



Executive Director's Recommendation

Commission Meeting: November 19, 2013

PROJECT

Height Master Plan for
Washington, DC

NCPC FILE NUMBER

6886

SUBMITTED BY

Staff of the National Capital Planning
Commission

PROPOSED ACTION

Authorization to transmit final
recommendations to the U.S. House
Committee on Oversight and
Government Reform.

REVIEW AUTHORITY

40 U.S.C. § 8711 (a)

ACTION ITEM TYPE

Staff Presentation

INTRODUCTION

Great cities evolve in a way that is authentic to their history and their aspirations. If authenticity is built on those characteristics that make each city unique, surely the human-scaled, horizontal character associated with the capital city's building heights and its unmistakable, symbolic skyline, are integral elements of the city's DNA. Equally authentic to Washington's character is the tradition of long-range planning that asserts the capital's cityscape must be more than the random result of economic activity over time; rather, we aspire to a more explicit civic form. Built Washington – situated and scaled to respond to the natural environment – has emerged as both a place of form and experience for the residents of the District of Columbia, the nation's citizens, and the millions of visitors who come here annually.

In this context, the year-long process to develop the Height Master Plan (Height Plan) may be viewed as an important contribution to a dialogue about Washington's long-range plans to manage growth and development, and the role that building height plays within that conversation. This complex and multi-dimensional conversation about the city's growth cuts across both federal and District goals related to urban form, security, economic development, and infrastructure. The Height Plan also included the question of who or what entity should manage building heights, which is different from a discussion about building height limits per se. Here, the Height Plan gave voice to questions related to Home Rule as well as the role of the U.S. Congress, federal agencies and federal law in protecting the form and character of the capital city.

The fundamental qualities and national resources that contribute to Washington as the nation's capital must be protected now and into the future. For more than a century, the federal Height of Buildings Act of 1910 (Height Act) has played a central role in shaping Washington's skyline and cityscape to

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reinforce symbolic civic spaces and structures. The physical urban form of this purpose-built capital city reflects the nation's democratic ideals and provides a unique, special experience for residents and visitors. This legacy is in no small part due to the Height Act. The Height Study confirmed that the horizontal skyline, views, and street-level character shaped by the Height Act is a fundamental and valued urban design principle.

At the same time, cities evolve and Washington must also respond to 21st century demands and opportunities. After decades of population decline, the District has had an uptick in residential growth. In 2012, there are approximately 630,000 residents, up from 570,000 in 2000, but well below the District's peak population of 800,000 in 1950.¹ And, the District may continue to grow more populous and dense in the decades to come. Like all cities, it must address changing development trends, manage long-term growth, provide necessary infrastructure and services, and balance a variety of interests.

The federal government shares the District's vision for a strong, vital capital city that addresses long-term challenges in a sophisticated, multidimensional way for the people of the District of Columbia and for all Americans. This commitment is reflected both in NCPC's current recommendations for the Height Plan as well as the federal government's decisions to transfer federal lands and property to support local goals for growth and community development.² The federal government continues to invest in neighborhoods in a way that is designed to meet both agency needs and local economic goals. Three of the most recent federal development projects, including two cabinet level headquarters, are located outside of traditional federal precincts, which promotes neighborhood investment.³

The question of building heights within the context of the city's overall strategy to accommodate future growth requires a long-range planning vision, not the ad hoc decision-making that often characterizes land-use decisions nation-wide. Thus, the Height Plan recommendations do *not* identify specific neighborhoods for growth. Rather, results of our work on the Height Plan and public feedback emphasizes the importance of a shared federal and local planning approach that is central to the city's heritage as one of the world's great planned capital cities. The recommendations focus on an established planning process – *the Comprehensive Plan for the National Capital* – to responsibly articulate the District's current and future needs to provide capacity and growth, while implementing these changes in a way that protects federal interests and national resources.

¹ See the Washington Post, December 20, 2012: <http://www.washingtonpost.com/blogs/mike-debonis/wp/2012/12/20/census-d-c-added-30000-residents-in-27-months/>

² See the Title III of the Federal and District of Columbia Government Real Property Act of 2006, Pub. L. 109-396, 120 Stat. 2711 (2006) (D.C. Lands Act).

³ These include headquarters for the U.S. Department of Homeland Security (DHS), the U.S. Department of Transportation (DOT), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

FINAL RECOMMENDATIONS

- 1. The following recommendation is proposed only for areas inside of the L'Enfant City. Due to the concentration of federal interests within the L'Enfant City and to protect the integrity of the form and character of the nation's capital, the federal Height Act should remain in place and no changes should be made to the formula or approach for calculating allowable building height.***

Note: This recommendation reflects the guidance from Chairman Darrell Issa in the letter requesting the Height Study. It noted "Any changes to the Height of Buildings Act that affect the historic L'Enfant City should be carefully studied to ensure that the iconic, horizontal skyline and the visual preeminence of the U.S. Capitol and related national monuments are retained."⁴

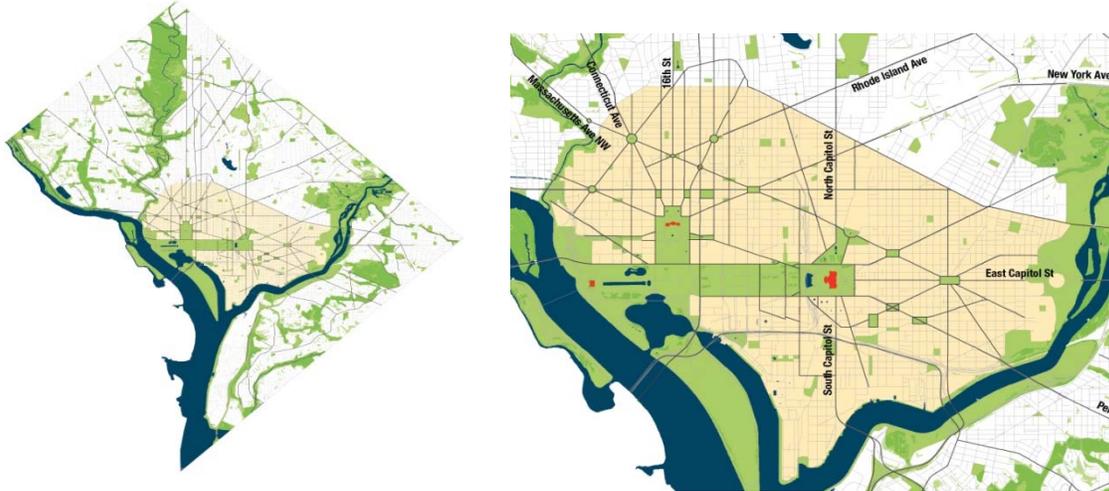
Discussion

The federal government has a continuing and primary stewardship role in the form of the nation's capital, and it is particularly evident in the structures and public spaces within the L'Enfant City. Based on its actions beginning in 1790 and continuing until as recently as 1990, the U.S. Congress has identified the design of the City of Washington and the District of Columbia as an abiding federal interest, and reserved to itself the right to amend building height restrictions under the 1910 Height Act. Through these actions, Congress has acted as steward of the capital city's form for generations of Americans and ensured that the image and experience of the capital city reflects the preeminence of our civic and democratic institutions and national icons, including a lasting, symbolic skyline. The importance of retaining a federal stewardship responsibility within Washington, including the L'Enfant City, remains paramount today.

