

STONEBRIDGE CARRAS

REAL ESTATE INVESTMENT

September 19, 2008

D.C. Zoning Commission
Suite 210
441 4th Street, NW
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2008 SEP 25 AM 11:47

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 CS Master V, L.L.C., the owner of property located in the block bounded by 1st, M and N Streets, N.E., located in the city's NoMA development area. This is a large site, containing more than 300,000 square feet of land, which we purchased to construct a mixed use project known as Constitution Square, containing office, residential, hotel and retail components. We have leased a portion of the space on the ground floor of the project at the corner of 1st and M Streets to Harris Teeter for a full-service grocery store.

As we pursued our eventual 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 the 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. We were also able to convince the Council to grant us tax incentives to help underwrite the grocery store, which requires far more parking than other retail uses would need.

The project will be constructed as a single building for zoning purposes, connected through a common loading and service area 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 outlined the project to him. We have started construction on the project with the western side of the site. We have been issued building permits for the first two office phases and we are awaiting issuance of permits for the first residential phase, which also includes the hotel and the grocery store.

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

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ZONING COMMISSION
District of Columbia

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EXHIBIT NO. 18

proposals, if adopted, could significantly adversely affect our ability to build out the project as we have planned. 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:

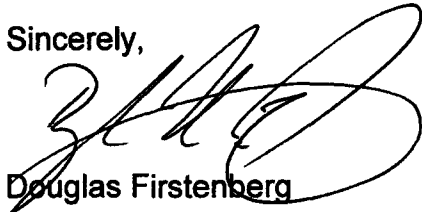
- The new regulations proposed to require that the actual height of a building be measured from the same street used to determine the maximum height (based on the width of the street). This proposal is inconsistent with the plain language of the Act of 1910, which has two different provisions, one addressing 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, 1st 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 N Street, which is the highest point and most advantageous for us. We confirmed our ability to do that with the Zoning Administrator before we started. Being able to gain the greatest advantage for the height of the building is critical to our ability to develop residential and the grocery store on the site. We are in process, having received permits for the first two office phases and anticipating that a permit will be issued shortly for the first residential phase, including the hotel and the grocery store. All this was based on a master plan with the height measured from N Street. 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 we could do. If the portions of our development which do not front on 1st Street are deemed to be separate buildings, then we would lose twenty feet in height and a substantial amount of gross floor area on both the residential and office sides for the buildings not facing 1st Street. 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 is not broken and the consequences of that fix are extremely problematic for us.

The bases upon which we proceeded are well known and recognized within the development and architectural communities and have been used by us and others in developing 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 favors development.

We believe that the District will benefit substantially from what we are doing at Constitution Square. The proposed amendments noted above place serious impediments to our completing this project as contemplated, and we hope that the Commission will not adopt these particular proposals but instead will leave the regulations as is to allow us to complete the project as it has been planned and approved up until now.

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,

A handwritten signature in black ink, appearing to read 'D. Firstenberg', written over the printed name.

Douglas Firstenberg

cc: Neil Albert, Deputy Mayor for Planning and Economic Development
Harriett Tregoning, Director, D.C. Office of Planning
Norman M. Glasgow
Steven E. Sher