



March 1, 2016

Anthony J. Hood, Chairman  
DC Zoning Commission  
441 4th Street NW Suite 200S  
Washington, DC 20001

Subject: ZC Case no: 04-33G

Dear Chairman Hood and members of the Commission,

Please find the resolution of the Kalorama Citizens Association in ZC Case number 04-33G attached to the same email which delivered this cover letter. This resolution was approved unanimously by the KCA Executive Committee, a quorum being present, on February 29, 2016. We expect to also give oral testimony at the hearing on this matter, Thursday, March 3, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read "Denis James", written in a cursive style.

Denis James  
202 705-7411 C      [denisjames@verizon.net](mailto:denisjames@verizon.net)

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Denis James  President  
Mary McReynolds  Executive Vice President  
Bob Ellsworth  Vice President  
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Jean Stewart  Delegate, DC Federation of Citizens Associations  
Larry Hargrove  Delegate, DC Federation of Civic Associations

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**ZONING COMMISSION**  
District of Columbia  
CASE NO.04-33G  
EXHIBIT NO.178

**Zoning Commission of the District of Columbia  
Case No. 04-33G**

**Resolution of Kalorama Citizens Association**

**Whereas** it is widely agreed that the District of Columbia is confronted with a severe shortage of housing affordable by low- and moderate-income residents, and whereas the Inclusionary Zoning (IZ) Program is one mechanism by which this problem may be addressed but has not reached its full potential,

**Whereas** currently an inclusionary development is required to set aside for inclusionary units either (1) the greater of 10% of gross floor area (GFA) devoted to residential use or 75% of available bonus density, of (2) the greater of 8% of gross floor area devoted to residential use or 50% of available bonus density – depending on the method of construction; and **whereas the Office of Planning (OP)** proposes to retain these set-aside figures; and **whereas petitioners** (Coalition for Smart Growth *et al.*) propose to change them to 12% of GFA and 75% of bonus density in all cases,

**Whereas** currently, in a number of zones (including R5-B, R-5-D and C2-A) 50% of IZ units are required to be targeted to residents at the 50% MFI (Median Family Income) level and 50% at the 80% MFI level, and **whereas** OP, in an effort to increase the number of inclusionary units targeted for low income residents, proposes to apply the same requirement in a number of zones (including C2-B) in which currently 100% of IZ units are to be targeted to residents at the 80% MFI level,<sup>1</sup> and **whereas** petitioners propose to target all for-sale units to residents at the 80% MFI level and all rental IZ units to residents at the 50% level,<sup>2</sup>

**Whereas** Petitioners, in an effort to enhance IZ incentives to developers, propose

(a) that bonus height for IZ projects in 12 zones, including C2-A and C2-B, be increased by 10 feet, for a total increase above matter-of-right height of between 10 and 30 feet, depending on zone,<sup>3</sup>

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<sup>1</sup> Proposed §2603.3.

<sup>2</sup> Proposed §2603.3 and .4.

<sup>3</sup> Proposed §2604.2.



(b) that bonus gross floor area for IZ projects in any zone be increased from 20% to 22%;<sup>4</sup>

(c) that lot occupancy requirements in zones R-5 and above in density be deleted for IZ projects;<sup>5</sup>

**Whereas** inclusionary zoning, which is only one of an array of District programs aimed at making affordable housing available to low and moderate income residents, must be constrained by the Comprehensive Plan including in particular the District's interest in protecting the integrity and character of existing neighborhoods, and is not intended to promote affordable housing at the expense of those interests;<sup>6</sup>

**Whereas** the increases in bonus heights proposed by Petitioners would produce widespread inconsistencies with the Comprehensive Plan and its Future Land Use Map (FLUM);<sup>7</sup>

**Whereas**, as a part of the legacy of the 1958 Zoning Regulations, allowable matter-of-right heights and densities in C2-A, C2-B and R5-B areas already substantially exceed those predominating in the neighborhoods as built;

**Whereas** the elimination of lot occupancy maximums was considered in deliberations on the comprehensive zoning rewrite (ZRR) and for the most part rejected, in the interest of protecting neighborhood character and light and air,<sup>8</sup> and **whereas**, in the course of those deliberations, KCA and others from Adams Morgan strenuously opposed increasing or eliminating lot occupancy maximums in C2-A and C2-B zones;

**Whereas** under current provisions<sup>9</sup> the criteria by which the BZA by Special Exception may allow a developer to locate required IZ units offsite employ essentially the same notoriously elastic standard of "economic hardship" that governs the granting of an area variance, and contain no requirement that the offsite development be located in area having amenities such as transportation, schools, and commercial resources comparable to those of the primary

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<sup>4</sup> Proposed §2604.1.

<sup>5</sup> Proposed §2604.2.

<sup>6</sup> See Exhibit 119A, Memorandum from OP Director Eric Shaw, February 15, 2016, p.5, and citations in footnote 7 below.

