

Bill Proposing Amendments to the Comprehensive Plan

Public Hearing Testimony of the Brookland Community Development Corporation, Lavinia Wohlfarth Presenting

before the

Council of the District of Columbia's Committee of the Whole

28 September 2010

Mr. Chairman and Members of the Committee of the Whole, my name is Lavinia Wohlfarth. I am Chair of the Brookland Community Development Corporation. The CDC has been active in the Brookland neighborhood for 11 years. Our mission is to bring together institutions, businesses, property owners, government officials and residents to make Brookland a more vibrant and sustainable neighborhood for everyone. Our primary focus has been on revitalization of the 12th Street Main Street corridor.

The bill forwarded by the Mayor's Office includes a text and map amendments that will help with that revitalization. The CDC supports them.

I am here today, however, to ask Council to adopt amendments that would correct two mistakes included in the recent Brookland/CUA Small Area Plan that are hindering 12th Street's revitalization. Those amendments are not part of the bill as advertised. You would have to add them.

The first major problem with the Small Area Plan is that it treats the 12th Street corridor the same as the big tracts of land around the Metro Station when it comes to revising antiquated zoning. It includes a policy requiring any update of that zoning is done through a Planned Unit Development (PUD). That just doesn't work for the small property holdings along 12th Street – but is fine for the bigger tracts and larger developers. I know Joe Bender is providing testimony on this topic, which we support. So, I won't repeat it.

But, as a person who has worked to revitalize 12th Street for many years now, I would like to encourage Council, the City government and the community to really listen and take to heart the needs of our small property and business owners. They are who will make 12th Street vibrant again, if we work with them, if we provide the tools they need, and if we stop putting barriers in their way. Too often, we make policies for the big guys or for agency convenience that just don't address the needs and reality of Main Street.

For example, the Office of Planning has created an Implementation Task Force for the Small Area Plan. I am representing the CDC on it. It is a well intentioned effort. But, with each passing meeting, fewer and fewer folks are showing-up to participate. And, there are even less small property and business owners from 12th Street involved. It's losing steam. There is a reason.

I know from our work at the CDC that it is challenging for small owners and businesses, after working long hours, to take the time away from their businesses and families to participate in these meetings. They will do it, however, when they can see it is getting somewhere. But, they will lose interest when they don't believe they are being heard or that the topics lack relevance. Why would someone from 12th Street want to spend evenings and weekends working with the City on design standards for storefronts and sidewalk cafes when the City's own policies prevents them from building the buildings the design standards are going to apply to? Would you?

The policy in the current Small Area Plan requiring rezoning along 12th Street only through a PUD takes the vast majority of our property owners out of the game. It should be removed. Please adopt an amendment getting rid of it in favor of a matter-of-right approach to rezoning. Once that is done and a workable framework is put in place, you will get things moving.

Just as a revitalized 12th Street will include new infill projects if we get the zoning right, it should include restored older buildings that represent Brookland's traditional character. The CDC also requests the Council to adopt a policy for 12th Street that encourages and incentivizes property owners to voluntarily preserve properties in the corridor that are emblematic of Brookland's history.

Preservation of such buildings is a cornerstone of the Main Street movement. It is a proven approach to spurring revitalization and creating neighborhood identity and support. But, it is missing from the Small Area Plan. That Plan does not say anything about a policy for preservation of buildings in the 12th Street corridor.

The CDC is committed to working with the building owners, businesses, the community, and the Historic Preservation Office to identify individual buildings or small clusters of buildings that best represent 12th Street's historic character. We need the City's involvement, however, to provide technical assistance and incentives to help property owners who will agree to preserve and restore their buildings. In the Downtown and in other neighborhoods, the City has made smart preservation a policy priority. The City provides assistance to position owners to qualify for and obtain federal and local tax incentives. To help offset the costs of preservation and restoration, the City allows owners who commit to preservation of smaller buildings to sell space they agree not to build on the historic site for use on other sites. These incentives are

working there. We should be able to offer owners in the 12th Street corridor the same opportunities. It should be public policy to do so.

On behalf of the Brookland Community Development Corporation, I thank you for the opportunity to make these proposals. Please give them your favorable consideration and action.

