

## COMPILED PUBLIC COMMENTS | SUBMITTED TO NCPC & DCOP

Includes written testimony and letters received by NCPC and DCOP by the close of the Phase 3 Public Comment Period on October 30, 2013.

### WRITTEN TESTIMONY

Lindsley Williams  
George R. Clark  
Benedicte Auburn  
Janet Quigly, Capitol Hill Restoration Society  
Alma Gates, Neighbors United Trust  
Sue Hemberger  
Loretta Newman, Alliance to Preserve the Civil War Defenses of Washington  
John Belferman  
Jim Schulman  
Richard Busch, Historic Districts Coalition  
Richard Houghton  
Dorn C. McGrath Jr.  
Gary Thompson, Advisory Neighborhood Commission 3/4G02  
Eugene Abravanel  
Joseph N. Grano, The Rhodes Tavern-DC Heritage Society  
Nancy MacWood, Committee of 100  
William Haskett  
Sally L. Berk  
Laura Phinizy  
Roger K. Lewis  
Ben Klemens  
Kenan T. Fikri  
Jeff Utz, BF Saul Company and Goulston & Storrs  
Denis James, Kalorama Citizens Association  
Robert Robinson and Sherrill Berger, DC Solar United Neighborhoods (DCSUN)  
Robert T. Richards, Advisory Neighborhood Commission 7B  
C.L. Kraemer  
Roberta Faul-Zeitler  
Judy Chesser  
David C. Sobelsohn  
Erik Hein  
Tersh Boasberg  
Andrea Rosen  
Carolyn Johns Gray, Frederick Douglass Community Improvement Council

### ADDITIONAL PUBLIC COMMENTS

[www.ncpc.gov/heightstudy/comments.php](http://www.ncpc.gov/heightstudy/comments.php)

## **FORMAL LETTERS AND RELATED DOCUMENTS**

Cheryl Cort, Coalition for Smarter Growth  
Kindy French  
David R. Bender, Advisory Neighborhood Commission 2D  
Donna Hays, Sheridan-Kalorama Historical Association, Inc.  
William M. Brown, Association of the Oldest Inhabitants of the District of Columbia  
Marilyn J. Simon, Friendship Neighborhood Association  
Christopher H. Collins, DC Building Industry Association (DCBIA)  
Phyllis Myers, State Resource Strategies  
Penny Pagnao, DC Advisory Neighborhood Commission 3D  
National Coalition to Save Our Mall  
Christopher B. Leinberger, George Washington University  
Rob Nieweg, National Trust for Historic Preservation  
Reid Nelson, Advisory Council on Historic Preservation  
The Developers Roundtable  
James C. Dinegar, Greater Washington Board of Trade  
Janet Quigley, Capitol Hill Restoration Society  
Mayra Addison, Preserve Our Green Space in Sheridan-Kalorama  
Mary Fitch and David T. Haresing, American Institute of Architects Washington  
John G. Parsons  
William N. Brown, Association of the Oldest Inhabitants of the District of Columbia  
Christopher K. Chapin, Sheridan-Kalorama Neighborhood Council  
Tenleytown Neighbors Association  
Richard Busch, Historic Districts Coalition  
Nancy McWood, Committee of 100 on the Federal City  
Meg Maguire  
Frederick Harwood

## **ADDITIONAL PUBLIC COMMENTS**

[www.ncpc.gov/heightstudy/comments.php](http://www.ncpc.gov/heightstudy/comments.php)

# **WRITTEN TESTIMONY**

## **Talking Points of Lindsley Williams at NCPC Hearing on Height of Buildings Act of 1910 - October 30, 2013**

- Thanks to Congressman Issa, along with NCPC and DC -- for asking and answering, for the first time in 100 years.
- The Act has given DC its present urban form, as well as shaped nearby Rosslyn, Crystal City and Washington Harbor (toothpaste analogy)
- NCPC has compiled much but, so far, been modest in its recommendations; DC used the opportunity to look more broadly and over a longer term. I commend NCPC in its initial modesty and DC for its broad and multipronged approach leading to its recommendations. I particularly appreciate DC's efforts to project capacity and later steer growth where it is desirable/viable, not just where there is "room" under present zoning and Height Act provisions.
- The Act is already codified within DC Code, not the US Code. While a great deal of attention, and angst, is on the various provisions in Section 5, the Act is far more extensive than just that. I decided to look at all of its provisions, leading to a "matrix" of sorts already in the hands of both NCPC and DC.
- **As a matter of public interest, I urge both NCPC and DC to "seize the day" or opportunity to recalibrate all of the Height Act to better serve the Nation and still protect the particular Federal interests that are concentrated in and around the "L'Enfant" area. To me, "around" expands the more sensitive area to the topographic bowl and ridge line.**
- I urge that NCPC and DC strive to file a joint report that speaks to the issues and offers potential resolution whenever possible. Having the two pull on the same rope in the same direction will be more productive than arm wrestling. Use addendums to note differences, if any remain.
- I further urge each to at least comment on the many subsidiary issues in the Act as now in effect. These include, from my point of view:
  - Occupancy and use of penthouses (currently basements in the sky, the strongest asset per sq foot is off limits)
  - Capping penthouses at a height that can be inconsistent with technology and green roofs
  - Measurement point that differs from zoning; no law on decks (L'Enfant Plaza among others) or viaducts
  - Parapet measurement under 1910 versus zoning; balustrade missing in 1910
  - Antiquated provisions on wood construction or for non-fireproof buildings
  - No variance process (who needed in Act's early days if you could get amendments instead)
  - No special exception/design review (such as infill from penthouse to building wall when view from ground level nearby would not be adversely affected)

Urge NCPC state its conclusions of those above and any other "defects" as a "Finding of No Significant Federal Interest" (**FONSFI ?**) and DC to indicate that the issue is fully addressed in other existing building, life safety, or zoning codes and is thus superfluous or inadvertently in conflict.

- Likewise, I would urge the NCPC and DC ask if the time is not appropriate to bring the authority to amend the Act to DC in a manner parallel to that of the Comp Plan, which gives NCPC strong review authority over "District" elements, and, if DC Code were amended, it remains the authority of the Congress to overturn, just as it has the authority now on other laws DC Council adopts (whether requested by the Mayor or not) and that the Mayor signs. This would get the details out of the Congress which, in my view, has vastly more important duties than being protector of the parapet. **Mayor and Council, with NCPC input/review, better able to study and resolve all this.**
- Neither NCPC nor DC are seeking repeal of the Act or Section 5. The opportunity is here to take the legacy of the Act and position it well for at least another century of service while meeting the needs of the Nation, the area and DC itself. Finally, the Act was first created at and later modified at request of DC residents and governments, never solo.

As a person with faith in the ability of governments in general (and DC and NCPC in particular) to do the right thing, I think this would work to bring about a harmonious solution around the table and satisfy at least much of the citizenry as well. In closing, please consider the above for what it is, my effort to find a solution that benefits all.

**"The mind is like a parachute -- it works better when it is open"** (Jimmy Carter -- lead gospel singer for Blind Band of Arkansas)

**THANK YOU**

National Capital Planning Commission

October 30, 2013

**Hearing on the Draft Recommendation from the NCPC Executive Director and the Recommendation from D.C. Mayor Gray**

TESTIMONY OF GEORGE R. CLARK

My name is George Clark. I am a 40 year resident of this City, drawn to it by its scale and beauty. I am a past Chair of the Committee of 100 on the Federal City, a three time President of Federation of Citizens Associations, served 6 years on the Zoning Review Task Force, and am currently on the DDOT Transportation Planning Task Force.

I urge you to reject the late and unvetted proposal from the Office of Planning and keep the Height of Buildings Act as it is, with perhaps further study of the penthouse issue as noted by the Staff Report, which I heartily endorse. I say unvetted because in none of the public meetings this past summer did OP give even a hint of this Manhattanization proposal to any of the citizens who attended. In fact OP denied that it had any intent to ask for so many tall buildings in so many places. And even with that, the large majority of those in attendance saw no reason to change the Height Act. And now OP goes directly to Rep. Issa, without even bothering to ask the citizens what they think. Some Home Rule issue. The people don't want change so let's do an end run around them in Congress!

But OP tells us that we need tall buildings so that housing will be less expensive, you know, like in Manhattan or downtown Chicago. Recognizing the folly of this assertion, OP tries to justify it at page 14 of the Economic Analysis of the Height Master Plan from James Davis Construction (forget why you'd ask a construction company to do an economic analysis):

While newly constructed higher-rise apartments are likely to have relatively high rents, expansion of the housing supply should result in lower rents if new supply exceeds the growth in demand. The availability of new apartments will put competitive pressure on existing buildings to renovate and maintain their edge and/or lower their rents. Units that are not as well located and maintained will see a lessening of demand and lower rents. However, the impacts on prevailing rents are likely to occur primarily at the margin. The District's high costs of development and natural market forces will limit the extent of oversupply and rent reductions over the longer term, though during the down parts of market cycles, the additional supply could lead to lower rents until supply and demand are back in balance.

In other words, rents will go down if we overbuild tall building housing for rich folks because they will move out of their current housing which will deteriorate and be more affordable for the masses. And if that doesn't work, a good depression might come along and lower rents! And by the way, forget that ownership stuff – you will all be renters.

So what is the real reason for OP pushing for tall buildings? Fortunately we have the answer from the Board of Trade. In an e-mail the BOT sent me they said the following:

Yesterday the District of Columbia Office of Planning released the District's Height Study Draft Recommendations which calls for Congress to modify the Height Act to allow for taller [buildings] in the District. As indicated in the press release linked below, this recommendation *will result in a substantial opportunity* for increased future development in the District.

Well now we know who this building height is supposed to help -- not the average person, not the poor, not the homeless – but developers! Thank you OP!

And let's not forget the claim that D.C. will gain significant property tax benefits. When is last time you heard that the City did not give a developer of a large project 25 years of tax relief or TIF financing to build, thus wiping out any tax benefit?

Home Rule is not more height for favored developers. It isn't jeopardizing the views, the scale and the feel that has made this City iconic and made it grow and prosper and attract more residents. Home Rule is Statehood, or voting rights or budget autonomy. OP has come up with a solution in search of a problem. Let's file it where it belongs.

NATIONAL CAPITOL PLANNING COMMISSION (NCPC) HOSTS A SPECIAL MEETING FOR THE PUBLIC  
TO PROVIDE FEEDBACK  
ON FEDERAL AND DISTRICT PORTIONS OF THE HEIGHT MASTER PLAN

Wednesday, October 30, 2013  
04:30 pm, Hearing Room 500,  
401 9<sup>th</sup> Street, NW  
Washington DC 20004

Good afternoon Mr. Chairman. My name is Benedicte Aubrun and I wanted to thank the Commission for the opportunity to testify on a very important topic today.

What makes the District of Columbia so different from other American cities, so attractive, so charming, so European, and so welcoming? It is thanks to the Federal Height of Buildings Act of 1910 that preserved a unique and human scale city.

Nowadays, modern cities in the world with skyscrapers are quickly taking over, leaving human beings with a sensation of being out of scale and not belonging as part of the city.

I would like to understand why there is such a frenetic push for more housing since the population is smaller than the 1960s where there was adequate housing for everyone. Has the city the capacity to support that many people when the public transportation is badly failing the region, the government is restricting parking when even your study shows most of the new jobs will be outside the city. There is no reason to believe that the water and sewer capacity of the city can support the proposed population increases without any serious supporting studies. What about all the structural issues that raising the height will have on existing buildings, so easily dismissed in the study? Not one engineer company has come to make a presentation and explain what will be the consequences of such massive additions! All these points are so easily dismissed in the Office of Planning's report.

There is no such thing of low cost high-rise housing. It can't be done cost effectively as even the Chinese, master high-rise builders, have discovered. The cost of the built building with all the infrastructure means it is not suitable for low-income housing and many of them are empty. The cost of finishing material is relatively expensive (floors, double pane windows, elevators, appliances, HVAC, mainenance etc...)

Up to now, I haven't seen any statistics proving that raising the height in DC will help affordable housing development as suggested by the proponents and allow low income people to live in the city. There is no such thing as low cost high-rise housing. Consider New York City, Dubai, Singapore, Tokyo, Shanghai, Hong Kong.

Adding new height to certain neighborhoods or « clusters », will likely create a building boom in those locations; as is already the case right now, leading to an escalation of land and building costs and more expensive housing, putting pressure on property taxes, crushing the middle class. This will push many current residents (renters and owners) out of their neighborhoods and speed up the gentrification we are already experiencing.

DC doesn't lack space or land for building houses as it is shown in the report; millions of square feet of land can still be developed. Besides the availability of land, it doesn't stop developers from converting Historic District row houses into condos and apartments that only a few people can afford. Also, do you believe that raising the height in some pockets will stop developers from converting those houses into condos in other high density areas?! We risk a real estate bubble, which like all bubbles will burst. Let's just be realistic...

We hear from our representatives in DC: increase property values; generate more income to the city through taxes etc... But honestly, don't we have priorities in the city to spend money on other crucial studies than on raising the height when thousands of people are seeing cuts in their social aid? Cuts which can only get worse as we push low and middle income people out of the city.

Committee Chairman Darrell Issa wrote to the Mayor of the District of Columbia to « encourage the exploration of strategic changes to the Height Act in those areas outside the L'Enfant City that support local economic development goals while taking into account the impact on federal interests ».

I believe the DC Height Act report by the Office of Planning has gone overboard. Indeed, pushing substantial changes in the DC Height Act by waiving all Federal interests inside and outside L'Enfant City is questionable due to the fact that at the same time OP is conducting a zoning regulations rewrite, which was delivered to the Zoning Commission in September 2013.

The fact that the public has been limited in its ability to comment until now, makes me wonder how open the process has been and makes me suspicious of the Administration's motives.

The DC Height Act sets the tone for development and as we all know DC zoning is more restrictive than the Height Act. Both of them combined (zoning and Height Act) will cause precedents and alter the DC skyline, put at risk the tourism and hospitality businesses that rely so much on our horizontal skyline and human scaled neighborhoods, affect the monumental core of the city and deprive neighborhoods of the exceptional or treasured views the city provides to so many residents.

Let the high-rise culture be built in the suburbs and leave the unique core of our precious city as it is. Let Rosslyn be Rosslyn, Crystal City be Crystal City with no personality what so ever!

Being from Paris, I reviewed and included below a few details regarding the amended Paris Height Act. In November 2010, The City Council in Paris did vote to raise the height ONLY on new constructions and did not allow additional penthouses on current constructions. From 1977 until 2010, the height for building residential housing was limited, through its Local Zoning Plan (PLU), to 37m. Nowadays, with the new Paris height, constructions for residential can go up to 50m (15 floors) and 160m to 180m for office towers.

I can't imagine doing so in the historic district of Paris! This will be equally absurd here... Indeed, the constructions that fall under that bill will apply to the ring of the city not the heart of Paris. The Arrondissements or Districts that will be affected are District 13eme (Masséna Bruneseau) Porte de Montreuil), 15eme (Porte de Versailles), 17eme (Batignolles) and 18eme (Porte de la Chapelle) and will concentrate mostly on affordable housing. Please refer to the map and tables.

The argument of the Mayor's administration to raise the heights was the lack of housing. Paris doesn't really lack housing, it is just not affordable for everyone; rents are too high! A poll was conducted on high-rise in Paris, and resulted in 63% of Parisians against high-rise towers or skyscrapers.

One of the exceptions for high-rise tower in Paris is the Tour Montparnasse (210m) that was built before the 1977 Paris Height Act, which limits high-rise buildings.

To conclude:

People are attached to the history of their country, it doesn't matter if it is only a few centuries old or thousands of years, History and culture are the roots, the identity of human beings.

The DC Height Act is not just about Federal interest. It is about an entire city, both Historic Districts and non Historic Districts. It is about conservation of an architectural corpus left by our ancestors to cherish, preserve and remember. It is about History! And besides the admirable work they did, it is a way to honor their talent.

Don't take away from the residents what they love the most about DC. As Tommy Wells said at the NCPC meeting back in September: "The whole city functions as a monument not just neighborhoods".

I urge the Commission to take into consideration these crucial elements and dismiss the Office of Planning's request to change the DC Height Act.

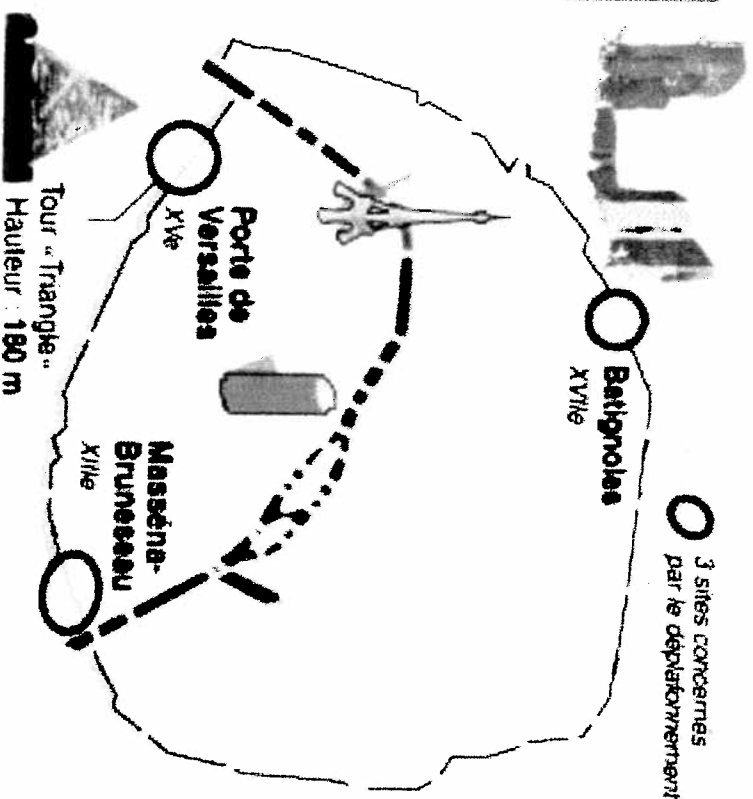
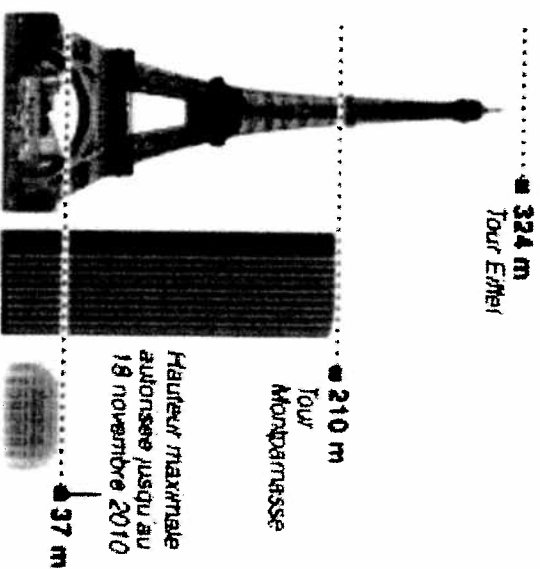
Thank you.

# Le retour des immeubles de grande hauteur à Paris

La construction de bâtiments de plus de 50 mètres est autorisée dans des quartiers bien précis de la capitale

## Nouvelles hauteurs en vigueur

- 50 m pour les immeubles d'habitation
- jusqu'à 180 m pour les tours de bureaux



Plan de Paris avec zones susceptibles d'accueillir de nouvelles tours

# List of tallest buildings and structures in the Paris region

From Wikipedia, the free encyclopedia

This page presents a **list of the tallest skyscrapers buildings and structures in the Paris region**, consisting of the inner Paris urban area (Paris and its neighboring communes).

The Paris urban area currently contains the most skyscrapers of any metropolitan area in the European Union:<sup>[1]</sup> As of 2012, there are 14 skyscrapers that reach a roof height of at least 150 metres (492 feet), compared to 12 such skyscrapers in London and Frankfurt am Main, and 5 in Madrid and Warsaw.

Most of the Paris area's high-rise buildings are located in three distinct areas:

- **La Défense**, located in the western inner suburbs in the département of the *Hauts-de-Seine*: La Défense is the largest purpose-built business district in Europe. Unlike the other high-rise areas, La Défense is dominated mostly by office buildings. 13 of the 14 skyscrapers in the Paris region are located in La Défense.
- **Italie 13**, located in the southern half of the 13th arrondissement: The 13th arrondissement towers are mostly residential, located in the south of the arrondissement, in what is today le *Quartier chinois* (*Chinatown*);
- **Front de Seine**, located in the 15th arrondissement: Most of the buildings of the Front de Seine, which is in close proximity to the Eiffel Tower, were built in the 1970s and 1980s and are of mixed commercial and residential use. The tallest building is the Tour Montparnasse, the only skyscraper within the city limits of Paris.

Other high-rise buildings are scattered throughout the Paris area, mainly in close proximity to the *Périphérique* freeway. These include Les Mercuriales in Bagnolet, the Tour Pleyel in Saint-Denis, and the Hôtel Concorde Lafayette in the city proper (near the Porte Maillot).

However the tallest tower is built within central Paris: the iconic Eiffel Tower standing alongside the Seine River at the heart of the 7th arrondissement. Built in 1889, it was the first man-made structure in the world to exceed 1,000 feet.

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East view of La Défense.



North view of La Défense.

## Completed structures



La Défense at night

This list ranks the Paris area buildings that stand at least 100 metres (328 ft) tall.<sup>[2]</sup> Existing structures are included for ranking purposes based on present height.

Rank	Name	Built	Use	Height (metres)	Height (feet)	Levels	District	Commune (municipality)
1	Tour First	1974 / 2011	office	231	739	50	La Défense	Courbevoie
2	Tour Maine Montparnasse	1969–1973	office	210.0	689	59	15th arr.	Paris
3	Tour Total	1985	office	187.0	614	48	La Défense	Courbevoie
4	Tour T1	2008	office	185.0	607	38	La Défense	Courbevoie
5	Tour Areva	1974	office	184.0	604	44	La Défense	Courbevoie
6	Tour Granite (Société Générale)	2008	office	183.0	600	37	La Défense	Nanterre
7	Tour Gan	1974	office	179.0	587	44	La Défense	Courbevoie
8	Tour Alicante (Société Générale)	1995	office	167.0	548	37	La Défense	Nanterre
9	Tour Chassagne (Société Générale)	1995	office	167.0	548	37	La Défense	Nanterre
10	Tour EDF	2001	office	165.0	541	41	La Défense	Puteaux
11	Cœur Défense	2001	office	161.0	528	40	La Défense	Courbevoie
12	Tour Adria (Technip)	2002	office	155.0	509	40	La Défense	Courbevoie
13	Tour Égée (Ernst&Young)	1999	office	155.0	509	40	La Défense	Courbevoie
14	Tour Ariane	1975	office	152.0	499	36	La Défense	Puteaux
15	Tour Pleyel	1972	mixed	143.0	469	37	Carrefour Pleyel	Saint-Denis

18	Tour Défense 2000	1974	residential	136.0	446	46	La Défense	Puteaux
20	Tour Europlaza	1995	office	135.0	443	31	La Défense	Courbevoie
21	Tour Descartes (IBM)	1988	office	130.0	427	40	La Défense	Courbevoie
22	Tour Les Poissons	1970	mixed	128.0	420	42	La Défense	Courbevoie
23	Tour France	1973	residential	126.0	413	40	La Défense	Puteaux
24	Tour Olympe (Daewoo)	1974	office	125.0	410	35	Porte d'Aubervilliers	Aubervilliers
25	Tour Prélude, Orgues de Flandre	1979	residential	123.1	404	39	19th arr.	Paris
24	Tour Levant, les Mercuriales	1975	office	122.0	400	33	Porte de Bagnolet	Bagnolet
25	Tour Ponant, les Mercuriales	1975	office	122.0	400	33	Porte de Bagnolet	Bagnolet
26	Tour Franklin	1972	office	120.0	394	33	La Défense	Puteaux
27	Tour Sequoia (Bull, Cegetel, SFR)	1990	office	119.0	390	33	La Défense	Puteaux
28	Tour Winterthur	1973	office	119.0	390	33	La Défense	Puteaux
29	Tour Michelet (Total)	1985	office	117.0	384	34	La Défense	Puteaux
30	Tour CB16	2003	office	117.0	384	32	La Défense	Courbevoie
31	Hôtel Méridien Montparnasse	1974	hotel	116.1	381	31	14th arr.	Paris
32	Tour Super-Italie	1973	residential	113.0	371	38	13th arr.	Paris
33	Tour Neptune	1972	office	113.0	371	28	La Défense	Courbevoie
34	Préfecture des Hauts-de-Seine	1974	office	113.0	371	25	La Défense	Nanterre
35	Grande Arche	1989	monument, office	110.0	361	37	La Défense	Puteaux
36	Tour Manhattan	1975	office	110.0	361	32	La Défense	Courbevoie
37	Tour Giralda		residential	110.0	361	36	20th arr.	Paris
38	Tour Aurore	1970	office	110.0	361	29	La Défense	Courbevoie
40	Tour Eve	1975	mixed	109.0	358	36	La Défense	Puteaux
41	Tour Initiale	1967	office	109.0	358	30	La Défense	Puteaux
42	Tour Fugue, Orgues de Flandre	1972	residential	108.0	354	35	19th arr.	Paris
43	Tour Nuage 1, Tours Aillaud	1976	residential	105.0	344	39	La Défense	Nanterre
44	Tour Nuage 2, Tours Aillaud	1976	residential	105.0	344	39	La Défense	Nanterre
45	Résidence Antoine et Cléopâtre, Italie 13	1970	residential	104.0	341	37	13th arr.	Paris
46	Tour Gambetta	1975	residential	104.0	341	37	La Défense	Courbevoie
47	Tour Anvers, Les Olympiades <sup>[3]</sup>	1974	residential	104.0	341	36	13th arr.	Paris
48	Tour Athènes, Les Olympiades <sup>[4]</sup>	1974	residential	104.0	341	36	13th arr.	Paris
49	Tour Cortina, Les Olympiades <sup>[5]</sup>	1970	residential	104.0	341	34	13th arr.	Paris
50	Tour Helsinki, Les Olympiades <sup>[6]</sup>	1974	residential	104.0	341	36	13th arr.	Paris
51	Tour Londres, Les Olympiades <sup>[7]</sup>	1974	residential	104.0	341	36	13th arr.	Paris
52	Tour Mexico, Les Olympiades <sup>[8]</sup>	1974	residential	104.0	341	36	13th arr.	Paris
53	Tour Sapporo, Les Olympiades <sup>[9]</sup>	1974	residential	104.0	341	36	13th arr.	Paris
54	Tour Tokyo, Les Olympiades <sup>[10]</sup>	1974	residential	104.0	341	36	13th arr.	Paris
55	Tour Chéops, Italie 13	1970	residential	103.0	338	35	13th arr.	Paris
56	Tour Mykérinos, Italie 13	1970	residential	103.0	338	35	13th arr.	Paris
57	Tour Cèdre	1998	office	103.0	338	26	La Défense	Courbevoie
58	Tour Ancône, Italie 13	1970	residential	102.0	335	35	13th arr.	Paris
59	Tour Bologne, Italie 13	1970	residential	102.0	335	35	13th arr.	Paris
60	Tour Ferrare, Italie 13	1970	residential	102.0	335	35	13th arr.	Paris
61	Tour Palerme, Italie 13	1970	residential	102.0	335	35	13th arr.	Paris
62	Tour Ravenne, Italie 13	1970	residential	102.0	335	35	13th arr.	Paris
63	Tour Cantate, Orgues de Flandre	1979	residential	101.0	331	30	19th arr.	Paris
64	Tour Opus12	1973	office	100.0	328	27	La Défense	Puteaux
65	Tour Athéna	1984	office	100.0	328	25	La Défense	Puteaux
67	Novotel Paris Tour Eiffel, Front de Seine	1976	hotel	100.0	328	31	15th arr.	Paris
68	Tour Totem, Front de Seine	1979	residential	100.0	328	31	15th arr.	Paris
69	Tour Sequana	2010	office	100	328	23		Issy-les-Moulineaux



A panoramic view of Paris' Front de Seine



A panoramic view of the towers of the 13th arrondissement of Paris

## Structures proposed, approved, or under construction

This is a list of structures that are either under construction or due to start construction soon. Structures are sorted by planned height. The Authority managing La Défense, the EPAD, has launched several contests for new towers in a large scale operation of renovation of the business district. The tallest towers are expected to exceed 300 m. Other proposed projects are currently being talked about in other municipalities of the inner suburbs such as Issy-les-Moulineaux, Boulogne-Billancourt or Saint-Denis.

Name	Use	Height		Levels	District	Commune (municipality)	Notes
		meters	feet				
Hermitage Plaza 1	office	320	1,050	92	La Défense	Courbevoie	<i>approved</i>
Hermitage Plaza 2	office	320	1,050	94	La Défense	Courbevoie	<i>approved</i>
Tour Phare	office	297	975	68	La Défense	Puteaux	<i>on hold</i>
Tour Air <sup>2</sup>	office	202	663	43	La Défense	Courbevoie	<i>approved</i>
Tour Majunga	office	194	636	45	La Défense	Puteaux	<i>under construction</i>
Triangle	office	180	591	41	Val de Seine	Paris	<i>proposed</i>
Tour Carpe Diem	office	165	541	32	La Défense	Courbevoie	<i>under construction</i>
Tour D2	office	160	525	37	La Défense	Courbevoie	<i>under construction</i>
Tour AVA	office	142	466	34	La Défense	Courbevoie	<i>proposed</i>

## Gallery



Tours Société Générale



Tour Areva



Tour Total



Tour First



Eiffel Tower from the Montparnasse Tower

## See also

## References

- Schaugg, Johannes: High-Rise Buildings - Paris, Books on Demand 2009, ISBN 978-3-8370-8893-9
- 1. <sup>^</sup> by Egbert Gramsbergen and Paul Kazmierczak, Almanac of Architecture and Design 2004. "Skyscraper Cities Ranking List" (<http://homepages.ipact.nl/~egram/skylines.html>). Retrieved 2006-06-29.
- 2. <sup>^</sup> "[www.paris-skyscrapers.com](http://www.paris-skyscrapers.com)" ([http://www.paris-skyscrapers.com/immeubles\\_villes.html](http://www.paris-skyscrapers.com/immeubles_villes.html)). Paris-Skyscrapers. Retrieved 2007-05-16.
- 3. <sup>^</sup> Tour Cortina, Paris (<http://www.emporis.com/en/wm/bu/?id=tourcortina-paris-france>)
- 4. <sup>^</sup> emporis.com (<http://www.emporis.com/en/wm/bu/?id=tourathenes-paris-france>)
- 5. <sup>^</sup> emporis.com (<http://www.emporis.com/en/wm/bu/?id=tourcortina-paris-france>)

8. ^ [emporis.com \(http://www.emporis.com/en/wm/bu/?id=tourmexico-paris-france\)](http://www.emporis.com/en/wm/bu/?id=tourmexico-paris-france)
9. ^ [emporis.com \(http://www.emporis.com/en/wm/bu/?id=toursapporo-paris-france\)](http://www.emporis.com/en/wm/bu/?id=toursapporo-paris-france)
10. ^ [emporis.com \(http://www.emporis.com/en/wm/bu/?id=tourtokyo-paris-france\)](http://www.emporis.com/en/wm/bu/?id=tourtokyo-paris-france)

## External links

- (French) Paris-Skyscrapers ([http://www.paris-skyscrapers.com/immeubles\\_villes.html](http://www.paris-skyscrapers.com/immeubles_villes.html)) : Survey of high-rise buildings in Paris area.
- Paris area diagrams on Skyscraperpage.com (<http://skyscraperpage.com/diagrams/?27775576>) : Diagrams showing the tallest structures in the Paris urban area.
- (French) Paris-Skyscrapers forum (<http://www.paris-skyscrapers.com/forum/index.php>) : Forums about urbanism and architecture in Paris area.
- Skyscrapercity (<http://www.skyscrapercity.com/>) : International forums about highrise buildings.
- Emporis page on the Paris metro area (<http://www.emporis.com/en/wm/me/?id=100195>) : International database of highrise buildings (incomplete).
- Structurae (<http://en.structurae.de/index.cfm?>) : International database of structures (incomplete).

Retrieved from "http://en.wikipedia.org/w/index.php?title=List\_of\_tallest\_buildings\_and\_structures\_in\_the\_Paris\_region&oldid=578851643"

Categories: Skyscrapers in Paris  Skyscrapers in France  Lists of buildings and structures in France  Lists of tallest buildings in Europe  Paris-related lists

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**National Capital Planning Commission  
Special Commission Meeting on the Height Master Plan for Washington, DC**

October 30, 2013

**Statement of Janet Quigley, Capitol Hill Restoration Society**

Mr. Bryant and Commissioners, thank you for the opportunity to testify today. My name is Janet Quigley and I am testifying on behalf of the Capitol Hill Restoration Society. CHRS has promoted historic preservation and residential quality of life on Capitol Hill for more than 50 years.

Regarding the federal interest, we commend the National Capital Planning Commission staff for their thoughtful and responsible report on the Height Act Master Plan and concur with their finding that the Height Act continues to meet the essential interests and needs of the federal government, and that any changes would have a significant adverse effect on federal interests. There is no compelling reason to change the Height of Buildings Act of 1910. In addition to the aesthetic and historic reasons which have been well documented, we also submit that:

- Stewardship of the nation's capital city is also a federal interest.
- The federal interest applies outside as well as inside the L'Enfant City.
- The Height Act supports the L'Enfant Plan, which itself is a National Landmark.
- Water approaches to the city should also be considered as viewsheds to be protected, for example the views near Buzzard Point and Poplar Point.

We also agree that more study is needed before any significant changes are contemplated.

Regarding the local interest, we commend the Office of Planning for the remarkable collection of photos and graphics they amassed for the Master Plan study. However we disagree with the proposed conclusions and believe that supply has been understated and demand overstated, resulting in a manufactured crisis. Our comments on the OP report were submitted last week and are part of the record. I would just emphasize that the lack of cost estimates for additional infrastructure could result in hidden costs for the District of Columbia taxpayers.

In summary, both NCPC and OP are to be commended for their exhaustive public outreach and work on this important issue. We support the NCPC report and urge the Office of Planning to partner with NCPC on the final product.

CAPITOL HILL RESTORATION SOCIETY



October 24, 2013

Ms. Harriet Tregoning, Director  
Office of Planning  
1100 4<sup>th</sup> Street, SW  
Suite E650  
Washington, DC 20024

Subject: Office of Planning's Height Master Plan Draft Report dated September 24, 2013

Dear Ms. Tregoning:

Washington DC is a thriving, competitive city with an enviable quality of life and a highly desirable real estate market. It enjoys budget surpluses year after year. CHRS believes it owes this success and distinctive character to the Height of Buildings Act of 1910, along with the L'Enfant and McMillan Plans and other guiding policies outlined in our June 23, 2013 letter on this subject.

CHRS commends the Office of Planning for its detailed research and persistent public outreach regarding height limits, but disagrees with the conclusions. The subject report recommends height increases for reasons which OP's own economic study does not support. *Taller buildings cost more to build. Rents will continue to rise. Developers will continue to build boxy buildings to maximize profit. A change would do nothing to increase affordable housing.* In short, height increases do not deliver improvements.

We applaud the Office of Planning's commitment to preserve viewsheds and would urge that views throughout the city, as well as views approaching the city, be equally protected. It is unfortunate that the costs of increased infrastructure demands resulting from any changes were not included in the studies. Had they been, the result would likely have shown a net drain on revenues rather than a 1-2% increase. It is essential that the city make a more comprehensive study of viewsheds and infrastructure, as well as security, transportation and communications, before contemplating a change of this magnitude.

CHRS fully supports retaining the Height of Buildings Act in its present form because it benefits the city, *its institutions and its residents.* We urge the Office of Planning to consider those benefits as well.

Sincerely,

*Janet Quigley*

Janet Quigley  
President, CHRS

**NATIONAL CAPITAL PLANNING COMMISSION**  
**Special Commission Meeting**

Testimony of Alma Hardy Gates  
Administrator, Neighbor's United Trust  
October 30, 2013

Good afternoon Chairman Bryant and members of the Commission. My name is Alma Gates and I represent Neighbors United Trust.

Both NCPC and the DC Office of Planning (“OP”) have produced reports guided by the same three core principles, but the public is presented with very different study outcomes and recommendations.

NCPC recommends allowing communal use of enclosed penthouses, but conditions approval on setback requirements and single stores, which may result in more attractive rooftops while allowing some protected interior space for designated uses.

The Office of Planning on the other hand in its three Height Study recommendations, reveals it is interested in far more than the enclosure of penthouses, and as a matter of fact, has already put language in the proposed zoning text that would permit enclosed penthouses for communal recreation space, even in low density residential neighborhoods.<sup>1</sup> OP is way ahead of you NCPC!

My concerns relate primarily to Recommendation 2 in the District report, which would give OP autonomy in determining height maximums for areas outside the L’Enfant City through amendments to the Comprehensive Plan and the zoning process. On Monday, Ms. Tregoning told the DC Council Chair, “we are collectively interested in more autonomy for the District, and the ability to make our own decisions.” Indeed! OP and the Mayor decided to preemptively send the District report to Mr. Issa the day before the NCPC September hearing. Of the 35 residents who testified before Council on Monday on the OP recommendations,

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<sup>1</sup> 2013, September 9 Setdown Text for the Zoning Regulations:

Section D, Residential Zones:

1502.3 The following roof structures may be erected to a height in excess of the maximum height authorized in an R zone but shall not exceed ten feet (10 ft.) in height above the roof upon which it is located and shall be set back as required by D § 1502.4:

(a) Pergolas and similar structures;

(b) Penthouses fully or partially enclosing utilitarian features, including, but not limited to, mechanical equipment and its housing, elevators, and stairwells;

(c) Penthouses fully or partially enclosing accessory amenity features, such as communal recreation space, and structures accessory to communal outdoor recreation space.

only one slightly supported, another was more ambiguous about support, and 33 said, NO! That's pretty damning commentary of OP by residents of the city.

If NCPC throws its support behind OP's recommendation two, it will endorse OP's "we know what's best" approach to city planning. We only have to look at Rosslyn for the blinding flash of the obvious and what could happen to Washington, DC's iconic horizontal skyline if OP is allowed to determine height limits in the nation's capital.

NCPC must stand firm on its recommendations, which appear very conservative given those put forth in the Office of Planning report. Agreeing that OP should have autonomy over decisions on height in Washington, DC is a really bad idea. I especially speak to those members of the Commission who are appointed by the Mayor and also represent the interests of District residents. The overwhelming opinion of those who testified to the DC Council on Monday is that OP's proposals will destroy the iconic character of the city as well as undermine the integrity of its neighborhoods. OP's recommendations should not receive NCPC support!

In closing, let me repeat Larry Beasley's admonition to an NCPC audience in 2010, "Be very careful as you gamble with the 100-year legacy of Washington's Height Act. Take care not to open things up too casually. I dare say, those height limits may be the single most powerful thing that has made this city so amazingly fulfilling."

## **Ten Reasons Not to Change the Height Act**

(A response to the Office of Planning's "draft" report and recommendations, presented to the DC Council's Committee of the Whole on October 28, 2013)

1. This is not a home rule issue. The Mayor has not asked Congress to abdicate its power to legislate on building heights in DC. Nor has he asked Congress to grant DC's elected representatives the power to make such decisions themselves. Instead, he's asked Congress to pass a new law with a different set of height limits and to let an unelected five-member board (with two federal appointees) decide where higher heights will be allowed.
2. We're in no danger of being overwhelmed by newcomers any time soon. There is a lot of evidence that suggests we're experiencing more churn than growth. In fact, the 30,000 new arrivals that the Census Bureau projected between 2010 and 2012 required the production of only about 3500 new housing units. OP's so-called low growth scenario is actually 60% higher than what we experienced between 2000 and 2010. And their demand calculations assume that each new household or employee will require significantly more space than the people who currently live or work here do.
3. OP has systematically underestimated the development capacity available under existing Height Act constraints. Their model assumes that institutional sites (like Walter Reed) can't be redeveloped, that redevelopment won't happen on any parcel that is already built out to 30% of matter-of-right, and that, when redevelopment does occur, landowners will generally only be able to build 75% of the square footage that is theoretically possible under any given scenario. These are clearly counterfactual assumptions and, tellingly, when it comes time to calculate the economic benefits of height increases, OP quickly abandons them.
4. Increased height won't produce more affordable housing. OP's own study indicates that raising heights also raises construction costs and that taller buildings will be economically viable only in areas where rents are already quite high. And remember that in downtown, where developers will be most likely to take advantage of increased heights, residential projects are generally exempt from inclusionary zoning requirements.
5. Larger buildings mean less (and less flexible) redevelopment – a single 200 foot building can soak up a quite a bit of demand for either residential or commercial space in most submarkets. Which means that one or two slowly-absorbed projects will pre-empt a series of smaller projects that would have contributed much more to neighborhood revitalization – more ground floor retail, a diversity of housing types and styles, units that come online at different times, and the elimination of blight and vacant lots.
6. Increased volatility will decrease the flow of foreign capital into DC's real estate market. The Height Act has created an extraordinarily stable and predictable real estate market and, as a

result, foreign investors have treated DC as a very safe investment, even during recessions and at times when domestic financing is difficult to obtain.

7. If the zoning rewrite passes, then changes in the Height Act will automatically take effect downtown. The proposed new zoning regs define maximum heights in most parts of downtown as whatever the Height Act allows. Outside of downtown, the consent of the unelected five-member Zoning Commission is all that would be required to raise heights. The Council would play no role in determining how much growth is acceptable where.

8. The combination of height limits and on-site parking requirements has enabled us to develop an extraordinarily walkable central business district, where most parking is undergrounded. Downtown DC is notable for the fact that less than 1% of our land is devoted exclusively to parking lots or structures. This is in marked contrast to most American cities where taller buildings are frequently surrounded by surface garages or lots – and where the percentage of land devoted exclusively to parking is typically in the double digits.

9. Relaxing Height Act limits will steer new development to the places it is needed least. We're at a stage in our city's development where we should be growing out – that is, encouraging redevelopment in neighborhoods that have suffered from population loss and from disinvestment, as well as in the large tracts ceded to us by the federal government. But what raising the Height Act would do is steer investment capital to precisely the places that are already expensive and largely built-out. It's yet another deferral of the promise that DC's growth will contribute to prosperity citywide.

10. DC's livable, walkable, leafy, beautiful, historic neighborhoods and downtown have flourished under the Height Act. Our challenge is to replicate our successes as we grow – not to abandon the policies that have made our city so attractive.

Sue Hemberger  
Washington, DC

RE: The Height Master Plan for Washington, DC

I strongly encourage NCPC to look closely and critically at the Office of Planning's data on DC's anticipated population and job growth (as well as their estimates of the space needs associated with that growth). The data OP has presented seems to me to grossly overestimate the amount of built space likely to be needed and constructed over the next several decades. Here are a few reasons to question OP's analysis:

1. OP's so-called "low-growth" scenario is actually 60% higher than what we experienced between 2000 and 2010. And that was a decade of population growth that included both a major building boom and a multi-year period in which DC was the nation's strongest job market.
2. Instead of extrapolating from actual population counts, OP bases its growth estimates on unreliable intercensal projections.
  - The Census Bureau estimates that DC grew more in the past two years (30,600) than in the previous ten (29,664). That's not impossible, but it's a striking enough fact to merit investigation. Especially since, in 2011 and 2012, the economy was rebounding elsewhere and DC had ceased to be the only market in which there was job growth.
  - The Census Bureau also estimates that only about 3500 additional housing units were needed to accommodate over 30,000 additional residents. That might make sense if DC had a housing surplus in 2010 and new arrivals dramatically lowered vacancy rates. But instead, we started this period with low multifamily vacancy rates (3.8% in 2010) and didn't experience any significant decline. (At this point, vacancies are increasing as new units are coming on line, suggesting that supply is already beginning to outrun demand -- and that's with lots of additional units still in the pipeline).
  - If you look more closely at the 2010-2012 population estimates, you'll see that the big change is in net migration (rather than natural increase). But the Census has recently changed the data it uses for estimating migration -- increasingly, it relies on the American Community Survey (ACS) which, itself, has changed -- it now uses smaller and more frequent samples. The long form of the Census (which in 2000 sampled 1 in 6 US households) has been replaced by the ACS and the IRS's migration statistics (based on all 1040s submitted) have not yet been made available for the period after 2010. So the ACS is all we have for migration right now, and the results it produces for DC are crazy. With the exception of a few states (e.g. MD, VA, NY -- where the flows in both direction are significant), the margin of error usually exceeds the estimate itself. The ACS estimates for each state vary widely from year to year and the ACS data from 2010 seems inconsistent with the more reliable IRS data from the same year. I've attached a table that provides the raw numbers.

- The problem isn't simply that the ACS data on net migration is garbage, but also that it is likely to be biased. In areas that are highly transient, using small monthly samples to track migration is a scenario that is likely to overestimate population – because churn will look like growth. Even a small sample of DC residents is likely to yield recent arrivals from other states, but a small sample of the residents in most states is unlikely to yield any recent arrivals from DC. In essence, this approach seems skewed toward finding in-migration and missing out-migration. And that skewing may be especially pronounced in DC's case because of its small size and exclusively urban character.
  - The phenomenon of post-Census surges in the estimated population of cities seems to be systemic, suggesting that there is a methodological issue here. Census Bureau projections suggest that two-thirds of the cities that registered population losses between 2000 and 2010 experienced population growth between 2010 and 2012.<sup>1</sup> New York City's planners have voiced skepticism about whether the city has actually grown at the rate that post-2010 Census projections would suggest and sensibly conclude that, regardless, "two recent years do not portend a decade-long pattern."<sup>2</sup>
  - It's not implausible to suggest that actual population changes may well be less than half of what Census Bureau has estimated. Between the 1990 and the 2000 census counts, the Bureau's projections anticipated a change of approximately 88,000 in DC's population when, in fact, the 2000 count indicated that the change was less than 35,000.<sup>3</sup>
3. The other aspect of OP's demand calculations – the additional amount of built space likely to be required by population and job growth – also seems significantly and systematically overestimated.
- Currently, multifamily residential units in DC average less than 1000 SF per household. And, as household sizes decrease, the market is considering even smaller units – including micro-units of less than 400 SF. Yet OP assumes each new household in DC will consume 1200 SF of space.
  - Office space used to average 250 SF/employee, but recent leasing activity suggests that 150 SF is the emerging norm across a variety of sectors (government, law firms, tech). Yet OP assumes 350 SF per employee in its calculation of anticipated space needs.

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<sup>1</sup> <http://www.governing.com/blogs/by-the-numbers/city-populations-increase-following-declines-census-estimates-show.html>

<sup>2</sup> <http://www.nyc.gov/html/dcp/html/census/popcur.shtml>. They also pointed out that "'churn' has long characterized the city, and represents a fluidity that is difficult to characterize using the net migration measures presented herein."

<sup>3</sup> I've attached the real-time 1990s estimates, as well as the 2000 count, and the post-2000 retroactive corrections of the 1990s projections. While OP does use the corrected 1998 data, it seems an odd choice given that it's clearly just a (second) guess. Presumably it was chosen because it represents the low point of the population in the revised 1990-2000 series. As the Washington Post article I've included indicates, in 2005, OP itself successfully challenged intercensal underestimates, citing the 1990s data as an example of the unreliability of those projections. Since federal funding levels are often tied to Census estimates, it is not in the interest of cities (or states) to challenge overestimations of their population.

