ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Case No. 14-11 (Office of Planning -- Text Amendments to Chapters 1, 3 and 4, Definitions, Maximum Height and Minimum Lot Dimension Requirement in Residence Zones, and R-4 Zone Use Permissions)

Statement of Kalorama Citizens Association

January 15, 2015

I'm Larry Hargrove, speaking for Kalorama Citizens Association. KCA commends the Office of Planning for its proposal of June 24, 2014. We strongly support elimination of the provision allowing matter of right conversion of residential buildings to apartment use, lowering the building height limit, and certain of the other specific changes recommended. While all residential zoning in KCA's geographic area, and in Adams Morgan as a whole, is R-5-B or higher, we have a strong interest in this case not only because of our concern about problems confronting existing R-4 areas but also because there is active interest in some Adams Morgan residential areas in downzoning.

I was present at the ZRR hearing last year where, in response to a presentation by the representative of Historic Mount Pleasant, the Commission seemed to give OP a clear mandate to do something about the damaging effects of over-development of rowhouses and other residential structures that the current regulations enable. OP responded pretty well in our view, and so we were dismayed to see the proposal as it emerged after the Commission's discussion of it on July 17 of last year corrupted by alternative texts that not only nullify the major protection against such development that OP had proposed, but in fact would make it easier.

I hope these alternatives do not emanate from a view that there is actually no problem and that R-4 areas would be better off with more, rather than less, conversion of their rowhouses to apartment buildings, without meaningful restriction as to lot size or number of units, as Commission Alternative 4 would provide. If so, I would exhort the Commission to look again at the "Background" paragraphs at pp. 2-3 of OP's Preliminary Report and the analysis at p. 8, which fairly if not exhaustively articulate deeply felt concerns on the part of many who actually live in our city's R-4 neighborhoods. These residents are concerned about development activities that are destructive of aesthetic and historic values and corrosive of an area's ability to sustain itself over time as a successful broad-based neighborhood with a viable young-family demographic.

The view that public policy should regard some of our rowhouse neighborhoods as to some extent grist for the development mill is a persistent one and goes back a long way. It is reflected in the 1958 Zoning Regulations themselves, which often imposed densities that were greater than that of the built environment. As to R-4, what they gave with one hand in the form of a designation as a two-family district, they partly took away with the other by allowing conversion to apartment houses, designating "apartment" as a matter of right use, and characterizing R-4 as an Urban Renewal area in which demolition of "substandard structures" was encouraged. By 1970 the latter two provisions, but only those two, had been deleted. OP's proposal is a move toward completing this long-delayed process of correction.

Our views on specific provisions are as follow:

Definition of "mezzanine"

We welcome this change. The existing definition, by which a mezzanine does not count as a story, provides a row-house re-developer who is willing to build to the maximum allowable height without regard for compatibility in design or scale of neighboring buildings one more tool for doing so.

Maximum height of buildings

We believe the 35-foot limit is essential to securing the needed protections against incompatible development; for the same reasons we oppose making an additional five feet available by special exception. As indicated by the figures on rowhouse height provided at p.3 of OP's Preliminary Report, there is over a 90% probability that in practice this special exception would mean an additional *fifteen* feet of height in excess of that of neighboring rowhouses, over 94% of which are 35 feet or less in height – and in fact many are less than 35 feet. This is because every pop-up developer can be relied on to include a roof deck, accompanied by a roof structure, in the project. In most cases that roof structure:

- can be used in association with the roof deck even in R-4, under the pending penthouse proposal in Case No. 14-13,
- can be 10 feet high, under the proposal in this case, and
- can be thirty, forty or more feet deep, depending on the depth of the house, and as wide as the house itself, under the proposals for roof structure setback in this case as well the penthouse case (with which we disagree, as discussed below).

With such extremely high probabilities of such severe incompatibility with the scale and character of neighboring homes, making the additional height available by special exception is unwarranted. A redeveloper should be required to meet the requirements for an area variance.