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Additional Statement for the Public Hearing Record

Lavinia Wohlfarth, Chair, Brookland Community Development Corporation

and

Joseph Bender

12 October 2010

Mr. Chairman and members of the Committee of the Whole, please accept this as augmenting testimony we presented on the subject bill at the public hearing on 28 September 2010. This is primarily to address Director Tregoning's response to your question on her reaction to our testimony.

The Brookland Community Development Corporation (BCDC) and 12th Street property owners, Joseph Bender and Brendan Magner, did participate in the Brookland/CUA Small Area Plan process. Further, the themes of the amendment proposed by us remain consistent with the policies we advocated at that time. Having said that, please note there have been some refinements and modifications in language between policies we proposed at the time of the Small Area Plan and our current amendment proposal. Those changes are partly to comply with the format of the Comprehensive Plan policies – but, importantly, they also reflect input we received from meetings with residents, community groups and other affected property owners in the corridor during the intervening period.

To the degree that important policy changes were not incorporated into the Small Area Plan, we continued to advocate them in the current Comprehensive Plan Amendments process. We rigorously followed the procedures established by OP. In sum, we wanted to assure you that we have been at the table during both processes.

Director Tregoning made the comment that she felt constrained from considering amendments in this Comprehensive Plan Amendments process that affect the Brookland/CUA plan because

the “ink was barely dry” on that plan. We can understand that sentiment and procedural protocol in a general sense. But, a recent mistake is still a mistake. Through our proposed amendment, we are asking Council to correct one that has immediate and severely negative impacts for property owners and businesses along the 12th Street corridor in Brookland –and will frustrate the very revitalization goals called for in that recent plan. The mistake should be corrected before more unnecessary hardship and damage is done.

OP’s response to us when we questioned why they did not favorably consider our proposals was that they “lacked consensus” in the community. In all candor, having participated in these planning processes in Brookland, it is difficult to understand how OP is defining “consensus” with regard to many proposals that found their way in to the plan – and the lack of it for those that were excluded. Indeed, as you may recall, at the time of the public hearing on the Brookland/CUA Small Area Plan, several residents and representatives of community organizations appeared asking Council not to adopt the resolution approving that plan because of disagreement with policies.

We do not underestimate OP’s job in developing and discerning “consensus”. Perhaps more so in the Brookland neighborhood than some others, there are individuals, some in community leadership positions, whose opposition to a particular issue reflects personal, closely held, and strongly felt positions – which they have attributed to the community at large. Further, with respect to the 12th Street portion of the planning area, it received significantly less attention, analysis, and discussion than was given the area around the Metro Station and South Campus during the planning process. As such, there was relatively less exploration, understanding and development of impacts and best practices for 12th Street. Indeed, at our own expense, we had to conduct research to demonstrate the impacts of some of the recommendations, to identify alternate approaches, and to take them to the community and OP for consideration. So, a challenging job.

However, with respect to the businesses and small property owners with whom we have spoken, we can assure you that there is support for our proposed amendment. It is widely recognized that the current C-1 zoning doesn’t work and that the PUD-only method for correcting that problem is not a tool for which most 12th Street owners can apply, much less afford. In addition, there is broad consensus that additional customer parking for 12th Street businesses is necessary, that well devised design controls are desirable, and that voluntary preservation of those buildings most representative of 12th Streets historic character and

incentives to help get that done are also good things. All those factors can be addressed in a rezoning – as they have in rezoning for other neighborhood areas of the City.

Frankly, in our meetings with individuals and groups of Brookland residents, we have for the most part found a thoughtful and supportive response. For sure, from some, we encountered initial skepticism and mistrust. As the dialogue developed, however, we could see an interest in understanding the policy and technical issues confronting 12th Street – and in searching for practical solutions. On balance, we found more support than not. And, a willingness to further consider workable solutions -- to problem-solve.

