Attachment B

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

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IN REPLY REFER TO:
NCPC File No. 08-06-1

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D.C. OFFICE OF ZONING
2008 OCT 10 PM 4:54

Mr. Anthony Hood
Chairman
District of Columbia Zoning Commission
441 4th Street NW, Suite 210
Washington, DC 20001

RE: Zoning Case No. 08-06-01 Amendments to the Zoning Regulations Regarding Height

Dear Chairman Hood and Members of the Commission:

Thank you for the opportunity to offer comments on the District of Columbia Office of Planning's (DCOP) September 15 memorandum providing concept-level recommendations on the regulation of height in the city's proposed redraft of the zoning code.

The 1910 Height of Buildings Act (Height Act) has shaped the horizontal character of the city and the skyline, and the urban form and airy, light-filled streets that comprise the unique look of our nation's capital. The city that has developed within the framework of the Height Act is compact and intensive, yet human-scaled, walkable and transit-friendly. Planning policies in both the District and Federal Elements of the *Comprehensive Plan for the Nation's Capital* support the Height Act and the qualities it advances.

Within the framework of this shared support for the Height Act, we acknowledge that NCPC and the District have had some differences of implementation. We have been pleased to work closely and cooperatively with DCOP staff and the zoning task force on this important topic and have been making significant progress towards reaching agreement on many issues. It is very important to ensure that the zoning code is consistent with the Height Act, and to promote clear, consistent implementation of height requirements. While DCOP does not note it in the September 15 memorandum, we anticipate that the proposed text will include references noting that the Height Act is a federal law and specify enforcement methods.

Our approach to the Height Act and zoning code provisions is based on broad urban design objectives:

- Broad, open streets framed by strong, consistent street walls and uncluttered rooflines, as viewed from the street and public spaces.
- The general horizontality of the city that focuses attention on iconic structures that represent our shared federal and local ideals and aspirations.
- Buildings with height and scale in relationship to street width and street use.

The September 15 memorandum reflects many of the agreements NCPC and DCOP have reached. In some cases, resolution has been reached by mutually recognizing that the provisions of the zoning code offer greater flexibility where development is fully under the limits established by the Height Act than for

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development at or extending above the Height Act limits. There are several areas where we have yet to reach agreement, or where DCOP's recommendations are different than what had been previously discussed – most notably the issue of linking the street from which height is established to the street where height is measured. In several of these areas, detailed analyses that identify the magnitude of a recommendation's impact on the overall city will better guide further discussion. Finally, the height provisions within the zoning code are interrelated, and our agreements on certain concepts are based on an overall package of provisions.

Others have raised concerns that some of the proposed changes may create non-conforming structures. As part of our agency's review of height regulation, we have determined that in many areas of the city, the development that could be or has been built is limited not by the Height Act, but by local regulations and the development review process. We urge further studies that better quantify claims of non-conformity under the Height Act. The District may be able to address this issue in part by evaluating height limits allowed by zoning throughout the city.

The following are comments on the specific recommendations in the September 15th memorandum.

Recommendation 1: Frontage on multiple streets
We recommend that the building "front" be defined, and offer the following definition: "a prominent face of a building containing a principal public entrance of the building." The use of this definition promotes an architectural relationship between the façade treatment and what is typically the tallest side of a building, and prevents the front façade from being either a blank face or the side used exclusively for parking or loading. Because this definition is broadly written, it should not pose challenges to the architectural community or limit mixed-use development.

Recommendation 2: Buildings confronting federal reservations or open space
We support the concept approach proposed by DCOP.

Recommendation 3: Residence and Business Streets
We support the concept approach proposed by DCOP.

Recommendation 4: Single vs. Multiple Buildings
It is important to clarify this issue, and we support the direction of the approach proposed by DCOP in the September 15 memorandum. We are committed to working with DCOP to develop an appropriate standard.

