| **Zoning Regulation** | **Compliance or Flexibility Requested** |
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| Section 2600.3: The most important general purposes of the Inclusionary Zoning Program include the following:<br><br>(a) To utilize the skills and abilities of private developers to produce quality affordable housing;<br><br>(b) To leverage private development, combined where appropriate with zoning density increases, to produce affordable housing throughout the District of Columbia;<br><br>(c) To mitigate the impact of market-rate residential development on the availability and cost of housing available and affordable to low- and moderate-income households;<br><br>(d) To increase the production of affordable housing units throughout the District to meet existing and anticipated housing and employment needs;<br><br>(e) To provide for a full range of housing choices throughout the District for households of all incomes, sizes, and age ranges to preserve diversity and to ensure the benefits of economic integration for the residents of the District;<br><br>(f) To stabilize the overall burden of housing costs on low- and moderate-income households;<br><br>(g) To create a stock of housing that will be affordable to low- and moderate-income residents over a long term; and<br><br>(h) To make homeownership opportunities available to low- and moderate-income residents. | The Applicant **complies** with the purposes of the Inclusionary Zoning ("IZ") program listed in section 2600.3 by leveraging private development to produce quality affordable housing in the District. In compliance with this section, the Applicant will provide approximately 21,494 net square feet of affordable dwelling units (approximately 26 units). Approximately 7,747 net square feet (approximately 13 units) will be located on the PUD site and will be set aside for households earning up to 80% of the area medium income ("AMI"). Approximately 13,747 net square feet (approximately 13 units) will be located off-site and will be set aside for sale to households earning an average of 50% of the AMI. Of the off-site units, approximately 7,747 net square feet (approximately seven units) will be located within ANC 5D and approximately 6,000 net square feet (approximately six units) will be located within Ward 5 with a priority area of ANC-5D. Consistent with section 2600.3, the Applicant will increase the production of affordable housing in the District; provide a full range of housing choices (multiple-dwelling units and row dwellings) to satisfy the demand for households of a variety of incomes and sizes; and create a stock of housing that will be affordable to low- and moderate-income residents over a long term. The Applicant will also make homeownership opportunities available to low income residents through the development of approximately 13 for-sale homes for sale to households earning an average of 50% of the AMI. Under the normal IZ program, the Applicant would be required to provide approximately 15,493 square feet of IZ housing on the site, all devoted to moderate-income households earning up to 80% of the AMI. |

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| 2603.2 An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-B-1, C-2-C, C-3, CR, R-5-C, R-5-D, SP, USN, W-2, or W-3 Zone District shall devote the greater of eight percent (8%) of the gross floor area being devoted to residential use or fifty percent (50%) of the bonus density utilized for inclusionary units. | The Applicant **exceeds** the requirements of section 2603.2. The Applicant proposes to provide approximately 21,494 net square feet of affordable dwelling units (11% of the residential square footage of the PUD). The proposed approximately 21,494 net square feet set aside for ADUs is 38% greater than the approximately 15,493 net square feet that would otherwise be required under the Zoning Regulations. Approximately 7,747 net square feet (approximately 13 units) will be located on the PUD site and will be set aside for households earning up to 80% of the AMI. Approximately 13,747 net square feet (approximately 13 units) will be located off-site and will be set aside for households earning an average of 50% of the AMI. This affordable housing proffer significantly exceeds the IZ requirements for the C-3-C District, which require 8% of the residential square footage (approximately 15,493 net square feet) to be devoted to households earning up to 80% of the AMI. |
| 2603.4 Developments located in CR, C-2-B through C-3-C, USN, W-2 through W-3, and SP Zone Districts shall set aside one hundred percent (100%) of inclusionary units for eligible moderate-income households. | The Applicant **exceeds** the requirements of section 2603.4. Approximately 13,747 net square feet (64% of the total ADU square footage) will be dedicated to low-income households earning an average of 50% of the AMI. This proffer will create truly affordable housing with homeownership opportunities for low income households, while also providing on-site units set aside for eligible moderate-income households. |
| 2605.2 The proportion of studio, efficiency, and one-bedroom inclusionary units to all inclusionary units shall not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units. | The Applicant **complies** with the requirements of section 2605.2 with respect to the on-site units and the off-site units. |

