

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Public Hearing

Case No. 04-33G [Amendments to Chapter 26,
Inclusionary Zoning.]

6:35 p.m. to 10:29 p.m.

Thursday, April 14, 2016

Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220 South
Washington, D.C. 20001

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Board of Zoning Adjustment
District of Columbia
CASE NO.19374
EXHIBIT NO.27H

1 Board Members:

2 ANTHONY HOOD, Chairman

3 MARCIE COHEN, VICE CHAIR

4 ROBERT MILLER, Commissioner

5 MICHAEL TURNBULL, Commissioner

6

7 Office of Zoning:

8 SHARON SCHELLIN, Secretary

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10 Office of Planning:

11 JOEL LAWSON

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13 DDOT:

14 JONATHAN ROGERS

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1 P R O C E E D I N G S

2 CHAIRPERSON HOOD: Good evening, ladies and
3 gentlemen. This is the public hearing of the Zoning
4 Commission for the District of Columbia. Today's
5 date is April the 14th, 2016.

6 My name is Anthony Hood. Joining me this
7 evening are Vice Chair Cohen, Commissioner Miller,
8 and Commissioner Turnbull. We're also joined by the
9 Office of Zoning staff, Ms. Sharon Schellin, as well
10 as the Office of Planning staff, Mr. Lawson and Mr.
11 Rogers. I just couldn't see him. I know Mr. Rogers.

12 This proceeding is being recorded by a court
13 reporter and is also webcast live. Accordingly, we
14 must ask you to refrain from any disruptive noises or
15 actions in the hearing room. Notice of today's
16 hearing was published in the D.C. Register and copies
17 of that announcement are available to my left on the
18 wall near the door.

19 The hearing will be conducted in accordance
20 with provisions of 11-DCMR-3021 as follows. We are
21 reconvening in Zoning Commission Case 04-33G, so we
22 will be starting with organizations and individuals
23 testimony. All persons appearing before the
24 Commission are to fill out two witness cards. Again,
25 upon coming forward to speak to the Commission please

1 CHAIRPERSON HOOD: Thank you. Next. And
2 thank you for your closing thought when you heard the
3 bell. Thank you.

4 MR. CLARKTON: You're welcome.

5 MR. HARGROVE: Chairman Hood and Members of
6 the Commission, I'm Larry Hargrove testifying for the
7 Kalorama Citizen's Association. KCA's written
8 submission detail our support for a number of
9 proposals that are before you that are aimed at
10 increasing the number of inclusionary units,
11 directing more of them to low income residents, and
12 otherwise enhancing the effectiveness of the IZ
13 program.

14 Tonight, however, I want to focus on two
15 proposals that are before you that are only
16 tangentially related to the principle issues in this
17 case.

18 The first of these proposals, I propose it
19 was a question raised by Commissioner Turnbull
20 earlier this evening, has to do with OP's proposal to
21 eliminate the basic requirement that an IZ
22 development have 10 dwelling units which applies
23 almost to all projects at the present time. This
24 would be done by allowing a developer to obtain the
25 available floor area and height bonuses by simply

1 voluntarily agreeing that a project for quote, "any
2 semi-attached, attached, or multifamily residential
3 development," unquote, will comply with IZ
4 requirements and provide at least one IZ unit.

5 This arrangement would obviously be a radical
6 change in the character, scope, and impact of the
7 inclusionary zoning program, from one that deals with
8 fair sized or larger multi-dwelling buildings, where
9 some economies of scale are achievable, to one that
10 explicitly targets individual row houses and other
11 small residential buildings, and penetrates deep into
12 residential mixed use neighborhoods.


13 It would be ready made for row house pop-up
14 or pop-back developers as a device for circumventing
15 existing height and floor area limits by simply
16 tucking one IZ unit into an intrusively oversized
17 building that might be crammed with seven or eight
18 market rate units. This would be, in our view, the
19 most inefficient possible way for the City to promote
20 the objectives of the IZ program.

21 The community would get one IZ unit per pop-
22 up project, which the developer would be incentivized
23 to keep no larger than necessary to just meet the
24 eight, or 10, or 12 percent set aside requirement.
25 This one small unit would be achieved at a greatly

1 disproportionate cost in terms of the impact on the
2 values of neighborhood, character, and integrity that
3 the Comprehensive Plan mandates be protected.

