



NATIONAL CAPITAL PLANNING COMMISSION
THURSDAY, JANUARY 6, 2011
**PROPOSED ACTION ITEM CP19: Comprehensive Plan for the National
Capital: District Elements – Comprehensive Plan Amendment Act of 2010**

Testimony of Alma Hardy Gates

Good afternoon members of the Commission. I am Alma Gates testifying on behalf of the Committee of 100 on the Federal City (C100), formed in 1923 to act as a force of conscience in the evolution of the Nation's Capital City. It is in that spirit that C100 presents this testimony on the amendments to the Comprehensive Plan.

The Council-approved amendments to the Comprehensive Plan are the focus of this hearing; but, attention must be given to the predicted and desired outcomes of the amendments.

For some time there has been interest in developing the air rights above the rail yards behind Union Station and, in fact, a new zoning chapter awaits approval by the Zoning Commission to permit that development, Union Station North (USN). To enable the "Burnham Place" development over the rail yards, a Comprehensive Plan amendment has been skillfully maneuvered through the Council approval process and is presently before the National Capital Planning Commission (NCPC) for approval.

In September 2010, C100 presented testimony to the Council of the District of Columbia on proposed amendment CH-2-1-7 and stated that the amendment amounted to an end run around the Height Act. Council listened and acted appropriately by specifically noting in the amended Policy CH-2-1-7 that no building should exceed the 130 ft. height limit imposed by the Height Act. But Council turned a blind eye to the fact that the ground, or platform, upon which the development would be built would be 30 ft. above the rail yards.

Existing Policy

Amended Policy

<p>“1511.12 Policy CH-2.1.7: H Street Overpass “Ensure that any future development in the air rights adjacent to the H Street overpass recognizes the limitations of the streets beneath the bridge to serve high volume commercial traffic, and includes provisions for parking and delivery ingress and egress from the bridge itself. The allowable height of any building constructed in the air rights should be measured from the existing grade of 1st Street or 2nd Street NW, rather than from the overpass.”</p>	<p>“1511.12 Policy CH-2.1.7: H Street Overpass “Ensure that any future development in the air rights adjacent to the H Street overpass recognizes the limitations of the streets beneath the bridge to serve high volume commercial traffic and includes provisions for parking and delivery ingress and egress from the bridge itself. The allowable height of any building constructed in the air rights should be measured consistent with the Height Act and relate positively to the surroundings with special attention to Union Station and other 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 views to Union Station and its historic surroundings by ensuring the provision of exemplary architecture and encouraging upper story setbacks and minimized penthouses.”</p>
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Zoning precedent was specifically written for another air rights project in the Union Station area known as Station Place. It is ZC Order NO. 02-35, approved by the Zoning Commission in October 2003.

The Commission initiated this rulemaking in response to recommendations of the DC Office of Planning (OP). OP’s recommendation was to clarify and reaffirm that **the intent of the Zoning Regulations was to measure the height of buildings from the ground, and not from an artificially created measuring point, in determining their allowable height.**

CH-2.1.7 would thus become inconsistent with previous actions taken by the Zoning Commission.

Prior to this rulemaking, inconsistent interpretations of the building height measuring point have created matter-of-right developments that do not fit in

the character of their zoning district. Therefore, OP concluded, the measurement of building height from a point that is artificially raised is neither an equitable interpretation nor one that protect the physical character of the District.

The protective language in CH-2.1.7, requiring the measuring point for air rights development adjacent to the H Street overpass has been removed through the amendment process. The artificially raised measuring point that was not to be used in 2003 will become the Council-approved measuring point; will establish the height of buildings in the USN zone; and, may set precedent for the measuring point for other air rights developments across the city.

In anticipation of the hearing on Bill 18-867, Amendments to the District Elements of the Comprehensive Plan, NCPC sent a September 3 letter to Council Chairman Vincent Gray and noted:

Regarding the air-rights initiative, NCPC is supportive of the new language recommended for Policy CW-2.8E that establishes the need for a public planning process for the Union Station Air Rights project. This project has the potential to alleviate the barriers established by the historic Union Station rail lines and provide an exciting mixed use development for the H Street, NE corridor. However, the location of this project is in a sensitive area as it is directly adjacent to the historic Capitol Hill neighborhood and directly in sight of Union Station. A development out of scale with these areas could have significant impact to this area. While staff supports a public planning process for the project, there are concerns with the proposal to eliminate policy CH-2.1.7. This policy currently states that the allowable height of any building constructed in the air rights should be measured from the existing grade of 1st 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 surrounds. NCPC recommends that Council not eliminate or change Policy CH-2.1.7.**

C100 is in total agreement with, and supports the recommendation of NCPC. The graphics submitted on behalf of the Committee of 100 on the Federal City and the Capitol Hill Restoration Society, and sponsored by Drury Tallant, demonstrate the deleterious effect the permitted artificial elevation will have on the views of Union Station. The graphics clearly illustrate the out-of-scale presence the proposed Union Station North development will have relative to Union Station and the US Capitol. The iconic view of Union Station will become shrouded by the height of the USN buildings regardless of their setbacks. If approved, this unwelcome encroachment will be lasting.