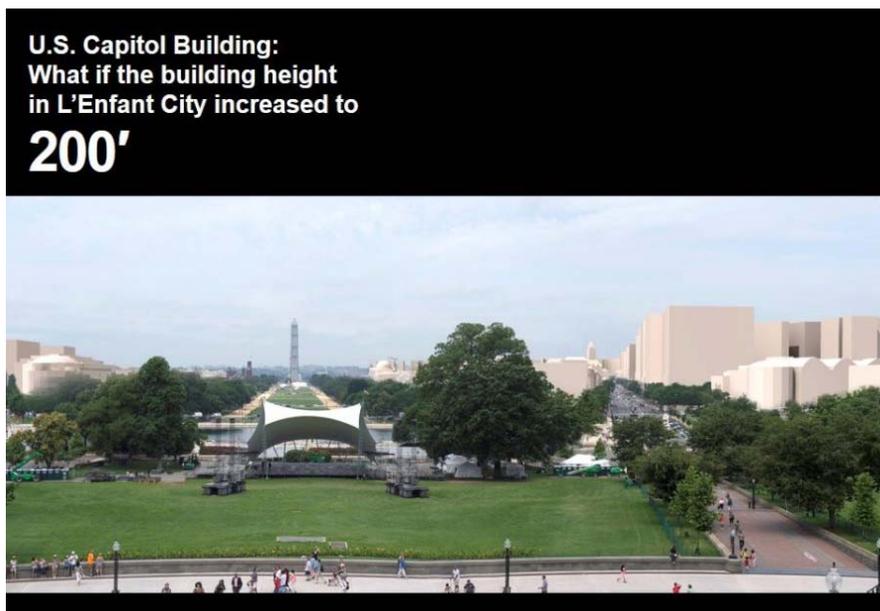
As a result of the studies and outreach conducted for the Height Plan, a number of federal interests related to building heights throughout Washington, DC were reaffirmed and identified. Federal interests include the institutions of our democracy, such as the U.S. Capitol, the White House, and the Supreme Court; national monuments, parks, museums and civic spaces; cultural and historic sites, especially those listed on the National Register of Historic Places; and federal headquarters, office and facilities – and related federal agency operations. These individual facilities and landscapes, their settings, and vistas to and from, are at the core of the city's image and the experience millions of visitors have of our national capital.

⁴ See letter from Chairman Darrell Issa to the Hon. Vincent Gray and Mr. Preston Bryant, Jr. dated October 3, 2012.

The Boundaries of the L'Enfant City



Based on the visual modeling work conducted as part of the Height Plan, changes to the Height Act within the L'Enfant City and within the Topographic Bowl may have a significant adverse effect on federal interests. These include the views and setting of the U.S. Capitol, Washington Monument, National Mall, national parks, and other nationally significant civic and cultural resources. Any building height increases may also impact the character of L'Enfant streets and public spaces.

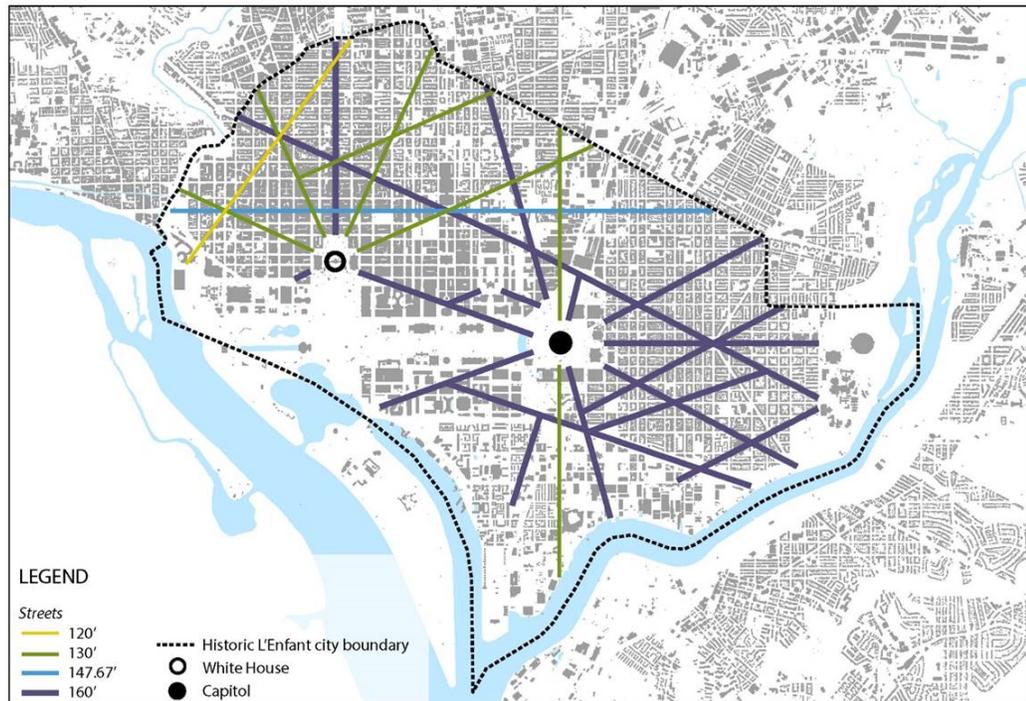


The District's Preliminary Draft Recommendation: The Ratio Approach

The 1910 Height Act mandates a 1:1 ratio between the width of the right-of-way and the maximum building height on residential streets to a maximum height of 90 feet, a 1:1 ratio plus 20 feet of height for commercial streets, with a maximum height of 130 feet. Draft Recommendations issued by the District of Columbia on September 30, 2013, proposed replacing this methodology with a ratio of 1:1.25 between the street right-of-way and the maximum building height on commercial streets. This will be referred to as the ratio approach. NCPC appreciates the District's effort to utilize an urban design principle in its study and recommendations related to building height. However, based on staff's urban design evaluation as described below, it is of note that the ratio approach would likely add the most height where it is least appropriate: on streets and views focused on the U.S. Capitol and the White House, where building heights should be lower to emphasize views of these national resources.

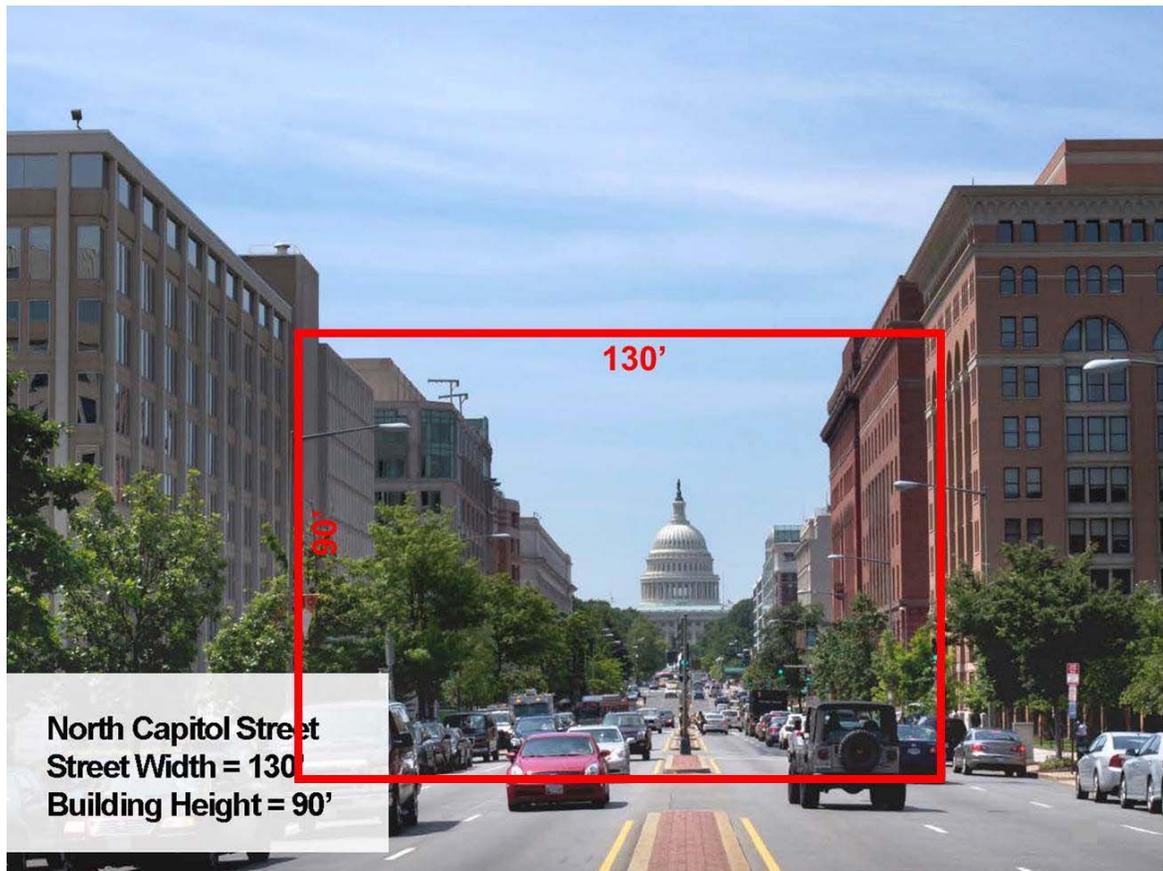
In its analysis of this proposal, NCPC staff began by determining which streets would be affected and how each would be impacted under the ratio approach, and how. Not all L'Enfant Streets would see additional height under this approach. The streets that would see increased building heights under the ratio include:

- The streets with 130 foot rights-of-way, which include North and South Capitol Streets and most of the streets that focus on the White House.
- K Street is an anomaly, as the only L'Enfant street with a right-of-way of 147.67 feet.
- The streets with 160 foot rights-of-way, which include 16th Street north of the White House, Pennsylvania Avenue, Massachusetts Avenue, and other avenues that are focused on the U.S. Capitol.



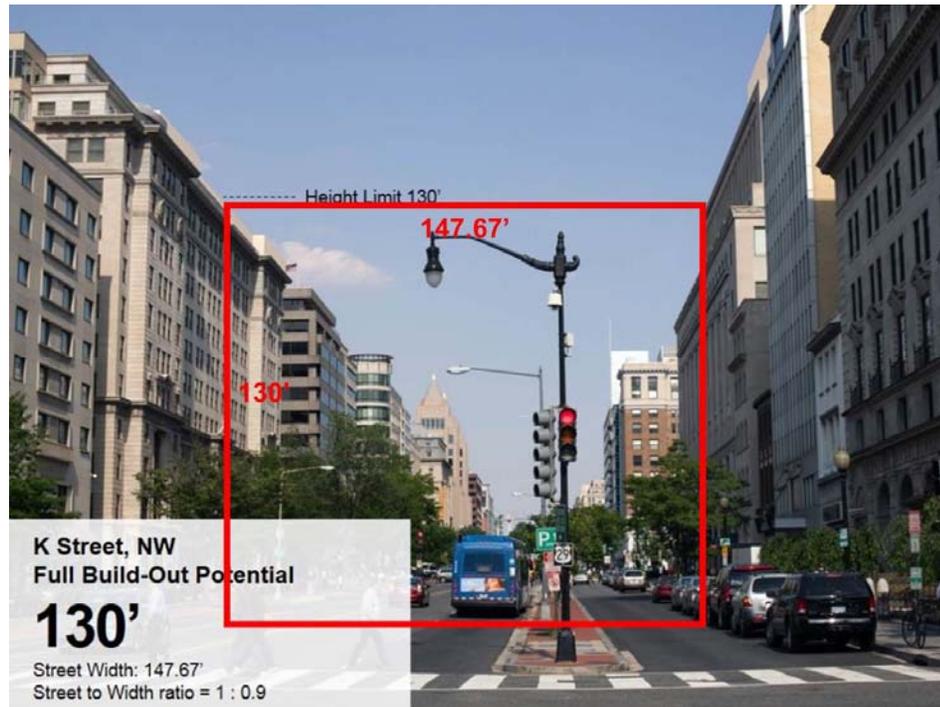
The next phase of NCPC's analysis focused on the existing character of the various L'Enfant streets. The city's traditional downtown is concentrated between Pennsylvania and Massachusetts Avenues NW to the south and north, and Mt. Vernon Square and Washington Circle to the east and west. The street sections on these largely commercial streets have a vertical, or "portrait" character. By contrast, the city's broader, more historically significant avenues have a more horizontal or "landscape" character, by virtue of the Height Act which caps their height to something less than their width.

The character of the diagonal avenues could be changed significantly under the ratio proposal. It is NCPC staff's determination that because the ratio approach would eliminate this significant difference in character between the city's commercial streets, where private development predominates, and the avenues where public and civic buildings tend to be located, that the ratio approach would adversely affect federal interests.



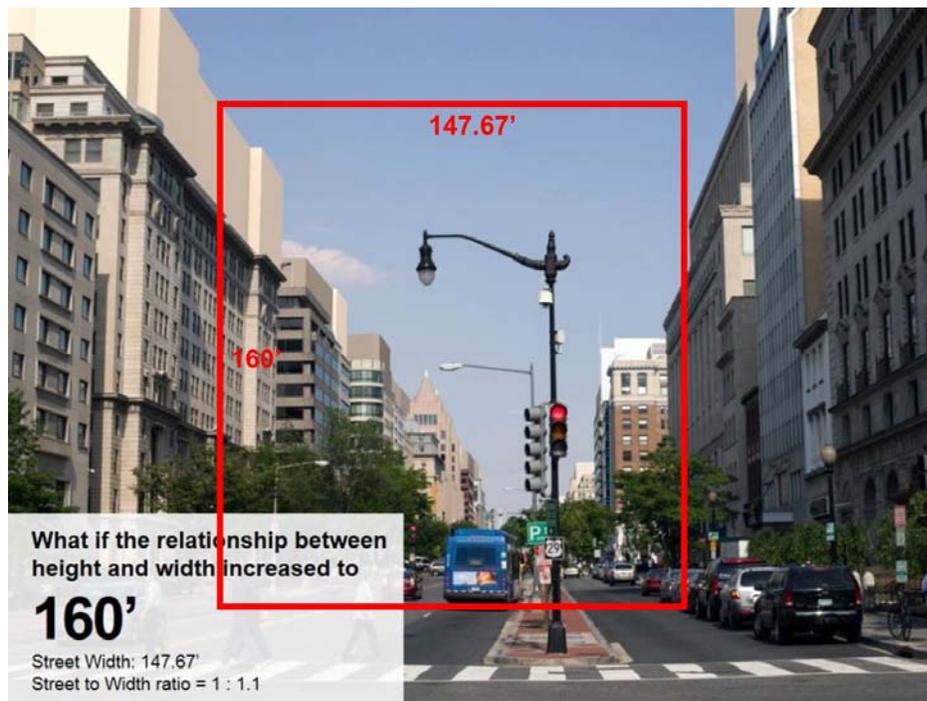
North Capitol Street, showing flanking views of the Capitol along North Capitol Street that are cited as significant to the L'Enfant Plan. Existing by-right zoning limits building heights to 90 feet.

It is important to note the one exception to the rule of commercial streets having generally vertical street sections and civic avenues having generally horizontal street sections. That exception is K Street which, as noted earlier, is an anomaly due to its unusual 147.67 foot width. Because of the 130 foot cap, K Street is the only primarily commercial street in the L'Enfant City whose maximum building height is less than its width.



K Street NW, showing existing street width to building height proportion.

Building heights of 160 feet and 180 feet high were studied as part of the District's Modeling Study.



