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100
on the FEDERAL CITY

April 20, 2006

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Ms. Carol Mitten, Chair
Zoning Commission
441 Fourth Street, N.W.
Washington, D.C. 20001

Madam Chair.

Re: Z. C. Case 04-33 -
Mandatory Inclusionary Zoning Text Amendment

On behalf of The Committee of 100 on the Federal City, I am herewith submitting our comments on the proposed text amendment in connection with mandatory inclusionary zoning.

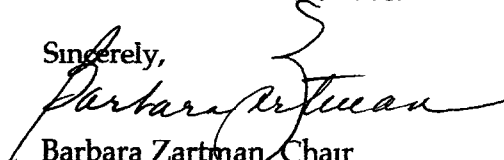
As you will see, we include the comments that were prepared in connection with the Office of Planning's draft Housing element of the Comprehensive Plan, since we believe (as we said last summer) they are intertwined. We don't believe IZ can be considered outside the proposed policy changes envisioned in the Housing draft.

We also wish to acknowledge the excellent individual submission from Marilyn Simon, a member of our Zoning Subcommittee and a skilled economist. Her work has enhanced our work, and we wish to associate ourselves with the analyses she has submitted.

It is our very real hope that the proposed text amendment will be held in abeyance until such matters as the fundamental definitions of need can be resolved.

As always, we are prepared to respond to any questions or concerns the Commission members have.

Sincerely,


Barbara Zartman, Chair
Zoning Subcommittee

ZONING COMMISSION
District of Columbia

CASE NO. 04-33

EXHIBIT NO. 171

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Attachment A

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Analysis of Specific Provisions
Housing Element of the Comprehensive Plan

- The goal of increasing the population by 100,000 seems to be the underlying basis for many of the policies in this Element. See for example, page 6, section 1.0. See also, the box on page 4. This box presents the recommendations of the Comprehensive Housing Strategy Task Force based on the goal of increasing the population by 100,000. It highlights the recommendation for the production of 55,000 new housing units, including 19,000 affordable units.

The recommendation for the production of 55,000 new housing units and the associated recommendations on affordable units is based only on the assumption of a goal of increasing the population of the District by 100,000 residents. The recommendations for housing units and affordable housing units are backed out from that assumption.

- **Policy H-1.1.2: Production Incentives:** Provide suitable regulatory, tax, and financing incentives to meet housing production goals. These incentives should continue to include zoning regulations which permit greater building area for commercial and mixed use projects that include housing than for projects that do not.

There is no justification presented for increasing these types of subsidies. Current zoning has already incorporated an incentive for including a residential component in commercial zones zoning regulations which permit greater building areas for commercial and mixed use projects that include housing. For example, in a C-2-B zone, the maximum FAR for a development with no residential component is 1.5, but if a residential component is included, the maximum FAR is 3.5, with no more than 1.5 allowed for non-residential uses. That is a substantial incentive for producing housing.

As stated above, current zoning regulations already provide a substantial increase in density when residential uses are included in commercial zones. Any recommendation to increase density further would require a complete analysis of each of the neighborhoods in which that increased density would be available to determine whether there would be a negative impact on adjoining districts and whether development which includes that additional density would be appropriate for the scale and function of the adjoining districts.

Similarly: **ACTION H-1.1.C: RESIDENTIAL INCENTIVES IN COMMERCIAL ZONES** During the major revision of the zoning regulations that will follow Comprehensive Plan adoption, reexamine the density bonuses that are currently provided for residential uses on commercially zoned land. Determine if there are opportunities to further incentivize residential construction within commercial and mixed use zones. *New*

- Page 10, acknowledges that the District has a disproportionate share of the region's poorest residents, but doesn't consider this important fact in determining whether the District should be increasing the amount of subsidized housing that it recommends providing.
- The discussion of affordability focuses on individuals, not two-earner households, and uses examples with salaries that are far below the income levels associated with the most of the recommendations for providing "affordable" housing. For example, on page 10, the draft states that the average annual wage in the service sector is \$36,000, which they claim is barely enough to rent a one-bedroom apartment. However, many of the programs that are

discussed in the draft are aimed at providing subsidized housing for households that earn up to 80% of the area median income, i.e., subsidizing households with incomes up to \$71,400. Target households for those programs would have incomes which are approximately twice the cited \$36,000 income and far in excess of the income of the median District household

- **Policy H-1.2.1: Affordable Housing Production as a Civic Priority:** Establish the production of housing for low and moderate income households as a major civic priority, to be supported through public programs that stimulate affordable housing production and rehabilitation throughout the city.

