

Save DC Public Land

THE 1617 PROJECT

December 4, 2024

Opposition to Text Amendment Application in ZC Case No. 23-26

*Testimony to the DC Zoning Commission by
Save DC Public Land: Working for a Safe, Truly
Affordable and Racially Equitable U Street in
association with the Homeowners within 200 Feet
and Black Neighbors of 1617 U Street referencing
and adopting testimony recently submitted by the
Dupont Circle Citizens Association and prior
testimony by in Case 23-02.*

**WE REQUEST THE DC ZONING COMMISSION DENY THIS
TEXT AMENDMENT, OR IN THE ALTERNATIVE ASK THE
APPLICANT TO CREATE A NEW CUSTOM ZONE OR SPECIAL
PURPOSE ZONE FOR 1617 U STREET**

ZC Case No. 23-26

The Problem:

- The proposed text amendment in Case 23-26 is **procedurally flawed**. It seeks to alter zoning regulations for a singular property within the MU-10 zone district through a text amendment when a **map amendment** creating a **new custom zone or special-purpose zone** is required. Precedents for such an approach exist, as seen in Chevy Chase, Walter Reed, Barry Farms, and other locations across the city.
- Furthermore, this text amendment relies on the MU-10 rezoning application in Case 23-02, which itself is based on the **unlawful Comprehensive Plan FLUM amendment** specific to this site. This reliance is fatal to the amendment's validity. Additionally, this application exacerbates concerns of spot zoning, as evidenced in Case 23-02.
- By failing to address the contested issues raised in Case 23-02, this amendment violates **11 DCMR X 1300.2** by being inconsistent with numerous Comprehensive Plan policies and causing harm to the surrounding community (**see Appendix A and B**).

The Solution: Create a New Zone or Special Purpose Zone

The Zoning Commission has two procedurally sound options to rezone this site without repeating the flaws of Cases 23-02 and 23-26:

1. **Petition for a New Zone** under 11 DCMR X 400, et seq.:
"The new zone shall be for a well-defined geographic area with generally similar development characteristics and land use." (11 DCMR X 400.2)
2. **Petition for a Special Purpose Zone** under 11 DCMR K 100, et seq.:
"The purpose of the special purpose zones is to provide for single large sites that require a cohesive, self-contained set of regulations to guide site design, building height and bulk, land uses, or other aspects of development." (11 DCMR K 101.1)

Benefits of a New Zone or Special Purpose Zone:

1. Increased Affordable Housing

A custom or special-purpose zone would guarantee far greater affordable housing production on public land than the ineffective Inclusionary Zoning (IZ) program. IZ fails to ensure affordability for DC residents earning minimum wage and is inaccessible for the majority of Black families in the District (**see Appendix C**). A custom zone would signal the prioritization of meaningful affordability at a volume that represents true care and concern.

2. Appropriate Density Transitions

The Zoning Commission would have greater oversight to ensure smooth transitions between high-density zoning and subsequent development and the existing low-density, historic neighborhood surrounding the site. Under OP's proposals in Cases 23-02 and 23-26, six-story buildings (excluding penthouses) could directly abut the property lines of the two-story rowhouses along V Street, and clearly clash and cast adverse light and air and spacing effects on the low rise homes across 17th Street and V

Street as well. A custom or special-purpose zone would enforce clear, predictable regulations for density transitions and protect the character of adjacent residential areas per the Comp Plan guidelines & requirements.

3. Community Engagement and Equity

A special-purpose or custom zone would require genuine community input on design, land use, and development priorities. As previously noted by the Commission, OP has failed to engage meaningfully with the community in Case 23-02 and sadly this continues in Case 23-26. For instance, the public remained unaware of the full scope of the text amendment until OP's filing just 10 days ago, after their recent presentation to the ANC omitted key details. Moreover, OP did not present to ANC-1C, a locally impacted Commission noted specifically in Ward One Councilmember Brianne Nadeau's bill B25-0802, entitled "[U Street Affordable Housing and Public Participation Assurances Amendment Act of 2024](#)." This lack of transparency continues to undermine community trust and perpetuates inequities we've seen now for more than a year in these cases. The Commission must reject OP's malformed and limited community outreach practices and demand adherence to racial equity principles.