4 The heaviest impact would apparently be in R-
5 5-B, C-2-A, and C-2-B district. A typical three-
6 story row house in these areas can be expected to
7 qualify for an IZ bonus payoff of the equivalent of
8 at least one additional floor's worth of gross floor
9 area. And this would be applied to a building which
10 more often than not is so far below the existing
11 height and floor area limits as to already permit an
12 additional floor's worth of expansion, which is a big
13 part of what has generated the row house pop-up
14 problem to begin with.

15 This proposal for a major change in the
16 nature of the IZ program was put forward with only a
17 few lines of explanation and no projection of its
18 impact across the city, and we strongly urge you to
19 reject it.

20 The second proposal comes from OP also. In 
21 an effort to increase the residential floor space for
22 which the required set aside is calculated, OP
23 proposes that cellar space, that the permit would
24 allow to be included in a dwelling unit, hence forth
25 be allowed to be included in the total residential

1 floor area on the basis of which the required minimum
2 set aside is calculated.

3 We support this proposal, which seems
4 obviously appropriate. But only on the condition
5 that such space is also included in the calculation
6 of the total gross floor area of the project. We do
7 so because it is clear to us that the Zoning
8 Administrator should not have been allowing
9 residential floor areas in cellars in the first
10 place, since allowing habitable rooms to be located
11 in cellars is in plain contravention of the
12 definition of habitable room in Section 199.1. ✓

13 But if this use is never the less allowed in
14 a project, then it is also entirely appropriate that
15 the cellar residential space be included along with
16 all other residential space in the calculation of the
17 project's total gross floor area. Rather than
18 omitting it on the basis of the definition of gross
19 floor area, and thus giving the pop-up developer a
20 floor's worth of additional FAR, which is another
21 principle source of the pop-up problem in row house
22 areas. ✓

23 I thank you very much for your attention.

24 CHAIRPERSON HOOD: Thank you. Next.

25 MR. HARTMANN: Good evening, Chairman Hood

1 MR. CLARKTON: I'm assuming you're talking
2 about the HPAP program.

3 MS. COHEN: I'm sorry. Yes.

4 MR. CLARKTON: Okay. That helps in terms of
5 down payment assistance for people in getting people
6 started in that regard. And income certification was
7 handled differently as directed through the D.C.
8 Department of Housing and Community Development. And
9 so we established different guidelines in
10 conjunction, you know, and working together with them
11 as a team, and those guidelines go through a process
12 of -- went through, initially, a process of vetting
13 to make sure that they were meeting the goals of the
14 program. And so, there was some initial uncertainty
15 in terms of how that would be handled, but we
16 eventually settled on a process and there was an
17 application process and a certification process that
18 would be equitable across the board and used
19 consistently.

20 MS. COHEN: Life isn't easy, is it? Thank
21 you.

22 CHAIRPERSON HOOD: Any other comments or
23 questions, Mr. Turnbull?

24 MR. TURNBULL: Yeah, I just had one. Mr.
25 Hargrove, I just want to clarify though, Kalorama is

1 in support for the most part of OP's 1B position,
2 other than you're worried about the R-5-B and pop-ups
3 and pop-backs with any increase in density.

4 MR. HARGROVE: [Speaking off mic.]

5 CHAIRPERSON HOOD: You want to turn your mic
6 on, Mr. Hargrove.

7 MR. HARGROVE: I'm checking the record. I'd
8 hesitate to characterize it as in support of 1B. I
9 think we're supportive of a lot of what is 1B, but we
10 have picked and chosen --

11 MR. TURNBULL: Chose.

12 MR. HARGROVE: -- among all the proposals.

13 MR. TURNBULL: Yeah.

14 MR. HARGROVE: And are supporting some from
15 the proponent in this case.

16 MR. TURNBULL: Right. Okay. Thank you.

17 CHAIRPERSON HOOD: Any other questions,
18 Commissioner Miller?

19 MR. MILLER: Thank you, Mr. Chairman and
20 thank each of you for your testimony. Mr. Hartmann,
21 I noted that your written testimony said you'd been
22 in the District all of your 23 years, but your verbal
23 testimony said 24. I'm assume that's because --

24 MR. HARTMANN: I'm actually 23 years old for
25 the record. I just wanted to note that I live in

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Special Public Meeting

Case No. 04-33G [Coalition for Smarter Growth, et al.
- Text Amendment to Chapter 26 of the Zoning
Regulations.]

