



DISTRICT OF COLUMBIA BUILDING INDUSTRY ASSOCIATION

2020 Board of Directors

Executive Committee

- Michele V. Hagans
DCBIA President
Fort Lincoln New Town Corp.
Grant Epstein
DCBIA Vice President
Community Three Development
Toby Millman
DCBIA Vice President
Brookfield Properties
Chuck Watters
DCBIA Vice President
Hines
Chuck Asmar
DCBIA Secretary
Asmar, Schor & McKenna
Mitch Weintraub
DCBIA Treasurer
Cordia Partners
Brad Fennell
DCBIA Immediate Past President
WC Smith
Donna Cooper
DCBIA Executive Committee
Peppo, an Exelon Company
Adam Gooch
DCBIA Executive Committee
Akridge
Janene Jackson
DCBIA Executive Committee
Holland & Knight
Richard Lake
DCBIA Executive Committee
Roadside Development
Robert Miller
DCBIA Executive Committee
MILLER
Antonio Marquez
DCBIA Executive Committee
EagleBank

Directors

- Anitra Androh
Nelson Mullins
Buwa Binitie
Dantes Partners
Mark Carroll
Skanska
J.R. Clark
Squire Patton Boggs
William Collins
The Concordia Group
Vicki Davis
Urban Atlantic
Jerry Distefano
CohnReznick
Dan Duke
Bohler DC
Sabret Flocos
Perkins Eastman
Jeffrey Gelman
Saul Ewing Arnstein & Lehr LLP
Howard Chapman
Coakley & Williams Construction
Steve Hawryluk
Davis Construction
George Kreis
Balfour Beatty Construction
Andrew Leahy
Washington REIT
Clint Mann
Urban Pace
Derrick Mashore
CBRE
Karen McJunkin
Holland & Knight
Deryl McKissack
McKissack & McKissack
Bo Menkiti
The Menkiti Group
Robert "Bob" Milkovich
Rand Construction
Bryan Moll
JBG Smith
Paola Moya
Moya Design Partners
Matt Ritz
WC Smith
Kenyattah Robinson
Mount Vernon Triangle
Keith Sellars
Washington DC Economic
Partnership
Jason Spencer
Property Group Partners
Kenneth Schwartz
Arnold & Porter Kaye Scholer
Jake Stroman
Boston Properties, Inc.
Jeff Utz
Goulston & Storrs
Stephanie Williams
The Bozzuto Group
David Wilmot
Jensen Hughes
2020 Counsel
Paul Tummonds
Goulston & Storrs

VIA EMAIL

December 28, 2020

Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
441 Fourth Street, NW, Suite 200S
Washington, DC 20001
zcsubmissions@dc.gov

Re: Z.C. Case No. 20-02: District of Columbia Building Industry Association (DCBIA) Comments on Notice of Proposed Rulemaking

Dear Chairman Hood and Commissioners:

Subsequent to the Commission's hearing on November 16, 2020 and in response to the Notice of Proposed Rulemaking (NOPR) published in the D.C. Register on November 27, 2020, below please find DCBIA's further comments relating to IZ Plus.

As a threshold matter, DCBIA wishes to reiterate that it is committed to the mission of creating more affordable housing in the District of Columbia. Our involvement in the IZ Plus discussions to date has been focused on ensuring that the IZ Plus concept will encourage, rather than inhibit, the production of additional affordable housing units along with housing generally.

To that end, at the public hearing on November 16, DCBIA focused its testimony on two key issues:

- 1. Calibrating the IZ Plus requirement to the density that is actually utilized as a result of the map amendment; and
2. Calibrating the IZ Plus requirement to the density gained through the map amendment (i.e. "apples to apples").

Below please find DCBIA's further comments on these issues.

1. Utilized Density

The IZ Plus setaside requirement is determined on a sliding scale, based on the percent increase in density. The IZ Plus formula as set forth in the NOPR determines this increase based on the maximum permitted density in the proposed new zone. In many instances, there is a

~more~

Past Presidents Council

- William B. Alsop III
Hines
Charles K. Barber
The George Washington University
Neal B. Bien
Bien/Paul Ventures, Inc.
Robert H. Braunohler
Property Group Partners
Sean C. Cahill
Cafritz Enterprises
Gregory W. Fazakerley
CG Investments, Inc.
Steven A. Grigg
Republic Properties Corporation
Joseph F. Horning, Jr.
Horning Brothers, Inc.
Lynn Hackney
Allyson Capital
Ernest Drew Jarvis
The Jarvis Company LLC
Merrick T. Malone
DC Housing Authority
Philip R. Miller
MDC Land, Inc.
W. Christopher Smith, Jr.
WC Smith
William O. Vose
Real Estate Development Advisor
Thomas W. Wilbur
Akridge
James S. Williams
The Carlyle Group

Executive Council

- Freddie Lewis Archer
Lewis Real Estate Services
Pamela Bundy
Bundy Development Corporation
Tanja Castro
CastroHaase
Peter Cole
Madison Marquette
Christopher J. Donatelli
Donatelli Development
Dewayne Holt
Baker Tilly
Philip M. Horowitz
Venable LLP
Norman Jemal
Douglas Development Corp.
Robert Murphy
MRP Realty
Desa Sealy
Gotham Partners
Roderic L. Woodson
Parker Poe

