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

September 24, 2014

Christine Roddy, Director
Goulston & Storrs
1999 K Street, NW, 5th Floor
Washington, DC 20006-1020

RE: 301 G Street SW Lot 110 of Square 540, Building Height Measurement Point

Dear Ms. Roddy:

The purpose of this letter is to memorialize our discussion at our meetings on May 30, 2014 and June 24, 2014. This memorandum confirms that the measuring point for future development on Lot 110 of Square 540, also known as 301 G Street, SW, may be taken from Interstate 395/695.

The Property is located in the R-5-C Zone District and is bounded by 4th Street, SW to the west, G Street, SW to the south, I-395/695 to the north and private property to the east. The Property is currently improved with a 9 story residential building that is approximately 90 feet in height. Like many residential buildings in this southwest neighborhood, the existing building was constructed at the time pursuant to the terms of the Southwest Urban Renewal Plan, and its height exceeds what would be permitted under zoning today. New construction on the Property must comply with the zoning parameters of the R-5-C Zone District, including the 60 foot height limitation. You have asked me to confirm that the building height may be measured from the grade at the mid-point of the building façade along I-395/695 which abuts the property. I-395/695 runs along the northern edge of the Property and is elevated approximately 13 feet above the Property (see attached survey). The area underneath the freeway is enclosed with a stone wall and there is no open area beneath the roadway. In light of these facts and consistent with my rationale outlined below, I agree that the building height may be measured from the elevated roadway adjacent to the Property to the highest point of the roof or parapet.

Under the applicable definition in Section 199.1 of the Zoning Regulations, building height in a residential district is the "vertical distance measured at the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district." The question becomes what is considered "grade" for I-395/I-695. In my consideration of this issue, I referred to the Washington Gateway project, which was the subject of Zoning Commission Case No. 06-14. A very similar issue was addressed in that case. The Washington Gateway project fronted New York Avenue, an elevated roadway, which ultimately bridges over the CSX tracks leading into Union Station. The grade difference along New York Avenue was close to 40 feet; nevertheless, the Commission determined, and the Office of Planning as well as myself agreed, that the measuring point could be located from the elevated roadway as it was considered the existing grade. Using the elevated roadway as the measuring point for building height does not run afoul of the restriction in the building height definition that states, "[i]n the case of a property fronting a bridge or a viaduct, the height of the

building shall be measured from the lower of the natural grade or the finished grade at the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district." The Commission concluded that New York Avenue did not become a bridge until it crossed the CSX railroad tracks, just northeast of the PUD site. New York Avenue was simply an elevated roadway while adjacent to the PUD site; an elevated roadway did not qualify as a bridge or viaduct by virtue of being elevated. Similarly, I-395/695 is neither a bridge nor a viaduct but simply an elevated roadway that can serve as the measuring point for height purposes.

Webster's Third International Dictionary ("Dictionary") defines a bridge as "a structure erected over a depression or an obstacle to travel (as a river, chasm, roadway, or railroad) carrying a continuous pathway or roadway (as for pedestrian, automobiles or trains)." I-395/I-695 does not qualify as a bridge because it is not erected over a depression or an obstacle. It is simply an elevated roadway, with a solid base. There is no open space beneath the roadway; accordingly, it does not function as a bridge nor can it be considered a bridge. Similarly, the freeway is not a viaduct. The Dictionary defines a viaduct as a "bridge especially when resting on a series of reinforced concrete or masonry arches, having high supporting towers or piers, and carrying a road or railroad over a valley, river, road, or other low-lying obstruction." As noted above, the freeway is not a bridge and thus, is not a viaduct. Accordingly, based on the logic applied in Case No. 06-14, because I-395/695 is neither a bridge nor viaduct and is simply an elevated roadway, the measuring point can be taken from the roadway.

This rationale is supported by the legislative history of the definition of building height. In Case No. 02-35, the Zoning Commission adopted a new definition for building height which included the language above prohibiting measuring points from bridges and viaducts. The original text of the proposed text amendment, however, did not allow measuring points from "streets elevated above grade". This language was specifically changed to instead say "bridge or viaduct", representing a conscious decision on the part of the Zoning Commission to continue to allow height measurement to be taken from "streets elevated above grade". See Order No. 02-35, p. 3.

During my evaluation of this matter, I considered whether I-395/695 could be considered a street lot line for height measurement purposes since it cannot be used to access the Property. I note that the National Capital Planning Commission ("NCPC") raised the same concern in Case No. 06-14. NCPC argued that New York Avenue could not be used as the measuring point because there was no access from New York Avenue. The Commission, as well as myself, dismissed this notion, as access has never been the basis for height measurement. The Height Act allows different streets to serve as the measuring point and building front based solely on street frontage and not on building access.

Based on the above analysis, I find that future development can use the elevated roadway of I-395/695 as the measuring point for height. The 60 feet of height allowed in the R-5-C Zone

District can be measured from this elevated point that is approximately 13 feet above grade.

Please let me know if you have any further questions.

Sincerely,

Matthew Le Grant
Zoning Administrator

Attachment: Survey

File: Det Let re 301 G St SW to Roddy 9-24-14