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REC'D OFFICE OF ZONING
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IN REPLY REFER TO:
NCPC File No. ZC 09-21

December 16, 2010

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The Honorable Adrian M. Fenty

Chairman
Council of the District of Columbia
The Honorable Vincent C. Gray

Executive Director
Marcel C. Acosta

Chairman Anthony Hood
Zoning Commission of the District of Columbia
441 4th Street NW, Suite 220
Washington DC, 20001

RE: ZC 09-21, Union Station North Text Amendment

Dear Chairman Hood:

On December 16, the Zoning Commission is holding a public hearing on the Union Station North (USN) text and map amendments. These amendments will apply to the Burnham Place development, a project made possible after Congress authorized the sale of the air rights in 2006.

Recently, the Council of the District of Columbia (Council) passed several amendments to the District Elements of the Comprehensive Plan which relate to the Burnham Place development. On September 3, staff of the National Capital Planning Commission (NCPC) issued a letter to Council Chairman Vincent Gray regarding our initial analysis of these proposed amendments (copy attached). Subsequently, NCPC staff worked with staff of the District of Columbia Office of Planning (DCOP) on language addressing the design of the Burnham Place project. This language is included in the proposed amendments to the Capitol Hill Element of the Comprehensive Plan.

I would like to take this opportunity to clarify the position of NCPC staff on both the Union Station North text and map amendments and the District's Comprehensive Plan language as it pertains to the project's measuring point to determine height and how the point conforms to the Height Act of 1910. We recently addressed this matter in a response to an inquiry by the Committee of 100 and I have enclosed a copy of my correspondence for your reference.

NCPC staff is very supportive of the Burnham Place project's potential to reconnect neighborhoods in an area of the city disrupted by the rail yards. The inclusion of residential use as a component of the project is very positive.

ZONING COMMISSION
District of Columbia

ZONING COMMISSION
District of Columbia
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EXHIBIT NO. 22 OR 16

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However, the proposed Union Station North zoning, in our view, is not consistent with the Comprehensive Plan language recently approved by Council and agreed upon by DCOP and NCPC staff.

That language states that the “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.”

In our view, allowing buildings to be measured from an elevated surface and creating height that is out of scale with the project’s surrounding context—as proposed in the Union Station North zoning—is not consistent with this policy. Further, we are concerned that using the elevated H Street surface as the measuring point, is contrary to the intent of the Height Act and inconsistent with past Zoning Commission actions that restrict such measurement.

In zoning case 02-35 from 2003, the Zoning Commission approved a text amendment, proposed by DCOP, which established that “in the case of a property fronting a bridge or viaduct, the height of the building shall be measured from the lower of the natural grade or the finished grade at the middle of the front of the building to the highest point of the roof or parapet.” The final order for that case states that DCOP initiated the text amendment “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.” This intent has been carried through to the zoning text amendment related to height, case 08-06, to which the Zoning Commission preliminarily approved. This amendment requires building height measurement to be taken from a street frontage not affected by an artificial elevation. Allowing an exception in the Union Station North zoning is inconsistent with earlier Zoning Commission actions.

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An additional issue is the treatment of multiple buildings as one building, as proposed in Section 2904 of the Union Station North text amendment. Treating the buildings as such distorts the ability to properly relate the measurement of a building's height to the width of the street that it fronts, which is the underlying intent of the Height Act. It is our understanding that there will be streets providing public access to new buildings in the project. The width of these roads, regardless of whether they are public or private, should be the basis by which a building is measured. In essence, a street is a street and it is logical planning practice to treat them as such in creating zoning for a project. The Zoning Commission should carefully consider these technical zoning issues in the context of the project's entire design and the impact of that design on surrounding areas.

We look forward to reviewing this project and bringing a recommendation to our Commission once the Zoning Commission has taken a proposed action on case 09-21. If you have any questions related to this matter please direct them to David Zaidain, Senior Urban Planner at 202-482-7230.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcel C. Acosta', with a stylized, flowing script.

Marcel C. Acosta
Executive Director

Enclosures

cc: Harriet Tregoning, Director, District of Columbia Office of Planning