

Joseph Adkins, AICP  
Deputy Director



Michael C. O'Connor  
Mayor

# FREDERICK

## PLANNING

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February 27, 2023

Julie Morrow  
1300 S Meridian Ave Suite 400  
Oklahoma City, OK  
73108

**Re:** PZ-23-00126: 213-215 N. Market Street

Dear Ms. Morrow:

I am responding to your formal request, dated February 3<sup>rd</sup>, 2023, for a Zoning Determination for the property at 213-215 N. Market Street (Tax ID# 1102042401) in the City of Frederick (the "Property"), located approximately 115 feet north of the intersection of N. Market Street and E. 2nd Street, on the west side of N. Market Street. The request made by the applicant focused on 213 N. Market Street and 215 N. Market Street, which occupy the same structure: 213 N. Market Street consists of a ground-floor level retail business on the Property currently occupied by "Retro Metro"; and 215 N. Market Street is a multi-family dwelling on the Property. There are residential apartments that are accessed through the multi-family private entrance on the right side of the Property's frontage on N. Market Street, addressed as 215 N. Market Street. This entrance provides internal access via a staircase to the apartments above 213 N. Market Street, as well as access to ground level apartments addressed as 215 N. Market Street. To the rear of the Property, there is a structural addition connected to the Property, but it is not addressed in our land records and fronts on an internal parking courtyard that is accessed off of W. 3rd Street. This connected accessory structure contains residential dwellings that are addressed as 215 N. Market Street.

The Property is zoned Downtown Commercial/Residential (DB). Per §401, Table 401-1, the "Zoning Districts and Purpose Statements" of the City of Frederick's Land Management Code (LMC), the DB zoning district is intended to encourage the development of the Center City's commercial areas. It allows most office and retail activities as well as high density residential uses. To encourage the implementation of this objective, certain parking requirements are relaxed for development or

redevelopment in this district. The Property is also designated with a Historic Preservation Overlay (HPO). The HPO designation is meant to designate boundaries for sites, structures, or districts which are deemed to be of historic, archeological, or architectural significance. Development within the HPO is regulated by §423 of the LMC and the Historic District Design Guidelines. The Property is currently being used for mixed-use purposes with both commercial retail activity on the first floor and residential uses in the remainder of Property. Per the Per §404, Table 404-1, "Use Matrix," of the LMC, "Multi-Family" dwelling units and "Novelties, Souvenirs, Gifts" retail are both permitted "by-right" in the DB zoning district. The Property is bordered on all sides by the DB zoning district. The future land use map, as part of the 2020 Comprehensive Plan of the City of Frederick which went into effect on October 1, 2021, indicates that the Property is designated as "Downtown Mixed Use." The Property is subject to Articles 4, 5, 6, and 7 of the LMC.

The primary structure was built in 1850, according to the Maryland State Department of Assessments & Taxation records, prior to the adoption of the LMC in 2005. The site would have been constructed prior to records of municipal land use controls for the City. Due to City Practices regarding historic record retention, and the time elapsed (173 years) since the construction of the principal structure of the Property, we do not have copies of the entitlement records you have requested. The Property was not subject to a site plan approval process. We do not have records of Certificates of Occupancy, of which the lack of records does not rise to the level of requiring enforcement action. There are no variances or special permits that apply to the Property. There are no current zoning, building, or fire code violations on record that affect the Property.

Lastly, a complete site inspection of the Property was not conducted as part of this evaluation and therefore, Staff cannot confirm compliance with all applicable standards of the LMC. The historic land use patterns of the urban core of the City of Frederick date back over a hundred years. As a result, the evolution of the City's land use controls changed over time, but historic downtown properties, such as the Property, exhibit structural non-conformity that do not comply to the land use standards of the LMC. In the case of the Property, it is a non-conforming structure in terms of an inadequate rear setback.

