

**Kalorama Citizens Association
Observations And Resolution
Inclusionary Zoning Proposal (Zoning Commission Case 04-33)
8/1/2005**

**Submitted by Ann Hughes Hargrove, Zoning and Historic Preservation Chairman
to the Zoning Commission of the District of Columbia**

Background as to rowhouses in the R-4 and R-5 zones: These recommendations are made in light of the nature of built up, largely historic areas as distinguished from areas identified in the current Comprehensive Plan maps and language as vacant or in need of substantial development or redevelopment. This proposal as it currently stands would afford bonus densities for developers of buildings within roughly a half-mile of any metro stop. With a trigger point of 10 units, a couple of rowhouses could suddenly become eligible for defacement or demolition if not protected by a historic district. While new development is highly desirable in urban renewal areas, or areas characterized by vacant land, and while some of this new development should be of a high density, any proposal that would create instability through assemblage of properties for defacement or demolition or for out-of-kilter zoning, is undesirable in such built-up areas

KCA RESOLUTIONS (R-4 and R-5 focus)

WHEREAS, the present inclusionary bonus proposals that entail additional density bonuses can have the potential effect of defacing or destroying existing desirable, aesthetically pleasing, and/or historically significant housing, especially in R-4 and R-5 areas, most of which are already built up,

WHEREAS, the proposal for inclusionary bonuses lacks analyses of specific geographic areas as to a planning rationale for their suitability to be included for additional density and redevelopment, and small area plans within the Comprehensive Plan to accompany such proposals are lacking,

WHEREAS, the land use element of the Comprehensive Plan has precedence over other elements of the Comprehensive Plan, as follows (112 1(a) *"Since the Land Use element integrates the policies and objectives of all other District elements, it should be given greater weight than the other elements"*, and there is no language in that element or in the maps of the Plan that suggests that inclusionary bonuses should be granted for substantial areas of the city,

WHEREAS, the District of Columbia Generalized Land Use Policies Map designates Housing Opportunity Areas, Commercial Centers (Local, Multi-Neighborhood, Regional as New or Upgraded), Development Opportunity Areas, Central Employment Area, Downtown Arts District, Downtown Plan area and Special Treatment Areas, these designations differ markedly among Metro station areas as to development policies and therefore should not be treated equally through this proposal,

WHEREAS, when the Council approved the Ward Plans, it was in the expectation that small area plans would follow for all the areas of the city as a prelude to conservation and development policies, and this work largely has not been done and hopefully will be accomplished through the Comprehensive Plan revision process,

WHEREAS, this is the logical time, as part of the Comprehensive Plan revision process, to undertake updated local neighborhood analyses to determine the appropriate designation of areas as redevelopment or conservation areas,

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WHEREAS, the inclusionary bonus proposal is being treated in isolation of a plan for public investments in infrastructure, parks, schools, and other capital budget considerations for various parts of the city in relation to density measures and types of development as part of the CIP (capital budget improvement program),

WHEREAS, the OP inclusionary zoning proposal recommends that these overlays be adopted as one district (or one floating zone with no variation of specialized overlay requirements by area, unlike existing zoning regulation overlays), thereby providing no differentiation between the areas selected that would recognize differing requirements suitable to the peculiar nature of each area,

WHEREAS, inasmuch as this zoning proposal entails a floating single mandatory bonus zone, it will be required, as are all zones or districts, to be uniformly applied, and once the combined text and mapping case is accomplished, there would thereafter be no opportunity for full-fledged zoning hearings, as distinguished from hearings that may be structured that have to do with exceptions or variances to the rules on individual areas to which the proposal would be applied,

WHEREAS, regarding decisions yet to be made as to the mapping of these areas as part of this case, it is possible that the Zoning Commission will consider a procedure that prevents effective and appropriate public participation and ability to have contested map cases for particular areas affected,

WHEREAS, zoning, as required by the Home Rule Charter, "shall not be inconsistent with the DC Comprehensive Plan," and there appears to be inconsistency between the Comprehensive Plan and the proposed bonus version of inclusionary zoning in various inner city neighborhoods, and zoning should be brought into conformity with the land use map,

WHEREAS, the increased density proposal has the potential to violate the requirement in the Zoning Act and Regulations (Section 101.1) that requires that the zoning regulations and maps provide adequate light, air and open space and will not contribute to undue concentrations of population and the overcrowding of land,

