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Ms. Carol Mitten
Chairperson
Office of Zoning
441 4th Street, NW
Washington, DC 20001

September 8, 2005

Re: Inclusionary Zoning Proposal and the Anacostia Waterfront Corporation Act

Dear Ms. Mitten,

The D.C. Appleseed Center for Law and Justice is a nonprofit organization that is addressing a broad array of issues affecting the daily lives of those who live and work in the National Capital area. One of D.C. Appleseed's current projects is to help implement the goals and objectives of the Anacostia Waterfront Initiative ("AWI"), especially as they relate to affordable housing, new jobs for District residents, and the protection and restoration of the Anacostia River.

As part of our focus on ways to increase affordable housing in the AWI area, we have followed with interest the Zoning Commission's ongoing consideration of inclusionary zoning proposals for the District of Columbia. While D.C. Appleseed supports the goals of inclusionary zoning programs, at the same time we would like to ensure that whatever inclusionary zoning program the Commission adopts appropriately takes into account the affordable housing provisions of the Anacostia Waterfront Corporation Act of 2004, DC Code §2-1223 ("AWC Act"). As you may know, the AWC Act requires that 30% of any housing units in real property controlled or disposed of by the Anacostia Waterfront Corporation be set aside for affordable housing, and that such set-asides be allocated equally between households with incomes at 30% or less of the Area Median Income ("AMI") and households with incomes between 30% and 60% of the AMI.

D.C. Appleseed believes that any inclusionary zoning program adopted by the Commission should expressly address how it relates to the set-aside requirements of the AWC Act and other statutory provisions that provide for the maintenance or development of affordable housing. Consistent with the overall goal of promoting affordable housing in the District to the maximum extent possible, we therefore believe that the Commission should exempt from any inclusionary zoning program that it adopts any project or area that is already subject to more demanding affordable housing requirements under a separate statute or regulation. We note that Section

ZONING COMMISSION
District of Columbia
CASE NO. 04-33
EXHIBIT NO. 145

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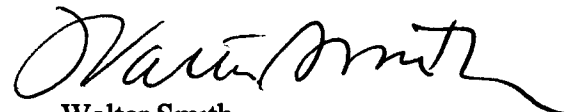
xx01.5 of the proposed Text Amendment submitted by the Center for Mandatory Inclusionary Zoning achieves this goal by providing that “the provisions of any statute or other municipal regulations shall govern whenever they require that a greater percentage of units be made affordable than provided under this chapter or that units be made affordable to households at lower income levels than required by this chapter.”

The affordable housing provisions of the AWC Act appear to be more demanding than the requirements of any inclusionary zoning proposal that the Commission might adopt, both in terms of their percentage set-aside requirements and in terms of their income targets. We therefore endorse the inclusion of a provision like the one proposed by the Center for Mandatory Inclusionary Zoning, which would ensure that the AWC Act requirements would remain in effect for projects that are within its scope. Such a provision would also clarify the relationship between the two sets of provisions for the benefit of the Anacostia Waterfront Corporation, developers, and community groups that work on affordable housing issues.

The AWC Act might be read by some to suggest that the 30% affordability restrictions on housing outlined above may not apply to certain projects on privately owned land. The Office of Zoning need not make a legal determination on this question, but we urge you to include language ensuring that the requirements of any Inclusionary Zoning program that you adopt would apply only to housing development within the area defined by the AWC Act that is not covered by the Act’s affordability requirements. With the two sets of requirements operating side-by-side – yours and those mandated by the AWC Act – we believe that there is tremendous potential to create a broad array of affordable housing in the AWI area.

Many thanks for considering these suggestions. If you have any questions regarding this letter, or would like to speak with me further about this issue, please contact me.

Sincerely,



Walter Smith

cc Mr. Andrew Altman, AWC
Matthew Yeo, Steptoe & Johnson LLP