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January 29, 2015

VIA ELECTRONIC MAIL

Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
441 Fourth Street NW, Suite 210 South
Washington DC 20001

Re Opposition to ZC Case No. 14-11

Dear Chairman Hood and Members of the Board:

We write to reiterate our strong opposition to the current proposal to amend the regulations governing the R-4 Zone District in Case No. 14-11. On behalf of our firm, and our many clients who will be deeply impacted by the proposed changes, we urge the Commission to take Chairman Hood's suggestion and direct the Office of Planning to create a working group to study the issues that led to this proposal, as well as those raised in testimony before the Commission on this case. We remain very concerned that the proposal is not supported by empirical evidence relating to the creation and stabilization of family housing in the District of Columbia, and in fact would have the opposite effect by reducing housing supply and making entry into the real estate market in our city untenable for the vast majority of our current and future population. We also feel strongly that the proponents of this amendment (including the Office of Planning) have been far too dismissive of the characterization of this proposal as a downzoning, and feel compelled to explain precisely what makes this proposal so dangerous to the pipeline of affordable housing (for all levels of income) in the city.

The proposal, in the form of any of the alternatives put forward by the Office of Planning, will remove two current entitlements. First, it will remove five feet of height currently available to all property owners in the R-4 Zone. But second, and perhaps more importantly, it will remove an existing use permitted as a matter of right, and accompanying matter of right density by

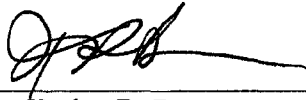
limiting conversions of residential structures to apartment houses¹ This property right has existed in our Zoning Regulations since our current Regulations were adopted in 1958 This provision recognizes that zoning is often imprecise and there are existing structures in any zone which are either inappropriate for their zoning classification (due to structure size, lot size, or historical use) The Zoning Regulations currently allow the conversion of large buildings and lots in the R-4 to apartments only where appropriate based on lot size – but this provision operates as a matter of law, requiring no approvals or zoning relief, thereby conferring additional density to (by OP's own statistics, 15% of R-4) property owners *as a matter of right*. Removal of this existing right is already a downzoning of 15% of R-4 zoned property in the District of Columbia. Downzoning without appropriate compensation possibly rises to the level of a regulatory taking

Over the past several weeks, we have spoken with numerous clients, developers, homeowners, architects, and concerned residents of the District of Columbia about the impact this proposal is likely to have on the real estate market and the supply of housing. We concede that our objections are, at this time, based on anecdotal rather than empirical evidence But it is clear that the Office of Planning's reasoning has not been tied to any actionable data on housing demand or available housing stock Therefore, before the Zoning Commission takes drastic action to restrict the property rights of its citizens, we believe there is a critical need to create a working group made up of planners, developers, architects, lawyers, and other experts, *as well as homeowners* who will be affected by this text amendment, to fully study and discuss this issue It is clear to us that a significant number of the issues raised by those in support of this text amendment (aesthetics, materials, neighbor notification, construction methods, permit review, illegal construction, and inspections) are not issues that can be controlled through zoning at all We recommend that the Commission take a comprehensive approach by directing OP to study this issue with all stakeholders, including the Department of Consumer and Regulatory Affairs, under whose purview many of these important concerns lie

After speaking with our clients and colleagues, there is no alternative on the table at this time that we can support, however, we will happily join in a collaborative working group to address the legitimate concerns you've heard from residents regarding unsightly vertical additions and unscrupulous construction practices The issues raised require far more study and careful deliberation by experts in the planning, economic development, and real estate industry before valuable property rights are stripped from DC developers and homeowners alike And whatever tack the Commission decides to take, a long notice period and appropriate vesting language are critical to smoothly implement these kind of changes We look forward to continuing to work on this issue, and thank the Zoning Commission for its thorough consideration of our comments.

¹ An apartment is defined as a building housing three or more dwelling units 11 DCMR § 199.1

Respectfully submitted,
GRIFFIN, MURPHY,
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