



**BEFORE THE
ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA**

**Center Leg Freeway
“Return to L’Enfant”**

Case No. 08-34

**Statement of Monte Edwards
December 6, 2010**

My name is Monte Edwards. I am representing the Zoning Subcommittee of the Committee of 100 on the Federal City. The Committee is generally supportive of this planned-unit development of roughly 2.3 million square feet over the Center Leg Freeway, approximately 90% of which would be office space. The project will reconnect the L’Enfant street grid by building a platform over the canyon-like Interstate 395 roadway in the area generally bounded by Massachusetts Avenue NW, Second, Third and E streets NW, and would recreate three city blocks. A maximum height of 130 feet is proposed for the entire project. The Committee has two concerns with the current proposal:

- The middle and south blocks front on 2nd Street that is 90 feet wide and thus the maximum height should be 110-feet, rather than the proposed 130-feet.
- The proposed measuring point for the height of the middle and south blocks is the platform that will cover the I-395 roadway, rather than a point at natural grade that is the long-standing practice to use for the measuring point.

The northern block (2nd-Mass Ave-3rd-G Streets) proposes to use Massachusetts Avenue as the measuring point. Because Mass Ave has a width of 160 feet, the proposed 130-foot height would be allowed by §2405.1 of the Zoning Regulations and permitted by §5 (b) 1910 Height Act. However, the middle block (2nd-G-3rd-F Streets) fronts on 2nd Street, with a width of 90 feet, and § 5(a) of the Height Act would limit structures in this area to 110 feet:

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 twenty feet; ...

Likewise, the southern block (2nd-F-3rd-E streets) fronts on 2nd Street and E Street (except for a small protrusion on 3rd Street), both of which are 90 foot wide, and thus would also be limited to a 110-foot height. 3rd street NW is 110-foot wide and if the project faced 3rd Street, the middle and southern blocks could qualify for the 130-foot height. But Exhibit A, page 2.1, shows that in the middle block, the structures facing 3rd Street are:

- Holy Rosary Church, existing building, not in PUD
- Holy Rosary /Casa Italia, existing building, not in PUD

Apparently as part of the amenities, the developer is adding the Holy Rosary Annex and the Holy Rosary Rectory as additions to those existing structures. The applicant claims that while those existing buildings are not part of the PUD, they can be used to claim that this part of the project fronts on the 110 right-of-way of 3rd Street and thus justify a height of 130 feet.

The Zoning Regulations:

199.1 When used in this title, the following terms and phrases shall have the meanings ascribed:

Building, height of - the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet.

Building - ... When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

The intent of the second sentence in the definition above means that even if buildings physically touch, but have no internal communicating passage, they are separate buildings. The exception is common ownership, as provided in the definition:

Structure - ... Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.

In order for the center and south blocks to be considered a single structure (and hence allowing measurement of height from 3rd Street) they must be erected or maintained in single ownership. Nowhere in the application is there any indication that the applicant intends to own and then rent the Rectory and Annex space to the respective organizations.

Even if these existing buildings that face 3rd Street were “connected” or under common ownership with the new structures, the definition of “Building, height of” states that whatever street you use for measurement must be selected as a street that the building

fronts on:

If a building fronts on more than one (1) street, any front may be used to determine the maximum height of the building; but the basis for the height of the building shall be determined by the width of the street selected as the front of the building [emphasis supplied].

The front of a building typically has an entry and is the basis for determining the building address. Any buildings using 3rd Street for measurement purposes would thus have a front entry on 3rd Street and a 3rd Street address. The first paragraph of Section 5 of the Height Act specifies the maximum "height above of the sidewalk the width of the street, avenue or highway in its front, increased by twenty feet [emphasis supplied]."

Reading these together, the width of the street in front of the main building is determinative, not the street on which the two existing buildings that are being modified a part of the amenities are located.

The other issue is the measuring point the applicant has a proposed for the middle and southern blocks of the development: the yet-to-be constructed bridge or platform that will reconnect 2nd and 3rd streets. Normal practice is to measure from natural grade, and both 2nd and 3rd streets are "at natural grade". There is no discernable advantage in terms of increased height in specifying the yet-to-be-constructed platform as the measuring point. It would not reduce the height of the project if the existing curb of 2nd Street, or 3rd Street were specified as the measuring point for the middle and southern blocks of the project.

But to depart from the long-standing practice of measuring from natural grade and allow the measuring point to be a man-made platform introduces a new and potentially troublesome concept. What happens if a higher platform is introduced, such as what is proposed for the Union Station air rights development? If such a platform is 30 feet above natural grade and that is used for the measuring point to apply the Height Act maximum height of 130-feet, the result will be a towering 160-foot project (with yet another 18 ½ feet for the penthouse).

The Committee of 100 urges the Zoning Commission to use this proceeding to reaffirm the historic practice of measuring height from natural grade. The Committee supports one of the basic elements of this application: return to the L'Enfant street grid. But the L'Enfant Plan is much more than a street grid. The values inherited from the L'Enfant Plan and McMillan Commission give Washington its historic distinction and natural beauty, and have been able to respond to the challenges of development. The Committee of 100 believes those values can continue to do so into the 21st century.