Conclusion:

This text amendment application fails to meet procedural, substantive, and equity standards. The Zoning Commission must **deny the amendment** and direct OP to pursue a map amendment creating a new zone or special-purpose zone, ensuring compliance with DC Zoning Regulations and Comprehensive Plan policies. Only this approach can guarantee community-driven development, equitable housing outcomes, and a transparent process.

Signed,

Debby Hanrahan, co Facilitator

**Save DC Public Land: Working for a Safe, Truly Affordable
and Racially Equitable U Street**

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Arlene Feskanich

Homeowners within 200 Feet

Gregory Adams

Black Neighbors of 1617 U



APPENDIX A

Synthesis of Fundamental Contested Issues & Themes from Public Submissions in ZC Case 23-02

This document consolidates and reiterates concerns from various parties regarding the rezoning proposal for 1617 U Street and 1620 V Street NW. Below is a thematic summary highlighting why the rezoning is viewed as unlawful and harmful to neighbors and the community:

1. Procedural and Transparency Issues

- **Incomplete Justification:** The Office of Planning (OP) failed to substantiate why its revised zoning proposal (MU4/MU10 split) is preferable over the original (MU10) or alternative zoning options, leaving the case record incomplete.
 - **Inadequate Notification:** Affected property owners were not properly informed, with outdated mailing lists and incomplete notifications.
 - **Lack of Public Engagement:** Minimal outreach was conducted to local residents, civic groups, and historically Black communities, undermining inclusivity and transparency.
 - **Late Submission of Key Information:** Critical new evidence was introduced post-hearing, depriving opposition parties of the opportunity for cross-examination and meaningful rebuttal.
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2. Inconsistency with Policy and Planning Standards

- **Comprehensive Plan Violations:** The rezoning fails to align with policies for Neighborhood Conservation Areas, which emphasize preserving the scale and character of established neighborhoods.
 - **Ignored Racial Equity Lens:** OP neglected its obligation to evaluate rezoning through a racial equity framework, which is mandated by recent updates to the Comprehensive Plan.
 - **Outdated Data Usage:** Population and housing projections relied on flawed, decade-old census data, overestimating housing needs and misleading decision-making.
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3. Social and Economic Harms

- **Risk of Displacement:** The proposed upzoning is likely to exacerbate the displacement of low-income and Black residents, as evidenced by similar cases across Washington, D.C.
 - **Inadequate Affordable Housing:** Proposed inclusionary zoning (IZ) requirements fall short of addressing the needs of low-income families, favoring market-rate units over deeply affordable or family-sized options.
 - **Economic Segregation:** Upzoning risks accelerating socio-economic divides by favoring development that excludes working-class residents.
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4. Adverse Community and Visual Impacts

- **Impact on Historic Character:** The high-intensity MU10 zone is incompatible with surrounding historic districts, threatening the area's cultural and architectural heritage.
- **Disruption of Neighborhood Scale:** The proposed zoning disregards the existing low-rise residential character, overshadowing historic structures and altering the neighborhood fabric.

- **Neglect of Safety and Infrastructure:** Rezoning plans fail to address the impact on emergency services located on-site, such as police and fire stations.
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Conclusion

The rezoning proposal fundamentally undermines community trust and fairness by failing to:

- Respect procedural requirements and ensure meaningful public participation.
- Align with policy frameworks meant to preserve neighborhood character and equity.
- Mitigate risks of displacement, housing inequity, and degradation of historic districts.

For all of the above reasons, **Case 23-02 and Case 23-26 fail the DC Comprehensive Plan and many policies highlighted for the record** (Case 23-02 [Exhibit 618](#); [Exhibit 688](#); [Exhibit 591](#); [Exhibit 604](#); [Exhibit 558](#))

The proposed changes would harm the neighborhood socially, economically, and visually, reinforcing systemic inequities and undermining the principles of inclusive urban planning. It is strongly recommended that the Zoning Commission reject the rezoning proposal and demand a transparent, community-driven process aligned with established policy goals.

APPENDIX B

Numerous Public Comments to NCPC about the risk of displacing the Emergency Responders and Safety Complex Currently at 1617 U Street NW that Serves to Protect Federal Interests and Federal and Local Events & Dignitaries Were Not Included by NCPC in Support Letter to ZC.

Appendix B is One Example Letter Submitted and Not Even Considered or Acknowledged by NCPC in their Approval Letter Back to the Zoning Commission in ZC Case 23-02.

