

TISHMAN SPEYER

September 19, 2008

D.C. Zoning Commission
Suite 210
441 4th Street, NW
Washington DC 20004

RECEIVED
D.C. OFFICE OF ZONING
2008 SEP 19 AM 10:39

**Re: Z.C. Case No. 08-06-1
Amendments to the Zoning Regulations Regarding Height**

Dear Members of the Commission:

I am writing to you on behalf of TS NOMA, L.P. (an affiliate of Tishman Speyer, "TS"), the owner of property (the "Property") located in the block bounded by First, L and Pierce Streets, N.E., located in the city's NoMA development area. The Property contains more than 75,000 square feet of land area on which we intend to build a two phase office development, both with ground floor retail. We previously owned an additional 71,000 square feet of land area adjacent to the Property which we sold to Camden Property Trust ("Camden"). They plan to develop a two-phase apartment complex on that site over the next several years. The combined site owned by TS and Camden is a large, multi-phase development site containing more than 145,000 square feet of land.

As we pursued our master plan for the site, we consulted with the Office of Planning ("OP") which was going through its NoMA planning study. We were strongly urged by OP to do a mixed-use project, even though the Comprehensive Plan's designation for the area was high density commercial and the zoning for the area allowed all commercial use and did not require residential.

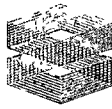
The project will be constructed as a single building for zoning purposes with a connection at the ground floor. We consulted with OP and with the Zoning Administrator ("ZA") on various aspects of the project and received confirmation from the ZA that we could proceed as we had previously described to him. We have received building permits for our first phase office building (1100 First Street, located at the corner of First and L Streets) and have started construction and estimate a completion date of April 2009 for this phase.

We have reviewed proposals which OP has submitted to the Zoning Commission as part of the Zoning Revision Project, and we are particularly concerned about a number of the proposals contained in the proposed height amendments. A number of those proposals, if adopted, could have a material, adverse affect on our ability to build out the project as planned.

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ZONING COMMISSION
District of Columbia
CASE NO. 08-06-1
EXHIBIT NO. 18
EXHIBIT NO. 18



Had we been aware that OP was going to go in those directions, we would have been much more cautious in our decision to make this a mixed-use project, rather than an all-office project with large contiguous floor plates.

Our most serious concerns with the height proposals are as follows:

- The new regulations propose to require that the actual height of a building be measured from the same street used to determine the maximum height (based on the width of the street). This proposal is inconsistent with the plain language of the Act of 1910, which has two different provisions, one addressing the height based on the width and a second specifying where the height is to be measured. This proposal is further inconsistent with decades of interpretations, including a definitive opinion of the Corporation Counsel, the District's chief legal officer, issued in 1950 and binding on all District agencies and employees which confirmed that the height could be measured from a different street than the one used for the width. In our situation, First Street is 110 feet wide and is the widest of the three streets which abut our property, thereby permitting a height of 130 feet. We are measuring our height from the middle of the front of the building on Pierce Street, which is the highest point and most advantageous for us. We confirmed our ability to do that with the ZA before we started. Being able to gain the greatest advantage for the height of the building is critical to develop residential on the site. Being unable to complete the project using that same measuring point for the entire project would be very detrimental to the ultimate development.
- The proposed definition of a building, requiring parts of a building to share mechanical systems and to share open access on at least half of the floors, would impose substantial restrictions on what could be done. If the portions of the development which do not front on First Street are deemed to be separate buildings, then those buildings would lose twenty feet in height and a substantial amount of gross floor area. Sharing floors makes little sense in a mixed-use project, where the floor-to-floor heights for office and residential are different and the floor levels would not line up on the upper floors. We believe that the revisions to the definition of a building attempt to fix a situation which isn't broken and the consequences of that fix are extremely problematic.

We have worked in good faith and the bases upon which we proceeded are well known and recognized within the development and architectural communities and have been used by us in developing other large, multi-phased projects. For the District to change these principles at this time would be most problematic for us and others developing large projects in areas where the city encourages development.

We believe that the District will benefit substantially from our proposed development. The proposed amendments noted above place serious impediments to the completion of this project as contemplated, and we urge the Commission not to adopt these particular proposals and instead leave the current regulations in place.



Feel free to let me know if we can clarify or amplify any parts of our concerns or provide additional information that you need or might find helpful.

Sincerely,

Tishman Speyer, as agent for TS NOMA, L.P.

James A. Evans
Washington, D.C. Co-Regional Director

cc: Neil Albert, Deputy Mayor for Planning and Economic Development
Harriett Tregoning, Director, Office of Planning