I haven't had time to look at OP's job growth projections so I can't speak to their reliability, but everything else I have looked at – and this includes capacity<sup>4</sup> as well as demand calculations – suggests that OP's studies, withheld from public scrutiny until after its recommendations were drafted and submitted to Congress, represent shoddy work done to bolster a pre-determined conclusion rather than a careful analysis of how demographic and market trends might shape the District's future. What is needed at this point is an independent analysis of the data, conducted with a much higher level of objectivity and professionalism than DC's Office of Planning seems capable of.

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<sup>4</sup>See Marilyn Simon's submission on this issue.

**Table 1. The Legislative Districts and the Incorporated Place in 2010 in the District of Columbia: 2000 and 2010**

(For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/pl94-171.pdf>)

Geographic area	Population		Change, 2000 to 2010	
	2000 <sup>1</sup>	2010	Number	Percent
District of Columbia.....	572 059	601 723	29 664	5.2
<b>LEGISLATIVE DISTRICT <sup>2</sup></b>				
Ward 1.....	73 364	76 197	2 833	3.9
Ward 2.....	68 869	79 915	11 046	16.0
Ward 3.....	73 718	77 152	3 434	4.7
Ward 4.....	75 179	75 773	594	0.8
Ward 5.....	71 440	74 308	2 868	4.0
Ward 6.....	68 035	76 598	8 563	12.6
Ward 7.....	70 527	71 068	541	0.8
Ward 8.....	70 927	70 712	- 215	-0.3
<b>INCORPORATED PLACE</b>				
Washington city.....	572 059	601 723	29 664	5.2

<sup>1</sup> Census 2000 counts are as published in American FactFinder for legislative district boundaries provided in 2005/2006 as part of the 2010 Census Redistricting Data Program. Census 2000 counts do not include changes due to the Count Question Resolution program.

<sup>2</sup> Legislative districts are shown to provide a sub-area breakdown since the District of Columbia is classified as a single county equivalent and a single place.

Source: U.S. Census Bureau, Census 2000 State Legislative District Summary File (100-Percent), Table P1, and 2010 Census Redistricting Data (Public Law 94-171) Summary File, Table P1.



PEPANNRES

Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2012

2012 Population Estimates

Geography	April 1, 2010		Population Estimate (as of July 1)		
	Census	Estimates Base	2010	2011	2012
Washington city, District of Columbia	601,723	601,723	604,989	619,020	632,323

Note: The estimates are based on the 2010 Census and reflect changes to the April 1, 2010 population due to the Count Question Resolution program and geographic program revisions. See Geographic Terms and Definitions at <http://www.census.gov/popest/about/geo/terms.html> for a list of the states that are included in each region and division. All geographic boundaries for the 2012 population estimates series are defined as of January 1, 2012. An "(X)" in the 2010 Census field indicates a locality that was formed or incorporated after the 2010 Census. Additional information on these localities can be found in the Geographic Change Notes (see <http://www.census.gov/popest/about/geo/changes.html>). For population estimates methodology statements, see <http://www.census.gov/popest/methodology/index.html>.

## Suggested Citation:

Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2012

Source: U.S. Census Bureau, Population Division

Release Dates: For the United States, regions, divisions, states, and Puerto Rico Commonwealth, December 2012. For counties and Puerto Rico municipios, March 2013. For Cities and Towns (Incorporated Places and Minor Civil Divisions), May 2013.



PEPANNHU

Annual Estimates of Housing Units for the United States, Regions, Divisions, States, and Counties: April 1, 2010 to July 1, 2012

2012 Population Estimates

Geography	April 1, 2010		Housing Unit Estimate (as of July 1)		
	Census	Estimates Base	2010	2011	2012
District of Columbia	296,719	296,719	296,771	296,614	300,241

Note: The estimates are based on the 2010 Census and reflect changes to the April 1, 2010 housing units due to the Count Question Resolution program and geographic program revisions. All geographic boundaries for the 2012 housing unit estimates series are defined as of January 1, 2012. For the housing unit estimates methodology statement, see <http://www.census.gov/popest/methodology/index.html>.

Suggested Citation:

Annual Estimates of Housing Units for the United States, Regions, Divisions, States, and Counties: April 1, 2010 to July 1, 2012

Source: U.S. Census Bureau, Population Division

Release Date: June 2013

## DC Net-Migration Stats, 2010 and 2011

IRS ("Statistics of Income" aka SOI) and Census Bureau ("American Community Survey" aka ACS) Data  
 First column for a data set represents in-migration (positive numbers), second column is out-migration (negative numbers).  
 Net Migration may be positive or negative.

from/to	2010 SOI-in	2010 SOI-out	2010 SOI-net	2010 ACS-in	2010 ACS-out	2010 ACS-net	2011 ACS-in	2011 ACS-out	2011 ACS-net	MoE/90%	MoE/90%	2011 ACS-net
Alabama	99	-99	0	360	-211	149	13	-399	-386	+/- 186	+/- 29	+/- 359
Alaska	58	-48	10	591	-14	577	135	-140	-5	+/- 529	+/- 217	+/- 220
Arizona	267	-149	118	662	-0	662	43	-389	-346	+/- 466	+/- 71	+/- 389
Arkansas	74	-54	20	155	-154	1	81	-0	81	+/- 195	+/- 93	+/- 192
California	2,092	-1,510	582	4,205	-3,683	522	3,797	-3,240	557	+/- 1,255	+/- 1,233	+/- 1,457
Colorado	340	-312	28	656	-479	177	452	-298	154	+/- 637	+/- 321	+/- 301
Connecticut	382	-226	156	926	-331	595	981	-607	374	+/- 592	+/- 472	+/- 373
Delaware	129	-103	26	0	-432	-432	128	-154	-26	+/- 292	+/- 125	+/- 144
Florida	1,071	-815	256	1,100	-1,100	0	1,254	-891	363	+/- 609	+/- 651	+/- 495
Georgia	680	-477	203	1,597	-1,708	-111	937	-364	573	+/- 795	+/- 572	+/- 283
Hawaii	96	-93	3	0	-0	0	372	-222	150	+/- 292	+/- 396	+/- 275
Idaho	27	-22	5	0	-144	-144	68	-0	68	+/- 292	+/- 113	+/- 195
Illinois	894	-487	407	615	-1,047	-432	1,397	-1,440	-43	+/- 373	+/- 814	+/- 708
Indiana	182	-125	57	711	-181	530	128	-0	128	+/- 461	+/- 147	+/- 190
Iowa	85	-59	26	392	-53	339	241	-0	241	+/- 377	+/- 284	+/- 155
Kansas	111	-71	40	83	-0	83	6	-128	-122	+/- 137	+/- 19	+/- 141
Kentucky	104	-90	14	94	-147	-53	297	-201	96	+/- 155	+/- 260	+/- 248
Louisiana	146	-172	-26	0	-264	-264	0	-195	-195	+/- 292	+/- 200	+/- 168
Maine	112	-64	48	76	-55	21	0	-239	-239	+/- 121	+/- 200	+/- 177
Maryland	12,134	-15,334	-3,200	13,503	-23,202	-9,699	14,129	-18,492	-4,363	+/- 2,647	+/- 2,971	+/- 3,025
Massachusetts	1,080	-675	405	1,376	-1,539	-163	2,048	-676	1,372	+/- 540	+/- 789	+/- 358
Michigan	446	-208	238	126	-471	-345	1,108	-256	852	+/- 153	+/- 554	+/- 259
Minnesota	290	-148	142	87	-306	-219	409	-367	42	+/- 105	+/- 457	+/- 391
Mississippi	86	-59	27	0	-0	0	83	-415	-332	+/- 292	+/- 99	+/- 434
Missouri	249	-142	107	272	-478	-206	112	-215	-103	+/- 371	+/- 184	+/- 254
Montana	38	-27	11	0	-0	0	38	-0	38	+/- 292	+/- 64	+/- 165
Nebraska	52	-46	6	62	-0	62	79	-29	50	+/- 103	+/- 110	+/- 48
Nevada	100	-60	40	0	-0	0	238	-983	-745	+/- 292	+/- 282	+/- 1,261
New Hampshire	127	-69	58	137	-298	-161	145	-68	77	+/- 136	+/- 139	+/- 112
New Jersey	705	-354	351	1,924	-431	1,493	1,035	-781	254	+/- 694	+/- 605	+/- 409
New Mexico	96	-81	15	61	-56	5	0	-212	-212	+/- 100	+/- 200	+/- 336

## DC Net-Migration Stats, 2010 and 2011

IRS ("Statistics of Income" aka SOI) and Census Bureau ("American Community Survey" aka ACS) Data  
 First column for a data set represents in-migration (positive numbers), second column is out-migration (negative numbers).  
 Net Migration may be positive or negative.

<i>from/to</i>	<u>2010</u> <u>SOI-in</u>	<u>2010</u> <u>SOI-out</u>	<u>2010</u> <u>SOI-net</u>	<u>2010</u> <u>ACS-in</u>	<u>MoE/90%</u>	<u>2010</u> <u>ACS-out</u>	<u>MoE/90%</u>	<u>2010</u> <u>ACS-net</u>	<u>2011</u> <u>ACS-in</u>	<u>MoE/90%</u>	<u>2011</u> <u>ACS-out</u>	<u>MoE/90%</u>	<u>2011</u> <u>ACS-net</u>
New York	2,387	-1,668	719	3,852	+/- 1,325	-1,983	+/- 820	1,869	2,313	+/- 697	-3,702	+/- 1,051	-1,389
North Carolina	934	-779	155	1,897	+/- 1,089	-1,691	+/- 548	206	1,716	+/- 760	-1,135	+/- 591	581
North Dakota	22	redacted	21	98	+/- 165	-175	+/- 275	-77	285	+/- 360	-0	+/- 143	285
Ohio	500	-315	185	598	+/- 359	-972	+/- 768	-374	306	+/- 224	-587	+/- 449	-281
Oklahoma	50	-42	8	0	+/- 292	-0	+/- 253	0	0	+/- 200	-191	+/- 234	-191
Oregon	181	-135	46	601	+/- 520	-217	+/- 239	384	51	+/- 64	-349	+/- 291	-298
Pennsylvania	1,078	-791	287	2,378	+/- 771	-1,621	+/- 866	757	1,589	+/- 757	-1,401	+/- 584	188
Rhode Island	119	-53	66	249	+/- 206	-146	+/- 240	103	50	+/- 63	-0	+/- 207	50
South Carolina	303	-237	66	380	+/- 339	-38	+/- 63	342	357	+/- 329	-589	+/- 681	-232
South Dakota	22	-25	-3	0	+/- 292	-0	+/- 223	0	104	+/- 129	-0	+/- 155	104
Tennessee	265	-187	78	591	+/- 543	-394	+/- 484	197	421	+/- 358	-307	+/- 186	114
Texas	852	-749	103	1,180	+/- 605	-460	+/- 400	720	1,083	+/- 491	-2,276	+/- 1,540	-1,193
Utah	79	-38	41	0	+/- 292	-138	+/- 168	-138	75	+/- 118	-132	+/- 141	-57
Vermont	99	-62	37	199	+/- 245	-9	+/- 15	190	445	+/- 489	-27	+/- 53	418
Virginia	6,650	-7,030	-380	7,915	+/- 1,638	-10,593	+/- 2,299	-2,678	7,975	+/- 1,285	-6,854	+/- 1,711	1,121
Washington	445	-310	135	284	+/- 220	-243	+/- 260	41	476	+/- 300	-358	+/- 254	118
West Virginia	78	-89	-11	860	+/- 754	-480	+/- 466	380	120	+/- 138	-300	+/- 231	-180
Wisconsin	210	-112	98	391	+/- 325	-98	+/- 118	293	946	+/- 668	-123	+/- 170	823
Wyoming	21	-20	1	0	+/- 292	-0	+/- 269	0	0	+/- 200	-0	+/- 189	0

Three things to look at here – (a) how the SOI data compares to the ACS data for the same year; (b) how the ACS data compares from year-to-year; and  
 (c) the margin of error associated with each ACS estimate.

My take is that the SOI data is quite accurate and reliable for the population it captures (tax-filers – I believe it is based on an analysis of all returns in which the filers' state of residence was different in 2010 than it was in 2009.) The caveat wrt the SOI data is that if residents who don't file income tax returns have different migratory patterns from tax-filers, the SOI data wouldn't recognize or incorporate them. ACS data is based on monthly phone surveys with very small sample sizes and seems wildly volatile as a result. This is the data that has been used to help make the claim that DC's population has been growing by 1,000 people a month since the 2010 census (when we had an actual count).

## No. 20. Resident Population by State: 1980 to 1999

[In thousands (226,546 represents 226,546,000). As of July 1; except 1980 and 1990, as of April 1. Insofar as possible, population shown for all years is that of present area of state]

State	1980 <sup>1</sup>	1990 <sup>2</sup>	1991	1992	1993	1994	1995	1996	1997	1998	1999
United States...	226,546	248,791	252,153	255,030	257,793	260,327	262,803	265,229	267,784	270,248	272,691
Alabama.....	3,894	4,040	4,091	4,139	4,193	4,233	4,263	4,290	4,320	4,351	4,370
Alaska.....	402	550	569	587	597	601	601	605	609	615	620
Arizona.....	2,718	3,665	3,762	3,867	3,993	4,148	4,307	4,432	4,552	4,667	4,778
Arkansas.....	2,286	2,351	2,371	2,394	2,424	2,451	2,480	2,505	2,524	2,538	2,551
California.....	23,668	29,811	30,414	30,876	31,147	31,317	31,494	31,781	32,218	32,683	33,145
Colorado.....	2,890	3,294	3,368	3,460	3,561	3,654	3,738	3,813	3,891	3,969	4,056
Connecticut.....	3,108	3,287	3,289	3,275	3,272	3,268	3,265	3,267	3,269	3,273	3,282
Delaware.....	594	666	680	690	699	708	718	727	735	744	754
District of Columbia.....	638	607	593	584	576	565	551	538	529	521	519
Florida.....	9,746	12,938	13,289	13,505	13,714	13,962	14,185	14,427	14,683	14,908	15,111
Georgia.....	5,463	6,478	6,621	6,759	6,894	7,046	7,189	7,332	7,486	7,637	7,788
Hawaii.....	965	1,108	1,131	1,150	1,162	1,174	1,180	1,184	1,189	1,190	1,185
Idaho.....	944	1,007	1,039	1,066	1,101	1,135	1,165	1,188	1,211	1,231	1,252
Illinois.....	11,427	11,431	11,536	11,635	11,726	11,805	11,885	11,953	12,012	12,070	12,128
Indiana.....	5,490	5,544	5,602	5,649	5,702	5,746	5,792	5,835	5,872	5,908	5,943
Iowa.....	2,914	2,777	2,791	2,807	2,821	2,829	2,841	2,848	2,854	2,861	2,869
Kansas.....	2,364	2,478	2,495	2,526	2,548	2,569	2,587	2,598	2,616	2,639	2,654
Kentucky.....	3,661	3,687	3,715	3,756	3,792	3,823	3,855	3,881	3,908	3,934	3,961
Louisiana.....	4,206	4,222	4,241	4,271	4,285	4,307	4,328	4,339	4,351	4,363	4,372
Maine.....	1,125	1,228	1,235	1,236	1,238	1,238	1,237	1,241	1,245	1,248	1,253
Maryland.....	4,217	4,781	4,856	4,903	4,943	4,985	5,024	5,057	5,093	5,130	5,172
Massachusetts.....	5,737	6,016	5,999	5,993	6,011	6,031	6,062	6,085	6,115	6,144	6,175
Michigan.....	9,262	9,295	9,395	9,470	9,529	9,584	9,660	9,739	9,785	9,820	9,864
Minnesota.....	4,076	4,376	4,427	4,472	4,522	4,566	4,605	4,648	4,688	4,726	4,776
Mississippi.....	2,521	2,575	2,591	2,610	2,636	2,663	2,691	2,710	2,732	2,751	2,769
Missouri.....	4,917	5,117	5,158	5,194	5,238	5,281	5,325	5,368	5,407	5,438	5,468
Montana.....	787	799	808	822	840	855	869	877	879	880	883
Nebraska.....	1,570	1,578	1,591	1,602	1,612	1,622	1,635	1,648	1,656	1,661	1,666
Nevada.....	800	1,202	1,285	1,331	1,380	1,456	1,526	1,596	1,676	1,744	1,809
New Hampshire.....	921	1,109	1,107	1,113	1,122	1,133	1,146	1,161	1,173	1,186	1,201
New Jersey.....	7,365	7,748	7,784	7,828	7,875	7,919	7,966	8,010	8,054	8,096	8,143
New Mexico.....	1,303	1,515	1,547	1,581	1,615	1,653	1,682	1,706	1,723	1,734	1,740
New York.....	17,558	17,991	18,030	18,082	18,141	18,157	18,151	18,144	18,143	18,159	18,197
North Carolina.....	5,882	6,632	6,748	6,832	6,947	7,061	7,185	7,308	7,429	7,546	7,651
North Dakota.....	653	639	634	635	637	640	642	643	641	638	634
Ohio.....	10,798	10,847	10,934	11,008	11,070	11,111	11,155	11,187	11,212	11,238	11,257
Oklahoma.....	3,025	3,146	3,166	3,204	3,229	3,246	3,266	3,290	3,314	3,339	3,358
Oregon.....	2,633	2,842	2,919	2,974	3,034	3,087	3,141	3,195	3,243	3,282	3,316
Pennsylvania.....	11,864	11,883	11,943	11,981	12,022	12,043	12,045	12,038	12,016	12,002	11,994
Rhode Island.....	947	1,003	1,004	1,001	998	993	989	988	987	988	991
South Carolina.....	3,122	3,486	3,559	3,601	3,635	3,666	3,700	3,739	3,790	3,840	3,886
South Dakota.....	691	696	701	709	716	723	728	731	731	731	733
Tennessee.....	4,591	4,877	4,947	5,014	5,086	5,163	5,241	5,314	5,378	5,433	5,484
Texas.....	14,229	16,986	17,340	17,650	17,997	18,338	18,680	19,006	19,355	19,712	20,044
Utah.....	1,461	1,723	1,772	1,821	1,876	1,930	1,977	2,022	2,065	2,101	2,130
Vermont.....	511	563	567	570	574	579	583	586	589	591	594
Virginia.....	5,347	6,189	6,284	6,383	6,465	6,537	6,601	6,665	6,733	6,789	6,873
Washington.....	4,132	4,867	5,013	5,139	5,248	5,335	5,431	5,510	5,604	5,688	5,756
West Virginia.....	1,950	1,793	1,798	1,805	1,816	1,818	1,821	1,819	1,816	1,812	1,807
Wisconsin.....	4,706	4,892	4,953	5,005	5,055	5,096	5,137	5,174	5,200	5,222	5,250
Wyoming.....	470	454	458	463	469	475	478	480	480	480	480

<sup>1</sup> See footnote 4, Table 1. <sup>2</sup> The April 1, 1990, census counts include corrections processed through August 1997, results of special censuses and test censuses, and do not include adjustments for census coverage errors.

Source: U.S. Census Bureau, *1990 Census of Population and Housing, Population and Housing Unit Counts* (CPH-2); and "ST-99-3 State Population Estimates: Annual Time Series, July 1, 1990, to July 1, 1999"; published 29 December 1999; <<http://www.census.gov/population/estimates/state/st-99-3.txt>>.

real-time intercensal estimates

## No. 18. Resident Population—States: 1980 to 2001

[In thousands (226,546 represents 226,546,000). 1980, 1990, and 2000 data as of April 1, data for other years as of July 1. Insofar as possible, population shown for all years is that of present area of state]

State	1980 <sup>1</sup>	1990 <sup>2</sup>	1995	1996	1997	1998	1999	2000	2001
<b>United States</b> . . . . .	<b>226,546</b>	<b>248,791</b>	<b>266,278</b>	<b>269,394</b>	<b>272,647</b>	<b>275,854</b>	<b>279,040</b>	<b>281,422</b>	<b>284,797</b>
Alabama . . . . .	3,894	4,040	4,297	4,331	4,368	4,405	4,430	4,447	4,464
Alaska . . . . .	402	550	604	609	613	620	625	627	635
Arizona . . . . .	2,718	3,665	4,432	4,587	4,737	4,883	5,024	5,131	5,307
Arkansas . . . . .	2,286	2,351	2,535	2,572	2,601	2,626	2,652	2,673	2,692
California . . . . .	23,668	29,811	31,697	32,019	32,486	32,988	33,499	33,872	34,501
Colorado . . . . .	2,890	3,294	3,827	3,920	4,018	4,117	4,226	4,301	4,418
Connecticut . . . . .	3,108	3,287	3,324	3,337	3,349	3,365	3,386	3,406	3,425
Delaware . . . . .	594	666	730	741	751	763	775	784	796
District of Columbia . . . . .	638	607	581	572	568	565	570	572	572
Florida . . . . .	9,746	12,938	14,538	14,853	15,186	15,487	15,759	15,982	16,397
Georgia . . . . .	5,463	6,478	7,328	7,501	7,685	7,864	8,046	8,186	8,384
Hawaii . . . . .	965	1,108	1,197	1,204	1,212	1,215	1,210	1,212	1,224
Idaho . . . . .	944	1,007	1,177	1,203	1,229	1,252	1,276	1,294	1,321
Illinois . . . . .	11,427	11,431	12,008	12,102	12,186	12,272	12,359	12,419	12,482
Indiana . . . . .	5,490	5,544	5,851	5,906	5,955	5,999	6,045	6,080	6,115
Iowa . . . . .	2,914	2,777	2,867	2,880	2,891	2,903	2,918	2,926	2,923
Kansas . . . . .	2,364	2,478	2,601	2,615	2,635	2,661	2,678	2,688	2,695
Kentucky . . . . .	3,661	3,687	3,887	3,920	3,953	3,985	4,018	4,042	4,066
Louisiana . . . . .	4,206	4,222	4,379	4,399	4,421	4,440	4,461	4,469	4,465
Maine . . . . .	1,125	1,228	1,243	1,249	1,255	1,259	1,267	1,275	1,287
Maryland . . . . .	4,217	4,781	5,070	5,112	5,157	5,204	5,255	5,296	5,375
Massachusetts . . . . .	5,737	6,016	6,141	6,180	6,226	6,272	6,317	6,349	6,379
Michigan . . . . .	9,262	9,295	9,676	9,759	9,809	9,848	9,897	9,938	9,991
Minnesota . . . . .	4,076	4,376	4,660	4,713	4,763	4,813	4,873	4,919	4,972
Mississippi . . . . .	2,521	2,575	2,723	2,748	2,777	2,805	2,828	2,845	2,858
Missouri . . . . .	4,917	5,117	5,378	5,432	5,481	5,522	5,562	5,595	5,630
Montana . . . . .	787	799	877	886	890	892	898	902	904
Nebraska . . . . .	1,570	1,578	1,657	1,674	1,686	1,696	1,705	1,711	1,713
Nevada . . . . .	800	1,202	1,582	1,666	1,764	1,853	1,935	1,998	2,106
New Hampshire . . . . .	921	1,109	1,158	1,175	1,189	1,206	1,222	1,236	1,259
New Jersey . . . . .	7,365	7,748	8,083	8,150	8,219	8,287	8,360	8,414	8,484
New Mexico . . . . .	1,303	1,515	1,720	1,752	1,775	1,793	1,808	1,819	1,829
New York . . . . .	17,558	17,991	18,524	18,588	18,657	18,756	18,883	18,976	19,011
North Carolina . . . . .	5,882	6,632	7,345	7,501	7,657	7,809	7,949	8,049	8,186
North Dakota . . . . .	653	639	648	650	650	648	644	642	634
Ohio . . . . .	10,798	10,847	11,203	11,243	11,277	11,312	11,335	11,353	11,374
Oklahoma . . . . .	3,025	3,146	3,308	3,340	3,373	3,405	3,437	3,451	3,460
Oregon . . . . .	2,633	2,842	3,184	3,247	3,304	3,352	3,394	3,421	3,473
Pennsylvania . . . . .	11,864	11,883	12,198	12,220	12,228	12,246	12,264	12,281	12,287
Rhode Island . . . . .	947	1,003	1,017	1,021	1,025	1,031	1,040	1,048	1,059
South Carolina . . . . .	3,122	3,486	3,749	3,796	3,860	3,919	3,975	4,012	4,063
South Dakota . . . . .	691	696	738	742	744	746	750	755	757
Tennessee . . . . .	4,591	4,877	5,327	5,417	5,499	5,570	5,639	5,689	5,740
Texas . . . . .	14,229	16,986	18,959	19,340	19,740	20,158	20,558	20,852	21,325
Utah . . . . .	1,461	1,723	2,014	2,068	2,120	2,166	2,203	2,233	2,270
Vermont . . . . .	511	563	589	594	597	600	605	609	613
Virginia . . . . .	5,347	6,189	6,671	6,751	6,829	6,901	7,000	7,079	7,188
Washington . . . . .	4,132	4,867	5,481	5,570	5,675	5,770	5,843	5,894	5,988
West Virginia . . . . .	1,950	1,793	1,824	1,823	1,819	1,816	1,812	1,808	1,802
Wisconsin . . . . .	4,706	4,892	5,185	5,230	5,266	5,298	5,333	5,364	5,402
Wyoming . . . . .	470	454	485	488	489	491	492	494	494

<sup>1</sup> See footnote 4, Table 1. <sup>2</sup> The April 1, 1990, census counts include corrections processed through August 1997, results of special censuses and test censuses, and do not include adjustments for census coverage errors.

Source: U.S. Census Bureau, 1990 Census of Population and Housing, Population and Housing Unit Counts (CPH-2); "Table CO-EST2001-12-00 - Time Series of Intercensal State Population Estimates: April 1, 1990, to April 1, 2000"; published 11 April 2002; <<http://eire.census.gov/popest/data/counties/tables/CO-EST2001-12/CO-EST2001-12-00.php>>; and "Table ST-2001EST-01 - Time Series of State Population Estimates: April 1, 2000 to July 1, 2001"; published 27 December 2001; <<http://eire.census.gov/popest/data/states/tables/ST-EST2001-01.php>>.

retroactively-revised intercensal estimates  
(post 2000 count)

<http://www.washingtonpost.com/wp-dyn/content/article/2005/12/21/AR2005122102035.html>

## **Census Reports Decline in D.C. Population**

Skeptical City Officials Plan to Challenge Estimates as Tallies Rise in Md. and Va.

By Debbi Wilgoren  
Washington Post Staff Writer  
Thursday, December 22, 2005

Forget the swank loft condos rising everywhere, the rehabbed row houses, the abandoned public-housing complexes bulldozed and rebuilt. Forget the suburbanites and former urban refugees who are flocking to the city for its nightlife, easy commute and neighborhoods suddenly reborn.

The number of people living in the District has shrunk by nearly 4,000 in the past year, according to the U.S. Census Bureau: 3,718 fewer people, to be exact.

The federal agency yesterday unveiled its annual state and national population estimates, announcing, among other things, that Virginia and Maryland each grew more populous -- Virginia by 1.2 percent, Maryland by 0.7 percent -- and that the country added about 2.8 million people, for a total population of 296.4 million.

This is the time that federal people-counters look at tax records, immigration, birth and death rates and calculate that the population of the nation's capital is falling. Then the city's counters, in what has become an end-of-year ritual, cull through housing starts, their own tax records, school enrollment numbers and apartment vacancy rates, and complain that the feds have got it all wrong.

"Something doesn't seem to panning out," Joy Phillips, associate director of the District's state data center, said yesterday. If she was concerned about this year's estimates, she seemed downright flabbergasted by the accumulation of estimates since the last actual census was taken in 2000: "We cannot see any way that D.C. has lost 20,000 people in these last four years."

Sure it has, and maybe more, say the census people. The District made headlines in 2000 and 2001 when the July estimates showed a statistically insignificant population change -- about 1,000 and 1,800 people, respectively -- a sign that the years of hemorrhaging residents might finally be drawing to a close. Mayor Anthony A. Williams (D) celebrated back then by announcing a campaign to draw 100,000 new residents to the city over the next 10 years.

But, by 2002, an estimated 5,000 more people were gone, the feds said. Then 7,000 in 2003, 3,500 more in 2004, and the aforementioned 3,718 this year. Demographers point out that much of the city's revitalization has focused on singles and childless couples, while those leaving largely have been families with a few children.

Phillips countered with an earlier estimate, one that has become a favorite for D.C. politicians. In 1999, after nine years of estimates, the Census Bureau figured the city's population at 519,000. When it conducted a census the following year, however, the count was 572,000. Now, midway between that census and the one that will be done in 2010, D.C. officials insist that the bureau is wrong again.

Phillips said the city will formally challenge the estimate this year for the first time.

Nationally, the big population story was out west, where California's growth rate sank to less than 1 percent, lower than 21 other states. It ranked 17th last year, and in the top 10 fastest-growing states for most of the decade before that. New York state, too, is struggling. It lost population for the first time in at least 15 years.

"People are moving to where housing is more affordable, jobs are more plentiful," said William H. Frey, a demographer with the Brookings Institution. Sparsely populated states such as Nevada, Arizona, Utah and Idaho are growing, he added, in part because people leaving California are moving there.

Census officials cautioned that because this year's estimates are based on data through July 1, the state numbers do not reflect the considerable population shift from the Gulf Coast states that occurred in the fall in the wake of Hurricane Katrina.



President Lincoln at Ft. Stevens. July, 1864

# Alliance to Preserve The Civil War Defenses of Washington

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## Testimony on Proposed Expansion of the DC Height Act By Loretta Neumann, Vice President For the National Capital Planning Commission October 30, 2013

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Mr. Chairman, thank you for the opportunity to testify today. I have been a resident of Washington DC for more than 40 years. I am testifying on behalf of the Alliance to Preserve the Civil War Defenses of Washington, a non-profit association incorporated in DC in 2008 that received its IRS 501(c)(3) tax exempt status in 2009. Our primary goal is to promote preservation of the Civil War Defenses of Washington and advocate for their best interests.

The Alliance is alarmed by the proposal of the Mayor and Office of Planning to allow a substantial increase in the height limit of buildings in DC. For more than 100 years, this has been determined by the 1910 Height of Buildings Act. The new proposal could inalterably change the beautiful and historic setting of the nation's capital, both within and outside of the area of the original 1791 L'Enfant Plan for the City of Washington.

The Alliance is especially concerned because the Civil War Defenses of Washington (including the corridor of National Park land added by the Congress pursuant to the 1902 Senate McMillan Commission plan to link these sites) would be impacted:

- First, they are visible from the core city, creating a blanket of green around the nation's capital, a view that could be irrevocably changed by an increase in building heights in their foreground.
- Second, they are primarily located at high points around city, and the views from them would be severely impacted by a change in the heights of buildings below.

We were pleased to see that the NCPC Executive Director Recommendation states: "The Civil War Defenses of Washington... are all part of the Topographic Bowl and there is a federal interest in protecting the views to and from them." The EDR also notes areas outside the Topographic Bowl that "are all significant federal interests." We would add that those areas include the former Walter Reed Army Medical Center in northwest Washington, now being planned for redevelopment, which was involved in the Battle of Fort Stevens in July 1864 and has substantial significance to our nation's history.

Attached are several photographs illustrating the impact that increases in the District's building height could have on the Civil War Defenses of Washington. Also attached is a backgrounder with information on the commemoration of the 150<sup>th</sup> anniversary of the Battle of Fort Stevens, which will highlight the importance of these sites to the rest of the nation next year.

Thank you for the opportunity to testify today.



**View of Capital from  
Fort Stanton (built to  
protect Washington  
Navy Yard)**



**View from South Capitol Street Bridge, Anacostia River  
Forts Mahan, Chaplin, Dupont & Stanton in the distance.**



**View of Fort Mahan across Anacostia River's Benning Bridge**

As a native Washingtonian and voting Member of the Commission from 1987 to 1995, representing the U.S. Senate, I appreciate this chance to comment and urge the Commission to retain the Heights Act in essentially its present form, as the EDR recommends.

I'd like to draw on my own experience to make a couple of points for the Commission to keep in mind. One is that, even in its present form, the Act is subject to frequent pressures and interpretations that undercut its purposes. Increasing the height limits in the L'Enfant City can only compound the problem.

To take just one example, in the early '90s we considered a private developer's proposal to cover an entire block in the Metro Center area with a building taking its overall height from the greater matter-of-right allowed on its 13<sup>th</sup> Street façade. Not only did this cast the narrower adjacent alphabet streets in greater shadow, but the developer proposed to build in two phases: First on the "borrowed" height section of the lot, and only later on the matter-of-right section with a third-floor aerial walkway joining the two to form what the applicant contended was a single building. When a Commission member asked why the applicant couldn't at least build the matter-of-right section first, we were told that the current market wouldn't support it – the first time I've ever heard of a building competing with itself for tenants!

This project was built, by the way. So when you look at the Office of Planning's proposed model of North Capitol Street, with the Capitol dome framed at the end of a wind tunnel, keep in mind the increased effect not only on the greater thoroughfare but on narrower side streets.

The first heights dispute I was involved with as a Commission member was the redevelopment of Postal Square, just west of Union Station. The developer wanted to stack two-and-a-half additional floors on the original Burnham design, rivaling Union Station in height. The Department of Justice along with NCPC determined that any increase in the existing envelope violated the Heights Act. We heard the usual complaints: The project wasn't feasible without the additional height; the Smithsonian could kiss its Postal Museum goodbye; and so on.

None of these proved to be true. But the larger point is that when the original application was rejected, the developer met with the Chairman and a

number of Commission Members to ask if we would be O.K. with one-and-a-half floors, or even one. Couldn't we be reasonable and meet halfway? And the answer was simple: A violation is a violation; and splitting the difference on a bad idea doesn't make it a good idea.

Which brings me to my second point: It's clear that the District government and NCPC are far apart on this issue. You have and will continue to have pressure to reach a joint position – to “split the difference.” I urge the Commission to stick to its position and respectfully agree to disagree.

I understand the *District's* interest as a stakeholder. But this isn't purely an us-versus-them proposition: The District is well-represented on the Commission itself. Fully a third of its seats are held by District officials and their appointees – on this *Federal* agency, which has the primary responsibility for upholding the *Federal* interest. And with due respect, I hope this distinction is pointed out to the House Committee Chairman who has requested input from both sides.

Along with my House counterpart and fellow D.C. native, the late Dietra Ford, I appreciated the District's unique status on the Commission and enjoyed working with our District colleagues to protect purely local interests against undue encroachment. But there are times when it is unwise to “split the difference,” and this is one of them.

I hope the Commission will adhere to its mandate to uphold the Federal interest, by preserving the Heights Act that has kept this the beautiful and livable capital that it is.

Thank you.

John Belferman

**Testimony before the National Capital Planning Commission  
Regarding Proposed Alterations to Maximum Building Height Restrictions in the District of Columbia**

By Jim Schulman, AIA  
631 E St., NE, Washington, DC 20002  
202/544-0069; RegionalArchitect@gmail.com

30 October 2013

Good Afternoon Chairman Bryant & Commissioners. My name is Jim Schulman, I am a registered architect and sustainability activist residing in Ward 6, and am the founder of the non-profit Sustainable Community Initiatives and its subsidiary, Community Forklift. I am a strong advocate for regenerative regionalism, which recognizes that planning and governance must move beyond perceived jurisdictional constraints. The NCPC study admits that the infrastructure impacts of tinkering with the height limit in DC is regional. I believe that there are few more important issues than the one at hand today – considering the logic of changing a fundamental rule under which the core of our urban region takes its built form.

I will split my comments on the NCPC and District Government reports as they merit separate responses. First the NCPC report. For the record, although I consider myself a preservationist, I take issue with one of the three core principles raised in the report, that maintaining the horizontality of the city is paramount. To me, a default to human scale is more important than horizontality, and I can imagine a variegated, horizontal & vertical National Capital & urban environment that acknowledges human scale and serves all residents.

In any case, the visual arguments that the NCPC study makes are sometimes misleading. Views of the District from the air or from great distances, as from across the Potomac River, are nowhere near as useful in assessing the visual and psychological impacts of building to higher height limits than views standing on the sidewalk between 130' tall or higher buildings. Two examples within the study illustrate my point: I say 'yes' to the existing building heights on K Street as shown in Figure 10 on page 23, but 'no' to excessive existing building heights along F Street in Figure 11 on page 24, for reasons of shading, air flow, and the propagation of street trees. The shading study addresses this concern well. It is not just the width of the right of way that matters for this equation, but also the relative width of the sidewalks, which does not appear to have been addressed in either NCPC's or the District's reports. The traffic congestion on K Street, NW is clearly worse than on F Street, NW, yet the proportions of the tallest buildings on K Street to the street and sidewalks is generally more pleasant than the proportions seen on F Street.

With respect to occupancy of and build-out of penthouse areas, I understand the reasons why the NCPC might find such changes easy to adopt, but the report fails to challenge the visual logic of the existing 1:1 setback which makes sense for me whether the top floor of a building is used for equipment or people. Allow occupancy, yes, but let's step any new construction up there away from street facing lot line on streets to allow sunlight and reduce wind tunnel effects.

With respect to the DC study I take issue with the very first paragraph. The skewed “central question” the study claims to address assumes that increasing building height limits will be of net benefit to addressing DC’s structural deficit, a point that remains to be proven. The economic feasibility analysis claims that between \$61 and \$114 million in increased property tax collections would result from raising the maximum building height in their study areas over 20 years. A note in the analysis admits that the “Real property tax revenue estimate does not account for any reduction in the value of existing buildings resulting from an increase in potential significantly in excess of new demand.” The study addresses this concern by admitting that the height limit might best be increased only in limited areas over time, perhaps via auction – defeating District equity considerations by according development benefits unequally.

The property tax increased collections sound large – but are they? Assuming an average of 10’ per floor, \$61 to \$114 million over 20 years for increases in height from 130’ up to 250’ equals a measly \$220,000 per year per floor for all new high-rise development in the District! For that amount of increase in tax collection it would be far simpler to have the District raise commercial property taxes slightly and have those increases passed on to the 2/3 of the businesses and occupants of the Center City who are commuters. Current rates do not appear to have inhibited the proliferation of cranes on our skyline.

A similar argument applies to the anticipated job creation effects of lifting height restrictions. The PES study sees between approximately 7,000 and 14,000 permanent direct and spin-off jobs in building height increases to 130 to 250’. That works out to a mere 28 jobs per added floor level over the whole of the District per year! Studies by organizations like the Institute for Local Self-Reliance have shown that more jobs could be created by raising energy-efficiency and renewable energy requirements for DC buildings by a few percentage points.

The DC study warns that “market rate housing will disappear” as existing capacity becomes more limited, and dangles the carrot of potential public benefits recommended in the Comprehensive Plan that might be offered in terms of affordable housing subsidies or infrastructure improvements in exchange for increases in height. But the District already has a 20% FAR bonus for residential development under DC’s inclusionary zoning program, and it has to my knowledge failed to make a dent in DC’s crisis of housing unaffordability. The DC report admits that only 8% of any new units in high-rises would be officially affordable. The dual crises of housing affordability and failing infrastructure will not be significantly addressed by allowing for taller construction. If the District Government wants to seriously address those issues, they should be tackled head on – including by involving Federal and Metropolitan governments in solutions – not merely one Congressman from the high-rise Mecca of Oceanside, California.

A better place to look for regional solutions to DC’s structural deficit, gentrification, and uninspiring architecture would be Paris, France which just recently took the bold step of increasing its land area by 300% in incorporating many of its suburbs. NCPC might look at the planning logic of expanding land use planning into Arlington and other areas of Federal interest inside the Beltway, or at least encouraging more intense commercial development around Prince George’s County Metro stations to generate a balance of jobs, housing, and amenities throughout the whole region.

Thank you for giving me this opportunity to share my concerns!

## **Historic Districts Coalition**

**c/o Richard Busch, 1520 Caroline Street, NW, Washington DC 20009** [Rbusch1520@aol.com](mailto:Rbusch1520@aol.com)

### **Comments by the Historic Districts Coalition on the National Capital Planning Commission's Draft Recommendations for the Height Master Plan for Washington, DC Wednesday, October 30, 2013, 4:30 p.m.**

Good afternoon Mr. Chairman and Commissioners. My name is Richard Busch, and I am here on behalf of the Historic Districts Coalition, an affiliation of historic districts in the District of Columbia. Information on the Coalition and its position on the draft Height Master Plan was provided to the chairman in our letter dated September 9, 2013, which I assume was also made available to all of the commissioners by staff. In essence, the 11 neighborhood organizations and six prominent preservationists who signed onto that letter oppose any change to the 1910 Height of Buildings Act.

By taking this position the Coalition has been criticized for not being supportive of the Gray Administration's rationale for increasing building heights. We believe, however, that it is important for citizen residents of the District of Columbia to stand firm with its own rationale for protecting the built heritage of the city for the present and the future:

- The Gray proposal goes well beyond what Congressman Daniel Issa asked for in his letter of October 3, 2012, to Mayor Gray and NCPC Chairman Bryant. The Congressman's directive was to encourage "the exploration of strategic changes to the law [the 1910 Height of Buildings Act] in those areas outside (our emphasis) the L'Enfant City that support local economic development goals while taking into account the impact on federal interests, compatibility to the surrounding neighborhoods, national security concerns, input from local residents, and other related factors...;"
- Washington, DC is not only hometown to those of us who live here, but as the nation's capital is the city that represents in physical image the entire 300 million plus population of our country; and
- The 1791 L'Enfant Plan for the City of Washington, the 1901 McMillan Plan, and the 1910 Height of Buildings Act are the bedrock of plans and legislation that have created the iconic, low-scale, horizontal image that the city has today, an image known nationally and worldwide.

In essence, the Coalition is supporting the image of the nation's capital presented in NCPC's own on-line description entitled Building Heights in the Nation's Capital: "Washington's low and horizontal skyline is unique among most major cities. The lack of tall buildings enhances the prominence of the city's important civic buildings and monuments, and gives the capital an airy and light-filled environment." Further, it's a low skyline that contributes to the city's character through:

- Symbolism by providing a backdrop for significant buildings and monuments that embody our shared values of equality and freedom;
- Scale that invites the public, local, national, and worldwide, to enjoy its public spaces and views; and
- Sustainability that promotes a livable urban density.

Any change to the 1910 Height of Buildings Act will be the camel's nose under the tent, if you will, the beginning of more incursions that will inevitably come in the future and change forever the image and sense of place of this city.

Thank you for this opportunity to comment.

National Capital Planning Commission  
**Re: District of Columbia Height Master Plan Study**  
Testimony of Richard Houghton  
October 30, 2013

For the record, my name is Richard Houghton. I have lived in the District for 25 years. I work in the development sector and have managed the design and delivery of complex urban projects in the District and surrounding jurisdictions. I am also a registered architect and a member of the Committee of 100 on the Federal City. While I fully support the Committee of 100's position, I am testifying on my own behalf today.

I want to thank Chairman Bryant for holding these hearings and providing the opportunity for the public to speak directly to the federal government's planning body for the National Capital Region.

There may be a time in the future to consider major amendments to the Height Act, but that time is not now and the Office of Planning's recommendations are not the right approach. My full testimony submitted to the District of Columbia Council is attached for the record. Today I would like to highlight and elaborate on three points from that testimony:

- The District's population is growing, but will a few years of rapid growth during the recession recovery be sustainable? Should we make drastic changes to legislation that has worked so well for so long, based on a short term trend? *Actual population numbers need to be tracked to determine long term trends. Prudence and an abundance of caution suggest that Council—or Congress—authorize an independent assessment of OP's projections. Support from NCPC would lend additional credibility to this necessary and reasonable request.*
- Federal and District infrastructure implications have not been studied and evaluated; maintenance and capital costs are unknown. Multiple federal agencies have significant responsibilities for the stewardship of federal property in the District, and much of it is outside of the Monumental Core. The Fort Circle Parks, administered by the National Park Service, are one example. What are the budget impacts associated with significantly increased use that a major change to the Height Act would bring? *For budgetary planning District and federal agencies must provide nothing less than a full accounting of the projected cost increases associated with any change—or no change—to the Height Act.*
- The bifurcation of the study as a matter of federal interest versus local interest is simplistic and does not adequately convey the complex symbiosis of a healthy federal/local relationship. Security, for instance, is not just a federal interest; it must be the city's interest, too. Economic development and the promotion of financial stability is not just a District interest; it is also the federal government's interest, as Chairman Bryant has pointed out in a *Roll Call* interview.<sup>1</sup> *The existence of two sets of recommendations, one from NCPC and one from OP, is truly unfortunate and suggests an acrimonious future if the pattern continues.*

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<sup>1</sup> Hannah Hess, "Tension Between District, Feds Might Define Height Act Debate". *Roll Call*, September 13, 2013.

With respect to building height, livability and development, urban planner and author Jeff Speck recently wrote:

Raising or abolishing the height limit. . . creates the outcome. . . where a single skyscraper lands on an empty block and sucks up an entire year's worth of development activity, while all the surrounding blocks stay empty—or fill up with skyscraper parking. . . . [I]t is tempting to do a bit of our own speculation, on how tremendous the District of Columbia's height limit has been for the city and its walkability. That limit . . . has caused new development to fill many more blocks than it would otherwise. This strategy has created street after street of excellent urbanism. . . ."<sup>2</sup>

Loosening the regulations governing the height of buildings is likely to create islands of isolated urban towers characteristic of much of contemporary American urbanism, instead of furthering the goals of creating more walkable, thriving neighborhoods. And it is likely that market volatility and land speculation combined with economic cycles would destabilize growth and development and prove to be unwieldy, unmanageable and perhaps uncontrollable.

Speck's telling phrase "street after street of excellent urbanism"—streets without highrise buildings, in the Monumental Core, in the central business district, along the radiating avenues and in our neighborhoods—have enlivened the city and enhanced its urbane, finely grained pattern and humane sense of place. Ed McMahon of the Urban Land Institute has written that "Place is more than just a location on a map. A sense of place involves a unique collection of qualities and characteristics—visual, cultural, social, and environmental—that provide meaning to a location."<sup>3</sup>

The Office of Planning's proposals are not "moderate" as claimed. They threaten Washington's sense of place. They are extensive and sweeping changes and I urge the Commission to

**recommend halting the Office of Planning's overt attempt to nullify city planning in the District of Columbia**

**and affirm the analysis of the Executive Director's Draft Recommendation and support the continued study of the possible occupation of penthouses.**

Thank you for your consideration.

Richard Houghton, AIA, LEED AP  
930 Kearney Street, NE  
Washington, DC 20017

Attachment: Council Testimony

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<sup>2</sup> Jeff Speck, *Walkable City: How Downtown Can Save America, One Step at a Time*. New York, Farrar, 2012, p. 220.

<sup>3</sup> Ed McMahon, *Keeping the Lid on D.C.: Build Better, Not Just Bigger*.  
<http://urbanland.uli.org/Articles/2013/Mar/McMahonHeightLimit>. In the same article he argues numerous neighborhoods achieve remarkable density without highrise building creating some of America's most cherished places: Georgetown and Capitol Hill (D.C.), Park Slope (Brooklyn), the Fan (Richmond), the French Quarter and the Garden District (New Orleans).

