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Office of the Director

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: *HSFV*
Harriet Tregoning

DATE: January 29, 2007

SUBJECT: Notice of Proposed Rule Making - Zoning Commission Case 04-33^A Inclusionary Zoning

ZONING COMMISSION
District of Columbia

CASE NO. 04-33 A

EXHIBIT NO. 89

The memo provides the Office of Planning's (OP) written comment on the Propose Rule Making issued by the District of Columbia Zoning Commission (the Commission) and published in the District of Columbia Municipal Register on December 29, 2006 to specify the locations where the requirements and incentives of Chapter 26, Inclusionary Zoning ("IZ"), will apply

Background

The proposed rulemaking covers the Zoning Commission decisions on where Inclusionary Zoning should apply in the District. On December 12, 2006 the Commission voted to approve the application of Inclusionary Zoning requirements by appropriate zone districts with certain exclusions

The proposed text would apply the IZ requirements to all Residence Districts zoned R-3 through R-5-D, all Commercial Districts zoned C-1 through C-3-C, all Waterfront Districts zoned W-1 through W-3; all properties zoned Mixed Use (CR) or Special Purpose (SP), and all overlay districts, except the Downtown Development and Southeast Federal Center Overlay Districts. Also exempted from compliance are properties located in the existing five Transferable Development Rights Receiving Zones, the W-2 zoned portions of the Georgetown Historic District, the R-3 zoned properties of the Anacostia Historic District, or the C-2-A portion of the Naval Observatory Precinct District.

Inclusionary Zoning requires the mandatory provision of affordable units in every new construction residential development project of 10 units or more. It does not apply to rehabilitation projects unless the 10 units also result in the expansion of an existing building by more than 50%. IZ requires a minimum of 10% of the matter of right development in the case of stick built construction, or 8% of the matter of right in the case of steel/concrete construction, be affordable to households earning less than 50% and 80% of the Area Median Income (AMI). IZ offers a 20% bonus increase in FAR to balance the affordability requirements. If 16% or more of the 20% bonus density is achieved the affordability

requirement becomes the greater of the minimum required, or 75% of the bonus for wood frame construction and 50% of the bonus achieved for steel and concrete construction.

IZ Application in the Reed-Cooke Overlay

Inclusionary Zoning interacts with the many overlays of the Zoning Regulations in different ways OP's recommendation to the Zoning Commission regarding IZ and overlays depended on whether the overlay was more or less restrictive than the matter of right development of the base zone. OP essentially recommended that the IZ bonuses would be added to the more restrictive whether that is the overlay or the base zone. OP will be introducing to the Zoning Commission a comprehensive package with language to individually amend the overlays where IZ is required

OP met with ANC-1C who had expressed concern about the deletions to the Reed-Cooke Overlay and after reviewing the Proposed Rule making, OP believes it is premature to delete so much of the Reed-Cooke Overlay (see below).

Advertised Text

- 1402 1 The maximum height permitted in the RC Overlay District shall not exceed forty feet (40 ft) plus roof structure as defined in this title, ~~provided, that in the RC/C-2-B Overlay District, the Board of Zoning Adjustment may approve a maximum height of fifty feet (50 ft) with appropriate setbacks from the street, plus roof structures, subject to determination by the Board that the project will provide for the on-site construction or substantial rehabilitation of low and moderate income household units, as defined by the regulations of the D.C Department of Housing and Community Development, of a total gross floor area equal to fifty percent (50%) of the additional gross floor area made possible by this exception.~~

OP recommends the following with only minor additions in bold print.

- 1402 1 The maximum height permitted in the RC Overlay District shall not exceed forty feet (40 ft) plus roof structure as defined in this title; provided, that in the RC/C-2-B Overlay District, ~~the Board of Zoning Adjustment may approve a maximum height of fifty feet (50 ft.) with appropriate setbacks from the street, plus roof structures, subject to determination by the Board that the project will be permitted, to provide for the on-site construction or substantial rehabilitation of low and moderate income household units, as defined by the Inclusionary Zoning regulations of Chapter 26 the D.C Department of Housing and Community Development, of for a total gross floor area equal to fifty percent (50%) of the additional gross floor area made possible by the height bonus by this exception~~

This language would be almost functionally equivalent to the proposed IZ regulations which require 50% of the bonus FAR. Projects would still be subject to the minimum requirement.

Notice of Proposed Rule Making Inclusionary Zoning Mapping
January 29, 2007

This language solves one of the problems with the Reed-Cooke Overlay and the IZ regulations. Unlike most overlays, the Reed-Cooke reduced height to 40 feet, but does not set a new maximum FAR permitted in the C-2-B. Theoretically a project would be permitted the 3.5 FAR in the C-2-B. However, this is virtually impossible in 50 feet, much less a 40 foot height limit. A 20% bonus to the 3.5 FAR would be equally unachievable. Tying the requirement to 50% of the bonus used over 40 feet per the Reed-Cooke overlay becomes virtually identical to the 50% of the 20% FAR bonus per the IZ regulations.

The only issue is typical construction up to 50 feet is normally frame construction. Per the IZ regulations this would require that 75% of the bonus be affordable to the target incomes. OP will revisit the Reed-Cooke Overlay when it provides its comprehensive set of recommendations for each individual overlay this spring.