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The Honorable Adrian M. Fenty

Chairman
Council of the District of Columbia
The Honorable Vincent C. Gray

Executive Director
Marcel C. Acosta

IN REPLY REFER TO:
NCPC File No. Z.C. 07-21

MAY 05 2008

Zoning Commission for the
District of Columbia
2nd Floor, Suite 210 South
441 4th Street, NW
Washington, D.C. 20001

Members of the Commission:

The National Capital Planning Commission, at its meeting on May 1, 2008, approved the enclosed action on the Consolidated Planned Unit Development at 2201 M Street, NW, Square 50, Lots 82, 84, 813 and 816, finding that the project as designed would be adverse to the federal interest because it does not conform to the requirements of the Height of Buildings Act of 1910. Also enclosed, for your information, is a copy of the Staff Recommendation for the project.

Sincerely,

Marcel C. Acosta
Executive Director

Enclosures

cc: Harriet Tregoning, Director
D.C. Office of Planning

Anthony Hood
Chairman
Zoning Commission

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2008 MAY -9 AM 10:59

ZONING COMMISSION
District of Columbia

CASE NO.

07-21

EXHIBIT NO.

104 (ORIG)

COMMISSION ACTION

NCPC File No. Z.C. 07-21



**CONSOLIDATED PLANNED UNIT DEVELOPMENT, 2201 M STREET, NW
SQUARE 50, LOTS 82, 84, 813, 816**

2201 M Street, NW
Washington, D.C.

Submitted by the Zoning Commission of the District of Columbia

May 1, 2008

Commission Action Requested by Applicant

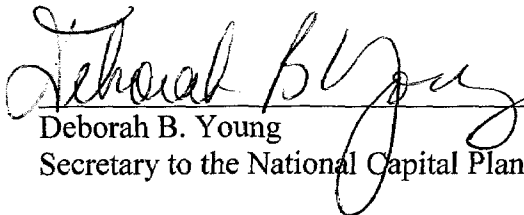
Approval of the report to the Zoning Commission of the District of Columbia pursuant to 40 U.S.C. § 8724(a) and DC Code § 2-1006 (a).

Commission Action

The Commission:

Advises the Zoning Commission that the proposal would be adverse to the federal interest because it does not conform to the requirements of the Height of Buildings Act in the following way: the rooftop penthouses exceed the allowable height and are not set back from all the exterior walls as required by the Act.

Recommends that the Zoning Commission require the applicant to modify the project design to set back the penthouses from all exterior walls of the building a distance equal to their height above the adjacent roof as required by the Height of Buildings Act.


Deborah B. Young
Secretary to the National Capital Planning Commission

STAFF RECOMMENDATION



NCPC File No. ZC 07-21

CONSOLIDATED PLANNED UNIT DEVELOPMENT, 2201 M STREET, NW SQUARE 50, LOTS 82, 84, 813, 816

2201 M Street, NW
Washington, D.C.

Submitted by the Zoning Commission of the District of Columbia

April 24, 2008

Abstract

The Zoning Commission of the District of Columbia has taken a proposed action to approve a Planned Unit Development (PUD) located at 2201 M Street, NW in Washington, D.C. This 11-story hotel includes 182 rooms, a restaurant, retail, and underground parking. The site is located in the West End District which was rezoned in the 1970s to encourage mixed-use development. The building design is contemporary and incorporates several environmentally progressive systems and features.

Federal Interest

The identified federal interest relevant to this proposal is the Height of Buildings Act of 1910.

Commission Action Requested by Applicant

Approval of the report to the Zoning Commission of the District of Columbia pursuant to 40 U.S.C. § 8724(a) and DC Code § 2-1006 (a).

