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June 1, 2015

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

Re Zoning Commission Case No 14-11

Dear Chairman Hood and Members of the Commission

We are writing to provide additional comments to the Zoning Commission on the specific Proposed Rulemaking in the above-referenced case, which was published in the DC Register on May 1, 2015 While we remain in opposition to the entire rulemaking, we write today to urge you to adopt appropriate vesting provisions to allow the significant investment in the residential housing market over the last 18-24 months to come to fruition

While you have made clear on the record in the several proceedings on this matter that there has been notice to the general community about this proposal, the first general publication of the specific text the Zoning Commission wished to set down was on May 1, 2015 Thus, the development community has had less than 30 days to come to terms with what the proposal would mean for any developments they have within the pipeline

The final proposal includes new language regarding the application of Inclusionary Zoning to residential and non-residential conversions in excess of 4 units, as well as several new proposals restricting additions and alterations to conversion projects in the R-4 Zone Additionally, because this was first proposed as an amendment aimed only at conversions (and not generally to single-family and two-family dwellings) in the R-4 District, we have learned from talking with our colleagues and clients that many did not fully understand that the proposed reduction in maximum permitted height in the R-4 District would apply across the board Several homeowners with planned additions have inquired with us as to how this proposal, which was aimed at restricting "pop-ups," would impact their personal residential additions As it stands

now, a flat or single-family residence would also be subject to a 35' maximum height, except in case of the construction of 3 or more new homes built concurrently on separate record lots This inconsistency is troubling, as it disproportionately impacts individual homeowners, when it is understood that the intent of this proposed rulemaking was to stop rogue and irresponsible developers from converting the existing single-family housing stock to apartments and to discourage inappropriate mid-block extensions in height above neighboring properties

More troubling is the impact that this proposal would have on the individual homeowner planning an addition now or waiting for the issuance of permits that have likely been under review for many months A common theme in the testimony given by homeowners and developers alike as the Commission has considered the proposed rulemaking is the existing deficiencies in permit review and inspection at DCRA Currently, it is taking between three and five months for basic, non-complex alteration projects to obtain permits Complex additions and Level III alterations are requiring on the order of six months or more Therefore, adoption without an appropriate vesting period will likely stop many projects currently under review in their tracks and require reprocessing – a crushing blow to individual homeowners making investments in their own property and a waste of administrative resources in an agency plagued by an extraordinary workload

From the perspective of the developer, the proposed rulemaking is already going to have a massive effect on the development of residential housing stock in the District of Columbia. As we have testified, our clients are primarily small- to medium-sized developers with between one and five projects in development at any given time Many of these projects require months to negotiate acquisitions, perform due diligence, and design the improvements before they are even ready to submit for permit It has been suggested by the group of developers that the Office of Planning inquired with that an appropriate vesting period to allow projects in design and in permit review to come to completion would be between 12 and 18 months – we agree

The changes in the maximum height, the maximum percentage of gross floor area that may be demolished as part of a conversion, and the limitation on any addition to 10 feet beyond the neighboring home are likely to prompt significant revisions to plans that are already at DCRA – without an appropriate vesting period, assuming the Zoning Commission adopts the proposed rulemaking at its June 8 hearing, anyone without a permit on that date could be required to significantly revise their plans Again, an enormous waste of administrative resources likely to create many unintended consequences, including the development of responsible conversion projects currently under review by many reputable small-scale developers

We urge the Commission to adopt a minimum 12 month vesting period prior to the effective date of the Proposed Rulemaking in Case 14-11

Sincerely,

GRIFFIN, MURPHY
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By _____
Kinley R Bray