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VIA HAND DELIVERY

Chairman Anthony Hood
District of Columbia Zoning Commission
441 4th Street NW, Suite 210S
Washington, DC 20001

Re ZC Case No 14-11 – Response to Proposed Text Amendment Application

Dear Chairman Hood and Members of the Commission

This letter and the attached materials respond to the Office of Planning's proposed amendments to the Zoning Regulations regarding development in the R-4 Zone District and the four alternatives enumerated in the Public Hearing Notice for Zoning Commission Case No 14-11. This letter is being submitted on behalf of Pro DC's Future, which consists of a number of developers who have participated in the conversion of R-4 properties to multi-family buildings in the recent past, both as a matter-of-right and through approval from the Board of Zoning Adjustment

This Zoning Text Amendment application proposes significant and far-reaching changes to the development potential of properties located in the R-4 Zone District. While much of the public and press attention to this issue has been focused on the visual impact of "pop-ups", this case involves significant and potentially draconian changes to the manner in which the District will provide for appropriate development in the R-4 Zone District as the City continues to grow

The proposals in this text amendment application have the potential for far-reaching unintended consequences. Pro DC's Future agrees with the comments of Commissioners Miller and Cohen when they asked what are the real issues that are trying to be addressed with this text amendment application? Pro DC's Future questions whether the Office of Planning's proposal to ban R-4 conversions in their entirety is the proper planning and zoning mechanism for the majority of properties in the R-4 Zone District that have the potential for additional density and development without adversely impacting neighboring properties. Pro DC's Future believes that significant changes need to be made to the proposed text amendment application. First and foremost, the proposed ban on the conversions of existing residential properties in the R-4 Zone District to multi-family residential projects should not be adopted by the Zoning Commission.

ZONING COMMISSION
District of Columbia
CASE NO. 14-11
ZONING COMMISSION
District of Columbia
EXHIBIT NO. 12
CASE NO. 14-11
EXHIBIT NO. 12

Office of Planning Proposal – Eliminate the Matter-of-Right Conversion of Buildings or Other Structures Existing Before May 12, 1958 to an Apartment House¹, Reduction in Permitted Matter-of-Right Building Height and Penthouse Height, Amend Definition of Mezzanine

The Office of Planning's proposal in ZC Case No 14-11 would prohibit the matter-of-right conversion of buildings or other structures that existed before May 12, 1958 to apartment houses in the R-4 Zone District, reduce the permitted matter-of-right building height in the R-4 Zone District to 35 feet (but allow up to 40 feet with Special Exception approval), reduce the permitted penthouse height for one-family detached, semi-detached, row dwellings, and flats to 10 feet above the roof on which it is located, and include a mezzanine in the definition of a story in calculating the maximum permitted number of stories in a Residence District

Pro DC's Future notes the concerns voiced by Commissioners Miller and Cohen that were raised at the July 17, 2014 set-down meeting for this application. Pro DC's Future shares Commissioner Miller's experience that the majority of the cases brought before the BZA regarding R-4 conversions are supported by the ANC and the surrounding property owners. Pro DC's Future also shares the concerns of both Commissioners Miller and Cohen that these amendments have the ability to significantly constrain the ability to increase the housing stock, and that the Zoning Regulations should be used to manage change and not outright prohibit certain types of development that have been available since the adoption of the Zoning Regulations in 1958. If adopted there will be much less incentive to renovate neglected properties.

On the whole, Pro DC's Future believes that the development which has occurred as the result of the conversion of R-4 properties to multi-family buildings (whether as a matter-of-right or pursuant to BZA relief) has been a positive development force for the District. The revitalization of a dilapidated large row home or addition to an existing building on a large lot in an R-4 Zone District into a multi-family building has served as an important catalyst for the revitalization of entire blocks or areas. In our experience, the vast majority of the R-4 conversion projects create three units, with a small percentage (approximately 10-15%) of the conversion projects resulting in four or more units. The unit sizes in these projects typically range from 1,100 – 1,500 square feet and are almost exclusively 2 or 3 bedroom units. We believe that the size and types of these units allow for young families to stay, or move into, neighborhoods that have a large amount of R-4 Zoned property.

Much has been made in the press (especially the image of 1013 V Street, NW, which is actually located in the Arts/C-2-B Zone District, a zone that would not be affected by the proposed text amendments) about the obtrusive and incongruous height changes that exist between row houses and the converted R-4 properties. In truth, the majority of R-4

¹ Subject to the minimum lot size (900 SF of land area per dwelling unit) and lot occupancy requirements

conversions are accomplished in areas with buildings of varying height and the R-4 conversion projects are consistent with the rhythm and scale of development within a block or neighborhood

Pro DC's Future notes that the proposed reduction in permitted matter-of-right building height to 35 feet seems to be somewhat arbitrary, particularly since a 40 foot building height is permitted in the most restrictive zone in the City, the R-1-A Zone. Has an analysis been undertaken to see if a 35 foot tall building in the R-4 Zone District will have less of a visual impact than a 40 foot tall building? Has an analysis been done to determine the impact that this building height reduction will have on R-4 properties located in historic districts (with issues such as window proportion in a three-story townhouse), which may have nothing to do with potential conversions of properties to multi-family buildings? These are issues that need further discussion prior to adoption by the Zoning Commission

Alternative 1 – Inclusionary Zoning

Alternative 1 is a proposal which could impose an Inclusionary Zoning (IZ) requirement on certain R-4 conversion projects. Alternative 1 would require that if the 900 square feet of land area per dwelling unit requirement is met, the fourth unit and every unit above for four units would be subject to IZ at 60% of Area Median Income (AMI). If an R-4 conversion project does not meet the 900 square feet of land area per dwelling unit requirement and zoning relief is requested, then all of the units beyond the permitted two units would be subject would be subject to IZ at 60% of AMI.

