



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT



July 22, 2016

The Honorable Anthony J. Hood  
Chairman, Zoning Commission  
D.C. Office of Zoning  
441 4th Street, N.W., Suite 200S  
Washington, D.C. 20001

Dear Chairman Hood:

The Department of Housing and Community Development (DHCD) respectfully requests the Commission reopen the record for Zoning Commission Case 15-15 and accept this letter into that record.

Director Shaw of the Office of Planning shared draft order for ZC Case No. 15-15 submitted for a proposed Planned Unit Development (PUD) by The JBG/Boundary 1500 Harry Thomas Way, L.L.C. and JBG/Boundary Eckington Place, L.L.C. (collectively Applicant) to be located at 1500 Harry Thomas Way, NE. The draft decision indicates that the Zoning Commission granted preliminary conditional approval for a requested waiver from the Inclusionary Zoning (IZ) requirements of Title 11, Chapter 26 of the *District of Columbia Municipal Regulations*, as amended (Regulations). The Applicant requests permission to provide the minimum amount of affordable housing as required by the IZ program, but at a deeper affordability level than stipulated by the program. The Applicant proposes devoting all eight percent (8%) of the affordable housing square footage to households up to sixty percent (60%) of Area Median Income (AMI). IZ currently requires that—for projects of this proposed size and construction type—the affordable housing be devoted to households up to eighty percent (80%) of AMI.

The Department of Housing and Community Development (DHCD) administers the IZ program under the IZ statute and the Regulations. DHCD's administration of the IZ program aligns with Mayor Bowser's vision and commitment to creating pathways to the middle class, by promoting housing and economic opportunities for District residents. DHCD's administration of the IZ program is a cornerstone of a broader, District-wide affordable housing strategy including producing, preserving, and protecting affordable housing, and increasing homeownership opportunities for low- and moderate-income households.

DHCD's position is that the Applicant's requested waiver will not serve the District's interests and will diminish the efficacy of the IZ program because:

- projects with varying affordability levels and lease-up/sales processes complicate DHCD's monitoring efforts and undercut the District's comprehensive housing planning policies and strategy;

- permitting some developers to circumvent IZ administrative requirements will induce other developers to adopt a similar strategy, and if an IZ waiver is granted for one party based on factors not expressly stated in the IZ regulatory exemptions, then the District will be obligated to accommodate waivers for all developers; and
- developers must be given a consistent message across District agencies and commissions that projects not involving government subsidies, land write-downs, other statutorily-required affordable housing requirements, or voluntary IZ affordability must plan, calibrate, and comply with IZ.

We understand that on July 20, 2016, the Commission approved proposed action on ZC 04-33G Text Amendment to the Zoning Regulations. Among the approved initiatives was the modification of targeted AMI levels to 60% of AMI for rental IZ developments and 80% of AMI for ownership IZ developments. We expect that the Regulations will be revised, promulgated, and implemented.

Although the revisions to the Regulations are anticipated and the future outcome is that the same affordability levels as proposed by the Applicant will be effected, DHCD must view the Applicant's proposal in present terms. At this time, the project is subject to the current versions of the IZ statute and Regulations which stipulate an 80% of AMI affordability level for the project. The proposed Regulations have yet to be drafted, undergo notice and comment, and final enactment. Moreover, the proposed changes may require legislative amendments to ratify the modified affordability levels. Accordingly, the Zoning Commission's approval of the proposal does not yet affect the Applicant's PUD.

Developers should be discouraged from bypassing IZ compliance in exchange for affordability levels outside the scope of the IZ statute and regulations. Further, it is ill-advised to establish a precedent of granting wholesale waivers from IZ requirements. We respectfully request and encourage the Commission to amend its proposed order by denying the Applicant's request for a waiver and instead requiring the Applicant's full compliance with IZ requirements.

Please do not hesitate to contact me should you have further questions.

Best regards,



Polly Donaldson  
Director

cc: Deputy Mayor for Planning and Economic Development Brian Kenner  
Director Eric Shaw, Office of Planning