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March 23, 2023

Via E-mail

Ms. Tanya Marione, Acting Zoning Officer
Office of Zoning
City of Jersey City, City Hall Annex
1 Jackson Square a/k/a 360 MLK Drive
Jersey City, NJ 07305-3717

Re: 152 Ogden Avenue, Jersey City, New Jersey
Block 5103, Lot 10
Palisades Preservation Overlay District (“PPOD”) Interpretation

Dear Ms. Marione:

Please be advised this firm represents Pintak Development LLC (the “Applicant”). The Applicant has filed an application for Preliminary and Final Major Site Plan approval with regard to the property located at 152 Ogden Avenue, Jersey City, New Jersey, also known as Block 5103, Lot 10 on the Official Tax Map of the City of Jersey City (the “Property”). The Property is located within the R-3 Multi-Family Mid Rise Residential zoning district and the Palisades Protection Overlay District (“PPOD”), and is subject to the requirements of the Jersey City Land Development Ordinance (the “JC LDO”).

The Property is an irregularly shaped lot of approximately 39,384 sq. ft. in side. An approximately 70’ by 200’ area is occupied by a parking lot and is currently vacant. Applicant is proposing to construct a new eight (8) story residential building on the existing parking lot area containing fourteen (14) dwelling units and fourteen (14) new parking spaces (the “Project”). Please find enclosed the Project architectural site plans prepared by MVMK Architecture and the civil site plans prepared by Dresdner Robin for your review.

Inasmuch as the Property is also located within the PPOD District, we are seeking an interpretation as to the setbacks that are required pursuant to the PPOD regulations. The required PPOD setbacks are found in the Jersey City Land Development Ordinance (“JC LDO”), Section

345-59.1.C, and provide as follows:

C. Performance Standards.

1. The minimum building setback line from the edge of the cliff face at the top of the cliff shall be thirty (30) feet. The minimum building setback line from the edge of the cliff face at the base of the cliff shall be sixty-five (65) feet.
2. For purposes of preservation of the Palisades cliff face, no portion of any building or structure shall be constructed on that portion of a lot which has a grade, prior to such construction, in excess of thirty percent (30%), or on any portion of the lot, which lies within ten (10) feet of the portion having such grade.
3. No portion of a building built below the Palisades within the PPOD and within four hundred fifty (450) feet of the cliff face, including all bulkheads, parapets and penthouses, shall extend into the area occupied by the top twenty-five percent (25%) of the distance between the top of cliff and the lowest portion of existing grade of a development site. **(This Section is not applicable to this project)**

The relevant definitions related to the PPOD are found in Section 345-6 of the JC LDO, and are as follows:

CLIFF FACE — A sheer, nearly vertical slope of exposed bedrock.

TOP OF CLIFF — The portion of a hill located above the cliff face, overlain with regolith, generally the plateau or hill crest.

STEEP SLOPE — Shall be defined as an area in which the change in elevation is in excess of thirty percent (30%).

It is submitted that only two of the three required two setbacks requirements listed are relevant to this proposed Project (C.1 and 2), and C.3 is not relevant as that setback applies to developments at the base (bottom) of a cliff. Accordingly, consistent with the regulations and definitions set forth above, it is our interpretation that the Project requires that it be 1) set back thirty (30) feet or more from the edge of the “cliff face”; and 2) set back ten (10) feet or more from any portion of a lot that has a grade in excess of thirty percent (30%) (also defined as the “steep slope” as noted above). The question and/or interpretation being requested is as to where these required setbacks start.

In that regard, it is submitted that the required 30-foot setback from the edge of the “cliff face” is pretty clear as it should start at the “edge” of the “cliff face,” which is also clearly defined

in the JC LDO as a “sheer, nearly vertical slope of the exposed bedrock.” Accordingly, the query is where is the location of the sheer, nearly vertical slope that is on this lot or directly adjacent lot. The civil engineering plans enclosed with this letter prepared by Dresdner Robin, demonstrate on Sheet C-811 that the edge of the cliff face starts at a point where the slope starts to exceed sixty percent (60%). As set forth on Sheet C-811, the Project building is setback 78’4” from the edge of the cliff face. Accordingly, it is submitted that the proposed setback from the edge of the cliff face in this instance is compliant with the setback requirements of the PPOD from the edge of the cliff face.

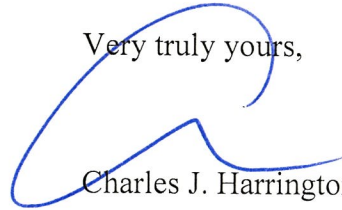
It is noted that there is no further setback requirement that is expanded and required to be measured from the “top of the cliff.” The 30 foot required setback is simply measured from the “edge of the cliff face.” The reference to the “top of the cliff” serves to clarify that there is an edge of the cliff “at the top of the cliff”, and as further noted in the next sentence, that there is an “edge of the cliff face” at the “base of the cliff.” This qualifying language simply distinguishes the respective setback requirements (30’ and 450’), which are substantially different, at the two locations of the edge of the cliff face. Moreover, the definition in the JC LDO of “top of cliff” further supports and clarifies that the “top of cliff” and the “edge of the cliff face” are separate and distinct areas. Indeed, the definition of “top of cliff” states that it is “the portion of a hill located above the cliff face”, so the “top of cliff” cannot be part of the cliff face when it is defined as being above the cliff face. The point being that there is no additional, or separate and apart, setback from the “top of cliff.” In short, the “top of cliff” is the land area located in from the edge of cliff face, and conceivably could be defined as the entire lot.

Further reasoning in support of the foregoing is that the additional setback requirement is that the building or structure must provide a minimum ten (10) foot setback from those areas with grades in excess of thirty percent (30%). This is a distinct and separate setback requirement, and these areas, which are defined as the “steep slope” areas, are a part of the top of the cliff area. Clearly, it is the 30% or more grade of the land area that triggers the additional ten (10) foot setback requirement when the building is further than thirty (30) feet from the cliff face, and not simply the land area being part of the top of the cliff. In short, when viewed together, the additional ten (10) foot setback requirement from the 30% or more grades acts to extend the minimum thirty (30) foot setback from the cliff, but the thirty (30) foot setback requirement from the edge of the cliff face is from a definitive location (the sheer, nearly vertical slope of the exposed bedrock), and this definitive location does not move in from the edge with changing grades. Any interpretation that there is an additional setback requirement from the “top of cliff” would result in conflicting and incongruous setback requirements.

Based on the foregoing, it is submitted that the proposed setbacks for this Project, as set forth in the enclosed plans, are compliant with the PPOD setback requirements, and the identity of the steep slope areas and the edge of the cliff face shown on Sheet C-811 are accurate and consistent with the definitions in the JC LDO.

Upon your review, please advise if you have any questions or comments, and if you concur with the Applicant's analysis set forth herein. The fee for this interpretation will be paid on the portal separately and proof of payment will be submitted accordingly. Thank you.

Very truly yours,



Charles J. Harrington, III

CJH
Encl.
cc.: Maryam Yaghoubi, AICP, PP



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