

Coalition to Stop Tenleytown Overdevelopment

August 29, 2005

Chairman Carol Mitten
Director, Office of Zoning
Suite 210
441 4th Street, N.W.
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2005 SEP -7 AM 11:01

Response to Case No. 04-33 (Text Amendments to Require the Provision of Affordable Housing—Inclusionary Zoning)

Dear Chairman Mitten.

As residents of Tenleytown and Friendship Heights we strongly support the goal of making it possible for people of all income levels to live in the District in attractive, safe, affordable housing. We celebrate the diversity that is our city.

We believe just as strongly that the proposed Text Amendments are not the right way to achieve this goal, that they will in fact be harmful to the city and its residents, and that there are better alternatives.

We wish to be on record in agreement with and support of the testimony of Barbara Zartman, Chairman, The Committee of 100 on the Federal City, submitted on July 28, 2005. We have attached her testimony to this letter.

We support Ms. Zartman's conclusions and her request that the Zoning Commission retract the proposed Text Amendments until the city has taken the steps she has outlined in her eloquent testimony. These steps include neighborhood-by-neighborhood analyses to make sure all aspects of planning, including providing affordable housing, reflect the differences and needs of each neighborhood, creating, as part of the revised Comprehensive Plan, small area plans that distinguish among the differing situations of each neighborhood, and not considering the proposed Text Amendments until the Comprehensive Plan has been modified and it has been determined that bonus density is suitable for our city.

Carolyn Sherman, 4341 Ellicott St, NW
Ellen Loughran, 4750 41st St., NW
Jane Waldmann, 5332 42nd St, NW
Louis Wolf, 4107 Ellicott St, NW

Andra Tamburro, 4301 Ellicott St, NW
Marti Edmondson, 4614 42nd St, NW
Margaret Schauer, 4750 41st St, NW

Board members, Coalition to Stop Tenleytown Overdevelopment

~~Zoning Commission~~
~~District of Columbia~~

~~CASE NO.~~ 04-33
~~EXHIBIT NO.~~ 140

ZONING COMMISSION
District of Columbia
CASE NO. 04-33
EXHIBIT NO. 140

**Testimony of Barbara Zartman, Chairman
The Committee of 100 on the Federal City
Thursday, July 28, 2005, 6:30 p.m.**

**Case 04-33 (Text Amendments to Require the Provision of
Affordable Housing)**

RECEIVED
D C C E F N I 70M45
2005 SEP -7 AM 11:01

The goal of increasing affordable housing in the District is one that can be universally applauded, the Committee of 100 on the Federal City joins in supporting that goal. This particular proposal, however, raises far more questions than it answers, and we believe this is not the right time to enact such sweeping proposals, especially when formulas are untested. The Commission has chosen to consider just two proposals, and those two without consideration of locations or implementing systems. Even the title of "inclusionary zoning" is vague, meaning different things to different people, some erroneously claiming it will house "thousands" of the city's "poorest." That is not the target population for this proposal.

- **This is the wrong time.** The forthcoming Comprehensive Plan revisions should include updated local neighborhood analyses to determine the appropriate designation of areas for redevelopment or conservation. Parallel review of the Zoning Code suggests this is not the time to impose sweeping additional categories, rather, careful review of area-specific impacts would be far more appropriate in our small, unique city, with the goal of achieving desirable social objectives while still maintaining a stable and desirable planned city.

The IZ proposal is being treated in isolation from 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. It is devoid of the extensive recommendations in the Comprehensive Plan Ward Plans regarding land use, conservation, housing, historic preservation, and urban design in area-specific terms.

- **It is inconsistent with the Comprehensive Plan.** The Home Rule Charter mandates that "zoning shall not be inconsistent with the DC Comprehensive Plan." The land use element of the Comprehensive Plan has precedence over other elements of the 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." There is no language in the land use element that would suggest inclusionary bonuses would be a desirable and appropriate direction for substantial areas of the city. Our comments about the requirements for historic preservation are below.

- **It violates zoning standards.** Separate testimony is being submitted from our Zoning Chair (and C100 Vice Chair Laura Richards). But note. IZ proposals can serve to diminish adequate light, air, and open space and contribute to undue concentrations of population and the overcrowding of land in contradiction of the basic requirements in the Zoning Act and Regulations (§101.1)

Further, both the Zoning Regulations and the zoning maps are required to be designed with consideration of the "(a) 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" (§101 2)

Because the objective appears to be a floating, single mandatory bonus zone, it would have to be applied uniformly, and once the combined text and mapping case were accomplished, there would thereafter be no opportunity for hearings on individual areas to which the proposal would be applied, except for the specific circumstances when the developer cannot comply even with the base proposal for providing affordable units. Private negotiations, however, would be expected.

- **Historic Preservation standards must be upheld.** Any proposal must not be inconsistent with the Comprehensive Plan (§805.18), directing 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."

Proposals to mandate bonus density may well be in contradiction of the protection and enhancement of the distinctive characteristics of the historic districts that §805.18 addresses.

IZ must be subsidiary to HP standards. No IZ proposals should be put forward for landmarks, historic districts, or areas under study for possible historic district designation, certainly not prior to completing the land use review and related overlay action required in §805.18. If, following the completion of the §805.18 studies and zoning proposals, it is desired to extend some affordability element, it should be voluntary and incentive-based, not mandated.

- **This proposal is incredibly cumbersome and opaque.** As the OP report acknowledges, negotiations are likely to be needed for ALL development. There is no provision for citizen access or notice. The report's structured comparisons to PUDs are not meaningful. PUDs are exceptional, not mandated; the process is public; communities participate in definitions of mitigations and amenities.

