



MEMORANDUM

TO: District of Columbia Zoning Commission

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DATE: January 21, 2021

SUBJECT: ZC Case 20-02 – Supplemental Report #2 for a Proposed Text Amendment to Subtitles B, C, F, G, I, K, U, X, and Z – Expanded Inclusionary Zoning¹.

WAIVER FOR LATE SUBMITTAL

This supplemental report concerning Zoning Commission Case 20-02 is being submitted less than 10 days prior to the Zoning Commission’s Public Meeting. The Office of Planning respectfully requests that the Commission waive its rule and accept this report into the record.

BACKGROUND

At its November 16, 2020 public hearing, the Zoning Commission (“ZC”) voted to take proposed action on Case No. 20-02, a text amendment to create an expanded Inclusionary Zoning (“Expanded IZ” also referred to as “IZ Plus”) requirement for certain map amendments. The ZC requested that the Office of Planning (“OP”) provide additional information about the affordable housing requirements for certain special purpose zones and about the Inclusionary Zoning program. The ZC also heard testimony from multiple witnesses who were generally supportive of the proposal and requested that OP respond in writing to several of the comments received.

OP proposes to make minor revisions to the set-aside calculation and requirements from what was published in the Notice of Proposed Rulemaking ([Exhibit 29](#)) and continues to recommend **approval** of the Expanded IZ text amendment. The revised zoning text can be found in Appendix II of this report (page 6).

¹ Also known as “IZ Plus.”

ZC REQUESTS FOR ADDITIONAL INFORMATION

	Request	OP Response
ZC #1:	Provide the affordable housing requirement for each special purpose zone proposed to be exempt from Expanded IZ.	Certain special purpose zones are proposed to be exempt from Expanded IZ because they have deeper affordable housing requirements than the Inclusionary Zoning requirements of Subtitle C, Chapter 10. Appendix I (page 5) provides the affordability requirements for each zone.
ZC #2:	Provide the Department of Housing and Community Development’s (“DHCD”) most recent IZ annual report.	DHCD’s FY2019 Inclusionary Zoning Annual Report was filed to the case record at Exhibit 32 , which is the most recent report for the IZ program. Page 13 report provides a map of where IZ developments are located.
ZC #3:	Provide a vesting date for Expanded IZ in the Notice of Proposed Rulemaking.	<p>The ZC included in their motion for proposed action a vesting date to exclude Expanded IZ from applying to 1) map amendment applications for which the ZC had approved final action but had not yet issued the order or 2) applications that were filed prior to the public hearing for Expanded IZ.</p> <p>The Notice of Proposed Rulemaking (Exhibit 29) on pages 15 and 16 amended the proposed zoning text to add the requirements of Expanded IZ will not apply to a map amendment that “was filed as an application that was accepted by the Office of Zoning prior to November 16, 2020.”</p>

PUBLIC COMMENTS (“PC”)

PC #1: Unzoned Land: Expanded IZ should not apply to existing unzoned land.

OP Response: Expanded IZ should apply to existing unzoned land and should be established as part of any zoning action to zone unzone land.

Most, if not all unzoned land in the District is federal land. When this federal land is made available for non-federal use or private development it represents an opportunity for affordable housing at the earliest stages of planning.

Zoning is a prerequisite for private sector development within the District of Columbia. Only development for federal use is exempt from zoning. Land values for private sector transaction cannot be accurately determined until zoning use and density permissions are established. To do so would be highly speculative since values are directly related to the ultimate use and density permitted by zoning. IZ at its most basic level is a use requirement.

Establishing Expanded IZ requirements prior to any zoning capitalizes any impact into the land values and improves transparency within the market. Therefore, IZ requirements should be established as part of any initial zoning of unzoned land.

PC #2: Utilized vs. Potential Maximum Density: The proposal should be revised to tie the Expanded IZ set-aside requirement to the “achievable” Expanded IZ density actually utilized in a project in the new zone, not to the potential maximum increase in density between the current and new zones.

OP Response: OP agrees that utilized density is an appropriate approach.

OP adjusted the table of requirements to tie directly to the range of additional density utilized above the base zone. This maintains the spirit and approach of the Regular IZ requirements in Subtitle C §§ 1003.1(a) and 1003.2(a).

To provide a clear definition of the “Percent Increase in Total FAR Utilized” OP proposes adding a new Section 1003.5 (b) as follows:

1003.5 For the purposes of this section:

(a) . . .

(b) “Percent Increase in Total FAR Utilized” shall be the percent change from the maximum permitted FAR of the existing zone as established in the Zoning Commission order approving the map amendment pursuant to Subtitle X § 502.4 and the total FAR of the IZ Plus Inclusionary Development.