WHEREAS, the proposal violates the requirement in the Zoning Act and Regulations (Section 101 2) that the regulations and maps be developed with reference to *"character of the respective districts, (b) suitability of each district for the uses permitted in each district under this title; and (c) encouragement of the stability of districts and of land values in these districts"*,

WHEREAS, the text of the published advertisement is inadequate as to notice and text and proposed action, and there is time to work out a more sustainable text for bonus development if appropriate for certain locations and more hearings will necessarily follow,

WHEREAS, the Zoning Commission is considering not having additional map cases in conjunction with the mapping of any new inclusionary zoning regulation, which we believe the Zoning Act requires,

WHEREAS, the proposed bonus density can allow the assemblage of more than one rowhouse into one structure on a single lot, thereby reaching the trigger number of 10 units, this could result in their demolition or allowing unsightly additions on top or at the rear, destroying design of these buildings and the integrity and stability of the for the area involved, especially in areas not protected by historic districts or having R-4 and R-5 zoning,

WHEREAS, the Zoning Commission has had experience previously in refusing to set down map cases regarding the mapping of specific areas that had been zoned R-5-C whose text was modified,

and decided, we believe erroneously, would automatically have a changed zoning category (R-5-C to R-5-D, and R-5-D to R-5-E) without doing due diligence as to the suitability of this change in terms of effect on existing land use and relationship to the Comprehensive Plan Land Use Map, the match between zoning and land use has been lessened thereby, there could be a comparable “mismatch” problem with the approach being taken with this new proposal,

WHEREAS, the city is scheduled to undertake a contract for retooling our zoning regulations to determine best practice zoning regulations that might be applicable to our small, unique capital city to achieve desirable social objectives while still maintaining a stable and desirable planned city,

WHEREAS, at the time the Metro system was developed, there were major and minor Metrorail stations distinguishable in the overall Metrorail plan as to ridership and development plans, and the Policies Map designates only some D.C. Metrorail stations as “Development Opportunity Areas”,

WHEREAS, the available housing programs and resources will likely produce far more housing units than would be the case through the device of voluntary or mandatory inclusionary bonuses (see OP report), with less negative potential for the destabilization of desirable built-up neighborhoods,

WHEREAS, the District should make full potential of its Housing Trust Fund and other housing programs along with possible tax abatement for providing lower income units, incentives for renovations, code enforcement, for its residents in accordance with the District’s median income as distinguished from the regional median income,

WHEREAS, the Historic Preservation element of the Comprehensive Plan (Section 805.18) specifies that *“Each historic district shall have a zoning overlay if necessary to protect and enhance its distinctive characteristics of housing type, density, height, and uses. Such overlays shall be developed between the Office of Planning and the DC Historic Preservation Office”*, and this effort has not yet been undertaken in spite of the substantial mismatch in various areas between the zoning and the predominating building features of such districts,

WHEREAS, the Comprehensive Plan Land Use map calls for moderate and medium density for many of the inner city areas, and the zoning cases to achieve the appropriate zoning category for the land use involved have not yet followed, and the zoning, therefore, cannot serve as a guide to existing land use in these built-up areas,

WHEREAS, many cities which have tried this bonus device, are cities with substantial redevelopment areas, such as old underutilized warehouse areas, vacant land, decrepit housing and the ability to expand boundaries, balanced by defined conservation areas where this type of version would not be applied, and the District does not fit this profile, and

WHEREAS, there are capital cities which have protected areas in their inner reaches against defacement and demolition of buildings both as part of appreciation of their historic heritage and architecture as well as providing an appealing formula to encourage visitors to the city,

NOW THEREFORE BE IT RESOLVED:

That the city retract these planning and zoning bonus proposals until after localized land use studies and plans are undertaken in conjunction with the Comprehensive Plan, including a review of the current Comprehensive Plan in terms of its ward plans and sub-area breakouts, leading to a delineation of conservation areas versus redevelopment areas,

That the city not allow bonus proposals for built-up areas outside the downtown that are illustrated on the Comprehensive Plan Land Use map as moderate or medium density and/or designated as historic districts, or, in a future Comprehensive Plan, as conservation areas as distinguished from redevelopment areas,

That no zoning text proposals for changed zoning be put forward without accompanying map studies and zoning map cases,

That no such proposals be considered for historic districts or areas undergoing historic surveys, irrespective of current zoning, that would involve defacement or demolition of existing rowhouses or apartment houses

That the city re-examine how best to encourage new development that includes units for lower income residents that will not adversely affect built-up and largely rowhouse neighborhoods, including slating redevelopment areas for such proposals along selected corridors that would be compatible as to height and density, such as has been done in the redevelopment area of the 14th Street corridor.

