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November 3, 2006

ZONING COMMISSION
District of Columbia

CASE NO. 05-02
EXHIBIT NO. 39

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

Re Z C Case No 05-02, Residential Recreation Space (RRS) Text Amendment

Dear Chairman Mitten and Members of the Commission

Metro Properties, Inc is a residential real estate developer that has developed hundreds of condominiums in the District of Columbia. We are writing to express our strong support for the elimination of the RRS requirements from the zoning code. We also write to oppose the proposal of the Office of Planning that would link the RRS requirements to the Mandatory Inclusionary Zoning (MIZ) program.

In our experience, RRS requirements frequently lead to oddly configured buildings, loss of parking requirements and other amenities, fewer housing units being built, and substantial delays. In some instances, we have developed projects that provide the required amount of RRS because we did not want to suffer the delay or costs of a BZA case – which required many design compromises that were not in the best interest of the project at hand, but which did allow us to meet a necessary timetable. In other instances, we have developed projects in which we sought and obtained variance relief from the BZA with respect to RRS requirements. While the design was definitely improved, the BZA process added several months to the project timeline, with all of the additional risk and carrying costs that such a delay entails. In both types of instances, however, we find that the residents of the projects want other features and amenities, not those dictated by a zoning provision that is over 30 years old.

We also strenuously object to OP's proposed linkage of RRS to the MIZ program. Essentially, to the extent that RSS space should be regulated under the MIZ program, the MIZ program should do that on its own, subject to appropriate notice and proper procedure. At present, there is no MIZ program in place, and there is no valid reason to

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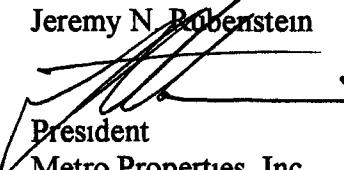
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continue to impose the large and unnecessary cost and delay of the RRS requirement on residential development in the District of Columbia. Every project that is oddly configured or that is delayed for months due to the need to obtain relief from the RRS requirement is a tax on both development and residential housing -- but unlike most taxes, this one produces no benefit to the public either fiscally or otherwise. Since the RRS requirement clearly is both unnecessary and counterproductive, it should be discontinued on its own merits.

Finally, the purposes and objectives of the RRS and MIZ programs are very different and linking them is irrational and counterproductive. If an area is determined as a matter of public policy not to justify or warrant the MIZ program, why should the Commission impose a "backdoor" MIZ requirement in the very same area? In addition, some of the GFA made available by the elimination of RRS space might be devoted to uses other than residential units, such as storage, "back-of-house" space, larger lobbies and the like. In short, we respectfully submit that any application of the MIZ requirements should be done directly through the MIZ regulations and that linkage is ill-conceived and unsupportable.

Thank you for your consideration.

Jeremy N. Rosenstein

President
Metro Properties, Inc.

cc Ms. Ellen McCarthy