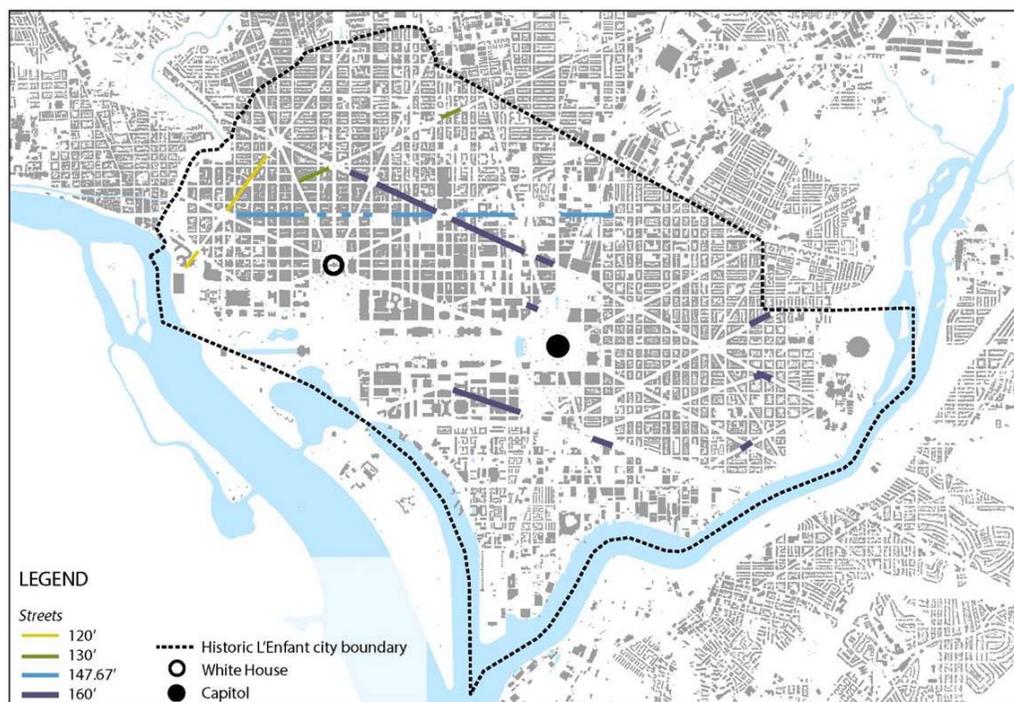
K Street NW, showing width to height proportion with maximum building height at 160 feet.

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K Street, NW has notably oblique views of the White House precinct from radiating avenues, 16th Street and L'Enfant reservations, particularly two downtown parks, Farragut and McPherson Squares. However, K Street Northwest is the District's primary commercial street and an important regional transportation corridor. It has long been the focus of planning studies because of its important commercial status and the general view that its many public and private spaces are not living up to the street's potential.

Finally, in consideration of the District's goal for additional development capacity, NCPC staff looked to see where potential for significant additional building height was possible. It is also important to note that only a few of the streets that would be impacted under the District's proposed ratio approach are actually located in areas currently designated for medium and high density growth in the *District Elements of the Comprehensive Plan*. Thus, it does not appear that the city would realize much additional capacity under this proposal. The map below is a result of two important overlays:

- Streets where additional height would be allowed under the ratio approach are overlaid with areas currently designated by the District for medium to high density commercial and mixed-use development. All other areas are excluded.
- Streets with significant L'Enfant viewsheds or streets within historic districts are excluded.



When all of the streets in residential areas, historic areas, and federal precincts are removed, K Street (in blue above) stands out as an anomaly. It is the only east-west aligned street that remains largely available when the ratio approach is overlaid with medium and high density areas most likely to realize increased heights under this approach.

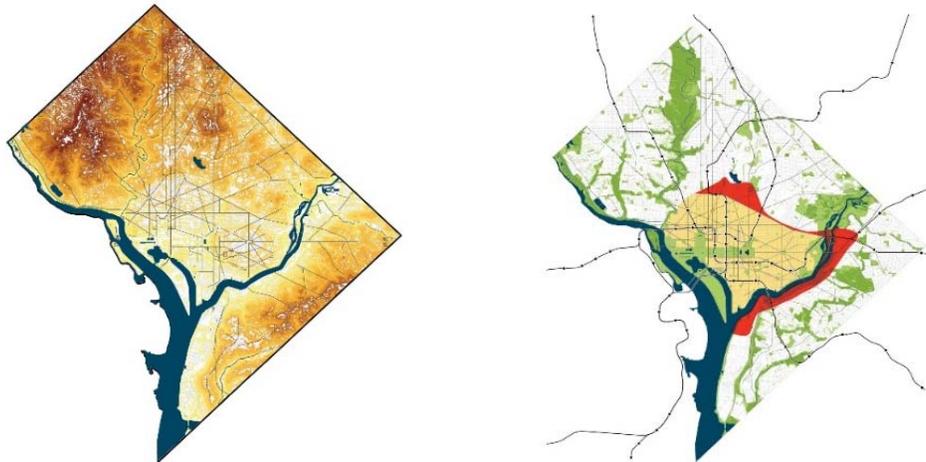
- 2. *The following recommendation is proposed only for areas outside of the L'Enfant City. The purpose of this recommendation is to balance the long-term potential growth needs of the city with the importance of protecting the integrity of the form and character of the nation's capital, including federal interests and local communities. 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 that 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.***

Note: This recommendation reflects the guidance from Chairman Darrell Issa in the letter requesting the Height Study. It noted "...the exploration of strategic changes to the law in those areas outside the L'Enfant City that support local economic development goals while taking into account the impact on federal interests, compatibility to the surrounding neighborhoods, national security concerns, input from local residents, and other related factors..."

Discussion

There are federal interests that require review and protection outside of the L'Enfant City, which was laid out on a relatively flat area surrounded by low hills forming a green ridgeline. This ridgeline, now known as the Topographic Bowl, remains largely in federal ownership. The Civil War Defenses of Washington, St. Elizabeths, and Arlington National Cemetery are all part of the Topographic Bowl and there is a federal interest in protecting these sites, their settings and the views to and from them. Outside the Topographic Bowl, the extent of the federal interest becomes less concentrated and more focused, but sites such as the Naval Observatory, Rock Creek Park, the National Armed Forces Retirement Home and Lincoln Cottage, the Nebraska Avenue Complex, the Frederick Douglass House, the National Arboretum, and the International Chancery Center are examples of significant and diverse federal interests located outside the L'Enfant City.

