

**MEMORANDUM**

TO: Zoning Commission for the District of Columbia
FROM: Jennifer Steingasser, *JS* Deputy Director for Development Review & Historic Preservation
DATE: June 22, 2010
SUBJECT: Consent Agenda Request for Technical Correction to clarify height-related provisions of §2604.1 of 11 DCMR Chapter 26 – Inclusionary Zoning
ZC 04-33

I. RECOMMENDATION

The Office of Planning (OP) recommends that the Zoning Commission place this item on the consent agenda (11 DCMR § 3030) and adopt the following as a technical correction to clarify the height limits for projects utilizing the Inclusionary Zoning bonus density. The clarified language has been coordinated with both the Office of Attorney General and the Zoning Administrator. Deletions are ~~struck through~~ and additions are in bold underline:

- 2604.1 Inclusionary developments subject to the provisions of this Chapter may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right ("bonus density"), subject to all other zoning requirements (as ~~may be modified~~ in Chapters 11 through 16, and 19, and in §§ 2604.2 and 2604.3. herein) and the limitations established by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code § 6-601.01, et seq. (2001 Ed.))

II. INTENTION OF AND IMPETUS FOR PROPOSED AMENDMENT

The Zoning Administrator has been presented with a request to interrupt the IZ regulations such that an R-5-B zoned property utilizing the IZ bonus maybe permitted to be as tall as permitted only under the Height Act.

To avoid any misunderstanding of this issue, the Office of Planning, after consultation with the Zoning Administrator and the Office of Attorney General, proposes the amendment to clarify that:

- The maximum height an inclusionary zoning project may achieve is *not* automatically the maximum permitted for the property by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (1910 Height Act),

but rather is

- The greater of the Title 11 height limits listed for the property's zone in § 400.1, 530.1, 630.1, 770.1, or 930.1, as those limits are modified by the zoning overlay provisions on Chapters 11 – 16, 18, or 19 and by the Inclusionary Zoning provisions of §2604.2.

The Zoning Commission established the additional building envelope allowances to accommodate the IZ bonus density in Case No. 04-33. For each zone district, the IZ height permission was established as either the existing matter-of-right or additional height as set forth in § 2604.2.

ZONING COMMISSION
District of Columbia

04-33

ZONING COMMISSION

District of Columbia
CASE NO.04-33
EXHIBIT NO.231

OP has searched the transcripts of the eleven meetings in which the IZ proposals were presented to, or deliberated by, the Zoning Commission¹. The transcripts reveal no indication that either OP or the Zoning Commission intended the height permissions for all IZ projects to be those established by the Height Act, as opposed to the lesser heights established for each zone district, including § 2604 2's table. The proposed amendments are intended to remove any ambiguity about this.

The proposed amendments would also simplify the Section by removing the redundant reference to the 1910 Height Act. 11DCMR § 2510 1 already dictates that "In addition to any controls in this title, all buildings or other structures shall comply with" [the 1910 Height Act]. The reference in § 2604 1 is unnecessary.

JS/slc

S Cochran, project manager

¹ May 9, 2005, July 25, 2005, July 28, 2005, August 1, 2005, September 26, 2005; October 5, 2006; November 10, 2005; November 22, 2005; February 9, 2006, May 18, 2006, May 14, 2007