The text describes low income households as those with incomes up to 80% of AMI, i.e., income up to approximately \$71,400 for a family of four, and somewhat less for a smaller family. A moderate income household is defined as one with an income up to 120% of AMI, or up to \$107,160 for a family of four. [See note, below.] The median income for the District is \$55,750. There has been nothing presented here to demonstrate that households in the "low income" and "moderate income" ranges cannot find affordable housing, even affordable existing market-rate housing, in the District. In addition, there is no evidence provided to justify setting a priority for the provision of subsidized housing to households in these income ranges.

Note: See box on page 2, paragraph 3, defining the income levels. "The terms "extremely low", "very low", "low", and "moderate" income correspond to 30%, 50%, 80%, and 120% of that amount, respectively." However, in the box on page 12, the targets for the distribution of affordable units by income group lists: 30% of units for households with incomes up to 80% of AMI, i.e., income up to \$71,400, 30% with incomes up to 60% of AMI, i.e., incomes up to \$53,550, and 40% with incomes up to 30% of AMI.

- Similarly, **Policy H-1.2.2: Production Targets** sets a goal that one-third of the new housing [based on the chart and the text in the following sentence, it seems to be new affordable units, but the text is contradictory in one part describing a percentage of new housing production and in another part referring to a percentage of affordable units] in the District should be affordable to persons earning 80 percent or less of AMI.

It is clear that persons earning 80 percent of AMI can afford available market-rate housing in every ward in the District. At 30% of their income, these households can afford up to \$1,785 a month. As an example, a two-bedroom duplex condominium with washer and dryer and balcony at Wisconsin Avenue and Garrison Street, within walking distance of the Friendship Heights Metro, is currently listed for \$1,550 a month. Using the 30% of income guideline, this unit would be affordable to a household with an annual income of \$62,000.

- **Page 3:** Data is presented showing an increase in the median sales prices in condominiums, but it is not clear what conclusion is being drawn from this comparison: "Condominiums and cooperatives, once considered "starter" homes for first time buyers, have increased equally, from a median sales price of \$138,000 in 2000 to \$377,950 in 2005."

The change in median sales price in any category does not provide reasonable evidence on affordability, since it doesn't indicate whether the increase in the median sales price is related to an increase in sales of units above the median or a reduction in the available units that are affordable to each group of potential purchases. Certainly it has been noted that new condominiums included in this data include not

only “starter homes,” but there has been an increase in the production of luxury condominiums, which make the data on the median sales price of condominiums particularly misleading, if it is intended to capture changes in the availability of starter homes. As presented, the data is simply incomplete or misleading.

- OP then cites a decline in the percentage of housing which a family supported by a school teacher could afford.

Again, it is unclear as to what conclusion one might draw from this information about the availability of housing. Does this mean that there is an increase in the share of production of luxury housing, or that there is a decrease in the availability of new and existing housing for families with this income.

- In general, the analysis seems to place an emphasis on the affordability of new housing, does not seem to consider the affordability of existing market-rate housing. In addition, the analysis does not seem to consider the production of new market-rate housing which is affordable to the target households.
- **Policy H-1.15: Housing Quality:** Require high architectural and construction standards in the design of both assisted and market-rate housing. Regardless of its affordability level, new or renovated housing should utilize high-grade construction materials, provide open space and recreational amenities, and respect the design integrity of adjacent properties and the surrounding neighborhood.

This provision needs rethinking or scrapping. A requirement that high-grade construction materials be used regardless of affordability level is counterproductive if there is a goal of providing affordable housing, particularly market-rate housing which would be affordable to the target households. Instead, this section should simply state that at least standard-grade construction materials should be used, or that all construction should meet the building code requirements regardless of its affordability level. The conditions that open space and recreational amenities should be provided as well as the policy that, regardless of affordability level, the development should respect the design integrity of adjacent properties and the surrounding neighborhood should be maintained.