Advisory Committee

- Jennifer Eugene
Washington Gas
David Gadis
DC Water
Steve Teitelbaum
Washington Metropolitan Area Transit Authority (WMATA)

Chief Executive Officer

- Lisa Maria Mallory
DCBIA

ZONING COMMISSION

District of Columbia

Case No. 20-02

EXHIBIT NO.33

meaningful density jump between zone categories,¹ and many developments will not be able to make use of the full density in the proposed new zone yet they will have an IZ Plus requirement that assumes the full density is utilized. These include, but are not limited to, new developments that are limited as a result of site constraints and historic preservation, conversions of historic structures, and conversions of former non-residential buildings. The net result is an IZ requirement that is not offset by a sufficient amount of additional density that is actually constructed.

Therefore, DCBIA recommends measuring the density gained through the map amendment and actually utilized on a specific site, in order to determine each property’s IZ Plus setaside requirement. Such concept would be congruent with the manner that IZ setaside requirements are currently calculated, and consistent with the underpinnings of the IZ program adopted by the Commission which, as discussed below, is grounded in the premise of a mandatory set aside that is accompanied by compensating bonus density. That is, the current IZ requirement is that either 50% or 75% of the utilized bonus density is to be provided (if greater than the 8% or 10% set asides of the residential components, respectively). Such calculations could easily be included on the form Certificates of Inclusionary Zoning Compliance, which already require analysis of the utilized bonus density and other similar square footage calculations.

Based on discussions with OP, one potential solution to the above issue also establishes the IZ Plus requirement at the time of the rezoning based on the sliding scale in the proposed regulations. In short, at the time of each rezoning, the zoning order would articulate the IZ Plus requirements for each tranche of enhanced density actually developed, up to the maximum zone, based on tables C § 1003.3 and 1003.4. For example, for a site that is rezoned from MU-4 to MU-6:

<u>Map Amendment from MU-4 to MU-6</u>						
Percent Increase in FAR	Less than 20%	20% - 50%	50%+ to 75%	75%+ to 100%	100%+ to 125%	Over 125%
Resulting FAR Bands	2.5 – 3.0	3.0 – 3.75	3.75 – 4.375	4.375 – 5.0	5.0 – 5.625	5.625 – 7.2
Corresponding Setaside Requirement	8%	10%	12%	14%	16%	18%

The above approach calibrates the IZ Plus requirement to the actual amount of density that is utilized. DCBIA believes that this approach will ensure IZ Plus is a tool that is able to deliver higher amounts of housing and affordable housing but can also adjust for other important planning considerations such as historic preservation and site context.

¹ For example, MU-4 permits a 3.0 FAR with IZ, and the next most likely zone is either MU-5 or MU-7, which allow a 4.2 – 4.8 FAR. From there, the next mostly likely zone is either MU-6 or MU-10, each of which allow a 7.2 FAR.

1. “Apples to Apples”

The initial IZ program was organized around a fundamental principle: projects would set aside a certain amount of affordable housing and receive a certain amount of additional density to offset the financial cost of that affordable housing. IZ Plus is organized around a similar fundamental principle: projects provide an increased affordable housing commitment keyed to the density gained through a map amendment. Both programs are based on extensive economic modeling that is intended to demonstrate the financial sustainability of the program. If the affordable housing requirement and density increase are not balanced, we are concerned that redevelopment will not take place and the District’s housing goals will not be realized.

As drafted, the IZ Plus regulations in the NOPR disrupt this economic underpinning because it (erroneously) includes the existing, matter-of-right IZ density increase as part of the “density gained through the map amendment.” That initial IZ density is already available, regardless of any change in zoning. As a result, IZ Plus greatly increases the setaside requirement on density that is otherwise available by-right – in some cases doubling such requirement or more.

This is important because it factors into the owner’s or developer’s evaluation of the contrasting returns on potential redevelopment scenarios. While a map amendment may produce additional density, that additional density will require an increased IZ Plus requirement on not only the density gained through that map amendment but also the density that could be built by right. Given that economic calculus (particularly when accounting for all the time, risk, and process that a map amendment entails), many owners and developers will forego the additional density gained through a map amendment and choose by-right development.

Since the IZ Plus concept is rooted in the density gained through the map amendment process, the IZ Plus formula should measure the FAR increase due to the map amendment, exclusive of the existing, matter-of-right IZ bonus. Put another way, it should be measured based on the increase from by-right density in the current zone to by-right density in the new zone. That density increase is the value that is being generated by the map amendment, and that increase should therefore be the basis for the additional IZ Plus requirement.

We would be happy to provide any additional information that might be helpful in consideration of the above or the IZ Plus concept generally. We appreciate your time and the ability to provide input on this matter.

Respectfully Submitted,



Lisa María Mallory
CEO, DC Building Industry Association

cc: Andrew Trueblood; Director, Office of Planning
Jennifer Steingasser; Deputy Director, Historic Preservation and Development Review