NATIONAL CAPITAL PLANNING COMMISSION

NCPC CASE FILE 23-02

SEPTEMBER 5, 2024

TO: Lee Webb, National Capital Planning Commission

lee.webb@ncpc.gov, info@ncpc.gov

RE: NCPC Case File: 23-02 – Recommendation for Disapproval Pending Alignment with Federal Elements of the Comprehensive Plan

NCPC Case File: 23-02 pertains to the DC Zoning Commission's approval to rezone the publicly owned site at 1617 U St., NW, currently housing the Third District Police Station and Fire Engine Company 9. The proposed MU10 rezoning is unprecedented in this historically significant area, which is surrounded by two adjacent historic neighborhoods. The decision threatens to displace the few remaining families and small businesses that have managed to endure amidst DC's relentless real estate boom, which has already eroded much of the community's diversity.

The Zoning Commission's decision to approve this drastic rezoning is profoundly disappointing. The DC Office of Planning has openly admitted that no impact studies were conducted to justify this proposal—a glaring oversight, especially given the significant increase in density and population that these land-use changes would bring. Even more concerning is the complete lack of analysis on life safety and emergency response times, despite the clear risk of displacing essential emergency services from the site. The absence of thorough planning in alignment with the Federal Elements of the Comprehensive Plan is both troubling and unacceptable.

We urge the NCPC staff and Commission to vote to disapprove NCPC File 23-02 until the DC Zoning Commission can unequivocally ensure that this proposal does not jeopardize critically important Federal interests as outlined below.

Here is what is at risk with this case:

1. Regional emergency preparedness and response time
2. The Community's Remaining Racial Diversity
3. Historic stewardship of vulnerable communities

1. At Risk: Regional emergency preparedness and response time

The presence of the Third District Police Station and Fire Engine Company 9 is not only vital to the safety and well-being of the surrounding neighborhood and the city more generally, but also of significant concern to the federal government.

As DC Police Union Chairman Gregory Pemberton has stated, the station often serves as a "crucial hub for law enforcement operations" ([Exhibit 460](#), Zoning Commission Case 23-02).

The police parking garage and the 17th Street side of the site, between U and V Streets, NW, frequently functions as an assembly point for police officers and their vehicles from various jurisdictions, underscoring how this site is central to the close cooperation between federal and local police, including during critical federal events like inaugurations and related rallies, as on January 6, 2021, or during World Bank meetings, among many other federal-related events supported by resources at 1617 U Street, NW.

Despite the critical role this site plays in federal safety planning, the DC Zoning Commission has approved the rezoning and submitted it for NCPC's advisory approval without any provision for retaining these first responders at their current location. Alarming, the proposal neglects to address any contingency plans for the temporary or permanent relocation of these essential emergency services. There's been no study how disruptions of these emergency stations will affect response times.

The Zoning Commission and the local DC planning apparatus cannot be allowed to neglect both local and federal safety needs. These glaring safety planning omissions, in our view, warrants a negative response from the NCPC.

Lackadaisical non-planning not only violates basic APA principles but also contravenes key policies within the Federal Element of the Comprehensive Plan, as partially outlined below:

- The Comprehensive Plan's Federal Element guides evaluations of local developments so as to mitigate impacts on federal interests or operations, including emergency access and safety situations particularly in the area of 1800 map which includes 1617 U Street. Map reference at Page 42 of the pdf.

https://www.ncpc.gov/docs/Comprehensive_Plan_Federal_Elements_June2024.pdf

2. At Risk: **THE COMMUNITY'S REMAINING RACIAL DIVERSITY**

Although the site in question is located in the middle of two historic African-American districts--the Sixteenth Street Historic District (listed in the National Register of Historic Places in 1978) and the Strivers' Section Historic District (1985)--the Office of Planning has admitted that it made no targeted outreach to the remaining African-American residents, small businesses, organizations, or churches in the neighborhood.

Despite both DC agencies' protestations of devotion to the principle of racial equity, [the DC Zoning Commission and Office of Planning failed to apply even a minimum of scrutiny when proposing and reviewing the application.](#) This has resulted in a great deal of suspicion and resentment on the part of many neighbors, who hope that the NCPC will instead actually apply this principle to the review process rather than simply rubber stamp the agencies' prior approval.