Testimony of Richard Houghton, AIA, LEED AP  
Before the Council of the District of Columbia  
**Re: District of Columbia Height Master Plan Study**  
October 28, 2013

For the record, my name is Richard Houghton. I have lived in the District for 25 years. I work in the development sector and have managed the design and delivery of complex urban projects in the District and surrounding jurisdictions. I am also a registered architect and a member of the Committee of 100 on the Federal City. I am testifying on my own behalf today.

I want to thank Chairman Mendelson for holding these hearings and providing the opportunity for District residents to speak directly to our elected representatives.

The Height Act of 1910 as it is commonly known is a powerful piece of legislation that has shaped the urbane and humanely scaled city which we know and experience every day. It, together with the city's zoning regulations and the federal and District elements of the Comprehensive Plan, determine the form and character of the city. There is every reason to believe that the Height Act can continue to so function, unaltered. There may be a time in the future to consider amending the Height Act, but that time is not now and the mechanism for so doing is not the Office of Planning's recommendations.

A recent article in the *Wall Street Journal* noted that "to gain public acceptance, plans and their accompanying public investment must be part of a compelling vision and an agreed-upon public agenda."<sup>4</sup> The Office of Planning has not presented a compelling vision; and there is no broadly accepted ("agreed-upon") public agenda. And far from achieving a level of public acceptance, the Office of Planning's recommendations, in a gesture that mocks arguments for increased District autonomy, have been denied a public screening before being delivered to Congress. Today's public hearings are all the more timely given the lack of public debate.

The Office of Planning's proposals are not "moderate" as OP claims. They are extensive and sweeping changes and **I urge the Council to communicate the recommendation to Chairman Issa and the House Subcommittee on Oversight and Government Reform to reaffirm the Height Act and reject the Office of Planning's proposals as inappropriate at this time and lacking in credibility for the following reasons:**

- The District's population is growing but will a few years of rapid growth during the recession recovery be sustainable and should we make drastic changes to legislation that has worked so well for so long, based on a short term trend? *Actual population numbers need to be tracked and monitored for long term trends. Prudence and an abundance of caution suggests that Council request an independent and outside assessment of OP's projections.*
- The population is still below its peak of the early 1950s, yet significant additional housing, office and retail space has been added to the building stock without touching significant parcels, large and small throughout the city. Columbia Heights, NOMA and

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<sup>4</sup> Julia Vitullo-Martin, "How to Build a Better City". *The Wall Street Journal*, April 12, 2013.

the Ballpark are three areas of intense urban development that contribute to the economic and social vitality of their respective neighborhoods and advance the Office of Planning's goals for livability, walkability and sustainability. And all were planned and either implemented or are works in progress under the existing Height Act. *Economic prosperity can and should be spread throughout the city and not just to the high cost areas where the Office of Planning expects taller buildings.*

- Infrastructure implications have not been studied and evaluated. Costs, including but not limited to transportation and traffic control; police, fire and EMS; schools; parks and recreation; the special needs of the young and the aged; streets and streetscape and civic maintenance such as trash collection and snow removal, are unknown and unaccounted for. *With responsibility for approval of the city's budget and short and long term fiscal planning, Council needs nothing less than a full accounting of the projected cost increases associated with any change—or no change—to the Height Act.*
- The bifurcation of the study as one of federal interest versus local interest is simplistic and does not adequately convey the complex symbiosis of a healthy federal/local relationship. Security, for instance, is not just a federal interest; it must be the city's interest, too. Economic development and the promotion of financial stability is not just a District interest; it must be the federal government's interest, too. Preston Bryant, Chairman of the National Capital Planning Commission, in an interview with *Roll Call* has noted this.<sup>5</sup> *The existence of two sets of recommendations, one from NCPC and one from OP, is truly unfortunate and suggests an acrimonious future.*
- The historic Height Act applies city wide. Modifying it to allow a little more height some places and a little more height in selected, non-contiguous places is likely to create pockets of growth and to exacerbate socio-economic disparities rather than creating a unified, coherent, inclusive city. *The recommendations proposed by OP will fragment the city, utterly negating The District's banner tagline, found at <http://dc.gov/DC/> "One City, One Future."*

In closing I would like to quote from urban planner Jeff Speck's book *Walkable City: How Downtown Can Save America, One Step at a Time*:

"... A ten-story city like Washington simply does not need towers to achieve great walking density. Indeed, outside of Midtown and the Financial District, most of Manhattan's lively avenues are lined by buildings closer to ten stories tall. ... Ultimately, since most cities are not New York, there is a much more important [economic] argument to be made for height limits. Raising or abolishing the height limit. . . creates the outcome. . . where a single skyscraper lands on an empty block and sucks up an entire year's worth of development activity, while all the surrounding blocks stay empty—or fill up with skyscraper parking. . . . In this context, it is tempting to do a bit of our own speculation, on how tremendous the District of Columbia's height limit has been for the city and its walkability. That limit . . . has caused new

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<sup>5</sup> Hannah Hess, "Tension Between District, Feds Might Define Height Act Debate". *Roll Call*, September 13, 2013.

development to fill many more blocks than it would otherwise. This strategy has created street after street of excellent urbanism. . . ." <sup>6</sup>

Loosening the regulations governing the height of buildings is likely to create islands of isolated urban towers characteristic of much of contemporary American urbanism, instead of furthering the goals of the Office of Planning in creating more walkable thriving neighborhoods. And it is likely that market volatility, and land speculation in conjunction with economic cycles would destabilize growth and development and prove unwieldy, unmanageable and perhaps uncontrollable.

Thank you for your consideration.

Richard Houghton, AIA, LEED AP  
930 Kearney Street, NE  
Washington, DC 20017

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<sup>6</sup> Jeff Speck, *Walkable City: How Downtown Can Save America, One Step at a Time*. New York, Farrar, 2012, p. 220.

**Testimony before National Capital Planning Commission**  
**Dorn C. McGrath, Jr., FAICP**  
**October 2, 2013**  
(delayed due to government shut-down)

First of all, I would like to compliment the National Capital Planning Commission on doing a difficult job well. I admire your reasonable approach to a difficult topic.

So, here we go again.

It's time, it seems, for the perennial building-height act debate. In D.C., that is.

Once again, we are more or less involved in the argument on the Building Height Act and its effects on the City. This time, however, we are to be influenced by a renegade congressman from California, Darrell Issa (R), from a district with no building height act on the fringes of Los Angeles, which doesn't care as long as the earth holds still. Congressman Issa sees this as a way to avoid more serious debate on such issues as the Continuing Resolution, or in Congress-ese, the CR. This time he is supported by the erstwhile congressperson habitually representing the District, Congresswoman Eleanor Holmes Norton.

There is a movement to have the architects, speaking through the AIA, stake a position in this debate. They won't, because more and more buildings – regardless of their architectural merit – means more work for architects, and heaven forbid that the AIA would speak about anything else. Moreover, the architects, alluding to their role in “shaping the city” have already spoken through the Washington Post and Roger Lewis, whose column, *Shaping the City*, appeared in a Saturday edition of the Real Estate section. Lewis, a good cartoonist, is clearly in favor of eliminating the Building Height Act, at least for certain parts of the City, beyond the so-called “topographic bowl.” The APA, also known as the American Planning Association, is mum on this entire issue, as usual. The preservationists, as usual, are aghast at the suggestion that the Building Height Act be tampered with.

At a hearing staged on July 19, 2012, a carefully-chosen panel presented its ideas about the suggested elimination or modification of the Building Height Act. The panel was carefully chosen to include four advocates of the congressman's position, and one opponent thereof. One of those chosen advocates was an emissary of the Mayor (now under investigation). The opponent was selected was Committee of 100's former chairman, Laura Richards. Richards presented an eloquent set of reasons why the Building Height Act is important to the City and its identity, but the panel is clearly intent upon changing this.

Do we really believe that constructing high-rise buildings at all metro stops will attract low-income housing? Certainly not. Do we really believe that extending the metro silver to Loudoun County

will result in more low-income housing? Certainly not. Do we really believe that the painful slog up four escalators and 2,000 more horizontal feet, often open to the weather, to the one-way temporary stop on the trolley line from “nowhere to nowhere else” will bring relief to the clubs, bars and businesses of H Street, NE? Obviously, we don’t, and several businesses in this woeful corridor have already gone the way of failure for lack of customers.

An enlightened view of the perennial discussion of the Building Height Act of 1910 in the City is presented by Kaid Benfield, in a recent article in The Atlantic Monthly. He presents both pro and con points concerning the Building Height Act of 1910, but ultimately concludes that we should leave well enough alone.

Do we really believe that our esteemed City Council, despite its new leadership, will suddenly exercise restraint when it comes to the prospect of new revenue from new buildings erected, Rosslyn-style, at various metro stops around the city? Certainly not, even after they have filled the seats of the three of twelve members who have been convicted by courts of law.

In his book, Skylines of the World, Yesterday and Today, M. Hill Goodspeed writes, “[Washington] is a city like no other in the world. Its skyline is not marked by modern symbols of capitalism, but rather by monuments to the people and events that are pillars of American democracy, the very shapers of the national identity of the United States.” Often cited by Benfield and others is Paris, which has its own Rosslyn in its vicinity as a collection of tall buildings north of Paris proper, which we view nostalgically as the “City of Light”.... Will no one ever learn from the Tour Montparnasse? Parisians did. Including their President.

Washington, DC, can chose to become the city of empty buildings seeking to be neighborhood foci at metro stations, á la Dubai, or it can remain an attractive, controlled open space bringing in millions of tourists each year to enjoy. Washington is, after all, the Nation’s Capital even today, and people tend to like it as it is, with its unblocked views, ample avenues, and lower buildings. Think about this.

Recently, an almost hysterical letter signed by the Mayor differs with the more thoughtful approach of the National Capital Planning Commission. The letter reflects a “Just Do It” approach taken by the DDoT, which responds only the Mayor. The so-called “Streetcar system” is not on the agenda of the Regional Transportation Planning Board, nor has the Building Height Act; thus, people are thoroughly confused. Does anyone really think that raising the Building Height act will raise the ridership on the failing Metro system? No, not even the lemmings.

Does anyone really believe that the featureless expansion by 20-200 feet by the modification of the Building Height Act, will attract any significant number of low and moderate income people to fill the so-called empty spaces above existing buildings? Certainly not.

Does anyone believe that the levels of noise, traffic congestion and detours will be decreased by an increase in the Building Height Act? Certainly not. Does anyone believe that the 12,000 daily drivers alluded to by the Office of Planning (which reports only to the Deputy Mayor or Mayor himself) really want to live in the District? Certainly not. The City has undertaken the route of mendacity, or it would not lay claim to the fact that the Spingarn High School site is not a part of the so-called “system” that it intends to build connecting the neighborhoods of Anacostia with Union Station. Nor would the City ignore the Burnham Place reality of an at-grade street car “system”.

Even Donald Trump knows that there is much to be lost by building – which he could – another skyscraper on the site of the Old Post Office, because he believes that there is dignity in the Building Height Act.

Does anyone believe that an increase in the Building Height will produce more congestion in the streets? Yes, most do. Thousands of tourists come to the City each year to see our city.

Leave the congestion to the suburbs – let Arlington be Arlington, let Tyson’s Corner be Tyson’s Corner, let Bethesda be Bethesda. Each of these sub-areas of our metropolis has its own planning jurisdiction.

But leave the Building Height Act alone.

Thank you for this opportunity to present my views.

Gary Thompson  
2840 Northampton St. N.W.  
Washington D.C. 20015  
ANC Commissioner 3/4G02

**October 23, 2013**

National Capital Planning Commission  
c/o William Herbig  
401 9<sup>th</sup> St. N.W., North Lobby, Suite 500  
Washington, D.C. 20004

D.C. Office of Planning  
c/o Tanya Stern  
1100 4th Street, SW, Suite E650  
Washington, DC 20024

**Re: Written Testimony on the Height Act Study  
for the Special NCPC Meeting of October 30, 2013**

**The District's Height Master Plan draft recommendations for  
modifications to the federal Height Act**

Dear Commission Members:

Thank you for holding a Special Commission Meeting on this topic to gather public comment. I apologize I cannot appear in person to testify Oct. 30, due to an out of town proceeding. I respectfully submit these comments on the Height Act study.

I have studied carefully the September 12, 2013 NCPC Executive Director's Recommendation ("EDR") and the September 20, 2013 D.C. Office of Planning Evaluation and Draft Recommendations ("DCR"). I am familiar with the matters raised in these reports by (a) my many years as a D.C. Advisory Neighborhood Commissioner (four as Chair of the Chevy Chase ANC); (b) my review and comment on the pending D.C. zoning regulations; (c) an officer in the Alliance to Preserve the Civil War Defenses of Washington; and (d) as one of the attorneys who brought suit (pro bono) to challenge the congressional prohibition on D.C. taxing non-resident income earned within D.C., creating the structural funding imbalance that is addressed so well in the DCR. I respectfully make the following comments:

1. Whatever the reasons for its historic origins, the federal height limitations in D.C. have worked to create a beautiful and successful city. I do not think the height limitations should be raised, whether within the "L'Enfant City" or otherwise. I largely agree with the EDR in this regard and disagree with the DCR. I feel confident in saying that the majority of D.C. residents favor the views in the EDR. The DCR suggests that within the L'Enfant City, building heights be increased based on a ratio of height to street width, and outside the L'Enfant City, with no federal height limit. DCR's idea, if

accepted, would mean that within the L'Enfant City, heights could increase up to 200 feet and be non-uniform depending on the width of various adjacent streets. There would soon be a race up, with new controversies about proper application of the height limit, especially where new buildings abut residential areas.

2. DCR's idea of height-to-street width ratio also addresses only a single factor: pedestrian perspective from street level (*i.e.*, the wider the street, the higher the building can be). But that is not the only factor to consider. The EDR properly discusses the many other important factors that weigh on the matter – “viewscape,” relation to federal spaces, buildings blocking each other out, etc.

3. The status quo has forced D.C. and developers to spread out beneficial development, and to also create mixed-use areas where residential, retail, and commercial uses mutually benefit each other. There is still much room in the City for development of buildings up to 12 floors. If greater heights were allowed, then the focus would revert back to the traditional downtown areas (K St. N.W., Penn. Ave. corridor, etc.), slowing beneficial development elsewhere. D.C. is unique in diffusing its development across the city, instead of concentrating everything in a small area of high-rise buildings.

4. Removing height limits outside the L'Enfant City could lead to contentious developments, possibly creating Roslyn like mini-high rise blocks in what are now residential areas like Anacostia, Friendship Heights, Takoma Park, Chevy Chase, etc. The economic pressures to develop these areas could eliminate all but the wealthiest pockets of these residential areas – adjacent lower and middle income residents could be displaced. Plus this could siphon away or depress development in downtown areas.

5. This is an anecdotal point, but I happen to be an avid runner (around 25-50 miles a week) and a constant business traveler. I spend substantial amounts of time in the downtown areas of dozens of U.S. cities (in 2012, over 100 business days in 18 different cities). Being a runner, I run through and beyond these downtown areas. On average, the cities that have the downtown high-rise cluster effect are failures. There is little to nothing in the downtown areas other than office buildings, there is massive congestion at rush hour, the downtown area clears out after the workday, and the areas that immediately ring the downtown areas are abandoned or severely underdeveloped. Houston and Baltimore are examples of this failed model, and many more reveal this failure to some degree or another. In places like New Orleans, Cincinnati, Chicago, Dallas, and Charlotte, you can run on a city block that contains a nice marble-surfaced high-rise building, but as you leave the downtown cluster, a mere one-block later you run past strings of old boarded-up buildings.

6. In contrast, D.C. is a model of success, especially the last two decades of positive economic development. For example, not long ago, the whole area north of Penn. Ave., from 15<sup>th</sup> St. N.W. to the Capitol was a half-abandoned part of town. If in 1970 a high-rise area had sprung up in, say, Foggy Bottom, that whole Penn. Ave. area likely would still be half-abandoned today (to say nothing of No-Ma, H St. N.E., South

Capitol St., etc.). If you can build up, why build elsewhere? Let history be your best evidence of what happens when maximum heights are kept in place.

7. The DCR rationale for greater building height is admittedly driven by an artificial constraint – the federal government’s severe constriction of D.C.’s ability to generate tax revenue. DCR’s core argument is that we must build up so D.C. can increase its tax base. First, it is worth pausing to note that DCR is absolutely correct about this egregious injustice in D.C. D.C. cannot tax the majority of land/property in D.C. (by value) because it is federal or otherwise exempt. The most glaring injustice is the exception made by Congress in the Home Rule Act to the universal rule that income is taxed where it is earned. In D.C., this universal rule of taxation is suspended, such that D.C. cannot tax about two-thirds of the income earned within D.C. because it is “non-resident” income. Instead, mostly Maryland and Virginia are permitted to steal this D.C. tax revenue from D.C. Why? Because they can – because they have representation in Congress and D.C. does not. This is the harsh financial outcome of taxation without representation. Many years ago, I helped put together and bring a federal lawsuit to challenge this Congressionally-imposed tax revenue shift, alas without success on constitutional grounds. But this unfair constraint on D.C.’s tax revenue is not, however, a reason to increase building heights. *The two issues are distinct.* The answer is to (a) keep heights as they are, and (b) remedy the injustice of the “structural imbalance” through other means (repeal the prohibition, statehood, etc.).

8. I am also a founding member and Treasurer of the Alliance to Preserve the Civil War Defenses of Washington, dedicated to helping preserve the ring of forts that stretches around the “Topographic Bowl.” As the EDR notes, “there is an abiding federal interest in protecting the views to and from them,” another compelling reason not to alter the current height limits. There is also an abiding local interest in this regard as well.

9. For these reasons, I agree with the EDR’s ultimate conclusion that changes to the Height Act would have a “significant adverse impact on federal interests,” and local interests as well – both within and outside of the L’Enfant City.

10. I also agree with EDR’s caveat that the City might permit a broader range of uses in building penthouses, “if properly implemented and with certain restrictions” (set-backs and other restrictions specified by the EDR). For example, set-back penthouses might be used as conference room centers with bathrooms and facilities.

Sincerely,



Gary Thompson

--ANC Commissioner 3/4G02 (Chevy Chase)  
--Treasurer, Alliance to Preserve the Civil War  
Defenses of Washington  
--Resident, 2840 Northampton St. N.W.

TESTIMONY  
Eugene Abravanel  
A long-time D.C. resident

The synopsis of the D.C. Planning Office's recommendations that I have read regarding the Height Master Plan was sorrowfully disappointing. It lacked balance, good judgment, and a grasp of the long-term needs of D.C. to control building heights and densities in order to preserve this National Capital City as a place that attracts visitors from throughout the U.S. and worldwide, encourages inhabitants to live and work in the city for many decades, and that sets a realistic standard for populous cities throughout the world to take seriously when confronting the difficult task of retaining the valuable characteristics of their own cities while constructively meeting the needs and preferences of its citizens. D.C. should become a true model of a "green" environmentally friendly city rather than one that excessively values growth in numbers of residents, residents, the heights of buildings, and the tax revenues that may be gathered by promoting numerical increases. The currently exist height limitations on buildings should be maintained and enforced. Zoning commissions should be admonished to avoid exceptions or variances to present day height, density, and neighborhood rules that are necessary to preserve - and enhance - the character of the city. I hope that the Commission takes note of the long-term threats to life in D.C. that are very likely to follow from The D.C. Planning Office's recommendations, and to act appropriately.

Sincerely,  
Eugene Abravanel  
A long-time D.C. resident.

## ***The Rhodes Tavern-DC Heritage Society***

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### **TESTIMONY OF JOSEPH N. GRANO BEFORE NCPC, October 30, 2013**

#### **Sensible Development and the Current Height Limits are Compatible**

*The Rhodes Tavern-DC Heritage Society* is opposed to any alteration of the federal Height of Buildings Act of 1910. It is much a part of the District of Columbia's heritage as is the L'Enfant plan and its extensions. It has served us well for more than 100 years and should continue in place for another hundred years.

Current heights make the District hospitable, comfortable, welcoming and most importantly give primacy of place to our government buildings, national memorials, the Washington Monument and the U.S. Capitol. Preservation of the dignity of the seat of our national government is essential. The interest of business and District tax revenues is completely secondary. Granted that most land in the District is not taxable; it should be up to the federal government to properly compensate the District government.

Also to be considered is that District zoning laws are not used to maximize the space allowable by law. In addition zoning law usually does not allow building heights to conform to the federal heights. As long as this situation remains, the Office of Planning should not be recommending changes in the federal law. As to Office of Planning's estimates of future need of space, those estimates may be problematical, as they do not take into account the future effects telecommuting and hoteling.

My own recent experience in zoning matters is the new Giant supermarket PUD, now called Cathedral Commons. It is being developed as to separate buildings, fronting on upper Wisconsin Ave. One building will be two stories and the other five stories. Across from the two story building are two nine story apartment buildings. I was probably the only resident of the area to testify before the Zoning Commission in 2009 that the two buildings were too small for Wisconsin Ave. In an article in the Northwest Current that year, I predicted that by allowing under-sized buildings on major transportation corridors, we were "embolden(ing) developers to go to Congress to overthrow the current reasonable height limits." This article is reproduced on the back of this statement and I wish it to be added to my testimony. Another example of misguided development is at the Tenleytown Metro stop. On the east side of Wisconsin Ave. are only one and two story buildings. And difficult to believe, a new two story building has recently been constructed right next to the Metro entrance. I believe that OP, Mayor Gray and the District Council need to encourage maximum development on busy transportation corridors such as Wisconsin Ave. Perhaps a law needs to be passed by the Council to allow zoning regulations to be in conformity with the maximum height limits allowed by federal law along such transportation corridors. Let's see if the District has the will to pass such a law and if neighboring residents will support such conforming development. This makes more sense and is more honest than the District going to Congress for relief. I also would recommend that future buildings, anywhere in the District, conforming to the maximum allowable heights be subject to design recommendations of the U.S. Fine Arts Commission or a newly created Federal/DC agency.



National Capital Planning Commission

**Hearing on the Draft Recommendation from the NCPC Executive Director  
and the Recommendation from D.C. Mayor Gray**

Testimony of Nancy J. MacWood

Chair, The Committee of 100 on the Federal City

October 30, 2013

Mr. Bryant and members of the commission, the Committee of 100 is the nation's oldest citizen planning organization. We were created in 1923 to serve as protectors of the L'Enfant and McMillan plans and to ensure that future plans for Washington, D.C. respect and utilize their foundational elements to enhance the development of our nation's capital, which is our home town.

The Committee of 100, without reservation, opposes the Mayor's recommendation. We support the analysis of the NCPC Executive Director's Draft Recommendation report and find its recommendation to allow communal activities in penthouses worthy of consideration and more discussion. But the dramatic and transformative nature of the Mayor's recommendation forces us to focus exclusively on that recommendation.

The Mayor's finding that we are really two cities - one federal and another local - is a fundamental fallacy. That assumption leads to the Mayor's recommendations that we permanently separate our city's interests from our nation's interest. The Mayor would demonstrate the separation with new distinguishing heights that have the potential to eradicate our physical connection and with it our deeply held view that we are one city and proud to be residents of the capital of the United States.

District residents find the issue of federal versus local interests abstract and nonsensical. Of course we are a unified city; that is how the city was planned and developed. DC residents may not realize that our streets are aligned to take advantage of natural topography and vistas from neighborhoods stretching from Anacostia to Cleveland Park, but we love the opportunity to show visiting friends and family the incomparable vistas from our front steps or where the best views are outside the Mall to watch the fireworks. It would be a terrible mistake to believe that DC residents do not cherish the human scale, the remarkable tree canopy, the vistas, and urban densities that set us apart from other cities and demonstrate that you can lead and plan development rather than follow predictable development industry prescriptions.

The notion that our local and federal interests are separate is at odds with how we feel as citizens and how we have created our physical surroundings. The Height Act has singularly enabled us to fulfill the vision of

the L'Enfant and McMillan Plans to create a city that symbolizes our national principles through the physical manifestation of a grand and beautiful capital city. Just look around – that aesthetic characterizes all of D.C. The Mayor's recommendation is frankly an insult to what we as DC residents and Americans hold dear, but it is also a direct challenge to our resolve and our commitment to maintain an urban city that celebrates our democracy and our aspirations.

The Committee of 100 does not believe that urban pressures direct us to reconsider the disciplined protection of our unique urban form as represented by the Height Act. Let's keep in mind that the District's "crisis" didn't exist before late September. At the Council hearing on Monday, the Office of Planning Director admitted that the only reason we are having this discussion is because Rep. Issa opened the door. That alone is a good reason to slam the door shut. But let's look at the flimsy rationale offered for shredding the Height Act.

### **Population Growth**

Population growth rates are uncertain. In FY 2008 Washington's population growth was 1%, in 2009 it was 1.9 % and in 2011 it was 2.3%. In FY 2013 the population growth rate estimate is 1.8 % and the CFO has informed the city council that after a projected continuing annual decline, population growth is estimated to be 0.8% in FY 2017. Significant decisions should not be based on short term trends, especially when the trend is unstable.

### **Development Capacity**

Space for growth wasn't questioned before the Height Act Master Plan Study. The Office of Planning Director told Council that it had never done a capacity study and didn't know how to do one, yet previous DC planning offices provided detailed outlines of the city's development capacity and direction for where growth should occur. This summer we heard that we will run out of space in 20 years, 40 years, maybe in 100 years. It is impossible to evaluate the creditability of these forecasts because so much of the District's land area was not included in the Office of Planning's report on our land capacity. A much more comprehensive presentation of development capacity and a rigorous consideration of assumptions should precede any conclusion that we must re-evaluate our legacy.

### **Suggested Benefits**

Growth projections and space capacity are the only factors that compel the discussion about eviscerating the Height Act. The Office of Planning's report and what we have heard from experts dismiss a link to the production of affordable housing. Developers build higher where the market is strong enough that return will recoup high construction costs. The supply and demand theory is not supportable when we are projected to create more housing units in 2013 and 2014 than in 20 years under an amended Height Act. The creation of jobs for DC residents is based on perpetuating the pattern of non-DC residents holding the vast majority of jobs. We have more jobs than DC residents right now, the task is to crack our structural unemployment but it will only happen with good education and training programs. A connection to strengthening our middle class has simply not been established. And there is no validity to bringing self-determination or autonomy to District residents. Citizens have no power now to elect or fire those who write zoning height regulations and that won't change if the Height Act is amended or even repealed.

The most persuasive reason for not changing the Height Act is the least elegant. No city has been able to withstand private development pressures to increase heights of buildings. We have been successful in creating our uniquely wonderful city because we have excellent foundational planning to guide us and we have a federal law that essentially says there is a national goal more important than a profit goal. Without that ultimate federal protection, the development industry will overwhelm Washington just as they have in every other major city.

The Committee of 100 finds the Mayor's unreasoned recommendation a repudiation of more than 100 years of planning a city that has uniquely melded national and local interests. We strongly urge the Mayor and NCPC to join in supporting a measured recommendation limited to exploring permission for communal activity in penthouses.

SUBMITTED BY WILLIAM HASKETT

Executive Director's Recommendation on the NCPC Staff Height Act Study, presented on  
September 12, 2013, to the NCPC Commission Meeting

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One of the advantages of individual comment is that almost necessarily it simplifies oppositions, and is very often therefore unfair to one side of a complex argument or the other. My own reading of both draft reports makes the central opposition between OP and NCPC over-simple. <sup>1</sup>

On the one side is OP, an agency of the government of the Federal District, with an agenda which postulates the desirability of autonomy for that government, and casting it therefore in terms of the fiscal resources it would have if things were different enough that an extension of height in the central business district (defined around the most obvious concentration of that area around K St., the new Convention Center and the Hotels and apparatus of a renewed and more elevated set of buildings in which the lobbyists and business people associated with the Board of Trade and analogous groups could so expand the tax-returns to government to make more plausible the prospect of a home-rule which could then graduate at some point in time into a genuine statehood, and free itself from the shackles (as they are often termed) of an objectionable dependence on Congressional permissions and consultations, at least for the non-Federal parts of the District.

On the other side is the agency of the NCPC which I simplify very considerably into an idealized version of an interdependent region, once oriented by the Year 2000 Plan to represent the undoubted utility of collaboration between virtually all the jurisdictions and agencies of constitutional States, and a hierarchy of cooperative things to comprehend not merely the area of the Constitutional District but the variety of formerly suburban Counties in two States and asked to meter and in some sense to express the enormous variety of material and symbolic interests of rivals for significance (as surrogates for political and social power) reaching almost to Baltimore on its northern reach, to Front Royal and Charlottesville on the other, gathering the consequences of demographic change into an immense conurbation, and resulting in many forms of definition of inter-questions of population and class outside the bounds of the Federal District and interacting with it in an intimate and complicated weave of the commuter journeys to work (no longer simply towards the District, but in many interwoven and cross-jurisdictional lines of traffic, both by quasi-freeway and private car, but the deviations of three airports and several mostly-suburban shopping centers (such as Tyson's Corner and Shirley Highway, Rockville Pike and 270, the north-south route of 95, and the like. There is an active competition for business centers for new business district building, a great variety of building heights and concentrations, interacting with a complicated weave of dependency and rivalry---exemplified by the building up of Arlington just on the other side of the Potomac from Washington itself, and without some of the prohibitions on building-height and use that the city of Washington is constrained by, such as the Height Act of 1910. This is interactive with the provision of housing in the same area,

increasingly by much taller apartment houses in an area which is only constrained by the necessity of crossing the barrier of the Potomac by a limited number of bridges.

The suburbs of Washington were created by the social process of white-flight in the complex period which followed Brown vs. Education in 1954, and very large and scattered new centers of rather well-to do groups in suburbs, which embodied all the tensions of a both more concentrated, more similar USA now electronic and not variegated simply by the facts of space or the difficulties of moving large elements of commuting populations by means of the private car.

The whole embodies a complicated whole of space, communication, transportation and electronics and to a certain extent, the rivalries of potential advantage for places and jurisdictions. These are not soluble by the resources of any one piece, but invoke the necessity of all of them. They do not ever achieve the ideal of mutual benefit, but they represent an ideal of collaboration to bring together the so-called stakeholders of any single problem (such as that of the Height Limitation Act in the Federal District of Washington) in an often-untidy mixture of elements and impulses, such as the allocation of a joint report to OP and to NCPC, when the basic thrust of either component is virtually certain to reveal (and constitute) patterns of incompatibility between them.

*1There are, after all, more than one form of parochialism than those of the parish-pump, since I suppose that there is also a form of it in time, the notion that our own times and those of our 'history' and our 'futures' are the only ones that exist,, have existed, and will exist. This is at least one of the things to be learned from the study of history.*

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TESTIMONY RE: THE REVIEW OF THE FEDERAL HEIGHT OF BUILDINGS ACT  
BEFORE THE NATIONAL CAPITAL PLANNING COMMISSION  
30 October 2013

Dear Commmissioners,

My name is Sally Berk. I've been a preservation activist in Washington for more than three decades so I'm sure that few of you will be surprised that I'm here in an effort to preserve the Height of Buildings Act. My opposition to a proposal for drastic and irrevocable change is based on years of studying cities; first in architecture school, later in graduate school, and in my travels both in the United States and abroad. What has become quite clear to me is that controlled growth, based on maintaining a sense of place, is what makes a city desirable and what brings in the dollars.

Since the proposal to change the height limit first became public, I've discussed this issue with colleagues across the country. Unanimously, they have responded that they find Washington to be so very appealing because of its form. And they are horrified to learn that that very form is threatened.

Our city's form, which is so valued by visitors as well as residents, is the result of L'Enfant's brilliant plan on the ground and of the 1910 height limit in the air. And just as the plan of two centuries ago remains valid today, so does the height limit, which is neither an arbitrary nor an obsolete concept. It is a brilliant and timeless model, based on the width of our streets and resulting in a light-filled, human-scaled environment. It is also a ratio that results in a graceful and elegant environment. A change in the height would result in an alteration of that proportion that would no longer produce the serene built environment that is the pride of the nation's capital. (This is not to be interpreted to mean that I would find an increase in height acceptable if the streets were widened. I've been to Moscow and seen the tragic loss of history and culture when buildings were sacrificed to create wide avenues.)

I find the DC Office of Planning's argument that we will soon run out of space and that we need to increase our housing stock in order to accommodate our increased population to be a specious one. First, because the DC Office of General Services holds hundreds – perhaps thousands – of vacant housing units in its inventory. The Department of Housing and Community Development, in a 2010 report, claimed that there are 2,900 vacant buildings in the District. While not all are housing, many are. If all vacant city-owned housing units, as well as privately-held ones, were put back on-

line, it would go a long way toward providing housing for our increasing population (which, by the way, is now increasing at a slower rate than anticipated by the DC Office of Planning). Those units that would be put back on-line are far more likely to be affordable housing than the luxury units that would surely result from raising the height limit.

As to the argument that we are running out of developable land, I quote the developer who said in a recent interview "There is plenty of undeveloped FAR." This comes as no surprise to anyone familiar with our city. While it is true that our downtown is nearly built to capacity, and that close-in areas, like the Fourteenth Street Corridor, are now being developed at higher densities, there is still plenty of undeveloped land in other parts of the city. There is no justification for eliminating the height limit in those parts of the city. First, let's fill it in. Development in those areas would bring vitality to neighborhoods that have been experiencing decline for decades. Development in those areas would be Smart Growth.

I ask the Commissioners to oppose ANY changes to the Height of Buildings Act. Furthermore, before any change is made to the Act, all the citizens of Washington, DC should be allowed to voice their opinions in a city-wide referendum.

Thank you for the opportunity to comment.

5811 33<sup>rd</sup> St NW  
Washington, D.C. 20015  
October 26, 2013

National Capital Planning Commission  
401 9<sup>th</sup> St NW, North Lobby, Suite 500  
Washington, D.C. 20004

Re: Written Testimony on the Heights Act Study for the Special NCPC Meeting of October 30, 2013

Dear Commission Members:

Thank you for holding a hearing to gather public comment about the Height Act Study. I find both the arguments and the process followed by the Office of Planning to be fundamentally flawed, and hope that the National Capital Planning Commission (NCPC) will strongly reject the Office of Planning's recommendations to gut the Height Act of 1910.

The Height Act has created a beautiful and thriving city. When I escort visitors around D.C., they are often struck by the number of trees and the beautiful vistas from our hills and parks. In the midst of a serious financial downturn for our country, D.C. is thriving. Why, then, does the Office of Planning want to tamper with conditions under which the city has flourished, both economically and environmentally? The Office of Planning seems to be framing the removal of the Height Act in two ways: first, as a necessity to increase D.C.'s tax base and revenues, and second, as a moral obligation under Home Rule. However, I see these as smokescreens for the Office of Planning's real motive: to fundamentally alter the character of our city in a way that fits the vision of the urban planners in the Office of Planning and developers who would profit from greater building heights.

First, raising heights is not a precondition to financial stability, as the Office of Planning would argue. Yes, it is true that unlike other states which tax incomes of non-resident workers, D.C. is not allowed to tax incomes of workers who work in D.C. but live in other states. Also, unlike residents of territories without full representation in Congress, D.C. residents pay full federal income tax. However, if either or both of these injustices were reversed by Congress, D.C. would find itself with a financial windfall, with absolutely no need to alter the Height Act and destroy the character of our city. The federal tax policies, not the heights of our buildings, need to be changed.

Second, the Office of Planning (OP) also argues that eliminating the Height Act is necessary to allow D.C. full control of its land use under "Home Rule." I find it completely ironic that OP uses the Home Rule argument, when the Office of Planning scheduled meetings when we were not "at home" and did not show pictures of our homes. First of all, as you well know, August is a month in which many residents take vacations. OP's decision to hold Phase 2 hearings only in the month when residents were least likely to attend smacks of callous disregard at best. In fact, in July, when Commissioner May of the Department of the Interior learned of the timeframe for the public meetings, he was appalled. He stated in a meeting July 11,

"...I am concerned...the public meetings in August. And it's just such a taboo things for us. We don't even go near that in the Park Service. It just doesn't ..it's a bad thing to have to do. I was at another meeting on this topic that was not one you sponsored, but it was sponsored by

another organization and the cries of conspiracy started going up about this. And I tried to defend NCPC because at that time, I didn't know you were planning meetings in August... So anyway, if there is anything that can be done to repeat the information or do something in September to make sure that you touch the folks who would otherwise not be able to make one of the other ones."

However, with OP claiming pressure from Congress, the hearings continued at the precise time of year to generate the least amount of public participation.

Furthermore, as I wrote to members of the D.C. City Council and Mayor Gray back in August, although the Office of Planning was tasked by Congress to take into account "compatibility to the surrounding neighborhoods, national security concerns, [and] input from local residents....," in its Phase 2 meetings in August, OP did not provide a single slide in its presentation, nor could staffers direct me to a single image in its modeling study, from the ground level of a single-family residential street showing what our neighborhoods would look like if areas identified as medium or high density in the Comprehensive Plan were allowed to build up to heights allowed under the Height Act now or a more relaxed Height Act in the future. In other words, OP completely avoided showing any direct impact of height increases on single-family areas.

This glaring absence of modeling images from the residents' street-level perspective is inexcusable. The choice of images created for the modeling study was up to OP, and OP deliberately chose not to include models showing the immediate impact of increased heights in residential areas. Furthermore, when that omission was brought to OP's attention by both NCPC and residents, OP again refused to add new residential street-level slides to the study before going forward with the Phase 3 Draft Recommendations. Thus, OP ignored not only its citizens, and made it difficult for us to perceive the impact of proposed changes, but OP also ignored Congress' request to take into account "compatibility to the surrounding neighborhoods...[and] input from local residents."

Moreover, the Office of Planning has deliberately mischaracterized the nature of the Congressional hearing last July to downplay the potential impact of the proposed changes on the residents and their neighborhoods. Harriet Tregoning of the Office of Planning stated at the August 3 Phase 2 meeting that "The very minor change that was being contemplated in the [July 2012] hearing was whether the penthouses should be allowed to be used for something other than mechanicals." Yet, the title of the hearing was "Changes to the Heights Act: Shaping Washington, D.C. for the Future." It strains all credulity to think that the Office of Planning went into a hearing with that title thinking the hearing was only about penthouses. Certainly the financial arm of D.C. government understood the hearings implications, for, in that same hearing, CFO Natwar Gandhi spoke of the complete elimination of height and density restrictions in the district. Then, in his written testimony, Gandhi explained the impact of potential height/density increases on revenues. He wrote, "under our current practices, our assessors will take into consideration the potential increase in value of highest and best uses of each parcel, and re-assess these properties at higher value." (emphasis added) Thus, not only did the Office of Planning obscure the profound visual impact of changing the Height Act in the Phase 2 comment process, but also they failed to reveal the full extent of the city's ambition for change, and the profound financial impact of potential changes on residents.

I have three additional concerns about the arguments and process: first, the Office of Planning's claims that we need to develop because we will run out of room are on shaky ground.

When Natwar Gandhi testified before Congress on July 19, 2012, he said the supply of housing is nowhere near exhausted. If there is more housing, how are we out of room? If the statistics were so compelling, why didn't OP have data to back up its claims during the Phase 2 meeting process? Second, in the Phase 2 meetings, Harriet Tregoning said that OP needed to wrap this process up soon, because Darryl Issa will not be Chairman on the Committee on Oversight and Government Reform after 2014. Shouldn't the case stand on the merits, and not on the Chairmanship of the Committee? In the July 2012 hearing, Gandhi noted, "Given our assessment cycle, even if such a policy [of eliminated height and density restrictions] would be [sic] in effect by October 1, 2013, the first revenue impact would not be realized until Fiscal Year 2015." Perhaps this 2-year delay is one of the real factors behind OPs push to wrap up the study so quickly and jump into changes to the Comprehensive Plan and Zoning. Third, OP claims that changing the Height Act will allow for more affordable housing. High rises are significantly more expensive to build than lower buildings, and thus, are usually reserved for places where the cost of land is so prohibitive that there is no alternative. In those cases, the real estate, while vertical, is still far beyond the reach of an average citizen. Surely D.C does not want to eliminate height restrictions to create its own version of a Cabrini Green housing project.

In the hearings I have attended and read, I have rarely heard the Office of Planning speak positively of the existing architecture and existing neighborhoods in our city. The speakers' eyes have lit up as they talked about the "iconic skylines" of other cities or "tall, graceful" buildings that might be built along Metro's Red Line. However, what OP dismisses is what many in D.C. treasure. With lower heights, our conservative buildings give a sense of gravitas, history, and tradition. With lower heights, we have diffused our building, and thus our economic activity, across sections of the city. With lower heights, we have communities within the city that feel more like Mayberry than Manhattan, with generations that know each other from the parks, schools, baseball leagues, local churches, and libraries. With lower heights, we can still see the topographic relevance of the many Civil War Defense forts that ring the city. With lower heights, we have parks that can sustain the number of residents wishing to use them. With lower heights, we can see the sky and get sunlight in our homes. With lower heights, we have lower and middle-income residents who can afford to stay in their homes, because they are not being taxed as if they live on land that can be developed into high-rises. The changes proposed by the Office of Planning might benefit developers in the short term, but would irrevocably damage the character of our communities in the long run. Our vistas and residential neighborhoods are assets that should be celebrated and protected, not exploited.

Please reject the Office of Planning's proposal to eliminate the Federal Heights Act of 1910. If the city needs more revenue, by all means, let us publicize the unfair constraints for taxation under which the District operates and ask Congress to address them. But the issue of tax revenues should not be a justification for raising building heights. The Height Act has served us well and should continue for generations to come.

Thank you for your consideration.

Sincerely,

Laura Phinizy  
Resident, Chevy Chase, Ward 4

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The Washington Post

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Roger K. Lewis

Testimony

National Capital Planning Commission

October 30, 2013, Public Hearing on DC Height Master Plan

I am Roger K. Lewis, a 46-year Washington, DC, resident, a practicing architect and planner, and a University of Maryland professor emeritus of architecture. Since 1984, both as author of the Washington Post's "Shaping the City" column and as a regular guest on WAMU's Kojo Nnamdi radio, I frequently have written and spoken publicly about the need to revisit DC building height limits.

Last year Congresswoman Eleanor Holmes Norton invited me to be one of the six witnesses testifying at Representative Issa's July 19, 2012, Subcommittee hearing concerning the 1910 Height of Buildings Act.

In that testimony, submitted for inclusion in today's meeting record, I testified: that appropriate height limit adjustments in carefully delineated areas of DC would be beneficial and justifiable; that moderate, strategically located adjustments would not jeopardize the city's historic profile or threaten federal interests; that modifying the 1910 statute therefore deserves consideration and study; and that such a study should be "prepared collaboratively" - collaboratively! - by NCPC and DC's Office of Planning. I foresaw collaboration yielding a single, reasonably unified study.

As of today, the NCPC and OP collaboration has not produced such a study. Instead we have two thoroughly researched draft studies whose recommendations, while overlapping in some ways, nevertheless differ significantly.

Both studies advocate preserving the historic visual character of the L'Enfant-planned, topographically coherent portion of the capital city attributable to its dominantly horizontal, low-rise silhouette and the visual prominence of nationally significant

Testimony  
of  
Roger K. Lewis  
appearing before the  
Subcommittee on Health Care, District of Columbia, Census and the National Archives  
July 19, 2012  
Hearing to Examine Issues Surrounding the District of Columbia 1910 Heights Act

My name is Roger K. Lewis, and I thank you for inviting me to testify before this Subcommittee.

I am a practicing architect, urban designer, and professor emeritus of architecture at the University of Maryland. Since 1984, I have written the Washington Post's "Shaping the City" column, and since 2007 I have been a regular guest on WAMU-FM's Kojo Nnamdi radio show. District of Columbia height limits periodically have been a topic of my column and the Kojo Nnamdi show.

I believe some modifications of the 1910 statute, with appropriate zoning changes in carefully chosen areas, are needed and should be considered.

In America, building height limits were based initially on several considerations: (1) recognizing fire-fighting, structural, vertical transportation and other technical constraints; (2) ensuring adequate light, air, ventilation and views desirable for public streets, civic spaces and abutting private properties; (3) respecting historically prevalent building heights in established neighborhoods that pre-existed zoning; and (4) making necessary aesthetic value judgments about urban design and architectural form. Yet inevitably height limits are arbitrary - for example, why 90 feet rather than 85 or 95 feet? In fact, there are no formulas or universal standards for setting exact height limits.

In the District of Columbia since 1910, these considerations have constituted the basis for stipulating and maintaining height limits. Thanks to these historic limits, the nation's capital has remained a uniquely memorable, low- and mid-rise city. From many places in the city, views of America's most iconic, symbolically significant structures - the U.S.

Capitol, the Washington Monument, the Lincoln and Jefferson memorials, the White House - have been preserved because downtown skyscrapers cannot be erected.

Yet there are places in the District of Columbia where height limits established decades ago are today inappropriate and unnecessarily constraining, a reflection of outdated planning and zoning practices from the early and mid-20th century. These practices were characterized most notably by designation of large areas - land use zones - within the city limited to predominantly one use and uniform height limit. Broad-brush, one-size-fits-all planning and zoning failed to take into account, within each land use zone, locational variations in topography, solar orientation, views and vistas, proximity to parks, adjacency to civic open spaces, and infrastructure, especially transit. It did not differentiate between mid-block properties and properties at major intersections.

Today's city planning, urban design and architectural principles and techniques - such as computer-based Geographic Information Systems (GIS) - are far more sophisticated and effective. Broadbrush strategies of the past are obsolete. We now can engage in fine-grain planning, urban design and zoning. We can identify, analyze and designate specific sites in the city where increased building height and density make great sense aesthetically, environmentally, functionally, socially and economically. This "smart growth" approach can enhance the city's urban and architectural qualities while yielding fiscal benefits for the city. Furthermore, enacted as an incentive bonus overlaying existing zoning in appropriate locations, increased building height limits - and density - can engender development of much needed affordable housing.

Where should height limits change? In the downtown l'Enfant Plan area of the District, including traditional residential neighborhoods, height limits should remain substantially unchanged to preserve the center city's dominant character and skyline. But there are specific sites - such as the Southwest and Anacostia River waterfronts - where upward adjustment of height limits would be beneficial without jeopardizing the city's historic profile. Outside the l'Enfant Plan area, many sites could be suitable for higher buildings, especially near Metro stations and major roadways.

The only equitable, professionally responsible method for identifying places to raise height limits, and for determining new height limits, is to create a detailed, city-wide plan, prior to any rezoning, based on a rigorous, comprehensive study. This is essential to avoid piecemeal, property-by-property relaxation of height limits through variances, exceptions and ad hoc rezonings, a process too often influenced by political and financial pressures. Because municipal and federal interests are involved, the building height study and plan should be prepared collaboratively and transparently by the D.C. Office of Planning and the National Capital Planning Commission.

Many Washingtonians are apprehensive when anyone suggests modifying D.C. height limits. They envision Rosslyn-like skyscrapers rising all over town, ruining the capital's historic image. Some believe that raising D.C. height limits anywhere would set precedents invariably opening the proverbial "barn door" to greedy developers in league with corrupt politicians, enabling high-rise buildings throughout the city.

But skeptical citizens need to understand that, through fine-grain urban design, prudent legislation and precisely targeted, well enforced land use regulation, the barn door will not and cannot be thrown open. Therefore, revisiting D.C. height limits requires not only a credible, city-wide planning effort, but also an on-going public education effort to help citizens recognize that legislation adopted over a century ago can be improved.

structures and spaces. Both would limit building heights and not allow skyscrapers. In fact the study differences are less about vertical dimensions than about governance.