Finally, any structure that is nonconforming is subject to §902, which may also be continued as long as it remains otherwise lawful and that no modifications are made that increase its nonconformity or make it less suitable for a permitted use in the district. In addition, per §902(b) any building within the DR, DBO, or DB districts that is destroyed, damaged, or deteriorated may be reconstructed and restored in kind to its original appearance and site location. The Historic Preservation Commission shall confirm in kind reconstruction or restoration of structures within the HPO. Within the Carroll Creek Overlay district, any structure existing at August 15, 2005, which is damaged or destroyed, may only be rebuilt to the height of the previously existing structure. Provided the use of the property does not change, no site plan shall be required for the reconstruction. Per §902(c), in the DB, DBO or DR districts, any structure existing on August 15, 2005, which is destroyed to any extent by fire or other incident, may be

reconstructed, but not necessarily in kind, to reflect the original bulk and architecture regardless of yard requirements specified for these districts. If reconstruction is not to the original appearance, reconstruction shall be subject to requirements of Section 309 (site plan) and Historic Preservation Commission review and approval if in the HPO. Per §902(d), in the event of nonconforming structures, buildings that are destroyed, damaged, or deteriorated by any means to the extent of 50% or more of the market value, or if relocated, may only be reconstructed, or relocated in accordance with the LMC.

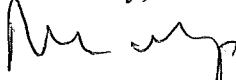
There are no requirements such as mandated improvements that are triggered by a change of ownership/title, such as a re-issuance of a zoning certificate, but should the property change the use of any structure or land, per Section 302(a)(1), the property would need to apply for a new zoning certificate.

If you have any further questions please don't hesitate to contact me at (301) 600-1770 or [mrobyns@cityoffrederickmd.gov](mailto:mrobyns@cityoffrederickmd.gov).

*The purpose of the service provided by the Zoning Administrator regarding determinations/interpretations is to identify the zoning of a particular property, to verify that a use is permitted or permissible in a specific Zoning District and to clarify and interpret the Land Management Code. Any questions regarding specific regulations and requirements for a site or sites' compliance with the Land Management Code not addressed in this letter shall not be the responsibility of the Zoning Administrator. It is the responsibility of the applicant, property owner and/or property purchaser to review the project site plan and the Land Management Code for compliance.*

*This determination applies solely to the referenced property and is not binding upon the City, the Zoning Administrator or any other official with respect to any other property. No person may rely upon this determination with respect to any property other than the referenced property. Please be advised that any person aggrieved, or any officer, department or agency of The City of Frederick affected by an order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the provisions of the Land Management Code may appeal said decision within thirty days to the Zoning Board of Appeals.*

Sincerely,



Monica Robyns  
City Planner

In Concurrence,



Joseph A. Adkins, AICP  
Deputy Director for Planning

cc: Gabrielle Collard, Division Manager of Current Planning



# The Planning & Zoning Resource Company

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1300 South Meridian Avenue, Suite 400, Oklahoma City, OK 73108  
Telephone (405) 840-4344 · Fax (405) 840-2608  
Toll Free (800) 344-2944  
Ext: 4523

Please fax to my direct fax number:

To: Planning Department  
Fax:  
Email: zbadigital@cityoffrederickmd.gov  
Date: 2/3/2023  
Subject:  
Ref. Number 164489-7  
RE: 213 to 215 North Market Street, 213 to 215 North Market Street, Frederick, Maryland  
Add'l Info: Tax ID: 1102042401  
Map: 067H Gird: 22 Lot: N/A

Attached is our request for property information on the above-mentioned property. Please copy it onto your letterhead, provide the requested information, sign and return to me via either my direct fax, shown above, or via email to: Alexis.king@pzs.com

It is my understanding that there will not be fees associated with this request. Please be advised that the total fees are not to exceed \$0 without my approval. If you should expect the fees to exceed this amount, please notify me as soon as possible. Furthermore, any additional costs associated with this request must be approved, in writing, prior to their incurrence.

