

Z.C. Case No. 18-03
Consolidated PUD and Related Map Amendment
4611-4615 41st Street, NW (Square 1769, Lots 1 and 2)

Response to Submission by Marilyn Simon (Exhibit 30) File 10.29.2018

1. Response to Residential Parking Permit (“RPP”) Restriction

The project complies with the off-street parking requirements and the Applicant is not seeking parking relief. The Applicant also notes that DDOT found that the amount of parking provided at the project is sufficient and noted that the proposed parking ratio “is consistent with DDOT’s approach to encouraging non-automotive travel, discouraging automobile ownership, and minimizing traffic congestion in the District.” See DDOT Report, p. 8.

Nonetheless, as set forth in the Applicant’s MOU with ANC 3E (Exhibit 28), the Applicant has agreed to restrict residents of the property from obtaining RPPs by doing the following:

- a. Placing a clause in emphasized type in all leases that prohibits residents from applying for or obtaining RPPs, or from using an RPP guest pass within one mile of the site, upon penalty of lease termination and to the full extent permitted by law;
- b. Obtaining written authorization from each residential tenant through a lease provision that allows the DMV to release to the Applicant every 12 months any and all records of that tenant requesting or receiving an RPP for the site.
- c. Taking reasonable steps to obtain and review such records for noncompliance with the provisions noted above.
- d. Opposing any efforts by residents or others to add the site to the list of properties eligible for RPPs.
- e. If the Applicant sells any units at the project, adding a covenant that runs with the land to the deed for the units prohibiting residents from applying for or obtaining RPPs.

As requested by the ANC, the Applicant has agreed that these restrictions will be made conditional on any Zoning Commission order approving the application.

2. Response to Inclusionary Zoning Set-Aside Requirement

The Applicant calculated the IZ requirements for the project based on (i) the matter-of-right requirements under the existing MU-4 zone; (ii) the matter-of-right requirements under the proposed MU-5-B zone; and (iii) the PUD requirements under the proposed MU-5-B zone, as follows:

A. Matter-of-right IZ requirement under existing MU-4 zone

11-C DCMR § 1003.1 applies because the project would be (i) not Type I construction and (ii) by-right height limit in MU-4 is 50 feet

C § 1003.1: An inclusionary development which does not employ Type I construction to construct a majority of dwelling units and which is located in a zone with a by-right height limit of 50 feet or less shall set aside the greater of 10% of the gross floor area dedicated to residential use including penthouse habitable space or 75% of its achievable bonus density to inclusionary units plus an area equal to ten percent 10% of the penthouse habitable space.

Assuming that the site is devoted fully to residential use, and assuming full utilization of IZ bonus density, then the required IZ would be calculated as follows:

- 10% of residential GFA method:
 - $(3.0 \text{ FAR}) \times (6,855 \text{ sf land area}) = 20,565 \text{ sf residential GFA}$
 - $(20,565 \text{ sf}) \times (10\%) = 2,056.5 \text{ sf base building IZ requirement}$
 - $(1,754 \text{ sf penthouse}) \times (10\%) = 175.4 \text{ sf penthouse IZ requirement}$
 - $(2,056.5 \text{ base building IZ}) + (175.4 \text{ penthouse IZ}) = \underline{2,231.9 \text{ sf total IZ requirement}}$

- 75% of bonus density method: Bonus density is 0.5 FAR
 - $(0.5 \text{ FAR}) \times (6,855 \text{ sf land area}) = 3,427.5 \text{ sf bonus density}$
 - $(3,427.5 \text{ sf}) \times (75\%) = 2,570.63 \text{ sf base building IZ requirement}$
 - $(1,754 \text{ sf penthouse}) \times (10\%) = 175.4 \text{ sf penthouse IZ requirement}$
 - $(2,570.63 \text{ base building IZ}) + (175.4 \text{ penthouse IZ}) = \underline{2,746.03 \text{ sf total IZ requirement}}$

- **2,231.9 sf < 2,746.03 sf. Therefore, if the site was developed as a matter-of-right under the existing MU-4 zone with a density of 3.0 FAR, then 2,746.03 square feet of IZ would be required**

B. Matter-of-right IZ requirement under proposed MU-5-B zone

11-C DCMR § 1003.2 applies because the project does not fall into both requirements of C-1003.1 (not Type I construction and by-right height limit of 50 feet). MU-5-B by-right height limit is 75 feet. This is consistent with how IZ has been applied since its inception, and with the clarifications to the IZ regulations proposed by OP and under review by the Commission in Z.C. Case No. 04-33I. Of note, the clarification proposed by OP will align the language of the set aside requirements in ZR16 with the language under ZR58 which clearly stated that the 8% of residential gross floor area or 50% of the bonus density utilized requirement applied to IZ developments that utilized steel and concrete construction or "any development" located in the higher height zones.

C § 1003.2: An inclusionary development which employs Type I construction to construct the majority of dwelling units shall set aside the greater of 8% of the gross floor area dedicated to residential use including penthouse habitable space

or 50% of its achievable bonus density to inclusionary units plus an area equal to 8% of the penthouse habitable space.

Assuming that the site is devoted fully to residential use, and assuming full utilization of IZ bonus density, then the required IZ would be calculated as follows:

- 8% of residential GFA method:
 - $(4.2 \text{ FAR}) \times (6,855 \text{ sf land area}) = 28,791 \text{ sf}$
 - $(28,791 \text{ sf}) \times (8\%) = 2,303.28 \text{ sf base building IZ requirement}$
 - $(1,754 \text{ sf penthouse}) \times (8\%) = 140.32 \text{ sf penthouse IZ requirement}$
 - $(2,303.28 \text{ base building IZ}) + (140.32 \text{ penthouse IZ}) = \underline{2,443.6 \text{ sf total IZ requirement}}$

- 50% of bonus density method: Bonus density is 0.7 FAR
 - $(0.7 \text{ FAR}) \times (6,855 \text{ sf land area}) = 4,798.5 \text{ sf}$
 - $(4,798.5 \text{ sf}) \times (50\%) = 2,399.25 \text{ sf base building IZ requirement}$
 - $(1,754 \text{ sf penthouse}) \times (8\%) = 140.32 \text{ sf penthouse IZ requirement}$
 - $(2,399.25 \text{ base building IZ}) + (140.32 \text{ penthouse IZ}) = \underline{2,539.57 \text{ sf total IZ requirement}}$

- **2,443.6 sf < 2,539.57 sf. Therefore, if the site was developed as a matter-of-right under the proposed MU-5-B zone, then 2,539.57 sf of IZ would be required**

C. IZ Being Provided for Proposed PUD

The project includes 28,762 sf of residential GFA and 1,754 sf of penthouse habitable space (30,516 sf total). Although the building's total GFA is 34,535 sf, that number includes retail and above-grade parking, such that only 28,762 sf (4.2 FAR) is being provided as residential use. Based on this, the project generates an IZ requirement of 2,441 sf of IZ as noted above.

The Applicant is proposing to provide 12.7% of the residential GFA and penthouse habitable space combined as IZ units as follows:

- $(28,762 \text{ sf residential GFA}) + (1,754 \text{ sf penthouse}) = 30,516 \text{ sf total}$
- $(30,516 \text{ sf}) \times (12.72\%) = \underline{\mathbf{3,882 \text{ sf total IZ provided in project}}}$
 - 2,890 sf will be dedicated at 60% of the MFI (two 2-BR units at 1,445 sf each)
 - 992 sf will be dedicated at 50% of the MFI (one 1-BR unit) (compare to 140.32 sf required to be provided at 50% of the MFI).