

STOOP LAW

A COMMUNITY JUSTICE PROJECT

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Re: Comprehensive Plan Comments

Who cannot agree with this provision?

“Support mixed income housing by encouraging affordable housing in high cost areas as well as, encouraging market rate housing in among low income areas while taking steps that build in long term affordability to minimize displacement and achieve a balance of housing opportunities across the city.”¹

But also, who does not doubt those words?

Encouragement is a soft word, too. Gently nudging something along is encouragement. But still, who does not doubt these words?

Who does not have their doubts as to whether the Office of Planning will do anything at all to nudge along, cajole out, or even root for any kind of development that would protect against displacement? Perhaps one of those people within the 9% of DC residents that arrived here in 2017.² It would certainly have to be a person that does not closely follow the Office of Planning, the Mayor, or DC Council (hereinafter Planners).

This use of “soft” words and how they are distributed throughout the Plan belies intent. When the Plan addresses displacement the words are soft: “encouragement”; “reinforce”; “support”; “effort *should* be made”; or, “minimize”.³ And while the Mayor’s edits are correct: “protecting vulnerable citizens from the forces that lead to displacement clearly continues to be one of the greatest challenges to growing an equitable and inclusive city.”⁴ The soft words that are apart of the policies listed above refer to existing public housing. Specifically, Potomac Gardens, Northwest One, and Park Morton.⁵ Here, soft words are not enough. A public housing

¹ Policy H-1.2.11

² Policy H 500.22

³ Policy H-1.2.11; Policy AC 1.2.7; Action CH-2.2.D; Action CW-2.8.D; Action MC-2.1.D; Policy NNW-1.1.9; Policy UNE-1.1.4

⁴ p.50 Call Out Box

⁵ Action CH-2.2.D; Action CW-2.8.D; Action MC-2.1.D.

complex can be re-developed without forced displacement if “build first” is a requirement to receive a demolition permit, but those would be hard words. When communities are broken apart, the Planners would rather be on the hook for minimizing, making efforts, and encouraging, rather than issuing a demolition permit when they should not have.

Going back to the Mayor’s edits about displacement being the “greatest challenge[s] to growing an equitable and inclusive city”, and it almost begs the question, should we citizens feel sorry for the Planners? Such enormous issues before the Planners, where even should they fail in creating a fair and equitable city, they cajoled, and nudged along, and rooted for one valiantly, no?

Despite progressive policies like *Action H-2.1.J*, which tracks displacement; *Action IM-1.4.B*, which calls for data collection to achieve an “inclusive city”; and *Action ED-3.2.A* which mandates an “analysis” to mitigate “economic market changes” on small businesses, the Planners do not inspire extreme confidence. Collecting data, creating reports, and mitigation of adverse impacts has been the duty of DHCD and the Zoning Commission when presiding over large scale developments for over a decade.⁶ In blatant violation of the law, it just has not been done.⁷ Hence, this Plan re-write 6 years ahead of schedule because everyday citizens availed themselves of the Court of Appeals.⁸

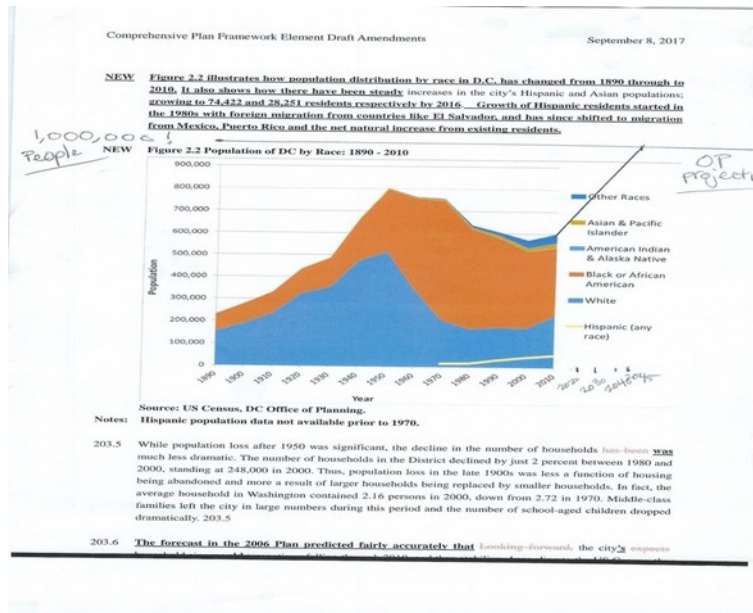
Most engaged citizens understand the need for completing an “evaluation” of the PUD regulations; as well, they understand the need for Planners to “[R]egularly monitor and review the zoning regulations.”⁹ Especially for a city with such an aggressive growth projection:

