

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



May 30, 2014

Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006

Re: 6104 New Hampshire Avenue, N.W.

Dear Mr. Sher:

This is to follow-up on our discussion on Wednesday, February 12, 2014, also including John Dapogny of Comstock Homebuilding Companies, concerning the above-referenced property. That property is part of a large site known as 6000 New Hampshire Avenue which is being developed with a new residential development. The particular portion of that property which we discussed consists of Lot 45 in Square 3719.

The larger site is subject to a planned unit development approval by the Zoning Commission granted in Case No. 05-30. Portions of the site have already been constructed. The PUD approved a maximum of 169 dwelling units, including 38 single-family dwellings, 73 townhomes, and 58 condominium apartments. The plans approved by the Commission included a site plan, unit plans, landscaping plans and computations for the various buildings to be constructed.

Lot 45, also identified as Lot AE on the plan showing the theoretical zoning lots, was proposed to be improved with a detached single-family dwelling. The plans approved by the Zoning Commission showed that the lot was to be part of a land exchange with the owner of the adjoining lot along New Hampshire Avenue, known as Lot 23 in Square 3719. See Exhibit 89 from the record of Case No. 05-30, attached. That land exchange would have squared off the two lots for the benefit of both.

You advised that Comstock has been unable to reach an agreement with the owner of Lot 23 to effect the land exchange and reconfigure the two lots. Comstock is therefore proposing to build a single family dwelling on the existing Lot 45 as configured without the proposed land exchange and devote the parcel that would have been conveyed to the owner of Lot 23 to community open space. The configuration of the buildable portion of Lot 45 is shown on the plat prepared by Dewberry, dated 4/8/14, a copy of which is attached. The parcel that would have been conveyed to the owner of Lot 23 is Assessment and Taxation Lot 891, which will be owned by the development's homeowners' association.

Because of the angle of the property line, Lot 45 becomes essentially a rectangle with the front corner cut off. Development computations have been prepared showing the development as approved and as now proposed. A copy of the computations is also attached. The differences highlighted by the comparison are as follows:

	Approved	Proposed
Lot area	3,970 sf	3,793 sf
Gross floor area	3,274 sf	3,152 sf
FAR	0.82	0.83
Lot occupancy	38%	37%
Front setback	8 feet	19.2 feet
Side yards	8 feet and 1.48 feet	8 feet, 5 feet and 1.48 feet
Rear yard	27.29 feet	22.3 feet
Parking spaces	2	2
Height	30.21 feet	30.21 feet

Pursuant to §2409.6, the Zoning Regulations give the Zoning Administrator flexibility to approve certain minor modifications, including changes to height, lot occupancy, gross floor area and other components of a PUD approval. Specifically, ¶(d) allows for "the relocation of any building within five feet of its approved location, in order to retain flexibility of design, or for reasons of unforeseen subsoil conditions or adverse topography."

As set forth above, there is no change to the height; the lot area, gross floor area and percentage of lot occupancy are all less than and within the ranges approved by the Commission; and the number of parking spaces remains unchanged. The overall PUD numbers are affected by miniscule amounts. The front and side setbacks are either unchanged or increased. The depth of the rear yard is reduced from 27.29 feet to 22.3 feet but the relocation of the building is within the five foot flexibility allowed and the rear yard still exceeds the 20 foot minimum required for an R-5-A District.

I conclude that all of the changes described above are minor modifications which are minimal deviations from the approved plans. All achieve the flexibility of design provided to the Zoning Administrator to approve minor modifications under the Regulations. Accordingly, I conclude that construction as you have proposed above would be consistent with the overall PUD approval.

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

Sincerely, 
Matthew Le Grant
Zoning Administrator