a Metrorail station that is currently in operation . . .” See Subtitle C § 702.1(a).

As represented in the attached plans, the Project proposes 19 dwelling units, which would normally require 5 parking spaces for residential use. This requirement can be reduced by 50% because the Project is located within one-half mile of the Stadium Armory Metrorail Station. Accordingly, the Project must provide a minimum of 3 off-street parking spaces for the proposed development, and the Project proposes 3 off-street parking spaces, one of which is an accessible van parking space, as shown on Sheet SK-2.

Bicycle Parking

Pursuant to Subtitle C § 802.1, residential apartments require one long term bicycle parking space for every three dwelling units and one short-term bicycle parking space for every 20 dwelling units.

The Project proposes 19 units and, accordingly, is required to provide a minimum of 6 long-term bicycle parking spaces and one short-term bicycle parking space.

The Project provides 6 long-term bicycle parking spaces at the cellar level and one short-term bicycle parking on public spaces as shown on Sheet SK-1. Therefore, the Project will provide the necessary bike spaces on site, and thus complies with the bicycle parking requirement.

Loading

Pursuant to Subtitle C § 901.1, a loading berth and a service/delivery area is required for residential developments with more than 50 dwelling units. The proposed development consists only of 19 dwelling units. Therefore, a loading requirement does not apply to this project.

Driveway and access to parking areas

Pursuant to Subtitle C § 711.3, all required parking spaces shall be accessible at all times from a driveway accessing either an improved street or an improved alley or alley system with a minimum width of ten feet. As depicted on Sheet SK-0 of Exhibit “A”, the proposed parking area is to be accessed from an existing 30’ wide public alley at the rear.

Green Area Ratio (GAR)

Under Subtitle G § 407.1, the GAR requirement in the MU-4 zone is 0.30. The Project will satisfy the GAR through the provision of a green roof and permeable paving.

Inclusionary Zoning

Subtitle C § 1001.2(b) states that a development will be subject to IZ requirements when the project proposes new gross floor area that results in ten (10) or more dwelling units. Here, the Project proposes 19 dwelling units and, therefore, will be required to comply with IZ.

Pursuant to Subtitle C § 1003.1, the IZ set-aside requirement for a project that does not use steel would be 10% of the gross floor area dedicated to residential use, including penthouse habitable space, or 75% of the achievable bonus density, whichever is greater. If the building does use steel, then the IZ set aside is reduced to the greater of 8% of the gross floor area dedicated to residential use, including penthouse habitable space or 50% of the achievable bonus density.

An amendment to the IZ regulations has been adopted by the Zoning Commission as case number 04-33G. This amendment calls for, among other things, changes to the IZ set asides. Under the amendment, if a building does not employ Type I construction, as that term is defined in the Construction Code, then the IZ set aside is 10% of the Project’s GFA dedicated to residential use or 75% of achievable bonus density plus area equal to 10% of penthouse habitable space.

The Project, which will not employ Type I construction, has approximately 13,341 sq.ft. of gross floor area dedicated to residential use. Furthermore, the development is exclusively ownership unit and will devote all IZ units to 80% of MFI. With a 0.71 ratio gross to net residential area for IZ, the minimum required IZ net floor area for this development is 1,207 sq.ft. Pursuant to DCMR 14 § 2202.4(f), the size of each inclusionary unit must be at least 98% of the average size of the same type of market rate unit in the development or must meet at least 98% of the

minimum unit sizes as shown on table below which is derived from the aforementioned municipal regulations (DCMR14).

Types of Dwelling	Type of Unit	Minimum Unit Size (square feet)
Multiple Family Dwelling	Studio/ Efficiency	400
	One Bedroom	550
	Two Bedroom	800
	Three Bedroom	1000
	Four Bedroom	1050
One or Two Household Dwellings	Two Bedroom	1000
	Three Bedroom	1200
	Four Bedroom	1400

As depicted on Sheet CS-1 of Exhibit “A, the average 1-bedroom unit in proposed development is 488.47 sf (with 98% of that average being 479 sf). The average 2-bedroom unit in proposed development is 767.27 sf (with 98% of that average being 752 sf). The current exhibits indicate that the Inclusionary Zoning requirement will be satisfied via the provision of one 1-bedroom dwelling unit at the 2nd floor and one 2-bedroom dwelling unit at the first floor.

- Unit #10, a 1-bedroom unit with 524 sf of net floor area.
- Unit #6, a 2-bedroom unit with 807.86 sf of net floor area.

Based on the above and as depicted in Exhibit “A”, the Project will set aside the requisite amount of net floor area [a total of 1,331,86 sq. ft. proposed] to comply with the IZ zoning requirements.

Conclusion

Based on the discussion at the PDRM meeting, and the review of the revised Preliminary Architectural Plans attached herein as Exhibit “A”, it is my determination that the proposed project may be constructed as a matter-of-right, provided that the project plans, at the time of filing for a building permit, do not substantially deviate from the preliminary plans, except for interior reconfiguration and projections beyond lot lines as may be dictated by the demand of other applicable District of Columbia Regulations.

Accordingly, when the building permit application for the Project is filed, my office will approve drawings that are consistent with the plans attached to this letter as Exhibit “A”.

Please let me know if you have any further questions.

Sincerely,

Kathleen A. Beeton

Kathleen A. Beeton, AICP
Zoning Administrator

Attachments: -Exhibit "A": Preliminary Architectural Plans dated 4-11-24
-Plat dated 1-25-24

Reviewer: Kwasi Cook

File: Det Let re 1514-1516 East Capitol St NE to Kassa 4-22-24

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 DOB 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 DOB.

