

**TESTIMONY OF HARRIET TREGONING**

**DIRECTOR, OFFICE OF PLANNING**

**BEFORE**

**U.S. HOUSE OF REPRESENTATIVES**

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM**

**REPRESENTATIVE DARRELL ISSA, CHAIR**



**CHANGES TO THE HEIGHTS ACT: SHAPING WASHINGTON, D.C., FOR THE FUTURE, PART II**

**DECEMBER 2, 2013**

**10:00 AM**

**2154 RAYBURN HOUSE OFFICE BUILDING**

**WASHINGTON, D.C.**

Good morning Chairman Issa and Members and staff of the Committee. I am Harriet Tregoning, Director of the District of Columbia Office of Planning. Thank you for this opportunity to appear before your committee today on behalf of Mayor Vincent Gray in support of the District of Columbia's proposed changes to the 1910 federal Height of Buildings Act (The Height Act). We have made recommendations for very modest changes to the Height Act intended to give the District the opportunity to exercise local autonomy in determining the future heights of buildings in areas of the city where federal interests are less significant, while at the same time maintaining existing protections for federal interests over height.

The 100-year-old Height Act has created a uniquely low rise skyline and helped to push growth into adjacent neighborhoods in the city as downtown has become more fully built out. But the next 100 years are likely to be quite different in Washington, DC. Before I talk further about the Height Master Plan, I would like to talk about the city we have today and what we anticipate seeing in the future.

The District of Columbia is a growing city, now robustly adding population after more than five decades of steady population loss. DC's large population declines slowed by 1998 but growth did not begin to really take off until after 2005. We first saw the results of a solid decade's worth of growth in the 2010 Census. The Census counted 601,723 residents that year, an increase of 29,600 persons or 5.2 percent over the 2000 Census. Since the 2010 Census, we have grown to 632,323 District residents, a number not seen in DC since the early 1980s. And in the past five years, between 2007 and 2012, population growth has accelerated to 11,600 per year. We are also seeing a baby boom, with over 9,000 births annually since 2008. The District has begun to realize a long-held aspiration of retaining and attracting middle class households

and families back to the city. This population growth, which also included an influx of younger and higher-income residents with disposable income to spend, has boosted sales and income tax revenue, even during the last recession. We are now seeing a pattern: with added residents we are seeing increases in the District's tax revenues, which then funds greater investments in services, infrastructure and other amenities for residents and workers in the District. This turnaround has been the result of much hard work by successive Mayoral administrations and Councils – addressing crime, city services, transportation and transit, neighborhood retail, public school performance, upgrades of public infrastructure and new or revitalized public libraries, parks, recreation centers and schools. This hard-won population growth and the accompanying boost in the local tax base are critical to the District's fiscal stability because this city, like other capital cities, has nearly 50 percent of its land off the tax rolls. Our fiscal stability has to be sought and maintained on much a smaller, less diverse tax base than most other cities. Dr. Natwar Gandhi, the District's Chief Financial Officer, testified before this committee last year that allowing taller and denser buildings by relaxing height and density restrictions would generate more residential units and commercial space, thereby helping the District more easily accommodate future population and job growth as well as increasing the value of the District's property tax base over time. These changes, he noted, also would eventually slow the rising cost of housing and office space that is already becoming too expensive for some residents and businesses.

The concern we bring before you is that the current Height Act limits constrain the city's ability to grow and accommodate future demand, which in turn threaten our ability to maintain our fiscal stability and continue to provide critical services to residents, workers and visitors of

this city. The District proposes allowing the city to have more autonomy to work with its residents, the DC Council and NCPC to determine building height maximums through a collaborative future Comprehensive Plan process. The Comprehensive Plan is the 20-year blueprint, adopted as law, that guides the development of the District of Columbia by establishing official policies for land use, transportation, housing, historic preservation, urban design and other critical issues. There is one point I would like to emphasize about our proposal. The opposition we heard to our recommendations was primarily about opposition to actually and perhaps immediately raising building heights, and doing so without the consultation with residents that they deserve. That is not what we are proposing. The District is asking Congress for the ability to determine, with our residents, our Council and NCPC, whether to increase any height, and if so, when, where and how to do it. The current law makes any such conversation moot.

