

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE**

**PUBLIC OVERSIGHT HEARING  
OFFICE OF PLANNING  
February 16, 2011**

**Testimony of Ann Hughes Hargrove**

---

Good afternoon once again, Chairperson Brown and Councilmembers.

**Rationalizing the current zoning re-write.** As I indicated in testimony earlier today on the Zoning Commission, what it was expected would be an updating of existing regulations has turned into a wholesale rewrite of much of the Zoning Code. And, in the absence of an independent planning commission for the District, there is little insulation against proposals that appear to be developed in the abstract without full analysis and review of their potential impact across the city and without scrupulous regard for the Comprehensive Plan. Comprehensive Plan recommendations are not always being followed – at best they are followed on a highly selective basis and where convenient are being effectively ignored. And efforts to consult with and inform neighborhoods that stand to be specially affected – to the extent that those effects have been analyzed at all – have been quite spotty.

To put this in historical perspective: the 1956 Lewis Plan, which provided the framework for our current zoning as embodied in the 1958 regulations, included not only materials on the text of proposed regulations, but mapping for every part of the city. Every single block in that Plan was exhibited in map form with zones that had been created in text that would be attached thereto. It is essential that such a match of text to map be undertaken at the drafting stage in the current rewrite – otherwise

there is no way for anyone to know what the new regulations will be doing to whom, and where, and thus to make informed judgments about the proposals.

In the absence of a planning commission, I urge that there be full-fledged discussions at the neighborhood level by OP and others conversant with the Comprehensive Plan, existing regulations, and proposals to change them. This should be done before any additional effort is made to rush through text proposals that will have far-reaching consequences for many areas of our city.

In the short time remaining, let me mention two special areas of concern with the current re-write.

**Building height issues.** One of these is the treatment of issues relating to building height, and the relation between zoning regulations and the federal Height Act. As things now stand, OP has abandoned any effort to make the zoning regulations on building height consistent with the Height Act – which must be controlling in the event of conflict between the two -- but instead has taken the position that DCRA should draft and promulgate its own interpretations of the Height Act, which I gather would be published alongside the revised regulations. The precise status of these DCRA “interpretations” is not clear, at least to me. I believe it is important that, if this course is to be followed, anything produced by DCRA be subject to the full notice and hearing processes that would be available for proposed regulations submitted to the Council for approval, with both the Council and concerned citizens thus given an opportunity to participate in the process.

At the same time, OP is proposing some regulations on building height that invite being overridden by the Height Act if faithfully interpreted. Specifically, proposed regulations would allow building height to be measured from the elevation of adjacent bridges or viaducts. Most unfortunately, the Council acquiesced in a

proposal by OP to amend the Comprehensive Plan so as to clear the way for this provision. But the conflict with the height Act remains.

Another height-related provision in the Comprehensive Plan that was specifically designed to ameliorate the growing problem of bastardization of row houses by overgrown roof-top additions, by requiring that roof structures on these small buildings be set back from all outside walls to make them less visually intrusive. This provision was simply decreed by OP not to present any barrier to a proposal that is in fact flatly inconsistent with it.

**Commercialization of residential districts, and doing away with “home occupations” in residential neighborhoods.** As I indicated in my earlier testimony, OP is moving ahead with a proposal that would allow a wide variety of commercial enterprises in residential neighborhoods, and doing so without explication of any adequate rationale or analysis of the potential consequences for those neighborhoods. What is potentially involved is an incremental undermining of the residential character of many neighborhoods, often hard won through many battles over the years, for the most ephemeral and questionable of gains in terms possible discouragement of automobile use. Beyond this, moreover, there is the completely gratuitous proposal to do away with “home occupations” as accessory uses in residential neighborhoods, which were made available in the code to allow residents of a residential neighborhood to carry on certain business activities in their home under conditions that ensured compatibility with the neighborhood’s residential characters. Home occupations generate a combination of individual income taxes, property taxes, and applicable business taxes—an economic win-win, and at the same time avoid the loss of residential housing to commercial activities that would often entail commutation from the suburbs – a win-win proposition from the point of view of smart growth and the protection of in-city residential neighborhoods. This ill-considered proposal should

be dropped, and the notion of additional commercial uses in residential districts thoroughly reconsidered.

Finally, a couple of points on organization and procedure:

First, I agree with the many who have testified in the past before this Council that, in the organization of the executive branch, the economic development function should be subsumed under the planning function, as it was once at the beginning of home rule. There should also be a better mechanism for assuring that transportation planning is brought into the overall planning sphere. And we need to recognize and respond to the need for a planning commission for the District of Columbia, independent of the executive branch, a need that is demonstrated even more clearly by the current zoning re-write process.

Secondly, the Council should ask OP for a list of those Comp Plan action proposals that should have been on the front burner for attention that have yet to be worked on. In the case of the proposals to provide a rezoning of certain row house areas with a zoning that more nearly recognizes their size, height, and appropriate density, this form of housing is being fast modified with unsightly and out-of-scale “topknots” and excessive internal subdivision. And while these “topknots” are discouraged in the Comprehensive plan, as yet there is no zoning proposal aimed at better control of their development.