

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



February 6, 2012

Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W. - Suite 100
Washington, D.C. 20006

Re: Permitted Height under the Act of 1910 and Downtown Development (DD) District

Dear Mr. Sher:

This is to confirm the substance of our discussion on Wednesday, December 21, 2011, concerning the combined application of the provisions of the Act of 1910 and the Downtown Development (DD) District provisions governing the maximum height of buildings. This discussion had specific reference to property located at the northeast corner of the intersection of 5th and I Streets, N.W., known as Lot 59 in Square 516. The property is zoned DD/C-2-C.

As shown on the excerpt of the Zoning Map attached, the property fronts on 5th Street on its west side and I Street on its south side. The property also confronts Reservation 74, a triangular reservation located at the intersection of I Street and Massachusetts Avenue. Under §1701.7 of the Zoning Regulations, "the maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910." The Act of 1910 is codified in the D.C. Official Code in §§ 6-601.01 through 6-601.09. Section 6-601.05(a) provides that:

"No building shall be erected, altered, or raised in the District of Columbia in any manner so as to exceed in height above the sidewalk the width of the street, avenue, or highway in its front, increased by 20 feet; but where a building or proposed building confronts a public space or reservation formed at the intersection of 2 or more streets, avenues, or highways, the course of which is not interrupted by said public space or reservation, the limit of height of the building shall be determined from the width of the widest street, avenue, or highway."

It has been the longstanding policy of the District Government in determining the widths of streets which confront reservations to measure the width of the street from the edge of the public right-of-way on one side, full across the reservation to the edge of the public right-of-way on the other side. See, for example, the decision of the D.C. Court of Appeals in *Techworld Development Corp., et al., vs. D.C. Preservation League, et al.*, 648 F.Supp. 106 (D.D.C, 1986),

at 121. This decision was ultimately vacated, but it still stands unchallenged as a statement of the District Government's policy and process. Using that method of calculation, the width of the public right-of-way across I Street, Reservation 74 and Massachusetts Avenue exceeds 110 feet. A building on the property may therefore be erected to a height of 130 feet.

Section 1701.7 further provides that "a building that fronts on Massachusetts Avenue ... shall be designed and built so that no part of the building shall project above a plane drawn at a forty-five degree (45°) angle from a line located one hundred ten feet (110 ft.) above the property line abutting Massachusetts Avenue ..." In considering whether a building on this property fronts on Massachusetts Avenue, I referred to the definition of street frontage in §199.1 of the Regulations, which reads as follows:

"the property line where a lot abuts upon a street. When a lot abuts upon more than one (1) street, the owner shall have the option of selecting which is to be the front for purposes of determining street frontage."

It is clear from the boundaries of this property that no portion of the lot abuts Massachusetts Avenue. The line representing the extension of the right-of-way of Massachusetts Avenue between Squares S516 to the southeast and 484 to the northwest does not at any point abut the property.

I also note the precedent set by the apartment house at 450 Massachusetts Avenue. Lot 50 in Square 517, on which that building is built, clearly fronts on both Massachusetts Avenue and I Street. Aerial photographs of the building show that the building is setback 1:1 for the portion of the building that fronts on Massachusetts Avenue, but that the portion of the building which turns the corner onto I Street goes up to its full height without a setback.

Accordingly, I conclude that a building to be constructed on Lot 59 in Square 516 may be built to a maximum height of 130 feet and does not need to be setback at the 110 foot level. Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator

