

ZC Case 04-33A, Marilyn J. Simon, October 5, 2006

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5241 43rd Street, NW
 Washington, D.C. 20015
 October 5, 2005

Carol Mitten, Chairman
 Zoning Commission
 District of Columbia Office of Zoning
 Suite 210-S
 441 4th Street, N.W.
 Washington, D.C. 20001

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D.C. OFFICE OF ZONING

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Re: Zoning Commission Case 04-33A (Map and Text Amendments, Inclusionary Zoning Overlay District)
 Comments in Opposition to a Broad Mapping of the Overlay District and
 in Opposition to the inclusion of the Wisconsin Avenue Corridor in the Inclusionary Zoning Overlay District

Dear Ms. Mitten:

The Office of Planning is proposing a very broad mapping of the Inclusionary Zoning Overlay District precisely when it is most appropriate to move with caution, and adopt a more focused mapping that will allow for an evaluation of the impact of this program.

The broad, city-wide mapping under consideration will set into motion a dynamic which will:

- Accelerate the displacement of low income households from low-cost market rate housing in neighborhoods such as Columbia Heights which are experiencing a boom in the development of luxury condominiums.
- Displace low-income households in many parts of the District to provide subsidized luxury housing for households with a higher target income than those displaced.
- Provide the most valuable bonus densities in neighborhoods where development of luxury condominiums is already attractive, and where the increased development is taxing the available infrastructure.
- Discourage the development of new and rehabilitated market-rate housing that would be affordable to the households targeted by this program.¹

As pointed out in earlier testimony, there are several perverse incentives built into the formulas for bonus densities and the associated affordable housing requirements.²

- Since developers can count affordable units that are being provided pursuant to federal and other District housing programs toward the requirements of this overlay, the actual addition of affordable units is below the amounts estimated by OP. Many of those units would likely have been produced absent this overlay based on the other programs that apply.

¹ The program will increase the profitability of development of luxury condominiums in neighborhoods with the highest prices relative to the profitability of projects that would produce market-rate housing affordable to target households. This diverts resources from those neighborhoods which can support market-rate affordable housing to the neighborhoods with higher market-rate prices.

² These points along with the incentives discussed in the paragraph above are discussed in my testimony on October 19, 2006, and included as Attachment 2.

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- For some projects, the subsidized units will actually be larger in square footage than many of the market-rate units in the same project with the same number of bedrooms.
- The bonus density will be far more valuable in those parts of the District where developers already find luxury condominiums to be very profitable, accelerating development in those areas, while slowing development in other parts of the District where additional development would be desirable.

We need to begin this experiment gradually and evaluate and map the overlay district in small and carefully evaluated increments: It is imperative that the mapping of the Inclusionary Zoning Overlay District proceed slowly and deliberately so that we can evaluate: (1) how the program is working; (2) how well the provisions can be enforced; and (3) how it affects developers' incentives. This means beginning by mapping small carefully targeted areas, and evaluating the program through time before expanding it. That is the same strategy that was recommended to the Office of Planning by this Commission earlier this year.

In reaching this conclusion, I also note the many other things that OP did not consider in its Setdown Report or in the recently filed Final Report.

- **Failure to evaluate the capacity of the available infrastructure and ability to economically expand the infrastructure to serve the specific areas where increased density is likely to occur with the proposed mapping:** OP did not provide any infrastructure analysis that actually examined whether the infrastructure is available or can be economically expanded in the areas where development is likely to occur if this overlay is mapped as proposed. Instead, OP refers to the Technical Report on Infrastructure filed with the draft Comprehensive Plan. I have attached a copy of my testimony, filed with the D.C. Council, reviewing the elements of the infrastructure for which the Technical Report failed to take into account where the increases in density and demand for infrastructure will occur if the Comp Plan is adopted or if the IZ overlay is mapped as proposed.³
- **Failure to do a serious evaluation of the impact of a 20% increase in density on the scale and character of neighborhoods across the District:** OP did not seriously consider whether the increase in density allowed in the various overlay areas would alter the character of those zoning districts. Instead, the analysis provided by OP is extremely superficial. The analysis seems to be limited to determining whether it is necessary to increase height and/or lot occupancy.
- Where there is no need to increase height or lot occupancy to achieve the higher FAR, the discussion ends, and OP concludes that there is no impact.
- Where there is a need to increase height or lot occupancy, it appears as though it is generally assumed that there is no change in the scale and character of the area, if the increased density can be achieved through an increase in height or through an increase in lot occupancy without violating the minimum side and rear yard requirements.
- **OP does not address the elephant in the room: Does a 20% increase in the maximum size of the building change the scale and character of the surrounding area?**
- **OP does not consider the impact of the increased density, and possible increases in height and/or lot occupancy, on the adjoining neighborhoods.** OP did not even consider whether the 20% increase in density in commercial or higher density residential zones would have an impact on low-density residential neighborhoods or rowhouse neighborhoods that abut those zones.