As you know Mr. Chairman, our proposal for a rezoning (as a substitute for the PUD-only approach) does not in any way preclude that process of community involvement. To the contrary, if Council approves the amendment, we would immediately, together with OP and other city agencies and the Zoning Commission, begin a process of community consideration that will involve public outreach, reports and hearings. The final outcome will be a zoning that has been fully vetted and tailored to the environment and needs of Brookland as expressed in the policies included in the Brookland/CUA plan and by its community. We believe a concentrated effort could have this zoning in place within six months of Council's favorable action on the amendment.

Indeed, we believe it is the PUD-only policy, not the rezoning policy, which will frustrate community involvement. Because the vast majority of owners can't meet the size standard to apply for a PUD, it will effectively disenfranchise existing businesses and small property owners and residents from having a voice. No PUDs mean nothing to consider. And, "disenfranchise" is an appropriate description because under standard and typical zoning protocols, those existing before the PUD-only policy was adopted, property owners and residents had the right to propose rezoning in keeping with adopted land use policies.

Director Tregoning characterized our interest in rezoning as wanting an "up-zoning". Please note, our proposal expressly does not change the low density, mixed use land use designation of the 12th Street corridor contained in the Comprehensive Plan and the Small Area Plan – or the transportation and design policies of those plan. Because the current and unworkable C-1 zone is the lower of the two zoning categories for such low density mixed use areas (the other

is C-2-A), we would expect any rezoning to reflect the permissions of the C-2-A district – however it may be modified and tailored to fit 12th Street’s special design, transportation and preservation needs. So, while rezoning would grant some additional flexibility for allowable density and height, it is likely to impose other requirements -- and will in any case, remain true to the low density mixed use land use policies for Brookland and the 12th Street corridor. To characterize our proposal as an “up-zoning” without that context may create misperceptions.

Director Tregoning mentioned that OP would be open to considering creating a “PUD-lite”. The inference was that this would allow property owners having less than the current minimum lot size (15,000 sf) to apply for a PUD. She mentioned this option as being considered through the city-wide rewrite of the Zoning Code, which OP has recently launched.

We believe this suggestion simply does not address the needs of Brookland’s 12th Street. If not 15,000 sf, what would be the minimum size requirement? Many commercial lots in Brookland are far below that threshold, and even where owners have assembled adjacent lots, are less than 4,000 sf or 5,000 sf? What’s the new minimum cut-off? Who is excluded and why? Will governmental (and private professional) fees be adjusted and the process streamlined to make this new PUD option economically accessible to smaller owners? What are the policy objectives the “PUD-lite” is designed to achieve? Why is the PUD method a superior tool to rezoning that would extend controls and incentives fairly and uniformly for all owners? Currently, OP has developed no guidance for the “PUD-lite” and the city-wide rezoning exercise is expected to roll-out over the next two years. So, assuming favorable consideration and adoption of “PUD-lite” by the Zoning Commission, when would the procedures be in place allowing property owners to apply for this new PUD mechanism, much less receive approval for the PUD? That delay will further exacerbate 12th Street’s disadvantage with projects the City and Zoning Commission has already approved in the market area. Will this solution be ready and available too late – after 12th Street’s ability to compete for and share in neighborhood growth has effectively passed?

We would welcome a modification of the current PUD regulations to better address the needs of our neighborhood commercial areas. The PUD is an excellent tool for addressing large and complex sites and site plans that defy standard zoning approaches. It could also be improved as a tool to incentivize preferred uses and to tailor individualized design solutions. That is why we have not recommended changes to use of the PUD for the larger holding in the Station Area of Brookland. Our amendment would not change that policy of the Small Area Plan. But, for the

12th Street corridor, even if modified, the PUD-only policy is simply no substitute for considering and adopting base zoning that fairly and uniformly addresses general land use and design objectives. It is not the right tool to guide 12th Street's revitalization.

There is no way around it, imposing a PUD-only approach – in whatever form -- to rezoning along the 12th Street will put an effective hold on its revitalization. It will disadvantage smaller owners and businesses, while giving preference and priority to larger ones, of which there are currently very few. On the other hand, rezoning is a “tried and true” approach that does not have those, we trust, unintended consequences.

Please adopt an amendment to the Comprehensive Plan that corrects this mistake.

Thank you.

Lavinia Wohlfarth

Chair, Brookland Community Development Corporation

Joe Bender

12th Street Corridor Property Owner