Executive Director's Recommendation

The Commission:

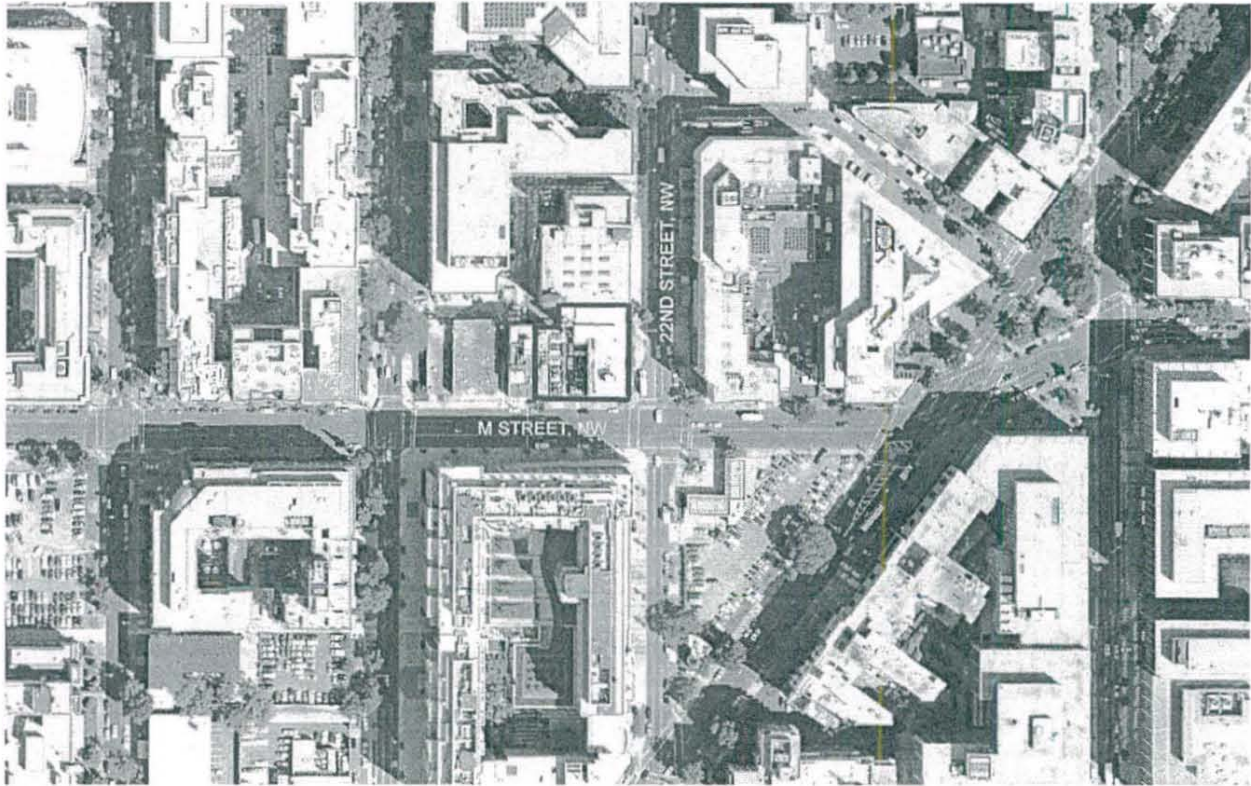
Advises the Zoning Commission that the proposal would be adverse to the federal interest because it does not conform to the requirements of the Height of Buildings Act in the following way: the rooftop penthouses exceed the allowable height and are not set back from all the exterior walls as required by the Act.

Recommends that the Zoning Commission require the applicant to modify the project design to set back the penthouses from all exterior walls of the building a distance equal to their height above the adjacent roof as required by the Height of Buildings Act.

PROJECT DESCRIPTION

Site

The 15,590 square foot site is on the northwest corner of the intersection of M and 22nd Streets in the West End area of Northwest Washington. The site is currently occupied by the former Nigerian Embassy and Chancery, which is vacant. It is part of Square 50, which is bounded by M, N, 22nd, and 23rd Streets. This site is currently zoned CR, one of the District's downtown commercial zones, which allows a matter of right zoning height of 90 feet.



The Site

Background

The West End is a former industrial area that was rezoned in the 1970's to encourage mixed-use development. The neighborhood has a high concentration of hotel uses. Metrorail's Dupont Red Line Station is six blocks to the northeast and Farragut North Red Line Station is six blocks to the southeast; the Blue/Orange Line's Foggy Bottom Station is four blocks to the south. Georgetown begins seven blocks to the west.

