



MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: ^{JLS}_{for} Eric Shaw, Director

DATE: June 10, 2016

SUBJECT: ZC 04-33G Text Amendment to the Zoning Regulations: Inclusionary Zoning Supplemental Report

At its June 2, 2016 meeting, the Commission requested that OP provide a worksheet of decision points for their deliberation. The worksheet provides each decision point, a brief summary of the alternatives for each amendment and the source. Upon the Commission taking proposed action, OP will work with the Office of Attorney General (OAG) to prepare final language.

1. Shift Targeted Median Family Income (MFI):

Options:

- a. OP Final Recommendation 1A (amended §2603.3): Expand the requirement to split IZ units between 50% and 80% MFI to C-2-B, C-2-B-1, C-3-A, W-2, SP-1 zone districts;
- b. OP Set Down Option 1B §2603.3: Shift current targets to 60% MFI for rental IZ developments and 80% MFI for Ownership IZ Developments;
- c. Petitioner: Shift current targets to 50% MFI for rental IZ developments and 70% MFI for Ownership IZ Developments (Petitioner);
- d. Retain all current targets.

2. Change Percent IZ Square Footage Requirement:

Options:

- a. OP Final Recommendation (§ TBD): In expanded zones of OP's recommendation 1.a. listed above, keep the 8% of residential square footage requirement, but eliminate the IZ requirement connected to 50% of the bonus density achieved;
- b. OP Set Down Recommendation: In expanded zones of OP's recommendation 1.a. listed above, keep both the 8% of residential square footage requirement, and the 50% of the bonus density achieved requirement;
- c. Petitioner:
 - i. Change percent of square feet required to 12% for most zone districts (Petitioner); and
 - ii. Change percent of square feet required in the St Elizabeth's (StE) from 8% to 10%;
- d. Retain current percent of square feet required.

3. Expand IZ Requirements to Currently Exempted Zone Districts:

Options:

- a. OP Final Recommendation: Retain current exempt zone districts, except for Hill East. OP notes that the HE set-aside and MFI recommendations did not make it into the final report or public hearing advertisement and OP submitted new text (04-33H) to exempt sites, such as portions of Hill East, from the IZ requirements when they are subject to greater affordability requirements as a result of District law.
- b. Petitioner: Expand IZ requirements to Downtown Development District (DD) and Southeast Federal Center (SEFC).

4. Increase Bonus Density

Options:

- a. OP Final Recommendation §2604: Retain current percent of bonus density permitted;
- b. Petitioner: Increase bonus density to 22% above matter of right Floor Area Ratio (FAR).

5. Change Flexibility in Permitted Building Envelope

Options:

- a. OP Final Recommendation (amended §2604.2): Increase the permitted height by 10 feet in the C-2-C and C-3-C zone districts and reduce permitted lot occupancy in the C-2-C to 80%; and/or
- b. OP Set Down Recommendation: Increase the permitted height by 10 feet in the C-2-C and reduce permitted lot occupancy to 80%; and/or
- c. Petitioner:
 - i. Relieve IZ developments of all lot occupancy restrictions in zones greater than R-4 and increase permitted height by 10 feet in zones listed in § 2604.2; and
 - ii. Decrease minimum permitted lot width by special exception to 30 feet in R-2 for detached dwellings, 23 feet in R-2 for attached dwellings, and 15 feet in the R-3 and R-4 (Petitioner).
- d. Retain all current height and lot occupancy requirements.

6. Permit Voluntary Compliance

Options:

- a. OP Final Recommendation (new §2602.1(d)): Permit a residential development of fewer than 10 units, that does not trigger the IZ requirement, to participate and have access to the bonus density, provided they set aside a minimum of one unit and meet all other requirements of the chapter. Properties within the specifically exempted zone districts listed in 2602.3(e) may not use bonus density or permitted modifications to height or lot occupancy.

- b. Retain current applicability that does not permit voluntary compliance.

7. Reduce Square Footage Required When Set Aside for Lower Household Incomes

Options:

- a. OP Final Recommendation (new §2603.11): Reduce the requirement for 80% MFI units by 20% provided the remaining units are targeted to households at 50% MFI;
- b. OP Set Down Recommendation: Reduce the requirement for 80% MFI units by 20% provided the remaining units are targeted to households at 60% MFI; or

8. Expand the Mayor's Right to Purchase

Options:

- a. OP Final Recommendation (amended §2603.5): Expand the Mayor's right to purchase a minimum of one unit and up to any number of IZ units agreed upon by the developer;
- b. Petitioner: Clarify the Mayor has the right to lease units purchased pursuant to this section;
- c. Retain current language.

