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August 4, 2003

BY HAND

Zoning Commission for the District of Columbia
District of Columbia Office of Zoning
Attention: Alberto Bastida
Secretary to the Zoning Commission
Suite 210 South
441 4th Street, N.W.
Washington, DC 20001

Re: Text Amendment - Definition of Building Height; Case No. 02-35

Members of the Zoning Commission:

On behalf of The John Akridge Companies, this letter is to comment on the proposed text set forth in the Notice of Proposed Rulemaking published in the D.C. Register on July 4, 2003. The John Akridge Companies are the prospective purchaser of the air rights parcel over the Union Station rail yards from the General Services Administration. On their behalf, Holland & Knight appeared at the public hearing on March 17, 2003, to encourage language suggested by the Office of Planning that would provide for a definition of natural grade permitting measurement from an established existing grade prior to construction on the particular site.

The proposed rulemaking text confirms the ability of The John Akridge Companies to measure from the bed of the upper tracks at elevation of approximately 55' at mid-property since such elevation is the undisturbed existing grade as defined in the new definition of natural grade of the proposed amendment This point of measurement comports with the discussions and ruling that we had from Robert Kelly, then Zoning Administrator, and discussions that we have had

ZONING COMMISSION
District of Columbia
Case 02-35
Exhibit 33

ZONING COMMISSION
District of Columbia
CASE NO.02-35
EXHIBIT NO.33

with the Office of Planning. A copy of the Zoning Administrator's ruling is attached.

Please enter this letter in the official record of these proceedings.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: Whayne S. Quin
Whayne S. Quin

WSQ:lsn
Attachment
cc: Denzil Noble, Acting Zoning Administrator
Andrew Altman, Director, Office of Planning
Ellen McCarthy, Deputy Director, Office of Planning
Joseph Svatos, The John Akridge Companies

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

March 17, 2003

Whayne S. Quinn
Holland and Knight LLP
2099 Pennsylvania Ave.
Suite 100
Washington DC 20006

RE: Measurement of Building Height

Dear Mr. Quin:

In response to your inquiry regarding the measuring point for the Akridge Property fronting the 100 block of H Street, NE, the text amendment states:

> **In the case of a property fronting on a street that is elevated above grade, the height of the building shall be measured from the lower of the natural grade or finished grade at the middle of the front of the building to the highest point of the roof or parapet.**

The property fronts on the H Street bridge, which is a street elevated above grade. As such, this clause is triggered and the building shall be measured from the lower of natural grade or finished grade at the middle front of the proposed building. In addition, the Zoning Commission proposes a definition of natural grade as follows:

Natural Grade – the undisturbed ground level formed without human intervention or, where the undisturbed ground level cannot be ascertained because of an existing building or structure, the undisturbed existing grade.

If the elevation shown as "track grade, elevation approx. 55' at mid property" is the natural grade, as defined above, then this elevation can be used in measuring the height of the building consistent with the proposed text amendment, and the 1910 Buildings Height Act.

Sincerely

Robert Kelly
Zoning Administrator