Proposal

The proposal is for an 11-story, luxury hotel that will be designed to the U.S. Green Building Council's LEED silver certification standards. The project proposes approximately 122,235 square feet of gross floor area, with an overall FAR of 7.84 and a building height of 110 feet. The proposal will include a total of 182 hotel rooms and suites, ground floor restaurant space, a spa and 48 off-street parking spaces in a valet operated garage that has a maximum capacity of 71 vehicles.

This building will be constructed in a Downtown Development CR Zone which allows a matter of right zoning height of 90 feet. A PUD in this zone will allow 110 feet in height unless further restricted by the Height of Buildings Act of 1910. The Height Act regulates building heights in the District according to the width of the right-of-way on which a building fronts. It establishes the maximum building height for this building at 110 feet, given M Street's 90 foot right-of-way.

The proposed building height to the roof line is 110 feet. The building also has three penthouses that are 18 feet 6 inches tall, and contain mechanical equipment and other uses.

This hotel would be the first of several luxury, eco-friendly hotels under the brand name "1 Hotel". They will adhere to green construction and operating principles and commit to environmentally sensitive consumption of natural resources. Each 1 Hotel will donate one percent of its operating profit to local environmental organizations. Examples of the project's environmental features include:

- Reduced parking rates for hybrid cars.
- Vertical, interior and exterior gardens. The vertical garden, or "green wall", will extend through the full height of the atrium in the middle of the hotel and will be visible from every floor and from the roof garden.
- Greywater recycling system that uses waste water generated from lavatories, bathtubs and showers, and recycles it for toilet-flushing and landscape irrigation.
- Heat recovery from the hotel's double bundle chiller's condensers and a solar hot water system that will generate all of the hot water demand for the hotel.



Rendering of the proposed building from the corner of 22nd and M Streets NW. A vertical garden grows through the center of the building to the roof.



Site Plan with Context

The exterior walls of the building facing M and 22nd Streets and those facing the court are largely glass. The facades will be articulated by a system of aluminum frames and window mullions, which will provide a residential scale to the hotel. The streetscape will be activated by the restaurant and café/lounge located at the corner of M and 22nd Streets. Operable glass window-walls will open the interior space to the exterior to create a vibrant pedestrian experience.