Disapproval of NCPC File 23-02 is supported by the Federal Element of the Comprehensive Plan as partially outlined below:

- "Promote equitable development and opportunity for underserved communities" ... with ... "a firm commitment to engaging underserved communities and centering their input as part of the planning process." Reference at Page 23 of the pdf.
https://www.ncpc.gov/docs/Comprehensive_Plan_Federal_Elements_June2024.pdf
- "[D]uring the early stages of planning" ... "facilitate community engagement meetings and other similar initiatives to inform community organizations of pending development." Reference at Page: 24 of the pdf.
https://www.ncpc.gov/docs/Comprehensive_Plan_Federal_Elements_June2024.pdf

3. At Risk: Historic stewardship of vulnerable communities

In its brochure on the Strivers' Section Historic District, the Office of Planning describes it as "a compact residential enclave of rowhouses and small apartment buildings" (one of which, a four-story building directly across 17th Street from the site in question, was once owned by Frederick Douglass).

Yet the case submitted to you for review allows for a building of up to 10 stories tall to be inserted in the middle of these two historic districts! Such a structure would destroy the historic integrity of this modest neighborhood, looming over it, blocking its sunlight, and completely transforming its character.

This unevaluated threatening behavior by the local planning agencies is unacceptable in light of the Federal Elements, in part as follows:

- The Comprehensive Plan's Federal Element emphasizes the importance of preserving the historic character and scale of neighborhoods, particularly within historic districts. Introducing a structure that significantly exceeds the existing height of surrounding buildings would undermine the historic integrity and character of the neighborhood. References including at page 65 of the pdf. (Urban Design Element), https://www.ncpc.gov/docs/Comprehensive_Plan_Federal_Elements_June2024.pdfhttps://www.ncpc.gov/docs/Comprehensive_Plan_Federal_Elements_June2024.pdf
- As it relates to the 16th Street corridor nearby 1617 U Street, the Comprehensive Plan's Federal Element includes guidelines regarding the relationship between building heights and their impact on the surrounding urban environment, particularly in historic areas. A 10-story building in a neighborhood characterized by low-rise, historic rowhouses would contradict these guidelines. References including at page 67 of the pdf. (Urban Design Element). https://www.ncpc.gov/docs/Comprehensive_Plan_Federal_Elements_June2024.pdf

CONCLUSION: THE NCPC CAN SEEK TO ELIMINATE THE RISK

The absence of thorough planning by the local agencies is not in alignment with the Federal Elements of the Comprehensive Plan. This lack of planning is both deeply troubling and frankly unacceptable in the Nation's capital.

For the aforementioned reasons, among others, we urge the NCPC staff and Commission to vote to disapprove NCPC File 23-02 until the DC Zoning Commission can unequivocally ensure that this proposal does not jeopardize critically important federal interests, as outlined above.

Thank you for your consideration.

