

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL PUBLIC MEETING

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THURSDAY

NOVEMBER 10, 2005

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The Special Public Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, NW, Washington, D.C., 20001, pursuant to notice at 7:00 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
KEVIN HILDEBRAND	Commissioner (AOC)
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Acting Secretary

OFFICE OF PLANNING STAFF PRESENT:

STEVEN COCHRAN
ARTUR ROGERS
JENNIFER STEINGASSER

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.
SHERRY GLAZER, ESQ.

1 this discussion, lumping it together with the
2 substantial rehabilitation because there's something
3 that's in common here. And this was raised by
4 people who had a concern about this. Which is, if
5 you can't capture the additional density, then
6 you've imposed the requirement without the
7 incentive. And I think that's an appropriate
8 criticism of a blanket requirement. And whether
9 it's conversion or whether it's substantial
10 rehabilitation, what I would be in favor of is if we
11 figured out a way of capturing that notion which is
12 if the bonus density is available, that the
13 requirement would be imposed. But if it's not
14 available, then it would not be imposed.

15 And I would say that that would not be
16 the developer's choice whether it's available or
17 not. It's a fact. And that's probably a debatable
18 point as well. Because just because there's density
19 there doesn't mean it's economically feasible to
20 capture it.

21 So, I don't know what other folks think
22 about that. But I am definitely opposed to breaking
23 from what I think is one of the fundamental
24 principles here which is to, you only impose the
25 requirement when you offer the incentive.

1 So, if you can't capture the incentive,
2 you shouldn't impose the requirement.

13 And I see some guidelines in here, but I
14 don't understand them as substantial rehabilitation
15 replacing electrical and heating and ventilating and
16 so forth. I mean, we're giving the BZA or somebody
17 another mess.

18 CHAIRPERSON MITTEN: I think it would
19 the Zoning Administrator in this case.

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1 sure we do it. I would like for this to be included
2 and not just do away with it.

3 CHAIRPERSON MITTEN: When you say "this"
4 you mean?

5 VICE CHAIRMAN HOOD: Well, the
6 conversion to nonresidential to a residential use.

7 CHAIRPERSON MITTEN: My only concern
8 with that is that what we're saying. The general
9 theme of the mandatory proposal is that you impose
10 the requirement where you can offer an incentive.
11 And that incentive is additional density. So, a
12 conversion and take an EEF where it was just, you
13 know, say it was a box and you were going to take
14 the box and convert it into a housing box and
15 instead of a tech hotel box. But if there's no
16 additional density, then there's no incentive for us
17 to offer to offset the imposition of the affordable
18 housing requirement. That's why I'm advocating that
19 only on the occasion where it would be a substantial
20 addition where you would get the sense that someone
21 could capture more density.

22 VICE CHAIRMAN HOOD: And that's 50
23 percent?

24 CHAIRPERSON MITTEN: That where the
25 addition would increase the density to 50 percent or

1 addition, then all you may be capturing, if you did
2 it an addition of 20 percent, all you may be
3 capturing is what you're entitled to as a matter of
4 right anyway.

5 So, what I was suggesting is that if
6 you--and it might be more difficult if you can make
7 a--you may be able to make a relatively small
8 addition without like--

9 COMMISSIONER JEFFRIES: It's space
10 planning.

11 CHAIRPERSON MITTEN: Yes.

12 COMMISSIONER JEFFRIES: I mean, yes. I
13 mean, you have to get a core. I mean, there's a
14 number of things that might have to happen that it
15 really won't make sense to do 20 percent. It might
16 be 40, 50, 60 or whatever that would make it a
17 working addition. I mean, we just don't know that
18 right now.

19 But, I mean, 20 seems to be, you know,
20 fairly minor if you're adding an addition and
21 perhaps, you know, some different use. So, I think
22 it's a space planning issue and it would depend on
23 how, you know, the architecture would look.

24 CHAIRPERSON MITTEN: I guess what I'm
25 not very effectively trying to express is. Just

1 because you can put on an addition of 20 percent, if
2 you were going to them try and--so that the 20
3 percent would be the trigger for imposing the
4 affordable housing requirement. And I guess I'm not
5 confident that in a more modest addition that you
6 could then assume that someone could then add the
7 kind of addition that would go from 20 percent to 40
8 percent, because that would be the bonus density.