PC #3: “Apples-to-Apples”: The calculation of the percent FAR increase that determines the IZ set-aside requirements should be revised to use the current IZ bonus density for both the current and proposed new zones. Comments suggested that to improve clarity of the regulations, the requirements should be calculated using the same starting and ending point.

OP Response: OP agrees that the calculation should be “apples-to-apples” and recommends the calculations be based on the total change in density from the base zone without IZ bonus density to the total FAR utilized by the IZ Plus Inclusionary Development in the new zone.

The proposed revision will make the calculation easier to interpret, especially for zones that do not provide IZ bonus density.

Summary of Changes to Proposed Zoning Text

In response to the changes to PC-2 and PC-3, the Expanded IZ set-aside requirements of Table C § 1003.3 & Table C § 1003.4 are amended as follows to align with the revised calculation:

TABLE C § 1003.3 SET-ASIDE FOR INCLUSIONARY UNITS

<u>Map Amendment from a PDR zone or unzoned land to a R, RF, RA, MU, D, CG, or ARTS zone</u>				<u>Set Aside Requirement:</u> <u>20%</u>
<u>Map Amendment from any zone other than a PDR zone to a D zone without a prescribed residential FAR</u>				
<u>All Other Map Amendments</u>				
<u>Percent Increase in Total FAR Utilized</u>	<u>0% to 20%</u>	<u>20%+ to 40%</u>	<u>40%+ to 60%</u>	<u>Over 60%</u>
<u>Set Aside Requirement</u>	<u>14%</u>	<u>16%</u>	<u>18%</u>	<u>20%</u>

TABLE C § 1003.4 SET-ASIDE FOR INCLUSIONARY UNITS

<u>Map Amendment from a PDR zone or unzoned land to a R, RF, RA, MU, D, CG, or ARTS zone</u>					<u>Set Aside Requirement:</u> <u>20%</u>
<u>Map Amendment from any zone other than a PDR zone to a D zone without a prescribed residential FAR</u>					
<u>All Other Map Amendments</u>					
<u>Percent Increase in Total FAR Utilized</u>	<u>0% to 30%</u>	<u>30%+ to 55%</u>	<u>55%+ to 80%</u>	<u>80%+ to 105%</u>	<u>Over 105%</u>
<u>Set Aside Requirement</u>	<u>10%</u>	<u>12%</u>	<u>14%</u>	<u>16%</u>	<u>18%</u>

Other minor revisions from what was published in the Notice of Proposed Rulemaking, include:

- Basing the Expanded IZ set-aside requirements on only construction type employed by the IZ Plus Inclusionary Development instead of a combination of the height of the zone and the construction type. This change will better align the set-aside requirements to the actual construction type employed.
- Clarifying that the NHR zone is exempt from the Expanded IZ set-aside requirements. While the OP public hearing report ([Exhibit 12](#)) proposed NHR be exempt, the text of the Notice of Proposed Rulemaking inadvertently made Expanded IZ applicable to this zone.
- Reorganizing and renumbering several regulations in response to the changes made in PC-2 and PC-3.

Appendix I

The following table provides the affordability requirements for each zone proposed to be exempt:

Zone	Affordability Requirement
HE (Hill East)	<p><u>Set-Aside:</u> 30%</p> <p><u>Bonus Density:</u> Built into the base densities</p> <p><u>MFI:</u> 15% of units must be reserved for equal to or less than 30% MFI with remainder reserved for between 31% MFI and 60% MFI</p> <p><u>Program:</u> District LDA</p>
NHR (Northern Howard Road)	<p><u>Set-Aside:</u> 12%</p> <p><u>Bonus Density:</u> Built into the base densities</p> <p><u>MFI:</u> 25% of units must be reserved for equal to or less than 50% MFI with remainder reserved for equal to or less than 60% MFI</p> <p><u>Family Sized Units:</u> 25% of requirement shall be 3-bedroom units</p> <p><u>Program:</u> District IZ Regulations</p>
SEFC (Southeast Federal Center)	<p><u>Set-Aside:</u> 20%</p> <p><u>Bonus Density:</u> Built into the base densities</p> <p><u>MFI:</u> All units must be reserved for equal to or less than 50% MFI</p> <p><u>Family Sized Units:</u> Parcels A, F, G, H, & I require 8% of the additional density above 6.0 FAR to be 3-bedroom units</p> <p><u>Program:</u> Federal LDA</p>
StE (St. Elizabeth)	<p><u>Set-Aside:</u> Ranges between 30%-80% based on parcel</p> <p><u>Bonus Density:</u> Built into the base densities</p> <p><u>MFI:</u> Ranges between 0% to 80% MFI based on parcel</p> <p><u>Program:</u> District LDA</p>
USN (Union Station North)	<p>The USN zone is subject to the regular IZ program under Subtitle C, Chapter 10. Because USN is a discrete zone based on air rights lots, OP continues to recommend that it be exempt from IZ Plus.</p>
WR (Walter Reed)	<p><u>Set-Aside:</u> 20%</p> <p><u>Bonus Density:</u> Built into the base densities</p> <p><u>MFI:</u> 114 rental units equal to or less than 30% MFI; 139 rental or ownership units equal to or less than 50% MFI; and 179 rental or ownership units equal to or less than 80% MFI</p> <p><u>Program:</u> District LDA</p>
BF (Barry Farm) ²	<p><u>Set-Aside:</u> 88% of approximately 900 units of which 380 units would be reserved for former Barry Farm residents</p> <p><u>Bonus Density:</u> No bonus</p> <p><u>MFI:</u> 0%-80% MFI</p> <p><u>Family Sized Units:</u> Mix of 3, 4, 5, and 6 bedroom units</p> <p><u>Program:</u> DCHA agreement</p>

² Barry Farm is proposed to be exempt from Expanded IZ under Zoning Commission Case No. 20-21.

Appendix II

The proposed amendments to the text of the Zoning Regulations are as follows (text to be deleted is marked in ~~bold and strikethrough~~ text; new text is shown in **bold and underline** text).

I. Proposed Amendment to Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES

The definition of “Inclusionary Development” in § 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended by revising the to read as follows:

Inclusionary Development: A residential development that is subject to the provisions of Subtitle C, Chapter 10, Inclusionary Zoning, as a Mandatory **Inclusionary Development (including an IZ Plus Inclusionary Development)** or Voluntary Inclusionary Development, or that is required to comply with the provisions therein by an order of the Zoning Commission or of the Board of Zoning Adjustment, as established by Subtitle C § 1001.2.

II. Proposed Amendment to Subtitle C, GENERAL RULES

Subsections 1001.2 and 1001.4 of § 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

1001.2 Except as provided in Subtitle C § 1001.5, the requirements of this chapter shall apply to, and the modifications to certain development standards and bonus density of this chapter shall be available to, developments in zones in which this chapter is identified as applicable as specified in the individual subtitles of this title; provided the development falls into one of the following categories:

- (a) A “Mandatory Inclusionary Development” – a development that meets one or more of the following ...³
 - (1) Is proposing new gross floor area ...
 - (2) Will have ten (10) or more new dwelling units constructed concurrently ... for the first building permit; ~~or~~
 - (3) Consists of a residential building that has penthouse habitable space pursuant to Subtitle C § 1500.11; or
 - (4) **An “IZ Plus Inclusionary Development” – a development located on property that was the subject of a map amendment that increased the allowable FAR pursuant to Subtitle X § 502**

³ The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

and as indicated with an “IZ+” on the Zoning Map and that meets one of the categories of Subtitle C § 1001.2(a)(1) through (3); or

- (b) A “Voluntary Inclusionary Development” – any single household ...
 - (1) The square footage ...
 - ...
 - (3) Any use of the modifications of development standards ... and to Subtitle D § 5206, Subtitle E § 5206, or Subtitle F § 5206, as applicable.

...

1001.4 For existing buildings that become subject to the requirements of this chapter pursuant to Subtitle C § 1001.2, the requirements of Subtitle C §§ 1003.1 **and 1003.2 through 1003.4** and the available modifications to applicable development standards shall apply:

- (a) To both the existing ...
- ...

Subsection 1002.3 of § 1002, MODIFICATIONS OF DEVELOPMENT STANDARDS AND BONUSES TO INCENTIVIZE INCLUSIONARY ZONING, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

1002.3 Inclusionary Developments, except those located in the R, RF, HE, **NHR, SEFC,** StE, and WR zones, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right (“bonus density”) as reflect in the zone-specific development standards and subject to all other zoning requirements (as may be modified by the zone) and the limitations established by the Height Act.

Section 1003, SET-ASIDE REQUIREMENTS, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

1003.1 An Inclusionary Development ~~which~~ **other than an IZ Plus Inclusionary Development that** does not employ Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A 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 for Inclusionary Units the sum of the following:

- (a) The greater of ten percent (10%) of the **residential** gross floor area ~~dedicated to residential use~~ **as described in Subtitle C § 1003.5(a),**

excluding penthouse habitable space, or seventy-five percent (75%) of the bonus density utilized; and

- (b) An area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1500.11.⁴

This set-aside requirement shall be converted to net square footage pursuant to Subtitle C § ~~1003.4~~ 1003.6.

