

From: ahg71139@aol.com [mailto:ahg71139@aol.com]
Sent: Monday, October 04, 2010 10:31 AM
To: Miller, Robert (COUNCIL)
Subject: Comprehensive Plan Amendment Process

Rob,

The COW hearing last week on the Comprehensive Plan Amendments came as a huge surprise in that the Bill contained some amendments but the OP Director submitted all of them for approval. Given the requirement that ANCs be notified by Council <http://app.occ.dc.gov/documents/1976/mar/19760323.pdf> see page 5, will there be a requirement that the amendments be placed in the DC Register and another hearing held? You will recall that OP did not advertise the hearing on their website. I appreciate the desire of OP to finalize the amendment process but this step of the process has lacked transparency.

Alma

From: ahg71139@aol.com [mailto:ahg71139@aol.com]

Sent: Tuesday, October 05, 2010 7:11 AM

To: Gray, Vincent (COUNCIL)

Subject: Response of C100 to Councilmember Wells

The attached letter is in response to comments made by Councilmember Wells to the Committee of 100 at the Public Hearing on Comprehensive Plan Amendment Act of 2010, Bill 18-0867 on Tuesday, September 28, 2010.

Alma Gates



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GEORGE R. CLARK, ESQ.

October 4, 2010

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JOHN YAGO

RE: Bill 18-867, "Comprehensive Plan Amendment Act of 2010"

Dear Chairman Gray:

Thank you for providing an opportunity to enter into the record a response to Councilmember Wells. The Councilmember suggested the Committee of 100 clarify its testimony regarding the Height Act of 1910; and, referenced a particular passage cited in the testimony of Harriet Tregoning that he felt was at odds with our testimony.

Mr. Wells read from the following paragraph from Harriet Tregoning's testimony regarding the proposed Comprehensive Plan amendments the Committee of 100 focused on in testimony (LU-1.1.5 and LU-1.1.8) "...With further review and collaboration with the National Capital Planning Commission, we are no longer recommending deleting the existing Comp Plan language in the Capitol Hill Area Element, but instead are recommending changing the existing wording as follow to: 'The allowable height of any building constructed in the air rights should be measured consistent with the Height Act of 1910 and relate positively to the surroundings with special attention to Union Station and other

CHAIR EMERITUS

LAURA M. RICHARDS, ESQ.

historic buildings, the Federal precincts on Capitol Hill, and existing neighborhoods to the east and west. Development must give special attention to the preservation and enhancement of and view to Union Station and its historic surroundings by ensuring the provision of exemplary architecture and encouraging upper story setbacks and minimized penthouses.’ “

Mr. Wells advised that an agreement had been reached on language between the Office of Planning and the National Capital Planning Commission and therefore the Committee of 100’s concerns regarding height had been addressed. This assertion is incorrect.

The Office of Planning is using semantics,” deleting vs. changing,” to accomplish its intention to eliminate specific restrictive language in the Comprehensive Plan regarding the measuring point for H Street and replace it with more general language that no longer includes: “The allowable height of any building constructed in the air rights should be measured from the existing grade of 1st Street or 2nd Street NE, rather than from the overpass.”

In its September 3 letter, the National Capitol Planning Commission informed Council, “While staff supports a public planning process for the project, there are concerns with the proposal to eliminate Policy CH-2.1.7. This existing policy states that the allowable height of any building constructed in the air rights should be measured from the existing grade of 1st Street or 2nd Street, NE, rather than from the overpass. The proposed bill will eliminate this policy, leaving the method of measurement for the Union Station air-rights unclear. In NCPC’s view, the existing policy is consistent with the interpretation of the 1910 Height of Buildings Act and it also provides a clear guideline that will produce a project design that is sensitive to the existing surroundings. NCPC recommends that Council not eliminate or change Policy CH-2.1.7.”

Both the National Capital Planning Commission letter of September 3 and the Committee of 100’s testimony addressed measuring point for air-rights development. Both agree that the measuring point for development in the Union Station area is the existing grade of 1st Street or 2nd Street and not the H Street overpass. Furthermore, this means of measurement for H Street was established in Zoning Commission Order 02-35 dated November 7, 2003. Policy CH-2.1.7 should be maintained in the Comprehensive Plan to support the zoning regulation that established the measuring point for H. Street rather that replacing with the

language suggested in the Office of Planning's testimony.

To further reinforce the measuring point, Section 7 of An Act to Regulate Height in the District of Columbia (The Height Act of 1910) states the following regarding the "Basis for Measurement:" "That for the purpose 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."

The ZC also has noted the problem with OP's approach. OP has removed the references to Height Act measuring practices from its proposals in the Zoning rewrite process at the specific request of the ZC because of fear of conflict with federal law. The Council should take the same precaution and not try to do by indirection what Home Rule specifically forbids -- changing the Height Act.

The Committee of 100 would also like to address the comments made by David Tuchmann of Akridge when he stated, "...The amendments we support do allow the Zoning Commission to determine the proper measuring point for this particular project. It would place within the Comprehensive Plan both protections that would constrain the Zoning Commission in creating that measuring point but would also allow the Zoning Commission to look at the unique factors of this project – how it is relating to the rail yard – how H Street is the only street that this project fronts – the current language in the plan incorrectly looks to measure the project from 1st or 2nd Street."

Mr. Tuchmann indicates the proposed amendments to the Comprehensive Plan are the tools necessary to eliminate the authority and ability of the Zoning Commission to set limits on the height of buildings in the air rights development areas of the city. Approval of the proposed amendments would constrain the Zoning Commission from using the measuring point relied on since 2003 in ZC 02-35.

