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VIA HAND DELIVERY

Ms Sharon Schellin
Acting Secy to the Zoning Commission
DC Office of Zoning
441 4th Street, NW, Suite 200 South
Washington, DC 20001

ZONING COMMISSION
District of Columbia
CASE NO. 04-33
EXHIBIT NO. 188

**RE: Case No. 04-33 –Inclusionary Zoning
Comments on the Notice of Proposed Rulemaking**

Dear Members of the Commission

Metropolis Development Company (“Metropolis”) is a small, local, residential development firm headquartered in the District of Columbia. Currently, all of our development projects are in the District of Columbia. **It is our belief after comprehensive analysis that the Inclusionary Zoning text amendment as proposed by the Commission could potentially SHUT DOWN our company and those LOCAL SMALL/MEDIUM SIZED, MINORITY and FEMALE OWNED development firms that are similarly situated and who currently provide both market rate and affordable housing units in the District.** For the small/medium sized residential developers to remain viable, it would require leaving the District and seeking opportunities in other jurisdictions. This would be just one of the potential **negative “unintended consequences”** if the amendment is adopted as currently proposed. There will be others including a major reduction in housing starts in the City and an increase in the price of non-inclusionary zoning residential units thus widening the affordability gap and virtually eliminating the concept of “workforce” housing.

Metropolis supports increasing affordable housing units in the District. It is opposed to Mandatory Inclusionary Zoning (“MIZ”) as the method as it poses a threat to our viability and clearly will not provide the anticipated affordable units. Metropolis would like for the Commission to adopt a voluntary inclusionary program. If, however the Commission seeks to adopt MIZ, it has a fundamental responsibility to create an amendment and program that will ultimately result in additional affordable housing without harming the District’s housing revival and those who provide such housing. In view of these factors, Metropolis submits the following comments and recommendations/modifications to the proposed text that it believes are critical in making MIZ work for all parties who are seeking the same goal

ELIMINATE THE PROVISIONS REQUIRING INCLUSIONARY UNITS AS A PERCENTAGE OF TOTAL DENSITY OR ALTERNATIVELY CHANGE THE REQUIREMENTS THAT NO MORE THAN TWENTY-FIVE (25) PERCENT OF BONUS DENSITY BE PROVIDED AS INCLUSIONARY UNITS

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The affordable set-aside requirements (Section 2603) of bonus density at 50% (steel and concrete) and 75% (stick built) simply do not work economically failing to accommodate the negative change in market conditions that is currently being experienced or the continual escalating development and construction cost. Metropolis in conjunction with other small/medium sized and minority development firms have provided the Office of Planning and the Zoning Commission with extensive analysis and pro formas to determine the requisite percentages and ratios of bonus density to make the program palatable. In its current form, the additional density does not offset the economic burden placed on us as residential developers who are required to sell units at a deep discount from market rate. This also makes it difficult if not impossible to obtain equity financing for small and minority developers as the capital markets and lenders will seek other venues to invest its money based on its returns,

Our recommendation is that the ratio of affordable to market rate units within bonus density should be established at 50% (1:1) for frame projects and 25% (3:1) for steel and concrete projects. If this is the incentive required why not make the modification?

ESTABLISH A TRANSITION PERIOD OF THREE 3 YEARS TO PERMIT LAND PRICES TO ADJUST TO THE NEW PROGRAM

The discussion of MIZ has already created a chilling affect in an already uncertain housing market. Many large residential developers have already expressed their intentions not to build residential developments in the District of Columbia as a result of the potential adverse impact of MIZ. Much of this is a result of having purchased land at a price based on the expectation of developing it to its full economic potential.

Our recommendation is to establish a 3 year transition period to permit land prices to adjust gradually and permit residential transactions currently in process to continue without the imposition of MIZ. Failure to do so will have a particularly harmful impact on small/medium sized, and minority residential developers.

SPECIFY THAT MIZ DOES NOT APPLY WHERE THE DEVELOPER IS UNABLE TO ACHIEVE OR USE ITS BONUS DENSITY AND SIMPLIFY/STREAMLINE THE PROCESS FOR GRANTING THE EXEMPTION

As currently proposed, a developer seeking exemption from the MIZ would be required to spend additional money and more importantly time awaiting an official determination. This will work a severe financial hardship on small and medium sized developers. This

burdensome administrative process creates uncertainty and will serve as an additional barrier to developers contemplating building residential developments in the District.

MAKE THE APPROPRIATE MODIFICATIONS AND CHANGES TO THE TEXT AMENDMENT THAT HAVE BEEN RECOMMENDED BY THE HOUSING PROVIDERS TO MAKE INCLUSIONARY ZONING WORK TO INCREASE THE PROVISION OF AFFORDABLE HOUSING UNITS IN THE DISTRICT

Many residential developers have and will be submitting recommendations and modifications to the proposed text amendment as to how to make MIZ palatable. An incentive based program provides a more flexible alternative to creating more affordable housing. **However the Commission must carefully consider the proposed modifications that it receives from the providers who have established how the MIZ can work. The Commission as well as District officials should be concerned that the failure to adopt a workable MIZ program will certainly adversely impact the City's housing market by reducing the number of housing units being constructed market rate or affordable. It will have a disproportionate negative effect on small/medium sized, minority and female owned residential development firms. It will force residential development out of the City. This is not an idle threat but an economic reality.** Therefore it is imperative that the Zoning Commission and District Officials ensure that MIZ will be structured to achieve the goal of increased affordable housing.

Sincerely,

A handwritten signature in black ink, appearing to read "Merrick T. Malone".

Merrick T. Malone, Principal
Metropolis Development Company

Cc. Mayor Anthony Williams
Robert Bobb, City Administrator
Linda Cropp, Chairman of the DC Council
Sharon Ambrose DC Council
Jack Evans DC Council
Kwame Brown DC Council
Ellen McCarthy, Director of OP