



GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADVISORY NEIGHBORHOOD COMMISSION 3D
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ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
**CASE NO. 14-13 (Office of Planning – Text Amendments to Chapters 1, 4, 5, 6, 7, 8,
9, 12, 15, 19, 26, 27, 29, and 33: Definitions, Use Permissions, and Size Restrictions
for Rooftop Penthouses)**

Testimony of Advisory Neighborhood Commission 3D
Alma Hardy Gates
April 30, 2015

Members of the Zoning Commission:

This is the moment of truth The proposed penthouse regulations place the Zoning Commission in a very difficult position. The Commission is being asked to consider changes to regulations that are inconsistent with the Comprehensive Plan The Comprehensive Plan Amendment Act of 2010 did not anticipate changes to penthouses, and the next amendment cycle will not commence until sometime in 2015 Also, in 2012, the former Director of the Office of Planning (OP) informed Congress in testimony on the subject of changing building heights in the District of Columbia [that] *no action would be taken to alter the height of, or uses within penthouses, without the necessary amendments to the District Elements of the Comprehensive Plan – except in targeted areas.*¹

¹ Harnet Tregoning, (July 19 2012) before the U S House of Representatives, Committee on Oversight and Government Reform, Subcommittee on Health Care and the District of Columbia. “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 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.”

Nothing Congress decided with regard to the Height Act requires the District of Columbia to take any action in terms of implementation Yet, through the penthouse proposals, OP is asking the Zoning Commission to consider changes in height and use for every zone, and, every area of the city is being treated as a targeted area
The Comprehensive Plan guidance needed by the Zoning Commission for proposed amendments in this case does not exist

Affordability has been made a condition for allowing some habitable penthouses It must be said again – affordable for whom? Recent affordability figures are based on federal AMI of \$107,300 for a family of four and DC AMI of \$77,000. Penthouses, with their picturesque vistas and monumental views will provide great entertainment spaces for foreign and corporate investors, but will do little to help those in need of affordable housing – so, where will the off-site housing be located and who will ensure and enforce implementation, or payments to the Housing Trust Fund? Is the Zoning Commission convinced that families in need of housing will be served by the proposed penthouse changes, or is this simply a **feel good rationalization for more density and height?**

What began some time ago as an effort to update and bring clarity to the zoning code appears to have morphed into some unique developer-friendly zoning regulations For example, the recent Walter Reed development, where none of the zone names relate to other development standards, is not unlike the penthouse proposals in this case They result in spot zoning, and guidance for them cannot be found in the Comprehensive Plan

In earlier testimony, a case study of the proposed Safeway PUD development on MacArthur Boulevard in my SMD was used to demonstrate the kind of change that would result if the proposed penthouse height were approved The current height of the single-story Safeway front façade is 20 ft A C-2-A PUD would bring the height up to 65 ft Add a penthouse and special exception and the structure is at 85 ft – or, 65 ft over what currently exists

Changes in height and density via the Height Act should not be used as a means to end run the Comprehensive Plan and the Zoning Regulations, eliminate predictability or alter neighborhood character

For the reasons cited in this testimony and our resolution, ANC 3D opposes all proposed text amendments, including special exceptions, in Case No. 14-13 for low density residential and commercial areas of the city with allowable heights of 50 ft. or less. **Our resolution is found at Exhibit 61 in the case file and we ask that the Zoning Commission afford the 8-0-0 vote of ANC 3D the “Great Weight” to which it is entitled under DC Law**