In support of home rule, OP proposes greater DC stewardship of the city's physical form by eventually replacing the 1910 Height of Buildings Act with laws and regulations serving local and national interests simultaneously. OP envisions future building height limits established through federal and municipal collaboration rather than by a Congressional statute capping the entire city. OP notes that DC zoning regulations and height limits always will be subject to exhaustively rigorous scrutiny by numerous city and federal oversight agencies, as well as by Congress and DC citizens.

By contrast, NCPC believes that only Congress and the 1910 Height of Buildings Act can protect federal interests and preserve the city's iconic urban and architectural heritage. Unstated but implied in the NCPC study is doubt about DC government's ability to ensure that ever taller buildings won't pop up where they don't belong, in violation of the city's comprehensive plan and zoning regulations. NCPC has in effect sided with naysayers who argue that any height limit changes anywhere in DC will lead to "height creep," with greedy developers and corruptible public officials making deals to build "skyscrapers" throughout the city.

Nevertheless, the NCPC draft study explicitly acknowledges that "there may be some opportunities for strategic change in areas outside of the L'Enfant City and beyond the edge of the topographic bowl, where there is less concentration of federal interests."

This implies that in DC's many diverse neighborhoods without meaningful federal interests, as defined by NCPC and OP, height limits could be governed by an updated DC comprehensive plan and zoning regulations, not by Congress. In specifically targeted areas of the city, somewhat taller buildings make sense functionally, economically and aesthetically. However, I oppose blanket or zone-wide height limit increases, as illustrated by digital modeling images in both the NCPC and OP reports.

I strongly urge NCPC and OP to now collaborate, reconcile and, as much as possible, merge their findings and recommendations to provide Congress a single, reasonably unified study that still can set forth alternatives. Sending Rep. Issa and his Committee two distinctly separate studies with sharply contrasting governance and urban

design strategies not only heightens ambiguity, it also could result in a one-sided decision whereby federal interests completely and unfairly trump justifiable city interests.

The work of NCPC and OP is just beginning. NCPC and OP must continue to collaborate by undertaking rigorous, fine-grain master planning and urban design to determine where buildings should be higher, and by how much. Only then can a new, detailed, city-wide comprehensive plan be created to guide future height limit legislation that respects Washington's unique history while achieving local and national goals.

Again thank you for this opportunity to testify.

My name is Ben Klemens. I live in a house at the North end of L'Enfant's plan. My day job is as a manager in a federal agency, working at the federal center in Suitland, Maryland.

My understanding of federal administration is that its central problem is how to attract and retain talented people. It is the key to efficient government.

In the segment of the NCPC draft report on the location of federal agencies, where I had expected discussion of this central federal interest, the report instead states that recent federal office developments "outside of traditional downtown federal enclaves [are] often serving as catalysts in distressed or emerging markets and anchoring development around Metrorail stations." The discussion in this section of the report is therefore not about federal interests, but about how the federal government can encourage local growth. Further, from my perspective in Suitland, the statements in this segment ring false: if anything, the Suitland Federal Center, off limits to not-federally-employed local residents, has had a deadening effect on the area around the Suitland Metro.

What that means for us as federal workers is that we are effectively trapped in the bubble of our building from clock-in to clock-out. In other places I have worked, my coworkers and I have often gone out to lunch, which naturally made us a better team and helped us to enjoy work a little bit more. If we had an interviewee that the bosses were especially interested in, we'd go out for dinner with him or her. All of that is largely impossible from Suitland, Maryland. My agency has a strong workforce, but I have also seen coworkers leave, complaining of the problems with working at a geographically isolated agency. I've listened to interviewees---suburbanites and urbanites alike---wonder aloud whether they could make the commute every day.

The report as written gives several examples showing that new federal office space continues to be developed at a regular pace, and points out that the trend has been toward building more Suitland-like campuses. But it fails to make the link that this trend can be detrimental to the key federal interest of hiring good people and helping them to enjoy coming to work every day.

I have noticed that, although the option has always been open to them, the NCPC has never chosen to relocate to Suitland, Maryland. There, they would have bigger offices at a lower land-use cost, thus freeing up budget for new or expanded programs. The fact that the NCPC has not made such a move to less dense pastures indicates that it has found value in its current location, perhaps from easier transportation, better amenities, or proximity to other agencies or businesses. Whatever it is that the NCPC has at its current location, other federal managers like myself need as well, so that we too can attract and retain the best and the brightest.

Because the problem of attracting and retaining talented people is absolutely central to federal administration, I believe it is vitally in the federal interest to take steps to expand the availability of central DC office space where federal agencies can locate.

October 7, 2013

Members of the National Capital Planning Commission:

I would like to submit my comments to the Height Act studies prepared by the National Capital Planning Commission and the Government of the District of Columbia. I have lived in the District of Columbia since 2004, when this exceptional city drew me to American University for undergraduate studies. Today I have a Masters in Local Economic Development from the London School of Economics and work as a research analyst at the Metropolitan Policy Program at the Brookings Institution. My academic and professional training inform my thinking on this subject, but all views expressed here are my own and not those of the Metropolitan Policy Program or the Brookings Institution.

I feel strongly that the Height Act should be preserved in its current form to protect the interests of the District's residents and the American public today and for generations to come. I also feel strongly that proponents of changes to the Height Act have not yet satisfactorily answered a number of serious questions. I will discuss these first.

To begin, I would encourage the Commission to scrutinize the forecasts used by the District of Columbia to justify changes to the Height Act for a number of reasons, namely:

- **The low growth scenario may be too high to represent a credible conservative lower bound.** An appropriate conservative forecast for population or household growth would have been a natural baseline like the rate of population growth in the United States (0.7 percent annually). Even this might have been too high though, considering that most of the country's projected population growth will take place in other regions, and DC has lower fertility rates than the country on average (40 births per 1,000 women in DC in 2012 compared to 54 per 1,000 in the U.S., according to the ACS). Furthermore, the District should explain why it believes the 30 year forecasts it calculated to guide planning in 2012 should now be accepted as the lower bound. If anything, the District's official projection should count as this study's middle growth scenario.
- **The high growth scenario extrapolates from short-term trends established during an extraordinary period.** The District's population growth over the past five years has been extraordinary—and does not in itself represent a new normal. Economists and policy-makers should be innately skeptical of any "trends" established over the most disruptive few years in modern economic history. The Washington DC metro area barely suffered from the recession, bolstered as it was by the immense countercyclical force of the federal government. Accordingly, it became a relative magnet for in-migration—mostly for footloose young renters entering the labor market and unaffected by the housing crisis nationally—during a period in which, nationally, migration came to a halt. Even today, low interest rates connected to the Federal Reserve's extraordinary and on-going capital market interventions make District real estate a relatively more attractive investment than it would be in normal times.

Meanwhile over the past two years the District has seen stagnating federal employment seize up the local job market. In 2012, private employment in the District of Columbia increased by 1.2 percent (6,300 jobs)—in line with the District's high-growth scenario—but total employment including the federal government grew by only 0.4 percent in 2012, and has declined over 2013

as federal losses have outweighed private gains, according to the Bureau of Labor Statistics. This evidence suggests that the region's economy has not measurably decoupled from the federal government, though an increasingly robust private sector offsets more of the cyclical fluctuations in federal employment than it used to. Whether positive private sector job growth can continue in the region in light of further federal distress remains to be seen.

- **The District's projections fail to account for the cyclical nature of the economy.** The District's study contains no discussion of economic cycles and instead asks the Commission to assume that the present boom can reasonably be expected to continue indefinitely. This would be a dangerous and foolhardy assumption to make. The economy moves in cycles. Neither the District nor the metropolitan area is immune to this hard and fast law of economics. The local economy may be slightly out of step from the national economy given the dominance and countercyclical nature of federal spending. But the investment boom currently underway in the District cannot be assumed to last forever. It strikes me as seriously problematic that the District's projections were not calculated over an economic cycle, and that the possibility of a market correction was not even discussed.

At a minimum, planners should wait and measure the impact that the recent round of development has on real estate prices as new office space and housing comes onto the market. It would be a shame to abandon the Height Act on the eve of an easily anticipated market correction. Such a move would risk changing the very character of the nation's capital forever because decision-makers made the all-too-human mistake of assuming that present trends would last forever, and that markets could only go up.

I would also like to bring attention to some potentially dubious arguments for revising the Height Act:

- **While high housing costs can be indicative of scarcity, they also reflect structural characteristics of the regional economy.** No relationship is more robust in economic geography than that between average educational attainment in a region and its median household income. Washington DC is the country's most educated metropolitan area. It also has the highest median household income. These are facts of its economy—facts which go a long way in explaining the city's and the region's high housing costs. This is not to say that market constraints like the height limits do not distort prices—they likely do—only to say that the District will have high housing costs as long as it remains a magnet for highly educated knowledge workers, and the question the city's planners must answer is how much responsibility the Height Act truly bears. I do not yet know of long-term residents being priced out of the market; it seems like neighborhoods are actually becoming more mixed and infill development is occurring in a way that mends the fabric of the city quite remarkably. If the District has evidence to the contrary, it should show it.
- **Urban economics is clear about the benefits of density; Washington DC already has the requisite density to take advantage of them.** The District of Columbia is one of the densest jurisdictions in the country. The city enjoys a world-class transit system because of it. Any increase in density in the District could over-burden already taxed road and transit infrastructure. What is more, the city is a national and global leader in urban innovations such as Capital Bikeshare, Car2Go, and now Uber—all made viable by the District's density.

The District's density also suffices to catalyze the knowledge spillovers and other urbanization economies that drive economic development and innovation in regions. Most of these dynamics like labor market pooling and company specialization occur at the metropolitan scale. Evidence exists that knowledge spillovers—the natural flow of knowledge and ideas among people and firms within industries and across them which makes everyone in proximity more productive—do attenuate at smaller scales, but this attenuation is related by proximity to clusters of human capital (See Rosenthal and Strange, "The Attenuation of Human Capital Spillovers," 2005). In a dense, decentralized, and highly educated metropolitan area like Washington, knowledge spillovers will blanket the region.

- **Certain arguments in favor of lifting the height restrictions are actually in favor of better zoning.** Many blame the purported "boxiness" of Washington architecture on the Height Act, claiming that the restrictions force developers to maximize the built area within any given parcel, thus leading directly to cubic design. Allowing a few extra floors is unlikely to change the developers' calculus, though—especially since constraints in historical L'Enfant City will always keep office space close to downtown scarce. City planners meanwhile have a number of tools at their disposal to safeguard the city against "boxy" and monotonous development. The city can divide blocks into smaller parcels and zone them for a mix of retail, housing, and offices. Variety absolutely makes a streetscape, but relaxing the Height Act is not necessary to achieve it.

Finally, three elements of the District plan demand further explanation:

- The District claims to want to use changes to the Height Act to expand affordable housing opportunities in the city, but it also states that it only expects high density corridors with high rents to attract the necessary capital to construct at newly permissible heights. This points towards already prosperous Northwest and Upper Northwest, and does not support the District's own argument that lifting the height restrictions will boost affordable housing in the city. Instead, it currently sounds like the District's plan to alleviate price pressures is to divert new investment away from the very neighborhoods in desperate need of it. The District should explain more clearly how it intends to use relaxed height limits to expand affordable housing opportunities and channel new development to neglected areas.
- It strikes me that the high growth scenarios seem to call for more new square footage than minor adjustments to the Height Act could ever possibly provide given the present realities of the city's development patterns. This is especially true once one removes L'Enfant City and the topographical bowl from the equation, which the District plan barely discusses despite explicit instructions from the U.S. House Committee on Oversight and Government Reform. Either the District plans very large and very high development projects throughout the few remaining plots in the city, or it missed an opportunity to submit more realistic and useful accountings of development potential in line with the understood scope of this study.
- Given the city's current state of development, I cannot see how the District would retain the horizontality of the skyline if the height restrictions were lifted or relaxed. The map of developable sites is a patchwork. New builds would tower over old builds in a random manner,

puncturing the skyline and commanding undue attention. London's chaotic skyline works for a financial capital, but even a version with capped heights would not befit Washington DC.

For these reasons I urge the District and the Commission to make no significant or hasty changes to the Height Act.

For the residents of the District of Columbia, more here is at stake than views of the monuments and national landmarks. The Height Act has created a special character and distinctiveness that extends far beyond downtown and that is worth preserving. For residents, it is the National Cathedral, the Basilica at Catholic University, the bell tower at Howard, the clock tower at Georgetown, and the spires at 16<sup>th</sup> and Columbia—each steeped in national and local history—that characterize the city. Vibrant neighborhood life fostered by people-sized streets makes Washington DC home. Washington DC lacks no urban amenities; indeed its residents enjoy one of the largest continuous swathes of livable, walkable, bikeable urbanity in the United States. The Height Act combined with the city's recent population growth and smart planning are stitching the city's urban fabric back together after decades of segregation and disinvestment. Today residents in all four corners of the city enjoy a built environment balanced by greenery and sky.

It disappointed me to read the District reject the Height Act as a 19<sup>th</sup> century anachronism. Regardless of its origins, the Height Act has had an immutable impact on the evolution of this city. For over 100 years the Height Act has guided the city's development. It is part of our history. It has shaped the nation's capital. And it is against the backdrop protected by the Height Act that the nation's monuments and the neighborhoods' symbols become something greater than the sum of their parts.

Washington DC is in that elite club of cities with a globally recognizable skyline. The world's great cities each have their own unique personalities—personalities reflected in the built environment. The stately elegance of Washington's skyline matches the heart and soul of the city. The skyline works with the monuments and landmarks to elevate the nation's capital into a majestic symbol of governance. The skyline of Washington DC is one of the nation's most prized public goods. It is one of its residents' most prized public goods as well, and it is the responsibility of government at all levels to defend that priceless public good against monetized private interests.

I thank you for your consideration of this very important subject and for the opportunity to comment.

Sincerely,

Kenan T. Fikri  
2535 13<sup>th</sup> Street, NW #401  
Washington, DC 20009

**National Capital Planning Commission**  
**Special Commission Meeting Regarding Height Master Plan**  
**October 30, 2013 - 4:30 PM**

**Comments of Jeff Utz on behalf of the B.F. Saul Company and Goulston & Storrs**

**Introduction**

Good evening, members of the Commission, my name is Jeff Utz appearing before you on behalf of the B.F. Saul Company and affiliates and the law firm of Goulston and Storrs. B.F. Saul is an owner and developer of a number of properties in the District of Columbia, and region, including the Kennedy Warren apartments, Hay Adams Hotel, 601 Pennsylvania Avenue, 925 15<sup>th</sup> Street, and the Van Ness Center. I am here to express our support of the District of Columbia's Evaluation and Draft Recommendations dated September 20, 2013.

The District of Columbia Recommendations take a sensible, holistic approach to the question of whether the Height Act should be revisited. The District Recommendations aimed to preserve the visual preeminence of the Capitol, monuments and the incredible, unique view sheds existing all over the city, minimize the impacts on nationally significant historic resources and maintain the horizontality of the skyline, while allowing the District and Federal government to reap economic, fiscal and social benefits. In doing so, the District took an in-depth look at the City's ability to accommodate its projected growth in employment and residents under the Height Act and zoning as they currently exist.

The District is currently constrained by a Height Act that was created at a time when fire-safety required a height limitation on structures.

**Summary of District recommendations**

As you know, the District recommendation falls into two broad elements:

1. L'Enfant City – Allowing some streets within the L'Enfant City to have additional height in a manner that retains the characteristic relationship between street width and building height, ensuring light, air and a human-scaled city, but uncapped by 19th century fire safety constraints.
  - a. Specifically, this would use a ratio of 1: 1.25 which would result in a maximum building height of 200 feet for 160 foot wide streets; and
2. Outside of L'Enfant City – Allowing the District of Columbia to determine building height maximums for areas outside of the L'Enfant City through its Comprehensive Plan and zoning processes.

- a. This would result from the Federal interest being less and more attenuated or perhaps non-existent – although still always considered - outside of the L'Enfant City.

### **Benefits to changing Height Act**

The District's proposed changes to the Height Act would have a high degree of benefits for the City and the Federal government with little to no downside.

### **Revenue, growth, and affordability**

As described in the District Recommendations, the District is in a unique position in that it is subject to funding and providing a wide range of services using a revenue base that is significantly constrained. The District must provide the services of a state, county and city on a city budget. Complicating matters, nearly 50% of the land of the District is off the tax rolls (due to Federal and non-profit ownership). The District also must meet the service needs of one of the largest commuter population in the country, including transportation, police, fire and emergency management. The result is that the District's budget is structurally imbalanced. The District needs to grow its tax base to address that issue. Increasing the Height Act does exactly that without raising taxes. Such a move would stimulate the local economy as well and allow the District to enter a virtuous cycle. This conclusion is supported by the Economic Feasibility Analysis obtained by the District, which concluded that increasing the maximum height cap could enhance the District's ability to attract more residents and capture more of the regional office market (with the associated jobs) if those increases were targeted to areas with high market demand.

The District is also unquestionably a growing City. In total, the population and jobs demand through 2040 could require between 157 million and 317 million square feet. Under current zoning we have less than a 30 year supply of development capacity.

The result is that under the current Height Act and zoning laws, constrained supply will create price pressures long before the actual development capacity is exhausted. This means that a City that is already renowned as one of the least affordable places in the United States, and subject to an affordable housing crisis where rents per square foot are some of the highest in the region and country, will experience yet further upward movement to pricing and rents. In addition to limiting who could afford to live in the District, these price pressures would constrain the City's economic growth.

The choice is binary – the District can either grow taller where appropriate or it can grow off of the 4.9% of remaining developable land area.

### **Aesthetics**

It's not all about economics and growth. The District Recommendations take into account the importance of the aesthetics of the Capital City – from its important view sheds to its unique horizontality. View shed protection is a foundational component of both of the District's draft

recommendations for changes to the Height Act. Civic structures and related views contribute to the unique character and attractiveness of Washington, DC. The protection of view sheds is not only a federal but also a local interest. The District is firmly committed to protecting the majestic views to nationally significant buildings and monuments.

### **Safeguards and Review**

There are many safeguards that would ensure that such important aesthetic considerations always considered.

The changes to the Height Act would occur only through revisions to D.C.'s Comprehensive Plan and Zoning Regulations. Such processes would allow for numerous opportunities for public participation, and would require D.C. Council and Zoning Commission approval, along with Federal review and approval. Federal review takes places through NCPC's approval authority over the District Elements of the Comprehensive Plan and the federal government holding 40% of approval authority on the Zoning Commission.

In addition to these requirements, the District proposes that any increased heights allowable under a modified Height Act also be subject to:

1. A new special design review by the Zoning Commission; and
2. New Comprehensive Plan and zoning requirements that development projects that receive increased heights provide for public benefits in support of affordable housing or infrastructure.

Changes to the Zoning Regulations would further implement certain viewshed protections that are already currently in place throughout the District. For example, 16<sup>th</sup> Street, Massachusetts Avenue, and Mount Vernon Square all require setbacks at certain heights to maintain the views.

The District Recommendations proposed that any increases to building height resulting from a modification to the Height Act would be implemented gradually, corresponding with actual population and job growth.

### **Support of NCPC Report and Findings**

Goulston & Storrs also wants to express support for the changes to the Height Act proposed by the NCPC's Report and Findings dated September 12, 2013.

The NCPC Report proposed a potential opportunity for change that would allow for increase usage of penthouses. Such modification to the Height Act would allow human recreational occupancy of penthouses rather than limiting them to mechanical equipment and other similar uses. Such modification to the Height Act could be made to include specific protections for select Federal buildings, such as the White House and US Capitol.

NCPC also noted that there might be some opportunities for strategic change to the Height Act in the areas outside the L'Enfant City and beyond the edge of the topographic bowl where there is

less concentration of Federal interests. As stated above, we would encourage these changes to the Height Act outside of the L'Enfant City as well. It appears that there is common ground between the NCPC and District Reports.

### **Conclusion**

Thank you for the opportunity to submit my comments.



**TESTIMONY OF DENIS JAMES, PRESIDENT, KALORAMA CITIZENS ASSOCIATION  
FOR THE NATIONAL CAPITOL PLANNING COMMISSION MEETING  
ON THE FEDERAL HEIGHT OF BUILDINGS ACT, OCTOBER 30, 2013**

I have been a homeowner in the Adams Morgan neighborhood since 1971. As a very young adult, I was drawn to the architecture, human scale and wonderful skyline of our beautiful city. From my roof, I can see fireworks on the 4<sup>th</sup> of July, the Washington Monument, the US Capitol, RFK Stadium, and many of the wonderful old buildings that residents of this city have fought long and hard to protect through Historic District Preservation or Landmarking. During my time as president of KCA, we petitioned successfully for the creation of the Washington Heights Historic District in central Adams Morgan.

All this and more would be put at risk if the proposals of the DC Office of Planning are allowed to proceed. These proposals would inevitably lead to an inability to provide good stewardship of DC's historic resources, whether in the so-called historic "bowl" of the L'Enfant city, or the many other neighborhoods that have decided in favor of historic protections.

DC has been going through a multi-year Zoning Regulations Review process. If heights are changed, much of the time and effort spent in this process will have been wasted. Significantly taller buildings will require changes to the basic architecture of DC's zoning: the allowable floor area ratios; lot coverage; side and rear yards; and of course, the appropriate amount of parking. DC government will be seen as not honestly serving its residents, those whose participation it has actively sought.

DC OP's irresponsible desire to pack as many residents into the city as possible has led to destabilization within settled, mature neighborhoods, often those that are historic districts, as oversized projects are approved, often exceeding what the historic preservation law would seem to allow. This type of activity would only be intensified if taller heights are allowed. Whole row-house blocks could be lost through Planned Unit Developments, because the potential value of the land would make that attractive to developers. We would be left with a series of row-house facades fronting massive developments like Red Lion Row.

Apart from the "gentrification" that long-term Washingtonians are so sadly familiar with, this new destabilization would lead to another type of wholesale removal as close-in neighborhoods would be put under tremendous economic pressure. DC would become not a place where we could age in place, but just a place where neighborhood feeling is lost, and an endless series of soulless condos built where vital neighborhoods once existed.

For this reason, we must depend on the NCPC to be the wise advocate on behalf of DC residents, businesses and the many visitors to our beautiful city. I urge NCPC to reconsider even its modest proposal with regard to penthouse occupation. Such changes can be accomplished in a reasonable fashion through DC's own zoning process.

Denis James  
Adams Morgan

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Denis James □ President  
Bob Ellsworth □ Vice President  
Eric Clifton □ Secretary  
Christine Saum □ Treasurer

Founded 1919

P.O. Box 21311  
Kalorama Station  
Washington, DC 20009



## **RESOLUTION OF THE KALORAMA CITIZENS ASSOCIATION IN OPPOSITION TO CHANGES TO THE HEIGHT OF BUILDINGS ACT**

Whereas, the DC Office of Planning (OP) and the National Capitol Planning Commission (NCPC) are studying the Federal Height of Buildings Act, which along with DC Zoning Regulations controls the allowable height of all buildings in DC, and

Whereas, OP and NCPC have held two rounds of public meetings on this topic that featured describing the status quo and "modeling" what various taller heights would look like for the DC skyline, and

Whereas, OP's own presentation clearly showed that in the vast majority of cases, buildings in areas where maximum heights of 130 or 160 feet are allowed by the Height Act, those heights have not been approached, and

Whereas, DC's horizontal skyline, and human-scaled neighborhoods define the character of life in the city, and

Whereas, it would be grossly unfair to those with treasured views of the city to allow new height that would block those views, and

Whereas, adding height would likely detract from the monumental core of the city, putting at risk the tourist and hospitality trade which is the largest element of the DC economy, and

Whereas, adding height to neighborhoods or "clusters" would likely create a building boom in those locations, leading to escalation of land and building costs and a more expensive finished housing product, which will price many current residents out of their own neighborhoods and accelerate gentrification, and

Whereas, the proper place to begin a discussion of the heights of buildings in DC is through amendment of the DC Comprehensive Plan, with massive public outreach, and a vote of the DC Council approving any changes.

Now, therefore, the members of the Kalorama Citizens Association constituting a quorum hereby vote against changes being made to the Height Act that would lead to taller buildings in DC.

This resolution was approved at the August 15, 2013 meeting of the Kalorama Citizens Association.

**Testimony of Robert Robinson and Sherrill Berger on Behalf of DC Solar United Neighborhoods (DC SUN)**  
**The Height Act Study Conducted by**  
**The National Capital Planning Commission (NCPC) and The D.C. Office of Planning (DCOP)**  
October 30, 2013

We are Sherrill Berger and Robert Robinson, District of Columbia residents, voters, taxpayers, homeowners and producers of clean, cheap, Distributed Energy for DC's electric power grid.

We speak in opposition to the findings and conclusions and recommendations of the DC Office of Planning. We believe the Height Limit Act has served the nation's capital and the residents of the nation's capital well and should continue to do so. We are not persuaded of the need to change them immediately, nor for the reasons and in the fashion DCOP proposes. Nor were we persuaded by the recommendations of the Executive Director of the National Capital Planning Commission.

That they failed to forge a consensus will not be a victory for one planning agency over the other. But it is shaping up as a disaster for DC residents and DC neighborhoods.

DCOP's findings, conclusions and recommendations are based upon assertions about the absolute need for increasing height limits, as the only way to increase the tax base, it does not prove this, or prove that this is imminently necessary. It does not consider that there may be other alternatives, or that the impact its proposed height limits would have on the environment, economy and quality of life of those of us living in the District of Columbia, including the L'Enfant City, which we acknowledge proudly as the Nation's Capital.

The DC Office of Planning's recommendations are breathless with urgency:

"... current height limits constrain existing capacity to accommodate this growth over the next three decades and that the District requires additional capacity in the future to meet future demand. The District's draft regulations for changing the federal Height of Buildings Act (Height Act) will enable the city to create a supply of developable space to accommodate future growth and avoid upward price pressures on existing supply that could push out the very residents the District needs."

DCOP's recommendations sweep aside obvious facts that:

- many areas of the city have not reached the limits allowable now under the Height Act;
- they express little interest in investing in infrastructure that would make planned development possible for areas of the city that have long needed it -- east of the Anacostia River, for example;
- and they fail to come to grips with the fact that when in the 1950's when DC's population was at its maximum -- 800,000 -- its thriving downtown really did coexist with residential neighborhoods, most of which have been removed to allow for today's tall office buildings.

Here's what we saw happen.

In June of 2012 it was reported that Representative Darrell Issa (R-CA) Chair of the House Committee On Oversight and Government Reform planned to recommend changes to the 1910 Height of Buildings Act.

On October 3, 2012, Rep. Issa formally made this recommendation to Chairman Preston Bryant of the National Capital Planning Commission (NCPC) and DC Mayor Vincent Gray. This recommendation requested that any such studies ensure DC's iconic, horizontal skyline and the visual pre-eminence of the U.S. Capitol and related national monuments. He stated that strategic changes should be explored to areas *outside* of the L'Enfant City and that DC's economic development goals should take account of federal interests, be compatible with surrounding neighborhoods, national security, the input of residents.

In November, 2012 NCPC and DCOP agreed to conduct a joint study and reach a consensus.

The following month -- December, 2012 -- DCOP announced a series of neighborhood meetings beginning in January, 2013 to tell the public to get up to speed on the comprehensive (and nearly incomprehensible) 700 pages of changes to the city's zoning regulations would occur in the fall of 2013 (coincidentally, this was the same time NCPC and DCOP were set to announce their consensus on the Height Act). Rather than making zoning language simpler and clearer, these regulations were more vague, more ambiguous than the old ones. Neighbors saw a process that would enable radical changes to occur in their neighborhoods by matter of right and with no recourse for residents.

In the spring of 2013, in the midst of DCOP's zoning roll-out, DCOP and NCPC announced the road show devoted to the proposed changes to the Height Act. DCOP Director Harriet Tregoning's my-way-or-the-highway message was, first, "It's a democratic process and I'm here to listen to what you have to say . . ." and after public comment " . . . but if you disagree with me, you're wrong."

Given the tenor of these two roll-outs, amplified by DCOP's statements about the control of height limits for the L'Enfant City and the monumental core falling within the purview of DC Comprehensive Plan process and the codification of the DC Zoning Regulations it's hard to see how the NCPC could have agreed with DCOP.

Further, DCOP's manipulations of this process have created enormous confusion and mistrust among District residents. If you live in a neighborhood adjacent to one of the city's arteries, and have seen the types of development the Zoning Commission, the BZA and the Historic Preservation Review Board are rubber stamping and you read the new, very tendentious sounding zoning regulations -- it's hard not to conclude that DCOP is in a very big hurry to begin rezoning neighborhoods on all the main arteries and north, east and west of DC's downtown.

As someone concerned about the development of clean and affordable, locally-produced electric power, i.e., Distributed Generation, increasing the height limits as envisioned will literally cast a shadow on DC's most abundant energy source: its supply of flat roofed homes and buildings capable of producing solar photovoltaic (electricity) and solar thermal energy (hot water).

As someone concerned about making DC more sustainable I know that filling up DC with more polluting commuter traffic and building taller buildings that are not efficient and pollute more is not sustainable. Buying into this kind of economic development is like buying an "affordable" house that is -- until you turn the power on.

Sherrill Berger and Robert Robinson  
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# **NAYLOR DUPONT**

## **Advisory Neighborhood Commission 7B**



District of Columbia Government

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October 28, 2013

National Capital Planning Commission  
401 9th Street NW - North Lobby, Suite 500  
Washington, DC 20004

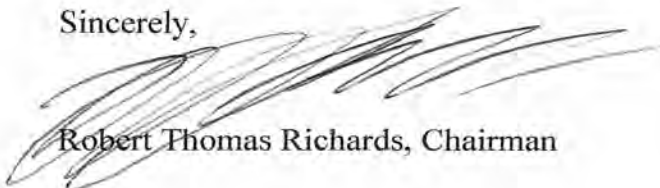
Re: The Height of Buildings Act of 1910

Dear Sirs and Madams:

Please accept this copy of my testimony on behalf of the Commission before the District of Columbia City Council Committee of the Whole. In public meetings duly advertised with a quorum present and voting in favor the Commission has three (3) times in the last year voted to oppose any change to the current height of buildings laws and regulations whether proposed by the Mayor, the Council, the Office of Zoning, the Office of Planning, the National Capital Planning Commission or by the Congress of the United States of America.

We recognize that NCPC's proposed change – to allow non-residential human occupancy on rooftop penthouse floors – is far more measured than the Office of Planning's aggressive position. While we would like to leave the Height Act intact, if there must be change, we could live with NCPC's proposal. That should satisfy Height Act critics who want to exploit the use of rooftops as recreational spaces and/or to minimize the visual impact of mechanical equipment. Retention of the Height Act has been urged by a number of distinguished zoning, planning and preservation experts. Please give due consideration to their counsel.

Sincerely,



Robert Thomas Richards, Chairman



# **NAYLOR DUPONT Advisory Neighborhood Commission 7B**



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## **Revised & Corrected Testimony of Robert T. Richards Before the Committee of the Whole of the Council of the District of Columbia on the District of Columbia's Recommendations on the Federal Height of Buildings Act of 1910 October 28, 2013**

Good afternoon, Chairman Mendelson and members of the Committee of the Whole. I am Robert Richards, Chair of Advisory Neighborhood Commission 7B, appearing in opposition to the Office of Planning's proposed modifications to the Height of Buildings Act.<sup>1</sup>

### **The Height Act Proposal is at Odds with the Zoning Regulation Revision**

The ANC is at a loss to understand this radical restructuring of our city. First, the Office of Planning has spent the last five years on a major rewrite of the Zoning Code and has sent a 1000-page draft to the Zoning Commission. That new draft Zoning Code, which we are struggling to understand and make sense of, is based on and shaped by the existing Height Act. At the very outset of the zoning revision process, OP said it would seek no changes to the Height Act. OP now, without warning, proposes to do away with all existing height limits outside the old L'Enfant City and replace them with --- what? OP will have to set new height standards in a new Comprehensive Plan, which in turn will lead to more rezoning. This is an endless, disruptive cycle that accomplishes nothing except encouraging speculation and accelerating displacement. Moreover, OP ignores or reinterprets the Comp Plan whenever it feels like it.

### **DC Doesn't Need the Height to Accommodate Development**

OP contends that the District needs more height to accommodate more development. There is no basis for this argument. As OP and the Deputy Mayor for Economic Development constantly point out, the city is growing by leaps and bounds, whether measured by population increases, per capita income, or cranes in the air. There is more than enough development capacity within existing height limits to

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<sup>1</sup> This matter was discussed at the ANC's regularly scheduled meetings held on the third Thursdays of September and October, at which a quorum was present. On both occasions, the ANC voted unanimously to urge retention of the Height Act, with full support of those present.

accommodate the most aggressive growth target (250,000 new residents over the 2000 low point of 572,000 residents).<sup>2</sup>

Back in 2004, the city's goal was to add 100,000 new residents.<sup>3</sup> To accommodate this growth, the District identified 10 large tracts for residential development, including Saint Elizabeth's Hospital, DC Village and Poplar Point, among others. These ten sites – which remain unbuilt but are in the pipeline – are projected to contain 15,000 units accommodating 30,000 to 40,000 residents.<sup>4</sup> In addition to these large sites, the District identified 30,000 vacant, abandoned or underutilized sites that it estimated could house 60,000 to 80,000 residents.<sup>5</sup>

By 2012, the District had gained 60,000 new residents, who were accommodated (1) within the existing height limit and (2) without development of most of the new large residential sites. It also should be noted that the city's zoning regulations set heights below the Height Act maximum. The city has ample room for growth within the existing statute. The National Capital Planning Commission made an explicit finding that OP did not produce a solid economic analysis that demonstrates the economic need for more height.

In our view, NCPC has offered a far more measured proposal to allow non-residential human occupancy on rooftop penthouse floors. That should satisfy Height Act critics who want to exploit the use of rooftops as recreational spaces and/or to minimize the visual impact of mechanical equipment. Retention of the Height Act has been urged by a number of distinguished zoning, planning and preservation experts. Please give due consideration to their counsel.

More than anything else, we ask that you please listen to District residents and taxpayers. We don't want this. We don't need this. We resent OP's unceasing assault on our built environment and the values it embodies. We ask you to reject the OP proposal and keep the Height Act.

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<sup>2</sup> The District population shifts since 1950 are as follows:

1950	802,178	+21.0%
1960	763,956	-4.8%
1970	756,510	-1.0%
1980	638,333	-15.6%
1990	606,900	-4.9%
2000	572,059	-5.7%
2010	601,712	+5.1%
2012	632,323	+5.1%

The 2012 statistic is from <http://quickfacts.census.gov/qfd/states/11000.html> (last visited Oct. 27, 2013). The other statistics are in "Demographics in Washington, DC," [http://en.wikipedia.org/wiki/Demographics\\_of\\_Washington, DC](http://en.wikipedia.org/wiki/Demographics_of_Washington,_DC) (last visited Oct. 27, 2013).

<sup>3</sup> See, e.g., A Vision for Growing an Inclusive City: A Framework for the Washington, DC Comprehensive Plan Update at 28 (July 2004) ("Adding 100,000 residents – a long-range target set by Mayor Williams – will help restore many of our once-vibrant neighborhoods").

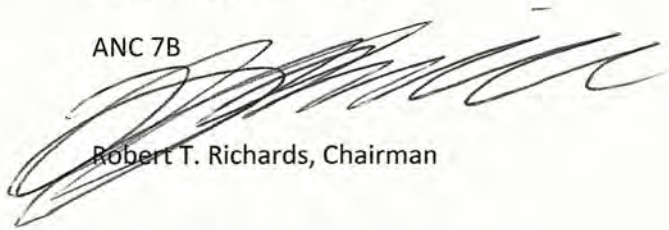
<sup>4</sup> Id. at 29, 31

<sup>5</sup> Id. at 29.

Thank you for your consideration of our view.

Respectfully submitted,

ANC 7B

A handwritten signature in black ink, appearing to read 'Robert T. Richards', written over the printed name.

Robert T. Richards, Chairman

30 October 2013

During this past Monday's hearing convened by DC Council President Phil Mendelson regarding The District of Columbia's Recommendations on the Federal Height of Buildings Act of 1910, the elegant geometry of the city emerged.

The 1791 L'Enfant plan gives us wonderful circles with thick-lined avenues, triangular buildings, and curved facades. The 1902 McMillan Plan guides the placement of vast green space dotted with monuments, museums and officialdom. The 1910 Height Act yields sun rays visible for 90 degrees or half the sky. The lines of the Metro System launched by the 1965 Capital Region Transportation Planning Board are natural population magnets.

These four elements shaping the District are in tune with today's environmental concerns and trends. They attract people for work, social activities, and provide the grist of healthy daily living -- key to any successful economy. Working together, the four elements stimulate human-scale development across all eight wards.

Why make the DC skyline look like every commercial city? We have a special environment in Washington that is working. To increase the height limit is like removing the circles, banishing the avenues, or abandoning the Metro -- it may satisfy developers and auto dealers, but it just doesn't make sense to the rest of us.

In the shadows of tall buildings, sunlight disappears. Leave the Height Act as is. Keep the District of Columbia the bright capital of the strong nation that President Washington and Pierre L'Enfant envisioned.

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**Testimony on Proposed Expansion of the D.C. Height Act  
National Capital Planning Commission-October 30, 2013**

I have lived in the National Capital Region for nearly a half century; of that, 25 years in Washington D.C. as a resident of several historic, wonderfully scaled neighborhoods before moving near the District line in Silver Spring Maryland. I left Washington only because the real estate market outpaced my ability to own a home in the city. For all intents and purposes, I have considered the District “my hometown” for all of my adult life.

I am deeply troubled by the proposed changes to the Height Act height that would, if approved, accommodate inappropriate, substantial expansion in the maximum height of buildings in the downtown core, as well as major increases in density that I believe will have deleterious effects, both in the core itself and in multiple neighborhoods. Significantly taller buildings will destroy the viewshed into the core of the District – from the Virginia side of the Potomac, from across the Anacostia, and from innumerable Washington neighborhoods such as the Cathedral Close (National Cathedral in northwest DC).

**There is only one nation’s capital** of the United States and it must be treated differently than other urban centers in the U.S. Washington D.C. has a special role in the life of our nation, from earliest days to today. The city serves the public interest as the official, ceremonial and federal center of the American government. At the same time it is a hometown for more than 600,000 residents (as well as hundreds of thousands of close-in residents who work and spend leisure time here), a welcoming place for every American who comes here for business or pleasure, and for visitors worldwide who see Washington as the seat of democratic ideals that are admired – and sought after.

The city is a place of official and symbolic buildings and spaces that abut or are adjacent to vibrant, appropriately scaled neighborhoods such as Capitol Hill, Dupont Circle and Foggy Bottom. I do not differentiate the official city of Washington from this greater whole. The sum of these parts – federal buildings, neighborhoods, parks, open space, cultural amenities – is greater than the whole.

In addition to maintaining the current Height Act limits in the core, the District’s planners must pay much closer attention to features that promote urban vitality and street life: open space and city parks and parklets that provide public spaces for people working in the city and for families who live in apartments and condos. As travelers, we take these features for granted when we spend time in other world cities – Vienna, Copenhagen, Oslo, Paris. The current Planning Department proposal to have 100% buildout (to the sidewalk) in future downtown development will result in the bland and impersonal streetscape we have allowed along K Street. There are plenty of other world capitals that embrace small features that enrich urban street life: plazas, setbacks, vest pocket parks, fountains, and small oases for visitors, workers and residents.

Stewardship is a core value that must be retained in D.C. planning – and supersede “smart growth” in Washington D.C.’s planning/zoning process. It has to be a permanent element. We jeopardize losing the city’s human-scale and livability by taking a chance on changing the height limits for densification that may work elsewhere. Washington, D.C. is not “anywhere else.”

*Ms. Faul-Zeitler is a member of the Committee of 100 on the Federal City. She was an early board member and community activist in preserving key Pennsylvania Avenue landmarks with Don’t Tear It Down (now the DC Preservation League).*

**TESTIMONY OF JUDY CHESSER**  
**NATIONAL CAPITAL PLANNING COMMISSION**  
**HEARING ON PROPOSED CHANGES TO THE HEIGHT ACT**  
**OCTOBER 30, 2013**

Chairman Acosta, Members of the Commission, I hereby submit the following testimony for inclusion in the record. I am a long time resident of Tenleytown in the District.

The Height Act of 1910 is a federal statute governing the District of Columbia, which restricts residential buildings to 90 feet and business to a height equal to the width of the adjacent street plus 20 feet (generally totaling 130 feet), plus some heights are extended to 160 feet along portions of Pennsylvania Avenue.

The National Capital Planning Commission has proposed much more modest changes to the Height Act which include:

- Preserving the Height Act restrictions but allow for consideration of expanding the use of penthouses.

The Office of Planning already has sent to Congress their Height Act proposals which include:

- Change the ration of height to street width to 1.25 width to height, which results in a new maximum height of 200 feet for any 160-foot wide street in L'Enfant City.
- Eliminate all height restrictions in the Height Act for areas outside L'Enfant City.

**Home Rule Considerations**

Although some, including the Office of Planning argue that changes to the Height Act would bestow hone rule on the District, such changes do not create or enhance home rule. Home Rule would be District residents living in a true democracy where they have a say through the electoral process in issues that affect their daily lives. To advance home rule the structure of governmental institutions for the District of Columbia would have to be changed. DC's current zoning process doesn't further democratic values and eliminating Height Act restrictions entirely outside downtown, does not alter the structure of DC government's institutions dealing with land use.

Although there is some uncertainty, it would appear that the National Capital Planning Commission reserves on to itself all issues regarding land use involving the national monuments. Outside of L'Enfant City, it appears that the Zoning Commission has been given jurisdiction. The Council, raising issues regarding its own jurisdiction over zoning issues has deferred to the Zoning Commission, which is a non-elected body. The Zoning Commission was created by federal law under the Home Rule Charter and its membership is dictated by federal statute: 2 federal officials and 3 appointed by the Mayor. With all respect

for the individual members of the Zoning Commission, zoning decisions in DC aren't made democratically -- a 5 member unelected quasi-judicial board (40% federally appointed) typically decides.

Also to put the Home Rule argument in perspective, it is important to note that at this time, there are two land use changes being proposed by the Office of Planning -- the Zoning Regulation Rewrite (ZRR) and proposed amendments to the Height Act. The ZRR tags "downtown" height to whatever the Height Act dictates. This twin package is not advancing Home Rule. There is no step in the middle when DC residents would have a voice between Congress setting height limits and the ZRR automatically adopting them for large parts of the City. This schematic would allow Congress to determine height in a vast area of DC. Note also that the ZRR triples what is designated as Downtown.

In the interest of clarity note that four zones (D-1-A-2 through D-4-B-1) do have independent height limits. But most of the land in the new downtown doesn't fall within those zones.

Also the Office of Planning arguing that they are making proposals to eliminate or raise restrictions in the Height Act, in the name of Home Rule are belied by their actions in ignoring the process announced by the National Capital Planning Commission and the Office of Planning to do a study, make proposals, solicit public comment and, if possible, send one joint proposal to Congress. When the Office of Planning got the Mayor's signature on the cover letter, blew on the ink to make sure it was dry and ran their proposal immediately to Chairman Issa, they pulled the curtain back on their real intentions -- and giving the residents of the District of Columbia greater voice was clearly not one of their goals. OP's actions to submit their recommendations to Congress before they were made public and without consulting the DC Council was disrespectful to all concerned.

Finally, the District of Columbia is the nation's capital. It is natural for the national government and the residents of the District of Columbia to have shared interest regarding height and land use. There is a strong shared interest here to maintain the supremacy of the national monuments in the landscape -- an interest not present in other cities. This should be preserved both for historic and economic reasons. Tourism is a large part of the District's economy and the tourist come because the federal government and monuments are here.

Is there any strong reason to change the Height Act at this time?

The current heights imposed by the Height Act have not been exhausted. Even Ms. Tregoning keeps saying that we don't need those restrictions raised now... but she contends that maybe we will need to raise them decades from now.

Federal control of a maximum height in commercial and residential areas still allows the District to determine height and we have experienced no limitation on our ability to do that since zoning heights are predominately below the federal maximum.

The studies made available in this process are woefully inadequate to justify the drastic proposals put forth by OP. The studies do not provide solid population projections. They do not provide data on how much future development could be achieved within current restrictions of the Height Act so the studies do not

allow any reasonable estimate of need or capacity. The studies focus on whether increased height of buildings would be economically profitable for developers. But any increase in height for buildings does not solely result in increased profits and, hopefully, increased tax revenue; it also would result in new infrastructure demands on services, such as schools, public transit, sewer, and water. There is no study of these demands or how much money would be needed to build and maintain the infrastructure or how feasible such expansion of infrastructure would be.

Chairman Issa's letter requesting these studies and any proposals included a request for an analysis on nearby neighborhoods. This portion of his request has been ignored. Washington is a city of neighborhoods and each neighborhood has different and, in many instances, very desirable characteristics, which should be recognized and preserved in any consideration of amendments to the Height Act. Proposals to increase height along the main avenues, Wisconsin, Connecticut, Georgia, New York, and others would dwarf residences abutting the avenues that are two-story single family detached in some areas but might be harmonious with multi-story office buildings and warehouses in others.

The restrictions of the Height Act have been cited as encouraging development outside the downtown core – a shared renaissance. Merely allowing taller buildings wherever a greater profit might be realized in already flourishing areas may result in a few very tall buildings with large capacity absorbing such a large percent of the demand that development would be deterred across the rest of the city, which has benefited from a dispersal of development activity throughout the city.

Not only have the height restrictions spread rejuvenation to many areas in the District, lifting height restrictions does not necessarily result in more affordable housing. If it is important to the District to share across socio-economic areas and populations, would raising the height limits be a deterrent rather than an incentive. There is no way to read their study, which is the best spin they could put on it, to conclude that more affordable housing will result. From Economic Analysis of the Height Master Plan commissioned by OP from James Davis Construction (page xiv):

#### *Impact on Residential Rents*

*While newly constructed higher-rise apartments are likely to have relatively high rents, expansion of the housing supply should result in lower rents if new supply exceeds the growth in demand. The availability of new apartments will put competitive pressure on existing buildings to renovate and maintain their edge and/or lower their rents. Units that are not as well located and maintained will see a lessening of demand and lower rents. However, the impacts on prevailing rents are likely to occur primarily at the margin. The District's high costs of development and natural market forces will limit the extent of oversupply and rent reductions over the longer term, though during the down parts of market cycles, the additional supply could lead to lower rents until supply and demand are back in balance.*

In conclusion, there is unused potential available now that can accommodate new growth without any amendments to the Height Act because current height restrictions already allow more development in many areas. Unnecessarily eliminating height restrictions merely gives developers permission to build to the max.

Citing home rule on this particular issue is a distraction from meaningful home rule that includes voting rights and budget and revenue raising autonomy.

The overall building limits established in the Height Act are worth preserving because of the extraordinary contributions these restrictions have made to the distinctive character of the city of Washington, which is one of the most attractive and lovely cities in America not only because of its monuments but also because of its tree canopy and open spaces and because pedestrians can see the sun, the sky and the stars – important elements for walkability and the soul.