<sup>7</sup> See Exhibit 8, Memorandum from OP Director Eric Shaw, July 3, 2015, p. 2, and Exhibit 119, Memorandum from OP Director Eric Shaw, February 15, 2016, pp. 6-7, and Exhibit 119A, Memorandum from OP Director Eric Shaw, February 15, 2016, pp.17-18.

<sup>8</sup> See Exhibit 8, Memorandum from OP Director Eric Shaw, July 3, 2015, p. 2.

<sup>9</sup> 11 DCMR §2607.

development. As the program matures, this seems likely to encourage emergence of a system by which, under the mantle of Inclusionary Zoning, lower income residents are shunted off to housing that, while physically comparable to that of market rate-renters or owners, is otherwise markedly deficient as to quality of life;

**Whereas** OP proposes to eliminate the basic requirement that an IZ development have a minimum of 10 dwelling units, by allowing a developer to access the height and density bonuses by either proposing a project that increases GFA of an existing building by 50%<sup>10</sup> or simply agreeing that a project for “any semi-attached, attached or multifamily residential development” will comply with IZ requirements and provide at least one IZ unit.<sup>11</sup> This arrangement would be a radical change in the character of the Inclusionary Zoning Program, targeting individual rowhouses and other small buildings and penetrating deep into neighborhoods. As OP may well acknowledge,<sup>12</sup> it would be ready-made for rowhouse popup (or pop-back) developers as a stratagem for circumventing existing density and height limits by -- for example -- tucking one small IZ unit into an intrusively oversized market-rate building, with damaging effect on the character of the neighborhoods affected;

**Whereas** OP has proposed that cellar space or interior space projecting into public space that is included in a dwelling unit be included in residential floor area in calculating compliance with the minimum set-aside requirements for IZ units pursuant to §§2603.1 and .2,

**Whereas** current regulations provide no mandate or incentives for IZ developers to construct IZ units with bedrooms in any number, despite the evident need for units with two or more bedrooms to accommodate the needs of families with children;

**Whereas** OP has proposed that “bedroom” be defined as a room that, among other things, has “immediate access to an exterior window and a closet”;

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<sup>10</sup> Proposed §2602.1(c).

<sup>11</sup> Proposed §2602.1(d). See Exhibit 119, Memorandum from OP Director Eric Shaw, February 15, 2016, p. 2..

<sup>12</sup> See Exhibit 8, Memorandum from OP Director Eric Shaw, July 3, 2015, p. 4.



**Therefore, be it resolved that Kalorama Citizens Association:**

**Supports** the petitioners' proposal to require all inclusionary developments to set aside for inclusionary units either the greater of 12% of gross floor area devoted to residential use or 75% of available bonus density, in an effort to increase the number of inclusionary units produced;

**Supports** at a minimum, the OP proposal to require that 50% of IZ units be targeted to residents at the 50% MFI level in a number of zones (including C2-B) in which currently 100% of IZ units are to be targeted to residents at the 80% MFI level,<sup>13</sup> in an effort to increase the number of inclusionary units targeted for low income residents;

**Opposes** the petitioners' proposals for increases in bonus height and gross floor area and elimination of lot occupancy maximums and OP's proposal for increases in height bonuses in certain zones;

**Opposes** OP's ill-considered proposal to eliminate the basic requirement that an IZ development have a minimum of 10 dwelling units, which would radically change the scope and character of the District's Inclusionary Zoning program with destabilizing and damaging impact on many neighborhoods across the city;

**Urges** the Commission to revisit current provisions on offsite compliance, and if they are to be retained at all, (a) substantially tighten the criteria that must be met in order to qualify for off-site compliance, preferably by enumerating an exhaustive list of circumstances in which permission may be granted, in place of the broad discretion now granted to the BZA, and (b) include requirements ensuring that the neighborhood amenities of an offsite location will be comparable to those of the primary location;

**Supports**, in an effort to increase the number of inclusionary units targeted for low income residents, OP's proposal that cellar space and interior space projecting into public space that is allowed by the Zoning Administrator or other permitting authorities to be included in a dwelling unit, be included in the residential floor area in calculating compliance with the minimum GFA set-aside requirements pursuant to §§2603.1 and .2, *provided that such space is also included in the calculation of the total gross floor area of the project.* **Kalorama Citizens Association notes, however, as an aside of which the Commission should be cognizant, that allowing habitable rooms to be located in cellars is in plain**

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<sup>13</sup> Proposed §2603.3.

contravention of §199.1, definition of “habitable room”; that doing so, while excluding such space, pursuant to §199.1, from the calculation of GFA or the number of stories, chronically exacerbates the damage done by irresponsible pop-up developers to the integrity of rowhouse neighborhoods; and that this harmful practice by the permitting authorities should be ended;

**Urges** the Commission to amend §2605, Development Standards, to include measures to ensure that some IZ units will have two or more bedrooms, in a proportion to the total that is reasonably calculated to meet the needs of the IZ user population for such units;

**Supports** OP’s proposed definition of “bedroom” as, among other things, a room with “immediate access to an exterior window and a closet” .