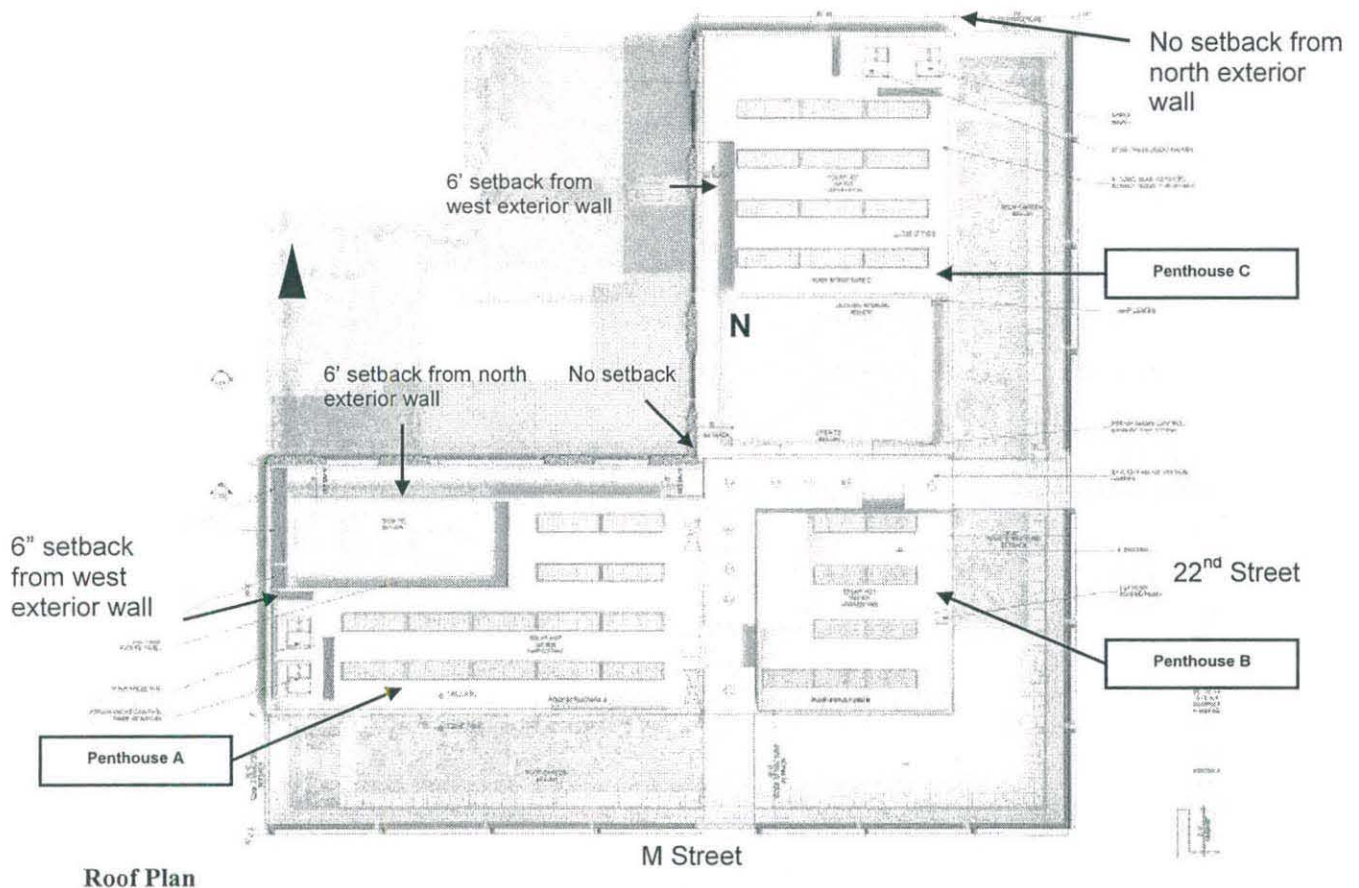
PROJECT ANALYSIS

Executive Summary

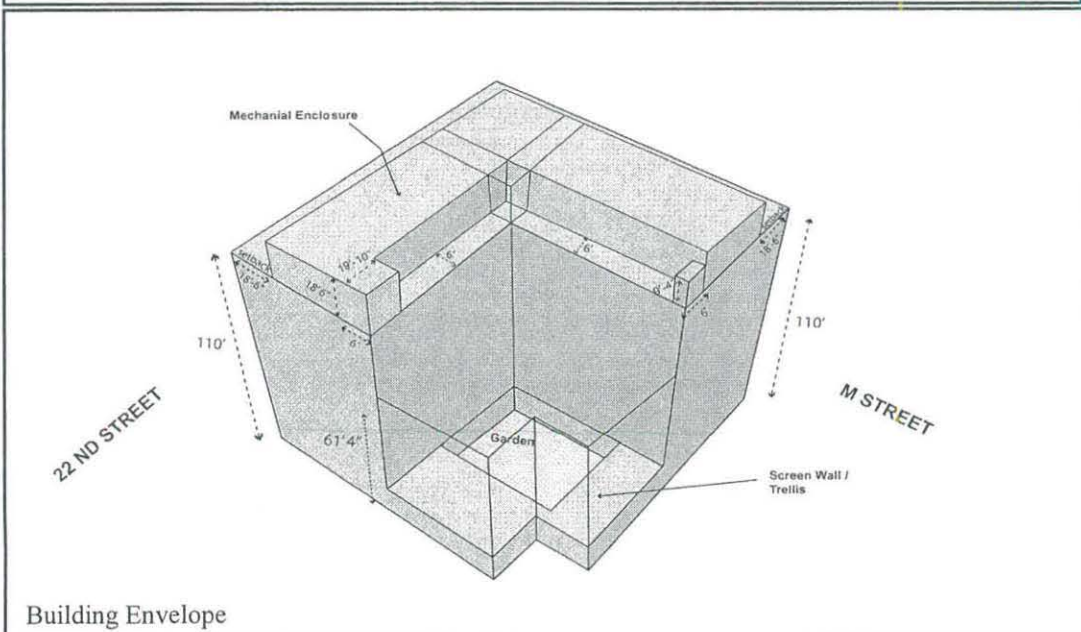
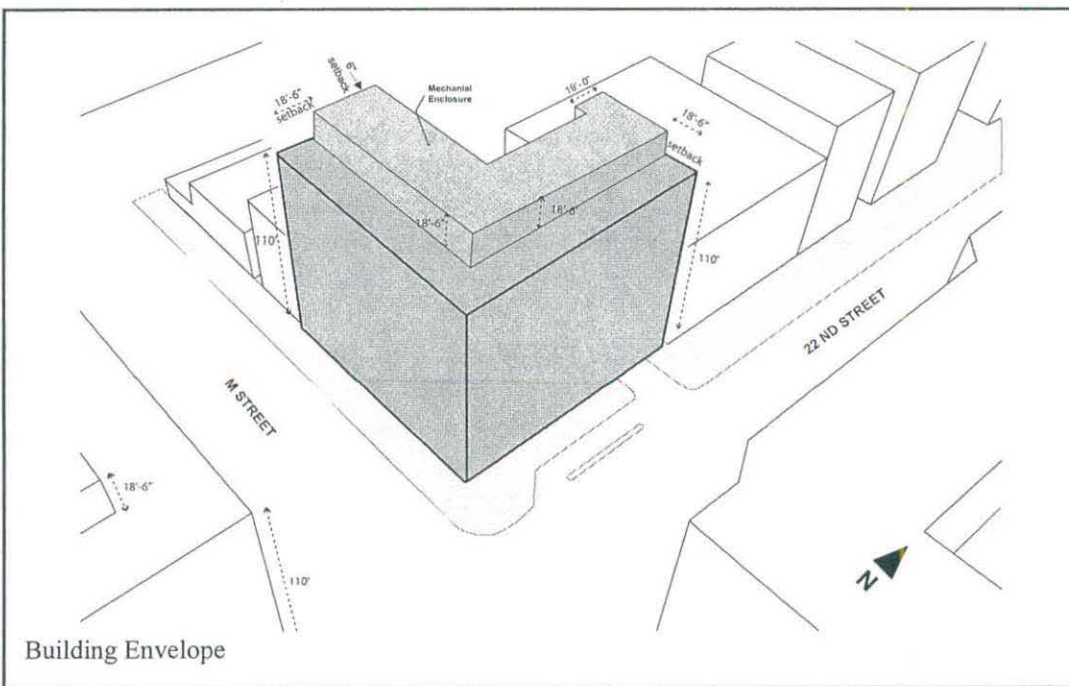
While the staff recognizes and commends the project's focus on environmental sustainability, the proposal is not in conformance with the Height of Buildings Act. The Height Act stipulates that penthouses over elevator shafts, ventilation shafts, and tanks may only exceed the limit of height if they are set back from the exterior walls distances equal to their respective heights above the adjacent roof. Staff has determined that none of the penthouses on this building are set back the required distances from all exterior walls. While the penthouses contain sustainability features, they also contain a seasonal bar and covered area, a storage area, restrooms, an elevator lobby, circulation space, and an additional set of stairs serving a roof top deck. These features increase the size of the penthouses by over 1300 square feet.

Penthouse Setbacks

As the roof plan shows, there are three proposed penthouses. Penthouse A on the southwest corner of the building encloses the air handling units and emergency generator, and has a height



corner of the building encloses the air handling units and emergency generator, and has a height of 18 feet 6 inches above the roof. It is properly setback 18 feet 6 inches from the south exterior wall along M Street, but only six inches from the west exterior wall, adjacent to another building on M Street that is approximately 45 feet in height. It is also only setback 6 feet from the north exterior wall that faces the court. Penthouse B, which encloses the passenger elevator, elevator lobby, restrooms, seasonal outdoor bar and covered area, has a height of 18 feet, 6 inches and is properly set back 18 feet 6 inches from the south exterior wall along M Street and the east exterior wall along 22nd Street; however, it is not setback from the north and west exterior walls facing the court. Finally, Penthouse C, which is located along 22nd Street on the northeast corner of the building, encloses the chiller and cooling towers, and has a height of 18 feet 6 inches above the adjacent roof. It is properly set back 18 feet 6 inches from the east exterior wall along 22nd Street, but is not set back from the north exterior wall which abuts another building fronting 22nd Street that is approximately 55 feet tall. It is also only setback 6 feet from the west exterior wall facing the court. The roofs of the penthouses have solar hot water panels that will heat water for the building.