**Images of Washington's Topographic Bowl, an elevated ridge
around Washington's Historic L'Enfant City**



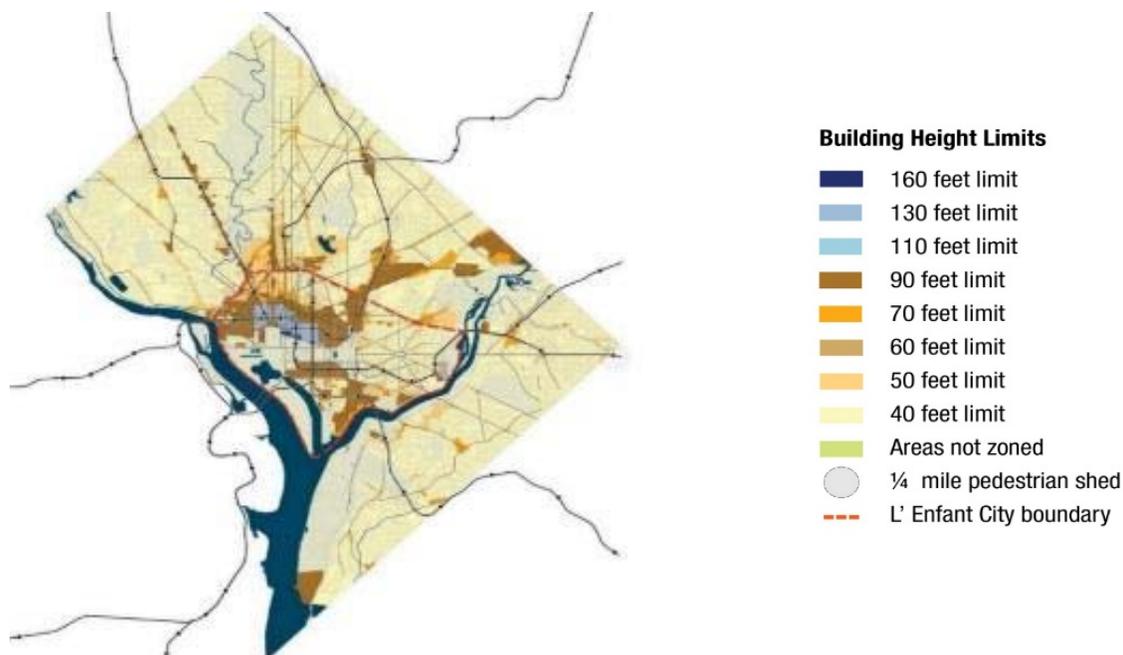
Images: District of Columbia

The central issue for this recommendation is as follows:

- On the one hand, the Height Act provides broad protection of the diverse federal interests outside of the L'Enfant City, and the federal government must continue to protect these national resources in perpetuity. However, as noted, these resources are less concentrated in this area, and from a federal perspective, opportunities for strategic change to the Height Act may exist.
- At the same time, as outlined in its draft report and through this Height Study process, the District has expressed concerns about its ability to effectively plan for its future growth. During this study the District put forward low, medium and high forecast rates for growth and noted concerns regarding the long-term constraints associated with the Height Act. As part of the analysis, the District put forward forecasts related to population growth, development capacity, housing costs and other benchmarks.

Since release of the District's draft report, there has been broad discussion - both in support of and in disagreement with - the methodology used to describe its demands for growth and additional capacity vis a vis heights. It has also been noted that local zoning across much of the area outside of the L'Enfant City is well below the limits established in the current Height Act. Throughout the study it was frequently asked: why increase federal height maximums in areas that are today built well below the limits of the federal law?

Current Zoning Height Limits



One may agree or disagree with the methodology or conclusions in the District's preliminary draft recommendations. Understanding this outlook on the city's future is critical. However, a discussion of when, whether, and how the city may reach full build-out under the Height Act is not the only question, nor is it perhaps the central question. Perhaps a more fundamental question is by what process is it appropriate for that dialogue to occur and ultimately how should decisions related to growth and building heights be made? Both federal and District governments – together - share long-term interests in the city's form, infrastructure, security, and operations, and each must actively plan for the long-term management of the city's growth, with their respective perspectives in mind.

NCPC staff does *not* agree with the District's preliminary recommendation to eliminate the Height Act outside of the L'Enfant City. However, NCPC is recommending that if Congress determines to keep the Height Act in place city-wide, that it may also consider a process among the appropriate agencies and parties, by which questions of the city's long-term growth can be addressed in the area outside of the L'Enfant City. Although no one can predict the future of any one place, it is reasonable to assume that in the coming decades, important questions about growth will arise in the nation's capital. How should these long-term issues be studied and addressed? Both NCPC staff and the District agree

that the comprehensive planning process, which is already required by federal statute,⁵ is the appropriate vehicle to articulate the District's goals for growth, including questions of building height. And it is also the appropriate vehicle to articulate federal interests and concerns outside of the L'Enfant City.

Thus, NCPC recommends that Congress amend the law today to allow for targeted exceptions through the federally-legislated comprehensive planning process. Through this process, the District will provide proposals at a level of detail to be adequately reviewed for impacts to federal interests, and measures can be identified, as needed, to protect these interests. The comprehensive planning process also offers an existing mechanism that provides federal law that provides for the public outreach and technical research sufficient to justify a change in the maximum heights established in the Height Act.

At this time, the District has not identified or proposed specific locations for changes to building heights. Rather than identifying the form and geographic locations of these targeted areas, these recommendations focus on a long-range planning process that protects federal interests and provides the District greater flexibility to plan for long-term growth.

The *Comprehensive Plan for the National Capital* is comprised of *Federal Elements* (prepared by NCPC) and *District Elements* (prepared by DCOP) that jointly reflect federal and local interests. The existing process to update the plan, as established in the federal Planning Act, specifies that after the District prepares updated *District Elements* that may include new studies, new and updated policies, and updated land use maps, the Elements are reviewed and approved by the District Council and are then sent to NCPC. NCPC reviews the proposed *District Elements* to ensure there are no adverse impacts on federal interest and that the *District Elements* are consistent with the *Federal Elements*. NCPC has line item veto authority, and if any areas are flagged, the *District Elements* are returned to the Council to be amended and then return for NCPC review again. After NCPC reviews and approves the *District Elements*, the Council must enact the amendments into law and transmit the law to the U.S. Congress. If Congress fails to pass a joint resolution of disapproval within 30 days of receipt of the proposed act, the act is deemed effective.

Under this recommendation, the *Comprehensive Plan* is where fundamental decisions about heights would be made. If, under this recommendation, the *Comprehensive Plan* amendments are not passed, the zoning to allow for the height increases cannot be considered. The Zoning Commission is a 5-member board and includes two federal representatives. The Zoning Act requires that the all zoning be not inconsistent with the *Comprehensive Plan*. However, if it is determined that changes to the *Comprehensive Plan*

⁵ See, 40 U.S.C. §§8712-8713 (2013).

necessitate changes to zoning, these amendments are not self-executing (a formal recommendation must be made for the zoning to be updated).

Updates to the *Federal Elements* offer a way to identify changing federal interests to further define policies regarding existing and future federal facilities, operations and views that could be affected by changing building heights or need additional protections beyond that provided by the Height Act. Further study to identify and define potential impacts of additional building height throughout Washington on federal interests should be undertaken and incorporated into the *Federal Elements* of the *Comprehensive Plan for the National Capital*.

More targeted mechanisms, such as zoning overlays or reviews, may be appropriate to provide additional protection of federal interests, depending on the nature of the federal resource and related federal interests. NCPC and the District, together with affected federal agencies, should explore these options as part of the comprehensive planning process.

In addition to addressing federal interests, NCPC also notes the importance of responding to public concerns. During the public comment periods for the draft NCPC and District reports, residents, civic and professional organizations, and other District stakeholders provided feedback as to what building heights mean to their communities. A majority of citizens and advocacy groups testified in favor of retaining the Height Act, without change. Many of the comments expressed strong belief that no changes to the Height Act should occur until appropriately detailed studies and related public outreach are complete and make, a compelling case for change. Balancing these constituent concerns with the goals and issues related to housing costs and development capacity raised in the District's draft report requires additional, careful study. This should be conducted at the neighborhood level through the existing comprehensive planning process prior to any change to the maximum heights in any part of the city.

- 3. The following recommendation applies city-wide and is designed to protect views to and from important national resources, which are unlikely to change. The city's most significant viewsheds, to include without limitation, those to and from the U.S. Capitol and the White House, should be further evaluated and federal and local protections established, which include policies in the Federal and District Elements of the Comprehensive Plan.***

Discussion

NCPC agrees with the District's recommendation to implement additional viewshed protections. NCPC staff notes that certain viewsheds may require further protection than is currently offered through the Height Act. The visual modeling studies demonstrate impacts to some federal resources if full build-out occurred under the current Height Act.