1003.2 An Inclusionary Development ~~which~~ other than an IZ Plus Inclusionary Development that employs Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a 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 for Inclusionary Units the sum of the following:

- (a) The greater of eight percent (8%) of the residential gross floor area ~~dedicated to residential use as described in Subtitle C § 1003.5(a)~~, excluding penthouse habitable space, or fifty percent (50%) of the bonus density utilized; and
- (b) An area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1500.11.⁵

This set-aside requirement shall be converted to net square footage pursuant to Subtitle C § ~~1003.4~~ 1003.6.

1003.3 An IZ Plus Inclusionary Development that does not employ Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units shall set aside for Inclusionary Units the sum of (a) and (b):

- (a) The percent of the residential gross floor area, excluding penthouse habitable space, set forth in the following table and as described in Subtitle C § 1003.5:

TABLE C § 1003.3 SET-ASIDE FOR INCLUSIONARY UNITS

<u>Map Amendment from a PDR zone or unzoned land to a R, RF, RA, MU, D, CG, or ARTS zone</u>				<u>Set Aside Requirement:</u> 20%
<u>Map Amendment from any zone other than a PDR zone to a D zone without a prescribed residential FAR</u>				
All Other Map Amendments				
<u>Percent Increase in Total FAR Utilized</u>				<u>Over 60%</u>

⁴ Subtitle C § 1500.11 is proposed to be amended by the proposed text amendment in ZC Case No. 14-13E. Upon final action in that case, this proposed revision will be updated to reflect the new text.

⁵ Subtitle C § 1500.11 is proposed to be amended by the proposed text amendment in ZC Case No. 14-13E. Upon final action in that case, this proposed revision will be updated to reflect the new text.

	<u>0% to 20%</u>	<u>20%+ to 40%</u>	<u>40%+ to 60%</u>	
<u>Set Aside Requirement</u>	<u>14%</u>	<u>16%</u>	<u>18%</u>	<u>20%</u>

(b) An area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1500.11.⁶

This set-aside requirement shall be converted to net square footage pursuant to Subtitle C § 1003.6.

1003.4 An IZ Plus Inclusionary Development that employs Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units shall set aside for Inclusionary Units the sum of (a) and (b):

(a) The percent of the residential gross floor area, excluding penthouse habitable space, set forth in the following table and as described in Subtitle C § 1003.5:

TABLE C § 1003.4 SET-ASIDE FOR INCLUSIONARY UNITS

<u>Map Amendment from a PDR zone or unzoned land to a R, RF, RA, MU, D, CG, or ARTS zone</u>					<u>Set Aside Requirement: 20%</u>
<u>Map Amendment from any zone other than a PDR zone to a D zone without a prescribed residential FAR</u>					
<u>All Other Map Amendments</u>					
<u>Percent Increase in Total FAR Utilized</u>	<u>0% to 30%</u>	<u>30%+ to 55%</u>	<u>55%+ to 80%</u>	<u>80%+ to 105%</u>	<u>Over 105%</u>
<u>Set-Aside Requirement</u>	<u>10%</u>	<u>12%</u>	<u>14%</u>	<u>16%</u>	<u>18%</u>

(b) An area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1500.11.⁷

This set-aside requirement shall be converted to net square footage pursuant to Subtitle C § 1003.6.

1003.8 1003.5 An Inclusionary Development’s For the purposes of this section:

(a) “Residential gross floor area” shall be the entire residential floor area including, but not limited to:

⁶ Subtitle C § 1500.11 is proposed to be amended by the proposed text amendment in ZC Case No. 14-13E. Upon final action in that case, this proposed revision will be updated to reflect the new text.

⁷ Subtitle C § 1500.11 is proposed to be amended by the proposed text amendment in ZC Case No. 14-13E. Upon final action in that case, this proposed revision will be updated to reflect the new text.

(1) Dwelling dwelling units located in cellar space; ~~or~~

(2) Enclosed enclosed building projections that extend into public space, ~~shall be included for purposes of calculating the minimum set-aside requirements of Subtitle C §§ 1003.1 and 1003.2; and~~

~~1003.10~~ **(3)** Increases in FAR ~~as a result of authorized by~~ variances granted by the Board of Zoning Adjustment ~~shall be included within gross floor area for the purposes of calculating the maximum IZ requirement, and~~

(b) “Percent Increase in Total FAR Utilized” shall be the percent change from the maximum permitted FAR of the existing zone as established in the Zoning Commission order approving the map amendment pursuant to Subtitle X § 502.4 and the total FAR of the IZ Plus Inclusionary Development.

