

Holland & Knight

2099 Pennsylvania Avenue, N.W., Suite 100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Christopher H. Collins
202 457.7841
chris.collins@hklaw.com

September 20, 2010

Zoning Commission for the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, DC 20001

Re: Zoning Commission Case No. 08-06-1 - Building Height

Honorable Members of the Commission:

This letter is submitted on behalf of Portals Development Associates and related entities (PDA), developers of the multi-phase Portals mixed-use/office/retail/hotel development along Maryland Avenue, S.W., between 12th and 14th Streets. Beginning in 1986 with the D.C. Redevelopment Land Agency, the various phases of the Portals development were designed and approved using the 160 foot wide Maryland Avenue, S.W. as the point of measurement for building height. Maryland Avenue, S.W., west of 12th Street, is an elevated roadway constructed over the railroad tracks, and was built for the specific purpose of facilitating the development of the Portals site.

The Portals development was conceived and designed as part of a multi-phase project. Parcels A, B, C and D have already been constructed, using Maryland Avenue, S.W. as the point of measurement. Parcels E and F have not yet been constructed.

Exhibit 22 of the record in this case is a submission from this firm dated September 24, 2008, including attachments extensively detailing the history of District of Columbia governmental approvals for the Portals Development project, including submissions to the Commission, by this firm, specifically addressing the use of the elevated roadway of Maryland Avenue, S.W. as a point of measurement for building height for the Portals Development. Subsequent to the Commission's public hearing on this case in September of 2008, the Office of Planning submitted a report dated December 1, 2008 (See **Tab 1**). On page 4 of that report, under the heading "National Grade & Artificial Grade", OP modified its recommendation no. 7 to include the following language:

**ZONING COMMISSION
District of Columbia**

CASE NO. 08-06 **ZONING COMMISSION
District of Columbia**
CASE NO.08-06
EXHIBIT NO. 16 **EXHIBIT NO.16**

September 20, 2010

Page 2

"Where the measuring point elevation has been previously been determined for purposes of buildings and/or elevated streets, the previously recognized elevation will control."

Attached as **Tab 2** is the Height Worksheet prepared by OP and the Office of Attorney General to aid the Commission in its discussion on February 5, 2009 regarding height issues. Item no. 7, recommended Option No. 1, "Natural Grade & Artificial Grade" in that document contains the same language as in OP's December 1, 2008 report referenced above.

The Amended Notice of Public Hearing for the Commission's September 20, 2010 proceedings includes proposed language in new Section 402.4 dealing with this issue. Proposed Section 402.4(c) states that when the curb grade has been artificially changed by any type of artificial elevation, the height of the building may be measured from "an elevation previously determined by the Zoning Administrator". This language is more narrow than the language cited in Tabs 1 and 2 referenced above. PDA's concern is that the measuring points for the existing buildings on Parcels A, B, C and D have already been determined by the Zoning Administrator, but that the measuring points for the buildings yet to be built on Parcels E and F have been previously determined and approved by a number of District of Columbia agencies, but not the Zoning Administrator. Therefore, PDA proposes the following substitute language for Section 402.4(c):

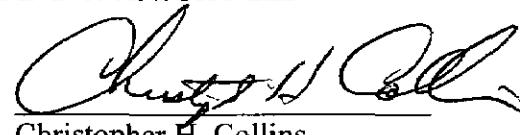
"An elevation previously determined by a District of Columbia agency including the Zoning Administrator".

Thank you.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By:



Christopher H. Collins

CHC/lS

Enclosures