GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Ellen McCarthy, Director OP

DATE: July 20, 2006

SUBJECT: Zoning Commission Case No. 94-01A - Height Act Issue
1331 L Street, N.W. (Amended)

ZONING COMMISSION
District of Columbia
CASE NO. 94-01A Ltr
EXHIBIT NO. 28

The National Capital Planning Commission (NCPC) staff has newly interrupted the Act to Regulate the Height of Buildings (the "Height Act") to limit the type of architectural elements that may exceed the height limits. As a result of this recent and new interpretation, the NCPC has recommended that the Zoning Commission require the applicant to modify the design of the building.

On July 10, 2006, the case was scheduled for final action by the Zoning Commission but the Commission did not have the NCPC report. The Commission reopened the case for the NCPC report and to allow the applicant to respond to the issue. The Commission also asked the Office of Planning to meet with the Zoning Administrator (ZA) on the issue.

OP met with the ZA who agreed to investigate the issue and to have a response before the Commission takes final action on July 24, 2006.

Tower and Trellis

The tower element has been proposed for the western end of the building. The tower will be distinguished by materials and design articulation including the connection of a horizontal trellis. The trellis is part of a vertical architectural tower. These architectural elements are not uncommon in Washington.

NCPC has interpreted the Height Act to exclude horizontal elements from exceeding the height limits but includes vertical elements. OP is concerned about this rigid interpretation and notes, along with the applicant's attorney, that "domes" can be more horizontal than vertical but are explicitly allowed to exceed the Height Act. OP has asked the Office of

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the Office of Attorney general whether the words "horizontal" and "vertical" are used to describe the architectural elements in the Height Act.

Inclusive Reading

OP also notes that the Height Act does not address stairwell or mechanical penthouses but only mentions elevator penthouses. This is relevant in that it shows an "inclusive" reading of the Act for some elements in contrast to the exclusive reading of the Act for the trellis.

Precedent

OP notes that there are several recent Planned Unit Developments with the exact same issue that were both approved by the Zoning Commission and the NCPC. Three of the most recent cases are noted in the table below. Case 04-22 has the same issue and must return to the Zoning Commission for final approval of their roof plan; however NCPC concluded there was no federal issue with the project

Address	**Case No.**	**ZC Approval**	**NCPC Approval**	**R-O-W**	**Height**	**Trellis**
2101 L St., NW	70-16A	June 12, 2006	May 10, 2006	90'	110'	Yes, w/ Spire
Broadway North V and Florida, NW	05-32	April 20, 2006	April 6, 2006	80'	100'	Yes, w/parapet
Broadway South 8th and V Streets NW	05-17	April 20, 2006	April 6, 2006	80'	100'	Yes, w/parapet
Old Children's Museum – 2nd and H St., NE	04-22	March 24, 2005- roof plan pending final design	March 3, 2006	90	110	Pending- parapets shown – roof plan to return for final ZC Review

OP will continue to research previous precedent cases for the meeting on July 24, 2006. OP has not had time to research matter-or-right cases.

Coordination

OP has contacted the NCPC counsel and suggested a working session with the Zoning Administrator, OP and NCPC to try and find a common interpretation going forward.