³ A copy of that filing is included as Attachment 1, below.

The Wisconsin Avenue Corridor should not be considered for inclusion in the mapping of this overlay: It is also imperative that mapping of the Inclusionary Zoning Overlay District not include the Wisconsin Avenue corridor. For this area, a 20% increase in the allowed density would not be appropriate to the scale and function of development in the adjoining neighborhoods. It has already been demonstrated that the infrastructure cannot even support the amount of development allowed as a matter-of-right, nor can it be economically expanded to support that amount of development, much less a 20% increase in the amount of development allowed.⁴

Resolution of ANC 3E and similar resolutions passed by several community groups: In connection with concerns about mapping the Inclusionary Zoning Overlay District on the Wisconsin Avenue corridor, I am attaching a copy of a resolution passed by ANC 3E on March 9, 2006.⁵ The top of the third page of that resolution contains the following statement:

“BE IT FURTHER RESOLVED that the ANC 3E requires that no portion of the Wisconsin Avenue corridor be considered for inclusion in programs which grant bonus heights or densities.”

This, along with the basis for this statement, provided in the first pages of the resolution, clearly demonstrates that the ANC recognizes that the mapping of programs with bonus heights and/or densities is inappropriate for this area. The discussion at the ANC meeting included a discussion of this overlay as well as other programs that might be impacted by this resolution.

Other ANCs and community organizations in the area passed similar resolutions. For example, on February 13, 2006, ANC 3F passed a resolution, Resolution 06-05, which includes the following statement:

“BE IT FURTHER RESOLVED, that ANC 3F recommends and strongly urges that no portion of Van Ness/UDC or the Wisconsin Avenue Corridor be considered for inclusion in programs which grant bonus heights or densities;”

On January 27, 2006, Friendship Neighborhood Association passed a resolution, which includes the following statement:

“BE IT FURTHER RESOLVED that Friendship Neighborhood Association requires that no portion of the Wisconsin Avenue corridor be considered for inclusion in programs which grant bonus heights or densities;”

Sincerely,

Marilyn J. Simon
5241 43rd Street, NW
Washington, DC.

Attachments: To be provided at October 5 Hearing

Attachment 1: Testimony on the Infrastructure Report presented by Marilyn J. Simon at D.C. Council Hearing on September 26, 2006

Attachment 2: Letter from Marilyn J. Simon to Carol Mitten, dated April 19, 2006

Attachment 3: Resolution ANC 3E dated March 9, 2006

⁴ The Setdown Report included statements about the Tenleytown and Friendship Heights areas. I discussed the analysis with OP staff, and questioned some of the underlying assumptions, in light of the relatively intense zoning already mapped in those areas, as well as the fact that Friendship Heights has the highest daily Metro ridership in the District outside the downtown employment areas, and Tenleytown isn't very far behind. I was told that the Metro ridership data would be included in the final report, as well as a detailed description of how the housing units per acre were calculated and the underlying assumptions about relying only on residential development to evaluate density at these stations. The entire discussion was eliminated from the Final Report, so I assume that OP has dropped this point. However, if the record remains open, I will submit additional materials on this point.

⁵ A copy of that ANC 3E resolution is included as Attachment 3.

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Re: ZC Case 04-33A, Map and Text Amendments, IZ Overlay District
