

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NOS.: 04-33D

AUG - 3 2010

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Notice of Public Hearing were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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|--|---|
| 1. D.C. Register (via e-mail) | 6. DDOT (Karina Ricks) |
| 2. All ANC Chairpersons (see attached list) | 7. Melinda Bolling, Acting General Counsel
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1100 4th Street, S.W.
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| 3. Gottlieb Simon
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1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 | 8. Office of the Attorney General (Alan
Bergstein) |
| 4. All Councilmembers (see attached list) | 9. MLK Library (30 Copies) |
| 5. Office of Planning (Harriet Tregoning) | |

ATTESTED BY: _____


Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning

ZONING COMMISSION
District of Columbia

CASE NO. _____

EXHIBIT NO. _____

04-33D
4

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ZONING COMMISSION
District of Columbia
CASE NO. 04-33D
EXHIBIT NO. 4

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, October 21, 2010, @ 6:30 p.m.**
 Office of Zoning Hearing Room
 441 4th Street, N.W. Suite 220-S
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 04-33D (Text Amendment – Inclusionary Zoning Exemption for Federal and District Funded Affordable Housing Development)

THIS CASE IS OF INTEREST TO ALL ANCs

The Office of Planning (“OP”), in a report dated July 16, 2010, petitioned the Zoning Commission (the “Commission”) for a text amendment to exempt certain federal and District Government funded projects from the Inclusionary Zoning provisions of Chapter 26 of the Zoning Regulations.

The effect of these amendments will be to exempt such projects from the entire Inclusionary Zoning Program, which includes those implementing provisions added by the Council through its enactment of the Inclusionary Zoning Implementation Amendment Act of 2006 and by the Office of the Deputy Mayor for Planning and Economic Development through its adoption of Chapter 22 of Title 14 of the DCMR. The amendments also allow exempted projects to utilize the bonus density if the owner covenants to maintain IZ-type controls over a portion of the project after the federal or District funding controls end.

The Commission invites comments concerning an alternative means of retaining some of the affordable units once an exempted project’s funding controls expire. Rather than rely upon a voluntary agreement to retain the number of affordable units that would be required under IZ, the Commission invites comment as to whether IZ should automatically apply to an exempted development once its federal or District program controls end.

At its regular public meeting held July 26, 2010, the Commission set down this case for a public hearing and adopted the proposed text on an emergency basis,

The Commission also authorized the publication of a notice of proposed rulemaking, which is also published in this edition of the *D.C. Register* together with a notice of the adoption of the emergency rule. In addition, the Commission also authorized the immediate publication of this public hearing notice, and a 30 day advertisement period for the public hearing notice. In doing so, the Commission waived its normal rule requiring certain supplemental filings before advertising the public hearing notice, 11 DCMR 3013, and the 40 day notice period requirements of 11 DCMR § 3014.1.

The proposed amendments to the Zoning Regulations, Title 11 DCMR, are as follows:

- A. Section 2602, APPLICABILITY, is amended by adding a new paragraph (f) to subsection 2602.3, so that the entire provision will read as follows:

2602.3 This Chapter shall not apply to:

- (a) Hotels, motels, inns, or dormitories;
- (b) Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff;
- (c) Housing that is owned or leased by foreign missions exclusively for diplomatic staff;
- (d) Rooming houses, boarding houses, community-based residential facilities, single room occupancy developments;
- (e) Properties located in any of the following areas:
 - (i) The Downtown Development or Southeast Federal Center Overlay Districts;
 - (ii) The Downtown East, New Downtown, North Capitol, Southwest, or Capitol South Receiving Zones on February 12, 2007;
 - (iii) The W-2 zoned portions of the Georgetown Historic District;
 - (iv) The R-3 zoned portions of the Anacostia Historic District; and
 - (v) The C-2-A zoned portion of the Naval Observatory Precinct District.
 - (vi) The Eighth Street Overlay; and
- (f) Any development funded in whole or in part by the federal or District government if:
 - (i) At least eighty percent (80%) of its dwelling unit will be reserved for low-or-moderate-income households;

- (ii) Each unit will be sold or rented to such households for an amount no greater than would be permitted for a moderate-income household under the purchase/rental schedule in effect as of the date that the purchase agreement or lease for the unit was executed or at the price or rent established by the federal or District of Columbia funding source, whichever would be lower;
- (iii) The set aside and price controls described in subparagraphs (f) (i) and (ii) will remain in place for a period of not less than thirty (30) years for for-rent units and fifteen (15) years for for-sale units beginning from the date the development was “placed in service”, as that term is defined by the federal or District funding program; and
- (iv) The obligations of subparagraphs (f) (i) through (iii) are stated as declarations within a covenant, which may be the covenant required by the federal or District government, that is recorded in the Land Records of the District of Columbia and are binding upon the present and future owners of all or part of the development.

B. Section 2604, BONUS DENSITY, is amended by adding new §§ 2604.4 and 2604.5 to read as follows:

2604.4 A development exempted by § 2602.3 (f) may nevertheless utilize the bonus density provided for in this section and the zoning overlay provisions of Chapters 11 – 16, 18, or 19 if the covenant described in § 2602.4 (f) (iv) includes a declaration that the set aside and price controls described in subparagraphs (f) (i) and (ii) will remain in place as long as the development exists for at least the number of units that would have been required to have been set aside for moderate or low income households had §§ 2603.1 and 2603.2 applied.

2604.5 If the affordability levels required by the federal or District program are greater than what would be required for the property’s zone district pursuant to §§ 2603.3 or 2603.4, an exempted development utilizing bonus density need only comply with the applicable requirement of those provisions the once control period for the federal or District program expires.

C. Section 2605, DEVELOPMENT STANDARDS, is amended by repealing § 2605.1.

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Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended, D.C. Official Code § 6-641.01, *et seq.*

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of 11 DCMR § 3021. Pursuant to that section, the Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to Sharon Schellin, the Secretary of the Zoning Commission, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D.C., 20001. Please include the number of this particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, KONRAD S. SCHLATER, GRÈG M. SELFRIDGE, MICHAEL G. TURNBULL, AND PETER G. MAY – ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JAMISON L. WEINBAUM, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

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