Roof structure height

It appears to be the intention of the proposed amendments to 11 DCMR §400.7(c) (see p. 5 of the Notice) to limit roof structure height to 10 feet on all detached dwellings, semi-detached dwellings and row dwellings. If so, we commend OP for this proposal and strongly support it, noting that it would apply to such buildings in all zone districts, including R-5 and higher, which we favor. We note also that it differs from the corresponding provision in the penthouse proposal, which would apply the 10-foot height limit only to R-4 districts and lower. It differs also from the corresponding provision in the ZRR text.[1] We urge the Commission to reconcile these three provisions in due course by limiting roof structure height to 10 feet at least on all detached dwellings, semi-detached dwellings, and rowhouses.

There is an ambiguity in the language proposed in the present case, which specifies the ten foot limit for "one-family, detached, semi-detached and row dwellings". That ambiguity should be eliminated, by striking "one-family", since otherwise the provision could be interpreted as restricting the 10-foot height limit to buildings that are actually "used exclusively as a residence for one family."[2]

Roof structure setback

We believe the proposed setback formula should be tightened by ensuring that setback is required from the side walls of attached or semi-detached structures as mandated by the Comprehensive Plan. The proposed amendment to §400.7(b) would require setback from "all exterior walls"; this language has long been interpreted – incorrectly in our view – not to include party walls or walls on line. As noted in our comments on the penthouse proposals, for most rowhouses this will permit building the penthouse flush to each side wall, since most row houses are interior and will have the same building height limits as their neighbors on either side, resulting in a massive visual intrusion (see the photograph at p. 6 of OP's Preliminary Report). The only way to avert

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[1] "Roof Structures shall not exceed ten feet (10 ft.) in height above the roof on which it [sic] is located on any structure with a maximum permitted matter of right building height of forty feet (40 ft.) unless required for mechanical purposes by the Building Code " ZC Proposed Action, Dec. 2014, §1500 2

[2] See §199.1, definition of "Dwelling, one-family": "A dwelling used exclusively as a residence for one (1) family."

the prospective damage to row house areas is to revert to the original intent of the Height Act as to setback, namely, that setback is required from all exterior walls and that the side walls of an attached building are exterior walls. This should be done for all districts and all structures, but it especially important to do this for row houses – not only because of the greater visual impact of roof structures on rowhouses and other relatively small buildings, but also because the Comprehensive Plan explicitly and unequivocally requires it, in a provision that thus far seems to have been officially ignored:

> *Action LU-2.1.B: Amendment of Exterior Wall Definition*
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> Amend the city's procedures for roof structure review so that the division on line wall or party wall of a row house or semi-detached house is treated as an exterior wall for the purposes of applying zoning regulations and height requirements.

Again, as with roof structure height, there are substantive differences among the provisions proposed on roof structure setback in this case, in the penthouse case, and in ZRR. They do agree, however, on ignoring the relevant provision of the Comprehensive Plan.

Conversion of buildings or structures to apartment houses

For reasons stated at the outset, **KCA strongly supports the deletion, without any special exception relief, of the provision allowing matter-of-right conversion of residential buildings to apartment use.** This reform, together with the reduction in allowable height, is the essence of OP's proposal and the minimum necessary to cope with the problem at hand. We strongly oppose ZC Alternatives 3 and 4. They would continue matter of right conversions and in practice effectively eliminate the one existing restriction on them – the 900 SF-per-unit requirement. They would turn OP's proposal to deal with what OP and a great many people who live in and have invested in the affected neighborhoods regard as a serious problem instead into a project to amend the regulations so as to make the problem worse.

As to the proposed new §336 allowing conversion of non-rowhouse buildings that are in non-residential use (OP Alternative 2), we believe that it should be either stricken or deferred until data on its actual impact has been made available. It is true that the bulk of the problem of incompatible developments concerns residential rowhouses, but all of OP's proposed remedial measures (other than the ban on conversion to apartments) apply equally to detached or semi-detached residential buildings as to rowhouses, and correctly so in our view. There is nothing about the *use*

of a detached or semi-detached building that affects whether it would be acceptable to turn it into a pop-up development. And OP's figures indicate that 15% of R-4 buildings are in non-residential use, with no indication as to what percentage of these are non-rowhouses.