- **Policy H-1.2.5: Workforce Housing** In addition to programs targeting persons of low, very low, and extremely low incomes, develop and implement programs that meet the housing needs of teachers, fire fighters, police officers, nurses, city workers, and others in the public service professions with wages insufficient to afford market-rate housing in the city.

The text does not describe the income limits that are associated with workforce housing. However, given the language “in addition to programs targeting persons of low, very low and extremely low incomes,” it appears as though workforce housing might be defined as targeting persons with moderate incomes, i.e., up to 120% of the median income for the region, or \$107,160. This means that the recommendation is to provide subsidized housing to households whose income is nearly double the median income for the District, and who could afford to pay \$2,677 a month in rent. There is no evidence presented demonstrating that there is a scarcity of affordable units for households earning 80-120% of AMI, who, at 30% of their income can afford pay \$1,800 to \$2,677 a month in rent. In fact, a substantial number of existing apartments are available in this price range.

- **Policy H-1.2.7: Density Bonuses for Affordable Housing** Provide zoning incentives, as appropriate, to developers proposing to build low- and moderate-income housing. These incentives should include allowances for additional density within mixed use projects,

particularly near appropriate Metrorail stations. Affordable housing shall be considered a public benefit for the purposes of granting density bonuses when new development is proposed. Replaces 302 2(d)

There is no recognition in this policy that there is a basis for current zoning limits, particularly at Metrorail stations. In many instances, the zoning near Metrorail stations allows for a significant amount of development, and a higher density than the adjoining neighborhoods.

It is necessary to recognize that it is inappropriate to recommend bonus densities without taking into account the impact of those bonus densities on adjoining neighborhoods. In many instances, in determining the current zoning limits, those impacts were already factored in. Further increases are inappropriate.

We also note that this policy replaces a section which discusses encouraging residential development in certain areas, but does not provide for bonus densities

- **Action H.1.2-A Inclusionary Zoning** Adopt an Inclusionary Zoning requirement which would require the inclusion of affordable units in all new residential developments of 10 units or greater. Apply this requirement as fairly and uniformly as possible, providing exceptions as necessary for sites where density bonuses cannot feasibly be provided or would conflict with the Comprehensive Plan. *New*

This recommendation is overly broad and fails to adequately consider the impact of bonus densities on the adjoining neighborhoods.

- **Action H.1.2-E Media Campaign** Undertake a multi-year, mixed-media public service announcement campaign focused on housing affordability challenges, with the objective of building awareness of the social and economic advantages of a progressive and inclusive housing plan for the District. *New*

This provision should be dropped. Given that OP has failed to present evidence to demonstrate that there are affordability challenges for the households within the targeted income groups, it is inappropriate to undertake a media campaign.

The Comprehensive Plan should not be used to justify launching a media campaign to disseminate questionable information and to promote policies for which OP has not provided a fact-based justification.

- **Policy H-1.3.5: Student Housing:** Require the provision of adequate housing for students by the city's universities and colleges. Replaces 1402.4(j)

The section that this replaces also calls for requiring that the universities and colleges promote the use of university housing by their student populations. That provision should be retained.

- **Policy H-1.3.6: Single Room Occupancy Units.** Allow the development of single room occupancy (SRO) housing in appropriate zoning districts. *New*

This policy provides no guidance as to the definition of the appropriate zoning districts. This information is necessary so that the citizens can evaluate the appropriateness of this policy. Without it, the provision could be applied indiscriminately.

- **Action H-1.4.E: Tax Abatement** Consider geographically targeted tax abatements to encourage housing development in areas where housing must compete with office space for land, similar to the Downtown Tax Abatement Program. *New*

This recommendation requires further analysis to determine whether residential uses would be more profitable than office use, and whether the cost of a tax abatement is justified, i.e., whether the District would benefit from encouraging residential use in a particular district.

