

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Case No. 04-33G (Amendments to Chapter 26, Inclusionary Zoning)**

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Members of the Zoning Commission:

When the Zoning Commission (ZC) initially approved Case No. 04-33 on May 18, 2006, a new chapter of the Zoning Regulations was created. That approval triggered implementing legislation by the DC Council and determination of the locations where the regulations will be implemented.

In the nine years following the initial enactment of Inclusionary Zoning in the District of Columbia, many have been before the Commission seeking relief from these zoning regulations.

In reading through many submissions to the record for the immediate case it appears the ZC must carefully consider two terms: “integrate” and “segregate.” While these terms have become flavored with racial overtones, none is intended. The terms must be applied to those in need of affordable housing and all eligible individuals and families must be considered equally, just as those providing the housing must be considered without any sort of prejudice or favoritism.

Section 2600.3 of the current Zoning Regulations sets out “[T]he most important general purposes on the Inclusionary Zoning Program...” These purposes primarily focus on making affordable housing opportunities available to low-and moderate-income individuals and families in the District of Columbia.

The recent Notice of Rescheduled Public Hearing announcement sent out by the Office of Zoning notes the following goals for the program which appear to have a different purpose:

- Create mixed income neighborhoods;
- Produce affordable housing for a diverse labor force;
- Seek equitable growth of new residents; and
- Increase homeownership opportunities for low and moderate income levels.

As far back as 2003, when Anthony Williams was Mayor and Alice Rivlin, oracle of the Brookings Institution, revealed her vision for making this city a better place for all of its resident to live and work and raise kids, Ms. Rivlin stated, “I believe a larger number of residents in the District can be especially beneficial to the low-income population of Washington – if we manage it right.”

The initial purposes of the Inclusionary Zoning Program have segued to reflect the same justification used for the Zoning Regulation Review – the need to attract additional residents.

With population numbers in the District on the decline since 2011, the ZC might want to revisit the initial intent of the Inclusionary Zoning Regulations (IZ) and focus on the residents who are currently living in the District and in need of affordable housing. Also, the Zoning Commission must keep Ms. Rivlin’s statement, “if we manage it right” at the core of its deliberations.

The IZ program was not intended to be the “fix all” for poverty and housing in the city. The Median Family Income (MFI)¹ in 2015 was \$109,200. However, the median DC income was \$66,583, which means half of District residents earn more than that, and half earn less than \$66,583 (28 percent of District families live below the poverty level and 39 percent of African American children live in families below the poverty level). How are those earning less than the MFI, or half of District residents, going to benefit from the proposed changes to the IZ regulations?

The changes proposed for the IZ program don’t appear to support those most in need of housing; however, they do favor developers. A provision is needed that developers be required to provide larger apartments to accommodate families when IZ is implemented. It is notable that the reduced parking requirements in the ZRR favor developers who will save substantially by not having to provide the same numbers of spaces and often are able to have all underground parking eliminated depending on location. Is this relief something the ZC should take into account when a project is subject to IZ requirements?

The intent of IZ was for residential areas of the city to become inclusive, however the ZRR segregates the newly established downtown zones in the ZRR. Most do not require IZ implementation – should the downtown zones be revisited so they also integrate IZ requirements and have the potential to become mixed income

¹ HUD is now using Median Family Income (MFI) instead of Area Median Income (AMI).

areas? According to the Fiscal Policy Institute, between 2002 and 2013, the District lost almost 50 percent of apartments renting for \$800.00 or less.

The new penthouse provisions were intended to help offset affordability issues, now IZ proposes to add additional height in areas that likely border low density residential zones. Additional height and density would not preserve neighborhood character and have the potential to change development patterns in the name of “required” zoning.

What the Office of Planning states in its February 26, 2016 submission is correct, “There is a continuum of housing need in the District from very low-income special needs households, to young families on a pathway to the middle class, to seniors on a fixed income;” however, the reality of what is being proposed does not demonstrate that the continuum will change or cease as the result of the proposed IZ regulation changes.

While arguments can be made on many levels, experience indicates proposed zoning changes are rapidly outpacing the ability of decision-makers to grasp the reality and consequences of what is before them.

The OP proposal to do away with the 10-dwelling-unit requirement is yet another example of proposed zoning changes rapidly outpacing the ability of decision-makers to grasp the reality and consequences of what is before them. Any benefit to the IZ program from this far-reaching change would be minimal by comparison to its damaging consequences for neighborhood character in rowhouse areas. The threat would be most severe in R-5 districts which have come under increasing pressure from pop-ups as a result of the restrictions adopted for R-4 districts; and, it also appears IZ is being used as a means to end-run the zoning regulations.

Zoning is not the pathway to affordability in the city – that rests with the Mayor and the DC Council. What is being suggested is another developer-favored proposal to enhance financial outcomes at the expense of those most in need.

In conclusion, the Zoning Commission must carefully weigh whether the proposed changes to the IZ regulations will integrate or segregate those individuals and families most in need of affordable housing. Taken in tandem with the ZRR and Penthouse approvals there is little indication in the 04-33G proposals that demonstrate the creation of an affordability pathway in the District of Columbia for the 50 percent of residents living below the median DC income. The ZC

should also be concerned that neighborhood character is likely to be altered if the proposed changes are adopted.

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