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Protecting viewsheds such as those to the White House and the U.S. Capitol are strongly recommended. All options for protecting these resources over the long term – whether through the Comprehensive Plan or other regulatory tools, such as a zoning overlay, should be considered.

NCPC acknowledges that existing District of Columbia regulations and review already offer protection for several important viewsheds, but recommends that the federal government further define and protect these critical federal resources. This report therefore recommends further study to define these federal resources, identify their related viewsheds, and develop necessary protections through amendments to the Federal and *District Elements* of the *Comprehensive Plan* and as appropriate, changes to the District of Columbia Zoning Map to ensure the zoning map is not inconsistent with the *Comprehensive Plan*.



4. *The following provision is proposed city-wide.*

Amend the Height Act to allow for human occupancy in existing and future penthouses, with restrictions.

Discussion

The Height Act and District of Columbia Zoning Regulations include guidance and restrictions related to the use and form of penthouses. The Height Act currently prohibits human occupancy above the maximums set by the Height Act, effectively limiting penthouse use for anything other than mechanical equipment. The form of penthouses continues to be a federal interest particularly within the L'Enfant City, where they contribute to the urban design character of the nation's capital. There are also site-specific security interests that must be evaluated in a limited number of cases. In general, permitting a broader range of active uses within penthouses in most parts of the city – if properly implemented and with certain restrictions – does not appear to significantly affect federal interests. Furthermore, penthouse occupancy may create opportunities for additional public amenities and improve environmental performance by encouraging sustainability features, such as green roofs.

And, as noted in the District of Columbia's testimony before the House Committee on Oversight and Government Reform, allowing occupancy of penthouses may also increase the city's tax base.^[1]

It is important to note, any changes to penthouse restrictions must consider the following implications:

- Changing the regulation to allow occupancy is a fundamental conceptual change resulting in income and tax-producing useable area above the limits of the Height Act. This change introduces new economic forces that may alter the existing practice of keeping penthouses small to a new incentive to maximize penthouse volumes and make them expressive. Subsequent zoning and Comprehensive Plan updates must be sensitive to this change.

As this amendment will result in new economic incentives, staff recommends that the current 1:1 setback be maintained, a 20 foot maximum height for penthouses be imposed, and require mechanical structures be included within that maximum height. These steps are consistent with the currently proposed updates to the District Zoning Regulations and will protect the broad federal interest in the form of the city, particularly within the

^[1] See testimony of Harriet Tregoning before The House Committee on Oversight and Government Reform, July 19, 2012.

L'Enfant City. In summary, any changes to the Height Act's restrictions related to penthouses should consider the following provisions and goals:

- Include specific protections related to sightlines for select federal buildings including but not limited to, the U.S. Capitol and White House.
 - Support communal recreation space on rooftops by allowing human occupancy in roof structures, where use of those structures is currently restricted under the Height Act to mechanical equipment, so long as the façade of these structures continue to be set back from exterior building walls at a 1:1 ratio.
 - Impose an absolute 20 foot maximum height for penthouse structures above the level of the roof, which must contain within all mechanical equipment and elevator, stair and other enclosures, with no additional construction allowed above the penthouse roof for any purpose.
5. *The following nominal updates to the Height Act are recommended to ensure that all sections are relevant given present day technologies.*
Delete Sections 2-4 of the Height Act, as contained at 36 Stat 452, chap 263, sec 2-4 (1910), which solely relate to fireproof construction.

These proposed deletions are antiquated fire and safety requirements that have been updated and incorporated into modern day codes by the District of Columbia.

RECOMMENDATION

The Executive Director:

Requests authorization to transmit final recommendations and to submit an accompanying report to the U.S. House Committee on Oversight and Government Reform.

PROJECT REVIEW TIMELINE

Previous actions	<ul style="list-style-type: none"> - Preliminary findings released for public comment on September 12, 2013 - The Commission hosted a public hearing to accept oral testimony on October 30, 2013.
Remaining actions (anticipated)	<ul style="list-style-type: none"> - Special Commission Meeting on November 19 to consider draft final recommendations and authorize transmittal to the U.S. House Committee on Oversight and Government Reform.

Figure 1: Moderate and high land use information based on the District of Columbia Comprehensive Plan Future Land Use Designations

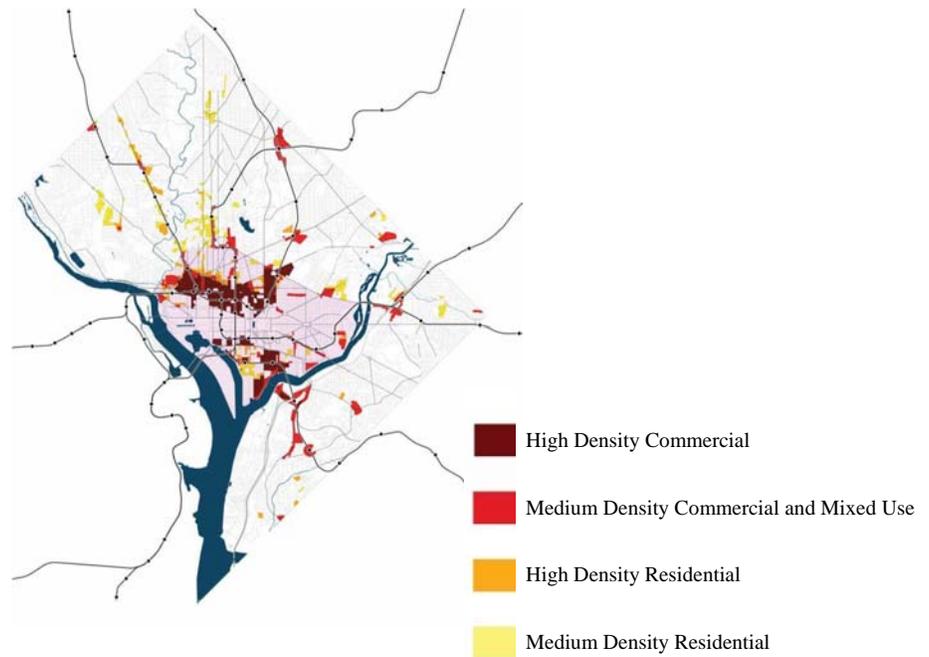
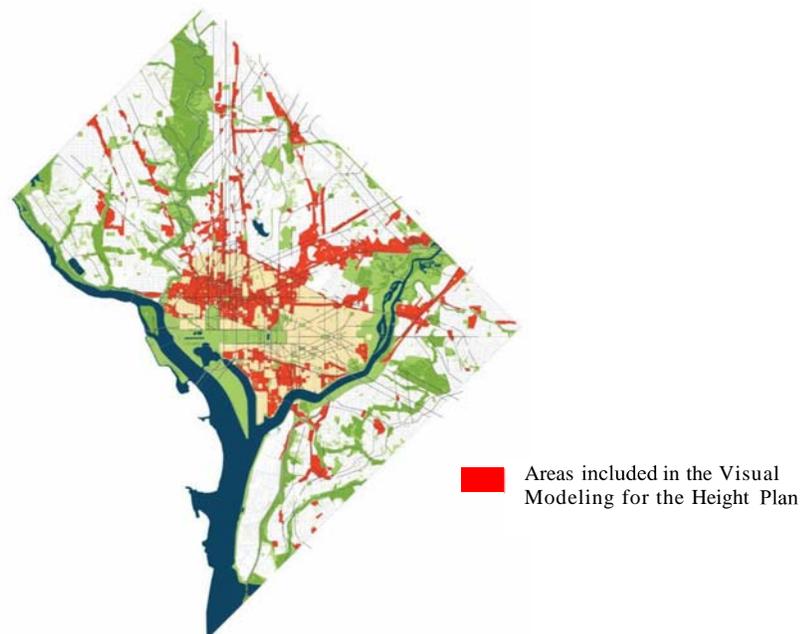


Figure 2: Areas included in the Height Plan Visual Models



I. The Height Master Plan: Key Tasks and Deliverables

On July 19, 2012, representatives of NCPC, the District of Columbia, civic groups, and business representatives testified before the U.S. House of Representatives Committee on Oversight and Government Reform, Subcommittee on Health Care, District of Columbia, Census and the National Archives. In the District's testimony, representatives advocated more active uses of penthouses subject to Height Act regulation than is currently allowed, and an increase in overall building heights to accommodate future growth and enhance the District's tax base.