⁶ 11-X DCMR 308.4; *See also* the Commission must “judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” *Howell v. District of Columbia Zoning Comm’n*, 97 A.3d 579, 581 (D.C. 2014)

⁷ *See generally Barry Farm Tenants and Allies Association v Zoning Commission* 182 A. 3d 1214 (2018); *See also Friends of McMillan Park v Zoning Commission*, 149 A. 3d 1027 (2016)

⁸ Banister, Jon, Bisnow, Newly Introduced Comprehensive Plan Amendments Aim To Combat Development Appeals. Read more at: https://www.bisnow.com/washington-dc/news/economic-development/newly-introduced-comp-plan-amendments-aim-to-prevent-development-appeals-83426?utm_source=CopyShare&utm_medium=Browser 1.09.2018

⁹ *Action IM-1.1.A*; *See also Action IM-1.3.A*



The word “demand”¹⁰ is mentioned 550 times in the one thousand-five-hundred-page plan. Whereas the word “declining”—as in population—is mentioned but once, in reference to the 1970’s.¹¹ The Planners have made this Plan based on growth rates that rival what occurred during the Second Industrial Revolution.¹² Economist Carl Benedikt Frey states that between 1900-1970 “incomes were rising for virtually everyone, and they were growing even faster at the lower ranks”.¹³ Sounds nothing at all like present day D.C., which has the worst inequality in the country.¹⁴ 1950’s Census data for the 5000 block of A St. SE—a block that would have had a couple handfuls of single-family homes back then—would have shown 3 households with 12+ plus children. In real life that is what the Office of Planning’s projections would look like. In modern DC young children between 0-14 is decreasing as a percentage of households¹⁵, and overall growth is slowing¹⁶. To meet the Office of Planning projections people will really have to want to come to D.C. because people are not having 12 kids anymore. However, macro migration data is showing people are increasingly choosing to migrate to smaller cities rather than to larger cities.¹⁷ Precisely because incomes are not rising for everyone and because costs are particularly burdensome on the lower ranks in large cities like D.C..¹⁸ The exact opposite conditions of the rapid population growth experienced in many U.S. cities during the Second Industrial revolution.¹⁹

¹⁰ Of “supply’ and demand” fame

¹¹ IN-1302.9

¹² Frey, Carl Benedikt, *The Technology Trap*, Princeton University Press (2019), pg.206

¹³ *Id.*

¹⁴ Grant, Gregory, *Income inequality and economic mobility in D.C.*, DC Fiscal Policy Institute. March 21, 2017

¹⁵ H-500.18

¹⁶ Lee, Fitzroy, *District of Columbia Economic and Revenue Trends: Government Of The District Of Columbia Office Of The Chief Financial Officer Office Of Revenue Analysis December 2018*

¹⁷ Frey, William H., *The Avenue: US Population Disperses to Suburbs, Exurbs, Rural Areas, and “Middle of the Country” metros*, March 26, 2018, Brookings Institute.

¹⁸ Taylor, Yesim Sayim, *Residents Move Into the City for Jobs, Move Out for Housing*, June 8, 2015, District, Measured: Posts from the District of Columbia's Office of Revenue Analysis.

<https://districtmeasured.com/2015/06/08/residents-move-into-the-city-for-jobs-move-out-for-housing-2/>

¹⁹ See historical population charts between 1900-1970 for Detroit, San Francisco, New York, D.C., Philadelphia, Boston etc.

That is why accurate re-telling of history is important. Planners did not achieve D.C.'s latest population boom the same way cities did in the prior population boom. Wages did not rise for everybody this time like they did during the last sustained population increase. There was no historic "leveling" of incomes²⁰. Here, Planners chose winners and losers, attracted who they wanted to the city and kicked the rest out. To the point where even the winners figure things might be easier somewhere else. In any event, D.C.'s recent population growth and slowing can be boiled down to this: D.C. attracted a bunch of people here, now they are getting sick of it and leaving, and they are not being replaced as fast by people coming because there are other interesting, cheaper places to go.