In closing, the Committee of 100 appreciates the invitation extended by Councilmember Wells to restate its position, "The proposed Land Use amendments represent the Office of Planning's attempt at an end run around the Height Act and the established measuring point for building height for buildings fronting a bridge or viaduct that has been relied upon since 2003 (ZC 02-38). Council should be

cognizant that with one vote they have the ability to abandon 100 years of building within a height standard because the Office of Planning proposes a different vision for the skyline of the city...”

The Committee of 100’s testimony is unchanged and as presented.

Sincerely,

--S--

Alma H. Gates

cc: Councilmember Tommy Wells
Anthony Hood
Marcel Acosta
Harriet Tregoning
George R. Clark, Esq.

From: ahg71139@aol.com [ahg71139@aol.com]
Sent: Saturday, October 16, 2010 9:28 AM
To: Cheh, Mary (COUNCIL)
Cc: Gray, Vincent (COUNCIL); Mendelson, Phil (COUNCIL); Catania, David A. (COUNCIL); Brown, Kwame (COUNCIL); Brown, Michael (Council)
Subject: Comprehensive Plan Amendments

Good Morning Mary,

I plan to attend the COW hearing on the Comprehensive Plan amendments on Tuesday; October 19 and, submitted testimony at the September COW hearing on the "Comprehensive Plan Amendment Act of 2010, Bill 18-0867," on behalf of the Committee of 100 on the Federal City. The Committee of 100 opposes the air rights amendments and the removal of the Policy that determines the measuring point for height in the area between 1st and 2nd Streets, NE.

As you know, running simultaneously with the Comprehensive Plan Amendment process is the Zoning Regulation Rewrite (ZRR). To succeed with its plans for height above and beyond what is allowed under the 1910 Height of Buildings Act, the Office of Planning is suggesting removing the established means of measuring when a property faces a bridge, viaduct, overpass, etc., established in November of 2003 by Zoning Order 02-35. The amendments would establish an arbitrary measuring point for sections of the city where air rights are a consideration. In effect, the Comprehensive Plan amendment process is being used to end run the 1910 Height of Buildings Act and the existing measuring point established by the Zoning Commission. It would be a mistake if Council were to remove the protections put in place by the Zoning Commission regarding the measuring point for the height of buildings in the District of Columbia. Since the Zoning Commission will not vote on the amendments to the Comprehensive Plan their authority is also being undermined through the amendment process by the Office of Planning.

As your constituent and a member of the Zoning Task Force, I ask that you not endorse the following amendments to the Comprehensive Plan: Policy LU-1.1.5 (7); Policy LU-1.1.8; LU-1.1.C; and, Action Item CW-2.8.E.

I also ask that you vote to reinstate Policy CH-2.1.7 that would keep in place the protective language currently in the Comprehensive Plan regarding the measuring point for buildings in the air rights area between 1st and 2nd Streets, NE.

The Office of Planning has handled the amendment cycle poorly. The announcement of the first COW hearing was to introduce only certain amendments; but, the night before the hearing all amendments were submitted to Council for consideration, which raises the question regarding Council's noticing requirements and whether or not they were properly met. One member of Council was familiar enough with Harriet Tregoning's testimony (which had not been delivered) that he was able to quote chapter and verse when the Committee of 100 and the National Capital Planning Commission presented their testimonies. I have attached a copy of my response to the Councilmember.

Thank you for your consideration and I ask for your support,

Alma Gates
Chair, Zoning Subcommittee
Committee of 100 on the Federal City
Member, Zoning Rewrite Task Force

cc: Vincent Gray
 Phil Mendelson
 David Catania
 Kwame Brown
 Michael Brown

From: ahg71139@aol.com [mailto:ahg71139@aol.com]

Sent: Thursday, October 21, 2010 4:41 PM

To: Cheh, Mary (COUNCIL); Gray, Vincent (COUNCIL); Mendelson, Phil (COUNCIL); Catania, David A. (COUNCIL); Brown, Kwame (COUNCIL); Brown, Michael (Council)

Cc: Faust, Jeremy (COUNCIL); Stogner, Kevin (Council); Miller, Robert (COUNCIL); ahg71139@aol.com

Subject: Comprehensive Plan Amendments

Dear Councilmembers,

Following the Committee of 100's September 28 testimony on the "Comprehensive Plan Amendment Act of 2010, Bill 18-0867," I forwarded a letter to you in response to comments made by Councilmember Wells regarding an agreement between NCPC and the Office of Planning. Yesterday, the attached response arrived from NCPC clarifying NCPC's "agreement" with the Office of Planning.

To help inform Council's endorsement of the Committee of 100's position on the specific amendments cited below, I have attached supporting documentation. As noted in the Committee's testimony, amendments to the Comprehensive Plan should not be used as a means to end run the Height of Buildings Act of 1910 or zoning regulations that have been relied upon since 2003; and, I specifically site Zoning Commission Order 02-35.

The Committee of 100 asks Council not to endorse the following proposed Comprehensive Plan amendments:

Policy LU-1.1.5 (7); Policy LU-1.1.8; LU-1.1.C; and, Action Item CW-2.8.E; and,

The Committee of 100 asks Council to keep Policy CH-2.1.7 in the Comprehensive Plan to maintain the measuring point for buildings in the air rights between 1st and 2nd Streets, NE.

Thank you for your consideration and support.

Alma Gates