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| 2605.3 All inclusionary units shall be comparable in exterior design, materials, and finishes to the market-rate units. | The Applicant **complies** with the requirements of section 2605.3 with respect to the on-site units. However, the off-site units will include a variety of designs, materials, and finishes to reflect the character of the neighborhood in which they will be located. |
| 2605.4 The interior amenities of inclusionary units (such as finishes and appliances) shall be comparable to the market-rate units, but may be comprised of less expensive materials and equipment. | The Applicant **complies** with the requirements of section 2605.4 with respect to the on-site units. However, the off-site units will include materials and equipment typical for a range of off-site homes including, for example, row dwellings, single family homes, and smaller multi-family dwellings. |
| 2605.5 All inclusionary units in an inclusionary development shall be constructed prior to or concurrently with the construction of market-rate units, except that in a phased development, the inclusionary units shall be constructed at a pace that is proportional with the construction of the market-rate units. | The Applicant requests **flexibility** from section 2605.5 since 13,747 square feet of affordable housing (approximately 13 units) will be located off-site. The off-site units will be completed and available for occupancy prior to issuance of a Certificate of Occupancy for the PUD. Any off-site ADUs that are undeveloped prior to the issuance of the Certificate of Occupancy for the building will revert as follows: the first five units undeveloped off-site would revert back on-site for households earning up to 50% AMI, and any additional units thereafter would revert back on-site for households earning up to 80% AMI. All on-site ADUs shall collectively be proportionate in size and unit type to the overall unit mix of the on-site development. In the worst case scenario where no off-site units are developed, the on-site ADU component would consist of 8% of the residential square footage of the building (approximately 15,493 net square feet, or 26 units) with 20% of the ADUs for households earning up to 50% of the AMI, and 80% of the ADUs for households earning up to 80% of the AMI. *See* Case No. 15-01, Exhibit 16. |

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| 2605.6 Inclusionary units shall not be overly concentrated on any floor of a project. | The Applicant **complies** with the requirements of section 2605.6. |
| 2607.1 The Board of Zoning Adjustment is authorized to permit some or all of the set-aside requirements of § 2603 to be constructed off-site upon proof, based upon a specific economic analysis, that compliance on-site would impose an economic hardship. Among the factors that may be considered by the BZA in determining the existence of economic hardship are:<br><br>(a) Exceptionally high fees in condominium developments that cannot be reduced to levels affordable to eligible households;<br><br>(b) The inclusion of expensive and specialized social or health services in a retirement housing development or a development that principally provides housing for the disabled, if such services are not severable from the provision of housing and render units in the development unaffordable to eligible households; or<br><br>(c) For a rental development the owner of which wishes to change the property's use to one listed in § 2602.3, proof that continuation of the rental use is no longer economically feasible. | The Applicant requests **flexibility** from section 2607.1 to provide 13,747 square feet of off-site affordable housing (approximately 13 units). Of the off-site units, approximately 7,747 net square feet (7 units) will be located within ANC 5D and approximately 6,000 net square feet (approximately six units) will be located within Ward 5 with a priority area of ANC 5D. The approximately seven units located within ANC 5D will maintain affordability in accordance with the IZ requirements of Chapter 26 of the Zoning Regulations. The approximately six units located within Ward 5 with a priority area of ANC 5D will be maintained in accordance with DC Habitat covenants in lieu of the IZ requirements of Chapter 26. This provision will allow for the development of more and larger affordable units and at a steeper subsidy than would otherwise be possible if provided on-site, to create truly affordable family housing with homeownership opportunities for low-income households. |
| 2607.2 An applicant who has demonstrated the existence of economic hardship shall further demonstrate that the off-site development:<br><br>(a) Is located within the same census tract as the inclusionary development;<br><br>(b) Consists of new construction for which no certificate of occupancy has been issued;<br><br>(c) Is at a location suitable for residential development; | The Applicant requests **flexibility** from section 2607.2(a) because the off-site ADUs are not limited to locations within the same census tract as the PUD. The PUD is located in census tract 88.03. Approximately seven of the off-site ADUs will be located in ANC 5D and the other approximately six ADUs will be located within the boundaries of Ward 5, with a priority area of ANC 5D. ANC 5D and Ward 5 both have larger boundaries than the census tract, yet the entirety of the census tract is located within the larger boundaries of ANC-5D and Ward 5. |

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| (d) Has complied with or will comply with all on-site requirements of this Chapter as are applicable to it;<br><br>(e) Has not received any development subsidies from federal or District government programs established to provide affordable housing;<br><br>(f) Will provide inclusionary units comparable in type to the market-rate units being created in their place, with gross floor areas of not less than 95% of the gross floor area of such market-rate units, and of a number no fewer than the number of units that would otherwise have been required on-site;<br><br>(g) Will not have more than 30% of its gross floor area occupied by inclusionary units that satisfy the set-aside requirement of other properties, including the property that is the subject of the BZA application; and<br><br>(h) Has not utilized bonus density beyond that provided by § 2604.1. | The Applicant requests **flexibility** from section 2607.2(b) in order to have the ability to provide either new construction or to renovate an existing vacant building for the provision of the off-site affordable units.<br><br>The Applicant **complies** with section 2607.2(c).<br><br>The Applicant requests **flexibility** from section 2607.2(d) because it is requesting flexibility to provide approximately 13 off-site ADUs (64% of the total ADU square footage) and approximately 13 on-site ADUs. As described above, this proposal results in more and larger affordable units that can be marketed at a steeper subsidy level for District families.<br><br>The Applicant **complies** with section 2607.2(e).<br><br>The Applicant requests **flexibility** from sections 2607.2(f) and (g) because the on-site units (market-rate and affordable) will be multiple-dwelling units while the off-site ADUs will be row dwellings and potentially multiple-dwelling units. As a result of the off-site units being significantly larger than the on-site units (average size of approximately 1,057 net square feet and an average of approximately 2.5 bedrooms), the Applicant will be able to provide much-needed affordable housing to District families.<br><br>The Applicant **complies** with section 2607.2(h). |
| 2607.3 The requirement of § 2607.2 (a) may be waived upon a showing that the off-site development is owned by the Applicant, is located in the District of Columbia, and meets the requirements of § 2607.2. | The Applicant requests **flexibility** from section 2607.3 because the off-site ADUs will not be owned by the Applicant. However, the off-site units will be located in the District of Columbia. |

