

**OP SUPPLEMENTAL REPORT**

**TO:** District of Columbia Zoning Commission

**FROM:** Crystal Myers, Project Manager  
*JLS*  
 Jennifer Steingasser, Deputy Director, Development Review/Historic Preservation

**DATE:** November 2, 2018

**SUBJECT:** Supplemental Report on Case No. 18-03, Consolidated Planned Unit Development and Related Map Amendment for Dancing Crab Properties (a.k.a. Tenley Town Apartments) Square 1769, Lot 1&2)

**I. OFFICE OF PLANNING CONFIRMATION**

At the public hearing on October 29, 2018 the Zoning Commission requested that the Office of Planning (OP) provide a written response to the issue of whether the inclusionary zoning calculations were correctly determined by the applicant. Testimony was submitted alleging that the IZ calculations for the project were incorrectly determined (Exhibit 30) and thus the project’s PUD benefit calculation should be reassessed. The issue focuses on the appropriate IZ set-aside; C § 1003.2 requires 8% of the residential development be set aside for IZ units versus C § 1003.1 which requires 10% of the residential development be set aside for IZ units.

The text reads that the 8% set-aside requirement is for projects that are taller than 50 feet and use Type I construction materials (concrete and steel) for a majority of their residential units; the 10% set-aside requirement is for projects that are 50 feet or lower and do not use Type I construction materials for a majority of their residential units. The project is over 50 feet but does not use Type I construction material for a majority of its residential units, so some question was raised about which standard is applicable.

OP has confirmed that the applicant’s use of the IZ set aside percentages is correct and consistent with intent and practice.

**PUD Public Benefit**

When considering the PUD benefit calculation, the section of the regulations to consider is the PUD Public Benefits and Amenities section X § 305.2. This section states that the benefit must be greater than would likely result from development of the site under the matter-of-right provisions. The site’s existing zone is MU-4, which is a zone that has a 50-foot height limit so as a matter of right development on the site has a 10% IZ requirement. As such, under the matter of right scenario, the project would be required to set aside 2,746.03 sf for IZ units. The project is proposing to set aside 3,882 sf thus 1,136 sf more than would have be required. The 1,136 sq.ft. is the public benefit.

	MU-4	MU-5B	Proposal
IZ Requirement	10%	8%	12.7%
Requirement with density bonus	2,746.03	2,539.57	3,882

## **Zoning Text Amendment 04-33I: Set-Aside Requirements**

The set aside section in the Regulations is being clarified as part of case 04-33I to reflect the original intent and practice of the requirements to be applicable to building of either Type I construction ***OR*** in zones with a matter of right height taller than 50 feet. The public hearing on case 04-33 I was held on September 20, 2018 and the Commission is scheduled to consider proposed action on November 19, 2018.

### **1003 SET-ASIDE REQUIREMENTS**

*1003.1 An inclusionary development which does not employ Type I construction as defined by Chapter 6 of the International Building Code as incorporated into District of Columbia Construction Codes (Title 12 DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit **exclusive of any bonus height** of fifty feet (50 ft.) or less shall set aside the greater of ten percent (10%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or seventy-five percent (75%) of ~~its achievable~~ **the** bonus density **utilized** to inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).*

*1003.2 An inclusionary development which employs Type I construction as defined by Chapter 6 of the International Building Code as incorporated into the District of Columbia Construction Codes (Title 12 DCMR) to construct the majority of dwelling units, **or which is located in a zone with a by-right height limit exclusive of any bonus height that is greater than fifty feet (50 ft.)** shall set aside the greater of eight percent (8%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or fifty percent (50%) of ~~its achievable~~ **the** bonus density **utilized** to inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).*