Testimony of Caroline Petti
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on
Bill 22-663 Comprehensive Plan Amendment Act of 2018
Council of the District of Columbia Committee of the Whole Public Hearing
March 20, 2018

I am here today to testify on Bill 22-663, the "Comprehensive Plan Amendment Act of 2018". Bill 22-663, introduced at the request of Mayor Bowser, would amend the Framework Element of the District of Columbia's Comprehensive Plan. The Comprehensive Plan offers a 20-year blueprint for guiding future city growth and development. It addresses a range of topics related to how we live, work, shop, travel, and play in the District of Columbia. The Framework Element provides the factual basis, context, and foundation for the more specific and detailed Area and Citywide Elements, and Maps that make up the rest of the Comprehensive Plan.

Bill 22-663 consists of a table of red-line/strike-out text amendments to the Comprehensive Plan's existing Framework Element prepared by DC's Office of Planning. While I have comments and concerns about many of these, the ones I find most troubling are found in Sections 222 through 227. These are the sections which address how Comprehensive Plan text should be used in conjunction with Comprehensive Plan maps (including the Generalized Policy Map and the Future Land Use Map) and small area plans in land-use decision-making.

I have three broad concerns with the proposed text amendments found in Bill 22-663:

<u>The Proposed Text Amendments Obscure and Obfuscate the Clarity of the Existing Comprehensive Plan</u>

Bill 22-663 is replete with proposed changes which muddle and obfuscate the clarity of the existing text. "Shalls" are changed to "shoulds". Declarative sentences are removed. "Definitions" are turned into mere "examples". The word "generally" – as in "generally speaking – is added everywhere. Existing text throughout is made more subjective and infinitely more open to debate and interpretation. Anything actually helpful and genuinely clarifying now finds itself on the proverbial cutting room floor, like this:

~~Sec. 226.1.f A correspondence table indicating which zones are "clearly consistent", "potentially consistent" and "inconsistent" with the Comprehensive Plan categories should be prepared to assist in Comprehensive Plan implementation and future zoning actions…"~~

<u>The Proposed Text Amendments Open the Door to Out-of-Scale Over Development</u>

Bill 22-663 is replete with proposed changes to the area categories in the Generalized Policy Map and the land use categories in the Future Land Use Map that open the door to denser, higher development virtually anywhere and everywhere. Anywhere that the FLUM land use definitions

specify height limits, Bill 22-663 strikes them and replaces them with new higher limits and loopholes to enable even taller buildings where they "Meet the intent of the identified land use category". (See, e.g., Section 225.1) Even "Neighborhood Conservation Areas" aren't immune. The guiding philosophy in Neighborhood Conservation Areas now is to conserve. Bill 22-663 would amend that and put development more on a par with conservation.

The Proposed Text Amendments Set the Stage for Eliminating or Minimizing Community Input in Development Decisions

The combined effect of the proposed changes is to set the stage for minimizing or even eliminating the role of Advisory Neighborhood Commissions, civic associations, and residents in neighborhood development decisions. Bill 22-663's changes to height and density limits mean that projects, which today could only be built with a Zoning Commission-approved map amendment or Planned Unit Development, could be built as Matter-of-Right projects, that is, with no community involvement or input. Likewise, changes to the clarity now provided in the existing text and maps undermine the enforceability of the Comprehensive Plan and the ability to seek redress of legitimate grievances in the courts.

All told, Bill 22-663's proposed changes do a deep disservice – for all stakeholders -- to the usefulness and, indeed, the very purpose of the Comprehensive Plan as a guiding document for development in the District of Columbia.

It's no secret that there is a growing concern about legal challenges to Zoning Commission Planned Unit Development approvals and that the impetus behind many of the proposed text amendments is to make changes that will prevent successful lawsuits. It is also argued that overcoming neighborhood opposition is what's needed to spur housing development and affordable housing, in particular.

I think this is an overreaction and casting homeowners and residents as villains is a distraction from the changes really needed to address DC's affordability crisis. In no case is the "cure" eviscerating the Comprehensive Plan and stripping homeowners and residents of their rights to due process and a say in development planning.

Anyone who thinks that the average citizen is playing an outsized role down at the Zoning Commission ought to think again. Out of the hundreds of PUD projects approved across the city since the inception of the PUD program, only two -- the McMillan Sand Filtration Site project and the 901 Monroe Street (aka the "Colonel Brooks" project) – have ever been overturned.

And, with respect to affordable housing:

It isn't homeowners and residents standing in the way of tougher Inclusionary Zoning requirements.

It isn't homeowners and residents standing in the way of housing preservation.

It isn’t homeowners and residents standing in the way of strengthening and using the affordable housing tools we now have, like TOPA and DOPA and rent control or standing in the way of building family-sized housing.

It isn’t homeowners and residents standing in the way of protecting existing tenants in redeveloping projects or rewarding slumlords who practice eviction-by-neglect.

These are the real issues and homeowners, residents, developers and advocates should be working together to address them.

I urge the Council to reject Bill 22-663.