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September 26, 2008

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

**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 NOMA DEVELOPMENT, LLC (an affiliate of Camden Property Trust), the owner of property (the "Property") located in the block bounded by First, L, North Capitol and Pierce Streets, N.E., located in the city's NoMA development area. The Property contains approximately 71,000 square feet of land area on which we intend to build a two phase residential development with ground floor retail. We purchased this site from Tishman Speyer who retained approximately 74,000 square feet of land adjacent to our property. Policy CW-2.8.1:NoMA Land Use Mix of Volume 2 of the 2006 Revised Comprehensive Plan encourages development as an active mixed use neighborhood that includes residential, office, hotel, commercial and ground floor retail uses. As such, our firms partnered to develop a large, multi-phase project containing office, retail and residential space.

The project will be constructed on a single lot of record for zoning purposes with a connection at the ground floor. The Office of Planning ("OP") together with the Zoning Administrator ("ZA") were consulted on various aspects of the project and encouraged our team to proceed as described to him. Currently, we are in for permits on our first phase residential building and the first office building (1100 First Street, located at the corner of First and L Streets) has already begun construction. We purchased this site with the clear intention of doing a joint project with an above ground connection. We relied on existing interpretation and precedent in forming this relationship and moving forward with a mixed-use project.

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. Had we been aware that OP was going to go in those directions, we would not have pursued this mixed-use project and believe the entire project would have been an all-office project with large contiguous floor plates to maximize FAR.

ZONING COMMISSION
District of Columbia

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1420 Spring Hill Road, Suite 200

CASE NO. 08-06-1 CAMDEN
McLean, VA 22102 P 703 556 5740-06-1 703 556 0988
EXHIBIT NO. 38 EXHIBIT NO. 38

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 project, 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 open access on at least half of the floors, would impose substantial restrictions on what could be done. Residential and office space have different design criteria and as a result the floors will not align. In addition, the separate uses would not want to be connected. Residential tenants would not want to be connected to office space and an office tenant would not want residential tenants closely connected to their secured offices. 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. 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 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,

Camden, as agent for NOMA DEVELOPMENT, LLC

A handwritten signature in black ink, appearing to read "Ginger Ackiss". The signature is fluid and cursive, with the first name "Ginger" written in a larger, more prominent script than the last name "Ackiss".

Ginger Ackiss
Vice President

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