



**COUNCIL OF THE DISTRICT OF COLUMBIA**  
JOHN A. WILSON BUILDING  
1350 PENNSYLVANIA AVENUE, NW  
WASHINGTON, DC 20004

**MATTHEW FRUMIN**  
Councilmember, Ward 3

**COMMITTEE MEMBER**  
Executive Administration and Labor  
Facilities and Family Services  
Hospital and Health Equity  
Housing  
Transportation and the Environment

Nyasha Smith  
Secretary of the Council  
1350 Pennsylvania Avenue NW  
Washington, DC 20004

September 18, 2023

Dear Secretary Smith:

Today, I am introducing the “Addressing Legacies of Housing Segregation in Chevy Chase Amendment Act of 2023” along with Chairman Mendelson and Councilmembers Nadeau, Lewis George, Parker, Robert White, Bonds, McDuffie, and Trayon White. This legislation would declare void as contrary to public policy any pre-1938 covenants that prohibit multi-family housing on lots originally subdivided by the Chevy Chase Land Company, if multi-family housing could otherwise be built on those lots under modern planning and zoning laws. A signed copy of the legislation is enclosed.

The District is in serious need of more housing, especially more affordable housing. Recognizing this, the Mayor set a goal for the District to create 36,000 new residential units by 2025, at least 12,000 of which are affordable to low-income households.<sup>1</sup> In an effort to reach these goals, the District has set targets for new affordable housing for each of its 10 planning areas. A few planning areas, including Far Northeast and Southeast, Far Southeast and Southwest, and Mid-City, are already well above their target affordable units. Others, like Central Washington, Lower Anacostia Waterfront and Near Southwest, Upper Northeast, and Rock Creek East, are nearing their targets, having created over 50% of their target affordable units. However, the remaining planning areas—Capitol Hill, Near Northwest, and Rock Creek West—are lagging far behind the others, with under 25% of affordable units created. In Rock Creek West only 83 new affordable units have been created since 2019, far from the planning area’s target of 1,990. Rock Creek West has built a mere 4.7% of the affordable units the District has deemed it needs to meet our affordable housing goals.<sup>2</sup>

The District has engaged in intensive planning efforts throughout the Rock Creek West planning area. One such effort is the Chevy Chase Small Area Plan—a community-informed guide developed by the

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<sup>1</sup> Mayor’s Order 2019-036 (May 10, 2019), available at [https://planning.dc.gov/sites/default/files/dc/sites/op/page\\_content/attachments/2019-036%20Housing%20Initiative%20%285.9%29.pdf](https://planning.dc.gov/sites/default/files/dc/sites/op/page_content/attachments/2019-036%20Housing%20Initiative%20%285.9%29.pdf).

<sup>2</sup> DMPED 36,000 by 2025 Dashboard, available at [https://open.dc.gov/36000by2025/#:~:text=Mayor%20Bowser%20set%20a%20goal.of%20Median%20Family%20Income%20\(MFI\)](https://open.dc.gov/36000by2025/#:~:text=Mayor%20Bowser%20set%20a%20goal.of%20Median%20Family%20Income%20(MFI)).

Office of Planning to implement the Comprehensive Plan’s goals of greater equity and sustainability.<sup>3</sup> The Council approved the Chevy Chase Small Area Plan in July of 2022. The cornerstone of the plan is a new and improved “Chevy Chase Civic Core,” a redevelopment of the aging library and community center, with the option to build much-needed affordable housing units on top. The Deputy Mayor for Planning and Economic Development will hold “OurRFP” hearings in October before drafting a Request for Proposals for the site.

