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November 22, 2005

BY HAND

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D.C. OFFICE OF ZONING

RECEIVED

Ms. Carol Mitten, Chairperson
District of Columbia Zoning Commission
Office of Zoning
441 4th Street, NW, Suite 210 South
Washington, D.C. 20001

**Re: Zoning Commission Case No. 05-02; Residential Recreation Space
(RRS) Text Amendment**

Dear Chairman Mitten and Members of the Commission:

The District of Columbia Building Industry Association comprises over 400 member firms representing thousands of professionals engaged in the residential and commercial real estate industry in the District of Columbia. Our members have developed a large number of residential projects in the District in recent years and have considerable "real world" experience with RRS zoning requirements.

We have been advised that, notwithstanding the Commission's preliminary action to abolish RRS requirements, the Office of Planning (OP) has recommended that the abolition of RRS regulations be linked to the mandatory inclusionary zoning (IZ) program currently under consideration. OP has indicated it will make a detailed proposal to this effect in approximately three (3) months.

We respectfully request that the Commission reject the recommendation of OP for the following reasons:

1. There was no testimony or other evidence in the RRS proceeding in support of any linkage of RRS requirements to the IZ program. To take such an action after the close of the record would undermine the legitimacy of the public hearing process.
2. It is inappropriate and perhaps unlawful to take an action based on an assumption that the IZ program will be adopted by the Commission and mapped in all the CR, SP-1, SP-2, C-1, C-2, C-3, C-4 and C-5 districts in which RRS requirements apply. Such an action would prejudice both the IZ text and the IZ map cases. Such action would also amount to an acknowledgement by the Commission that the public hearings on the IZ text

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and map proposals are window-dressing for a decision to adopt and map IZ made behind closed doors and without regard for due process.

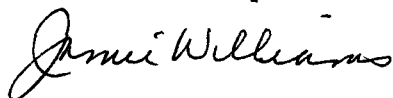
3. If OP is unable to make a report to the Commission in 3 months because of the press of other business, the abolition of the RRS program might not occur for a year or more. Such a delay might occur because of the time required to initiate a new text proceeding, preparation by OAG of a draft text amendment, referral of the matter to the NCPC and other usual and customary steps that are required in a text amendment proceeding. Such a delay would be unfair for the many projects currently in the pipeline and would make it exceedingly difficult to plan for new projects.

4. The elimination of RRS requirements will not result in a "windfall" of space available for IZ or other purposes. First, at least 50% of recreation space must be provided outdoors and such space does not count against FAR. [Many projects have provided much more than 50% of such space outdoors.] Second, recreation space is often provided in lobbies and other public areas that will not be converted to other purposes. Third, it is expected that, based on market demands, some recreation space will continue to be provided, whether required or not, and thus will not be "extra" or "available" GFA for other purposes.

Based on the foregoing, we suggest the Commission take immediate action to schedule a proceeding that would abolish the RRS requirements. Thank you for considering our views.

Sincerely yours,

District of Columbia Building Industry Association



James S. Williams
President

cc: Ellen McCarthy
Joel Lawson
DC Office of Planning