

September 17, 2010

Mr. Anthony Hood
Chair, D.C. Zoning Commission
441 4th Street, N.W., Suite 2108
Washington, D.C. 20001

Re: Case No. 08-06, ZRR, Height

Dear Chairman Hood and Members of the Zoning Commission,

I regret that an ANC 3C public meeting prevents me from testifying at the September 20th hearing on proposed building height zoning text. I respectfully ask that you consider my comments and include them in the hearing record.

At the setdown meeting the Zoning Commission determined that it would be confusing and beyond the authority of the Zoning Commission to include future DCRA interpretations of the Height Act in the zoning regulations. I agree. However, Section 401.5 and 403.1 still refer to street-based limits. This may be an editing error, but I urge you to delete these references. The last two sentences of Section 402.6 include an interpretation of Height Act that should also be deleted. In addition, I question whether the Zoning Administrator's ("ZA") interpretation of the Height Act should be in any subtitle of the zoning regulations as opposed to included in an appendix. The implication is that the ZA's rules are zoning rules.

The measurement of air rights development is a very significant issue that has the potential to alter the D.C. skyline and challenge the intent of the Height Act. If linking neighborhoods and establishing uninterrupted street connections is the goal then Section 402.4(a) and (b) should result in accomplishing the goal. The Office of Planning should be required to demonstrate with pictures of actual sites where (a) and (b) could not be used. Elevations previously determined by the ZA were determined for specific fact situations and those decisions (are there any in addition to L'Enfant Plaza?) should not serve as precedents. Both (c) and (d) should be deleted. The latter is vague and suggests that Section 402 will not be the only rule of measurement and that the Office of Planning may be recommending different measurement techniques at some later date. I urge you to impose consistency and predictability. In that regard the Zoning Commission has already ruled on this issue (Order No. 02-35, Definitions of Building Height and Natural Grade). That rulemaking clarified and reaffirmed the intent that zoning rules require the measurement of height of buildings from the ground. Nothing has changed to provoke the Zoning Commission to throw out the measurement standard and replace it with multiple options for gaining heights that were never contemplated in the District and have been strictly avoided.

Lastly, will Section 403.4 result in a proliferation of roof top tents or inflated coverings? We have seen some creative attempts to avoid height restrictions and this is one of them. Is this the year round visual that the Zoning Commission wants to encourage?

Several controversial sections that were presented to the task force have not been included in the revised notice. I assume that there will be an opportunity to comment at some later date on text amendments affecting meaningful connections and height measurement of buildings facing a reservation as well as other provisions not included in the notice of the hearing on September 20, 2010.

Thank you for your consideration of my comments.

Sincerely,

Nancy J. MacWood
Member, Zoning Regulation Rewrite Task Force