6:37 p.m. to 8:05 p.m.
Wednesday, July 20, 2016

Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220 South
Washington, D.C. 20001

1 Board Members:

2 ANTHONY HOOD, Chairman

3 MARCIE COHEN, Vice Chair

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

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8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JOEL LAWSON

13 ARTHUR RODGERS

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15 Office of Attorney General:

16 ALAN BERGSTEIN

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1 P R O C E E D I N G S

2 CHAIRPERSON HOOD: Please come to order.

3 Good evening, ladies and gentlemen. This is a
4 special public meeting of the Zoning Commission for
5 the District of Columbia.

6 My name is Anthony Hood. Joining me are Vice
7 Chair Cohen, Commissioner Miller, and Commissioner
8 May. We're also joined by the Office of Zoning
9 staff, Ms. Sharon Schellin, Office of Attorney
10 General, Mr. Bergstein, as well as the Office of
11 Planning, Mr. Lawson and Mr. Rogers.

12 Copies of today's meeting agenda are
13 available to you and are located in a bin near the
14 door. We do not take any public testimony at the
15 meetings unless we ask someone to come forward.
16 Please be advised, this proceeding is being recorded
17 by a court reporter and is also webcast live. Please
18 turn off all beepers and cell phones.

19 Does the staff have any preliminary matters?

20 MS. SCHELLIN: No, sir.

21 CHAIRPERSON HOOD: Okay. If not, let's move
22 with the first item on the agenda, Zoning Commission
23 Case No. 06-04E, Consent calendar Florida and Q
24 Street, LLC., request for minor modification to PUD
25 at Square 3100. Ms. Schellin.

1 MR. ROGERS: Correct.

2 CHAIRPERSON HOOD: Okay. Are we going to --
3 any objections to accepting those recommendations
4 again? We have another shot at this.

5 MR. MAY: Yeah, I mean, I would note that we
6 did get that testimony that raised concerns about it.
7 And I do understand those concerns, but I guess I
8 would trust that the hardship provisions -- hardship
9 is difficult to demonstrate in a BZA case. So it's a
10 little sticky but I would -- I'll go along with this.

11 CHAIRPERSON HOOD: But I think also with the
12 request from the Vice Chair, I think that that will
13 help us, especially if we find out any further
14 information before we take final on this.

15 Okay. Number 13, if we're ready to move on. ✓
16 Clarify IZ requirement calculations, include cellar
17 space, and projections in the public space options.
18 We had a recommendation, then we had retained current
19 references.

20 Mr. Rogers, you have anything else to add?

21 MR. ROGERS: Yes. Again, this is just at the
22 request of the Zoning Administrator to clarify how
23 the calculations are made of what would be the total
24 square feet required of the project. And it has to
25 do just with the variety that projects have of you

1 know, do projections like a bay that go out into
2 public space, does that count toward the requirement.

3 Typically, those don't count toward FAR, but
4 they are this sort of net leasable space that an
5 occupant would pay for.

6 CHAIRPERSON HOOD: Okay. Commissioners, what
7 is your pleasure? Either retain the current
8 references or the final recommendation of Office of
9 Planning?

10 MR. MILLER: I think the OP recommendation
11 makes sense.

12 MR. MAY: Uh-huh.

13 CHAIRPERSON HOOD: All right.

14 MS. COHEN: Yeah. I think so.

15 CHAIRPERSON HOOD: Okay. Great. Let's move
16 on. Clarify IZ requirements, applicability to
17 adjoining lots. Mr. Rogers.

18 MR. ROGERS: Yes, again this was at the
19 request of the Zoning Administrator. They
20 interpreted a loophole in the regulations that when -
21 - the regulations state that when IZ applies to
22 adjoining lots, if they are of single-family units.
23 But it does not mention multiple dwelling units. So
24 in other words, if there were adjoining lots of four
25 units each, the way the Zoning Administrator was