As the Zoning Commission is well aware, the current IZ regulations do not apply to residential projects with fewer than 10 units. In addition, when projects are subject to IZ, the maximum amount of IZ square footage required is either 10% of the total gross floor area devoted to residential uses or 50% of the bonus density achieved for project's which are located in the moderate – medium density Zone Districts. This proposal requires that R-4 conversion projects of four units will be required to provide a minimum of 25% IZ units, but could include a percentage of IZ units that is significantly higher than what is required for other multi-family projects.

This amount of IZ will make R-4 conversion projects financially infeasible. Based on our cost analysis calculations, any developer that is required to provide a single IZ unit in a four unit conversion project will be losing approximately \$100,000 on that IZ unit. There is simply not enough value in the development of the other three units to make the project financially viable. This reasoning and economic analysis was accepted by the Zoning Commission when they adopted the IZ regulations and required a minimum project size of 10 units. If the Zoning Regulations were to require this level of IZ, it will effectively stop the R-4 conversions just as much as the proposal to prohibit the conversion of residential structures in the R-4 District to multi-family buildings.

Alternative 2 – Permit Conversions of Non-Residential Structures as Special Exception with No Limit on Number of Units

Alternative 2 permits the conversion of non-residential properties only by special exception and allows for relief from the 900 square feet of land area per dwelling unit requirement as a special exception. There is no limit on the number of dwelling units allowed.

Pro DC's Future notes that one of the main reasons that the Office of Planning is proposing the prohibition of the conversion of existing residential properties in the R-4 District to multi-family buildings is the economic pressure that a potential homeowner faces "competing against a developer with an eye to converting a rowhouse to multi-family." Such economic pressures do not exist in the scenario of a potential conversion of a non-residential structure in the R-4 Zone District (such as a former church or school). Therefore, Pro DC's Future believes that the conversions of non-residential structures which meet the 900 square feet of land area per dwelling unit requirement should be permitted as a matter-of-right. We do agree with the portion of Alternative 2 which would allow relief from the 900 square feet of land area per dwelling unit requirement as a special exception. We fully agree that the special exception standard, rather than the variance standard, is the more appropriate test that will allow the BZA to fully review whether an application will adversely impact neighboring properties, the surrounding community or the District as a whole.

Alternative 3 – Matter-of-Right Conversions of All Structures to Apartment Houses Subject to 900 SF of Land Area Per Dwelling Unit and Special Exception Relief from the 900 SF Requirement with a Limit of 4 Units

Alternative 4 - Matter-of-Right Conversions of All Structures to Apartment Houses Subject to 900 SF of Land Area and Special Exception Relief from the 900 SF Requirement with No Limit on the Number of Units

Alternative 3 would allow matter-of-right conversions of all structures to apartment houses subject to the 900 SF of land area per dwelling unit requirement and special exception relief from the 900 SF land area per dwelling unit requirement, with a limit of four units. Alternative 4 would allow for the same special exception process, but would not place any limits on the number of units that could be provided on the site.

Pro DC's Future supports Alternative 4 for all of the reasons discussed in this submission. We believe that R-4 conversion projects have been a benefit to the District of Columbia and that they should be allowed to continue. In addition, we believe that the special exception standard, rather than the variance standard, is the more appropriate test that will allow the BZA to fully review whether an application will adversely impact neighboring properties, the surrounding community or the District as a whole.

Vesting

As discussed in detail in this letter, this Zoning Text Amendment application is proposing significant changes to the development potential for properties located in the R-4 Zone District. Therefore, Pro DC's Future believes that it is important that the Zoning Commission establish a bright-line as to when any new Zoning Regulations regarding the R-4 Zone District will become applicable. This proposal is similar to the process that was followed by the Zoning Commission when it adopted the Green Area Ratio (GAR) regulations in 2014. We propose the following implementation dates for any new regulations approved in ZC Case No. 14-11.

- 1 An exemption for all projects in which building permit applications have been filed by a certain date (proposed date is not earlier than October 1, 2015),
- 2 An exemption for all BZA cases for which applications have been filed prior to a certain date (proposed date is not earlier than October 1, 2015), and
- 3 An exemption for projects having received concept approval from the HPRB and/or CFA, prior to a certain date (proposed date is not earlier than October 1, 2015)

Conclusion

Pro DC's Future looks forward to the January 15, 2015 Public Hearing in this case, as the public hearing process will allow the Zoning Commission to thoroughly review the impacts (intended and un-intended) that the proposed regulations may have on the future of development in the R-4 Zone District

Sincerely,



Sunil Chhabra
Pro DCs Future