We have seen in other cities, including some recent examples in San Francisco, what can happen when a growing city puts constraints on its ability to develop more housing. While its population is growing, San Francisco is experiencing a major housing shortage. The city began downzoning itself in the 1980s, restricting how much development could occur. However, San Francisco's recent exploding tech industry is creating thousands of jobs and attracting thousands of new, higher-income residents into neighborhoods that for decades housed mostly middle and lower income families, artists and immigrants, resulting in a rapid growth in housing prices. Median rent in San Francisco grew from \$2,968 in 2010 to \$3,414 this year. Here in the District, we are already beginning to see the consequences of growing demand for a

constrained supply of housing stock: rising housing prices that threaten to force out longtime District residents.

As detailed more fully in our report, we examined various reasonable future growth scenarios for DC. The high growth scenario we examined – using growth rates that are considerably lower than our current rate of growth – indicated that the District will begin to experience capacity shortages well before 2040 even if we re-zone land throughout the city. Currently zoned land available for development will become increasingly scarce and see price pressure by the next decade.

The District of Columbia and the National Capital Planning Commission (NCPC) recently completed the joint Height Master Plan requested by this committee to determine the extent to which the Height Act continues to serve both the federal and District government interests. The Height Act restricts the height of all buildings within the boundaries of the District of Columbia. The study was guided by three core principles: 1) ensuring the prominence of federal landmarks and monuments by preserving their views and setting; 2) maintaining the horizontality of the monumental city skyline; and 3) minimizing the negative impacts to nationally significant historic resources. The DC Office of Planning (OP) led the District's efforts with NCPC on the study and completed two consultant studies that examined the impact of various height alternatives on different parts of the city: an Economic Feasibility Analysis and a Modeling Study that visualized alternative height approaches on the city's form, including its skyline, its most significant public spaces and streetscapes, and views to and from the city's most iconic structures such as the Washington Monument. We used over 250

different panoramic, aerial, and street level views of the city in various locations inside and outside the L'Enfant City, as well as across the Potomac River. OP and NCPC also held a vigorous public engagement process, including ten public meetings and additional facilitated discussions with key stakeholder groups. These modeling studies, in particular, indicated that there were options for making modest changes to the Height Act while fully addressing the core principles of the Height Master Plan.

OP also conducted analyses of future population and employment growth, existing development capacity and the potential new capacity under various approaches to manage height to determine how well District could accommodate this future demand. The analyses demonstrated that current Height Act limits constrain existing capacity to accommodate this growth over the next three decades and will increasingly do so over the subsequent decades and that the District requires additional capacity in the future to meet this demand. Our recommendations for Height Act modifications will enable the city to create a supply of developable space to accommodate future growth, maintain the character of the city's many historic neighborhoods and avoid extreme upward price pressures on housing supplies that could push out moderate and middle income households and families.

As a result of these studies, the District concluded that the Height Act can and should be reasonably modified to strike a balance between accommodating future growth and protecting significant national monuments and memorials. This approach shifts more decision-making to local control—while maintaining a strong federal consultation and approval role—in order to accommodate future population growth while at the same time protecting prominent national

monuments, memorials, and the unique character of local neighborhoods. Doing so will ensure a more prosperous, stable, and vibrant District of Columbia, where District residents enjoy a stronger and more resilient economy, and the District's social, cultural and economic diversity is protected. The alternative—of retaining unchanged a century-old law that constrains the city's ability to accommodate growth—will place the District on the path of becoming a city comprised primarily of national monuments and civic structures surrounded by exclusive neighborhoods affordable only to the very few.

The District proposes the following final recommendations to modify the Height Act:

- 1. Amend the Height Act to create new limits based on the relationship between the street width and building height within the L'Enfant City.** We recommend using a ratio of 1: 1.25 for street width to building height, resulting in a new maximum building height of 200 feet for 160-foot wide streets in the L'Enfant City. This urban design-based standard would reflect the proportionality between individual streets and their buildings to ensure a pedestrian-scaled streetscape with lots of light and air without the strictures of late 19th century fire safety limitations under the current law. To ensure that the tops of any future taller buildings contribute to the use of and views from rooftops, mechanical penthouses for any buildings that would gain more height would be required to be enclosed within the upper floors within the new height cap.
- 2. The limits currently established in the federal Height Act should remain in place unless and until the District completes an update to the District Elements of the Comprehensive Plan where targeted area(s) that meet specific planning goals and also do not impact**

**federal interests are identified. Under this recommendation, building heights in targeted areas may be proposed to exceed the maximums under the federal law; and these may be authorized through the existing Comprehensive Plan process, pending Congressional approval. Should such targeted exceptions be authorized through the Comprehensive Plan, the Height Act would remain in place for all other areas both inside and outside of the L'Enfant City.** The federal interests in height will continue to be adequately protected by the role of NCPC and the Congress in approving the District's Comprehensive Plan and by federal representatives on the Zoning Commission, which must approve zoning amendments reflecting Comprehensive Plan changes. The Comprehensive Plan and zoning amendment processes both require extensive District resident participation and review and must be completed in order for any changes in height to be implemented in the District.