Thank you in advance for your time and consideration on the above matter. If there are any questions you are unable to answer please let me know who I should contact. If you have any questions or concerns, do not hesitate to contact me at the toll free number 800-344-2944, extension 4523. You may also reach me by email at: Alexis.king@pzs.com

Sincerely,  
Alexis King

**The Planning & Zoning Resource Company**  
1300 South Meridian Avenue, Suite 400  
Oklahoma City, OK 73108

2/3/2023

ATTN: Alexis King

Ref. No. 164489-7

RE: 213 to 215 North Market Street, 213 to 215 North Market Street, Frederick, Maryland

Add'l Info. Tax ID: 1102042401  
Map: 067H Gird: 22 Lot: N/A

**The current zoning classification for the subject property is:** \_\_\_\_\_

**Adjacent property zoning designations:**

North: \_\_\_\_\_

South: \_\_\_\_\_

East: \_\_\_\_\_

West: \_\_\_\_\_

**Is the subject property part of a Planned Unit Development?**

\_\_\_\_\_ Yes, part of a PUD (See comment)

\_\_\_\_\_ No, not part of a PUD

Comment: \_\_\_\_\_

**Is the subject property part of an Overlay District?**

\_\_\_\_\_ Yes, within an Overlay District

\_\_\_\_\_ No, not within an Overlay District

Comment: \_\_\_\_\_

**The subject property is currently regulated by:**

\_\_\_\_\_ Section \_\_\_\_\_ of the Zoning Ordinance

\_\_\_\_\_ Planned Unit Development Ordinance No. \_\_\_\_\_ (copy attached)

\_\_\_\_\_ Site Plan Approval Case No. \_\_\_\_\_ (copy of plan and case attached)

Comment: \_\_\_\_\_

**According to the zoning ordinances and regulations for this district, the use of the subject property is a:**

\_\_\_\_\_ Permitted Use by Right

\_\_\_\_\_ Permitted Use by Special/Specific Use Permit

\_\_\_\_\_ Copy Attached

\_\_\_\_\_ Copy Not Available (see comment)

\_\_\_\_\_ Legal Non-Conforming Use (no longer permitted by right due to amendments, re-zoning, variance granted or other changes. See comments)

\_\_\_\_\_ Non-Permitted Use

Comment: \_\_\_\_\_

**The subject structure(s) was developed:**

- \_\_\_\_\_ In accordance with Current Zoning Code Requirements and is  
\_\_\_\_\_ Legal Conforming
- \_\_\_\_\_ Non-Conforming (see comments)
- \_\_\_\_\_ In accordance with Previous Zoning Code Requirements (amendments, rezoning, variance granted) and is Legal  
\_\_\_\_\_ Non-Conforming to current zoning requirements
- \_\_\_\_\_ Prior to the adoption of the Zoning Code and is  
\_\_\_\_\_ Grandfathered/Legal Non-conforming to current zoning requirements.
- \_\_\_\_\_ In accordance with Approved Site Plan and is Legal Conforming to approved site plan. If any nonconforming  
\_\_\_\_\_ issues exist with respect to current zoning requirement; the subject property would be considered legal non-conforming.

Comment: \_\_\_\_\_

**Rebuild: In the event of casualty, in whole or in part, the structure located on the subject property:**

- \_\_\_\_\_ May be rebuilt in the current form (i.e. no loss of square footage, same footprint, with drive through(s), if applicable.
- \_\_\_\_\_ May not be rebuilt in its current form, except upon satisfaction of certain conditions, limitations, or requirements. Please see section \_\_\_\_\_ of the current zoning code/ordinance for details.

Comment: \_\_\_\_\_

**To the best of your knowledge, do your records show any unresolved zoning code violations?**

- Yes, there are open violations on file in our records. (See attached list and/or copies/cases)
- No, there are no open violations on file in our records.

\*Please note, this request is for open violations of which you are aware. PZR is not requesting an inspection be made

**To the best of your knowledge, do your records show any unresolved building code violations and/or complaints?**

- Yes, there are open violations on file in our records. (See attached list and/or copies/cases)
- No, there are no open violations on file in our records.

\*Please note, this request is for open violations of which you are aware. PZR is not requesting an inspection be made

Please call the undersigned at \_\_\_\_\_, extension \_\_\_\_\_ if you have questions or concerns.

Sincerely:

Name: \_\_\_\_\_ Department: \_\_\_\_\_  
 Title: \_\_\_\_\_ Email: \_\_\_\_\_