However, these plans have been interrupted by the discovery of a covenant from over 100 years ago on the deed to the property. This covenant would prohibit the creation of apartments on a portion of the Civic Core lot. Further research shows that similar covenants were likely placed on most lots in the original subdivision created by the Chevy Chase Land Company in 1907.<sup>4</sup> Such covenants appear to have been intended to exclude residents on the basis of race and socioeconomic status. The Chevy Chase Land Company was co-founded by Senator Francis G. Newlands, an avowed racist and segregationist who promoted a “white plank” at the 1912 Democratic Party convention. Newlands advocated for the repeal of the Fifteenth Amendment and for a prohibition on any non-white immigrants coming to the United States. He “believe[d] this should be a white man’s country.”<sup>5</sup> Unsurprisingly, Newlands’ Chevy Chase Land Company included numerous covenants on its lots that combine to show the clear intention of keeping Chevy Chase wealthy and white. These covenants run counter to the intent to foster a Ward 3 that is welcoming to all, that provides access to affordable, diverse housing options, and that is part of the citywide solution to the District’s housing shortage.

Beyond the racist and classist origins of these covenants, they are over a century old, imposed before there was a uniform system of zoning used to determine proper land uses. Although they are likely unenforceable under existing law, their existence has created confusion about what may be built on the Civic Core lot and surrounding lots. This creates the potential for time-consuming litigation and attendant delays that may impede the District’s ability to build housing at the site, even if the District pursues such a path after approval by the Council, the Office of Planning, and the Zoning Commission. Thus, the enclosed legislation simply declares void, as contrary to public policy, any anti-apartment covenants on the lots in the original Chevy Chase Land Company subdivision, if (1) they were imposed prior to the 1938 enactment of the Zoning Act and (2) multi-family housing would otherwise be permitted on the lot under modern planning and zoning laws.

Should you have any questions about this legislation, please contact my Legislative Director, Steven A. Palmer, at [spalmer@dccouncil.gov](mailto:spalmer@dccouncil.gov) or (202) 724-8037.

Sincerely,



Matthew Frumin  
Councilmember for Ward 3

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<sup>3</sup> Office of Planning, *Chevy Chase Small Area Plan* (July 12, 2022), available at [https://planning.dc.gov/sites/default/files/dc/sites/op/page\\_content/attachments/2022.07.12\\_Final%20Chevy%20Chase%20SAP\\_web.pdf](https://planning.dc.gov/sites/default/files/dc/sites/op/page_content/attachments/2022.07.12_Final%20Chevy%20Chase%20SAP_web.pdf).

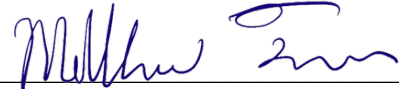
<sup>4</sup> See Chevy Chase Subdivision, County 21 folio 49 (1907).

<sup>5</sup> *Race Issue Plank for the Democrats*, NEW YORK TIMES (July 17, 1912), available at [https://timesmachine.nytimes.com/timesmachine/1912/06/17/100539175.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1912/06/17/100539175.pdf?pdf_redirect=true&ip=0).



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4 Chairman Phil Mendelson



Councilmember Matthew Frumin

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8 Councilmember Janeese Lewis George



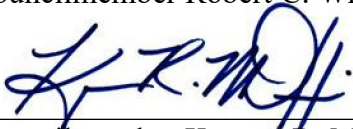
Councilmember Brianne K. Nadeau

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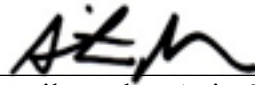
12 Councilmember Robert C. White, Jr.



Councilmember Zachary Parker

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16 Councilmember Kenyan R. McDuffie



Councilmember Anita Bonds



Councilmember Trayon White, Sr.

23  
24 A BILL

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29 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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34 To amend the Zoning Act to declare void, as contrary to public policy, antiquated covenants on  
35 properties in Squares 1864, 1865, 1866, and 1877 prohibiting apartment houses or  
36 buildings with multiple dwelling units when such units would otherwise be permitted  
37 under modern planning and zoning laws.

38  
39 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
40 act may be cited as the “Addressing Legacies of Housing Segregation in Chevy Chase  
41 Amendment Act of 2023”.