9. Permit Greater Off-site Flexibility as Matter of Right

Options:

- a. OP Final Recommendation (new §2607.1): Add language to permit matter of right off site provision of IZ units provided:
 - i. They are within one-half mile of the on-site location; and
 - ii. Square footage moved off-site is increased by 20%; and
 - iii. The units moved to the off-site location are not counted toward the off-sites location own IZ requirement; and
- b. OP Final Recommendation (amended §2607.2): Clarify that off-site IZ units approved by the BZA must be located in the District of Columbia; and
- c. OP Final Recommendation (amended §2607.5): Clarify that any off-site compliance requires a covenant before the on-site requirement is relieved;
- d. Do not add proposed amendment and retain requirement that all off-site provision must go to the Board of Zoning Adjustment.

10. Create Flexibility When Other Costs of an IZ Unit Threaten Affordability

Options:

- a. OP Final Recommendation (new §§ 2606.3 and 2601.1):
 - i. Add language that permits an IZ unit to be sold to a higher income eligible household at the same control price, or at market provided the net proceeds above

the control price are deposited to the Housing Production Trust Fund (HPTF). Do not charge the household a Zoning Commission application fee; and

- ii. Add definition of Maximum Resale Price (MRP) to establish fee to the HPTF;
- b. Do not add proposed amendment.

11. Clarify Steel and Concrete Frame Construction

Options:

- a. OP Final Recommendation (amended §§2603.1 – 2603.2) :
 - i. Define steel and concrete construction used to permit the reduction of IZ requirements to the greater of 8% of the residential use or 50% of the bonus density as “Type 1 as defined by the DC Building Code”; and
 - ii. Clarify the development standard is “to construct a majority of the dwelling units.”
- b. Retain current use of the term “Steel and concrete construction;”

12. Clarify IZ Requirements Applicability to Additions and to Existing Residential Square Footage

Options:

- a. OP Final Recommendation (amended §2602.1(b)): Clarify that IZ requirements apply to all new construction, including additions, of 10 units or more; and
- b. OP Final Recommendation (amended §2602.1(c)): Clarify that IZ requirements apply to existing residential use when an addition of 10 units or more represents and an expansion of 50% or more; and
- c. OP Final Recommendation (new §2605.7): Permits the IZ units to be concentrated in the new construction when existing units are occupied at the time building permits are filed; or
- d. Retain current applicability.

13. Clarify IZ Requirements Calculation Include Cellar Space and Projections in Public Space

Options:

- a. OP Final Recommendation (new §2603.8): Include residential square footage located in cellar space and projections in to public spaces for the purposes of calculating the minimum IZ requirement;
- b. Retain current references.

14. Clarify IZ Requirements Applicability to Adjoining Lots

Options:

- a. OP Final Recommendation (amended §2602.1(b)): Clarify that IZ requirements apply to building permits filed for all types of dwelling units on adjoining lots “under common ownership, control or affiliation” when building permits filed within one year of each other total 10 or more units;
- b. Retain current applicability which only applies IZ requirements to building permits filed for one-family, row, or flats on adjoining lots under “common ownership” when building permits filed within one year of each other total 10 or more units.

15. Eliminate use of Certificate of Occupancy (CofO) as IZ Trigger

Options:

- a. OP Final Recommendation (amended §2602.2): Tie IZ requirements to building permits filed within a three year period;
- b. Retain current applicability that uses CofO’s within a two year period

16. Exempt Subsidized Affordable Projects

Options:

- a. OP Final Recommendation (amended §2602.7): Establish a minimum threshold for exemption from IZ for subsidized affordable housing development to a minimum target income standard of 80 percent of the MFI;
- b. Retain current language.

17. Treat Variances that Increase FAR as Bonus Density

Options:

- a. OP Final Recommendation (new §2604.4): Treat increases in FAR as a result of variances granted by the BZA as bonus density for the purposes of calculating the maximum IZ requirement;
- b. Retain current language.

18. Clarify How IZ Units May Not be Concentrated

Options:

- a. OP Final Recommendation (amended §2605.6): Add amendment that in addition to concentration by floor, IZ units may not be concentrated by the tenure, or dwelling types of an Inclusionary Development;

- b. Retain current language, which only specifies no concentration on any floor.

19. Clarify the Quality of Interior Amenities

Options:

- a. OP Final Recommendation (amended §2605.4): clarify that interior amenities may be of less expensive materials and equipment so long as the interior amenities are durable, of good quality, and consistent with contemporary standards for new housing;
- b. Retain current language.

20. Clarify and Update Definitions

Options:

- a. OP Final Recommendation (new §2601.1):
 - i. Add a definition of bedroom to clarify zoning distribution requirements of §2605.2 and conformity with Administrative Regulations regarding occupancy and pricing; and
 - ii. Update Area Median Income (AMI) to Median Family Income (MFI); or
- b. Retain current references.

21. Eliminate References to R-5-E

Options:

- a. OP Final Recommendation (various sections): Eliminate reference to the R-5-E in various sections because IZ is not applicable to the R-5-E zone district;
- b. Retain current references.

22. Effective Date

Options:

- a. OP Final Recommendation: Establish an effective date for the amendments of six months from the date of the Zoning Commission published order;
- b. Establish an effective date of the Zoning Commission's choice.