**PUBLIC HEARING  
NATIONAL CAPITAL PLANNING COMMISSION**

October 30, 2013

**TESTIMONY  
of  
DAVID C. SOBELSOHN**

**U.S. Citizen  
Resident of Southwest Washington, DC**

I am a community activist from Southwest Washington, DC, and a former Advisory Neighborhood Commissioner. My name is David Sobelsohn.

The Height Law raises two issues: the proper limit to building heights in this city, and who should decide that limit. I express no opinion on the first issue. But I am an American citizen and a resident of Washington, DC. While paying appropriate attention to the national interest, Washington, DC, either ourselves or through our elected local representatives, should decide the limit to building heights in Washington, DC. Outside a narrow geographic core, where the federal government has a uniquely national interest, it is intolerable for a Congress in which we have no voting representation to limit the height of our buildings.

Even in the governmental core of the city, DC's interests generally coincide with those of the federal government. Like the federal government, Washington has an interest in maintaining our status as an international symbol of democracy. Like the federal government, Washington has an interest in attracting tourists and foreign dignitaries. Like the federal government, Washington has an interest in making the city pleasant and beautiful for those who work here.

As a result, even in the city's governmental core, even complete repeal of the federal Height Act would leave building heights largely unchanged. Washington, DC, itself would continue to limit building heights. Our own elected officials won't let this city become Manhattan.

Occasions might arise when the federal interest differs from the city's interests. As a result, it would be an acceptable compromise for Congress to narrow the Height Act to that part of the city in which the federal interest is acute. A new Height Act could use the same borders statehood proponents call for a new federal district, to be formed after we achieve statehood. A new Height Act would impose a federal limit on building heights in that small federal district, while leaving the decision outside those borders to the citizens of Washington.

Democracy means the right to make our own decisions. If we don't trust our elected representatives to make the right decision about local building heights, let's have a popular referendum on the proper heights for buildings in DC.

Democracy means the right to make our own mistakes. Washington, DC, will never achieve self-government, let alone statehood, if we make exceptions to self-government for any issue on which we expect to disagree with those we elected to represent us. Letting Congress continue to set the limit to building heights throughout the city makes it hard to complain when Congress tells us how we must spend our tax dollars or how we must regulate drugs.

By contrast, letting DC decide building heights will make this city more than just a symbol of democracy. It will at least marginally increase the actual amount of democracy enjoyed by those who live and vote in Washington. Thank you.

Revised, October 30, 2013

-xxx-

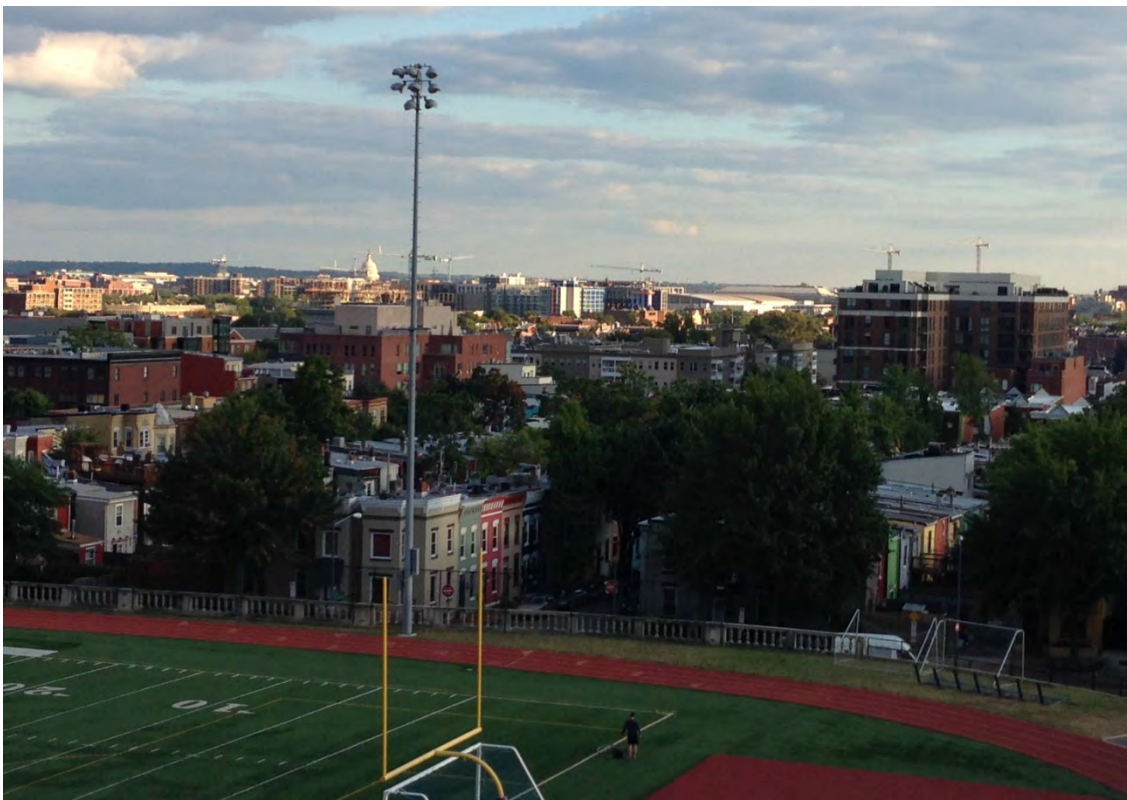
## Testimony of Erik Hein

### Before the National Capital Planning Commission

#### On The Height Master Plan Study: Draft Federal Interests Report and Findings

My name is Erik Hein. I am the Executive Director of the National Conference of State Historic Preservation Officers, an ex-officio board member of the US Committee of the International Council on Monuments and Sites, and a Trustee of the Committee of 100 on the Federal City. But today I am speaking to you simply as a DC resident from Columbia Heights.

I would like to first draw your attention to the following photograph:



This picture was taken looking Southeast from the parking lot at Cardozo High School at the corner of 13<sup>th</sup> & Clifton Streets NW— the edge of the city’s topographic bowl just outside the L’Enfant City. Note the large cluster of buildings to the right of the Capitol Dome. These are the buildings under construction at the O Street Market in historic Shaw - already conforming to the “Height Act,” and approved using existing zoning laws and processes. Add a few more floors and expand to the East and the Capitol Dome will disappear entirely. Note... I said this picture was taken FROM the topographic bowl. Not at the base level of the City. In my view, this is an example that demonstrates that our characteristically horizontal city is already in jeopardy under existing local laws – I believe relaxing the Height limit will have a more substantial impact than any of us are prepared to imagine.

But let's not dwell entirely on the visual. Let's also discuss the practical. There are four key points I would like to make.

### **1. The DC Office of Planning's (OP) failed to follow the directions**

Exactly one year ago today, Rep. Darryl Issa asked for NCPC and the DC government to "examine the extent to which the Height of Buildings Act of 1910 continues to serve federal and local interests, and how changes to the law could affect the future of the city." Instead of starting from a neutral place discussing the impacts of potential changes, the very first sentence of OP's report tells us they sought to find out "... whether changes to the federal Height Act can be accomplished in a way that allows the federal government and the District of Columbia to reap the economic, fiscal and social benefits of additional height..." Starting from a place of "yes," is not a fact-finding endeavor. It is rather the selecting of facts to support a pre-determined position.

### **2. The OP Report fails to establish need**

To effectively contemplate changes to any 100-year-old law that has robust community support, it is an obvious mistake to not first clearly articulate the need, the reasons why, or the challenges being faced. This effort, with a pre-determined outcome, was consequently a solution looking for a problem. Citizens have been asked to review one aspect of our Capitol City's built environment and evaluate potential outcomes without the information necessary to actually consider the question. In fact the only "data" we have been able to access was released only on the 20<sup>th</sup> of September – after all of the meetings in the community had already taken place and only 24 hours in advance of NCPC's September public meeting.

Every day reasonable people make assessments based upon the facts presented to them. This entire exercise failed to truly get at the heart of the issue at hand by giving citizens the information necessary to weigh the pros and cons.

### **3. The OP's Report ignores citizens**

By all accounts there was a great deal of vocal opposition expressed in public meetings to changing the Height Act without further consideration, a clearly defined need, and without a number of questions answered. This is stated nowhere in the report and seems to have not influenced the Office of Planning whatsoever. Yet peppered throughout OP's report are references to the need for local control and determination. One has to ask – if they are not listening to their own citizens, who are they listening to?

Even more disturbing, however, is that in advance of public input and City Council review, and prior to the conclusion of this very process, the OP has taken the liberty of already sending a copy of this Report to Rep. Issa. If you remember nothing else from today's hearing, please remember that not only has the OP shown contempt for DC residents by short-circuiting the process, it has shown contempt for your opinion as well. And this is supposed to make the case for more local control?

### **4. Using the Height Act as a singular tool to meet poorly defined goals is the antithesis of good urban planning**

DC is in an envious position. It is a growing City. Our population has grown 10% over the last 10 years, although it is still quite far from its peak in the 1950's and subsequent 29% decline. It is a wealthy city,

with a median income higher than 46 of 50 states. Last year we had more than a \$400 million surplus and we have over \$1 billion in reserves – despite the fact that almost half of our land area is tax exempt. Construction is seemingly everywhere as we look to add even more residents and businesses. All of this has been happening over the past several years – within the federally mandated Height limits, with a 50 year old zoning code, and under a 2006 Comprehensive Plan revised by OP in 2010 – which made no mention of constraints preventing further growth. Suddenly now OP sounds the alarm?

To be sure we also have some challenges. Because of our City's previous downward trajectory, we have 42% of the REGION's subsidized housing units despite only containing 11% of the region's population, and yet we still don't have enough "affordable housing." We have an unemployment rate of over 8% with two wards coming in at 15% and over 20%. We also have the highest tax rates in the metropolitan area – which as first-hand experience has taught me, encourages you to open a business outside the City. Despite substantial investment in previously struggling neighborhoods, we still struggle with crime, blight and neighborhoods with little or no retail service. Our crowded public transportation system does not earn enough revenue to support itself and is lacking in funding for long-deferred maintenance. Our schools, despite massive investment, continue to underperform and fail to attract families to the City.

The OP report posits that our economic situation and lack of taxing authority are the primary reasons why DC must look to adding more residents to stay "in the black." It further says the ONLY way to accommodate those new residents, since it will "exhaust the supply of land," is to build higher. The theory is that the benefits of new wealthy single, childless couples or empty nesters to be housed in tall, residential apartment complexes will trickle down and enable the City to reach its fullest potential. Although it is unclear what that potential is supposed to be.

I must live on another planet, because when I attempt to reconcile OP's case with our city's recent success and our ongoing challenges, there appears to be a disconnect. We are operating with a surplus but we need more revenue. Our schools are underperforming so we need more singles. We need to attract families so we need more luxury apartments. We need affordable housing but we house almost half of the region's poor. We need more transit-oriented development but we can't fund transit. We have empty buildings but we need taller buildings. Some neighborhoods lack retail, but ones that already have retail need more.

**Good planning requires thoughtful consideration towards a set of common goals. This document, riddled with inconsistencies and based upon a pre-determined outcome benefitting only a few is simply not good planning. If the OP truly wants to identify and meet the needs of a growing District of Columbia, let's have that discussion. The Height Act can be discussed then alongside any number of other potential planning strategies. Until that day comes, no other rational conclusion can be drawn that supports a change at this time.**

October 2, 2013

Testimony of Tersh Boasberg (TershBoasberg@aol.com)  
Before the  
National Capital Planning Commission  
On The  
Height Master Plan Study: Draft Federal Interests Report and Findings

Mr. L. Preston Bryant, Chairman, and Members of the Commission:

My name is Tersh Boasberg. I am a retired attorney who specialized in historic preservation and land use planning. I am a former Chairman and member of the DC Zoning Commission (1989-2001), a former Chairman of the DC Historic Preservation Review Board (2000-11), a former president of the Alliance to Preserve the Civil War Defenses of Washington, and a recipient of several lifetime achievement awards from local and national preservation/planning organizations, including in 2012 from the DC Office of Planning and Preservation. I have taught a seminar on Historic Preservation Law at Georgetown Law School for the past 13 years.

The Mayor's current proposal to remove the federal Height Limit is, in a word, **catastrophic**. This city belongs to *all* Americans—not just D.C. residents.

I actually think about the Height of Building Act every day as I walk and drive around this magnificent city—not only downtown but in all its quadrants. I am forever thankful for the Federal Government's stewardship of height limits in our National Capital (even though I wish that I, too, like my fellow Americans, had voting representation in the House and Senate).

I strongly support the NCPC Draft Federal Interest Report (DFIR), especially its *comprehensive* definition of what are the “**Federal Interests**” the Height Act seeks to protect – namely, the “symbolic and cultural significance of the nation's capital for all Americans as well as the importance of a thriving, economically stable city.” (at p.10) I would add to this the importance and protection of the city's “*quality of life*” for the same reasons as we seek to protect its economic vitality. As the seat of the Federal Government, thousands of federal workers and their children live here, attend school here, exercise here, and relax here. And beyond that, there is a

similar need to enhance the quality of life for Washington's millions of visitors, diplomatic families, international organizations, etc.

As the DFIR notes, "This carefully crafted airy and light-filled environment invites people in to explore and to appreciate the relationship amongst buildings, public spaces, and views to civic buildings and monuments." In other words, this "carefully crafted" environment enhances the quality of life for all.

Moreover, the DFIR emphasizes that the benefits of the Height Act (i.e., the "**Federal Interests**") extend well beyond the confines of the L'Enfant City. Thus, at p. 23 the DFIR notes:

"Within Washington DC's neighborhoods and communities *beyond the L'Enfant City*, where the federal presence is less concentrated, the Height Act continues to shape a distinctive skyline, frame views, and protect the scale of residential streets and their adjacent business districts. These communities lie beyond the topographic bowl, a hillside that encompasses the District's historic core and presents some of the city's most distinctive viewsheds. As a great swath of this ridge line is preserved and managed by the U.S. National Park Service, it creates a backdrop of green for the city's horizontal skyline and national icons." (Emphasis added)

This is not a description of Crystal City or Ballston or Rosslyn. And make no mistake, once the Federal Height Limit is lifted, we will have 15-, then 20- and 30-story buildings throughout the District, well beyond the L'Enfant City. This is exactly what happened in Rosslyn where the height limit was raised from 15 stories in the 1960s to 30 stories today "for good cause."

As a veteran of the planning/ preservation wars in this city for the past 50 years, I can tell you that the financial rewards and political pressures to build ever higher buildings are intense. No big city municipal government in this country has been able to resist the allure of easy real estate money. As proof positive: none has a skyline as low as Washington's. Our horizontality will not survive what the DFIR styles as the "power and prestige of commercial enterprise." Only the *Federal* Government has the strength and resources and distance from "commercial enterprise" to protect the **Federal Interests**

in Washington's quality of life. (Executive Director's Recommendation, hereafter EDR, p.9)<sup>1</sup>

I cannot accept the District's cavalier remark at p. 46 of its Evaluation (DCE) that the Federal Interest is "perhaps non-existent outside of the L'Enfant City." As noted above, the DFIR calls attention to the federal interests outside the L'Enfant City and specifically mentions those "federal interests related to preservation" ( pp. 39-47), like the ring of 17 Civil War forts and parks, St. Elizabeth's, the Frederick Douglass House, the Armed Forces Retirement Home. And, importantly, it also calls attention to the "...Historic Buildings, Districts, Sites, and Cultural Landscapes **listed on the National Register of Historic Places**" (p. 39; map at p.40).

There are 584 individual buildings listed on the National Register in DC. While hundreds of these are in the L'Enfant City, hundreds more are located outside of downtown or Georgetown.<sup>2</sup> Moreover, National Register Districts, containing thousands of individual buildings, are dispersed from Anacostia to Takoma Park to Mount Pleasant and Sheridan-Kalorama to Cleveland and Woodley Park, to LeDroit Park and Shaw.<sup>3</sup> They embrace or border on major commercial streets such as Wisconsin, Connecticut, 16<sup>th</sup> and 14<sup>th</sup>. Because of their historicity, and often fragility, these "Federal Historic Resources" must not fall prey to high-rise "commercial enterprise," which can only trivialize and overwhelm them.

Another important local and, at the same time, *national* historic resource is Washington's African-American heritage, spread throughout the city. Martin Luther King could not have given his iconic speech in any other American city. In 1900 Washington had the largest percentage of African-Americans of any city in the country. Here was Howard University; here *Bolling v. Sharpe* became an integral part of the landmark *Brown v. Board of Education* decision. The D.C. Office of Historic Preservation has noted at least 200 historic sites important to the city's and the nation's African-

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<sup>1</sup> I know because I was Chairman of the DC Zoning Commission. Any action that the 3 commissioners appointed by the mayor wanted, the two commissioners appointed by the federal government were powerless to stop. I also refer you to the elegant testimony of John G. Parsons, who occupied Peter May's seat on the Zoning Commission (and on NCPC) **for thirty years**, who noted that to leave the decisions regarding the federal height limit in local hands "is not wise." (Parsons' letter to NCPC 9.30.13, on file herein.)

<sup>2</sup> See Map of Historic Washington, D.C. Inventory of Historic Sites on file with the D.C. Historic Preservation Office. Virtually all properties on the DC Inventory are also listed on the National Register.

<sup>3</sup> Contrary to the DCR at p. 33, DC law protects not only "landmarks" but also contributing buildings to D.C. and National Register historic districts, of which there are more than 50 in Washington.

American heritage. Some, but only some, are on the National Register, and many are outside of downtown. These, too, should not be trivialized by next door high-rises. And the honor roll could go on: sites important to Immigration, to the Women's Movement, to Gay and Lesbian rights, spread through-out this historic, capital city of all Americans.

Moreover, any talk of removing the federal height limit at this time is greatly premature. By the District's own calculations, we will not run out of expansion space under our current *Comprehensive Plan* for 30 years; even then, there will be more expansion space remaining within the current *height limit*. Further, it would seem that a cardinal principle of planning would be to spread out allowable development into the least served neighborhoods rather than make now economically vibrant areas much denser. *Dispersion--not concentration--*of facilities is what NPCP is encouraging (EDR p.10).

Nor am I sympathetic to the notion advanced by the District that higher buildings will somehow make offices and apartments more affordable. (DCE p.42) First, the only people who will be able to afford the new construction are the wealthy. Second, New York City has the highest residential and commercial prices in the country; yet, it also has the tallest buildings.

Furthermore, any mayoral proposal to remove Washington's 100-year-old height limit is such a radical departure from current land use practice that it should be first presented to D.C. voters. Neither the Mayor nor any City Councilperson ever made this startling proposition an election issue. But then, asking residents to live next door to 20- and 30-story buildings is not exactly a winning campaign strategy in D.C.

Lastly, to those who decry that the Height Limit is sapping the vitality of our nation's capital, I offer the record of the last decade of Washington's impressive development. And come with me to other low-rise, metro-centric, and vital national capital, historic cities like Paris; or Rome, or St. Petersburg, or Madrid, or Amsterdam, or Helsinki or Prague, etc. There are no high-rises in their historic downtowns or neighborhoods. Thank you.

**Testimony for**  
**The National Capital Planning Commission**  
on The District of Columbia's Recommendations  
on the Federal Height of Buildings Act of 1910  
*by Andrea Rosen, October 30, 2013*

For people who have attended more than one of the D.C. Office of Planning's presentations on the Zoning rewrite and OP Director Harriet Tregoning's presentations on what, if anything, to do about the 103-year old Federal Height of Buildings Act of 1910, OP's zeal to build greater density has not been difficult to discern. Thus the extreme "draft" recommendations for amending the Act, issued by OP on September 24, were entirely predictable, public sentiment notwithstanding.

I awoke to the seriousness of the assault on the Height Act relatively late, catching the very last of the public meetings associated with Phase 2 of the Height Master Plan Study, the Modeling phase, held August 13. The centerpiece of the OP presentation that night was a selection of images from a massive series of computer-modeled simulations of "viewsheds" from different vantage points in, and into, the monumental city and downtown core, as they appear currently and as they would appear if various alternatives to the Height Act were adopted that allowed greater building heights.

What was striking – apart from the skepticism many attendees expressed about the need and desirability of raising building heights – was the omission of two types of information central to forming a reasoned conclusion about a complex subject. First, there were no simulations of the crucial **street-level** experience of taller buildings, in the L'Enfant City, the business district, or in the much larger residential expanses of the city, where the common building types are low-rise attached, semi-detached, and single-family homes. Several of the alternatives to the Height Act proposed taller buildings along public transit thoroughfares in these districts, but the effects of these changes were omitted.

Second, and perhaps more important to evidence-based decision making, was the absence of data pertaining to current and projected capacity, and analyses of the economic impact of increasing residential and commercial space. Much unexploited vertical and horizontal space for development presently exists in the city under the Height Act, a fact Ms. Tregoning has acknowledged. She has praised the Height Act for "enabl[ing] us to spread demand to emerging areas outside the center city." That job isn't done yet, and I believe it would be unwise to interfere with it. Further, as she also has pointed out, zoning changes recommended in the carefully vetted Comprehensive Plan could create additional capacity.

The following is an unofficial transcript of an exchange between an audience member and the OP director from the video of the final Phase 2 meeting on August 13:

Kent Slowinski (audience member): "I don't think we have enough information here to make an informed decision here. Basic planning questions such as:

How much square footage do the various options provide?

What's the current supply of office space?

How much capacity do we have under existing zoning regulations?

When will we exhaust this current supply?

These are all basic planning questions."

Harriet Tregoning: Those are each . . . . Each and every one of these questions we will have answers to when we are ready to write . . . to make the recommendation. We just didn't want to wait to show you the modeling analysis that we had done because part of what people are concerned about is the visual impact . . . the impact on the viewshed, the impact on the skyline, the impact on how you experience a city street. But you are absolutely right. Those are exactly the questions that need to be answered before we make any decisions about whether, and when, and if, we should raise building heights in the city."

Kent Slowinski: "The other part of the question is, how much are developers going to be making off this additional square footage?"

Ms. Tregoning did not answer that last question, but she promised in the future to address the two deficits in information previously provided to the public. There were no additional opportunities to have an exchange with the public between the final Phase 2 meeting on August 13 and Ms. Tregoning's release of her "draft" recommendations on September 24. What's worse, she put those recommendations in Congressman Darrell Issa's hands directly. Rep. Issa had "request[ed] that NCPC work with the District to formulate and submit to the Committee [on Oversight and Government Reform] a joint proposal,"<sup>1</sup> but Ms. Tregoning apparently thought an end-run around the more deliberative NCPC might allow her to escape the tempering influence of the Federal agency altogether. While NCPC recommended leaving the Height Act essentially intact, DCOP recommended lifting the height limit in the L'Enfant City to as much as 200 feet, based on a 1:1.25 ratio of right-of-way to building height, and dispensing entirely with a Federal height limit outside the L'Enfant city. Ultimately it seems that Rep. Issa will have to choose between the two recommendations, an undesirable outcome.

I took the opportunity to hear Ms. Tregoning speak about her recommendations at an unofficial public information session at the NCPC the following day, September 25. While she neglected at this session to fulfill requests for on-the-ground simulations of raising the roof, Ms. Tregoning did come forward with the "Economic Feasibility Analysis of the Height Master Plan," dated September 23, a mere day before she transmitted her recommendations to Chairman Issa. The support for radically altering the Height Act in this last-minute economic feasibility study strikes me as tepid at best: "Raising the height limits could play a role in helping the District to expand its population and employment base if focused in areas of high market demand – primarily Center City and selected Metro locations where rents are high enough to support higher-rise construction costs. Residential expansion offers particular opportunities. Although

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<sup>1</sup> <http://oversight.house.gov/wp-content/uploads/2012/11/2012-10-03-DEI-to-Gray-DC-Bryant-NCPC-study-request-Height-Act.pdf>

Testimony by A. Rosen on Federal Height Act, October 30, 2013

not studied, new development in response to higher height limits also could include hotels.” [https://www.ncpc.gov/heightstudy/docs/Econ\\_Feasibility\\_Analysis.pdf](https://www.ncpc.gov/heightstudy/docs/Econ_Feasibility_Analysis.pdf))

Two days ago, on October 28, at an oversight hearing on OP’s recommendations held by the D.C. City Council’s Committee of the Whole, Ms. Tregoning presented a series of statistics that purportedly demonstrate that under a high-growth scenario, under current zoning and with the Height Act intact, the District would exhaust capacity in 17 years; and if we rezoned under the provisions of the Comprehensive Plan, we would reach the end of capacity in 24 years.

This strikes me as a manufactured emergency because history does not predict a straight line of sustained high growth. Moreover, the finding is predicated on the conclusion that only 4.9 percent of total land area in the District has significant capacity. (Did this calculation take into account the city’s own inventory of vacant buildings?) We were told that the figure was arrived at by excluding for development potential any building zoned for high or medium density that has already been built to 30 percent of capacity. The assumption that such properties will remain underutilized for decades seems unwarranted in a city where height limitations would naturally lead developers to exploit the 70 percent unused capacity. If they do not, then perhaps the demand will not be as great as postulated, which in turn, removes the pressure to lift the Height Act.

While she did not mention this at the oversight hearing, Ms. Tregoning earlier used as a rationale for the District to take an independent stand on the Height Act that the Federal government is downsizing physically and will soon have a smaller presence in the city. I understood that to mean that the Feds have a shrinking interest in the city and therefore shouldn’t have as much of a say in this matter. But the flip side of that is that as the Feds vacate, the city will have quite a bit of vacant office space--in fact, the city may have an office space *glut*, which it would be unwise to exacerbate.

There is a shortage of affordable housing, but does raising the height limit provide a solution? Since taller buildings cost more to construct – and the District doesn’t adhere to its own inclusionary zoning regulations for protecting and providing housing for residents who cannot pay market rates, let alone meet the needs of its growing homeless population – it seems unlikely that raising the height limit will address the lack of affordable housing. Common sense suggests that raising height restrictions will lead to a upbuilding in the already vibrant, expensive parts of the city, and remove much of the pressure on developers to move into parts of the city, such as east of the Anacostia River, where the ROI is less promising, where development and jobs have foundered. If allowing taller buildings to increase available office and residential space could bring down commercial and residential prices, Manhattan would be one of the least expensive markets in the U.S.

I am not a planner. But it seems to me that these studies of economic feasibility and capacity came late in the game; that a truly professional approach to the thorny and controversial question of altering height limits in an iconic city would make a study of economic feasibility and capacity *foundational* to decision-making and the development

Testimony by A. Rosen on Federal Height Act, October 30, 2013

of policy. **The conclusion that the “facts were being fixed around the policy” is inescapable.**

From the time of the last public meeting at the NCPC (September 25), 29 days remained for the public to weigh in with the OP on that agency’s just released recommendations and the new information Ms. Tregoning presented at the NCPC public meeting; the OP deadline was October 24. During this interlude, an official public meeting of the NCPC was supposed to take place, on October 2, but due to the Federal government shut-down, that meeting was postponed until today. While NCPC extended its deadline for public comment, the OP deadline held fast. So no further opportunities for public outreach and input took place before last week’s OP deadline of the 24th. **The conclusion that public sentiment is of little consequence is also inescapable.** This is particularly egregious given the NCPC’s respectful deference to DCOP to represent **local** interests, as the Federal agency works to define Federal interests.

I wonder how our transportation infrastructure will accommodate a taller city and the additional residents and workers it will bring. Given the already overtaxed, inadequately built-out public transportation system and ongoing reductions in parking (through revisions to the D.C. Zoning Code’s parking minimums and DDoT’s Enhanced Residential Permit Parking program, which allows residents on a block to vote to entirely ban parking by nonresidents on one side of the street), I question how increasing density in already dense parts of the city benefits sustainability, livability, or economic development. I already know many people who live in Maryland *and* D.C. beyond easy access to Metro who decline to shop or dine in town because they find the combination of heavy traffic and scarce parking daunting. I fear that the District’s recovery will be brought to a halt not by a paucity of real estate capacity, but by a shortfall in coordinated transportation solutions. One streetcar line and a flotilla of bicycles is not a systemic solution.

But at the heart of the matter is the question of how a radical refashioning of the Height Act will affect the graceful, low profile of our city. Director Tregoning asserts that the changes she proposes to the Height Act will not affect what is built in D.C. because developers will still have to meet local zoning ordinances that dictate height limits, neighborhood by neighborhood, often more restrictively than the Height Act does. We are meant to take solace in the fact that when the Height Act is lifted outside the L’Enfant City, any build-outs that don’t meet local restrictions will have the Zoning Commission, whose members include two Federal appointees, and the Comprehensive Plan to contend with. The truth is that in practice neither the letter nor the spirit of the Comp Plan is recognized as binding, and developers have their way with the Zoning Commission, which seems to bend over backwards to accommodate them.

Through the Planned Unit Development, aka PUD, process, developers agree to provide certain amenities and public benefits in exchange for the Commission’s relaxing its restrictions on such elements as density and height. For example, in a commercial development of medium density (C-2-B), a height of 65 feet is matter-of-right, but it can be up-zoned to 90 feet via a PUD. Sometimes the ZC relaxes the rules with such exuberance—even within a Historic District!--that it goes all the way to make the up-

Testimony by A. Rosen on Federal Height Act, October 30, 2013

zoning permanent via a “map amendment.” When citizens find out about the ways in which both developers and the Planning and Economic Development office have misled the Zoning Commission—withholding information about true property value, who is actually paying for amenities and public benefits, and the erosion of required “affordable housing” units as one of those public benefits—it is an uphill battle in the D.C. Court of Appeals, usually lost, to reverse the zoning concessions that have been granted.<sup>2</sup> PUDs are undermining zoning, and neither the Zoning Commission nor the Court seems to recognize them for the Trojan Horses they are. Nor can we look to the D.C. Historic Preservation Review Board as a last bulwark against development pressures, as it is now situated within the Office of the Deputy Mayor for Planning and Economic Development, and thus hardly able to act independently.

I endorse the NCPC’s preliminary recommendation to leave the Federal Height Act of 2010 essentially intact, with an allowance for penthouses currently housing only mechanical systems to be adapted for business and residential use. The Act can continue to serve us well.

Thank you very much for taking this testimony under consideration.

Andrea Rosen  
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<sup>2</sup> Two examples that I am aware of—they are not unique—involve the city’s own properties. One is in the West End, at L Street, NW, between 23<sup>rd</sup> and 24<sup>th</sup> Streets, site of a library, firehouse, and police station. Property was up-zoned from R-5-B (MOR general residential uses), maximum height of 50 feet, to CR (MOR residential, commercial, recreational, light industrial), maximum height 90 feet (ZC Case 11-12, 11-12A). Challenged by D.C. Court of Appeals Case 12-AA-1183, D.C. Library Renaissance Project/West End Library Advisory Group v. D.C. Zoning Commission and EastBanc-W.D.C. Partners. The other example is the site of the vacated Hine Junior High School across the street from Eastern Market in the Capitol Hill Historic District. On the strength of the Comprehensive Plan Future Land Use Map, up-zoned from R4 (MOR single-family residences, churches, public schools), maximum height of 40 feet, to C-2-B (MOR medium-density development, including mixed uses) to a maximum FAR of 3.5 for residential use and 1.5 FAR for other permitted uses, and a maximum height of 65 feet. Yet the PUD was approved with a total project FAR of 3.9 and a maximum height of 94.5 feet (ZC Case 11-24), which suggests a doubling up of up-zoning. Challenged in D.C. Court of Appeals Case 13-AA-366 & 13-AA-378, Christopher Howell et al v. D.C. Zoning Commission and Stanton-Eastbanc LLC et al.

Testimony of: Carolyn Johns Gray  
2009 18<sup>th</sup> Street, S.E.  
Wash., D.C. 20020

National Capital Planning Commission

***Transmitted for record***

I ask that my following statement submitted to the DC Council's hearing on October 28, on the Height Master Plan, also be included for the record on the National Capital Planning Commission's hearing held on Wednesday, October 30, on the same topic.

My name is Carolyn Johns Gray and I am the president of the Frederick Douglass Community Improvement Council, the civic association for Old Anacostia, Its historic district and surrounding areas. It has always been and remains our position to oppose raising any heights in the Anacostia Historic District and surrounding areas. Our association was party to the planning, preparation and request for our community's designation as the Anacostia Historic District.

We chose to live here and wanted to protect our near-country atmosphere while remaining in the city. Since its inception, we have had a continuous battle to protect our historic district. We, as well as residents throughout the Ward 8 enjoy the vista from all directions. It is unimaginable that we would look out of our window or from our porch one day and instead of looking across the river, over treetops or just the beautiful sunset that we would be looking at the side of a brick wall.

Recently, we had a first for our community. The Historic Preservation Review Board agreed with the community that a six story building was out of character for the Anacostia Historic District. These large buildings take away from the quaintness of our and other communities like ours. During the 60's and 70's the high-rise structures were the downfall of many neighborhoods east of the Anacostia River. Those multi-family structures are being replaced by single family homes. This has brought back some of the beauty that people enjoyed.

Your concern at this time is whether higher structures will benefit the city. Our concern is that higher structures will take away from what we love about Washington and they will destroy any historic district in the city.

We have often sought assistance from the Historic Districts Coalition and fully support its opposition to lifting height restrictions in Washington, D.C.

# **FORMAL LETTERS**



# Coalition for Smarter Growth

DC • MD • VA

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October 30, 2013

Mr. L. Preston Bryant, Jr., Chairman  
National Capital Planning Commission  
401 9th Street, NW, North Lobby, Suite 500  
Washington, DC 20004

RE: Height Act Study and Height Master Plan for the District of Columbia

Dear Chairman Bryant and members of the Commission:

Please accept these comments on behalf of the Coalition for Smarter Growth. The Coalition for Smarter Growth is the leading organization in the Washington, D.C. region dedicated to making the case for smart growth. Our mission is to promote walkable, inclusive, and transit-oriented communities, and the land use and transportation policies and investments needed to make those communities flourish.

We support continued discussion of the important topic of revising the Height Act of 1910. We concur with the District of Columbia's Office of Planning (OP) that careful modifications to the Height Act can both continue to protect federal interest and address the needs of a growing city for the next 100 years. We note that any decision to change the height regulations will only be implemented gradually, through extensive public consultation, detailed evaluation, and official procedures, including the extended process for amendments to the Comprehensive Plan and zoning regulations.

A key consideration for any change to the height regulations is whether and how it addresses the city's need for more affordable housing. Modifying height regulations can increase the total supply of housing to meet growing demand, while also providing affordable housing on-site or through a contribution to an affordable housing fund in return for increased height.

Even if the city does not maintain the current high pace of growth, it is naturally projected to grow over the next century. Given possible build-out in as little as 30 years, as discussed in OP's report, we think it prudent to consider how the Height Act and locally-controlled building heights might be modified to address long-term housing and commercial space needs.

We agree with the recommendations by OP:

1. Amend the Height Act to replace the citywide height limits with new limits within the L'Enfant City based on the relationship between the street width and building height, and no longer set height limits based on 19<sup>th</sup> century fire safety constraints.

While such an allowance in the Height Act would be the first step, implementation would require a detailed public process that includes revisions to the DC Comprehensive Plan and zoning regulations. NCPC and federal representatives on the DC Zoning Commission would also continue to play a leading role in reviewing any proposed changes as they relate to the federal interest, especially the need to

preserve the prominence of federal monuments and landmarks.

2. Allow DC to determine building height maximums outside the L'Enfant City through its Comprehensive Plan and zoning process, in which the federal government maintains a substantial role.

We agree that Congress should affirm the District's authority to govern areas outside of the L'Enfant City. DC should be enabled to set its own standards to address local needs, with continued federal oversight where a federal interest is involved, and through ongoing federal participation on the DC Zoning Commission.

3. Increased heights would only be allowable under a modified Height Act subject to a new special design review, and new Comprehensive Plan and zoning requirements that development projects that receive increased heights provide public benefits in support of affordable housing and infrastructure.

We believe long term increased demand for housing, and the pressure on prices that it generates are reasons to consider modifying height regulations. More housing available through increased height can relieve pressure on existing housing prices. The increased real estate value from additional height can also be a source of dedicated affordable housing revenue for the city to fund preservation and construction of affordable housing. Renewing the city's aging infrastructure, including its transit system, should also directly benefit from the increased value created through additional height.

We also agree with OP's argument that increasing the share of jobs captured by DC is an important goal since DC can offer a more efficient and sustainable location with a far smaller environmental footprint than areas not as well served by transit. Capturing a larger share of the region's jobs and households will strengthen DC's tax base, helping to fund continued improvement in education and other services.

We are eager to continue to be involved in this long term effort to review and revise the Height Act and to help determine how DC, as a local government, approaches height to address the needs of the next century of growth. A fundamental component must be provisions to leverage the increased values created by any height increase in order to generate new resources for affordable housing and city infrastructure needs.

Thank you for your consideration.

Sincerely,



Cheryl Cort  
Policy Director

Mr. Preston Bryant, Jr.  
Chairman, National Capital Planning Commission  
401 Ninth Street, NW, Suite 500 North  
Washington, DC 20004

NCPC written submission 10-30-13 - Height Study

Commissioners,

I am kindly french. I have lived in DC for 44 years. Thank you for the opportunity to present.

Raising the height limit in the District is a drastic measure that would radically alter quality of life but which cannot provide any assurance whatsoever that we will maintain economic diversity in our population.

If economic diversity is truly the concern, we should be requiring developers - NOW -to set aside portions of any new development for lower-income residents and not allow - buy-outs. The existing provisions in the District code don't protect moderate and/or low income housing.

There is no assurance that most developers won't take advantage of the housing buy-out and result in a NW Washington that is all upper-middle and upper income residents. Adding stories doesn't change the story

Harriett Tregoning herself has said many times that taller buildings will likely not have affordable housing because it is so expensive to build tall, and luxury housing would be the expected outcome.

Thank You, kf

ANC 2D

## Minutes

September 16, 2013, 7:00PM

Our Lady Queen of the Americas

2200 California Street

The Meeting was opened with a moment of silence for the 12 people killed and the many who were wounded this morning at the Washington Navy Yard.

1. Meeting was called to order at 7:04 PM
2. A quorum was established: Present were 2 Commissioners and 33 residents/guests. Fr. Evelio Menjivar, the new Pastor at Our Lady Queen of the Americas was introduced and welcomed.

8.2 Height of Buildings Act. Sally Berk; Following a presentation and brief discussion; Commissioner Lamar moved that; ANC 2D agrees to support The Historic Districts Coalition endorsement to Make No Changes to the Height Act and agrees to be a signatory on future correspondence which state this position. Seconded **Approved**

### COMMISSIONERS:

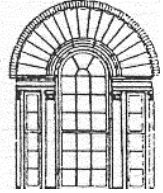
ANC2D01.....David R. Bender, PhD, Chair/Secretary

[davidanc2d01@aol.com](mailto:davidanc2d01@aol.com)

ANC2D02.....Eric S. Lamar, Vice-Chair/Treasurer

[ericslamar@gmail.com](mailto:ericslamar@gmail.com)

*Advisory Neighborhood Commission 2D meets the third Monday of the month unless otherwise announced. There is an open forum at each meeting for discussion of relevant issues not on the regular agenda. For additional information go to the ANC website at ANC2D.ORG.*



Sheridan-Kalorama Historical Association, Inc.  
2330 California St. NW  
Washington, D.C. 20008

October 30, 2013

Bryant, Jr. Mr. Preston  
Chairman, National Capital Planning Commission  
401 Ninth Street, NW, Suite 500 North  
Washington, DC 20004

Commissioners,

The Sheridan-Kalorama Historical Association is strongly in support of retaining the Height of Buildings Act of 1910 in its current configuration. The residents of our historic district have chosen to live in the nation's capital for its beauty and livability. None has chosen the suburbs with its amorphous configuration and arbitrary building heights. Nor have we chosen the anonymity of a high-rise district like Roslyn or Crystal City.

We object to any action that would jeopardize the Height of Buildings Act of 1910. We are well aware of a significant amount of undeveloped land in neighborhoods that would benefit from new construction and find no justification in the Office of Planning's recommendation for raising the height limit. Furthermore, such a proposal should be a referendum at the ballot box that would allow the residents of Washington to decide their own fate. We ask the Council for a resolution that would put an end to any notion of drastically changing the nation's iconic capital city.

Thank you for the opportunity to comment.

Sincerely,  
Donna Hays, Vice-President  
Sheridan-Kalorama Historical Association

October 30, 2013

Mr. L. Preston Bryant, Jr., Chairman  
National Capital Planning Commission  
401 9th Street, NW, North Lobby Suite 500  
Washington, D.C. 20004

VIA EMAIL

Dear Chairman Bryant:

I am William Brown, the President of the Association of the Oldest Inhabitants of the District of Columbia, the District's oldest civic organization. Dedicated since 1865 to preserving and promoting the District's history and civic accomplishments, the AOI is currently celebrating its 148<sup>th</sup> year of continuous service to the residents and civic leaders of our great city. One of the AOI's primary goals is the preservation, maintenance and promotion of both the L'Enfant and McMillan Plans for the District of Columbia. We are on record for opposing many proposed street closures and in support of the reopening of ill-advised street closings. The low profile of the city's skyline is an important element in maintaining the original vision for our city, the Nation's Capital.

The AOI is opposed to **any** changes in the Height Act. We are concerned that changes to the Height Act will be a slippery slope toward future, more frequent and more radical changes. We believe the NCPC staff has done an excellent job in analyzing the issues, creating graphic animations, hosting community forums, taking both written and oral testimony and presenting their findings in easy-to-understand recommendations. However, we **do not support** their recommendations to relax penthouse use regulations.

The AOI is *particularly disappointed* in the recommendations of the District of Columbia's Office of Planning as transmitted to the NCPC by Mayor Vincent Gray. These recommendations are contrary to what we heard at community forums and represent, we believe, an ill-advised attempt to assert District autonomy from the U.S. Congress at the expense of the District's century-old building height restrictions. This is not the time, place or circumstance for this debate.

In 1946, the District's population was approximately 899,000 residents (we realize that 'residents' are not households, however...). Today, the city's population has enjoyed a revival and now approaches 633,000 residents. Let us encourage reasonable development within the current limits of the Height Act in blighted or underutilized areas of the city before we tamper with something that will forever change the character of our city.

As Vancouver, B.C. Planner Larry Beasley warned in his presentation to the NCPC in 2010: *"Take care not to open things up too casually. I dare say, those height limits may be the single most powerful thing that has made this city so amazingly fulfilling."*

The Board of Directors and membership of the AOI has respectfully requested that the District of Columbia Council pass a Resolution that opposes the position put forth by the Office of Planning and endorsed by the mayor.

"Thank You" for providing the opportunity to bring these concerns to your attention and for NCPC's support to maintain the Building Height Limits for the District of Columbia.

Respectfully submitted:



William N. Brown, President

William N. Brown, President  
The Association of the Oldest Inhabitants of D.C.  
4425 Greenwich Pkwy., NW  
Washington, D.C. 20007-2010

Web site: [www.aoidc.org](http://www.aoidc.org)  
Email: [aoidc@gmail.com](mailto:aoidc@gmail.com)  
Phone: 202-342-1638

## **DC OFFICE OF PLANNING'S HEIGHT ACT CAPACITY STUDY: A SHAKY FOUNDATION FOR OP'S RECOMMENDATION FOR CHANGING THE HEIGHT ACT**

Comments of Marilyn J. Simon, Friendship Neighborhood Association

The DC Office of Planning's Capacity Analysis, submitted to Congress last month, forms the basis for its radical recommendation to remove the Height Act limits outside the L'Enfant City, and dramatically increase those limits within the L'Enfant City. Yet, this analysis is seriously flawed and systematically understates the development capacity available under the current Height Act limits.

Because of the flaws in their analysis, OP has failed to demonstrate that an increase in the heights allowable by the Height Act is necessary in order to accommodate anticipated growth.

In addition, OP's recommendations would jeopardize the qualities that make our city special, the qualities that struck me when I first came to Washington, after having lived and worked in New York City, experiencing the difference in the scale and how refreshing it was to work in downtown Washington, with its openness, light and air. We value the ability to see the sky as one walks through downtown, walking along streets where trees can thrive, and our iconic horizontal skyline should not be sacrificed.

### **MAJOR ERRORS IN OP'S CAPACITY ANALYSIS**

I discuss three major biases in OP's analysis:

- (1) OP treats many sites with substantial development capacity as undevelopable;
- (2) OP fails to include the development capacity of land not designated as medium or high density in the Comprehensive Plan, and
- (3) OP arbitrarily discounts the development capacity it does analyze by 25%.

The OP report assumes, counterfactually, that much of the recent redevelopment and development in the pipeline is impossible.

While OP has consistently understated the development capacity available in each of the scenarios it examined, in its statements comparing capacity with its estimate of demand, OP's comparisons didn't examine whether the Height Act constrained capacity. OP compared its "high growth" scenario with its estimate of capacity available with current zoning, and with its estimate of the capacity where development is only constrained by the Height Act only for a handful of sites,<sup>1</sup> neither of which can be a basis for concluding that it is necessary to radically change the Height Act, allowing a large increase in the limits in the L'Enfant City, and eliminating Height Act limits outside the L'Enfant City.

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<sup>1</sup> OP concluded on page 42 that "Even if the District were to change zoning across the city to create additional capacity under the Comprehensive Plan, with no changes in the Height Act, to meet high growth demand, this capacity would be exhausted in 20 years." For this comparison, the Height Act was a constraint only in those areas where the Comprehensive Plan had a high density residential or commercial designation, as mapped on page 17 of the OP Report, and which OP had designated as developable in the map on page 35 of the OP Report. In addition, the high growth demand lacks a reasonable foundation, being calculated as a simple extrapolation of estimated growth rates over the past five years

### **(1) Eliminating sites with substantial development capacity**

OP applied broad filters to eliminate sites from the analysis, including sites that have substantial development potential in each of the three scenarios: current zoning, zoning flexibility that is consistent with the Comprehensive Plan, and only limited by the constraints of the Height Act.<sup>2</sup> These filters included:

- (1) The elimination of all land designated for public use, including all properties designated as “Local Public Facilities” in the DC Comprehensive Plan;
- (2) The elimination of all land designated as Institutional and Federal in the DC Comprehensive Plan; and
- (3) Properties which were built to greater than 30% of the capacity permitted as a matter of right with current zoning.

By applying the first two filters, OP eliminated from the analysis a large number of sites which have substantial development potential even with existing zoning. If constrained only by the Height Act limits, these sites would have even higher capacity.

For example, the local public facilities filter eliminates DC properties that had been considered for redevelopment with substantial increases in density, such as the proposal to add 200 housing units to one elementary school campus in Ward 3. The local public facilities filter also eliminates large WMATA-owned sites that had been considered for redevelopment, sometimes retaining the current function while adding commercial space and hundreds of housing units. The Franklin School site also is excluded from the analysis.

It appears as though OP eliminated the land designated as Institutional or Federal Facilities on the Comprehensive Plan map simply because some of that land is not currently regulated by floor area ratio limits, so the calculation of the first scenario would have been more complex. This includes a substantial amount of land owned by private schools, hospitals, retirement homes, religious institutions and other institutions which have substantial development opportunity under the current zoning regulations, and even more development opportunity within the limits of the Height Act. For example, potential development on the Walter Reed site is not included in the analysis, and neither is the Third Church located at 16<sup>th</sup> and I Street, NW.