- **Policy H-1.5.1: Land and Building Regulations:** Ensure that the District's land regulations, including its housing and building codes, its zoning code, its construction standards, and its permitting fees, enable the production of housing for all income groups. Avoid regulations which make it prohibitively expensive or difficult to construct affordable housing. *New*

This conflicts directly with Policy H-1.1.5, which states that high grade construction materials should be used for all affordability levels. Subject to safety concerns, it is appropriate that construction standards should be set so as not to make it difficult to construct affordable housing. Zoning regulations, however, are subject to a large number of other considerations, but subject to those considerations, regulations that make things unnecessarily costly should be avoided.

Further, it is unclear which codes, regulations, and standards are covered by the general terms. Zoning and permitting fees are currently affordability blind and should be. Other programs can provide subsidies more efficiently.

- **Policy H-1.5.6: Financial Incentives:** Consider tax incentives, reduced permitting and infrastructure fees, underwriting land costs, and other financial measures to reduce the cost of affordable housing construction. *New*

No justification has been provided for this open-ended policy

- **Page 25, discussion of Housing Preservation**

The discussion begins by considering a fall in the number of units with rents under \$500 a month between 2000 and 2004. Without adjusting for inflation, this comparison is irrelevant to the discussion.

Similarly, for the same time period, it is stated that the number of homes valued at \$150,000 or less decreased.

Based on this information, one can draw no conclusions about whether there has been an increase or decrease in the number of units with rents of \$500 or less, measured in year 2000-dollars, or homes valued at \$150,000 or less measured in constant dollars. This type of misleading information should not be included in the revised Comprehensive Plan.

This type of careless analysis calls into question the validity of all the subsequent statements.

There are other provisions in the current plan we find worthy of keeping, either in their present form or as a combination of similar provisions:

Housing, 1402.4(f) Do not consider hotels or other transient uses as meeting the housing objectives.

Housing, 1508.1(f) Control the conversion of residential housing to nonresidential and transient use. [Could be combined with 1104.1(r) and 300.2.]

Housing, 1607.3 The ... city must ensure that community based residential facilities are well managed and integrated into the ward's neighborhoods but are not overly

concentrated in any given neighborhood.

Housing, 301.2(c) Work with owners and community groups to identify vacant housing units suitable for rehabilitation and make restoration of vacant units to the housing stock a major government priority.

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**Comments on the Draft Housing Element
of the Comprehensive Plan**

The Elusive 100,000 Residents

When the Council was considering authorizing the present process of drafting amendments to the Comprehensive Plan, it made clear that it was not adopting the goal of 100,000 new District residents as a policy objective. The Committee of 100 strongly advocated this action because we had such deep concerns about how the figure had been arrived at; such a sweeping commitment without careful analysis of the impact on existing communities, as well as analysis of the infrastructure needs for supporting such an increase, is fraught with potential harm. It is irresponsible.

Today we are even more certain that Council chose the right course. Yet much of the redrafting of Comprehensive Plan elements is driven by a continuing commitment at the Office of Planning to that 100,000 number – or at least such a commitment from the Comprehensive Housing Strategy Task Force, whose work was largely incorporated in this element.

Especially with regard to housing, the consequences are potentially very damaging to existing neighborhoods, which provide so much of the revenue on which the District's budget is dependent; moreover, it does so without a demonstrated factual basis for establishing the District's current population and the need for increased and subsidized housing stock.

Primary Question: How many of us are there?

The Committee challenges the demographic assumptions and formulas reflected in the draft housing element. The District acknowledges disagreement with the Census Bureau, whose annual data indicate 20,000 fewer residents than the District claims (553,523 vs. 577,500).

Far more significant is the apparent change that took place in connection with the 2000 decennial Census, involving persons from other states who were full-time undergraduate students at District colleges and universities. The total number of such students is approximately 70,000. It is our understanding that, whereas in the past these persons were permitted to decide for themselves the location they wished to declare as their home or residence, in the 2000 Census they were apparently claimed categorically as permanent District residents.

The Committee has repeatedly asked the Office of Planning to correct our understandings if we were wrong; similar inquiries have been made in connection with the Homeless No More analysis of poverty-driven needs for shelter programs for District residents. We further asked that, if our understandings were correct, OP provide the demographic analyses to show the difference made by this cohort, through disaggregated data. We have received neither a challenge to our assumptions nor a set of disaggregated data.