42           Sec. 2. An Act Providing for the zoning of the District of Columbia and the regulation of  
43 the location, height, bulk, and uses of buildings and other structures and of the uses of land in the  
44 District of Columbia, and for other purposes, effective June 20, 1938 (52 Stat. 797; D.C. Official  
45 Code § 6–641.01, *et sequiter*) (“Zoning Act”), is amended by adding two new sections (1a and  
46 1b) to read as follows:

47           “Sec. 1a. Findings.

48           “The Council finds that:

49                   “(1) Many properties in the Chevy Chase neighborhood are subject to antiquated  
50 covenants that were originally imposed with the goal of excluding residents based on race and  
51 class.

52                   “(2) The District faces a severe shortage of housing, including affordable housing.  
53 The need for more affordable housing is especially acute in the communities west of Rock Creek  
54 Park, known for planning purposes as the Rock Creek West Planning Area, which includes the  
55 Chevy Chase neighborhood. This acute need is the result of historical exclusionary practices,  
56 including the imposition of exclusionary covenants.

57                   “(3) Extensive planning and zoning processes in recent years, specifically the  
58 2021 Rock Creek West Roadmap and the 2022 Chevy Chase Small Area Plan, make clear that  
59 the District intends to allow for the creation of more affordable housing in Chevy Chase, with  
60 particular emphasis on the Chevy Chase Civic Core, where the District is considering plans to  
61 create a reimagined library and community center with affordable housing.

62                   “(4) In the years before the enactment of the Zoning Act in 1938, the Chevy  
63 Chase Land Company created a subdivision (now known as Squares 1864 through 1867) and  
64 imposed covenants on every lot in the subdivision that purport to prevent the creation of

65 apartment housing on the encumbered land. The subdivision includes real property that is  
66 planned to become the Chevy Chase Civic Core, known for tax and assessment purposes as Lot  
67 823 in Square 1866.

68 “(5) Although these covenants are likely unenforceable under existing law, their  
69 existence has created confusion about what may be built on the Civic Core lot and surrounding  
70 lots. This creates the potential for time-consuming litigation and attendant delays that may  
71 impede the District’s ability to build housing at the site in accordance with the District’s goals  
72 for affordable housing, even if the District pursues such a path after approval by Council, the  
73 Office of Planning, and the Zoning Commission.

74 “(6) In order to allow the District to achieve its goal of creating more affordable  
75 housing in Chevy Chase, and to clarify that planning and zoning are the main processes by which  
76 the District determines what can be built where, it is necessary to void any pre-Zoning Act  
77 covenants banning multi-family housing on any lots within the original Chevy Chase Land  
78 Company subdivision where the Comprehensive Plan and zoning would otherwise allow multi-  
79 family housing to be built.

80 “Sec. 1b. Chevy Chase Land Company subdivision covenants void.

81 “(a) Any covenant or deed restriction on any lot within the real property known for tax  
82 and assessment purposes as part of Squares 1864, 1865, 1866, and 1867 (as depicted on the  
83 subdivision plat recorded by the Chevy Chase Land Company on July 9, 1907, in the Land  
84 Records of the Surveyor of the District of Columbia at County Book 21, Folio 49) is declared  
85 void and unenforceable as contrary to the public policy of the District if the covenant or deed  
86 restriction:

87                   “(1) Was first executed, recorded, or otherwise imposed prior to the adoption of  
88 the Zoning Act; and

89                   “(2) Prohibits the encumbered property from hosting apartments, apartment  
90 houses, or multiple residential units that would otherwise be permissible under:

91                                 “(A) The Comprehensive Plan’s Future Land Use Map adopted pursuant  
92 to the District of Columbia Comprehensive Plan Act of 1985 (D.C. Law 5-76; D.C. Official  
93 Code §1-306.01, *et sequiter*); and

94                                 “(B) The regulations adopted under the Zoning Act.”.

95                   Sec. 3. Fiscal impact statement.

96                   The Council adopts the fiscal impact statement in the committee report as the fiscal  
97 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
98 approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a)

99                   Sec. 4. Effective date.

100                   This act shall take effect following approval by the Mayor (or in the event of veto by the  
101 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
102 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
103 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
104 Columbia Register.