

# SULLIVAN & BARROS, LLP

Real Estate | Zoning | Business Law

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June 1, 2015

**By Email**

Anthony J. Hood, Chairman  
D.C. Zoning Commission  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001  
c/o [Sharon.schellin@dc.gov](mailto:Sharon.schellin@dc.gov)

ZONING COMMISSION  
District of Columbia  
CASE NO. 14-11  
EXHIBIT NO. 3.3.9

**Re: Comments to Zoning Commission Case No. 14-11**

Dear Chairman Hood and Members of the Board

As an attorney that represents many small developers and homeowners that work and reside in the R-4 Zone District, I am writing to express my opposition to the proposed changes to the R-4 Regulations, for all of the reasons expressed by others at the January hearing as well as in other letters in opposition to this proposed downzoning.

I believe that the proposed changes miss the stated mark. While this effort began as an understandable effort to restrict large additions, it has been transformed into an attack on the provision of housing units and an attack on those who have invested in the District by providing those units. The primary effect of these changes will be to greatly accelerate the upward price pressure on housing in the District, and to discourage investment in such housing. The only provision which purports to address the "pop-up issue" is the 35-foot height limit, which, frankly, most of my clients have little concern about other than their own concern for the character and aesthetics in the District of having a bastardized height limit across the R-4 neighborhoods.

In recent years, this firm has witnessed R-4 zone investors and developers progressing throughout areas of the District that large developers would not touch, all the while investing in and improving these neighborhoods one property at a time. These proposed changes greatly discourage any further such investment. It's true not every project was perfect, and there are obviously many who have expressed their concern over the spreading prosperity; but to completely shut it down strikes us as a severe and reactionary decision with potential unintended consequences. New Regulations specifically targeted to address structural additions would be preferred over suffocating development altogether in the R-4 zone.

Aside from that general argument, we urge the Zoning Commission to adopt a fair transition period for those property owners, investors, developers, and residents who have relied on the 57-year old R-4 Regulations in selling and purchasing properties and designing and seeking approval for improvements. We believe that a fair transition would be one that mirrors the transition period provided for the GAR Regulations adopted in 2013. The GAR regulations were introduced and adopted in an almost identical timeframe as these Regulations. In that case, in response to a handful of comments from large developers, the


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Commission provided a transition period that protected not only those who were undergoing BZA or Zoning Commission cases, but also those who had not yet submitted permit applications. In the GAR case, the Office of Planning found it appropriate to suggest such a transition period. It would be fair to do so in this case as well.

Finally, the Office of Planning has introduced numerous critical concepts post-hearing, including the 10-foot rule for additions, the thirty percent GFA demolition provision, and various provisions affecting Inclusionary Zoning. Such significant changes – some of which are completely novel zoning law concepts – deserve to be duly considered by the Commission after an open hearing.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Martin P. Sullivan". The signature is written in a cursive, slightly slanted style.

Martin P. Sullivan