Subsequently, Committee Chairman Darrell Issa wrote to the Mayor of the District of Columbia and the Chairman of NCPC to "encourage the exploration of strategic changes to the Height Act in those areas outside the L'Enfant City that support local economic development goals while taking into account the impact on federal interests," and requested that "NCPC work with the District to formulate and submit to the Committee a joint proposal for such work."⁶

In the months following the letter's receipt, the District of Columbia Office of Planning and NCPC worked together on the requested Height Master Plan. They developed a work plan and agreed to three core principles for the development of alternatives.

NCPC led the public process in close coordination with the District of Columbia. NCPC maintained a robust on-line presence for the joint study. A dedicated website displayed all study materials, posted public comments and media articles, and shared modeling images. Many residents and local organizations provided feedback both verbally and in writing. The public comments received throughout the project may be found in the report appendix.

NCPC and The District organized development of the Height Master Plan into three phases:

During the first phase, NCPC developed case studies on the approaches used to manage building height in peer cities domestically and around the world. During this period, the District and NCPC conducted a series of public meetings to brief the public on plans for the study, and sought input on issues shaping federal and local interests.

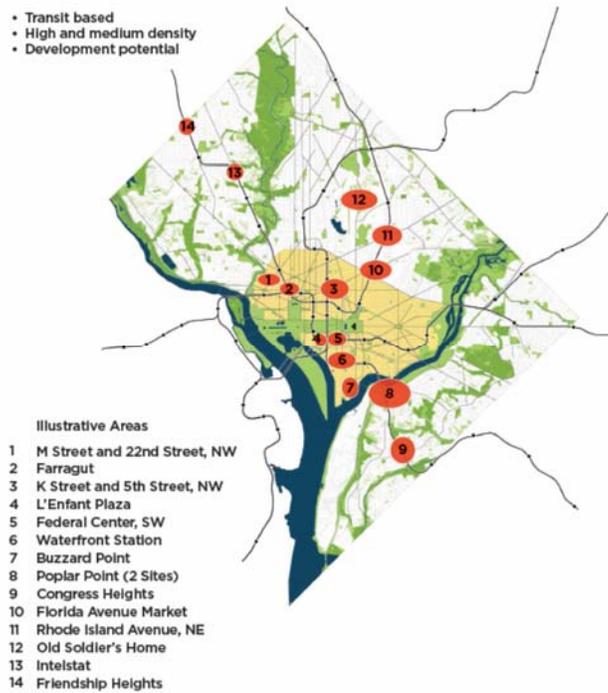
During the second phase, the District updated the digital model of the city using GIS technology. The model was used to illustrate various conceptual strategies for modifying building height. A series of alternative approaches for modifying height were then shown using a combination of the digital model and aerial photography of selected illustrative sites, and views. For their studies, the District used designations in the currently adopted District Elements of the Comprehensive Plan to exclude most low and medium density residential neighborhoods, and selected illustrative sites to model areas currently designated for medium and high density development. Visual simulations of building heights were modeled to a maximum height of 200 feet within the L'Enfant City, and no more than 225 feet in areas beyond. A selection of images from the modeling were presented at five public meetings throughout the second phase, while the entire index of 356 images was posted online for public review and feedback.

⁶ See letter from Chairman Darrell Issa to the Hon. Vincent Gray and Mr. Preston Bryant, Jr. dated October 3, 2012.

Areas Excluded from the Modeling Study



Illustrative Clusters in the Modeling Study



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The third phase commenced with the presentation of draft findings and recommendations at the meeting of the National Capital Planning Commission on September 12. NCPC preliminary recommendations recognized:

- (1) Opportunities to amend the Height Act to allow penthouse occupancy and/or more active uses throughout the city.
- (2) There are federal interests outside of the L'Enfant City and beyond the edge of the Topographic Bowl, however, they are less concentrated.
- (3) There may be opportunities for strategic changes to the Height Act in this area, however those changes (specific, geographic or procedural) are undefined in the preliminary recommendations.

The District released its draft recommendations on September 24. The District's preliminary recommendations suggested:

- (1) Amending the Height Act to implement a ratio approach of 1:1.25 within the L'Enfant City.
- (2) Implementing viewshed protections.
- (3) Eliminating the Height Act outside the L'Enfant City and allow local zoning and the Comprehensive Plan to govern maximums. Federal representation on the zoning commission (40%) and approval of the District Comprehensive Plan is sufficient to protect federal interests.

Opportunities for public input on the separate NCPC and District of Columbia reports included:

- An informational public meeting on September 25 hosted by NCPC
- A public hearing held on October 28 hosted by the District of Columbia Council Committee of the Whole
- A public hearing on October 30 hosted by NCPC

At the close of Phase III, the Commission is scheduled to take a final action to approve the report at a special meeting on November 19. The report, including recommendations, is scheduled to be submitted to the Congressional Committee following the November meeting.

II. BASIS FOR RECOMMENDATIONS

NCPC File No. 6886

This EDR provides findings relative to current and future federal interests in the Height Act and final recommendations regarding whether strategic changes are appropriate and how those changes should be undertaken.

NCPC's recommendations and findings related to federal interests considered:

- a. Legislative history related to building heights and the federal interest
- b. Guidance from an October 3, 2012 letter from Chairman Issa requesting the study
- c. In-depth discussions with federal stakeholders regarding federal facilities and operations and future national and federal development needs
- d. Federal interests in the symbolic, historic and urban design form of the national capital as reflected in the study's three core principles
- e. The District of Columbia's draft report
- f. Policy Matters Related to the Public Interest
- g. Public comments, letters, and testimony collected throughout all phases of the study

a. Legislative history related to heights and the federal interest

The form and character of the capital city have been a federal interest since 1790, when the Congress authorized the President to oversee the defining of its boundaries, the layout of its streets, and the construction of its first public buildings.⁷ More than a century ago, Congress imposed restrictions on the height of buildings culminating in the 1910 Height Act. Originally adopted as a fire and life safety measure, the Height Act has resulted in Washington's unmistakable skyline; open streets and carefully framed national parks; and a setting which emphasizes views to and from preeminent national institutions and symbols.

Most significantly, the U.S. Congress strongly reaffirmed the federal interest as it relates to the heights of buildings during preparation of the District of Columbia Self-Government and Governmental Reorganization Act (Home Rule Act) in 1973.

As the Home Rule Act was developed, members of Congress expressed concerns as to whether the bill adequately protected the interests of the federal government and a desire to ensure that the District of Columbia "remains a capital for all American citizens." It was noted that the Height Act shaped Washington's form and provides the setting in which Americans experience the capital city and its symbols.

In response, the House Committee on the District of Columbia and its Government Operations Subcommittee included provisions intended to protect federal interests.⁸ Among these provisions is one that reserves to Congress the right to repeal any act passed by the Council, and another that states that the Council shall have no authority to "enact

⁷ See Residence Act of 1790.