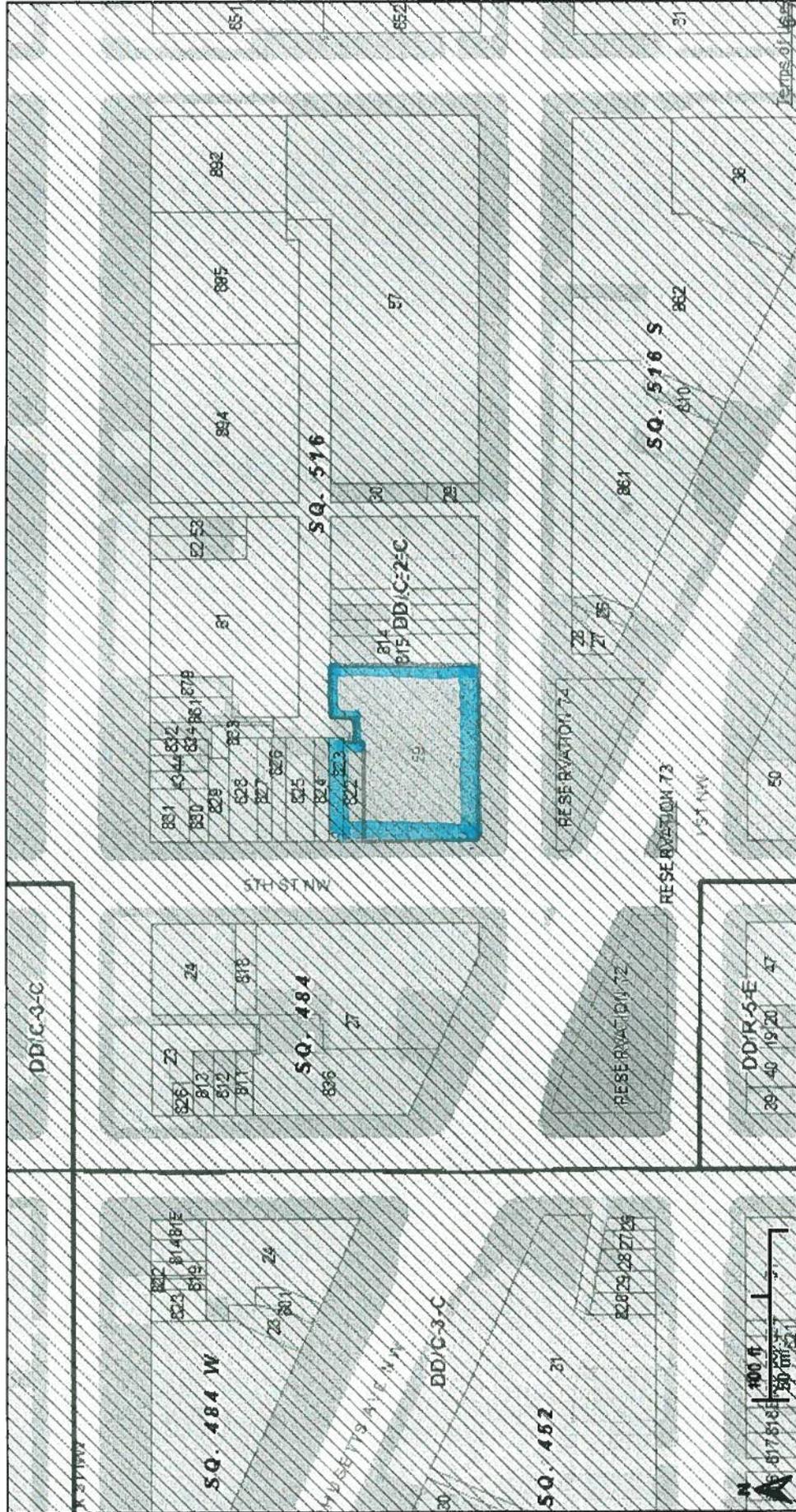
Attachment- Zoning Map Excerpt



District of Columbia Office of Zoning

EXTRACT OF THE DISTRICT OF COLUMBIA ZONING MAP

December 20, 2011



To certify zoning on any property in order to satisfy a legal requirement, contact the Office of Zoning at (202) 727-6311.

Zoning Layers	
	Zone Districts
	Historic Districts
	Overlays Districts
	CEA
	Campus Plans
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	Air Rights Zone