Recommendation 5: Location of Bottom Measuring Point
Using the same street to determine maximum allowable height and measuring point – identified as Option One of this recommendation – is in keeping with the Height Act and the urban design concept of ensuring that the height and scale of buildings is in relationship to street width and adjacent use. Option 2 has the potential to allow buildings that are out of scale with adjacent streets and the size and character of adjacent development. We are concerned about the impact of this interpretation not only downtown, but throughout the city, particularly in areas that transition from residential to commercial, and in steeply sloped areas. We strongly urge DCOP to prepare an analysis of the impact of either of these options across the entire city, and to develop "extreme case" studies, before recommending an option.

Recommendation 6: Elevation of Bottom Measuring Point
We have no specific objections to the approach proposed by DCOP, which appears to produce very similar outcomes to the requirements of the Height Act, and note that it provides useful guidance in cases where there are no sidewalks. However, the Height Act is specific regarding the bottom measuring point, and in the event of any conflict, the Height Act would take precedence over this proposed approach.

Recommendation 7: Natural Grade
We support the concept approach proposed by DCOP.

Recommendation 8: Top Measuring Point
We support the concept approach proposed by DCOP. Our agency and DCOP mutually recognize that the provisions of the Zoning Code offer greater flexibility where development is fully under the limits established by the Height Act than for development at or extending above the Height Act limits. Therefore, we will need two different standards, requiring greater attention by agencies and developers alike.

Recommendation 9: Structures permitted atop a roof
NCPC believes that "green building" features related to the environmental sustainability of a building are consistent with the Height Act's provisions for mechanical equipment as a "utilitarian feature."

"Amenity" features are not identified in the Height Act as allowable rooftop elements, and we do not support inclusion of this approach. Occupied spaces are not allowed by the Height Act above the limit of height.

Recommendation 10: Height, width and massing of structures atop a roof
We appreciate the recognition that ornamental features are intended to be vertical. The Height Act allows specified features to exceed the limit of height. We are concerned that specifically allowing utilitarian features within ornamental features could result in a proliferation of inappropriately located features built to hide structures, rather than advance a coherent design. This provision needs further review.

Recommendation 11 and Recommendation 12: Setbacks for structures atop a roof and Exterior walls
Recommendations 11 and 12 are closely linked. The Height Act is explicit about what rooftop elements are permitted, and which of these must be set back from an "exterior wall." Also, the concepts put forward for exterior walls and roof top structures could result in cluttered rooflines with structures visible from the street and rooftop structures that give the appearance of an additional story.

NCPC has a long and consistent history of interpreting an exterior wall as each wall that is part of the exterior envelope of a building, not just a street wall. We describe our view as "each wall exposed to the elements or the earth." The memorandum identifies new approaches to defining exterior walls, particularly relating to setback requirements, and these merit further study of their urban design impacts.

- We support identifying walls on alleys as exterior walls.
- The proposed concepts do not define a building wall set back from a side property line as an exterior wall; however, the proposed concepts specify a setback from this wall for rooftop

- structures unless allowed by special exception. We support the stronger protection provided by defining this wall as an exterior wall.
- Our agency has considered party walls and the walls of courtyards and "stepped" buildings as exterior walls; however, we are willing to work with DCOP to develop new approaches.

Under the Height Act, no relief can be granted for rooftop structures requiring setbacks above the limits established by the Height Act. We would not object to the District establishing a setback relief mechanism for structures fully below the Height Act, recognizing that this would create two standards - one for structures fully below the Height Act and one for structures at or above the Height Act.

However, the city has a strong urban design feature of rooftop structures that are set back. Granting relief through an exception process must consider urban design issues, and DCOP should explore what entity would be most appropriate for considering requests for relief that involve urban design issues.

In closing, we express our appreciation for the hard work and cooperative spirit of DCOP staff and the members of the zoning task force. Continuing work on this important issue would benefit from "extreme case" analyses and studies showing the magnitude of a recommendation's impact on the city. NCPC staff looks forward to further discussion with both District staff and the Zoning Commission. Please contact Julia Koster at (202) 482-7211 if you have any questions.

