



September 7, 2023

Via Emailed PDF

Christine Roddy, Esq.
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Re: 4885 MacArthur Blvd (Square 1389, Lot 29) (“Property”): Confirmation of Parking Requirement Applicable to the Property

Dear Ms. Roddy:

This letter confirms, as we discussed at our meeting of August 31, 2023, that the applicable parking requirement for the repurposing of the Property, would be considered under ZR16, for the reasons stated below.

Substantial Modifications to the Ground Floor

You noted that the renovations to the ground floor require substantial structural modifications to support the three levels of residential above. These modifications require numerous new steel posts, strengthening of columns and the existing foundation, reinforcement of the existing concrete slab, and construction of a new elevator pit. Attached is a letter outlining the extent of construction on the ground floor from FMC Structural Design Group, LLC, the structural engineer designing the structural plans for the Project. Attached also are plans for the structural modifications being made to the ground floor.

Section A-102.7 states that “*an approved amendment to a vested project that includes a physical building or structural addition shall be subject to the regulations in effect at the time of issuance of a building permit.*” The building permit for the Project will apply to the building as a whole. The Project would not be feasible without these substantial structural changes being made to the ground floor. This vertical addition differs from other horizontal additions that may require only minimal if any interference with an existing structure. Here, the ground floor, although not technically being razed, is undergoing substantial alteration.

Based on the above, I confirm that the Project in its entirety is subject to the 2016 Zoning Regulations.

BZA Authority to Grant Relief from ZR58

Application of ZR58 to only the ground floor retail also raises the procedural issue that the BZA is not authorized to grant relief under the 1958 Zoning Regulations. *See* BZA Order No. 19955 (excerpted below).

*The Applicant undertook construction of the new development pursuant to a permit approved under the 1958 Zoning Regulations. The building was designed to satisfy the loading requirements in effect at the time of permitting. Subsequently, the 1958 Zoning Regulations were repealed and replaced with the 2016 Zoning Regulations.² The 1958 Zoning Regulations remain in full force and effect with respect to any construction or occupancy authorized under the Zoning Regulations. (Subtitle A § 100.4.) **However, an application to the Board for a modification (other than a minor modification) to a project vested under the 1958 Zoning Regulations must conform with the 2016 Zoning Regulations as the 2016 Regulations apply to the requested modification. (Subtitle A § 102.4.) The Board therefore cannot consider a request for a special exception under § 2204.13 of the 1958 Zoning Regulations as requested by the Applicant.***

The Board is not authorized to grant relief from parking spaces if required by ZR58. Instead, you would be seeking relief pursuant to Section C-701.10 under ZR16, which provides that “The number of *required parking spaces* shall not be reduced below the minimum required as long as the use that generated that requirement remains in existence”; however, the number of “required” spaces referenced in the section is based on ZR58. There is no mechanism to seek approval for the reduction of those spaces given that the Board does not have jurisdiction over relief under ZR58.

Modification to a Vested Project

Section A-102.4 states that “an application to the Board of Zoning Adjustment or the Zoning Commission for a modification (other than a minor modification) to a vested project shall conform with the 2016 Regulations as the 2016 Regulations apply to the requested modification.” A “Vested Project” is defined as “an application for a building permit that has been officially accepted by the Department of Consumer and Regulatory Affairs [*now the Department of Buildings*] as being complete prior to the effective date of this title, if the building permit plans are consistent with the 1958 Regulations, shall be considered a vested project.” 11-A DCMR § 102.2.

The existing building is a vested project as it was constructed pursuant to a permit issued under ZR58. The proposed project will modify the ground floor and the existing parking area. **Accordingly, this modification to the vested project is subject to the 2016 Zoning Regulations.**

Please let me know if you have any further questions.

Sincerely, Matthew Le Grant
Matthew Le Grant
Zoning Administrator

Attachments: Foundation Strengthening Locations Diagram
Support Letter

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.

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