Respectfully,

Arlene Feskanich

Representative of Homeowners Within 200 Feet of Lots 826 and 827

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202-387-3681

APPENDIX C

IZ FAIL

INCLUSIONARY ZONING HAS FAILED ACCORDING TO IT'S 15-YEAR TRACK RECORD SINCE IT STARTED IN 2009

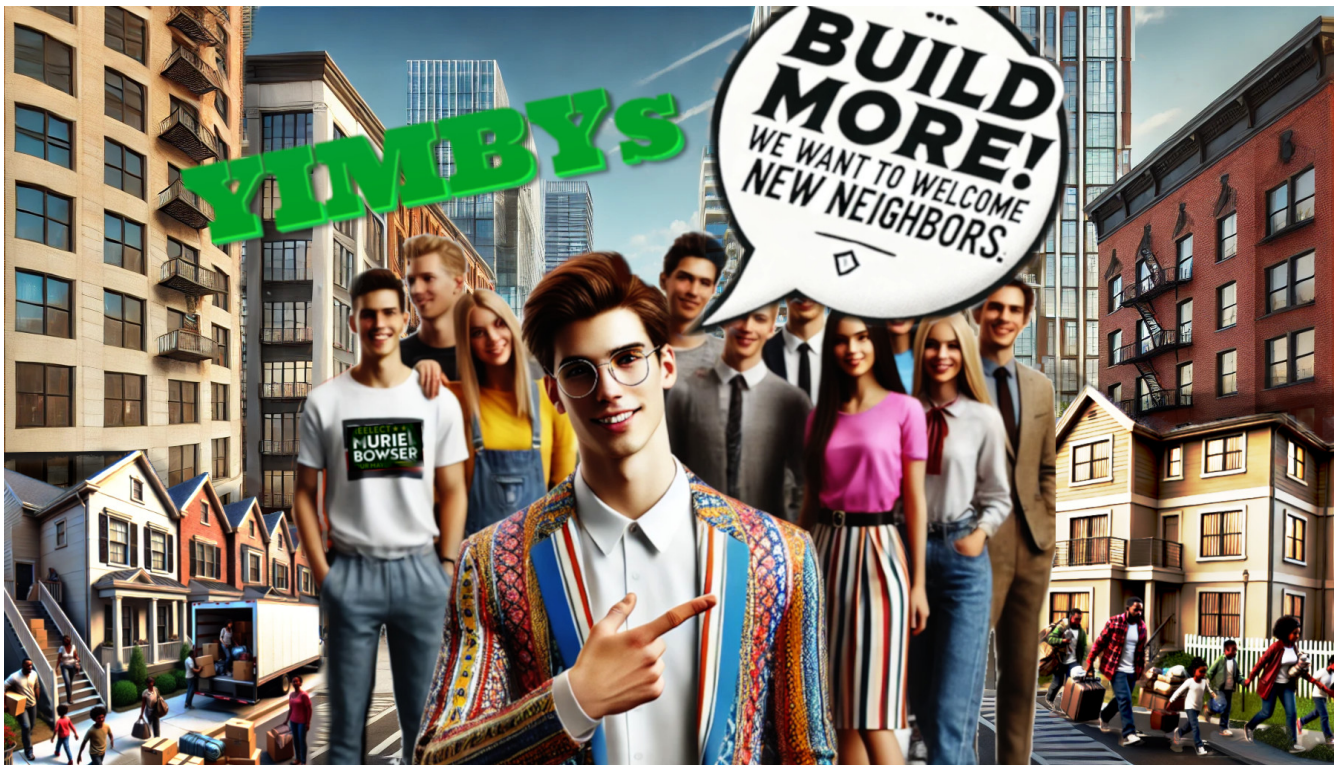
[The November 20, 2024, report by the Office of the Auditor](#) on DC's Inclusionary Zoning program is an indictment of the Smart Growth urbanists who say that building more luxury housing with a required handful of IZ units would be an answer to our unaffordable housing crisis. The numbers in the official report below show quite the opposite.



IZ HAS SERVED AS A YIMBY POLICY TO SUPPORT *#BUILDMORE*

Inclusionary Zoning has been used as the soapbox for YIMBYs to cheer on upzoning such as at 1617 U Street, with YIMBYs demanding privatization of public land so they can welcome new neighbors.

Simultaneously, YIMBYs have wholly ignored how all of the new luxury housing cannot be mitigated by the few IZ units leading to massive displacement pressures on existing residents.



