



**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 Rock Creek West Amendment Act of 2023” along with 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 within the Rock Creek West Planning Area, 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.

In response to our city’s housing shortage, the District has set a goal 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, have exceeded their targets for 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 target affordable units. However, the remaining planning areas—Capitol Hill, Near Northwest, and Rock Creek West—lag far behind the others. 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 community-informed planning efforts throughout the Rock Creek West planning area, including the Connecticut Avenue Development Guidelines (forthcoming), Wisconsin Avenue Development Framework (forthcoming), and Chevy Chase Small Area Plan.<sup>3</sup> Approved by the Council in July 2022, a cornerstone of the Chevy Chase Small Area Plan is a new

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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)).

<sup>3</sup> See, e.g., 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).

and improved “Chevy Chase Civic Core” that would result in a modern library and community center, with the option to build much-needed affordable housing units on top. However, these plans may be impacted by the discovery of an early 1900s covenant on the deed to the property that would prohibit the creation of apartments on a portion of the Civic Core lot. Further research showed 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, advocated for the repeal of the Fifteenth Amendment, and called for a prohibition on any non-white immigrants coming to the United States.

These covenants run counter to the intent to foster a Ward 3 that is welcoming to all, provides access to affordable, diverse housing options, and meaningfully contributes to addressing the District’s housing shortage. The covenants discovered in Chevy Chase raise the prospect and concern that any projects being developed in comparably old neighborhoods in Rock Creek West may be at risk of impediments from exclusionary covenants that predate modern zoning. The uncertainty around such covenants could create the potential for time-consuming litigation and attendant delays that may impede the District’s ability to build much needed housing, even where consistent with plans approved 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 in the Rock Creek West Planning Area, 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>4</sup> See Chevy Chase Subdivision, County 21 folio 49 (1907).



1 *Brianne K. Nadeau*

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4 Councilmember Brianne K. Nadeau

*Matthew Frumin*

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7 Councilmember Matthew Frumin

8 *Zachary Parker*

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10 Councilmember Zachary Parker

*Janeese Lewis George*

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12 Councilmember Janeese Lewis George

*Anita Bonds*

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14 Councilmember Anita Bonds

*Robert C. White, Jr.*

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16 Councilmember Robert C. White, Jr.

*Trayon White*

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18 Councilmember Trayon White, Sr.

*Kenyan R. McDuffie*

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20 Councilmember Kenyan R. McDuffie

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22 A BILL

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25 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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30 To amend the Zoning Act to declare void, as contrary to public policy, antiquated covenants on  
31 properties in the Rock Creek West Planning Area prohibiting apartment houses or  
32 buildings with multiple units when such units would otherwise be permitted under  
33 modern zoning and planning laws.

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35 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
36 act may be cited as the “Addressing Legacies of Housing Segregation in Rock Creek West  
37 Amendment Act of 2023.”

38 Sec. 2. An Act Providing for the zoning of the District of Columbia and the regulation of  
39 the location, height, bulk, and uses of buildings and other structures and of the uses of land in the  
40 District of Columbia, and for other purposes, effective June 20, 1938 (52 Stat. 797; D.C. Official

41 Code § 6–641.01, *et sequiter*) (“Zoning Act”), is amended by adding two new sections (1a and  
42 1b) to read as follows:

43 “Sec. 1a. Findings.

44 “The Council finds that:

45 “(1) Many properties in the District are subject to antiquated covenants that were  
46 originally imposed with the goal of excluding residents based on race, class, ethnicity, and  
47 religion.

48 “(2) The District faces a severe shortage of housing, including affordable housing.  
49 The need for more affordable housing is especially acute in the communities west of Rock Creek  
50 Park, known for planning purposes as the Rock Creek West Planning Area. This acute need is  
51 the result of historical exclusionary practices, including the imposition of exclusionary  
52 covenants.

53 “(3) Extensive community-based planning processes in recent years make clear  
54 that the District intends to allow for the creation of more affordable housing in the Rock Creek  
55 West Planning Area.

56 “(4) The discovery of antiquated covenants can severely impede the creation of  
57 this much needed housing, as it has done at the site of the Chevy Chase Civic Core, where a  
58 covenant from over 100 years ago has created confusion about what may be built on the lot and  
59 surrounding lots. Although antiquated covenants like the one at the Chevy Chase Civic Core site  
60 may no longer be enforceable, the uncertainty they can create can inhibit the District’s ability to  
61 foster the development of additional housing, including affordable housing.

62 “(5) In order to allow the District to achieve its goal of creating more affordable  
63 housing in the Rock Creek West Planning Area, and to clarify that planning and zoning are the

64 main processes by which the District determines what can be built where, it is necessary to void  
65 any pre-Zoning Act covenants banning multi-family housing on any lots in the Rock Creek West  
66 Planning Area where the Comprehensive Plan and zoning would otherwise allow multi-family  
67 housing to be built.

68 “Sec. 1b. Antiquated covenants in Rock Creek West declared void.

69 “(a) A covenant or deed restriction is declared to be void and unenforceable as contrary  
70 to the public policy of the District, if the covenant or deed restriction:

71 “(1) Encumbers any property within the Rock Creek West Planning Area, as  
72 defined in the District of Columbia Comprehensive Plan Act of 1984 (D.C. Law 5-76, D.C.  
73 Official Code §1–306.01, *et sequiter*);

74 “(2) Was first executed, recorded, or otherwise imposed prior to the adoption of  
75 the Zoning Act; and

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

78 “(A) The Comprehensive Plan’s Future Land Use Map adopted pursuant  
79 to the District of Columbia Comprehensive Plan Act of 1984 (D.C. Law 5-76, D.C. Official  
80 Code §1–306.01, *et sequiter*); and

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

82 Sec. 3. Fiscal impact statement.

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

86 Sec. 4. Effective date.

87           This act shall take effect following approval by the Mayor (or in the event of veto by the  
88 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
89 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
90 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
91 Columbia Register.