The consequence of this cohort alone cannot be overstated. Consider that without this clarification we cannot know how many District residents must be planned for in credible numbers. If, rather than 505,000 or 575,000 residents, the District actually has 430,000 or 505,000, an entirely different program for housing has to be crafted. If we have been losing population (when consistently measured from 1990 to 2000), housing stock must be available today in greater numbers than presumed in the housing element, albeit at costs that limit access for many families. Further-

- *Introduction of 70,000 or so persons, nearly all of whom are single and living in dormitories or group homes, has deep impacts on analyses of household size*
- *This same cohort contains almost no home owners, skewing the pattern of homeownership downward from what appears to be one of the lowest rates in the nation (40%).*
- *These persons nearly always report very low annual income, neighborhoods immediately adjacent to campuses regularly reflect apparent poverty levels They skew reports on income disparity They also distort the picture of need for subsidized housing or shelter*
- *This cohort is grouped in a narrow band of ages, again skewing analyses of District resident age*
- *These persons are rarely parents, distorting projections of the need for day-care or school facilities*
- *The formulas used by the Federal government for various assistance programs are often per capita, the impact of this added cohort would have to be considered.*
- *The dormitory units in which these persons are supposed to reside are not apparently included in either the inventory of residences or the analyses of demand*
- *These persons are intended to reside in college or university facilities, including them in the general population would warp the amount of private or public sector housing required in the District.*
- *These apparently poor persons depress income data used for local and regional analyses, e.g Area Median Income.*
- *If 70,000 persons are in fact housed in facilities not reflected in OP analyses, the unmet demand would need to be radically adjusted*

Who Needs Assistance with Affording Housing?

The Committee has offered prior testimony that the income targets anticipated in these policy proposals are far too high and that they constitute a misuse of available funds, which should be targeted toward households with greater needs.

The Office of Planning proposal is to include households up to 120% of AMI, or “moderate” income. This would include 79% of all District households (even using the questioned Census numbers) It would include even 72% of the households in Ward 3.

Moderate-income households of four persons would have annual incomes of \$71,600; the normal computation of 30% spent on rent or mortgage would allow \$1790 per month for housing.

But these are blunt measurements The District lacks any reliable database of housing stock,

lost units, improved stock, or the other indices normally used as the basis for public policy decisions. The current proposals appear to seek to maximize the number of available units either in response to the 100,000-new-residents goal or through a misbelief that more is always better. Such intensification would be a marked change from §§101.1 and 101.2 of the Zoning Act and Regulations.

The Comprehensive Plan Proposals

We must begin with uncomfortable truths: these proposals are dependent on successful implementation by bureaucratic entities that have historically been unable to deliver on service and administrative process. The strong efforts at reform by the new Zoning Administrator and DCRA Director, both of whom we fervently hope will be able to bring efficiency and reliability to a perennially troubled department, cannot offset the widely understood inadequacies they inherited.

OP's proposals envision a higher and more intense level of development than even our current overheated development patterns generate. Specific difficulties with the Inclusionary Zoning implementation follow, but these policy recommendations would establish new matter-of-right densities, neither phased in nor plotted.

Formulaic policies such as "transit oriented development" (which is actually Metrorail-oriented development) fail to take into account the adequacy of the rail system to handle the projected new volumes. Specific housing policy recommendations for bus lines, or for proposed light-rail systems, need to be developed and cannot be one-size-fits-all programs. The hurtful impact on nearby established neighborhoods cannot be ignored in considering all TOD initiatives.

Policies for dealing with rental housing, of which the District appears to have an unusually high percentage, need detailed proposals, especially in light of recent discussion of changes in rent-control, which has been a tool for keeping rental housing an affordable option.

Indeed, it can be argued that this element is less a series of policy proposals or strategies than it is a list of past or potential programs. Major components are not addressed, as the reference to college and university housing indicates. At a minimum, residential campuses must be required to provide an adequate housing supply within their boundaries, a supply directly related to enrollment. In addition, policies for rooming houses and CBRFs need attention, including the specific protective CBRF provisions contained in the land-use element of the present plan must be retained.