- 3. Amend the Height Act to remove any federal restrictions on the human occupancy of penthouses and set a maximum height of 20 feet and one story.** Mechanical equipment will continue to be required to be housed within a single structure on the roof of the building, and the penthouse will continue to be subject to a setback requirement of one foot from the building edge for every foot of penthouse height, as is currently required.

Our first two recommendations rely on the Comprehensive Plan being updated to make these changes possible. As I noted earlier, the Comprehensive Plan provides guidance for development in the city over the next 20 years. It is comprised of District Elements (prepared by OP) and Federal Elements (prepared by NCPC). The DC Council adopts the District Elements as legislation, and it is signed into law by the Mayor. Major revisions occur every 12 years, and

amendment cycles are undertaken every four years to reflect changes in policies, site-specific land use designations and other matters. The Mayor also can initiate a Comprehensive Plan amendment at any time. The Home Rule Act and the act establishing NCPC also give both NCPC and the Congress approval authority over changes to the District Elements of the Comprehensive Plan. NCPC, in particular, has line-item veto authority over amendments to the District's Comprehensive Plan as part of its approval authority, and has exercised this authority in 1990, 1999, 2007 and 2010 during prior Comprehensive Plan updates. During each of those instances, NCPC found a particular provision to have an adverse federal interest impact and sent the adverse impact findings back to the DC Council for action. The DC Council typically modifies the amendment to address the federal concern. If the Council doesn't modify a District Comprehensive Plan provision which NCPC finds to have an adverse federal interest impact, the provision "shall not be implemented" in accordance with the Home Rule Act and the NCPC Act.

As you can see, the Comprehensive Plan process is not new and has been executed successfully several times, resulting in a final plan that has served both District and federal interests. Our recommendation to use the Comprehensive Plan process as the mechanism to make height determinations will maintain the existing strong protection of the ongoing or future federal interest in height. In addition, changes to the Comprehensive Plan are not self-implementing and must be followed by zoning amendments. These amendments must be approved by the Zoning Commission, a five-member body with two federal appointees that will, again, help ensure federal interests are protected. The Comprehensive Plan and zoning amendment processes also require extensive District citizen and neighborhood participation and review.

A critical accompaniment to these recommendations is the need to protect viewsheds to nationally significant structures such as the U.S. Capitol and the Washington Monument. The District will work with NCPC to update the Federal and District Elements of the Comprehensive Plan to include those protections.

In conclusion, both federal and local interests are served by having a vibrant, economically healthy, livable Capital City. However, without changes to the Height Act to enable the District to expand its tax base, protect housing affordability, make further infrastructure investments and improve our public realm, that vibrancy and fiscal stability, as well as the character of the city's many historic neighborhoods, are threatened. We believe that allowing the District to exercise more local control over how building height will be managed in the city while protecting existing federal controls over height will prevent those threats from happening. On behalf of Mayor Gray, I respectfully ask your support for these reasonable amendments to the Height Act. Thank you.



MEMORANDUM

## **HARRIET TREGONING, DIRECTOR**

**Harriet Tregoning** is the Director of the Washington DC Office of Planning, where she works to make DC a walkable, bikeable, eminently livable, globally competitive and sustainable city. Her priorities include creating and implementing a plan to make DC the most sustainable city in the US, re-writing the city's zoning code for the first time in 50 years, planning the revitalization of the poorest part of the District as part of the consolidation of the Department of Homeland Security's Headquarters at the National Historic Landmark St. Elizabeth's Hospital campus, and collaborating with her transportation colleagues to bring ever more transportation choices to DC, including the nation's largest bike-sharing program to DC, now serving the region with more than 1,670 bicycles operating from more than 190 stations. Prior to this she was the director of the Governors' Institute on Community Design and co-founder, with former Maryland Governor Glendening, and executive director of the Smart Growth Leadership Institute. She served Governor Glendening as both Secretary of Planning and then as the nation's first state-level Cabinet Secretary for Smart Growth. She was a Loeb Fellow at the Harvard University Graduate School of Design for 2003-2004.