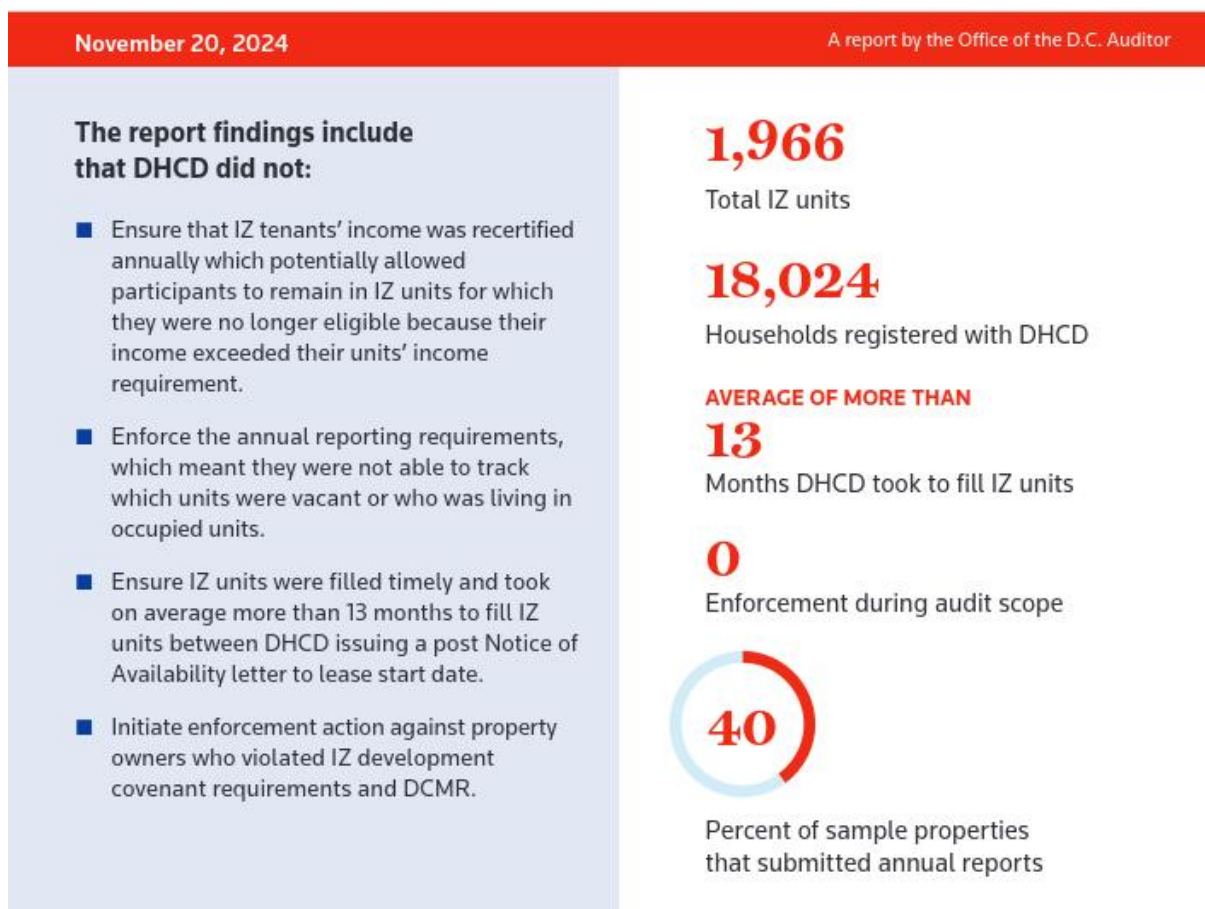
IZ has been the guise for luxury overdevelopment since 2009 and destroyed affordability in the District by setting the definition of “affordable housing” so high as to be out of reach of most working people and families in our city.

And, part of the IZ failure is because the so-called YIMBY urbanist originators of this alleged affordable housing policy chose to never highlight the lack of

accountability and enforcement of their developer real estate friends in any of their testimony to the Zoning Commission and to the Council over the years.

The Auditor's report about IZ shows how broken this “affordable” housing policy really is, and how harmful it has been to real people's lives.

Key findings from the report include:



To become a qualified applicant, individuals must first complete orientation and online registration. Household eligibility is determined based on multiple affordable housing factors:

- Households are required to make no more than 50%, 60%, or 80% of the MFI.⁸
- Households must have a valid orientation certificate and registration in the IZ program/database.
- Households must have at least one person per bedroom.
- Housing costs may not exceed half (50%) of the applicant's income (before taxes).
- The applicant cannot be enrolled in a full-time college or university program.⁹
- The unit applied for must be the primary residence.
- The applicant or anyone who will live with the applicant may not own other residential property at the time of lease or purchase.¹⁰

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The Auditor reveals a fatal flaw in IZ that has remained hidden:

- Among the less than **2,000 IZ (Inclusionary Zoning) units produced to date,**
- And the **18,000 people/families on the waiting list to get access,**
- Those residents in the IZ program may be spending approximately 50% of their income on rent.

The Auditor's findings are not only **shocking** but also highlights the **absolute unaffordability** of these IZ units, effectively undermining the very purpose of the program. Moreover, such high rent burdens are likely **unlawful** in the eyes of the DC Code on IZ:

<https://code.dccouncil.gov/us/>

§ 6–1041.03. Establishment of maximum rent and purchase price; publication requirement.