According to the Height Act:

“Spires, towers, domes, minarets, pinnacles, penthouses over elevator shafts, ventilations shafts, chimneys, smokestacks, and fire sprinkler tanks may be erected to a greater height than any limit prescribed in this Act when as the same may be approved by the Commissioners of the District of Columbia:...And provided, that penthouses, ventilation shafts, and tanks shall be set back from the exterior walls distances equal to their respective heights above the adjacent roof.”

In order to ensure a clear understanding of this section of the Height Act, the term “exterior walls” should be defined. According to the Dictionary of Architecture and Construction, exterior walls are defined as “a wall which is part of the envelope of a building, thereby having one face exposed to the weather or to earth¹.”

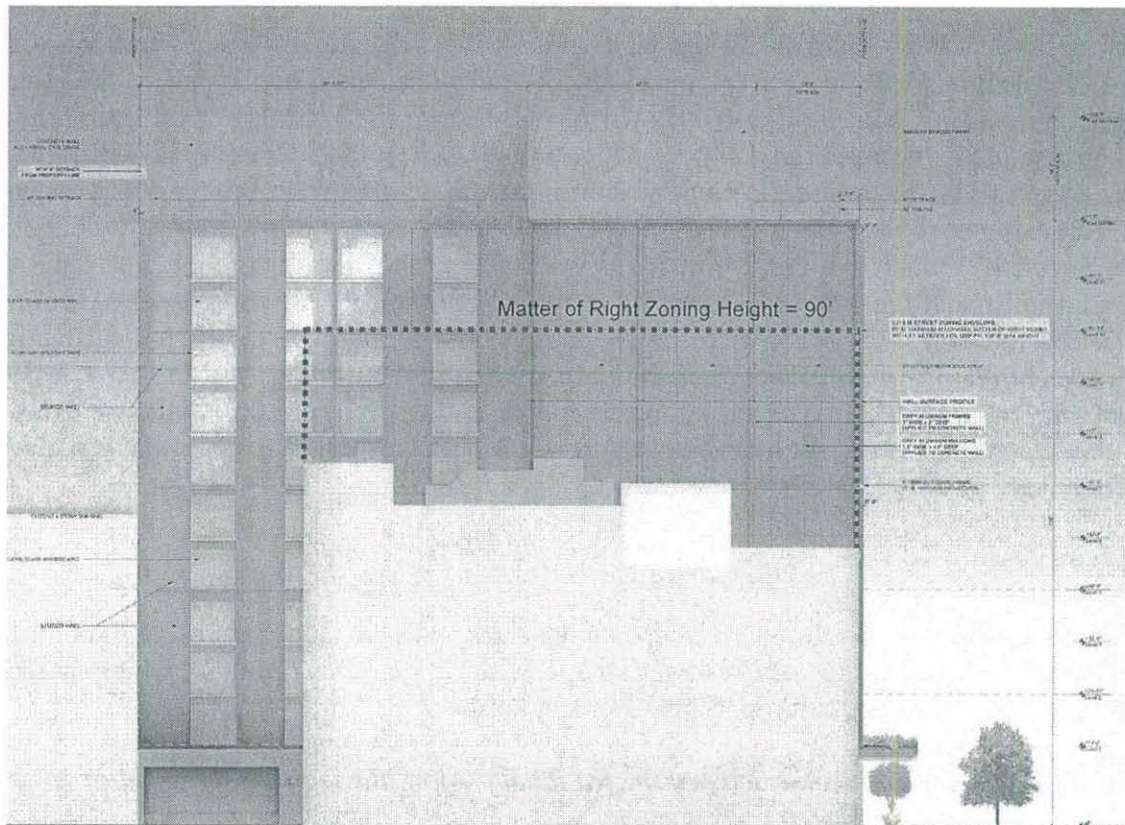
Therefore both the north and west walls which abut the court and the north and west walls which abut adjacent buildings are exterior walls since they are all exposed to the weather. It is important to look at these two issues separately and in more detail.

