

NEIGHBORS UNITED TRUST

4911 Ashby Street, NW - Washington, DC 20007

September 9, 2014

DC Zoning Commission

441 4th Street, NW

Suite 200-S

Washington, DC 20001

RE: CASE NO. 08-06A (Alternative Language to Certain Advertised Text – Title 11, Zoning Regulations – Comprehensive Text Revisions)

Members of the Commission:

At the September 8, 2014 Limited Public Hearing on Case No. 08-06A, testimony was presented on the importance of the Reed Cooke, Chain Bridge Road/University Terrace (CB/UT) and Wesley Heights Overlays. Those presenting testimony urged the Zoning Commission to retain the current format of the overlays and keep all of their parts joined in one Subtitle and section of the code.

This submission is intended to reiterate that under the ZRR, overlays have been dissected and parts can be found in various Subtitles which makes the individual parts vulnerable to change in a “left hand doesn’t know what the right hand is doing” scenario. Even the punitive language found in § 1568.3, was removed initially from the CB/UT Overlay in the ZRR. This regulation addresses unlawful removal, cutting down or fatally damaging trees and prohibits the developer/owner from applying for a special exception for a period of

seven years of the application date. When this omission was initially raised by the ZRR Task Force, OP staff stated *they didn't see the importance of it*. Later at Council hearings where this was raised in the context of staff oversight, OP staff stated *there wasn't any return to the community*. Chairman Mendelson asked staff *if any trees had been illegally removed or damaged since the one case that came before the BZA where this section was enforced*. The answer was "No."

The punitive language has been returned to the CB/UT Overlay, but reduced to a five year waiting period.

Communities fought hard to establish overlays and are uncomfortable with what they have found in the ZRR. Changes have been made arbitrarily and as the Commission heard, without community consultation. Even after communities have discovered the changes, OP has continued to act in a "we know what's best manner" in the construction of regulations, i.e., OP has reduced the CB/UT waiting period from seven to five years without community input.

Testimony presented by Neighbors United to the DC Council on March 13, 2013, which addresses the overlay is attached; and, testimony presented at Wilson HS on February 11, 2014, by Connie on behalf of the Chain Bridge Road/University Terrace Preservation Committee on the overlay is in the record.

Sincerely,

A handwritten signature in cursive script that reads "Alma H. Gates". The signature is written in dark ink and is positioned above the printed name.

Alma H. Gates

Enclosure (1)

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
AGENCY PERFORMANCE OVERSIGHT HEARING
Office of Zoning
Office of Planning
March 6, 2013**

Testimony of Alma Hardy Gates, Neighbors United Trust

Office of Zoning

The Zoning Commission made a very wise decision when considering a replacement for Jamison Weinbaum. They hired from within the Office of Zoning and they hired a woman who possesses the leadership qualities necessary to head the office - Sara Bardin. Sara brings the training and experience she received while working with Jerrily Kress, the director who spent 10 years reestablishing the independence and integrity of the Office of Zoning. Also, Sharon Schellin and Cliff Moy, who support the Zoning Commission and BZA respectively, have become very familiar to those who frequent zoning hearings and they are a tremendous asset to the zoning boards. While members of the Zoning Commission and BZA periodically change, staff has remained constant – helpful, professional and extremely knowledgeable.

OZ staff have also made the process of navigating zoning cases easier, more user friendly, open and transparent through technological improvements like IZIS, the interactive zoning map and access to live webcasts. Staff developed publications such as “Zoning in the District of Columbia” and “Board of Zoning Adjustment, Variance/Special Exception Cases Process and Burden of Proof” provide step-by-step direction on how to present cases before the Zoning Commission and BZA, as well as the criteria and burden of proof necessary for specific types of zoning cases.

I want Council to know how strongly I stand behind Sara Bardin as the head of the Office of Zoning, a position she has earned and deserves. Under her leadership, OZ is doing a superb job of meeting its mission “to provide administrative, professional, and technical assistance to the Zoning Commission (ZC) and the Board of Zoning Adjustment (BZA) in support of their oversight and adjudication of zoning matters in the District of Columbia.”

Office of Planning

As a Zoning Regulation Revision (ZRR) Task Force member and former Chair of ANC 3D, I am unable to give the Office of Planning the same high marks offered on behalf of the Office of Zoning. The Office of Planning (OP) lacks a willingness to work with groups who share a different vision for the city than that proposed in the new zoning regulations, and fails to acknowledge the dramatic changes that will befall individual neighborhoods should the ZRR be approved as currently proposed.

The presentations made by OP at town hall meetings in each ward during December and January outlined changes as if they were permissions rather than zoning regulations. OP has deliberately downplayed the significance of the changes, suggesting only minor tweaks were being made when, in fact, major policy changes are being implemented. Rather than debate these changes on the merits, OP has chosen to cast critics as alarmists and fear-mongers, and to misrepresent both the existing code and the proposed changes

On September 19, 2008, the Zoning Commission was informed by the Office of Planning that it intended to establish a pilot program on customization of neighborhoods, and that Georgetown would be used as the model community (<http://dcoz.dc.gov/trans/090409ZC.pdf>). Georgetown feels the customization is important to protect its historic status and to preserve the identity and character of the area for future generations. **Isn't it reasonable to believe that all neighborhoods, whether historic or not, want to preserve their identity and character for future generations?** However, only Georgetown is being hand-walked through the customization process.

OP has stated that once Georgetown's customization is finished, they would be willing to consider other customization proposals provided those proposals have the support of a substantial majority of the home owners in the neighborhood; but it is uncertain when or if that would happen; and, OP will only accept changes that advance its agenda, rather than retain or strengthen neighborhood protections.

While OP is busy designing a customized zone for Georgetown, it is simultaneously dismantling existing overlay regulations. Using a cookie cutter approach, OP has attempted to fit all zones into a series of standards tables; but, overlays don't fit that format and therefore must be taken apart and divided among various sections of text.

Chairman Mendelson, the Chain Bridge Road/University Overlay supported in your 1998 BZA testimony will be weakened if the proposed ZRR regulations are passed. The specific tree protection provisions of the overlay have been placed in a different section of text; the punitive language, which would prevent a developer from moving forward if the overlay's provisions are violated, no longer exists; also, the provision that addresses fatally damaged trees has been removed. By separating land use regulations from specific overlay provisions, changes can be made to one section independently of the other, and may seriously undermine the intent and effectiveness of the overlay. OP has demonstrated it either doesn't understand the purpose and importance of existing overlays or it is deliberately working to ensure nothing will stand in the way of development of these areas in the future.

What's wrong with this scenario? No one living within the Chain Bridge Road/University Terrace Overlay District requested these changes. On its own, OP decided to change the overlay without consulting the residents who believe their properties are protected by an existing zoning order. Attached to my testimony is a letter from the Chain Bridge Road/University Terrace Preservation Committee addressing changes to the overlay.

Council has an opportunity to direct OP to maintain current overlays that protect areas like Forest Hills, Wesley Heights and Chain Bridge Road/University Terrace,

as the Comprehensive Plan addresses the necessity to protect these environmentally sensitive areas.

In its eagerness to change neighborhoods, OP has handled the ZRR in a needlessly deceptive and divisive manner. The combination of its focus on winning, ill-conceived proposals, scorched earth policy and failure to meet with communities puts the agency at odds with its own mission “to guide development of the District of Columbia, including the preservation and revitalization of our distinctive neighborhoods, by informing decisions, advancing strategic goals, encouraging the highest quality outcomes and engaging all communities.”