⁸ See 92 Cong. Rec. Sept. 1993 (statement of Rep. Adams).

any act, resolution or rule which permits the building of any structure within the District of Columbia in excess of the height limitations contained in Section 5 of the Height Act.”⁹

Since passage of the Home Rule Act, Congress has considered additional matters related to building height. For example, in 1991 it disapproved a City Council action that amended the Schedule of Heights to allow building height in excess of the Height Act.¹⁰

b. Guidance from an October 3, 2012 letter from Chairman Issa requesting the study

In response to an October 3, 2012 request from the U.S. House Committee on Oversight and Government Reform, NCPC and the District of Columbia undertook technical studies and public outreach to “examine the extent to which the Height of Buildings Act of 1910 continues to serve federal and local interests, and how changes to the law could affect the future of the city.”¹¹ The Committee noted the following in its introduction:

“The character of Washington’s historic L’Enfant City – particularly the Monumental Core – establishes the city’s iconic image as our capital. Any changes to the Height of Buildings Act that affect the historic L’Enfant City should be carefully studied to ensure that the iconic, horizontal skyline and the visual preeminence of the U.S. Capitol and related national monuments are retained.”

The Committee also encouraged:

“...the exploration of strategic changes to the law in those areas outside the L’Enfant City that support local economic development goals while taking into account the impact on federal interests, compatibility to the surrounding neighborhoods, national security concerns, input from local residents, and other related factors...”

Through this direction, the Congressional request articulates the important federal stewardship responsibility to protect the symbolic and cultural significance of the nation’s capital for all Americans – now and in the future — as well as the importance of a thriving, economically stable city.

c. In-depth discussions with federal stakeholders regarding federal facilities and operations and future national and federal development needs

Throughout the Height Master Plan, NCPC consulted with representatives from the following federal agencies and organizations. Agencies were selected due to their significant land holding, assets, and/or other mission critical or operational needs potentially affected by proposed changes to building heights.

⁹ See District of Columbia Home Rule Act, Pub. L. No. 93-198, tit. 6, sec. 602(a)(6); 87 Stat 774, 813 (December 24, 1973).

¹⁰ See DC Act 8-329. See Public Law 102-11.

¹¹ See letter from Committee Chairman Darrell Issa, dated October 3, 2012 in Appendix A.

A combination of conversations and facilitated discussions were held with the following:

- Advisory Council on Historic Preservation
- Architect of the Capitol
- Arlington National Cemetery
- Armed Forces Retirement Home
- Interagency Security Council
- Smithsonian Institution
- U.S. Commission of Fine Arts
- U.S. Department of Defense
- U.S. Department of the Interior
- U.S. Department of State
- U.S. Department of Homeland Security
- U.S. General Services Administration
- U.S. Marine Corps
- U.S. Navy NAVFAC
- U.S. Secret Service
- Metropolitan Washington Airports Authority
- Washington Metropolitan Area Transit Authority

Note: Agency and organization consultation should not be construed to suggest concurrence on recommendation(s) included in this document.

There were a number of common themes from the discussions with federal agencies and related organizations. They identified federal interests that tie directly to Washington's role as the seat of the federal government. Federal interests expressed and defined at these discussions include, but are not limited to, the following:

- The settings of iconic federal buildings and their grounds such as the White House, the U.S. Capitol, the Washington Monument, the Jefferson and Lincoln Memorials, and the National Mall

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- The elements of the L'Enfant Plan, including reservations, vistas, streets, and the open space above the streets up to building height limits, which are considered protected cultural resources under the National Register of Historic Places¹²
 - The Topographic Bowl, including natural ridgeline setting it provides and the cultural and natural resources it contains
 - Federal agency headquarters and offices, national memorials, commemorative works, museums, cultural institutions, national parks, and diplomatic missions
 - Matters related to physical security, communications, and emergency response
 - Matters related to current and future infrastructure and capacity
 - Federal operations
- d. Federal interests in the symbolic, historic and urban design form of the national capital as articulated in the three core principles guiding development of the Height Master Plan
To reflect Congressional guidance on the study's direction and the importance of protecting national resources, the Mayor of the District of Columbia and the Chairman of the NCPC agreed to the following principles to guide development of the Height Master Plan:
- Ensure the prominence of federal landmarks and monuments by preserving their views and setting
 - Maintain the horizontality of the monumental city skyline
 - Minimize negative impacts to significant historic resources, including the L'Enfant Plan¹³
- e. The District of Columbia's draft report
The District of Columbia's draft report included the following recommendations:
- Implement a ratio approach of 1:1.25 within the L'Enfant City
 - Eliminate the Height Act outside of the L'Enfant City and allow the District Elements of the Comprehensive Plan to determine maximum heights
 - Implement viewshed protections

The District's draft report also included an economic feasibility analysis particularly focused on adding height to additional buildings and new construction; new forecasts for population growth; a capacity study; and a discussion of the District's goals for housing and economic development.

¹² For more information, see the National Register Nomination Form: <http://pdfhost.focus.nps.gov/docs/NRHP/Text/97000332.pdf>

¹³ The L'Enfant Plan is the original plan for the city of Washington and generally covers the boundaries of the original Washington City.

f. Matters related to equity and the public interest

In general the partners aim to protect the public's interest, which is particularly challenging given the many constituencies who are interested and/or directly affected by the heights of buildings include residents, landowners, developers, local and federal agencies, and so on. Today, the Height Act is applied uniformly city-wide and moving forward it is important to remain sensitive to the constituencies who would be impacted by changing heights. The Comprehensive Plan is an appropriate area to understand and incorporate the views of these diverse constituencies.

g. Public comments, letters, and testimony collected throughout all phases of the study

The public provided comments on the draft recommendations proposed separately by NCPC and the District of Columbia. All recognized the importance and impact of the Height Act on Washington's form, image, and development. Contributors cited the positive attributes of the Height Act, while others critiqued its impacts, and others balanced both.

Consistent themes and concerns were expressed throughout each phase of the study. These include housing affordability, infrastructure capacity, protection of historic and cultural resources, a dual capital city and local character, and the acknowledgement of the trade-offs of any proposed change.

Staff compiled and reviewed all online submissions, formal letters, and testimony provided to NCPC, the District of Columbia Office of Planning, and the DC Council. Due to the fact that the federal and District draft reports were released separately, with separate comment periods, some submissions were collected more than once. A compilation of all online contributions and a summary of formal feedback is included in the report's appendix.

Ten public meetings and workshops were hosted at locations citywide -- bringing the conversation to the each of the District's eight wards. Each session was attended by approximately 75 to 100 individuals. Citizens in 16 states and four countries submitted more than 300 online comments.

104 formal letters and written testimony were offered in direct responses to the draft recommendations released in Phase 3. An analysis of these contributions follows:

- 488 individual residents testified or submitted written formal comments.
122 supported / 366 against any changes to the Height Act
- 29 civic associations testified or submitted written formal comments.
22 supported / 27 against any changes to the Height Act
- 23 issue and advocacy groups testified or submitted written formal comments, including the American Institute of Architects, the Coalition for Smarter Growth, the Historic District Collation, and the National Trust for Historic Preservation.
2 supported / 21 against any changes to the Height Act

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- 4 development and business groups, while not advocating “formal” positions, supported exploring Height Act changes. These included the Developers Roundtable, the Greater Washington Board of Trade, the DC Building Industry Association, and The BF Saul Company/Goulston & Storrs

Consistent themes cited by the public regarding NCPC's and the District's draft recommendations included:

- Recognition that long-term application of the Height Act has shaped a special city. People did not want to alter the Height Act without careful study and a compelling case for change, which had not yet occurred
- Acknowledgement that the Height Act plays a significant role in the city's character, identity, and development from both a local and national perspective
- Interest in reconciling the NCPC and District reports and recommendations. Many noted that they wanted to resolve this at 'our' level, and that leaving the decision to Congress was the antithesis to Home Rule