That the city clearly distinguish between redevelopment and conservation areas in considering any policies that encourage indiscriminate defacement and demolition.

That the District work actively to provide low and moderate income units for its population in accordance with the income median for the District as distinguished from the higher limit in the suburbs

ADDENDUM

The Kalorama Citizens Association has not taken a position in opposition to housing subsidies, and its boundaries include many buildings that have benefited from tenant conversions (providing lower cost units for many moderate income people, and fulfilling the legislative requirement to retain rental units inhabited by elderly tenants), low-yield cooperatives, and other mortgage and pre-mortgage programs to benefit purchase of buildings by low and moderate income tenants. The problem with this issue lies not only in concerns about its long-term viability for desirable space and especially specific bonus apartments as abodes for truly lower income residents, problems related to administration and enforcement, due process concerns and lack of proper relationship with the Zoning Act itself and the Comprehensive Plan, but, most of all with the concern that this program—unlike other housing programs which have benefited many R-4 and R-5 areas—has the potential to be destructive of the very fabric of these built-up neighborhoods—their buildings

Some substantial areas within the inner city are not protected by historic districts, including the large area of Columbia Heights, for example. R-5-B zoning covering rowhouse areas extends roughly behind Connecticut Avenue (with a few exceptions to a higher density) over to 14th Street, a carryover from the freeway plans that called for the Florida Avenue/U Street corridor and its side streets to be part of the North Central freeway system. In view of this, the Lewis Plan recommendations in 1957 were changed from R-4 to R-5-B by the Commissioners for this area

ATTACHMENT 1

Attached are photographic examples of bastardized rowhouses or rowhouses largely demolished or slated for demolition. Please understand that each represents what can happen all over the inner city with this proposal encouraging such assaults. Most were sold for a higher price than what a group or person would pay to live in them to a developer whose intention was clearly to stretch the limits to squeeze in additional units. As you can see, the visual appearance and changed nature of these buildings has been adversely altered. The point of including these examples is to show the potential

effects of such a provision on rowhouses in established neighborhoods demolition and defacement They include

(1) Tower. a house in Lanier Heights (2713 Ontario Road), located on a side street of rowhouses feeding into Columbia Road with a portion zoned C-2-B, but illustrated on the Comprehensive Plan Land Use Map as moderate density residential, that has had demolition of all except part of the front façade and been further bastardized with extensions above and out the rear,

(2) Tower a house in Washington Heights (1819 Belmont Road) zoned R-5-D that was one of three rowhouses designed together that has had its façade ruined, remainder of building completely demolished, and floors added above along with an unsightly exterior deck,

(3) Complete demolition proposed three houses in Reed Cooke at 2426-28-30 Ontario Road as part of an assembly slated for demolition, thus encouraging similar demolitions of rowhouses in that block and bastardization of rowhouse facades on that block as has already been done in one case,

(4) Demolition averted a house in Washington Heights (1822 Kalorama Road), where the proposed demolition was averted through an agreement reached between the community and the developer in 2004, but no action has been taken on the property, and it may recently have been sold,

(5) Illegal extension and demolition: a house in Mount Pleasant (1636 Irving Street) that has been expanded out the rear in contradiction to the lot area requirement and the number of allowable units for R-4 (the new head of the DCRA has admitted that this was an error, but by the time residents fully caught on and began to become conversant with zoning, it was too late to consider an appeal),

(6) Demolition and extension a house in Washington Heights (1846 Kalorama Road) that recently was destroyed completely except for its front façade which will be altered to provide for taller ceilings, thereby ruining the front façade. Although you can barely see it in the photograph, the new supports for the revised floors can be seen in the upper windows Obviously, a band of mismatched brick to the handsome roman brick will have to be inserted in the building to provide for this change, unless the owner can be convinced to change the design

These buildings represent what will be encouraged through this new proposal Do we want to encourage more of this kind of thing? We think, no.

