

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

December 10, 2014

Kyrus L. Freeman
Holland & Knight LLP
800 17th Street, N.W.- Suite 1100
Washington, D.C. 20006



Re: Square 304, Lots 27, 30, and 31

Dear Mr. Freeman:

The purpose of this letter is to confirm the substance of our discussion on November 14, 2014 regarding Lots 27, 30, and 31 in Square 304 (collectively the "Property"). You indicated that Lots 30 and 31 are currently improved with a two-story building constructed prior to 1958, which serves as a branch of Industrial Bank. Lot 27 is currently improved with a vacant building which you indicated your client intends to raze demolish and develop into a multifamily dwelling building. You also indicated that the proposed development on Lot 27 would include more than 10 residential units, and thus would be subject to the Inclusionary Zoning requirements. The Property is zoned ARTS/CR. Square 304 is bounded by V Street to the north, 11th Street to the east, U Street to the south, and 12th Street to the west. During our meeting, I made the following determinations regarding your client's proposed development on Lot 27.

Building Height - Section 1902.2 of the Zoning Regulations provides that in the underlying CR District, if a building is located on a lot that abuts a street, an alley, or a zone district boundary with a Residence District, no part of the building shall project above a plane drawn at a 45 degree angle from a line located 65 feet directly above the property line on each such street, alley, or zone district boundary line.

Based upon a review of approved Board of Zoning Adjustment and Zoning Commission cases granting relief from §1909.1(d) (*See eg.*, Z.C. Order No. 12-20; BZA Order No. 18632), as well as the height and design of other existing buildings located in the ARTS/CR District, such as the building located at 2020 12th Street, N.W., I confirmed that the phrase "or a zone district boundary with a Residence District" modifies the words "street" and "alley". Accordingly, the Property is not subject to the setback requirement of §1902.2 since the Property does not abut a zone district boundary with a Residence District. Rather, the abutting properties are zoned ARTS/CR to the north, ARTS/C-2-B to the east, ARTS/C-2-A to the south, and ARTS/CR to the west. Thus, for zoning purposes, the Property can be developed to include a building with a maximum height of 100 feet without providing any building setbacks above 65 feet.

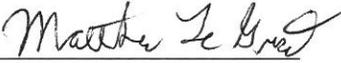
Floor Area Ratio - The CR District permits a maximum of 6.0 FAR pursuant to §631.1. The inclusionary zoning regulations (§2604.1), which apply to any new development of ten units or more, authorize an increase in density of 20 percent, which would make the allowable FAR 7.2, subject to compliance with the IZ requirements. The IZ regulations for the ARTS Overlay (§1904.1(c)) further provide that "No property subject to Chapter 26, Inclusionary Zoning, shall be eligible for bonus gross floor area unless it has met the set-aside requirements of § 2603 and used all the bonus density of available through § 2604."

The ARTS Overlay District (Chapter 19 of the Regulations) also authorizes extra density for providing certain preferred uses. A project that includes at least 3.0 FAR devoted to residential use is entitled to a bonus FAR of 0.5 (§1904.3).

Reading all those provisions together, I conclude that the permitted density for a site zoned ARTS/CR which provides at least 3.0 FAR of residential use and meets the IZ requirements is 7.7 FAR (6.0 base FAR + 20% IZ bonus FAR + 0.5 ARTS residential bonus FAR). It is further my view that §1904.1(b) and §1909.1(d) do not limit the overall density in this situation to 7.2 FAR, since: (1) §1904.1, which is qualified and limited by §1904.1(b), refers to a limit on FAR for bonus density under §1904.2 and the bonus density which we discussed is specified in §1904.3, and (2) §1909.2, which modifies Section 1909.1(d), specifically acknowledges that additional bonus density can be achieved through other bonus density provisions of the Chapter 19. This determination is consistent with other determinations regarding the maximum FAR for properties in the ARTS Overlay subject to the IZ regulations.

Projections Over Southern Lot Line into Private Property - You indicated that your client intends to develop a multifamily dwelling building on Lot 27, and that the proposed building will include projections over the lot line separating Lot 27 from Lots 30 and 31. Specifically, the proposed building will include either balconies located on the southern façade of the proposed building that will project over the existing Industrial Bank building on Lots 30 and 31, or a portion of the proposed building measuring approximately 20 feet and rising to the permitted maximum building height of 100 feet will project over the existing Industrial Bank building. An illustration, dated November 25, 2014, showing the potential projections is attached. I confirmed during our meeting that the Zoning Regulations do not include any provisions that prohibit your client from designing its proposed building to include either the balcony projections or the building projection over the Industrial Bank building. I also confirmed that any gross floor area generated by balconies exceeding permitted projection allowances, or by gross floor area included in the building projection, would be charged against the permissible gross floor area/FAR permitted on Lots 30 and 31.¹ My determination in this matter is only with respect to compliance with the Zoning Regulations as discussed above. Any projections will have to be approved by the owner of Lots 30 and 31, and you will also have to comply with all other applicable District codes and ordinances.

Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachment- Projection Scenario Illustration

File: Det Let re SSL 304 27,30,31 to Freeman 12-10-14

¹ Pursuant to the definition of "gross floor area" in Section 199 of the Zoning Regulations, the term "gross floor area" does not include outside balconies that do not exceed a projection of 6 feet beyond the exterior walls of a building. Any portion of a balcony that exceeds 6 feet beyond the exterior walls of a building is included in gross floor area. Thus, for example, for a building that includes an 8 foot balcony projection(s) into private space, the first 6 feet of the balcony projection(s) are not included in gross floor area whereas the remaining 2 feet of the balcony projection(s) are included in gross floor area.