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| 2607.4 Inclusionary units constructed off-site shall not be counted toward any set-aside requirement separately applicable to the off-site development pursuant to § 2603. | The Applicant will **comply** with section 2607.4 because it proposes to provide approximately 13,747 net square feet (13 units) off site, devoted to households earning up to 50% of the AMI. None of these off-site units will be counted towards any separate set-aside requirement separately applicable to the off-site development. The Applicant notes that of the off-site ADUs, approximately seven units will be subject to the IZ covenant required pursuant to the IZ regulations, and the remaining approximately six units will be subject to the covenant(s) required by DC Habitat. |
| 2607.5 No order granting off-site compliance shall become effective until a covenant, found legally sufficient by the Office of the Attorney General, has been recorded in the land records of the District of Columbia between the owner of the off-site development and the Mayor. A draft covenant, executed by the owner of the offsite property, shall be attached to an application for relief under this section. | The Applicant will **comply** with section 2607.5. The Applicant understands that an order granting off-site compliance will not become effective until a covenant is recorded in the land records that is found legally sufficient by the Office of the Attorney General and is compliant with the Zoning Regulations and the Department of Housing and Community Development ("DHCD") Regulations. The Applicant notes that of the off-site ADUs, approximately seven units will be subject to the IZ covenant required pursuant to the IZ regulations, and the remaining approximately six units will be subject to the covenant(s) required by DC Habitat. |
| 2607.6 The covenant shall bind the owner and all future owners of the off-site development to:<br><br>(a) Construct and reserve the number of inclusionary units allowed to be accounted for off-site, in accordance with the plans approved by the Board and the conditions of the Board's order;<br><br>(b) Sell or rent, as applicable, such units in accordance with the provisions of this Chapter and the Act for so long as the off-site development remains in existence; | The Applicant will **comply** with section 2607.6 by recording a covenant that is consistent with the provisions listed in sections 2607.6(a)-(d). Section 2607.6(e) is not applicable. The Applicant notes that of the off-site ADUs, approximately seven units will be subject to the IZ covenant required pursuant to the IZ regulations, and the remaining approximately six units will be subject to the covenant(s) required by DC Habitat. |



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| (c) Neither apply for nor accept any development subsidies from federal or District government programs established to provide affordable housing;<br><br>(d) Acknowledge that the owners are legally responsible for the set-aside requirement accepted as if the requirement had been imposed directly on the off-site development; and<br><br>(e) Not request special exception or variance relief with respect to the obligations accepted or its own obligations under this Chapter. | |
| 2607.7 Upon the recordation of the covenant, the set-aside requirements permitted to be accounted off-site shall be deemed to be the legal obligation of the current and future owners of the off-site development. All dwelling units as are required to be reserved in the off-site development in accordance with the BZA order shall be deemed inclusionary units for the purposes of this Chapter and the Act. | The Applicant requests **flexibility** from section 2607.7. Of the approximately 13 off-site ADUs, approximately seven ADUs (approximately 7,747 square feet) will be located in ANC 5D and will maintain affordability in accordance with the Inclusionary Zoning requirements of Chapter 26 of the Zoning Regulations and will be compliant with 2607.7. Approximately six of the off-site ADUs (approximately 6,000 square feet) will be located in Ward 5 with a priority area of ANC 5D. The Applicant is requesting flexibility to maintain these approximately six units in accordance with the DC Habitat covenants in lieu of the covenant required pursuant to the IZ requirements of Chapter 26 of the Zoning Regulations. |
| 2607.8 No application for a certificate of occupancy for a market-rate unit on the inclusionary development shall be granted unless construction of the off-site inclusionary units is progressing at a rate roughly proportional to the construction of the on-site market-rate units. | The Applicant requests **flexibility** from section 2607.8. Prior to the issuance of a Certificate of Occupancy for the PUD, the Applicant will contribute $1.4 million to DC Habitat to co-develop approximately 13,747 net square feet of ADUs (approximately 13 units), set aside for-sale to households earning an average of 50% of the AMI. As described above, any off-site ADUs that are undeveloped prior to the issuance of the Certificate of Occupancy for the building will revert as follows: the first five units undeveloped off-site would revert back on-site |

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| | for households earning up to 50% AMI, and any additional units thereafter would revert back on-site for households earning up to 80% AMI. All on-site ADUs shall collectively be proportionate in size and unit type to the overall unit mix of the on-site development. In the worst case scenario where no off-site units are developed, the on-site ADU component would consist of 8% of the residential square footage of the building (approximately 15,493 net square feet, or 26 units) with 20% of the ADUs for households earning up to 50% of the AMI, and 80% of the ADUs for households earning up to 80% of the AMI. *See* Z.C. Case No. 15-01, Exhibit 16. |