The walls that face the court are clearly exterior walls since they are not adjacent to any other properties in which a building could be built and will therefore always remain exposed to the weather. The applicant has acknowledged that these are exterior walls and has sought relief from the Zoning Commission from the setback requirement. The definition of “court” in the Zoning Code also supports that these walls are exterior. It defines a “court” as an unoccupied space open to the sky, on the same lot with a building which is bounded on two (2) or more sides by the exterior walls of the building or by (2) or more exterior walls, lot lines, or yards.

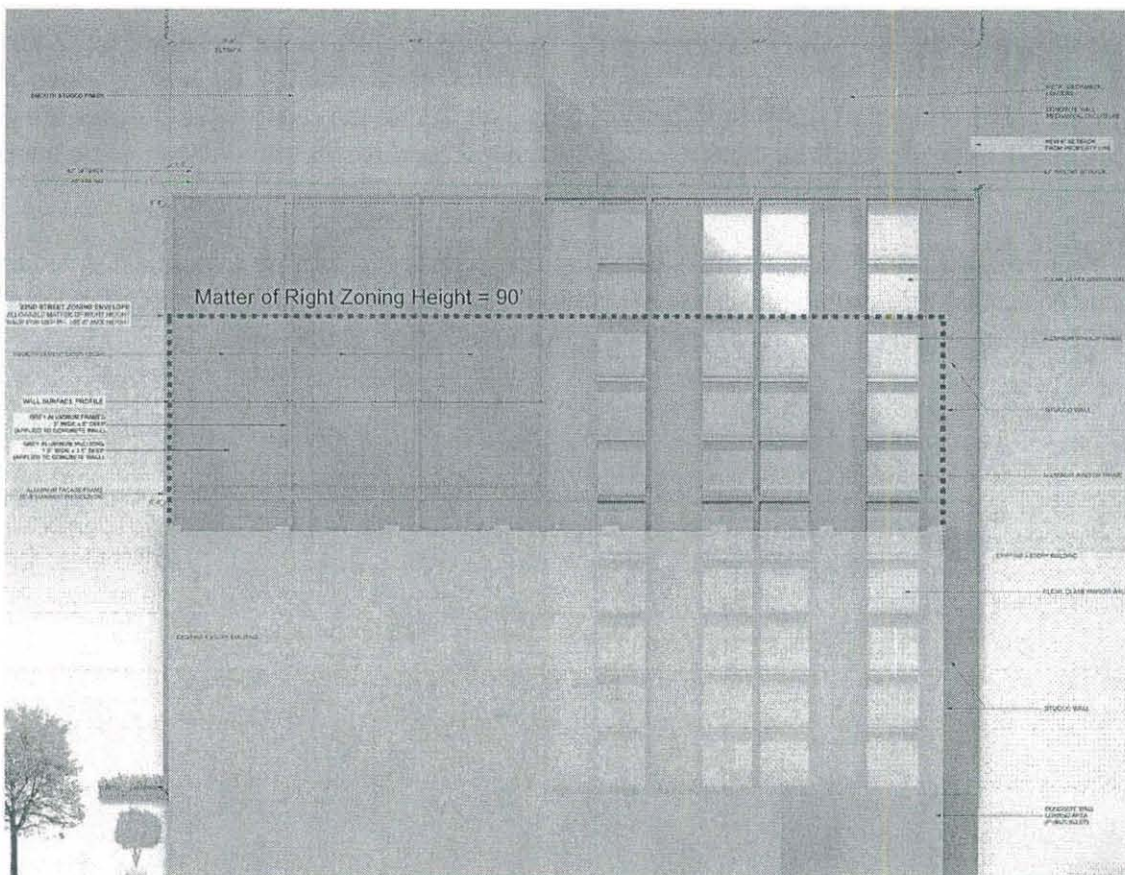
Staff finds that the north and west walls that abut the adjacent buildings on M and 22nd Streets are also exterior walls. The matter of right height is 90 feet for the properties to the north and west of the proposed building. The developer stated in Exhibit No. 48 to the Zoning Commission dated March 24, 2008 that this height, in addition to the maximum allowable penthouse at 18.5 feet, would result in the adjoining north and west walls to be classified as “party walls” because they would be approximately the same allowable height of the proposed building at 110 feet. Staff agrees with the developer that the allowable height limit under zoning is 90 feet for these properties and therefore portions of these walls will always be exposed to the weather. Furthermore, staff finds that the location, position and size of potential penthouses on the adjacent roof properties will vary and can not be assumed as the developer has presented.