15 So, you know, in the spirit of what we
16 did a minute ago, I guess I'd like to put 50 percent
17 out there because this is a new concept that we
18 didn't really flush out fully in the hearing. It
19 wasn't--

20 COMMISSIONER JEFFRIES: Well, I would
21 concur with that. I'm a little confused as to
22 whether we're talking about conversions or
23 rehabilitations or both.

24 CHAIRPERSON MITTEN: I'm suggesting that
25 they be together.

1 table?

2 CHAIRPERSON MITTEN: I'm sorry to say it
3 is at the moment.

4 VICE CHAIRMAN HOOD: Okay. I think we
5 should also put that in the parking lot. And I'm
6 calling it a parking lot.

7 COMMISSIONER PARSONS: Disagree.

8 VICE CHAIRMAN HOOD: Well, okay.

9 CHAIRPERSON MITTEN: Well, they won't go
10 back to it. I sense very strong feelings about
11 this. Otherwise, if I sensed some--what's the word
12 I want? Hesitancy about their positions, but I
13 don't.

14 VICE CHAIRMAN HOOD: I don't want to
15 call anything, but I think there's some hesitations-
16 -a little bit. I won't call Commissioner--

17 CHAIRPERSON MITTEN: Okay. Then at the
18 end, you can bring it up again. Okay.

19 So, the other issue was that the
20 campaign had suggested that we impose the
21 requirement if an applicant comes in for a variance
22 from density, which I think would just be too
23 problematic because if you're going to meet the test
24 for the variance, you're meeting it for a very
25 specific reason.

X

1 You have a three-prong test and at least
2 the way I view the variance is the relief is
3 supposed to be commensurate with the practical
4 difficulty that's been created. So, the degree of
5 density variance that's given is proportionate to
6 the difficulty created by the unusual condition.

7 So, to add the IZ requirements on top of
8 that would suggest that that additional density
9 serving as an incentive when, in fact, it's
10 offsetting the practical difficulty that's inherent
11 in the land. So, I wouldn't be advocating for that.

12 Anyone else on that particular subject.

13 Okay. Okay.

14 Next sort of big topic is--

15 COMMISSIONER JEFFRIES: Well, excuse me,
16 Madam Chair.

17 So, we don't want to deal with this?

18 Oh, no. We've taken care of that. Okay.

19 CHAIRPERSON MITTEN: Okay. So, then the
20 next big question is, how much affordable housing
21 should be required to be provided in the template
22 that we're looking for. The chart that we're
23 looking at? You can see what the campaign had
24 proposed and then you can see what the Office of
25 Planning had proposed. And at least as we have

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ZONING COMMISSION MEMBERS PRESENT:

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STEVE COCHRAN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESO.

1 want to hear me. Thank you, Mr. Cochran.

2 CHAIRPERSON MITTEN: Well, I mean I think
3 one of the things that we struggled with and everybody
4 struggled with I think in good faith is to try and
5 figure out what the right balance is to -- between how
6 deep you can go in the affordability and then what the
7 offset is in terms of the bonus density and to go
8 deeper requires a bigger offset and there's, you know,
9 I think a few people and, you know, the advocates have
10 suggested that we could go a little bit deeper.
11 Instead of having exclusively 80 percent, that we
12 could basically average it out to 70 and have some 80
13 percent and some 60 percent, but I don't think anybody
14 was suggesting that given where we are and the amount
15 of bonus density that we can offer that going that
16 deep, trying to go down to 30 percent, is -- will do
17 anything. That we can offer enough to offset that
18 degree of affordability.

19 I don't know if other people have --

20 COMMISSIONER PARSONS: I agree.

21 CHAIRPERSON MITTEN: I mean I think the
22 sentiment is great and I think that's why, you know,
23 some of what we heard complaints about is the fact
24 that on the one hand, we're really not going to be
25 helping people that are truly in need because of how

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