

3/20/18 Testimony of Barbara Kahlow
on B 22-663, Comprehensive Plan Amendment Act of 2018

I, Barbara Kahlow, live at 800 25th Street, N.W. in the Foggy Bottom-West End part of Ward 2. Today, I am representing the West End Citizens Association (WECA), one of the oldest citizens associations in DC (we began in 1910). The WECA is primarily interested in maintaining the quality of life for the existing residential community in Foggy Bottom-West End.

I am testifying in opposition to B 22-663, a proposed bill to amend only one chapter of the many-chaptered DC Comprehensive Plan. This approach to revising the plan piecemeal is unprecedented (which your staff admitted) and ill-conceived. We ask the Council Committee of the Whole to NOT act on this piecemeal bill. Today, I will explain why the proposed piecemeal approach – acting on the Framework chapter only – is unadvisable and flawed on multiple process grounds. In addition, I will present some historical context underlying the Executive Branch’s logic which has not been accurately portrayed to the Council here-to-date and some of the WECA’s substantive concerns which are shared by many citizens city-wide.

Process Problems

First, in this amendment cycle, the WECA submitted only 3 Comprehensive Plan amendments (#1348, #1349, and #2520), the first 2 of which clearly should have been considered in the redo of the Framework chapter but for which the Office of Planning (OP) staff or its contractor mis-categorized them as not in the Framework. I wonder how many other relevant resident Framework submissions were not considered by OP before its proposed Framework Chapter bill was submitted to you. Clearly, the Council should wait until OP completes its analysis of all submissions before the Council acts on one only partially-conceived chapter.

Second, under the ANC Act and pursuant to its own prior announced process, OP should have shared its draft bill with the public for review and comment before submission to the Council. This process error also calls for the Council to slow it down – to hold this bill without any action until OP presents a full Comprehensive Plan Act Amendment to the Council, as was done in all previous Comprehensive Plan Amendment cycles. I know since I as an individual and later on behalf of the WECA participated in all of them. In fact, a **Ward 3** resident reached out to me in 2016 to have me walk her through all of the historical Comprehensive Plan maps from 1990 (the first ones) to the Present.

Historical Context

In late 2010, a **Ward 5** ANC Commissioner researched whom in DC had experience to help her oppose a proposed out-of-scale Planned Unit Development (PUD) project in Brookland for 901 Monroe Street (the Colonel Brooks site). She approached me based on my extensive experience with PUDs in the Foggy Bottom-West End area of Ward 2. Her constituents – largely senior citizens on fixed incomes – had shamefully been treated disrespectfully by the development team. I, as an individual (i.e., not as part of the WECA), soon realized that I needed to not only assist behind the scenes but also organize the 200-Footer residents on all 4 sides surrounding the site and represent them in a 4-person panel before the Zoning Commission. In the end, we hired a land use attorney from Montgomery County who represented the 200-Footers in 3 DC Court of Appeals cases, resulting in remands and finally a May 2016 full repeal of the Zoning Commission PUD Order. The repeal was largely due to the fact that the proposed development was clearly inconsistent with the Comprehensive Plan’s Future Land Use Map (FLUM). The

901 case law precedent was cited in the McMillan case (also in **Ward 5**) and other subsequent land use cases involving violations of the Comprehensive Plan text and its FLUM map.

Since the 901 Monroe case, I have assisted communities in 6 of DC's 8 Wards. In fact, the Office of Zoning staff advised elderly residents on fixed incomes in **Ward 1** to contact me for advice. Mr. Chairman, you are aware of my assistance role, since in March 2017 (i.e., 1 year ago), I testified before the Council Committee of the Whole in a **Ward 4** alley closing case. As a matter of conscience, I could not face injustice without helping those adversely threatened and, yes, beyond Ward 2. Disturbingly, I heard one Councilmember criticize help by those outside of his Ward. I believe that being a good citizen means helping other citizens with less experience and in need and who reach out for help.

Substantive Concerns

The principal problem with the Executive Branch's proposed replacement Framework chapter is that it removes all clear definitions (such as 1-3 stories, 4-7 stories, not exceed 5 stories, and not exceed 8 stories in §§225.8, 225.5, 225.9, 225.10, respectively) and replaces them with fuzzy waffle language (such as "generally, but not exclusively" in §225.1 and "soft edged" in §226.1.a). The end result is developers can propose huge projects – which are out-of-scale with the surrounding neighborhood and which previously were inconsistent with the formerly clear FLUM categories – and the Zoning Commission has free reign to approve PUDs that permit greater height and density in a lower density zone. The end result would lead to unsuccessful resident appeals to the DC Court of Appeals in previously inconsistent-with-law land use cases. This is not fair to residents across DC! We have three branches of government as a check-and-balance system which works. Removing the Judicial Branch's review of Executive overreach should not be acceptable to the Legislative Branch.

The WECA looks forward to testifying before the Committee of the Whole on the proposed full Comprehensive Plan bill and to explain the justification behind its 3 proposed amendments. One of them addresses the Executive Branch's illegal 3-fold expansion of the downtown (including into part of Foggy Bottom-West End) without a Council-passed change in law and which excludes Inclusionary Zoning requirements in this expanded area. We hope the Council wants more, not less, affordable housing.

Thank you for your consideration of our views.