Attachment 2: Planning and regulation materials from Edinburgh, Scotland, the capital of Scotland It has several areas of its city—a large portion of the core—listed on the world heritage list, with architecture from medieval times, Georgian times, and finally, Victorian times All is protected through a combination of prevention of demolition of contributing buildings, and stringent standards for exterior maintenance and restoration, and controls having to do with retention of the heights for each separate conservation area and view plane involved. The city continues its updating of transit and its planning for substantial redevelopment and additional development in non-conservation areas, a sensible approach for a historic capital city It is also attempting to structure a voluntary program for new development in non-conservation areas that will include bonus density to lower housing costs within certain limits having to do with density and height for the particular area specified (We are not the only capital city where costs of housing are excessive)

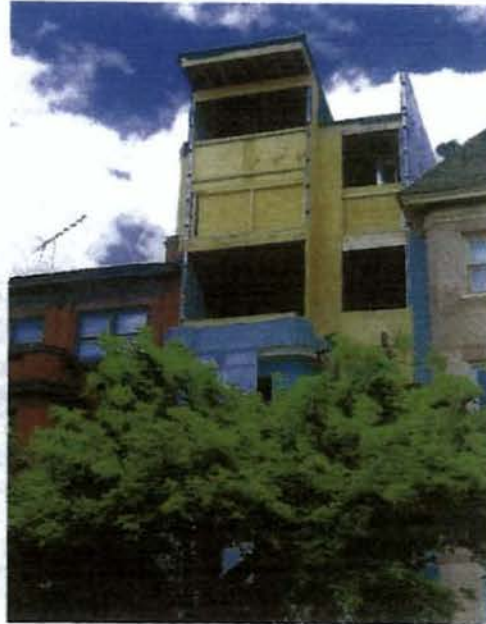
Another capital city, Dublin, Republic of Ireland, has a height limit that is more restrictive than ours, but in the future, with the extreme development pressures that it is undergoing, it is possible that it will be modified in some way It is a vibrant and appealing city. Some other major European cities have

variations of these type of restrictions for the historic portions of their cities along with “green” bands to define the line of their cities from the outer suburbs or even farmland

EXHIBIT A:

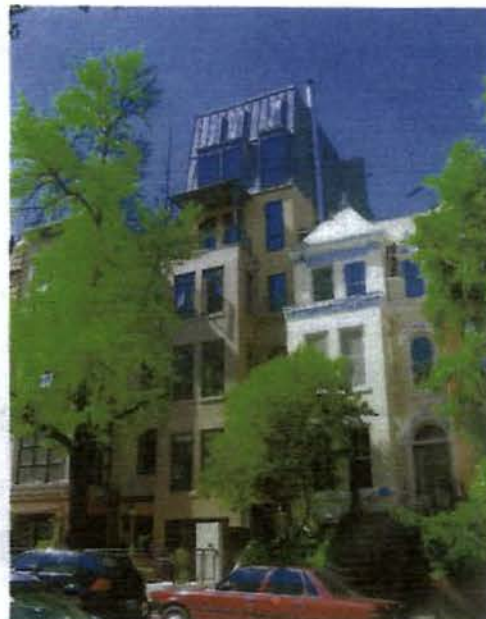
2713 Ontario Road, N.W. (Lanier Heights) (demolition completed, construction in progress)

1.



1819 Belmont Road, N.W. (Washington Heights) (demolition completed 2003; construction completed 2004)

2.



Currently slated for demolition
2426-28-30 Ontario Road, N.W. (Reed-Cooke)

3.



**Demolition proposed but narrowly averted through agreement
between community and developer, 2004**
1822 Kalorama Road, N.W. (Washington Heights)

4.



Extension of rowhouse
1636 Irving Street, N.W. (Mount Pleasant)

5



Demolition and extension
1846 Kalorama Road, N.W. (Washington Heights)

6



Exhibit B

Some excerpts from the Edinburgh, Scotland policy statements under the auspices of the Town Council regarding development in historic and other areas:

Under the chapter on Conservation and Design, New Development policies apply to Edinburgh's historic areas, divided into individual conservation areas, defined as follows: *"220 Conservation areas define areas of quality, special character and interest. Designation (by the council) is a declaration of intent to maintain and enhance their special character. New development and change, to be acceptable, must take proper account of that character and how it may be enhanced."* [Note that conservation areas, while covering what we might consider to be the important historic elements of the city, have a broader meaning than what we think of in terms of historic buildings.]