The third filter listed eliminates all properties that are currently built to at least 30% of the current matter-of-right zoning limits. This aggressive filter eliminates many sites with substantial development potential even within the matter-of-right limits of current zoning, and certainly with planned unit developments or even map amendments consistent with the Comprehensive Plan. OP is excluding properties where the density could be tripled with matter of right development, and more than tripled with zoning relief consistent with the Comprehensive Plan. This filter eliminates from OP’s calculation sites with one or two story buildings on major corridors, where there would be substantial additional capacity were the Height Act limits the only constraint.

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<sup>2</sup> In addition to the filters discussed above, OP applied the following filters which further limited the area under consideration, and eliminated some potential development in each scenario: Single Family Zone districts; Historic Landmarks; Recently Developed Properties (time frame not specified in the report); Transportation Rights-of-Way; and certain other properties where the analysis indicated that there was more than 300,000 SF of capacity where OP determined that there might be an error in the data. See Height Master Plan for the District of Columbia, Evaluation and Draft Recommendations, DC Office of Planning, September 20, 2013, transmitted to Congress on September 24, 2013, pages 33-34.

## **(2) Inclusion of only land designated in the Comp Plan maps as medium or high density**

In addition to these filters, much of the OP analysis included only land designated on the Comprehensive Plan maps as medium and high density. Development of the properties designated as medium density in the Comp Plan is not limited by the Height Act limits since those are described as mid-rise (4-7 stories) apartments in residential zones (Comp Plan 225.5), and as generally not exceeding 8 stories in height in mixed use zones (Comp Plan 225.10).

There currently are significant development opportunities on sites with designated as low and moderate density designations in the Comprehensive Plan (with corresponding zone districts for the moderate density designations including R-3 through R-5-B, and C-2-A, C-2-B and C-3-A). These sites can have a floor area ratio up to 4.0, plus an inclusionary zoning bonus if applicable. Even the low-density designation includes land zoned C-2-A, which can have a floor area ratio of up to 3.0 with inclusionary zoning.

OP's analysis of the capacity available under a full build-out consistent with the Height Act does not include land designated as low or moderate density in Comprehensive Plan. According to the OP report, the development capacity under current zoning would increase by 85% if this land was included. According to OP's tables, these areas would support additional matter-of-right development of approximately 117 million square feet. With map amendments or PUDs consistent with the Comprehensive Plan, according to OP's tables, these areas would support additional development of over 180 million square feet. These areas were not included in OP's estimate in Table 3 of the amount of development possible under current federal Height Act limits.

In Table 3, OP claims that, with Height Act limits, there is additional development capacity of 221.8 million square based on a calculation that excludes areas that would support over 180 million square feet while maintaining densities consistent with the Comprehensive Plan.

## **(3) Arbitrary 25% Reduction in the development capacity of sites included in the analysis**

In calculating the capacity under the current (matter of right) zoning limits and the Comprehensive Plan with map amendment limits, OP reduced each of the estimates by 25% to account for factors that limit the ability to build out to the full zoning or Comprehensive Plan envelope. With PUDs and map amendments, it is not unusual to see development far in excess of matter-of-right limits and unusual to see redevelopment substantially below the matter-of-right density, especially in some of the areas characterized as having sufficient market demand to support heights greater than 130 feet. Given the amount of development that reaches or exceeds the current zoning envelope, there is no reasonable justification for the massive reduction in the estimate of developable capacity

### **RELATIONSHIP BETWEEN THE CAPACITY STUDY AND THE FEASIBILITY ANALYSIS**

While the limitations on the sites included in the study as well as the reduction in the estimated capacity by 25% result in a substantial understatement of the development capacity available as a matter of right with current zoning, it is astounding that OP would use the same limitations and reduction in their analysis of development capacity within the Height Act limits.

How can OP justify the assumption that it is not economical to redevelop a site that is developed to a FAR of 1.0 (where with current zoning, the FAR limit is 3.0) when considering the Height Act limits which could expand the development capacity to as much as 8.6, especially when we observe similar sites being redeveloped to much lower densities?

While those sites are eliminated in the determination of the city's development capacity with the Height Act limitations, a substantial portion of the analysis of the economic benefit of lifting the Height Act limitations is demonstrating how it would be profitable to add two stories to some eight story developments. The redevelopment scenarios that OP treats as impossible when it is claiming that there is insufficient room for growth under the Height Act limitations, it assumes will happen universally as it calculates the economic benefits from lifting the Height Act constraints.

While some of these limitations, such as not considering low and moderate density zones, might appear to be based on deference to the Comprehensive Plan, OP's deference to the Comprehensive Plan goes out the window when OP calculates the economic benefit to lifting the Height Act limits. In that case, suddenly they are evaluating buildings that are 250 feet tall, with ground floor retail and 918 housing units per acre in areas that the Comp Plan describes as medium density, across the street from a single family neighborhood.

And redevelopment limitations also fall by the wayside as there is significant emphasis on the feasibility of adding density to existing buildings, even buildings that clearly would not have made it through the filter on having development at least 30% of the density allowed as a matter of right.

### **CONCLUSION**

OP has made recommendations to dramatically change the shape of our city to address a problem that they cannot demonstrate exists. Those recommendations should be flatly rejected.



# DISTRICT OF COLUMBIA BUILDING INDUSTRY ASSOCIATION

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### Counsel

**Christopher H. Collins**  
Holland & Knight LLP

October 29, 2013

National Capital Planning Commission  
ATTN: April Young, Office of the Secretariat  
401 9<sup>th</sup> Street, NW, North Lobby  
Suite 500  
Washington, DC 20004

Re: Height Master Plan for Washington, DC

Honorable Members of the Commission:

Enclosed is the testimony of the DC Building Industry Association on the proposals of NCPC and the District of Columbia government for amendments to the 1910 Height Act. Please let me know if you have any questions.

Thank you.

Very truly yours,

Christopher H. Collins  
DCBIA Counsel

CHC/lrs  
Enclosure

cc: Rep. Darrell Issa, Chairman, House Committee on Oversight and Government Reform  
Harriet Tregoning, Director, DC Office of Planning

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# DISTRICT OF COLUMBIA BUILDING INDUSTRY ASSOCIATION

## Testimony of District of Columbia Building Industry Association on the NCPC and District of Columbia

### Recommendations Contained in their Respective

### Height Act Study Reports, NCPC file no. 6886

October 29, 2013

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Holland & Knight LLP

## Introduction

DCBIA participated as a witness on the panel that testified on this issue before the House of Representatives Committee on Oversight and Government Reform, Subcommittee on Health Care, District of Columbia, Census and the National Archives on July 19, 2012. DCBIA is vitally interested in this issue and welcomes the opportunity to provide these comments. A copy of our testimony to Congress is attached hereto.

## About DCBIA

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### **DCBIA Comments on NCPC Position on Height Act**

The NCPC position that is set forth on page 13 of the Executive Director's Recommendation that was prepared for the September 12, 2013 NCPC meeting states, *inter alia*, that "strategic changes to the Height Act's restrictions related to penthouses should consider the following key goals:...Support communal recreation space on rooftops by allowing human occupancy in roof structures...so long as those structures continue to be set back from exterior walls at a 1:1 ratio...". As further detailed in the attached testimony that we delivered to Congress last year, DCBIA supports NCPC's position to allow human occupancy in penthouses and to allow such occupancy for all purposes permitted by the underlying zoning of a particular property, and not simply limit that occupancy only to "communal recreation space". DCBIA believes that roof structure restaurant, office or conference space, for example, in addition to communal recreation spaces, would provide wonderful opportunities to enjoy the vistas of the city, much the same way that outdoor rooftop terraces currently provide under the existing law. The District's skyline would be the same, whether the occupancy of penthouses is limited only to communal recreation space, or is allowed to be occupied for all permitted uses. DCBIA encourages a change to allow penthouse occupancy for all permitted uses.

### **DCBIA Comments on District of Columbia Position**

We have also reviewed the District of Columbia position that is set forth in the Height Master Plan for the District of Columbia, Evaluation and Draft Recommendations, dated September 20, 2013. In summary, the District proposes to amend the current Height Act as follows:

- In the L'Enfant City, allow a maximum building height of 1.25 times the width of the adjacent street, with no absolute height limit (as opposed to the current height limit on business streets that is equal to the width of the adjacent street, increased by 20 ft., with a maximum height of 130 ft., and 160 ft. along Pennsylvania Avenue between 1st and 15th Street, NW; and a height limit equal to the width of the adjacent residential street, with an absolute height limit of 90 ft.).
- Outside of the L'Enfant City, eliminate any Height Act restrictions and allow the District to establish building heights "at appropriate locations" (yet unspecified), through the Comprehensive Plan and the zoning processes. These processes would still be subject to federal review, through NCPC's review of the District's Comprehensive Plan and local zoning actions, as well as the fact that two of the five seats on the Zoning Commission are statutorily reserved for federal members. The District also cites the local historic preservation law and procedures, and federal security review processes, as additional safeguards of the federal interest if this approach is adopted.
- The District's approach would also include viewshed protection of nationally significant buildings and monuments, a special procedure for design review of taller buildings by the Zoning Commission, and new Comprehensive Plan and zoning requirements that couple increased building height with public benefits in support of affordable housing or infrastructure improvements.

The District's analysis is comprehensive, and takes into consideration a whole host of factors, including economic, infrastructure, population growth and other issues. We believe that the District's position includes compelling arguments in concept, particularly those related to the relaxation of restrictions in select areas outside the L'Enfant City, and we ask that Congress give it due consideration.

As a part of that consideration, we also recommend exploring the benefits that taller buildings could provide for architectural quality, energy efficiency, and enhancements to the natural light that building occupants enjoy. A modest increase in building height without a proportional increase in allowable density would lead to slimmer, more elegant and varied structures. Smaller floor plates yield working and living spaces which are closer to windows, improving occupant health and decreasing artificial light requirements. Taller ceilings would further reduce energy use through more efficient routing of mechanical systems.

### **Conclusion**

DCBIA believes that it is time for Congress to take action to amend the 1910 Height Act, to accommodate the future needs of our city in a way that achieves the goals of both the federal and the local governments. Thank you.



# DISTRICT OF COLUMBIA BUILDING INDUSTRY ASSOCIATION

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## Testimony of Christopher H. Collins, Counsel District of Columbia Building Industry Association on "Changes to the Height Act: Shaping Washington, DC for the Future" Thursday, July 19, 2012 1:30 p.m.

Before the Committee on Oversight and Government Reform, Subcommittee on  
Health Care, District of Columbia, Census and the National Archives  
Congressman Trey Gowdy, Chairman  
2154 Rayburn House Office Building

Good afternoon Chairman Gowdy and members of the Committee. I am  
Christopher Collins and I am testifying today as Counsel to the District of Columbia  
Building Industry Association.

### About DCBIA

The District of Columbia Building Industry Association (DCBIA) is the  
professional association representing both the commercial and residential real estate  
industries in the District of Columbia. Our membership of nearly 500 companies  
and organizations comprises several thousand real estate professionals. Association  
members are engaged in all aspects of real estate development and include  
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As an advocacy organization, DCBIA represents the interests and views of its members before the District of Columbia and the federal governments, community organizations and other business associations. DCBIA is an advocate for a vigorous, responsible real estate industry. We interpret that advocacy role broadly - to not only give voice to the specific concerns of our members, but also to speak out in support of public policies that promote the economic growth and vitality of the nation's capital.

Our members serve frequently on commissions, task forces and study groups to address crucial economic development and municipal governance issues. Our members work closely with agencies of the DC government to advise and assist in the efficient administration of city programs - most recently in areas related to land use, building regulation, comprehensive planning, tax issues and affordable housing and community development. We also work in collaboration with other business groups and community organizations to attract and retain business investment and to facilitate the revitalization of distressed areas in the City. For more information, see our website at [www.dcbia.org](http://www.dcbia.org).

#### Background of the 1910 Height Act

The Act to Regulate the Height of Buildings (Act of June 1, 1910, 36 Stat. 452) is commonly referred to as the 1910 Height Act. The specific requirements of the 1910 Height Act for discussion today are found in Section 5, which is attached hereto. That section provides that buildings on "business streets" (those sides and portions of streets located in Special Purpose, Waterfront, Mixed Use, Commercial, or Industrial zoning districts) may be erected to a height equal to the width of the adjacent street plus 20 feet, with an overall maximum height of 130 feet, except for the north side of Pennsylvania Avenue between

First and 15th Streets NW, where a height of 160 feet is permitted. On residence streets, the maximum height is 90 feet, but is further limited by the width of the adjacent street, minus 10 feet. The point of measurement is required to be taken from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof or parapet, provided that if the building has more than one front, the height shall be measured from the elevation of the sidewalk that permits the greater height.

Above the maximum height of a building itself, Section 5 of the 1910 Height Act allows for two types of structures:

- architectural elements such as "spires, towers, domes, minarets and pinnacles", which has now evolved into what generally are known as "architectural embellishments"; and
- utilitarian elements such as penthouses over elevator shafts, ventilation shafts, chimneys, smokestacks and fire sprinkler tanks. With the advent of central heating, ventilation, and air conditioning in multi story buildings, this equipment is now placed on the roof as the modern version of ventilation shafts, chimneys and smokestacks.

Congress set no limitation on the height of the permitted architectural elements, and they can be located anywhere above the roof of a building. Likewise, Congress set no limit on the height of the utilitarian roof structure elements, except that they are required to be constructed with a setback from the exterior walls of the building equal to their height above the roof, and they are prohibited from being used for "human occupancy."

Building heights in the District of Columbia are also governed by the DC Zoning Regulations, which in many instances permit maximum heights that are less than those permitted by the 1910 Height Act, and which also provide a height limit for roof structures of 18 feet, six inches above the height of the roof.

#### Proposed Modifications to the 1910 Height Act

DCBIA believes that the horizontal nature of our city skyline is an important component of the city's beauty and special character. We also understand that there are a wide variety of views on the wisdom and importance of the 1910 Height Act, and whether the established height limits should be retained or modified. DCBIA has examined this issue, and we believe that there is a practical approach for a minor change in the 1910 Height Act that would have absolutely no impact upon the skyline of the city as currently permitted by the 1910 Height Act. Simply stated, that is to remove the restriction on "human occupancy" above the top story of a building. Allowing habitable space in a roof structure in addition to the normal roof top machinery, while retaining the current roof structure setback requirement, would allow a wide variety of uses, such restaurants and lounges, health clubs, community rooms, and enclosed swimming pools as well as other residential and non-residential uses. Allowing such use of roof structure space would also likely promote a greater use of rooftops outside of these roof structures for active and passive outdoor recreation, and rooftop landscaping. We believe that this proposal will have a positive benefit on the quality of life of those using those facilities, and will also help to enhance the beauty of the skyline of our "horizontal city". The attached article provides more detail on this proposal.

On behalf of DBIA, I thank you for the opportunity to appear today. I would be pleased to answer your questions.

*Provided,*  
Treaty rights not  
affected.

and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this Act shall be construed to deprive the said Indians of the Rosebud Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this Act.

Approved, May 30, 1910.

May 30, 1910.  
[H. R. 9304.]  
[Public, No. 195.]

CHAP. 261.—An Act Granting certain lands in the Coconino National Forest, in Arizona; for observatory purposes.

Lowell Observatory,  
Ariz.  
Lands in Coconino  
National Forest grant-  
ed for.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and hereby is, granted to Percival Lowell, his heirs and assigns, section numbered seventeen, in township numbered twenty-one north of range seven east of the Gila and Salt River base and meridian, the said tract of land being within the Coconino National Forest, in the Territory of Arizona, for observatory purposes in connection with the Lowell Observatory: *Provided*, That in the event of the removal or abandonment of the said observatory or the use of said land by the grantee for other than observatory purposes the said land shall revert to the United States: *Provided further*, That the title to the merchantable timber thereon and the right to cut and remove the same in such manner as to preserve the herbage and undergrowth in their natural condition shall remain in the United States.

Approved, May 30, 1910.

*Provided,*  
Reversion for non-  
user.

Timber rights ex-  
cluded.

June 1, 1910.  
[H. R. 19070.]  
[Public, No. 196.]

CHAP. 263.—An Act To regulate the height of buildings in the District of Columbia.

District of Columbia.  
Height of nonfire-  
proof dwellings, etc.,  
limited.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the date of the approval of this Act no combustible or nonfireproof building in the District of Columbia used or occupied or intended to be used or occupied as a dwelling, flat, apartment house, tenement, lodging or boarding house, hospital, dormitory, or for any similar purpose shall be erected, altered, or raised to a height of more than four stories, or more than fifty feet in height above the sidewalk, and no combustible or nonfireproof building shall be converted to any of the uses aforesaid if it exceeds either of said limits of height.

Business buildings.

SEC. 2. That from and after the date of the approval of this Act no combustible or nonfireproof building in the District of Columbia used or occupied or intended to be used or occupied for business purposes only shall be erected, altered, or raised to a height of more than sixty feet above the sidewalk, and no combustible or nonfireproof building shall be converted to such use if it exceeds said height.

Fireproof materials  
required for buildings  
exceeding 60 feet.  
Churches excepted.

SEC. 3. That all buildings in the District of Columbia, including buildings of every kind, class, and description whatsoever, excepting churches only, hereafter erected, altered, or raised in any manner as to exceed sixty feet in height shall be fireproof or noncombustible and of such fire-resisting materials, from the foundation up, as are now or at the time of the erecting, altering, or raising may be required by the building regulations of the District of Columbia.

Hotels, etc.

Hotels, apartment houses, and tenement houses hereafter erected, altered, or raised in any manner so as to be three stories in height or over and buildings hereafter converted to such uses shall be of fireproof construction up to and including the main floor, and there shall be no space on any floor of such structure of an area greater than two thousand five hundred square feet that is not completely inclosed by

fireproof walls, and all doors through such walls shall be of noncombustible materials.

Every building hereafter erected with a hall or altered so as to have a hall with a seating capacity of more than three hundred persons when computed, as provided by the building regulations, and every church hereafter erected or building hereafter converted for use as a church, with such seating capacity, shall be of fireproof construction up to and including the floor of such hall or the auditorium of such church as the case may be.

SEC. 4. That additions to existing combustible or nonfireproof structures hereafter erected, altered, or raised to exceed the height limited by this Act for such structures shall be of fireproof construction from the foundation up, and no part of any combustible or nonfireproof building shall be raised above such limit or height unless that part be fireproof from the foundations up.

Towers, spires, or domes, hereafter constructed more than sixty feet above the sidewalk, must be of fireproof material from the foundation up, and must be separated from the roof space, choir loft, or balcony by brick walls without openings, unless such openings are protected by fireproof or metal-covered doors on each face of the wall. That full power and authority is hereby granted to and conferred upon every person, whose application was filed in the office of the Commissioners of the District of Columbia prior to the adoption of the present building regulations of said District, to construct a steel fireproof dome on any buildings owned by such person, in square three hundred and forty-five of said District, as set forth in the plans and specifications annexed to or forming a part of such applications so filed, any other provision in this Act contained to the contrary notwithstanding. And the inspector of buildings of said District shall make no changes in said plans and specifications unless for the structural safety of the building it is necessary to do so.

Every theater hereafter erected and every building hereafter converted to use as a theater, and any building or the part or parts thereof under or over the theater so erected or the buildings so converted, shall be of fireproof construction from the foundation up and have fireproof walls between it and other buildings connected therewith, and any theater damaged to one-half its value shall not be rebuilt except with fireproof materials throughout and otherwise in accordance with the building regulations of the District of Columbia.

SEC. 5. 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; but where a building or proposed building confronts a public space or reservation formed at the intersection of two 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. Where a building is to be erected or removed from all points within the boundary lines of its own lots, as recorded, by a distance at least equal to its proposed height above grade the limits of height for fireproof or noncombustible buildings in residence sections shall control, the measurements to be taken from the natural grades at the buildings as determined by the commissioners.

No building shall be erected, altered, or raised in any manner as to exceed the height of one hundred and thirty feet on a business street or avenue as the same is now or hereafter may be lawfully designated, except on the north side of Pennsylvania avenue between First and Fifteenth streets, northwest, where an extreme height of one hundred and sixty feet will be permitted.

Halls.

Churches.

Additions.

Towers, spires, and domes.

Dome in square 345.

Plans.

Theaters.

Width of street to govern height.

Business streets.

Residence streets.	On a residence street, avenue, or highway no building shall be erected, altered, or raised in any manner so as to be over eighty feet in height to the top of the highest ceiling joists or over eighty-five feet in height at the highest part of the roof or parapet, nor shall the highest part of the roof or parapet exceed in height the width of the street, avenue, or highway upon which it abuts, diminished by ten feet, except on a street, avenue, or highway sixty to sixty-five feet wide, where a height of sixty feet may be allowed; and on a street, avenue, or highway sixty feet wide or less, where a height equal to the width of the street may be allowed.
Foot, p. 881. Corner lots.	The height of a building on a corner lot will be determined by the width of the wider street.
Streets less than 90 feet wide.	On streets less than ninety feet wide where building lines have been established and recorded in the office of the surveyor of the district, and so as to prevent the lawful erection of a building in advance of said line, the width of the street, in so far as it controls the height of buildings under this law, shall be held to be the distance between said building lines.
Adjoining public buildings.	On blocks immediately adjacent to public buildings or to the side of any public building for which plans have been prepared and money appropriated at the time of the application for the permit to construct said building, the maximum height shall be regulated by a schedule adopted by the Commissioners of the District of Columbia.
Abutting Union Station plaza. Vol. 52, p. 913.	Buildings hereafter erected to front or abut on the plaza in front of the new Union Station provided for by Act of Congress approved February twenty-eighth, nineteen hundred and three, shall be fireproof and shall not be of a greater height than eighty feet.
Towers, chimneys, sprinkler tanks, etc.	Spires, towers, domes, minarets, pinnacles, pent houses over elevator shafts, ventilation shafts, chimneys, smokestacks, and fire sprinkler tanks may be erected to a greater height than any limit prescribed in this Act when and as the same may be approved by the Commissioners of the District of Columbia: <i>Provided, however,</i> That such structures when above such limit of height shall be fireproof, and no floor or compartment thereof shall be constructed or used for human occupancy above the top story of the building upon which such structures are placed: <i>And provided,</i> That pent houses, ventilation shafts, and tanks shall be set back from the exterior walls distances equal to their respective heights above the adjacent roof.
Provisions. Fireproof requirements.	Sec. 6. That no wooden or frame building hereafter erected, altered, or converted for use as a human habitation shall exceed three stories or exceed forty feet in height to the roof.
Distance from exterior walls.	Sec. 7. That for the purposes of this Act the height of buildings shall be measured from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof. If the building has more than one front, the height shall be measured from the elevation of the sidewalk opposite the middle of the front that will permit of the greater height. No parapet walls shall extend above the limit of height.
Limit for frame dwellings.	Sec. 8. That buildings erected, altered, or raised or converted in violation of any of the provisions of this Act are hereby declared to be common nuisances; and the owner or the person in charge of or maintaining any such buildings, upon conviction on information filed in the police court of the District of Columbia by the corporation counsel or any of his assistants in the name of said District, and which said court is hereby authorized to hear and determine such cases, shall be adjudged guilty of maintaining a common nuisance, and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars per day for each and every day such nuisance shall be permitted to continue, and shall be required by said court to abate such nuisance. The corporation counsel of the District of
Basic of measurement.	
Violations declared nuisances.	
Penalty.	
Injunction proceedings.	

Columbia may maintain an action in the supreme court of the District of Columbia, in the name of the District of Columbia, to abate and perpetually enjoin such nuisance. The injunction shall be granted at the commencement of the action, and no bond shall be required. Any person violating the terms of any injunction granted in such proceeding shall be punished as for contempt by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the United States jail for not less than thirty days nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

Punishment for violating injunction.

SEC. 9. That Congress reserves the right to alter, amend, or repeal this Act. All laws in conflict herewith are hereby repealed.

Repeal, etc.  
Vol. 30, p. 322.

Approved, June 1, 1910.

From the Washington Business Journal  
: <http://www.bizjournals.com/washington/stories/2010/02/22/tidbits9.html>

## OnSite

# Guest comment: We can relax D.C.'s height limits

**Keep city's character by using roof structures for human occupancy**

**Premium content from Washington Business Journal by Whayne S. Quin**

Date: Monday, February 22, 2010, 12:00am EST

### Related:

[Commercial Real Estate](#), [Environment](#), [Energy](#)

Acrophobia is normally thought of as a fear of heights from the person's perspective looking down. But it's also a good way to describe the fear of seeing and permitting higher buildings in D.C.

Scores of articles have been written and many symposia have been held debating and commenting about the limitation on building heights. Local and federal agencies frequently reference the height of buildings as being one of the most sensitive parts of the city's planning and built environment. The core of this focus always seems to be the congressionally enacted 1910 height act. Most everyone takes pride in the horizontality of our capital city, arguing the city would not have that character without the act.

Unfortunately, myths, misunderstandings and strained interpretations sometimes cause public officials and preservationists to fear that real estate developers, architects and their attorneys want to breach the limitations and destroy that character with major vertical increases having an adverse impact on our skyline.

No doubt, there are those who would like to do away with the 1910 height act and, at the other extreme, there are those who would like to apply interpretations that restrict heights far below what was intended by the act.

Both are wrong. There is a middle ground — all completely within the framework of the overall heights of buildings as consistently permitted and built over the last 100 years.

The 1910 height act was initiated by the District of Columbia Board of Commissioners — not Congress — because, after the permitting of the Cairo Hotel at 1615 Q St. NW, our

city fathers felt that there should be appropriate height limits. The essential requirements of the act, as now in effect, are that buildings on business streets may be erected to a height of the width of the street plus 20 feet, with an overall maximum height of 130 feet, except for the north side of Pennsylvania Avenue between First and 15th streets NW, where "an extreme height" of 160 feet is permitted. On a residence street, the maximum height is 90 feet, but further limited by the width of the street diminished by 10 feet. The point of measurement is required to be taken from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof or parapet, provided that if the building has more than one front, the height shall be measured from the elevation of the sidewalk that permits the greater height.

Above the maximum height of a building itself, the law also provided for essentially two types of structures, namely architectural elements such as spires, towers, domes, minarets which has evolved into what generally has become known as "architectural embellishments"; and utilitarian elements such as penthouses over elevator shafts, ventilation shafts, chimneys, smokestacks and fire sprinkler tanks. Congress set no limit for these roof structure elements but required them to be constructed with a setback from public street frontages on a 1:1 basis and prohibited them from being used for "human occupancy."

Since the inception of zoning in D.C., the Zoning Commission has established height limits by zoning districts. While there have been several limits regarding size of roof structures, no limit on the height of roof structures existed until December 1976, when the Zoning Commission adopted a general limit of 18 feet, 6 inches, with the right of the Board of Zoning Adjustment to approve higher structures.

So the result today is that a 90-foot building with an 18-foot, 6-inch roof structure would have a silhouette of 108.5 feet with setbacks above the height act restriction and a 130-foot building would have a silhouette rising to 148.5 feet with certain setbacks above the restrictions. Aside from setbacks imposed by zoning, the only setback required by the height act is from public streets. These heights have been deemed appropriate to preserve our horizontal city.

Within the overall height limitations, it is clear that Congress intended broad flexibility under the height act enabling the city to be competitive as evidenced by the fact that the act left to D.C. agencies the question of what constitutes a building, left to the city the enforcement of the act through the Office of Corporation Counsel (now the Office of the Attorney General), gave the city the right to adopt a schedule of heights for buildings adjacent to federal buildings and allowed the city to determine how high and how large roof structures should be. Originally, the primary purpose of the height limits was fire safety. That rationale has completely faded, and the sole arguments are now aesthetic and historic aimed at protecting the horizontality vision. Today, the city is at a distinct disadvantage in not being able to be more competitive with our surrounding jurisdictions in terms of design and availability of residential and commercial space.

So, within the existing framework, what additional height can be permitted without doing damage to the essential constraints of the 1910 act? Architects and engineers indicate that the ability to provide one or two more floors of first-class residential and commercial

space in new buildings could be provided with 10 to 20 feet more of height. We need to find a way to allow this without damaging the wonderful perspectives of our city. One solution would be to allow human occupancy within the established total framework of our buildings. This includes the space within buildings as now limited by the act and the space that is already permitted for roof structures with the additional 18 feet, 6 inches. Recently the Office of Planning has suggested that a roof structure height of 20 feet would make more sense.

The aesthetic and historic nature of the height act's application would then be respected and the horizontal nature of our city would not be impaired. While presenting technical and architectural issues on how to provide mechanical and safety measures within the same space above the basic height limits, in many cases additional residential units or commercial space could be provided. Two legislative actions would be required:

1. Congress would have to amend the 1910 height act to allow human occupancy in the space previously allowed for the architectural and utilitarian roof structures. Congress could limit how high human occupancy could go, for example, 20 feet, with the previously required public street 1:1 setback.
2. The Zoning Commission would have to amend the zoning regulations to follow such congressionally approved limitations and would need to determine what size and setback would be required and then provide for limited flexibility through the Board of Zoning Adjustment.

In this manner, the increase of height would be within the overall building heights now permitted and the competitive position of the District of Columbia could be enhanced without disturbing the long and widely respected structural height limitations.

Wayne S. Quin is a partner and land-use practice leader for the mid-Atlantic region at Holland & Knight LLP.

Committee on Oversight and Government Reform  
Witness Disclosure Requirement – "Truth in Testimony"  
Required by House Rule XI, Clause 2(g)(5)

Name: Christopher H. Collins

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1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2009. Include the source and amount of each grant or contract.

None

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2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Testifying on behalf of the District of Columbia Building Industry Association where I serve as Counsel.

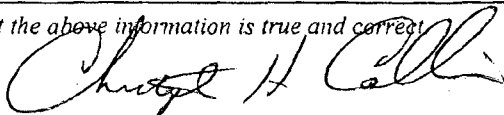
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3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2009, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None

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I certify that the above information is true and correct.  
Signature:



Date:

7/13/12

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# Holland & Knight



## Christopher H. "Chris" Collins

Partner

Washington, D.C.

t: 202-457-7841

e: [chris.collins@hklaw.com](mailto:chris.collins@hklaw.com)

### Practices

Real Estate

Land Use

Mid-Atlantic Land Use

D.C. Practice

### Education

Catholic University of America,  
Columbus School of Law, J.D.

Boston College, A.B., *magna cum laude*, Political Science

### Bar Admissions

District of Columbia

Maryland

**Christopher H. Collins** focuses on zoning and land use law, historic preservation, municipal law, building code and foreign mission and international organization matters. He has considerable experience representing a broad range of local, national and international clients, including residential, commercial, retail and industrial developers, financial institutions, asset managers, hotels and hospitality providers, schools and universities, foreign governments, nonprofit organizations, religious institutions, and property owners and commercial tenants in all areas of land use law and real estate development. He represents clients before all of the federal and local land use regulatory agencies in District of Columbia.

Mr. Collins has lectured both locally and nationally on historic preservation, land use and foreign missions issues. He is also the author of numerous articles on issues involving building codes, zoning regulations, foreign missions and recent developments in land use law and related matters. As an accredited LEED AP Professional, he also counsels clients regarding green building and sustainability issues. Mr. Collins is Counsel to the D.C. Building Industry Association.

Mr. Collins has represented more than 50 foreign governments and international organizations in real estate matters, primarily relating to the acquisition, location, replacement and expansion of their embassy and other facilities in Washington. He is a Counselor to the Meridian International Center.

### Professional Honors & Awards

- *The Best Lawyers in America* guide, Land Use & Zoning Law; Real Estate Law, 2008–2012
- Corporate Counsel Edition, *Super Lawyers* magazine, 2009–2010
- Washington, D.C. *Super Lawyers* magazine, 2009
- Top Washington Lawyer Finalist, Washington Business Journal, 2007 and 2008
- The Legal 500, 2007 and 2008
- Lawdragon 500, 2006
- U.S. Green Building Council, LEED Accredited Professional (LEED®AP)

# Holland & Knight

## Memberships

- District of Columbia Building Industry Association, Counsel
- DCBIA Political Action Committee, Treasurer
- DCBIA Community Services Corporation, Counsel
- Meridian International Center, Counselor and former Trustee
- Cultural Tourism DC, Board member
- Lambda Alpha International Honorary Land Economics Society
- Urban Land Institute – Full Member

## Court Admissions

- U.S. Supreme Court
- U.S. District Court for the District of Columbia
- U.S. Court of Appeals, D.C. Circuit
- All Courts in District of Columbia
- All State Courts in Maryland

## Speaking Engagements

- "Sustainability Initiatives in the District: What You Need to Know," Holland & Knight Seminar, April 24, 2012
- "Real Estate & Construction Considerations for Associations and Nonprofits," CBH Annual Nonprofit Seminar, November 4, 2010

## Published Articles & Books

- "Summary of D.C. Green Building Act Requirements," *District of Columbia Building Industry Association Pipeline*, April 2010
- "New Residence Building in Washington, D.C. for Chinese Embassy's Education Office," *China*, Newsletter – June 2008

### **(1) Eliminating sites with substantial development capacity**

OP applied broad filters to eliminate sites from the analysis, including sites that have substantial development potential in each of the three scenarios: current zoning, zoning flexibility that is consistent with the Comprehensive Plan, and only limited by the constraints of the Height Act.<sup>2</sup> These filters included:

- (1) The elimination of all land designated for public use, including all properties designated as “Local Public Facilities” in the DC Comprehensive Plan;
- (2) The elimination of all land designated as Institutional and Federal in the DC Comprehensive Plan; and
- (3) Properties which were built to greater than 30% of the capacity permitted as a matter of right with current zoning.

By applying the first two filters, OP eliminated from the analysis a large number of sites which have substantial development potential even with existing zoning. If constrained only by the Height Act limits, these sites would have even higher capacity.

For example, the local public facilities filter eliminates DC properties that had been considered for redevelopment with substantial increases in density, such as the proposal to add 200 housing units to one elementary school campus in Ward 3. The local public facilities filter also eliminates large WMATA-owned sites that had been considered for redevelopment, sometimes retaining the current function while adding commercial space and hundreds of housing units. The Franklin School site also is excluded from the analysis.

It appears as though OP eliminated the land designated as Institutional or Federal Facilities on the Comprehensive Plan map simply because some of that land is not currently regulated by floor area ratio limits, so the calculation of the first scenario would have been more complex. This includes a substantial amount of land owned by private schools, hospitals, retirement homes, religious institutions and other institutions which have substantial development opportunity under the current zoning regulations, and even more development opportunity within the limits of the Height Act. For example, potential development on the Walter Reed site is not included in the analysis, and neither is the Third Church located at 16<sup>th</sup> and I Street, NW.

The third filter listed eliminates all properties that are currently built to at least 30% of the current matter-of-right zoning limits. This aggressive filter eliminates many sites with substantial development potential even within the matter-of-right limits of current zoning, and certainly with planned unit developments or even map amendments consistent with the Comprehensive Plan. OP is excluding properties where the density could be tripled with matter of right development, and more than tripled with zoning relief consistent with the Comprehensive Plan. This filter eliminates from OP’s calculation sites with one or two story buildings on major corridors, where there would be substantial additional capacity were the Height Act limits the only constraint.

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<sup>2</sup> In addition to the filters discussed above, OP applied the following filters which further limited the area under consideration, and eliminated some potential development in each scenario: Single Family Zone districts; Historic Landmarks; Recently Developed Properties (time frame not specified in the report); Transportation Rights-of-Way; and certain other properties where the analysis indicated that there was more than 300,000 SF of capacity where OP determined that there might be an error in the data. See Height Master Plan for the District of Columbia, Evaluation and Draft Recommendations, DC Office of Planning, September 20, 2013, transmitted to Congress on September 24, 2013, pages 33-34.

## **(2) Inclusion of only land designated in the Comp Plan maps as medium or high density**

In addition to these filters, much of the OP analysis included only land designated on the Comprehensive Plan maps as medium and high density. Development of the properties designated as medium density in the Comp Plan is not limited by the Height Act limits since those are described as mid-rise (4-7 stories) apartments in residential zones (Comp Plan 225.5), and as generally not exceeding 8 stories in height in mixed use zones (Comp Plan 225.10).

There currently are significant development opportunities on sites with designated as low and moderate density designations in the Comprehensive Plan (with corresponding zone districts for the moderate density designations including R-3 through R-5-B, and C-2-A, C-2-B and C-3-A). These sites can have a floor area ratio up to 4.0, plus an inclusionary zoning bonus if applicable. Even the low-density designation includes land zoned C-2-A, which can have a floor area ratio of up to 3.0 with inclusionary zoning.

OP's analysis of the capacity available under a full build-out consistent with the Height Act does not include land designated as low or moderate density in Comprehensive Plan. According to the OP report, the development capacity under current zoning would increase by 85% if this land was included. According to OP's tables, these areas would support additional matter-of-right development of approximately 117 million square feet. With map amendments or PUDs consistent with the Comprehensive Plan, according to OP's tables, these areas would support additional development of over 180 million square feet. These areas were not included in OP's estimate in Table 3 of the amount of development possible under current federal Height Act limits.

In Table 3, OP claims that, with Height Act limits, there is additional development capacity of 221.8 million square based on a calculation that excludes areas that would support over 180 million square feet while maintaining densities consistent with the Comprehensive Plan.

## **(3) Arbitrary 25% Reduction in the development capacity of sites included in the analysis**

In calculating the capacity under the current (matter of right) zoning limits and the Comprehensive Plan with map amendment limits, OP reduced each of the estimates by 25% to account for factors that limit the ability to build out to the full zoning or Comprehensive Plan envelope. With PUDs and map amendments, it is not unusual to see development far in excess of matter-of-right limits and unusual to see redevelopment substantially below the matter-of-right density, especially in some of the areas characterized as having sufficient market demand to support heights greater than 130 feet. Given the amount of development that reaches or exceeds the current zoning envelope, there is no reasonable justification for the massive reduction in the estimate of developable capacity

### **RELATIONSHIP BETWEEN THE CAPACITY STUDY AND THE FEASIBILITY ANALYSIS**

While the limitations on the sites included in the study as well as the reduction in the estimated capacity by 25% result in a substantial understatement of the development capacity available as a matter of right with current zoning, it is astounding that OP would use the same limitations and reduction in their analysis of development capacity within the Height Act limits.

How can OP justify the assumption that it is not economical to redevelop a site that is developed to a FAR of 1.0 (where with current zoning, the FAR limit is 3.0) when considering the Height Act limits which could expand the development capacity to as much as 8.6, especially when we observe similar sites being redeveloped to much lower densities?

While those sites are eliminated in the determination of the city's development capacity with the Height Act limitations, a substantial portion of the analysis of the economic benefit of lifting the Height Act limitations is demonstrating how it would be profitable to add two stories to some eight story developments. The redevelopment scenarios that OP treats as impossible when it is claiming that there is insufficient room for growth under the Height Act limitations, it assumes will happen universally as it calculates the economic benefits from lifting the Height Act constraints.

While some of these limitations, such as not considering low and moderate density zones, might appear to be based on deference to the Comprehensive Plan, OP's deference to the Comprehensive Plan goes out the window when OP calculates the economic benefit to lifting the Height Act limits. In that case, suddenly they are evaluating buildings that are 250 feet tall, with ground floor retail and 918 housing units per acre in areas that the Comp Plan describes as medium density, across the street from a single family neighborhood.

And redevelopment limitations also fall by the wayside as there is significant emphasis on the feasibility of adding density to existing buildings, even buildings that clearly would not have made it through the filter on having development at least 30% of the density allowed as a matter of right.

### **CONCLUSION**

OP has made recommendations to dramatically change the shape of our city to address a problem that they cannot demonstrate exists. Those recommendations should be flatly rejected.

Phyllis Myers  
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202/329-4215 C  
srsmyers@earthlink.net

National Capital Planning Commission  
c/o William Herbig  
401 9th Street Northwest  
North Lobby, Suite 500  
Washington DC 20004

Re: Written Testimony on Height Act for Special NCPC Meeting of October 30, 2013

Dear Commission Members:

Thank you for holding a special commission meeting to gather public comments on this topic and for your thoughtful report supportive of the District's unique and successful planning vision, rightly celebrated by residents, visitors from America and abroad, business community, and leaders from all professions and walks of life. I apologize that I will not be able to appear in person to testify in person but respectfully submit these comments to urge rejection of OP's recommendations.

I have studied OP's recommendations carefully as a professional planner, expert on domestic and international urban revitalization and author of pioneering studies of Smart Growth, inclusive economic development, and livability, and numerous articles on these topics. I am a long-time resident of Chevy Chase, DC, where I have experienced the community's ups and downs and happily ups again. I served on the board of the American Planning Association as chair of its parks committee and was honored for a widely disseminated report on urban livability for the Brookings Center on Metropolitan Policy and was a Trustee of the Committee of 100 on the Federal City, for whom I managed a study of the environmental and transportation sustainability of Rock Creek Park. I was recently elected as a Fellow of the National Academy of Public Administration.

Because others will be speaking eloquently about the distinctive beauty of our planned city, I will limit these comments to the flawed rationale that appears to animate OP's draft recommendations:

1. The 1910 height act is sclerotic, a century old outdated vestige of obsolete planning and needs to be transformed.
2. The city needs to shed the height limits in order to solve its budget problems.

**The 1910 Height Act is an outdated planning vestige that needs to be updated for the next century**

The 1910 Height Act has endured, not because it was planned for a 100-year life, but because it has proved its worth over the century. It did not have a "destroy-by-xx date." Its advocates laid down a general framework for its vision of a great city that has survived, with some tweaking and all things considered, few grand missteps over the years. It was not based solely on ephemeral fire-fighting capability, though that might have been a consideration and security continues a challenge in District development.

Without carrying the analogy too far, the Height Act might be compared to the much older federal Constitution. Admirably brief, its interpretation debated intensely over the years and amended to account for an enlarging perspective on democracy, the Constitution is not seriously suggested even by critics as a topic for rewriting or gutting.

The Height Act has similarly moved the city's growth in the direction of resilience and adaptability, allowing for flexibility within a larger vision as it expands its sensitivity to human and democratic values while sustaining and enhancing distinctive physical and environmental assets.

It has been an honor to live here, and I believe the many people who came, as I did, to stay for a year and found that they wanted to put down roots in this beautiful, dynamic, and challenging city, share this sentiment. We see this every time an Administration changes.

I would argue that some of this magnetism is linked significantly to the still undefined effects of low scale, sunlight, wide streets, design, and green spaces on our psyche and mood. This morning, National Public Radio spoke of recent scientific findings about the relationship of place to stress and well-being, findings that they are attempting to quantify. Why do some places feel good, calm us, increase our productivity, and renew our energies?

Where do OP's recommendations lead? One only has to look to Crystal City and Rosslyn, or Rockville Pike, or more recently Friendship Heights, or to mega suburban shopping centers now being gutted, to see how the Height Act, with its restraints rooted in a vision of distinctiveness, history, livability, and grandeur, and yes, economics, has served our residents, city, and federal interests well. If provisions in the Height Act now incentivize sensitive investment in neglected parts of the city, this is all to the good.

OP's director speaks of planning for the next 100 years. There are too many uncertainties and unknowns to prescribe the details of the city's future growth that far into the future. So many trends now seen as priorities have moved onto the radar screen within the past five or ten years. It doesn't take much imagination to realize that much could change to affect the direction and quantity of growth and development in the blink of another five to ten years. Substantial modifications to the city's Height limits are a diversion at best, not a solution to the complex challenge of planning in our times.

### **The Height Act strangles the city's finances**

OP seems to base its case for modifying the Height Act most strongly on economics. The District's peculiar status, it argues, constrains its ability to raise revenues, because the large amount of tax-exempt land and restrictions on building taller buildings lower the potential for commanding higher property and business taxes as well as income and/or estate taxes if more higher income people became city residents.

While there are many uncertainties in this rationale, the evidence deserves further analysis and I reserve final judgment until the latest data are available to examine the complex federal/city relationship. Meanwhile, It seems to me that the city has risen to the top of the charts in many measures of economic recovery. My sense is that to see the whole picture, the federal contribution to city coffers, direct or otherwise, needs to be examined independently, taking such factors as its contribution to stability and certainty, direct support for transit users, maintenance of federal lands and roads, education, and the role of the federal presence in sparking private investment and partnerships beyond what might be expected in a more typical city. While there must be substantial research on these points, the OP

presentation seems one-sided and dated. At a minimum, given the weight OP gives to this issue in its recommendations, I hope serious consideration will be given to commissioning an independent study before moving forward.

While the economic argument warrants further study, it does not follow that OP's diagnosis, if confirmed, would necessarily call for transforming or gutting height limits. Indeed, the analysis could rather present a strong case for reforming institutional and governance constraints on the city's capacity to raise revenues and spend them efficiently and wisely in collaboration with the federal government and the region.

One wonders if revenues rose thru building higher would stream more money to areas of need and neglect even as this strategy changed, irrevocably, the distinctive qualities that many believe contribute significantly to city and regional coffers.

Thank you for considering these comments.

Sincerely,  
Phyllis Myers  
President, State Resource Strategies  
NAPA Fellow  
Resident, 3248 Patterson Street NW, Washington DC 20015

**Government of the District of Columbia  
ADVISORY NEIGHBORHOOD COMMISSION 3-D**

P.O. Box 40486  
Palisades Station  
Washington, D.C. 20016

October 27, 2013

L. Preston Bryant, Jr., Chairman  
National Capital Planning Commission  
401 9th Street NW  
North Lobby, Suite 500  
Washington, DC 20004

Harriet Tregoning, Director  
District of Columbia Office of Planning  
1100 4th Street, SW, Suite E650  
Washington, DC 20024

**RE: Resolution of Advisory Neighborhood Commission 3D on the  
DC Recommendations to Change the Height of Buildings Act of 1910**

Dear Mr. Bryant and Ms. Tregonning:

At a publicly noticed meeting on Wednesday, Oct. 2, 2013, held at the American University, School of International Service, Founders Room, Washington, D.C., with a quorum present at all times, Advisory Neighborhood Commission (ANC) 3D voted 7-1-1 to support the attached Resolution of Advisory Neighborhood Commission 3D on the DC Recommendations to Change the Height of Buildings Act of 1910.

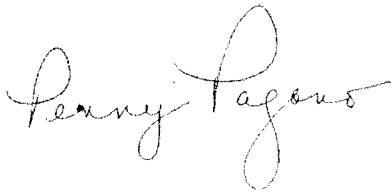
ANC3D is concerned about the draft recommendations proposed by the Office of Planning to modify the Height of Buildings Act of 1910 to allow increased heights within the District's boundaries. These proposals would include raising the building maximum height in the L'Enfant City from 160 ft. to 200 ft. and allowing the city to determine building height maximums for areas outside the L'Enfant City through the Comprehensive Plan and zoning processes.

In its draft recommendations, the city's Office of Planning maintains that the current height limits constrain existing capacity to accommodate projected household and job growth along with potential development opportunities over the next three decades. While residents want our city to grow and thrive, these draft proposals to alter long-established height limitations have generated serious concern over the impact such changes would have on existing neighborhoods and our city as a whole.

The ANC3D resolution also reflects the Commission's concern that the submission of draft recommendations by the Office of Planning prior to public participation and review by the National Capital Planning Commission did not provide an adequate opportunity for its own residents to weigh in and provide input on the future of the city where they live and work.

As a result of these concerns, ANC3D supports maintaining the existing Height of Buildings Act of 1910.