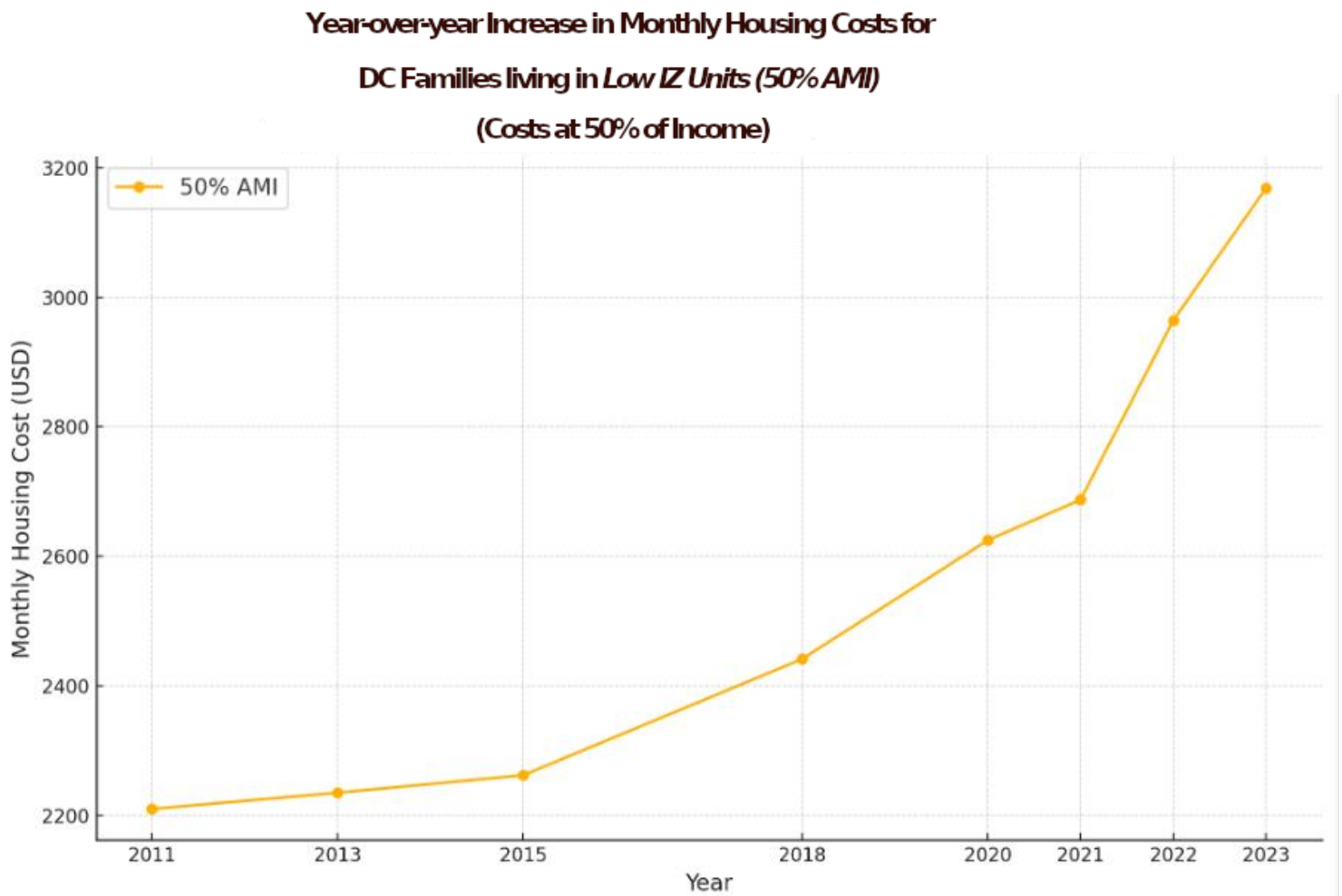
(a) The Mayor shall establish the maximum rent or purchase price for the first sale of an inclusionary unit based upon either the actual income of the household selected by the Mayor to lease or purchase the unit or based upon a rental and price schedule as follows:

(1) Rents based upon the actual income of a household shall be established so that the household *will not expend more than approximately 30% of its annual income on rent and utilities.*