2 29 Development throughout Central Edinburgh has the potential to impact adversely on views of the city center skyline and of and from the city's built and natural landmarks. Over-simplified building forms and unattractive roof structures could impact adversely on views of intricate roofscapes. The height and scale of new development proposals will be carefully assessed to protect city-wide and local views of importance, reinforce the visual effect of the city's topography and preserve the special character of conservation areas. With the possible exception of well-designed architectural features which would contribute to the visual interest of the skyline all new development will be required to conform to the general height prevailing in the surrounding area. This will commonly be set by tenemental or villa building forms or, in a mews location, will be determined by existing mews buildings. Existing high and intrusive buildings will not be accepted as precedents for the future and their replacement with more sensitively scaled buildings will be sought when their redevelopment is in prospect."

"Policy CD 12 Height Control. New development which by reason of its height is likely to have an adverse effect on the historic skyline of the city or on views into and out of the center, including views of landmark buildings and the traditional roofscape, will not be allowed."

"Policy CD 13 Height and topography. The height of new buildings should be suppressed where necessary to retain or emphasise the significance of important topographical features, including the valley features at ..."

"Building extensions and Alterations. Proposals to enlarge a building and for alterations materially affecting its external appearance generally raise the same design issues as new development. The Council's objectives are to ensure that the end result is satisfactory in itself, does not detract from amenity and character in the wider area and in the case of an extension does not result in an unreasonable loss of amenity for immediate neighbours through overlooking or overshadowing. Special regard is had to the effect of a proposal on the character of a listed building or conservation area."

"CD 19 Building alterations. The Council will permit alterations and extensions to buildings which in their design and form, choice of materials and positioning are compatible with the character of the original building, will not result in an unreasonable loss of privacy or natural light to neighbouring properties and are not detrimental to neighbourhood amenity and character. Particular attention will be paid to ensuring that such works to listed buildings and non listed buildings in conservation areas do not damage their special character."

Regarding demolitions "historic buildings" *"2 14 Consent is required from the Council for the demolition of a listed building or for any alteration, external or internal, which would affect its character. Buildings within the curtilage of a listed building, including boundary walls and railings, have the same statutory protection. Through its listed building powers the Council will prevent avoidable demolition and minimize the damaging impact of necessary alterations. Through its planning powers it will seek to retain listed buildings in appropriate viable uses and protect their setting."*

With regard to development in other areas of the city, as reflected in various documents, including the "Edinburgh City Local Plan, The New Edinburgh City Local Plan" the short document distributed recently by the Town Council and which is used in conjunction with various planning studies on areas, transport, and the like in conjunction with developing the new plan. In addition to text regarding transportation and other issues and which summarizes the effort underway, the document asks citizens their opinions, includes site maps for housing development with estimates of housing units to be produced.

Example text *"Most of the rest of the additional housing that we need today is being concentrated on sites inside the urban boundary. This means developing disused sites and promoting redevelopment, especially where this will lead to a more efficient use of land. It means making the most of development opportunities as they arise and, because land is*

scarce, building at high densities in suitable locations ” (p 4) [Then the preliminary plan identifies logical areas for the development, with text to assure that transportation and infrastructure needs are an integral part of the planning along with needed commercial centers]

It points out that “High density housing makes for a more efficient use of land, and in the right location can help to support public transport and local services. However, high density, flatted housing may not always be welcome. In some locations it may be more important to pursue a greater variety of housing types that contribute to a diversity of provision and meet a range of needs. Also, the drive to accommodate a greater share of housing in the urban area must not lead to town cramming, with development forced unsympathetically into established residential areas and threatening to overload existing services such as schools. The overriding objective must be to maintain environmental quality ” (p 5)

Regarding demand and affordability of housing.

“Partly because of the demand for housing, affordability has become a major issue for planning in Edinburgh. Many people cannot find suitable housing at prices they can afford, and many are forced to look beyond Edinburgh for an affordable house and travel long distances to work. The Plan can help to ensure that the need for lower cost housing is also taken into account when development is approved. The Council already insists in larger schemes developers must build a proportion of affordable housing—usually for rent from a Housing Association. The Plan will be an opportunity to reconsider whether the right balance is being struck. For example, at present the Council asks that developers in some locations should ensure that 15% of housing in any particular scheme should be low cost and made available to people on low incomes. In other locations it seeks 25% low cost, affordable provision. This is not making sufficient impact on the need for affordable housing, and there it is suggested that the threshold is raised to 25% for all schemes across the city ” (p 5) [The city is targeting where new development should go, including on “new land”, and the Council asks for citizens for their views about this issue before it makes “a decision later in the year, when we have weighed the merits of all the options and had the benefit of your views ”

One would like to see this kind of fundamental planning guidance incorporated in the inclusionary zoning proposal and other similar zoning proposals that may come up.