Sincerely,

A handwritten signature in cursive script, reading "Penny Pagano". The signature is written in dark ink and is positioned above the printed name.

Penny Pagano  
Chair, ANC3D

Enclosure

Cc:

tanya.stern@dc.gov

Deborah.young@ncpc.gov

Marcella.brown@ncpc.gov

jjacobs@dccouncil.us

**RESOLUTION OF ADVISORY NEIGHBORHOOD COMMISSION 3D ON THE  
DISTRICT OF COLUMBIA'S RECOMMENDATIONS TO CHANGE THE HEIGHT OF  
BUILDINGS ACT OF 1910**

WHEREAS, the Height of Buildings Act of 1910 (the Height Act) is a federal law that can be modified only through congressional actions; and

WHEREAS, on October 3, 2012, the chairman of the House Committee on Oversight and Government Reform requested the National Capital Planning Commission (NCPC) and the District of Columbia government work jointly to examine the extent to which the Height Act continues to serve federal and local interests, and how the law could affect the future of the city; and

WHEREAS, the character of Washington's historic L'Enfant City, particularly the monumental core, establishes the city's iconic image as our national's capital; and

WHEREAS, any changes to the Height Act that affect the historic L'Enfant City should be carefully studied to ensure the iconic, horizontal skyline and the visual preeminence of the US Capitol and related national monuments are retained; and

WHEREAS, the Committee also encouraged the exploration of strategic changes to the law in those areas outside the L'Enfant City that support local economic development goals while taking into account the impact on federal interests, compatibility to the surrounding neighborhoods, national security concerns, input from local residents, and other related factors; and

WHEREAS, the DC Office of Planning (OP) led the District's efforts on the study and contracted consultant services for two studies: an Economic Feasibility Analysis and a Height Master Plan Modeling Analysis; and

WHEREAS, on September 24, 2013, without consulting NCPC or District residents, the Mayor submitted the District of Columbia's Height Master Plan evaluation and draft recommendations for changes to the Height Act; and

WHEREAS, Recommendation 2 states, Congress should allow the District of Columbia to determine building height maximums for areas outside of the L'Enfant City through its Comprehensive Plan and zoning processes; and

WHEREAS, amendments to the Comprehensive Plan are reviewed and recommended for DC Council consideration by OP and amendments to the zoning regulations can be forwarded to the Zoning Commission only by the Office of Planning.

NOW THEREFORE BE IT RESOLVED, that ANC 3D opposes Recommendation 2 based on the premise that there is consensus that the federal interest is less and much more attenuated or perhaps non-existent outside of the L'Enfant City; and

BE IT FURTHER RESOLVED, that ANC take no solace in Recommendation 2, which would transfer jurisdiction to the city to determine the appropriate building height limits for those parts of the District outside of the L'Enfant City through its statutorily-required Comprehensive Plan and zoning amendment process; and

BE IT FURTHER RESOLVED, that ANC 3D rejects Recommendation 2 based on the fact OP exercises considerable control over the Comprehensive Plan and zoning amendment processes in the District; and

BE IT FURTHER RESOLVED, that ANC 3D is unable to support the core principles of the Height Master Plan as applied to areas outside the L'Enfant City as they are based on an economic feasibility analysis that fails to recognize the importance of neighborhood stability and character which is a guiding principal of the Comprehensive Plan's Land Use Element; and,

BE IT RFURTHER RESOLVED, that ANC 3D recognizes the extensive public process has not been followed as demonstrated by the transmittal of the District's Height Master Plan prior to public participation and review by the National Capital Planning Commission and public meetings; and

BE IT FURTHER RESOLVED, that ANC 3D strongly support maintaining the Height of Buildings Act of 1910 in its current state, without additions or deletions, as it has protected the monumental core and its surrounding neighborhoods for the past one hundred years.

October 2, 2013

**Comments on the National Capital Planning Commission's  
Federal Interest Report and Findings  
for the Joint Height Master Plan for Washington, DC  
by the  
National Coalition to Save Our Mall**

October 28, 2013

The National Coalition to Save Our Mall welcomes this opportunity to comment on the “Federal Interest Report and Findings” prepared by the National Capital Planning Commission. In short, we are concerned that the report while beginning a useful inquiry falls short in analyzing and considering the impacts of relaxing the height limits that have preserved the character of the nation’s Capital for several generations.

The Coalition is a 13- year old, non-profit citizens’ organization working to safeguard and enhance the National Mall as a symbol of America’s founding ideas and the stage for our evolving Democracy.

**In particular, the Coalition has a significant concern about changes to height limits that would damage the character of the National Mall and other capital historic landmarks, parks and open spaces, major avenues, and other special places that form an essential part of the Capital city.**

The Height Act together with the historic L’Enfant and McMillan Plans for Washington, D.C. are a primary reason the planning of the Nation’s Capital has been so successful. Congress charged NCPC with the responsibility for maintaining the federal interests, particularly the two historic plans. Congress reinforced its protections of the historic plans in 1986 with the Commemorative Works Act the purpose of which is “to preserve the integrity of the comprehensive design of the L’Enfant and McMillan plans for the Nation’s Capital.” The importance of the Height Act in protecting our Capital’s planning heritage was not fully understood until Washington developed as an urban center, particularly after the Second World War. Today, taken together, the Height Act and the two historic plans make us what we are. It is NCPC's responsibility, indeed, obligation, to protect this heritage.

But the Report and Findings on the Height Act prepared by NCPC fails to take the strong, unequivocal position called for from the federal government’s planning agency that is charged with protecting federal interests. The findings repeatedly say raising height limits “may” have an impact when there can be little doubt that taller buildings “will” adversely impact views from the Mall and other federal interest. We believe this position needs to be strengthened.

In the paragraphs below we provide detailed comments on the report and identify instances where this weak language occurs. NCPC, in our view, should take a fully positive position about the importance of the Height Act to preserve the quality of our city in the years to come.

A. General Comments

- The Report mentions the National Mall as a federal interest, **indicating visual modeled height increases may have significant adverse interest on the Mall.** The Federal Interest Report does not identify and/or examine sufficiently height impacts on the existing historic significance of the National Mall, vis-a-vis increases from surrounding and adjoining areas. The Report's text clearly demonstrates that the findings are premature, rather general and vague, and require a much more detailed federal interest analysis, particularly with respect to the impact on the Mall and the overall character of the entire Capital city.
- The Commission's authorizing legislation, the National Capital Planning Act of 1952, established the Commission as the planning agency for the Federal Government in the National Capital and also made it responsible to **"Preserve the important historical and natural features of the National Capital."** (emphasis added) Under this responsibility the Commission's Report needs to be more assertive.
- Page 24 of the Report indicates "the conceptual nature of the **visual modeling is insufficient to make specific recommendations**" and recognizes that the current local Zoning Regulations and the Congressional (1910) Height Act "work together **to protect the character of the city.**"(emphasis added) **This would seem to indicate further modeling before any report is finalized.**
- Since a Congressional Committee asked for the study, NCPC and the Mayor, as chief planner for the City, must respond, but the current modeling study is **"limited to conceptual massing studies. It is not a comprehensive picture of how height increases may permanently alter Washington's streets, views and public spaces."** (Report p. 24)
- To help in the view shed studies, members of the Coalition respectfully suggest referring to the "Citywide Framework for Urban Design" and the "City Sections Design Diagrams" contained in the **NCPC Proposed Comprehensive Plan For The National Capital, February 1967**, for identified view sheds, reciprocal axis, significant sight lines or skyline interest, gateways and additional urban design considerations and guidelines.
- **The Report makes no mention of how much building envelope (or theoretical space) still remains to be built under the maximum height allowed currently by the Zoning Regulations and the Height Act.** Nor is there a specific study of total future development needs and its relationship to housing, transportation, the federal establishment, and other relevant Comprehensive Plan matters, including public service and utility capacities. The current adopted Comprehensive Plan for the National Capital, both Federal and District Elements, provides no basis for changing the height or density for development for the next twenty or so years. The District Elements only suggest zoning changes in keeping with the Plan's Land Use Map and Policies. Building height is an integral aspect of the different land use density categories contained in the Zoning Regulations and in the Capital City further regulated by the Congressional Height Act of 1910.
- In the opinion of the Coalition, a comprehensive city wide street and places study needs to be undertaken jointly, in relation to any increases to the height of buildings within the city overall and all existing view sheds identified, analyzed in detail, and accurately portrayed. Conceptualized studies are inadequate for this documentation due to page size and scale, and provide a misleading picture to readers who may then draw erroneous conclusions.

B. Report Key Findings. The Report Key Findings section, starting on Page 32, states the crucial role of NCPC and other federal agencies but then fails to take a strong position to protect the federal interest:

- “Only the federal establishment can protect these and other national interests in perpetuity.”
- “Based on the visual modeling...changes to the Height Act within L’Enfant City and within the topographic bowl **may have a significant adverse effect on federal interest.**”
- Height “increases **may also impact the character of L’Enfant streets and public spaces.**”
- Federal interests “are also present outside of the L’Enfant City and beyond the edge of the Topographic Bowl...Visual modeling studies (by the City) **has excluded much of this area for review.**”
- “The visual modeling studies demonstrate impacts to some federal resources if **full build out occurred** under the current Height Act. **View shed protection merit further study.**” (emphasis added)

C. Federal Security. The Report deals with increased height impacts on Federal Security but takes no strong stand in favor of the federal interest.

- The Report finds “**Any uniform increases in the height of buildings near most federal agencies may result in costs associated with new security evaluations, such as assessments of new lines of sight to and from federal facilities.**” (Page 34)
- The Report also mentions a reference to “An increase in building height **could potentially impact** the existing building security measures already in place.” (emphasis added) (Page 34)

D. Infrastructure. Infrastructure is recognized to be a federal interest but is not adequately evaluated.

- The Report finds that “**Taller buildings could impact infrastructure capacity if they result in greater density.**” Again the NCPC study declares infrastructure to be a federal interest but identifies this study’s time and funding constraints as Report limitations. Such studies must relate to the current Comprehensive Plan for the National Capital **which does not suggest any substantial increases in the infrastructure of the National Capital.** In addition, Page 36 of the Report states “Large or uniform increases in height **may** impact the city’s infrastructure.” This finding is based on “federal agency representatives and local resident’s strong expressions of concern about impacts to infrastructure from increases in height.”

E. Federal Development Trends.

- Pages 37-39 deal with Federal Development Trends including employment levels. In addition to finding that “it cannot be said that the federal interest is limited to any certain area within the District, now or in the future,” and that “the economic vitality of the national capital is also a federal interest”...“from a federal operational and mission

perspective, the Height Act continues to meet the essential interests and needs of the federal government and it is anticipated that it will continue to do so in the future. **There is no specific federal interest in raising heights to meet future federal space needs. Like the private market, the federal government’s demand for office space is cyclical, and will be affected in the future by changing technology, workplace practices and mission needs.” (Key Finding 3.4c; emphasis added)**

- We agree with such trend findings but they should be more fully substantiated by documentation of future needs to build and rebuild (City and Federal) beyond the current Zoning Regulations and Height Act restrictions. It should be noted that the lands for federal public buildings are not zoned by the City but subject to the Height Act and NCPC approval.

F. Historic Resources. The weak and ambiguous language in this section **can be interpreted as undecided** and not answering the Congressional request.

- Section 3.5 of the Report deals with major Historic Resources and the “many community organizations, neighborhood and other groups expressed concern about the impacts of raising height on the scale and character of neighborhoods.” The identified issues in this section, the L’Enfant and McMillan Plans, are well described but again with an ambiguous statement such as “Any changes to the Height Act **could impact or alter (Historic Plans) views by introducing new elements that may disrupt or narrow the view shed, thus potentially causing adverse effects on the Plan of the City of Washington.** In addition, changes to the Height Act have the potential to change the streetscape’s character, and alter L’Enfant’s vision of grand boulevards and public spaces, thereby causing adverse effects on the Plan of the City of Washington.” **(emphasis added)** These statements are true and can be made stronger and more compelling with better documentation.
- Page 44 of the Report states, “The horizontality of the city allows these landmarks to stand out and emphasizes their importance and symbolism. It goes on to say **changes to the Height Act could impact the scale of nationally significant landmarks, their setting, and alter or reduce their symbolic meaning.**” (emphasis added) We agree but this needs more documentation than a few pictures and general diagrams.
- Page 44 only gives a few examples of historic resources outside the L’Enfant City. There are numerous others that need to be protected. The Report states that “Views to and from these resources contribute to their significance. Depending on the location and proposed changes to the Height Act, the setting of these resources may be impacted. **Altering the setting of these historic resources, including views to and from the sites could diminish their importance.**”(emphasis added) We agree.

In our opinion, the magnitude of potential increases in building height within the 67 square miles of the District of Columbia requires a much more definitive identification, detailed site studies and analysis. **This document is not adequate or sufficient to develop a Master Plan that would designate locations for buildings taller than 160 feet.** It only identifies adverse impacts which, in our opinion, should be avoided. Key Findings 3.5a, 3.6 and 3.6a begin to identify additional complexities and the all-engulfing aspects of increasing the height of buildings in the National Capital.

In addition to the Capitol building, major national monuments and federal/international buildings, the seat of our nation's government and **the planned historic horizontal character of the Capital is the city's primary attribute.** No other city in the country can claim this distinction. When visitors and officials from this and other countries visit our Capital City, they marvel at the historic character established by George Washington/L'Enfant and the subsequent enactment by the Congress of the current Height Act of 1910.

Submitted on behalf of the National Coalition to Save Our Mall by:

Judy Scott Feldman, PhD  
Chair

George H.F. Oberlander, AICP  
Vice Chair

A handwritten signature in blue ink that reads "Judy Scott Feldman". The signature is written in a cursive, flowing style.A handwritten signature in black ink that reads "George H.F. Oberlander". The signature is written in a cursive, flowing style.



**THE GEORGE  
WASHINGTON  
UNIVERSITY**  
WASHINGTON, DC

Center for Real Estate and Urban Analysis

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October 28, 2013

Ms. Harriet Tregoning  
Director of the District of Columbia Office of Planning  
1100 4th Street, SW, Suite E650  
Washington, DC 20024

Subject: Letter of Support for the District of Columbia Height Limitations Evaluation and Draft Recommendations, September 20, 2013

Director Tregoning,

I am a metropolitan development scholar and am a resident of Washington, DC. My experience includes owning and managing the country's largest real estate consulting firm for 20 years, a founding partner of a real estate development firm, an author of 12 books on urbanism and numerous articles for national publications. I am currently a professor at George Washington University, Chair of the Center for Real Estate and Urban Analysis and a non-resident senior fellow at the Brookings Institution.

I urge the adoption of the District of Columbia recommendations to assume responsibility for building height outside of the L'Enfant old city boundaries and slight easing within the original L'Enfant boundaries to reflect changing fire suppression technologies.

The major reason for this recommendation is that following 60 years of losing relative job, office, retail and residential growth to the suburbs, the District in 2004 economically turned around and began to relatively grow compared to our suburbs. This was one of the first center cities in the country to turn around and it has provided residents with more job opportunity, the District with a healthy balance sheet, a safer and more vibrant city and a model for center cities across the country.

The problem is that the L'Enfant city is running out of developable land and square footage that can be developed, mainly due to the height limit and the appropriate desire to preserve historic buildings. The L'Enfant city is probably 15-25 years from running out of developable land based upon current growth rates.

However, the District needs the ability to continue to grow. It would be nearly a crime to lose the advantage of offering walkable urban places to grow jobs and families due to not having enough land and building development potential.

In addition, the city is a leading model of environmental sustainability since walkable urban development is essential to reducing green house emissions. The City is also providing a model of green building, lowering green house gas emissions even further. Having the early 20th century limitations of building heights maintained reduces the ability of the District to reduce climate change, especially since the built environment (buildings and transportation) is the largest category of emissions, contributing nearly 75% of all green house gases.

Keeping an early 20th century law *or* provide a national model of reducing green house gases is not a difficult decision for me. We should let the nation's capital be an environmental model by selectively raising the height limit.

Finally, little is said about the financial implications of raising the height limit. In the District today, the value of a floor area ratio (FAR) square foot is between \$50 and \$150 per square foot. The air rights above the current limit belong to the citizens of the District. They are worth billions of dollars that could build the new streetcar system, affordable housing, redevelop our schools and many other positive initiatives. The citizens of DC, whom I am one, would like to take advantage of this significant asset we own.

No one wants to disturb the sacred view corridors or character of the L'Enfant city. However, outside the original Boundary Street (generally Florida Avenue) the city government should have the jurisdiction to determine the appropriate height. In addition, economic growth will probably go to the predominantly minority northeast and southeast parts of the city that have rarely in 220 years received its fair share of economic opportunity. Raising the height limits will encourage racial and social equity.

Please accept the District's recommendations for modifying this arbitrary law outside the L'Enfant city, while making minor adjustments within the old city.

Thank you,

A handwritten signature in dark ink, appearing to read 'C. Leinberger', with a stylized, flowing script.

Christopher B. Leinberger  
Charles Bendit Distinguished Scholar and Research Professor of Urban Real Estate,  
George Washington University  
Non-resident Senior Fellow  
The Brookings Institution



National Trust *for*  
Historic Preservation  
*Save the past. Enrich the future.*

October 25, 2013

Ms. Lucy Kempf  
National Capital Planning Commission  
401 9<sup>th</sup> Street, NW Suite 500  
Washington, DC 20004

Ms. Tanya Stern  
D.C. Office of Planning  
1100 4<sup>th</sup> Street, SW, Suite E650  
Washington, DC 20024

Dear Ms. Kempf and Ms. Stern:

I am writing on behalf of the National Trust for Historic Preservation regarding the Height Act Study conducted by the National Capital Planning Commission and the D.C. Office of Planning.

The National Trust is a privately funded nonprofit organization, chartered by Congress in 1949 to further the historic preservation policies of the United States and to facilitate public participation in the preservation of our nation's heritage. 16 U.S.C. § 468. The mission of the National Trust is to provide leadership, education, and advocacy to save America's diverse historic places and revitalize our communities. The National Trust has been actively engaged in the public process for the Height Act Study.

One year ago Congressman Darrell Issa, Chairman of the House Committee on Oversight and Government Reform, requested a joint study "to examine the extent to which the Height of Buildings Act of 1910 continues to serve federal and local interests, and how changes to the law could affect the future of the city." (Congressman Darrell Issa to Mayor Vincent Gray and NCPC Chairman Preston Bryant, Jr., Oct. 3, 2012.) Chairman Issa's request for a joint study makes good sense, as the federal government and local government share significant interests throughout the District of Columbia, our Nation's Capital. Congressman Issa's letter specifically directed

The character of Washington's historic L'Enfant City - particularly the monumental core - establishes the city's iconic image as our capital. Any changes to the Height of Buildings Act that affect the historic L'Enfant City should be carefully studied to *ensure that the iconic, horizontal skyline and the visual preeminence of the U.S. Capitol and related national monuments are retained*. The Committee encourages the exploration of strategic changes to the law in those areas *outside* the L'Enfant City that support local economic development goals while taking into account the impact on federal interests, compatibility to the surrounding neighborhoods, national security concerns, input from local residents, and other related factors . . . . (*Id.*, emphasis added.)

The National Capital Planning Commission and the D.C. Office of Planning subsequently agreed to conduct the joint study, setting their goal of reaching a consensus recommendation: "The goal of the study is to reach a federal/local consensus on those areas of the city where height changes would be appropriate." (Height of Buildings Master Plan, Summary Proposal, Nov. 1, 2012.)

However, the agencies did not achieve consensus. Nor did the recommendations focus on "areas *outside* the L'Enfant City," as directed by Congress.

The National Capital Planning Commission, which released its report to the public on September 12, 2013, did identify several potential opportunities for strategic change to the Height Act, including changes impacting "areas outside the L'Enfant City and beyond the edge of the topographic bowl," (NCPC Executive Director's Recommendation, p. 13.) The NCPC report specifically observed that "changes to the Height Act within the L'Enfant City and within the topographic bowl may have a significant adverse effect on federal interests." (*Id.* at p. 10.) Consequently, the NCPC report does not recommend any major changes to the Height Act within the L'Enfant City.

By contrast, the D.C. Office of Planning, which sent its report to Congress on September 24, 2013, recommends major changes to the Act within the L'Enfant City. Those proposed changes would eliminate the current cap on building heights and replace it with "new limits based on the relationship between street width and building height ... using a ratio of 1:1.25, which would result in a maximum building height of 200 feet for 160-foot wide streets." (Height Master Plan, DC Office of Planning, pp. 45-46.) The Office of Planning's report also asserts that there is a "greatly diminished federal interest outside the monumental core," (Height Master Plan, DC Office of Planning, p. 1), and even implies that the federal interest outside the L'Enfant City may be "non-existent." (*Id.* at p. 46.) Consequently, the Office of Planning "recommends that Congress allow the city to determine the appropriate building height limits for those parts of the city outside the L'Enfant City through its statutorily-required Comprehensive Plan and zoning amendment processes[.]" (*Id.* at pp. 1, 46.)

In a nutshell, the experts at the two agencies looked closely at the same set of information but failed to achieve their express goal of a federal/local consensus regarding where Height Act changes would be appropriate in the city. NCPC recommended modest changes, especially focusing on penthouse structures, but the DC Office of Planning recommended much more drastic changes. The two sets of recommendations are incompatible, leaving the public with insufficient guidance for meaningful participation.

The National Trust is concerned that public participation during Phase 3 of the study was unintentionally undermined by the confusion that resulted from the agencies' decision to release separate reports and set separate deadlines for public comment. Public participation also was impaired by the federal government shutdown, when NCPC's website was off-line -- and all study-related information was unavailable -- during a critical portion of Phase 3.

The National Trust's review of the available study materials leads us to conclude that the Height Act has proven to be effective in shaping and protecting the character of the Nation's Capital, and the Height Act continues to serve the public interest. The studies conducted by the D.C. Office of Planning and the National Capital Planning Commission simply do not make a persuasive case for any changes to the Height Act. Therefore, we do

not support the changes to the Height Act proposed by the NCPC or by the DC Office of Planning. As noted in the public presentations, large areas of the city are not yet “built out” to the maximum height currently allowed under existing zoning regulations, and ample long-term opportunities remain for commercial and residential development in the District of Columbia.

If the local and federal governments decide to continue working together in an effort to address these issues, the National Trust recommends an expanded study of the many factors – including the Height Act -- which must be addressed to answer the question of how the federal and local governments can cooperate to accommodate growth without sacrificing historic character.

Thank you in advance for considering the views of the National Trust for Historic Preservation.

Sincerely,

A handwritten signature in black ink, reading "Rob Nieweg". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Rob Nieweg  
Field Director & Attorney  
Washington Field Office



**National Trust *for*  
Historic Preservation**  
*Save the past. Enrich the future.*

**STATEMENT ON THE DRAFT HEIGHT ACT STUDY**  
**Robert Nieweg, Field Director**  
**National Trust for Historic Preservation**  
**September 25, 2013**

My name is Robert Nieweg and I represent the National Trust for Historic Preservation. Thank you for the opportunity to provide preliminary comments regarding the draft Height Act Study.

The National Trust is a privately funded nonprofit organization, chartered by Congress in 1949 to further the historic preservation policies of the United States and to facilitate public participation in the preservation of our nation's heritage. 16 U.S.C. § 468. The mission of the National Trust is to provide leadership, education, and advocacy to save America's diverse historic places and revitalize our communities.

The National Trust has been actively engaged in the public process for the Height Act Study. Representatives of the National Trust have participated in five meetings convened by the DC Office of Planning and the National Capital Planning Commission, reviewed informational material made available by the two agencies, and conferred with our partner organizations and National Trust members. Currently, the National Trust is preparing to submit written comments on the Height Act Study.

We have participated in the Study in order to assess potential impacts to historic properties from possible changes to the Height Act, including impacts to individual historic landmarks and to historic districts – especially those historic properties which are listed on the National Register of Historic Places. At the beginning of Phase 2 of the Study, we requested an opportunity to review key information, including the full report for the Economic Feasibility Analysis as well as maps and additional information to identify the many designated historic properties which are located within the modeling study area. The economic analysis was released to the public on September 24. At the beginning of Phase 3, the National Trust requested an opportunity to review the District's draft recommendations, which were not released to the public until September 24.

Given the time constraints of the Study, we are concerned that the delayed release of the economic analysis and of the District's draft recommendations may unintentionally limit public participation during Phase 3, and certainly with regard to the public's assessment of the two agencies' draft recommendations. The National Trust respectfully requests confirmation that the public will have at

**Washington Field Office**

1785 Massachusetts Avenue NW Washington, DC 20036

E [nieweg@savingplaces.org](mailto:nieweg@savingplaces.org) P 202.588.6107 [www.PreservationNation.org](http://www.PreservationNation.org)

least 30 days to review and comment on the District's draft recommendations. (We note that the District's September 24 press release states: "Public comments will also be accepted on the recommendations for 30 days before the report is finalized.")

Our preliminary review of available material raises several issues for clarification:

1. **Purpose of the Joint Study.** The purpose of the Height Act Study is for the two agencies to jointly examine the extent to which the Height Act continues to serve federal and local interests and how potential changes to the Act could affect the future of the Capital City. A joint study of the entire city makes good sense, as we believe both the federal government and the local government have significant interests throughout the District of Columbia, our Nation's Capital. What is the rationale for the District's statement that: "Outside the L'Enfant City, there is relatively little federal interest in the height of buildings and historic federal resources there can be protected under both federal and local historic preservation law." [Height Master Plan for the District of Columbia, Evaluation and Draft Recommendations, Sept. 20, 2013, p. 5 (emphasis added).]
2. **Scope of the Study.** It was our initial understanding that the two agencies had been charged to explore changes to the Height Act in areas outside of the L'Enfant City, as Chairman Issa directed in 2012: "The Committee encourages the exploration of strategic changes to the law in those areas outside the L'Enfant City that support local economic development goals while taking into account the impact on federal interests, compatibility to the surrounding neighborhoods, national security concerns, input from local residents, and other related factors that were discussed at the July 19 hearing." [Congressman Darrell Issa to Mayor Vincent Gray and NCPC Chairman Preston Bryant, Jr., Oct. 3, 2012 (emphasis added).] What is the rationale for expanding the exploration of changes to include the L'Enfant City?
3. **Federal-Local Consensus.** In response to Chairman Issa's request, NCPC and the DC Office of Planning developed a proposal for the Height Act Study which stated that: "The goal of the study is to reach a federal/local consensus on those areas of the city where height changes would be appropriate." [NCPC Chairman L. Preston Bryant, Jr. to Congressman Darrell Issa, Nov. 1, 2012, Height of Buildings Master Plan, Summary Proposal (emphasis added).]

What are the consequences for the Study of the agencies' failure to reach the intended federal/local consensus?

The National Trust believes that the Height Act continues to serve the public interest, and we are particularly supportive of the NCPC's observation that: "The law is simple, equitable, and has distributed development to all parts of the city rather than concentrating growth to a single high-rise cluster. It contributes to a stable and predictable real estate development climate." [NCPC Executive Director's Recommendation, Sept. 12, 2013, p. 4.]

In our view, the Height Act is a time-tested solution which the federal and local governments should not rush to change. Any proposal to change the Height Act should not move forward without additional careful study and public feedback regarding the two very different and apparently incompatible sets of draft recommendations which have been released by the NCPC and DC Office of Planning.

Thank you in advance for considering these preliminary comments of the National Trust for Historic Preservation.



Preserving America's Heritage

October 25, 2013

Ms. Tanya Stern  
Chief of Staff  
D.C. Office of Planning  
1100 4th Street, SW, Suite E650  
Washington, D.C. 20024

Re: *Draft Recommendations for Modifications to the Heights of Buildings Act (DC ST § 6-601) and the Proposed Height Master Plan for the District of Columbia*

Dear Ms. Stern:

The Advisory Council on Historic Preservation (ACHP) is an independent federal agency responsible for promoting the preservation, enhancement, and sustainable use of our nation's diverse historic resources. In accordance with the *National Historic Preservation Act* (16 U.S.C. 470) (NHPA), we advise the President and the Congress on national historic preservation policy. Given this role, we were pleased to participate in discussions regarding the consideration of modifications to the *Heights of Buildings Act* (Heights Act) administered jointly by the National Capital Planning Commission (NCPC) and your office. We reviewed your office's Height Master Plan for the District of Columbia Evaluation and Draft, and NCPC's Draft Executive Director's Report and Federal Interest Report, which are being readied for final submission to the U.S. House Committee on Oversight and Government Reform, and offer the following comments.

As part of this process, the ACHP supports NCPC's efforts to conduct a broad review of federal real property interests which may be impacted by adjustment to the Heights Act, including current height restrictions which protect the Capitol, national monuments and their historic views, nationally significant historic resources, as well as historic resources outside of the L'Enfant City within the edge of the topographic bowl. ACHP also concurs with NCPC's conclusion that penthouses could support a broader range of active uses in most parts of the city. While there may be some opportunities for strategic change in the areas outside of the L'Enfant City and beyond the edge of the topographic bowl, where there is less concentration of federal interests, ACHP agrees with NCPC that further study would be necessary including an analysis of potential effects to the historic fabric of affected neighborhoods.

As the District of Columbia's State Historic Preservation Office (SHPO) is aware, in order for rehabilitation projects applied to historic buildings to utilize federal historic tax credits, these rehabilitations must proceed in accordance with the *Secretary of the Interior's Standards* (Secretary's Standards) to receive such credits. The Secretary's Standards generally do not permit the type of rooftop additions, as depicted in your Height Master Plan for the District of Columbia Evaluation and Draft, which change a property's historic character. The ACHP urges your office to work further with NCPC to study the point at which potential height increases discourage the pursuit of federal historic tax credits and encourage demolition or substantial alteration to historic properties listed on or eligible for the National

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004  
Phone: 202-606-8503 • Fax: 202-606-8647 • [achp@achp.gov](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)

Register of Historic Places (National Register). Such study, consideration of effects to all National Register listed or eligible properties, and public consultation, should occur prior to the adoption of any changes to the Heights Act and/or the finalization of the Height Master Plan for the District of Columbia.

In addition, changes to the Heights Act and/or the finalization of the Height Master Plan for the District of Columbia, as contemplated, would likely be the catalyst for numerous projects subject to the requirements of Section 106 of the NHPA and its implementing regulations "Protection of Historic Properties" (36 CFR Part 800). In addition to conducting reviews for individual undertakings, the lead federal agency would be responsible for addressing cumulative effects (see 36 CFR § 800.5(a)(1)) to historic properties, including those to the L'Enfant Plan (Plan of the City of Washington), which is listed in the National Register. Where they have a demonstrated interest, consultation under our regulations would likely need to occur among SHPOs from the District of Columbia, Virginia, and Maryland; Federal Preservation Officers (FPOs) and staff from NCPC, the U.S. Commission of Fine Arts, the U.S. General Services Administration, the U.S. Department of Interior National Park Service, the U.S. Department of Homeland Security, the ACHP, and other agencies (36 CFR § 800.2(c)(5)).

After the recommended study, consideration, and public consultation is complete, if changes to the Heights Act are adopted and/or the Height Master Plan for the District of Columbia is finalized as contemplated, the influx of associated preservation reviews could prove burdensome for the DC SHPO; provision of additional resources to the DC SHPO to manage the burden should be considered in advance.

Thank you for the opportunity to comment on this important matter. Should you have any questions, you may contact Ms. Charlene Dwin Vaughn, AICP, Assistant Director, Office of Federal Agency Programs, at (202) 606-8533 or via e-mail at [cvaughn@achp.gov](mailto:cvaughn@achp.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Reid Nelson", with a long horizontal flourish extending to the right.

Reid Nelson  
Director  
Office of Federal Agency Programs

6886

THE DEVELOPER ROUNDTABLE

October 24, 2013

Harriet Tregoning  
Director  
D.C. Office of Planning  
1100 4th Street SW, Suite E650  
Washington, DC 20024

Re: Height Master Plan

Dear Director Tregoning:

The undersigned members of The Developer Roundtable are writing (a) to express our deep appreciation for the briefing you kindly provided us last Thursday on the District of Columbia Height Master Plan (the "Master Plan") and (b) to express our support for the key recommendations set forth therein. We find ourselves persuaded that the District's goal of long-term financial stability and its aspirations to be a diverse, inclusive and sustainable city will indeed be advanced by carefully-considered changes to the Height of Buildings Act (the "Act").

At the same time, we are mindful of the important federal interests that pertain to the original L'Enfant City and its monumental core. But, in our view, the need for great care with respect to the L'Enfant City, in this and all other matters, should not be a rationale for reluctance to examine the many benefits that can accrue from modest and selective modifications of the Act. We personally find ourselves drawn to the powerful economic development, tax base and job creation benefits that would accompany a measured increase in height and density. We are also struck by the Master Plan's forecast that all remaining density in the city could be fully utilized by 2027 without some adjustment in the city's overall development envelope.

Further, we believe this important conversation about the height of buildings goes to the heart of two other priorities: (1) the District's competitive position in the region and (2) its commitment to sustainability. The capacity to accommodate the city's anticipated growth in residents and jobs – and to accomplish this in a way that actually adds affordable housing units and entry level jobs – is an urgent matter for the District. Also of great importance is the promotion of sustainable, environmentally-sound growth which is only empty rhetoric unless appropriate increases in density are encouraged (e.g. increased height as part of transit-oriented development around Metro stations and along corridors that will be served by the planned streetcar system).

Finally, we believe it is not our role to recommend, at this time, specific areas where additional height might be accommodated or what those exact heights might be. And, while it's understood that many property owners might benefit by maintenance of the status quo and the almost

certain escalation in property values that would accompany ever-increasing demand coupled with artificially constrained capacity, we feel that the long-term health and well-being of the city can best be served by thoughtfully-considered changes in the Act.

We thank you and Mayor Gray for your leadership on this issue and the hard work required to reach the best possible conclusion.

Sincerely yours,

Jim Abdo  
Abdo Development

William Alsup  
Hines

Robert Braunohler  
Property Group Partners

Robert Carr  
Carr Properties

Dean Cinkala  
The JBG Companies

Chris Gladstone  
Quadrangle Development Corporation

Kingdon Gould III  
Gould Property Company

Steven Grigg  
Republic Properties Corporation

Douglas Jemal  
Douglas Development Corporation

Norman Jenkins  
Capstone Development Corporation

Peter Johnston  
Boston Properties

Jair Lynch  
Jair Lynch Development Partners

Greg Meyer  
Brookfield Properties

Herbert Miller  
Western Development Corporation

Deborah Ratner Salzberg  
Forest City Washington

Chris Smith, Jr.  
William C. Smith & Co.

Christian Spitz  
DRI Development Services, LLC

Thomas Wilbur  
Akridge

Charles (Sandy) Wilkes  
The Wilkes Company

cc: Congressman Darrell Issa  
Mayor Vincent C. Gray  
Marcel Acosta, NCPC



GREATER WASHINGTON  
Board of Trade

October 21, 2013

The Honorable Vincent C. Gray  
Mayor  
District of Columbia  
1350 Pennsylvania Avenue, NW, Suite 316  
Washington, DC 20004

Dear Mayor Gray:

The Greater Washington Board of Trade commends your leadership and that of your staff in producing the District of Columbia's Height Master Plan evaluation and draft recommendations. On October 8, 2013 Director Tregoning briefed our Executive Committee on the District's study recommendations.

At this writing, the Board of Trade has not taken a position on raising the height limit, however, we strongly support the District's autonomy on this and other matters under Home Rule. We support the District's flexibility to raise the height limits on buildings on a case by case basis in order to address its economic development, fiscal sustainability, environmental, and quality of life goals. Our Executive Committee will re-examine this issue in further detail in November.

Thanks you again for your leadership in this most important matter.

Sincerely,

James C. Dinegar, CAE  
President and CEO  
Greater Washington Board of Trade

cc: Harriet Tregoning  
Marcel Acosta

**PRESERVE OUR GREEN SPACE IN SHERIDAN-KALORAMA**

2229 California Street, NW  
Washington, DC 20008

The Honorable Vincent C. Gray  
Mayor, District of Columbia  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

Mr. Preston Bryant, Jr.  
Chairman, National Capital Planning Commission  
401 Ninth Street, NW, North Lobby, Suite 500  
Washington, DC 20004

SUBJECT: Height Master Plan, NCPC File Number 6886

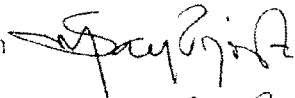
Dear Mayor Gray and Chairman Bryant:

We are a neighborhood group dedicated to preserving green space and the historical integrity of our neighborhood. We support the position developed by The Historic Districts Coalition opposing the Height Master Plan. Our opposition relates primarily, but not exclusively, to our desire to protect the human scale of the city, which would be destroyed by allowing the additional height.

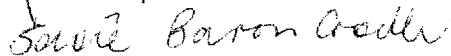
We endorse Approach 1, 1A Status Quo: Make No Changes to the Height Act. We do not support 1B Allow Penthouse Occupancy. We urge you to take account of this position.

On behalf of the board of directors and approximately 500 members of Preserve Our Green Space in Sheridan-Kalorama,

Mayra Addison, Chairman



Saone Crocker, President



Michael Marriott, Vice President



Board Members Lynne Lambert, Holly Sukenik, Fred Crouch



CC: DC Congresswoman Eleanor Holmes Norton;

Thomas Luebke, Secretary, US Commission of Fine Arts;

Frederick Lindstrom, Deputy Secretary, CFA

Marcel Acosta, NCPC Executive Director; Deborah Young, NCPC Secretariat; Lucy Kempf, Project Manager;

Julia Koster, Public Engagement

Phil Mendelson, Chair, DC Council

DC Councilmembers: Anita Bonds, Vincent Orange, David Catania, David Grosso, Jim Graham, Jack Evans,

Mary Cheh, Murel Bowser, Kenyan McDuffie, Tommy Wells, Yvette Alexander, Marion Barry

Harriet Tregoning, Director, DC Office of Planning; Tamara Stern, DCOP Chief of Staff and Project Manager

Gretchen Pfaehler, Chair, DC Historic Preservation Review Board

David Maloney, State Historic Preservation Officer; Stephen Callcott, Deputy State Historic Preservation Officer

National Trust for Historic Preservation: Rob Nieweg, Elizabeth Merritt, Christopher May

# CAPITOL HILL RESTORATION SOCIETY



October 24, 2013

Ms. Harriet Tregoning, Director  
Office of Planning  
1100 4<sup>th</sup> Street, SW  
Suite E650  
Washington, DC 20024

Subject: Office of Planning's Height Master Plan Draft Report dated September 24, 2013

Dear Ms. Tregoning:

Washington DC is a thriving, competitive city with an enviable quality of life and a highly desirable real estate market. It enjoys budget surpluses year after year. CHRS believes it owes this success and distinctive character to the Height of Buildings Act of 1910, along with the L'Enfant and McMillan Plans and other guiding policies outlined in our June 23, 2013 letter on this subject.

CHRS commends the Office of Planning for its detailed research and persistent public outreach regarding height limits, but disagrees with the conclusions. The subject report recommends height increases for reasons which OP's own economic study does not support. Taller buildings cost more to build. Rents will continue to rise. Developers will continue to build boxy buildings to maximize profit. A change would do nothing to increase affordable housing. In short, height increases do not deliver improvements.

We applaud the Office of Planning's commitment to preserve viewsheds and would urge that views throughout the city, as well as views approaching the city, be equally protected. It is unfortunate that the costs of increased infrastructure demands resulting from any changes were not included in the studies. Had they been, the result would likely have shown a net drain on revenues rather than a 1-2% increase. It is essential that the city make a more comprehensive study of viewsheds and infrastructure, as well as security, transportation and communications, before contemplating a change of this magnitude.

CHRS fully supports retaining the Height of Buildings Act in its present form because it benefits the city, its institutions and its residents. We urge the Office of Planning to consider those benefits as well.

Sincerely,

*Janet Quigley*

Janet Quigley  
President, CHRS

## CAPITOL HILL RESTORATION SOCIETY



June 28, 2013

Marcel C. Acosta, Executive Director  
National Capital Planning Commission  
401 9<sup>th</sup> Street, NW  
North Lobby, No. 500  
Washington, DC 20004

email: [marcel.acosta@ncpc.gov](mailto:marcel.acosta@ncpc.gov)

Harriet Tregoning, Director  
Office of Planning  
1100 4<sup>th</sup> Street, SW  
Suite E650  
Washington, DC 20024

email: [harriet.tregoning@dc.gov](mailto:harriet.tregoning@dc.gov)

Subject: Height Act Master Plan Study (Heights of Buildings Act (“Height Act,” 36 Stat. 452)

Dear Mr. Acosta and Ms. Tregoning:

As requested at the public meetings on this study, the Capitol Hill Restoration Society (CHRS) hereby submits comments on the Height Act Master Plan Study.

### **Summary**

The federal Height Act is the first line of defense in protecting our city. If the Height Act limits are raised, this opens the door to raising building heights in the Comprehensive Plan and in the zoning regulations. Communities will be forced to defend against raising building heights in the Comprehensive Plan and zoning regulations. Therefore, any changes in the federal Height Act are a grave matter. CHRS believes that the Height Act has served the city well, and should remain unchanged.

The City of Washington’s distinctive character is shaped by several guiding documents, all of which need to be taken into account by any study of potential changes to the Height Act:

The L'Enfant Plan  
The McMillan Plan  
The CapitalSpace Partners Final Report  
The DC Comprehensive Plan  
DC Zoning Regulations, including overlay districts

CHRS strongly urges that no changes to the Height Act be recommended in the study now being undertaken by the National Capital Planning Commission (NCPC) and the DC Office of Planning (OP). This letter describes the adverse impacts which any changes would have on the following areas in which CHRS has particular familiarity:

1. The L'Enfant City;
2. The Capitol Hill Historic District;
3. Anacostia Park and other areas identified "ecologically sensitive resources" by CapitalSpace Partners, a planning initiative of NCPC, OP, the National Park Service and the DC Department of Parks and Recreation;
4. The Eighth Street Southeast Neighborhood Commercial Overlay District;
5. The Hill East Waterfront (Reservation 13) and;
6. H Street, NE Overlay (yet to be written).

We understand that NCPC and OP will be working with federal agencies to study security issues relating to building height. We urge that this study include:

1. The area under the jurisdiction of the Architect of the Capitol;
2. The Washington Navy Yard; and
3. The Marine Commandant's House and the Marine Barracks.

## **Introduction**

The 1791 L'Enfant Plan for the City of Washington (listed in the National Register of Historic Places on April 24, 1997); the 1901 McMillan Plan, that more fully realized L'Enfant's design and captured the essence of the City Beautiful Movement both within the Monumental Core and beyond it, to the outer limits of the District of Columbia; and the 1910 Height Act with its height limits that have helped establish the citywide scale of Washington, which is a distinguishing feature of Washington. Collectively, these guiding resources and careful adherence to them have helped make the District of Columbia unique among American cities, rightly so as our nation's capitol. To that end, we note the following Guiding Principle in the Framework Section of the District of Columbia Comprehensive Plan:

31. The District's communities are connected by a shared heritage of urban design, reflecting the legacy of the L'Enfant Plan, the McMillan Plan, the Height Act of 1910, and the preservation of much of the historic urban fabric. After more than two centuries of building, the nation's capital is still a remarkable place. Urban design and streetscape policies must retain the historic, majestic, and beautiful qualities that make Washington unique among American cities. (p. 2-26).

The 1791 L'Enfant and 1901 McMillan plans, as well as the Height Act have played and continue to play highly significant roles in the physical appearance of Washington, DC as our nation's capital, world city, and home town to those who live within its boundaries. Significantly, two-thirds of the 1901 McMillan Plan addresses the creation and preservation of green space outside the central core.

## **L'Enfant Plan**

The L'Enfant Plan for the City of Washington, District of Columbia is a national landmark. Wide avenues link squares into a network of public space and grand vistas. The unimpeded views of the avenues are an integral part of the plan. Residents and visitors can see the Capitol and the monuments from a long distance away. As NCPC noted in its Draft Federal Urban Design and Historic Preservation Elements for the Comprehensive Plan for the National Capitol (November 6, 2012):

The L'Enfant Plan's streets and places—and their extension by the 1893 Permanent System of Highways Act—as well as the 1901 McMillan Plan and the 1910 Height of Buildings Act have directed the character and orderly development of the entire city. Page 24.

L'Enfant described the setting of the Capitol as “a pedestal waiting for a superstructure. ...no other situation could bear a competition with this.” Michael Bednar, L'Enfant's Legacy: Public Open Spaces in Washington, D.C. (Baltimore, Md.: Johns Hopkins Univ. Press, 2006, 76). In addition to the Capitol and its grounds, Capitol Hill is blessed with other distinctive, much-used and much-loved public spaces in the L'Enfant Plan, including Stanton Square (Reservation 5 in the 1791 plan), and Seward Square (Reservation 14 in the 1791 plan). L'Enfant's Legacy, Table A. Lincoln Park, Garfield Park, and what later became Eastern Market Park, appear as rectangular spaces in the 1791 Plan. Folger Park appears on Ellicott's plan as a rectangular area. To respect L'Enfant's Plan, the Height Act must remain unchanged in the L'Enfant City, Capitol Hill and in the Capitol Hill Historic District.

## **CapitalSpace Partners Final Report (2010)**

CapitalSpace Partners resulted from a three-year initiative of NCPC, OP, the National Park Service and the DC Department of Parks and Recreation to plan and manage the city's parks for the future. This is an important planning document for the District of Columbia. The final report dated March 2010, is at [www.ncpc.gov](http://www.ncpc.gov) (and attached to this letter). CapitalSpace Partners identifies a number of critical historical, cultural, and environmental resources that must be protected. A key planning goal is:

### Protect, Connect, and Restore Natural Environments

Natural resources within the city's parks and open spaces, including wetlands, floodplains, wooded areas and streams and rivers, offer natural habitats and beneficial ecological functions that support a sustainable and livable city.

See final report pages 3, 51, 58. The map on page 24 of the final report shows the L'Enfant City, historic districts, parks in historic districts, and cultural landscapes, including the Capitol Hill Historic District and the Anacostia Park (a cultural landscape). Tall buildings in or near any of these areas would degrade them. To protect these critical resources, no changes in the Height Act should be made with respect to the L'Enfant City, Capitol Hill Historic District or Anacostia Park. In the design of the Height Act study NCPC and OP recognized that increased height in the L'Enfant Plan area, and near parkland might be a special concern. Although London may "want clusters of tall buildings along the Thames River," the Anacostia River must remain an unspoiled cultural landscape.<sup>1</sup>

In addition, parks and green space increase real property values by 8 to 20 percent. See CapitalSpace Partners final report, page 17. Other studies suggest that the view of green space also adds value. Delores Conway, "A Spatial Autocorrelation Approach for Examining the Effects of Urban Greenspace on Residential Property Values," J. Real Estate Finan. Economics (Vol. 41, 150-169, 152, 2010). To maximize real property values in DC, changes in views of parks or green space (such as blocking views by buildings over 130 feet) are not advisable. NCPC and OP rightly flagged this issue in the design of their study.