Land-use map inaccuracies make the element still less useful unless they are corrected. The public needs to see mapped areas where additional housing densities through bonuses or changed zoning may be suitable. Historic districts, however, especially those outside the downtown area, must be protected from being target recipients of bonus density. As was said in our 2005 testimony about Inclusionary Zoning:

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. If it is desired to extend some affordability element, it should be voluntary and incentive-based, not mandated.

We have appended (Attachment A) a detailed analysis of several provisions of the draft housing element. These are meant to offer specific implications of the policy and practice

recommendations contained in the new draft of the element. Separate C100 comments on the land-use element will address the inconsistency of some of these housing proposals with existing policy protections.

Fundamentally, what the District needs is not a Housing Czar, but a Planning Commission to see to the implementation of rational, well-thought-out policies and strategies for achieving such goals. Assuring that the policies embodied in the new Comprehensive Plan, for housing and for the other key areas of District life, translate into a fairer and better quality of life deserves singular attention from the highest levels.

We share the goal of making a range of housing options available to all District residents, across income levels and geographic locations, with access to quality public education and trustworthy child care, accessible recreation space and facilities. But households also need assurance that the quality of their neighborhoods will not be undermined, either by developers or by the government they fund with their tax dollars. The investment that families must make to bring about quality schools, vital neighborhoods, and healthy local businesses cannot occur without such assurances.

Mandatory Inclusionary Zoning Proposal

Affecting all consideration of MIZ is the lack of geographic reference. The proposal does not tie inclusionary zoning to specific areas; it is a “floating” zone, the impact of which cannot be assessed without maps showing intended areas of impact. It makes public response very difficult.

The proposed threshold for mandatory inclusionary zoning of 10 units is too low and may have a distorting effect on fragile and established neighborhoods alike. As an example, two adjacent lots in Burleith currently occupied by Hansel-and-Gretel cottages would produce a lot that easily support 10 units; such incentives to demolish housing and neighborhoods cannot be lauded.

It appears the proposal is to allow double incentives, e.g. a project could qualify for both IZ and other bonus programs and production incentives (see Attachment A). Since we believe the generous IZ proposals already are harmful, combining bonus programs will really warp the housing market and destabilize neighborhoods.

It would be helpful to see a program of prohibited elements (such as double incentives) that would disqualify a project from MIZ benefits.

We believe that the current proposal will provide benefits to development that would happen anyway, especially with the income thresholds presently envisioned.

We are appending the Committee’s testimony from last summer’s hearings on the proposals for Mandatory Inclusionary Zoning, since most of the questions and concerns remain unaddressed. In light of what we believe is the lack of trustworthy measures of need, such a sweeping mandate runs unacceptable risks of destroying the very communities people live in the District to enjoy.

A quick recap of our concerns includes the following:

- *The complex and opaque proposal has great potential for manipulation, great difficulty for enforcement, no role for community involvement*
- *The program should be incentivized, not mandatory*
- *Allowing both PUD and IZ treatment an individual project must be clearly precluded*
- *It is inadequately responsive to concerns about historic districts.*
- *Far from providing a range of options, large tracts already represent high density residential/commercial development; IZ will only exacerbate this.*
- *Other options exist for providing relief for nurses, first responders, teachers, and others whom the District has particular priorities for attracting*

Debt Burdens

Any discussion about new, major investments in changing housing markets needs to be put in context of available District resources over the next several years. The following data offer one measurement of such resources, they are based on what we believe are inaccurately high District population figures.

For 2005, per capita debt was	\$7,663
For 2006	\$9,260
For 2007	\$11,507 (projected)

If what we believe are more accurate numbers were used, the burdens would be considerably greater, with the 2007 figure approaching \$15,000 per capita.

It needs to be noted that none of these figures includes the costs for the new stadium, hospital/clinic, convention hotel, new/old convention center, mental health facilities, or a forensics laboratory. They do not include assessments of the impact of the property-tax or business-tax court decisions. Any changes in Federal per capita Federal assistance would also be expected to increase the obligations.

The current burden is the highest in the nation, and these rapidly increasing obligations will be manifested in assessments of the District's creditworthiness, potentially creating a cascade of financial difficulties. Such potential suggests great care in adopting sweeping changes, the impact of which cannot be measured.

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Attachment B

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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)

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.