Therefore staff recommends that the north and west elevations of the proposed building would be exposed to the weather, given the 90 foot matter of right height limit, and must be considered exterior walls. The following two elevations show the matter of right height for the two adjacent properties to the west and north.

¹ *Dictionary of Architecture and Construction*, Cyril M. Harris, 1993, McGraw-Hill, p. 314.



The dotted red outline shows the matter of right building height for the property adjacent to the proposed hotel on M Street. It would have a maximum height of 90 feet.



The dotted red outline shows the matter of right building height for the property adjacent to the proposed hotel on 22nd Street. It would have a maximum height of 90 feet.

The Commission has been involved in the penthouse setback debate for many years since the adoption of the Height of Buildings Act and recently confronted this issue as part of the review of Zoning Commission Case Number 07-18. In this case from the February 2008 Commission meeting, the applicant proposed an 11-story office building at 1000 F Street NW with ground floor retail. As in the case before the Commission now, the penthouse in this building was not being set back a distance equal to its height above the adjacent roof. Additionally, the building at 1000 F Street, NW shared a portion of party wall with an adjacent neighbor, but since the party wall did not reach the same height as the proposed building it was considered an exterior wall. The Commission took action that the proposal would be adverse to the federal interest because it does not conform to the requirements of the Height of Buildings Act in two ways: (1) the parapet wall exceeds the maximum allowable height and (2) the rooftop penthouse exceeds the allowable height and is not set back from the southern and western exterior walls as required by the Height Act.

Comprehensive Plan

The proposed planned unit development is also inconsistent with the Comprehensive Plan for the National Capital with respect to the Preservation and Historic Features Element, which includes the following policy under the National Capital Image Policies:

3. *Preserve the horizontal character of the National Capital through enforcement of the 1910 Height of Buildings Act.*

Recommendation

For the above reasons, **the staff recommends that the Commission advise the Zoning Commission** that the proposal would be adverse to the federal interest because it does not conform to the requirements of the Height of Buildings Act in that the rooftop penthouses are not set back from all exterior walls distances equal to their respective heights above the adjacent roof.

Staff also recommends that the Commission recommend that the Zoning Commission require the applicant to modify the project design to set back the penthouses a distance from all exterior walls of the building equal to their respective heights above the adjacent roof.



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NCPC File No. Z.C. 07-21

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District of Columbia
2nd Floor, Suite 210 South
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Members of the Commission:

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Sincerely,

Marcel C. Acosta
Executive Director

Enclosures

cc: Harriet Tregoning, Director
D.C. Office of Planning

Anthony Hood
Chairman
Zoning Commission

ZONING COMMISSION
District of Columbia

CASE NO. 07-21
EXHIBIT NO. 64

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COMMISSION ACTION

NCPC File No. Z.C. 07-21



**CONSOLIDATED PLANNED UNIT DEVELOPMENT, 2201 M STREET, NW
SQUARE 50, LOTS 82, 84, 813, 816**

2201 M Street, NW
Washington, D.C.

Submitted by the Zoning Commission of the District of Columbia

May 1, 2008

Commission Action Requested by Applicant

Approval of the report to the Zoning Commission of the District of Columbia pursuant to 46 U.S.C. § 8724(a) and DC Code § 2-1006 (a).

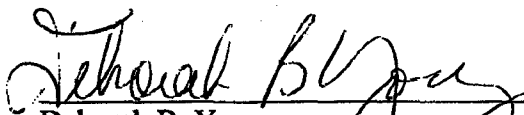
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Commission Action

The Commission:

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Recommends that the Zoning Commission require the applicant to modify the project design to set back the penthouses from all exterior walls of the building a distance equal to their height above the adjacent roof as required by the Height of Buildings Act.


Deborah B. Young
Secretary to the National Capital Planning Commission