No one really believes D.C. will have one million people by 2045. It follows, the monitoring of Zoning Regulations and evaluation of the PUD process is not to facilitate the housing of 1,000,000 people within the next 25 years. If it were going to be that many people, one would hope that Planners would place some focus on enforcing the Zoning Regulations and PUD process, but the quality of oversight and enforcement is substantially missing from the Plan. The lone segment that might be construed that way is a section where the Zoning Commissioners have a finger wagged at them to put "stricter limitations on the extension of PUD approvals."²¹ There was only one PUD application in 2018²² and 5 in 2019, down from 13 in 2016. Most of the developments being done today are done under Map Amendment and Text Amendment proceedings where the Zoning Regulations are reviewed and re-written mostly to achieve additional height and density.²³ Many residents have already experienced Zoning Commissioners carrying out Action IM-1.3.A. They often felt disenfranchised by the process²⁴ because the Zoning Commissioners never used their power to review the Zoning Regulations to protect residents against adverse impacts, mitigation of harms, and to provide community benefits like was standard under the PUD process.²⁵ In fact, the Zoning Commissioners and Office of Planning went too far on at least 4 renderings of the Zoning Regulations²⁶; and, after "setting down" a matter inappropriately in 4 separate cases, the Zoning Commission had to go back and correct them after opposition from residents. In one "Rulemaking" the Office of Planning actually tried to make it so any development could be done as a non-contested case map amendment. A type of proceeding where the community has no negotiating power and may not even inquire about the affordability levels within a building. The Planners give up more of their intentions with those kinds of gambits, just as they took to media and touted the inclusiveness of the new Comprehensive Plan. In reality, all the Planners did with this Plan was take provisions that were already protected by statute, remove the necessity for those kinds of proceedings, and make those statutory provisions part of the Plan. A plan that former zoning commissioner Marcia Cohen described as "an extensive document, and [I] always call it, almost a Chinese menu" when asked about whether a feature of the Comprehensive Plan was compatible with the Barry Farm PUD application.²⁷ In other words, Planners traded

²⁰ Frey 206

²¹ Action IM-1.1.A

²² See ZC Case Search Tools

²³ *Id.*

²⁴ See ZC Case No. 18-07, 18-10, 18-18, 18-19, *inter-alia*

²⁵ *Id.*

²⁶ 18-07; 18-19; 18-19, 19-04

²⁷ 14-02 Transcript pg. 34¶1 Oct. 20, 2014.

enforceable laws for an assortment of essentially unenforceable policies that the Zoning Commission can pick and choose from at their ease and discretion like a Chinese Food menu.

So, no wonder there are nuggets in the Plan such as this:

“What Is Displacement? Displacement is commonly defined as the process by which a household is forced to move from their residence. Displacement takes three forms: physical displacement as properties are renovated or redeveloped; economic displacement as housing costs rise to become unaffordable; and cultural displacement as residents lose a sense of belonging in their neighborhood. These three forms of displacement individually and collectively affect a household’s ability to stay in their neighborhood or increase their desire to leave and move closer to friends and family.”

These are soothing noises, but economic displacement and cultural displacement occur when low income areas are approved for increased density. The Plan is a document primarily centered on increasing housing supply by easing the criterion by which an areas zoning may be increased. A recent MIT study found that when increases in density are approved the hyperlocal housing markets respond to the increased ability to build before it responds to any increased supply which may be some years away.²⁸ In other words, communities are being economically and culturally displaced before anything is even built due to land speculation. Increasing ability to build leads to displacement in some areas of the city so why not just build in those areas by-right?

Oh yes, the million people that will be here. The word “declining” appears elsewhere in the Plan, about twenty times, some of those mentions having to do with “declining interest rates”. Maybe that is what all the building is about, these great interest rates, banks, and rich people parking money, because it is not about growth or D.C. residents. In 4 years, when the Plan comes back up for review, there will obviously be adjustments downwards for the aggressive growth projections everything is based on, but how many wasted of billions of dollars later? And how many more wrecked communities to serve as staging grounds for two and thru residents?

With best regards,

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²⁸ Freemark, Jonah, Upzoning Chicago: Impacts of a Zoning Reform on Property Values and Housing Construction, January 29, 2019 UIC College of Urban Planning and Public Affairs.

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