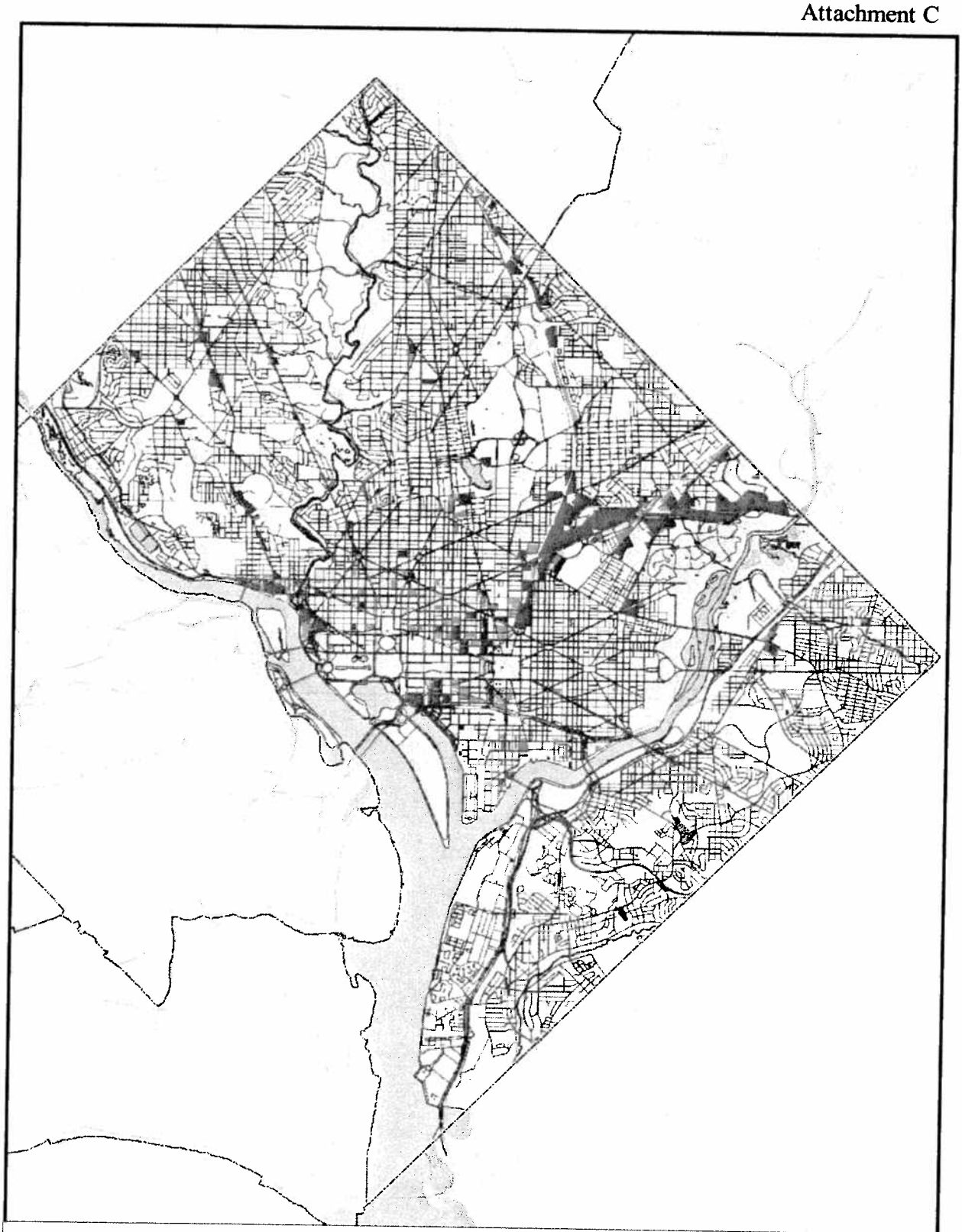
Sincerely,

Julia Koster

Julia Koster, AICP
Director, Planning Policy and Research Division

cc: Harriet Tregoning, District of Columbia Office of Planning
Tom Luebke, Commission of Fine Arts

Attachment C



Grade Change Across Properties in Business Zones

Map Created: December 2008

NCPC

0 0.5 1 2 3 Miles

LEGEND

Topographic Differential

- 10 - 20 feet
- 21 - 30 feet
- > 30 feet
- **Boundary Lines**
- **Roads**
- **Parks**

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