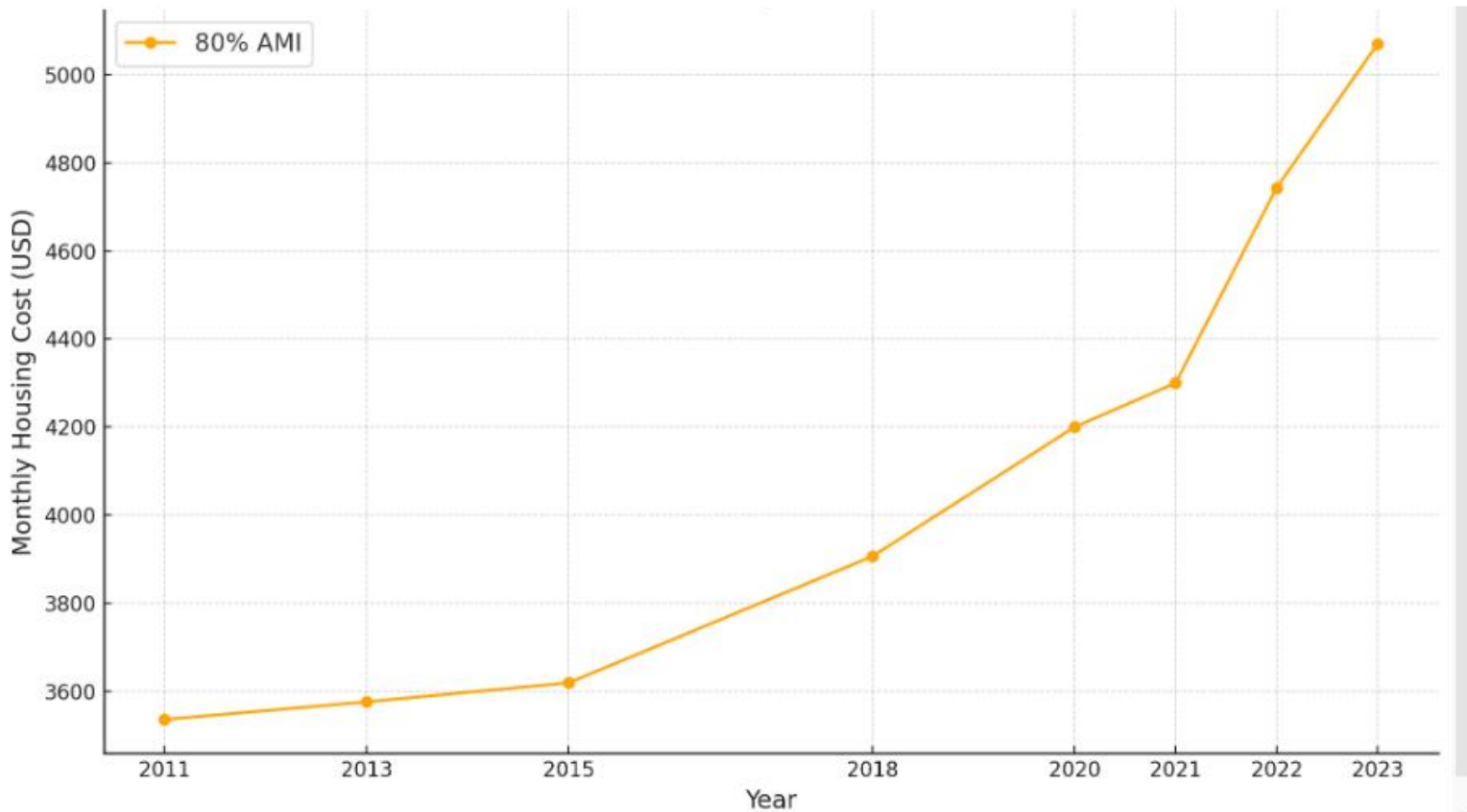
(2) Purchase prices based upon the actual income of a household shall be established so that the household *will not expend more than approximately 30% of its annual income* on mortgage payments, including principal, interest, and property insurance and taxes, home owner association or condominium fees, and utilities.

The Executive, namely the Mayor, through the DC Dept of Housing and Community Development (DHCD), and lackadaisical Council oversight has let real estate developers and their mgmt companies get away with charging rents for Inclusionary Zoning (IZ) units that exceed lawful limits by up to 20%.

Here's what that all this means in real terms i.e. housing costs to real DC families:



**Year-over-year Increase in Monthly Housing Costs for
DC Families living in *Moderate IZ Units (80% AMI)*
(Costs at 50% of Income)**



**RECALL, THE GUISE TO BUILD ALL THIS LUXURY HOUSING
IS FOR THE HANDFUL OF IZ UNITS AS THE SAVIOR FOR
OUR AFFORDABILITY CRISIS!**

This deviation from affordability standards not only compromises whatever integrity the IZ program feigned to possess, but also raises questions about the legality and overall efficacy of this program to ensure housing remains genuinely affordable for DC residents.