

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



February 14, 2008

Attn: Richard B. Nettler
Arent Fox LLP
1050 Connecticut Ave NW
Washington, DC 20036

Re: L'Enfant Plaza Height Issues

Dear Mr. Nettler:

As a follow-up to our meeting on Monday, November 19, and in addition to the bullets points below which constitute a synopsis of your prior letter to me on the measuring point for additions to L'Enfant Plaza, I am confirming the conclusions reached on the measuring point for the additions to the L'Enfant Plaza Hotel complex.

You have previously sent me a copy of the transcript of the Zoning Commission hearing on the amendment to the definition of building height, where L'Enfant Plaza was discussed (Tab 1), and a survey indicating the building heights and location of the measuring points (Tab 2). With this information I agree that the measuring point for the additions to the L'Enfant Plaza Hotel complex, which is "from a point at the curb elevations of the sidewalk on the Tenth Street Mall where it is intersected by the East-West axis of the so-called 'Hotel' building," so that the project may proceed as a matter of right. This understanding is based on the following:

1. The JBG Companies ("JBG") are considering constructing additions to L'Enfant Plaza and the L'Enfant Plaza Hotel on the lots owned by JBG east of Ninth Street, which are presently improved with the Retail Promenade and L'Enfant Plaza Hotel complex.

2. L'Enfant Plaza was constructed on the lots adjacent to Tenth Street, S.W. (also known as the "Tenth Street Mall"), but also straddles Ninth Street, S.W., and occupies lots to the east of Ninth Street, S.W.
3. The L'Enfant Plaza Complex, which includes the Hotel, Retail Promenade, Postal Office Headquarters, and two office structures, was constructed in the 1960s as one building, as there exists an above-grade communication between separate portions of the structure. 11 DCMR. §199.1.
4. L'Enfant Plaza is, on the Ninth Street side, above grade for at least two floors, where it fronts on Ninth Street, and, above the platform which straddles Ninth Street. Each of the structures built above the Plaza that stretches from Ninth Street to Tenth Street are connected by the L'Enfant Plaza mall and are one building for zoning purpose. The additions to the L'Enfant Plaza Hotel complex would have a connection to that complex above the main floor.
5. Because L'Enfant Plaza fronts on more than one street, under §199.1 of the Zoning Regulations, the owner may use any front to determine the maximum height of the one building. Tenth Street, S.W., has historically been used as the measuring point for the building.
6. The new definition for building height, adopted by the Zoning Commission in 2003 in Zoning Commission Case No. 02-35, did not alter the measuring point for L'Enfant Plaza but only the measuring point of future buildings adjacent to bridges and viaducts (neither of which would apply to Tenth Street, S.W., where it intersects L'Enfant Plaza).
7. L'Enfant Plaza does not front a bridge or viaduct. If the measuring point were to be the natural grade at Tenth Street, S.W., not only would there be no way to precisely measure the natural grade since the natural grade was altered in the 1960s and no longer exists, but it would render all of the existing structures at L'Enfant Plaza nonconforming as to height.
8. For historical purposes, in order to determine the measuring point that should be applicable, the Lease Agreement by and between the District of Columbia Redevelopment Land Agency and L'Enfant Plaza East, dated November 24, 1965 and recorded in the Land Records of the District of Columbia on November 24, 1965 as Instrument No. 40950 in Liber 12519

at folio 278 (the Air Rights Sublease) provided, in section 201(a) of the Air Rights Sublease, that the height of any development, including any future additions, would be "measured from a point at the curb elevations of the sidewalk on the Tenth Street Mall where it is intersected by the East-West axis of the so-called 'Hotel' building." The elevation of the Tenth Street Mall where it is intersected by the East-West axis of the Hotel structure is 53.5 feet above sea level.

9. The current improvements known as L'Enfant Plaza East are partially constructed on a platform over Ninth Street, the elevations of which are included in the definition of "Air Rights" in Section 101(a) of the Lease Agreement Between the District of Columbia and the District of Columbia Redevelopment Land Agency for the Ninth Street Air Rights, dated November 24, 1965 ("Air Rights Lease"). The platform, which was constructed prior to the construction of the improvements, is of varying elevations such that it runs parallel with the surface of the curb elevations on the Tenth Street Mall, and extends to the North and South of the existing improvements, in anticipation that there might be additions to or modifications of the initial improvements that currently exist on the site. The parapet elevation of the East Building Structure is 183.4 feet above sea level or 130 feet above the Tenth Street Mall measuring point. The parapet elevation of the North Building Structure is 143.4 feet above sea level or 90 feet above the Tenth Street Mall measuring point.
10. The plaza level drive was created at the same grade as the newly graded Tenth Street to the west of the plaza, the measuring point for the height of the L'Enfant Plaza East portion. The heights of the North, South and East Buildings are all measured in relation to the U-shaped drive and the Tenth Street Mall. Whatever natural grade Tenth Street had prior to the construction of L'Enfant Plaza that grade disappeared at the time that this portion of the Southwest was redeveloped.
11. L'Enfant Plaza is included within the Southwest Receiving Zone for Transferable Development Rights, pursuant to Chapter 17 of the Zoning Regulations. Under these regulations, utilizing Transferable Development Rights generated by a project in the Downtown Development Overlay District, a development in the Southwest Receiving Zone fronting on a street that is 130-feet wide may be constructed to a maximum building height of 130 feet and 10.0 FAR. 11 DCMR. § 1709.21.

Should you have any questions, please let me know as soon as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Matt LeGrant".

Matthew LeGrant
Zoning Administrator