Similarly, parallels with antenna negotiations are unhelpful: antennas are occasional and highly visible structures, IZ bonus density would be universal and designed to be as much like the balance of new or changed structures as possible. A discussion in last weekend's press of the planner/developer dynamics in Montgomery County is revealing.

Because this program would have huge costs to administer, each delivered unit will carry an unmeasured public investment. In addition, the absorbed costs to developers would likely be reflected in some manner in the cost of these units or the overall projects.

- **Other options exist.** Currently 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, with less negative potential for the destabilization of desirable built-up neighborhoods. The OP report quantifies what has been built and what is in the pipeline. There is no discussion why continuation or expansion of PUDs would not be a preferable vehicle, as cited above.

Were further stimuli needed, the District has available other resources, the most obvious of which would be forgiveness of significant property taxes on residences of certain descriptions. This would do a great deal to bring homes into more affordable ranges for the targeted populations. A lottery for a given number of vouchers or bonuses would be a simpler, more direct means of providing affordable housing than the current complex proposal.

Similarly, coordinated programs with employers of teachers, firefighters, nurses, police officers, and other targeted professions could produce incentive programs to make housing more affordable to appropriate numbers of families. Joint subsidies by a hospital and the District for some portion of rent or mortgage or property tax for nurses joining the hospital staff could make District living much more attractive.

The District could also move forward aggressively with District-owned housing in need of rehabilitation or repair; by reducing or eliminating land-acquisition costs, more affordable housing could be made available with limited bureaucratic cost.

- **Where is the need quantified?** The proposals are *not* targeted to the neediest District populations. Indeed, it targets households that are *above* the median family income for the District.

The broad sweep of the proposals ignores the incredibly varied neighborhood incomes in the District. To recap the ranges according to HUD standards for the metropolitan area, the definitions are:

For a family of 4, a "very low income" would be an annual income less than \$26,850.

For a family of 4, a "low income" would be an annual income less than \$44,750.

For a family of 4, a "moderate income" would be an annual income less than \$71,600.

Spending 30% of a family's income on housing, the limits for rent or mortgage are

Very low income of \$26,850 means \$671 a month.

Low income of \$44,750 means \$1119 a month.

Moderate income of \$71,600 means \$1790 a month.

The median family income in the District is \$55,750 (half the families have a higher income and half have a lower income).

It must be noted that these data are skewed by the way in which university undergraduate students were categorized for the first time in the 2000 census. Rather than being asked to self-declare, as was the practice in previous censuses, some 70,000 students were arbitrarily classified as permanent District residents, thus changing data and proportions for District family-unit size and income (few students record substantial income, regardless of family resources). Are students to be eligible for subsidies under IZ proposals?

- **Relying on DCRA for enforcement is problematic.** The complex program will be difficult to monitor for compliance, since externally the "affordable" units will be indistinguishable from neighboring properties. Even with further investment in expanded enforcement personnel, the likelihood of violations escaping notice would be high, encouraging noncompliance.

- **How will changing income be handled? How will appreciation of property value be integrated into the program over the decades ahead?** This would seem to require invasive inquiry over a long time into family finances. It would seem likely that the properties will increase in value over time to the point where target populations will not be able to afford to purchase turnover units. Montgomery County indicates that only 3,000 of the 12,000 affordable units it has created remain available for current users.
- **Transit.** Much of the discussion about IZ has taken place in the TOD context, though of course these proposals do not specify locations. If it is the intent to use transit as the magnet for IZ zoning, such a proposal would need great clarity. Does “transit” mean Metro stops? Light rail stops? Bus routes?
- **PUDs.** Can a developer propose a PUD within an IZ overlay? How would public benefits be assessed in such an instance?
- **Waterfront zones.** It seems most unwise to increase density in W-1 zones, especially at a time when a great deal of waterfront property is to be developed. Increasing height (which with penthouse allowance is already 58’) will further wall off waterfronts from everyone but those with waterside views from within the buildings. Allowing sightlines from between buildings is not a good substitute for waterfront access.
- **Developer buy-outs, off-site construction are other areas for manipulation.** OP proposes a zoning-relief program for the most substantial noncompliance with IZ standards, which at least gives the public an opportunity to learn of these cases and to provide testimony where appropriate. But much of the case will be based on financial analyses by the developers and their self-certification, making citizen analysis difficult.

Conclusion:

We ask that the Commission retract these planning and zoning bonus proposals until after further studies and analyses are made in conjunction with the Comprehensive Plan on a neighborhood-by-neighborhood basis (as well as citywide), including a review of the current Comprehensive Plan in terms of its ward plans and sub-area breakouts.

Further, we ask that the city make determinations as to maintaining stability of specified existing neighborhoods versus areas in need of substantial redevelopment in the revised Comprehensive Plan and clearly reflect these decisions in the revised Comprehensive Plan maps and text.

We ask that small area plans be created as part of the revised Comprehensive Plan that distinguish characteristics of one neighborhood from another in terms of appropriate density and use and that, as a priority, all areas slated for increased density (through IZ or other means) and/or redevelopment have small area plans or definitive guidelines developed as part of the revised Comprehensive Plan.

Thus we ask that the Zoning Commission not consider this proposal until such time as the Comprehensive Plan is modified and a determination is made that the particular device of

bonus density is suitable for the District of Columbia, as distinguished from other cities with different characteristics

It would truly be ironic if, under the rubric of “inclusionary” goals, the District created systems that weaken the very diversity that so many value by using one-size-fits-all standards