CapitalSpace Partners also identifies ecologically sensitive resources including wooded areas and wetlands, including Anacostia Park. See final report page 22. No change in building height should be recommended in or near these areas. Despite any other federal and DC laws restricting building, or building heights, the recommendations to Congress and any amendments to the Height Act must take into account and be consistent with those policy considerations. For example, building in wetlands is limited by section 404 of the Clean Water Act of 1977, as amended (33 U.S.C. 1344; 33 C.F.R. 231, 232).<sup>2</sup> However, if amendments to the Height Act, enacted after 1977, allow buildings higher than 130 feet (and thus allow buildings at all) in wetlands, attorneys for developers may argue that the Height Act amendments repealed section 404 of the Clean Water Act as to DC wetlands. See 73 Am Jur 2d Statutes § 89, citing Great Northern Ry. Co. v. United States, 315 U.S. 262 (1942). It is critical that any recommendations on changing the Height Act not open the door to constructing buildings where construction is now prohibited.

### **Respect the people's will as reflected in the Comprehensive Plan and overlay zoning**

NCPC and OP have held public meetings and requested public comment, and plan additional public meetings. While it is commendable to seek input from individuals and organizations, the people's will as expressed in the Comprehensive Plan, approved by the Council, and implemented in zoning and area overlays resulting from extensive public hearings, an administrative record, and careful review and findings by the Zoning Commission, are far more important, and deserve far more weight than emails, however earnest, to NCPC's Height Act website. In several instances, as a result of the Zoning Commission's public process, the maximum height of buildings is below the Height Act maximum. NCPC and OP must respect

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<sup>1</sup> See Phase 1 Public Meeting Workbook, page 6, case studies.

<sup>2</sup> See EPA's wetlands website [www.epa.gov/owow/lwetlands/regs](http://www.epa.gov/owow/lwetlands/regs).

the people's will and recommend no changes to the Height Act in these areas. Examples include:

1. The Eighth Street Southeast Neighborhood Commercial Overlay District, 11 DCMR 1309. This overlay zone applies to Squares 906, 907, 929, and 931, near the entrance to the Washington Navy Yard, and limits the height of buildings to 45 feet. Case No. 98-11. The Zoning Commission initiated the overlay zone process as part of a process to eliminate zoning inconsistencies with the Comprehensive Plan. See Notice of Public Hearing for March 18, 1999. ANC 6B, CHRS, Capitol Hill Association of Merchants and Professionals, Barracks Row Business Alliance and others in the community participated in the case. OP's final report to the Zoning Commission explains the reasons for the 45-foot height limit:

Comment: The recommended maximum building height of 45 feet will keep the height profile of the new buildings relatively low, thereby respecting the scale and historic character of adjacent Navy Yard buildings, and also the scale of continuing older buildings in the overlay zone. This proposed height limit will also allow for a functional and attractive ground floor height of 12 to 15 feet for retail or other active uses, plus up to three additional stories having a 10-foot floor-to-floor plan. Four stories will allow a degree of architectural flexibility in accommodating the permitted 3.0 FAR of building bulk (see 1309.6, following. OP Final Report, p. 5 (March 8, 1998).

2. Hill East (HE) District Zoning, 11 DCMR 2800. The Hill East Waterfront (also known as Reservation 13) has its own zoning. The Zoning Commission's Notice of Final Rulemaking & Order, No. 04-05 mandates three height ranges for buildings, beginning with the lowest, fronting on 19<sup>th</sup> Street, SE and the highest, on the Anacostia River:

HE-1: minimum 26 feet; maximum 50 feet;  
HE-2: minimum 40 feet; maximum 80 feet; and  
HE-3: minimum 80 feet; maximum 110 feet.

In considering recommendations for any possible changes to the Height Act, CHRS urges NCPC and OP to keep faith with the Reservation 13 Master Plan approved by the Council and form-based code zoning regulations. The Capitol Hill community has worked for years to achieve the Master Plan and the form-based code. Any recommended changes to the Height Act should be consistent with the Master Plans and the form-based code. These maximum building heights resulted from a multi-year public process that required the Capitol Hill community to invest many hundreds of hours. Although, in theory, a developer might attempt to increase height limit in the zoning regulations for Hill East Waterfront from 110 feet to 130 feet, a height increase of 20 feet would probably not warrant the effort to overcome community opposition. But if, for example, the Height Act limit were increased to a greater extent, the cost/benefit for a developer would change, and a developer might well decide that the additional profits made it worthwhile to battle the community to try to change the zoning regulations to obtain additional building height. After years of broken promises, DC government may be finally about to begin developing Reservation 13, based on the current zoning regulations. NCPC and OP must keep

faith with the community, respect these height limits, and recommend no change to the Height Act concerning the Hill East Waterfront.

3. H Street NE Neighborhood Commercial Overlay Zone District, 11 DCMR 1320.

The H Street Overlay evolved as a result of community meetings with the Office of Planning that began in 2002. That process resulted in the H Street NE Strategic Development Plan. In 2004, the Zoning Commission received a petition from OP to advance the objectives of the Development Plan, and on January 9, 2006 issued their Order No. 04-27, establishing the Overlay.

Most of H Street is zoned C-2-A that allows a maximum building height of 50 feet. Four specific large lots that could accommodate greater density were rezoned from C-2-A to C-2-B allowing a height of 65 feet.<sup>3</sup> The Overlay requires that development of any lot containing more than 6,000 square feet be approved through a special exception process. That process requires that the project be consistent with the criteria specified in the H Street Design Guidelines (11 DCMR 1324) that establish height criteria for different types of development. The Design Guidelines specify three types of development:

Type I: 4 to 8 stories

Type II and Type III: 2 to 4 stories

The Overlay also provides height bonuses to encourage ground level retail. A bonus of five feet of building height is available for developments that provide a minimum clear floor-to-ceiling height of 14 feet for the ground floor level (11 DCMR 1324.13).

The Eighth Street Southeast Neighborhood Commercial Overlay District, the Hill East Waterfront, and the H Street NE Neighborhood Commercial Overlay Zone District each resulted from an extensive public process with community input. Through this process the community expressed its will for maximum building heights below the current federal Height Act limits. NCPC and OP must keep faith with the community, respect these height limits, and recommend no change to the Height Act in these areas.

In conclusion, the federal Height Act has furthered the principles of the L'Enfant and McMillan Plans, and fostered a beautiful sunlit horizontal city, with wide vistas and vibrant neighborhoods. CHRS strongly urges that NCPC and OP recommend that no changes be made to the Height Act.

Thank you for the opportunity to submit comments.

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<sup>3</sup> A project that qualifies for a PUD proceeding can have a maximum height of 65 feet in C-2-A and up to 90 feet if it were one of the four parcels zoned C-2-B.

Sincerely,

Janet Quigley  
President

Attachment:

CapitalSpace Partners final report (2010)

cc:

NCPC/OP email email: [info@ncpc.gov](mailto:info@ncpc.gov)

Tommy Wells, Ward 6 Councilmember email: [twells@dccouncil.us](mailto:twells@dccouncil.us)

David Holmes, Chair, ANC 6A email: [holmes6a3@gmail.com](mailto:holmes6a3@gmail.com)

Brian Flahaven, Chair, ANC 6B email: [BrianF6b09@anc6b.org](mailto:BrianF6b09@anc6b.org)

Karen Wirt, Chair, ANC 6C email: [Karen.wirt@anc.dc.gov](mailto:Karen.wirt@anc.dc.gov)

David Holmes, Chair ANC 6A Economic Development and Zoning Committee  
email: [holmes6a3@gmail.com](mailto:holmes6a3@gmail.com)

Francis Campbell, Chair ANC 6B Planning and Zoning Committee  
email: [francis6b10@anc6b.org](mailto:francis6b10@anc6b.org)

Mark Eckenwiler, Chair ANC 6C Planning, Zoning and Environment Committee  
email: [zoning@eckenwiler.org](mailto:zoning@eckenwiler.org)



October 2, 2013

L. Preston Bryant, Jr.  
Chairman  
National Capital Planning Commission  
401 9<sup>th</sup> Street, NW  
Washington, DC 20004

**2013 OFFICERS**

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President

**Sean Nohelty, AIA**  
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**Phil Wessell, AIA**  
Secretary

**Jon Penndorf, AIA**  
Past President

**Mary Fitch, AICP, Hon. AIA**  
Executive Director

Dear Chairman Bryant:

Our Chapter has followed the discussion regarding the Height of Buildings study with great interest. We understand this study to be specifically focused on what, if any, federal interest there should be in the height of buildings in Washington DC. This letter states the Chapter's position on that question and also provides comments on the study presented by NCPC and DCOP.

The 1910 Height Act was necessary to insure the safety of the citizens of the District of Columbia. The Act was an appropriate response to a very real threat to fire safety. Considerable time has passed, however, and in that time the District has enacted zoning and building codes that go well beyond the 1910 Act and in many cases provide more protection to the city's unique skyline than the Act does. Moreover, the language of the Act is limited to the architectural technology and building science of the early 20<sup>th</sup> century. For example, in 1910 it was not possible to include life safety equipment in a mechanical penthouse, so occupancy of a penthouse was prohibited. Many of the Act's other requirements include similarly archaic language that is at odds with modern building and life safety codes.

It is our conclusion that this outmoded language should be brought up to date to reference modern building codes in place in the District. NCPC staff received a briefing on this very issue from the Chapter earlier this summer and we believe many of those recommendations have already made their way to the Executive Director's Report presented at your last meeting.

Further, we believe that the federal interest in the height of buildings should be limited to areas immediately adjacent to the Monumental Core and critical view corridors. We believe that current building and zoning codes in the District now provide better protection for non-federal areas of the city than the Act. Furthermore, we strongly agree with the recommendations included in DC's Height Master Plan for the District of Columbia most particularly that protecting the cultural resources and physical character of the District of Columbia is the job of the District of Columbia and not that of the federal government.



Where Architecture  
Meets the City

421 7<sup>th</sup> Street, NW  
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[www.aiaadc.com](http://www.aiaadc.com)

Finally, with respect to the alternatives described in the study, we believe additional height may be possible in carefully selected spots, with adequate public input, around the District. Moreover, we believe that the proposed 200-foot cap used in the study is arbitrary and that additional height above that cap may also be appropriate for areas outside the Monumental Core and its environs. While we respect the horizontal character that makes Washington DC unique, we believe well-designed, taller structures would provide an interesting counterpoint and add visual interest. This would, of course, require a more thorough, in-depth study than was possible for this current effort.

We commend the District and NCPC for their collaboration on this study and look forward to future such collaborations. We thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "D. T. Haresign". The signature is stylized with a large, circular initial "D" and a long, sweeping underline.

David T. Haresign, FAIA  
President

A handwritten signature in black ink, appearing to read "Mary Fitch". The signature is elegant and cursive, with a large, flowing initial "M" and a long, sweeping underline.

Mary Fitch, AICP, Hon. AIA  
Executive Director

## JOHN G. PARSONS FASLA

Mr. L. Preston Bryant Jr., Chairman  
National Capital Planning Commission

September 30, 2013

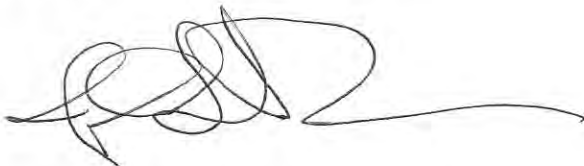
Dear Mr. Chairman and Commissioners,

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While I retired from my life's work of defending the Nation's Capital five years ago, the recent proposals by the Mayor to amend the Height of Buildings Act cause me to share what, in my judgment, are the overwhelming reasons to retain the Act as it is.

1. This is foremost the Nation's Capital which belongs to all Americans.
2. The city's horizontal character penetrated by the Washington Monument and the Capitol is its unique identity which must remain as our iconic image to the world.
3. Our historic height restrictions have maintained a city of human pedestrian. That character would be destroyed by taller buildings as in other cities in this country.
4. Washington is already one of the densest cities in the country, has 270-360 million sq. ft. of unrealized development potential and a predicted demand of only 340-466 million sq. ft. Thus, what is available should be built first.
5. The Mayor's report shows that this proposal is only going to result in \$60-100 million in annual tax revenue which is not worth the adverse impact to the city. The District's population is rising, can reach its prior population of 800,000 without additional height and will produce as much or more, tax revenue.
6. The slippery slope of height change is evidenced in Rosslyn where the 15 story limit of the 1960's has been repeatedly raised 'for good cause' to 30 stories today.
7. The proposal to rely on the planning and zoning commissions to determine the proper heights outside of the L'Enfant City is ill advised. It would place an undue and unnecessary burden on these two bodies whose fragile split membership is ill equipped to deal with these 14 major proposals to create Rosslyn like 'Clusters' of development which would invade the historic vistas from the Federal Civil War Defenses and leer at the city below. As a member of these two commissions for over 30 years, I can tell you that this is not a wise solution. Further, if statehood is realized, the composition of these commissions would predictably be changed to eliminate the federal representatives, leaving decision-making to local interests.
8. Better architecture will not result from raising building heights. In all other cities country wide, the profit-driven result has been dull boxes built to the lot line.
9. The solution to inclusionary workforce housing lies in zoning regulations not in tall buildings.
10. The extension of penthouses to the building face will unacceptably intrude on the light and air of the streets below.

I urge you to reject this unwarranted proposal because of its catastrophic impact on the Federal Interest and on what should be a cherished city as a national treasure for future generations.



# The Association of the Oldest Inhabitants of The District of Columbia

Established Dec. 7, 1865

## Officers:

President –  
William N. Brown

Vice-President –  
John P. Richardson

Treasurer –  
Hulit Pressley Taylor

Secretary –  
Seymour Selig

Historian –  
Nelson Rimensnyder

Fire Dept. Liaison –  
James Embrey

## Directors:

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Past-president

Carl Cole  
Damon Cordon  
Jan Evans Houser  
Lucinda P. Janke  
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September 30, 2013

Honorable L. Preston Bryant, Chairman  
National Capital Planning Commission  
401 9<sup>th</sup> Street, NW, North Lobby, Suite 500  
Washington, DC 20004

Dear Chairman Bryant:

The Association of the Oldest Inhabitants of the District of Columbia, the District's oldest civic organization committed to the preservation, maintenance and promotion of both the L'Enfant Plan and McMillan Plan, would like to comment again on the recent recommendations regarding proposed changes to the Building Height Act.

The AOI is opposed to any changes in the Height Act. We are concerned that changes to the Height Act will be a slippery slope toward future, more frequent and more radical changes. We believe the NCPC staff has done an excellent job in analyzing the issues, hosting community forums and taking written and oral testimony.

The AOI is **particularly disappointed** in the recommendations of the District of Columbia's Office of Planning Director Harriet Tregoning and transmitted to the NCPC by Mayor Vincent Gray. These recommendation are contrary to what we seemed to hear at community forums and represent, we believe, an ill-advised attempt to assert District autonomy from the U.S. Congress at the expense of the District's century-old building height restrictions. This is not the time, place nor circumstance for this debate.

In 1946, the District's population was approximately 899,000 residents (we realize that 'residents' are not households, however...). Today, the city's population has enjoyed a revival and now approaches 633,000 residents. Let us encourage reasonable development within the current limits of the Height Act in blighted, underutilized areas of the city before we tamper with something that will forever change the character of our city.

As Vancouver, B.C. Planner Larry Beasley warned in his presentation to the NCPC in 2010: "Take care not to open things up too casually. I dare say, those height limits may be the single most powerful thing that has made this city so amazingly fulfilling."

The Association of the Oldest Inhabitants of the District of Columbia -- the District's oldest civic organization -- was established on December 7, 1865, to preserve memories and matters of historic interest. By virtue of our long presence and participation in the city's prosperity and improvement, we continue to work and strive for the city's stability, security and advancement -- to aid in every way the prosperity and well-being of the District while preserving the heritage of its past.

# The Association of the Oldest Inhabitants of The District of Columbia

Established Dec. 7, 1865

Thank you for considering our organization's views on this.

Sincerely,



William N. Brown, President

Cc: ✓ Marcel A. Acosta, Executive Director, NCPC  
Nancy MacWood, Chairman, Committee of 100

The Association of the Oldest Inhabitants of the District of Columbia -- the District's oldest civic organization -- was established on December 7, 1865, to preserve memories and matters of historic interest. By virtue of our long presence and participation in the city's prosperity and improvement, we continue to work and strive for the city's stability, security and advancement -- to aid in every way the prosperity and well-being of the District while preserving the heritage of its past.

## SHERIDAN-KALORAMA NEIGHBORHOOD COUNCIL

2136 Leroy Place NW  
Washington, DC 20008  
(202) 387-7830

September 28, 2013

To: National Capital Planning Commission

The Sheridan-Kalorama Neighborhood Council (SKNC) has served as the neighborhood association for Sheridan Kalorama for more than 50 years.

The SKNC supports the position of the Historic Districts Coalition not to change the Height of Buildings Act. Specifically, the SKNC endorses the Coalition's position:

- The 1910 Height of Buildings Act, through its effect on physically shaping the nation's capital, is no less important than the seminal 1791 L'Enfant Plan for the City of Washington. The L'Enfant Plan, as revitalized by the 1901 McMillan Commission, provided the foundation by brilliantly imposing on the landscape a rhythmic pattern alternating open spaces—streets, parks, and squares—with closed spaces intended for structures. In so doing, the L'Enfant Plan effectively limited two of the dimensions of any structure. By regulating the third dimension through the Height Act, the Congress furthered the human scale of the city and created the iconic horizontal skyline that Washington enjoys today.
- There is no compelling case for allowing taller buildings to accommodate growth in population or economic activity. As noted in public presentations by the Office of Planning, large areas of the city are currently not "built out" to the maximum allowed under existing zoning regulations. Ample long-term opportunities for commercial and residential development remain in the District of Columbia, many of which are outlined in the National Capital Planning Commission's 1990s *Extending the Legacy* plan.
- Therefore, the Historic Districts Coalition endorses Approach 1, 1A Status Quo: Make No Changes to the Height Act. We do not support 1B Allow Penthouse Occupancy.

Sincerely,



Christopher K. Chapin  
President

TENLEYTOWN NEIGHBORS ASSOCIATION  
Revising the Height Act of 1910

WHEREAS the Height Act of 1910 is a federal statute governing the District of Columbia, which restricts residential buildings to 90 feet and business to a height equal to the width of the adjacent street plus 20 feet (generally totaling 130 feet), plus some heights are extended to 160 feet along portions of Pennsylvania Avenue.

WHEREAS reviewing the Height Act to determine whether any revisions are desirable or necessary is understandable but that does not automatically mean amendments are necessary.

WHEREAS Washington is a city of monuments that should continue to be showcased through zoning and height restrictions.

WHEREAS in the areas around the White House, Capitol and federal agencies, height restrictions have been praised as enhancing security for the federal government.

WHEREAS Washington is one of the most attractive and lovely cities in America not only because of its monuments but also because of its tree canopy and open spaces and because pedestrians can see the sun, the sky and the stars.

WHEREAS some have proposed increasing heights from “L’Enfant to Tenleytown”, which would include neighborhoods across the entire spectrum of density and existing height.

WHEREAS Washington is a city of neighborhoods and each neighborhood has different and, in many instances, very desirable characteristics, which should be recognized and preserved in any consideration of amendments to the Height Act.

WHEREAS proposals to increase height along the main Avenues, Wisconsin, Connecticut, Georgia, New York, and others would dwarf residences abutting the avenues that are two story single family detached in some areas but might be harmonious with multi-story office buildings and warehouses in others.

WHEREAS any increase in height for buildings does not solely increase tax revenue it also would result in new infrastructure demands on services, such as schools, public transit, sewer, and water.

WHEREAS incentives through increased heights everywhere would not result in encouraging development in any particular area but rather would merely allow taller buildings wherever a greater profit might be realized in already flourishing areas.

WHEREAS increased heights may result in a few very tall buildings with large capacity absorbing such a large percent of the demand that development would be deterred across the rest of the city, which has benefited from a dispersal of development activity throughout the city.

WHEREAS there is unused potential available now that can accommodate new growth without any amendments to the Act or to DC zoning because current height restrictions allow more development in many areas.

Be it RESOLVED that the Tenleytown Neighbors Association supports preserving the overall building limits established in the Height Act because of the extraordinary contributions these restrictions have made to the distinctive character of the city of Washington.

TNA Sept. 17, 2012

# HISTORIC DISTRICTS COALITION

c/o Richard Busch, 1520 Caroline Street, NW - Washington, DC 20009

September 9, 2013

The Honorable Vincent C. Gray  
Mayor, District of Columbia  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

Mr. Preston Bryant, Jr.  
Chairman, National Capital Planning Commission  
401 Ninth Street, NW, North Lobby, Suite 500  
Washington, DC 20004

SUBJECT: Height Master Plan, NCPC File Number 6886

Dear Mayor Gray and Chairman Bryant:

The Historic Districts Coalition is an informal alliance of organizations and individuals representing Washington, DC's historic districts—those that have been designated under the provisions of the Historic Landmark and Historic District Protection Act of 1978 (D.C. Public Law 2-144)—as well as others interested in historic preservation, including residents of undesignated neighborhoods and representatives of neighborhood organizations, historic preservation organizations, and preservation-related businesses.

We, the undersigned, have developed the following position on the Height Master Plan:

- The 1910 Height of Buildings Act, through its effect on physically shaping the nation's capital, is no less important than the seminal 1791 L'Enfant Plan for the City of Washington. The L'Enfant Plan, as revitalized by the 1901 McMillan Commission, provided the foundation by brilliantly imposing on the landscape a rhythmic pattern alternating open spaces—streets, parks, and squares—with closed spaces intended for structures. In so doing, the L'Enfant Plan effectively limited two of the dimensions of any structure. By regulating the third dimension through the Height Act, the Congress furthered the human scale of the city and created the iconic horizontal skyline that Washington enjoys today.
- There is no compelling case for allowing taller buildings to accommodate growth in population or economic activity. As noted in public presentations by the Office of Planning, large areas of the city are currently not “built out” to the maximum allowed under existing zoning regulations. Ample long-term opportunities for commercial and residential development remain in the District of Columbia, many of which are outlined in the National Capital Planning Commission's 1990s *Extending the Legacy* plan.
- Therefore, the Historic Districts Coalition endorses Approach 1, 1A Status Quo: Make No Changes to the Height Act. We do not support 1B Allow Penthouse Occupancy.

Respectfully submitted by the Historic Districts Coalition on behalf of:

Historic Anacostia Design Review Committee, Greta Fuller, Chair

Capitol Hill Restoration Society, Janet Quigley, President

Historic Chevy Chase, DC, Richard Teare, Treasurer

Frederick Douglass Community Improvement Corporation, Carolyn Johns Gray, President

Dupont Circle Conservancy, Thomas Bower President

Citizens Association of Georgetown, Pamla Moore, President

Logan Circle Community Association, Tim Christensen, President

Historic Mount Pleasant, Fay Armstrong, President

Sheridan Kalorama Historical Association, Kindy French, President

Historic Takoma, Inc. Lorraine Pearsall, Vice President

Tenleytown Historical Society, Jane Waldman, President

**Individuals:** Loretta Neumann, Scott Roberts, Leslie Kamrad, Mary Rowse, Evelyn Wrin, Sally Berk

CC: DC Congresswoman Eleanor Holmes Norton

Thomas Luebke, Secretary, US Commission of Fine Arts; Frederick Lindstrom, Deputy Secretary, CFA

Marcel Acosta, NCPC Executive Director; Deborah Young, NCPC Secretariat; Lucy Kempf, Project Manager; Julia Koster, Public Engagement

Phil Mendelson, Chair, DC Council

DC Councilmembers: Anita Bonds, Vincent Orange, David Catania, David Grosso, Jim Graham, Jack Evans, Mary Cheh, Murel Bowser, Kenyan

McDuffie, Tommy Wells, Yvette Alexander, Marion Barry

Harriet Tregoning, Director, DC Office of Planning; Tanya Stern, DCOP Chief of Staff and Project Manager

Gretchen Pfaehler, Chair, DC Historic Preservation Review Board

David Maloney, State Historic Preservation Officer; Stephen Callcott, Deputy State Historic Preservation Officer

National Trust for Historic Preservation: Rob Nieweg, Elizabeth Merritt, Christopher May

## **Historic Districts Coalition**

**c/o Richard Busch, 1520 Caroline Street, NW, Washington, DC 20009 rbusch1520@aol.com**

### **Comments of the Historic Districts Coalition on the District of Columbia's Height Master Plan draft recommendations for modifications to the federal 1910 Height of Buildings Act.**

The Historic Districts Coalition is an informal alliance of organizations and individuals representing Washington, D.C.'s historic districts—those that have been designated under the provisions of the Historic Landmark and Historic District Protection Act of 1978 (D.C. Public Law 2-144)—as well as others interested in historic preservation, including residents of undesignated neighborhoods and representatives of neighborhood organizations, historic preservation organizations, and preservation-related businesses.

The height of buildings in the District of Columbia is determined by the 1910 Height of Buildings Act, legislation now under review by the National Capital Planning Commission and the District of Columbia government at the request of Congressman Darrell Issa. The Coalition voices its strong opposition to the Gray Administration's draft response already sent to Congressman Issa, proposing that building heights in the area of the original 1791 L'Enfant Plan for the City of Washington be increased up to 25%, and that Congress allow the District to determine the maximum height of buildings outside the L'Enfant city. We believe that the 1910 Height of Buildings Act, through its effect on the physically shaping the nation's capital is no less important than the 1791 L'Enfant Plan and the 1901 McMillan Plan, which revitalized L'Enfant's brilliant design. It has given those plans a third dimension, limited height that has created the human scale and iconic horizontal skyline that Washington enjoys today.

The following Coalition affiliates oppose Mayor Gray's recommendation:

- Historic Anacostia Design Review Committee, Greta Fuller, Chair
- Capitol Hill Restoration Society, Janet Quigley, President
- Historic Chevy Chase, DC, Richard Teare, Treasurer
- Frederick Douglass Community Improvement Corporation, Carolyn Johns Gray, President
- Dupont Circle Conservancy, Thomas Bower, President
- Citizens Association of Georgetown, Pamla Moore, President
- Logan Circle Community Association, Tim Christensen, President
- Historic Mount Pleasant, Fay Armstrong, President
- Sheridan-Kalorama Historical Association, Kindy French, President
- Sheridan-Kalorama Neighborhood Council, Christopher Chapin, President
- Advisory Neighborhood Commission 2D, David Bender and Eric Lamar
- Historic Takoma, Inc. Lorraine Pearsall, Vice President
- Tenleytown Historical Society, Jane Waldman, President

In addition, the following individuals associated with the Coalition oppose the Mayor's recommendations: Loretta Neumann, Scott Roberts, Leslie Kamrad, Mary Rowse, Evelyn Wrin, and Sally Berk.

The Coalition has been criticized for not being constructive in supporting the Gray Administration's rationale for height increases. We believe, however, that we are protecting the image of the capital of the United States by safeguarding the tenets of the 2006 DC Comprehensive Plan and its 2011 amendments, actions that were approved by the DC Council. We call your attention to the following elements in Chapter 10 of the Plan, the Historic Preservation Element that the DC Council has specifically approved:

**Historic Preservation Goal:** Preserve and enhance the unique cultural heritage, beauty, and identity of the District of Columbia by respecting the historic physical form of the city (our emphasis) and the enduring value of its historic structures and places, recognizing their importance to the citizens of the District and the nation (our emphasis), and sharing mutual responsibilities for their protection and stewardship. Page 10-3

**Policy HP-1.1.1: The City's Historic Image**

Recognize the historic image of the national capital as part of the city's birthright. After two centuries of growth, the original vision of the city remains strong and remarkable in an increasingly homogenous global world. Over the years this fundamental character has been protected by local and national laws and policies. It must remain inviolate (our emphasis). Page 10-5

**HP-2 Protecting Historic Properties**

Most of the city spreads far beyond its monumental core and out of the boundaries of the District of Columbia. The city's business center is richly endowed with lively commercial architecture and blessed by its unique mid-rise scale (our emphasis). Page 10-16, second paragraph

**HP-2.1 District Government Stewardship**

The District government should set the standard for historic preservation in the city.... Page 10-17

**HP-2.3 The Historic Plan of Washington**

The Plan of the City of Washington drawn by Pierre L'Enfant in 1791 has served as an enduring symbol and armature for growth of the national capital... Regulated building heights and mandated design review by agencies like the Commission of Fine Arts [have] further supported its enhancement and embellishment. Pages 10-19 (bottom) and 10-20 (top)

**Policy HP-2.3.2: Historic Image of the City**

Protect and enhance the views and vistas, both natural and designed, which are an integral part of Washington's historic image. Preserve the historic skyline formed by the region's natural features and topography and its historically significant buildings and monuments from intrusions such as communications antennas and water towers. Preserve the horizontal character of the national capital through enforcement of the 1910 Height of Buildings Act (our emphasis). Page 10-20 mid-page

**HP-2.5 Historic Landscapes and Open Space****Policy HP-2.5.1: The Natural Setting of Washington**

Preserve the historic natural setting of Washington and the views it provides.... **Protect the topographic bowl around central Washington and preserve the wooded skyline along its ring of escarpments. Prevent intrusions into the views to and from these escarpments and other major heights throughout the city** (our emphasis). Page 10-24

**HP-3 Capitalizing on Historic Properties**

Whether as an economic opportunity or a set of new challenges, historic preservation needs strong advocates to promote its importance among the host of priorities facing community leaders. Preservation draws strength by forging effective partnerships and ensuring the development of preservation leaders for the future. Page 10-27 (bottom)

The preservation community in the nation's capital is standing up for good stewardship of the bedrock plans and legislation that have made the physical form of this city what is today

Respectfully submitted,

Richard Busch

Co-conveners, Historic Districts Coalition

# The Committee of 100 on the Federal City



www.committeeof100.net

September 9, 2013

***Founded 1923***

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The Honorable Vincent C. Gray  
Mayor, District of Columbia  
Wilson Building  
Washington, D.C.

**Re: D.C. Recommendation on the Height of Buildings Act Master Plan Study**

Dear Mayor Gray,

The Committee of 100 on the Federal City has reviewed the studies and information collected as part of the Height of Buildings Act Master Plan Study conducted jointly by the National Capital Planning Commission and the D.C. Office of Planning. In addition Committee members have participated in the spring and summer series of public presentations and discussion. We have concluded that no further action on any of the proposed approaches to change the Act is warranted. Indeed, the modeling studies, in particular, reaffirm the immense positive effect of the 1910 Height of Buildings Act on the iconic image and historic development of the District of Columbia. Importantly, these images also provide clear evidence that diminished view sheds to the L'Enfant City and federal monuments and landmarks would result from weakening the height maximums.

I have attached the testimony of Laura Richards, former chair and current trustee of the Committee of 100, to the U.S. House of Representatives, Committee on Government Operations and Reform on July 19, 2012. Her remarks on behalf of the Committee of 100 are as relevant today, after the benefit of the Height of Buildings Act Master Plan Study, as they were a year ago. There are three areas, however, that should be amplified.

First, the study failed to identify a need that might explain why changes to the height maximums should be discussed. When asked to provide a reason for pursuing the study, the Office of Planning representatives consistently stated that the city had not requested the study and that it was being conducted at the request of U.S. Representative Darrell Issa. The lack of an articulated need leads us to believe that the study outlines solutions searching for a problem. This approach would be less disturbing if we weren't discussing a 100 year old law that has complemented the L'Enfant Plan and the McMillan Plan in creating our dynamic and widely admired city.

In addition, the absence of principles that will guide the District's evaluation of the Height of Buildings Act is in contrast to the announced federal principles that form the bright line of the National Capital Planning Commission's review. City residents have

no information on what aspects of our city affected by the Height of Buildings Act, such as the horizontal skyline and the view sheds, are valued by your administration and how those values will be applied to your analysis and development of recommendations.

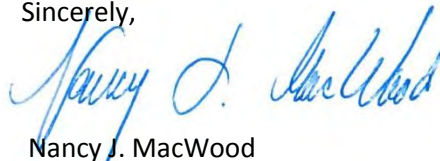
Second, The Committee of 100 supports the continued growth of the District of Columbia as a means to create vibrancy, inclusion, opportunity, and fiscal health. With good public policies and judicious land use planning, we can maintain a steady growth pattern, welcome new residents, and better address unemployment and poverty. The District has underutilized land and undeveloped parcels that can be creatively planned to meet the city's needs, including provision of widely varied housing types at different levels of affordability. The city can achieve its growth and development goals without sacrificing its iconic skyline—one of the city's greatest assets.

Third, The Committee of 100 supports full and sustainable employment for all District residents. Unemployment in the District of Columbia is at an intolerably high level, but the solution cannot be found in weakening the height limits, just as the Height of Buildings Act is not the cause of our high unemployment levels. The city has been experiencing a protracted and noted building boom and a period of overall job growth that has resulted in greater employment opportunities, yet there has not been a significant change in D.C. unemployment rates. There is no evidence that weakening the Height of Buildings Act is linked to a sustainable improvement in the reduction of unemployment.

The reasons cited for the original passage of the 1910 Height of Buildings Act—reasons of health and well-being—included the provision of life safety and security for building occupants and the guarantee of ample and appropriate light, air and ventilation to city streets, public areas and adjacent properties. Those reasons are as pertinent today as they were in 1910. As noted by Ms. Richards in her testimony: "The Height Act was debated vigorously during its centennial year and no groundswell of public support developed for its repeal. Removing the limit was rejected on urban planning, social policy, historic and aesthetic grounds, with the majority of residents and businesses recognizing that Washington's charm and character stem in significant part from its scale." (p. 3)

The Committee of 100 on the Federal City strongly urges you to convey to the National Capital Planning Commission and Representative Issa your conclusion that the Height of Buildings Act provisions are working to the District's benefit and that the study produced no new opportunities to improve the Act.

Sincerely,



Nancy J. MacWood  
Chair, Committee of 100 on the Federal City



PRESS RELEASE  
For Immediate Release

CONTACTS: Nancy MacWood, [nmacwood@gmail.com](mailto:nmacwood@gmail.com), 202-966-5333  
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## **Mayor Gray Urges 200 Foot Buildings in L'Enfant City** *Would Allow Significantly Raised Building Heights in Neighborhoods*

D.C. Mayor Vincent Gray and the D.C. Office of Planning have sent U.S. Representative Darrell Issa a report recommending drastic changes to the 100-year old law that has served as the blueprint for creating the iconic D.C. skyline and a livable city admired worldwide.

The mayor is urging that maximum heights of 130 feet for many downtown buildings be lifted to allow 200 foot buildings on avenues where there are symbolic and important views of our national landmarks. This could lead to major office development and more commuters filling DC-based jobs.

The report dismisses the importance of the height controls throughout the city and ignores the fact that there are significant views and historic features that need to be protected in neighborhoods, like Anacostia. This unprecedented move by the mayor would allow developers to expand big projects where residents often struggle to maintain character and livability and avoid displacement.

Residents at public meetings expressed alarm at sample images of height increases and asked if heights are already too permissive. "The Mayor and the Office of Planning clearly were not listening to DC residents. There was no support for big changes and, in fact, many groups opposed changes. There is a huge gap between what was presented in the study, the reaction to it, and the conclusion reached by the Mayor that we should reverse 100 years of predictable growth patterns", said Nancy MacWood, Chair of The Committee of 100 on the Federal City.

The report written by the Office of Planning ("OP") differs dramatically from the recommendation of its master study partner, the National Capital Planning Commission. The NCPC Executive Director's draft recommendation largely found no compelling need to change height allowances and concluded that the Height of Buildings Act continues to benefit the city.

The OP report uses broad assumptions about population trends that are based on recession recovery short term trends and ignores the current slowdown in population growth and job development. The planning agency also eliminated much of the District's underdeveloped land from their need analysis and assumed that the District will cater to the 1-and 2-person households living in high rises and not families in the future. "This could lead to over building and no help for structural unemployment or affordable housing", said MacWood.

The Committee of 100 on the Federal City is a 90-year old citizen planning organization with members representing planning, economic, architecture, historic preservation, and legal disciplines. Its mission is to adapt the seminal L'Enfant Plan and McMillan Plan to the future growth of the District of Columbia. Its members participated in the master plan study throughout the summer.

###



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August 14, 2013

Commissioner L. Preston Bryant, Jr., Chairman  
Ms. Harriet Tregoning, Director, Office of Planning ✓  
National Capital Planning Commission  
401 9<sup>th</sup> St., NW  
Washington, DC 20004

Dear Chairman Bryant and Ms. Tregoning:

I write in response to the July 24, 2013 presentation on the Height Act, and to the materials posted on-line.

Changing the allowable height of buildings in the District should be considered only if there is a solid reason to do so. Instead, you have presented an *opportunistic solution in search of a compelling problem*. The burden of proof for major changes in the nation's capital lies with those who propose those changes. No solid case has been offered that would compel us to change the Height of Buildings Act (HBA) that has served the city so well for so many years.

The assertion that the city will be completely built out in 20 years is not credible. In fact, we have large sections of the city, particularly in Wards 5, 7, and 8 that are crying for wise planning and neighborhood-scale commercial and residential redevelopment well within the current height limit: Rhode Island Ave., Bladensburg Rd., Minnesota Ave., MLK Blvd., Benning Rd., etc. It has been quite difficult to attract developers and anchor businesses to these areas. While the city government's intentions have been good, progress has been achingly slow. Wealthy areas like Wisconsin Ave., Tenley Town, and K St. do not need additional height in order to be economically sound and attractive.

Under such circumstances, and given the substantial current planning challenges the city faces even to build out under the current HBA, planning for the next 100 years seems like a diversion of time, talent and attention.

Your figures on the number of jobs to be created mean little to District residents unless the majority of these jobs go to District residents. Again, the city has had good intentions but has made far too little progress in training and employment for construction jobs within the District.

Raising the height of buildings will not necessarily produce affordable housing and this claim should not be made. Many cities where height is not restricted suffer from lack of

affordable housing. Any trickle-down affordability is incidental and again, not backed by data. In fact, the city has a dismal record of garnering affordable housing from inclusionary zoning. The Office of Planning's recommendations to the Zoning Commission that exempt the proposed expanded downtown from providing inclusionary zoning represent a lost opportunity to provide housing that our city desperately needs.

Making rooftops more usable and attractive is a worthy goal but this is largely an issue of good design, not of additional height. Surely our fine architectural community can respond to this challenge with solutions that will please everyone. Adding more floors to a building just pushes the problem up to the next rooftop.

While the visual studies were particularly interesting, they fall short in several important respects:


- They fail to show the effects on light/shadow of canyons from the ground level perspective experienced by pedestrians. I would argue that understanding the pedestrian experience is most definitely "in the Federal interest" in that we are host to many millions of visitors – with vastly increased visitation anticipated – as well as local residents who will experience these streets everyday.
- The models do not show the massive 14-acre Akridge development behind Union Station where the base measuring point is at the top of the Hop Scotch Bridge. This is itself worth showing in the interesting modeling SOM presented.

Finally, you have not provided any analysis of the *unanticipated consequences of changing the Height of Buildings Act*. All is made to seem rosy and positive, but this is disingenuous. Of course there will be risks and potential downsides. What are they? Under what circumstances could this change have a negative impact on the city?

In short, where is the case for changing the Height of Buildings Act? Any proposal that NCPC or OP makes to do so will leave many wondering to whom our planning agencies are responding and why: Developers lobbying behind the scenes? Mr. Issa who has little invested in the city and will soon leave his congressional committee? Or is this a case of density for its own sake without regard to unanticipated consequences?

I urge you to recommend modest improvements to making rooftops more attractive and usable and to reject other changes to the Height of Buildings Act.

Sincerely yours,

  
Meg Maguire

cc. NCPC Commissioners  
The Honorable Eleanor Holmes Norton

National Capitol Planning Commission  
District of Columbia Office of Planning

Observations Regarding NCPC and DC Office of Planning Draft Reports on  
the Height Master Plan for the District of Columbia

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### A Shared Study, Two Reports, Opposing Conclusions

After a mandate from an interested congressional committee chair, months of hearings, study, analysis, reports from two consulting groups, and more hours of testimony and discussion, the National Capital Planning Commission (NCPC) and District of Columbia Office of Planning (DCOP) issued their separate conclusions regarding the future of the 103-year old Height of Buildings Act of 1910. Their conclusions could not be more different.

The Office of Planning foresees a city that could equal the great world capitals, including London, Paris, Berlin, Tokyo, and Beijing, all of which are dynamic economic engines in addition to centers of powerful government. In OP's view, DC's future is severely constrained by the Height Act, which restricts residential street height to a maximum of 90 feet, and the height of most commercial streets to 130 feet, about 11-12 stories.

Without continuing and evolving economic development, Washington will resemble capitals like Brasilia, Canberra, Ottawa, and, for a while, Bonn, whose weak private economies make them government towns, largely irrelevant to their regional and national economic life.

### The DCOP Vision

DCOP, buttressed by studies by outside consultants, sees a city that is nearing an economic choke point. Almost 50% of the District's land is owned by government or non-profits. Currently, 95.1% of the total land area

of the District is not available for future development. Of the remaining 4.9%, parks and designated open spaces are not available. Moreover, much of the 4.9% is in locations where businesses or residents desiring urban living are not willing to locate, and much is not metro-accessible. With the paucity of available land, and the restrictions of the Height of Buildings Act, the District will be built to capacity within 25 years.

Using data from the Economic Feasibility Analysis and the Modeling Study, OP suggests creating housing and jobs by easing restrictions of the Height Act. OP's conclusions would

1. Allow some streets within L'Enfant City to add additional height in a way that retains the characteristic relationship between the street width and building heights, uncapped by 19<sup>th</sup> century fire safety constraints; the wider the street, the higher the building up to a cap of 200 feet (current limits range from 90 to 130 feet);
2. Allow building heights outside the L'Enfant City (the colonial city) for local government to determine; the federal interest is represented by NCPC's two of five seats on the DC Zoning Commission, and NCPC's influence over the District's Comprehensive Plan approval process;
3. Preserve view sheds around the U.S. Capitol, White House, and Washington Monument.

### The NCPC View

In contrast, NCPC's view is a study in Big Government, intrusive, over-reaching in scope, lacking in vision, and dismissive of local interests, even local interests that would benefit the federal presence. With feet firmly planted the 19<sup>th</sup> Century experience of visitors to our nation's capital, NCPC pictures the District as primarily a government enclave. In the process, NCPC overlooks or dismisses Chairman Issa's charge to consider the District's need for economic development.

NCPC would make no changes height limits throughout the entire District. Future development would be limited to the 4.9% of the land still available for development, unless developers decide to tear down old buildings and replace them with buildings of the same height, an expensive proposition. In brief, NCPC concludes:

1. Do little or nothing. Things are fine the way they are, especially within the colonial L'Enfant City and within the topographical bowl,

- an arc extending from Arlington National Cemetery along Florida Avenue to the Capitol and southeast to the river.
2. As a sop to development, allow the HVAC penthouses on a couple hundred buildings built to the height limit to be converted into residential or commercial space provided proper setbacks are observed.
  3. Conduct further studies to consider limited changes beyond the topographical bowl.

The NCPC conclusions virtually ossify the District, leaving it pretty much as it is today, even in those parts of the District developed after 1910. NCPC would allow for in-fill but with concedes no prospect of adding capacity beyond in-fill or 1:1 floor-for-floor replacement.

This will leave the District constrained in housing, job creation, business development, and tax collections to pay for services and infrastructure improvements, especially for its middle and low income residents. More importantly, as the sociologist and urbanologist Richard Florida has observed, knowledge industries, such as is characterized by the Washington region, depend on close proximity of knowledge professionals to one another. The NCPC conclusions would limit such proximity and drive their attendant businesses to the Washington suburbs, depriving the District of human and financial capital.

### The Reach of Big Government

Two conclusions illustrate NCPC's view that the District is primarily a federal enclave, not a center of commercial and governmental power. In their final recommendation, NCPC answers a question that Chairman Issa did not ask, and dismisses the question he did ask. The question he did pose was "to encourage the exploration of strategic changes to the Height Act in those areas outside the L'Enfant City that support local economic development goals while taking into account the impact on federal interests."

The NCPC chose, instead, to answer a question he did not ask: "From a federal operational and mission perspective, the Height Act continues to meet the essential interests and needs of the federal government and it is anticipated it will continue to do so into the future. ...There is no federal interest in raising heights to meet future federal space needs." (P.12)

That was not what Chairman Issa asked, but that was as far as NCPC's vision extended – since “we” don't see the need for more federal space, “we” don't need to raise the height limits, a conclusion that has the additional sting of bypassing Chairman Issa's charge to “support local economic development goals.”

The second NCPC conclusion is as narrow in its vision as it is broad in its government intrusion. In a breathtaking display of Big Government, the NCPC diminishes “local economic development goals” by claiming most of the District is “of federal interest” and therefore deserving of height and vista protections. This includes all of the original 18<sup>th</sup> century L'Enfant City, “including reservation, vistas, streets and open space;” “iconic” federal buildings such as the White House, U.S. Capitol, Washington Monument, Jefferson and Lincoln Memorials, and National Mall; federal agencies headquarters and offices, national monuments and museums, national parks, and diplomatic missions, including, in the neighborhoods, ATF, DHS and DOT; “individual facilities, landscapes and vistas,” especially those listed in the National Register of Historic Places, primarily within the L'Enfant boundaries but extending beyond since the “low green hills of the topographical bowl remain largely in federal ownership;” sites including the Civil War defense sites, St. Elizabeth's Hospital, and Arlington National Cemetery.

In addition, NCPC lays claim to views both to and from the Capitol, the Washington Monument, the National Mall, national parks and “other nationally significant civic and cultural resources.”

“Outside the bowl the federal interest is less concentrated,” they write, but includes the Naval Observatory, “most of Rock Creek Park, the Armed Forces Retirement Home and Lincoln Cottage, and the International Chancery Center.”

The NCPC states that the entire DC skyline is “iconic,” recognized throughout the world-- as if a pencil stuck into a short stack of pancakes is iconic.

In other words, anything near a federal building or facility or park, regardless of its location, and anything near a vista to or from a federal building or site, including agency headquarters of a non-historic nature, is

considered “of federal interest and is to be protected. One could observe that those protected views could extend to the hills of Anacostia, Columbia Heights and beyond, Georgetown and beyond, up North Capitol to Maryland, South Capitol past the river, and East Capitol to Maryland. Staking a claim to vistas even affects Roslyn, Arlington, and Alexandria.

### What Happens Next?

NCPC’s views are not surprising. In my earliest exchanges with NCPC officials at the public neighborhood hearings, they, including the executive director, saw no need to change the heights. As their report states, they find it more important to preserve the experience of visiting the 19<sup>th</sup> century government center, rather than consider the city’s future and its “local economic development goals.”

NCPC’s conclusions envision an intrusive, controlling, and all-encompassing federal interest, interested in the 19<sup>th</sup> Century experience. NCPC did not address in a serious way the mission set forth by Chairman Issa, and their conclusions are far from his small government, less intrusive government philosophy.

Chairman Issa posed a challenge to NCPC and DCOP that opened the door a crack. DCOP has tried, with help from two consulting groups, to push it open. NCPC chose to slam it shut. More is the pity for both the District and the wider interests of the federal government.

-----  
Frederic Harwood is a 27 year resident of Shaw, where he has owned a home since 1989. He holds a PhD from the University of Minnesota, and was on the faculty of Temple University for 15 years. He founded and sold a pharmaceutical industry-consulting firm and moved to the District to become executive director of a large non-profit. He has developed commercial and residential property in the U Street corridor, co-owned a hospitality business, and is founder of the DC Nightlife Association.