~~1003.4~~ **1003.6** The square footage required to be set-aside for Inclusionary Units pursuant to Subtitle C §§ 1003.1 ~~and 1003.2 through 1003.4~~ shall be converted to net square footage based on the ratio of net residential floor area ...

~~1003.3~~ **1003.7** Except as provided in Subtitle C §§ ~~1003.5 and 1003.6~~ **1003.8 through 1003.10**, Inclusionary Zoning resulting from the set-asides required by Subtitle C §§ 1003.1 ~~and 1003.2 through 1003.4~~ shall be reserved for households earning equal to or less than:

- (a) Sixty percent (60%) of the MFI for rental units; and
- (b) Eighty percent (80%) of the MFI for ownership units.

~~1003.7~~ **1003.8** ~~Notwithstanding Subtitle C § 1003.3, one~~ **One** hundred percent (100%) of inclusionary units resulting from the set-aside required for penthouse habitable space shall be set aside for eligible households earning equal to or less than fifty percent (50%) of the MFI.

1003.9 **The Except for Inclusionary Units resulting from the set-aside for penthouse habitable space, the** square footage set aside **established by Subtitle C §§ 1003.1 through 1003.4** applicable to an ~~inclusionary development that is exclusively comprised of ownership units~~ **Inclusionary Development** may be reduced by twenty percent (20%) ~~provided if it complies with one or more of the following:~~

- (a) all the units All Inclusionary Units are ownership units and are** set aside to households earning equal to or less than sixty percent (60%) of the MFI;
- (b) One hundred percent (100%) of Inclusionary Units in an IZ Plus Inclusionary Development are reserved for households earning equal to or less than fifty percent (50%) of the MFI; or**

- (c) At least fifty percent (50%) of Inclusionary Units in an IZ Plus Inclusionary Development are three (3) bedroom or larger units; provided that the Zoning Administrator determines that the request for this reduction demonstrates that the Inclusionary Development satisfies the following criteria:**
- (1) A market study demonstrates that demand exists for Inclusionary Units with three (3) or more bedrooms in the neighborhood within a half-mile radius of the IZ Plus Inclusionary Development;**
- (2) A floor plan demonstrates that three (3) bedroom or larger units represent a minimum of twenty percent (20%) of all units in the IZ Plus Inclusionary Development; and**
- (3) Access to active outdoor space suitable for children is located in the IZ Plus Inclusionary Development or in a park or publicly accessible area located within one thousand feet (1,000 feet ft.).**
- (d) The determination of Subtitle C § 1003.9(c) shall be based on the written recommendations of the Office of Planning that shall include consultation with the Department of Housing and Community Development and shall be submitted to the Zoning Administrator within forty-five (45) days of the filing of the request with the Zoning Administrator and Office of Planning.**

~~1003.5~~ **1003.10** An Inclusionary Development that results from a conversion of a single dwelling unit or flat to a multiple dwelling unit development in an RF zone for four (4) or more dwelling units approved by the Board of Zoning Adjustment shall set aside every even numbered dwelling unit beginning at the fourth (4th) unit as an inclusionary unit.~~1003.6~~ ~~An Inclusionary Development that results from a conversion of single dwelling unit or flat to a multiple dwelling unit in an RF zone for four (4) or more dwelling units approved by the Board of Zoning Adjustment shall set aside one hundred percent (100%) of inclusionary units reserved~~ for eligible households earning equal to or less than eighty percent (80%) of the MFI.

Paragraph (c) of § 1006.2 of § 1006, OFF-SITE COMPLIANCE WITH INCLUSIONARY ZONING, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

- 1006.2 Among the factors that may be considered by the Board of Zoning Adjustment in determining the existence of economic hardship are:
- (a) Exceptionally high fees ...

- (b) The inclusion of expensive and specialized social or health services ...
- (c) Proof that continuation of the existing rental inclusionary development is no longer economically feasible, when the owner wishes to change the property's use to a non-residential use or to one (1) meeting the exemption requirements of Subtitle C §§ 1001.5 **and 1001.6(b)-(c)**.

Subsection 1505.1 of § 1505⁸, AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NON-RESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE, of Chapter 15, PENTHOUSES, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

1505.1 The owner of a non-residential building proposing to construct penthouse habitable space shall produce or financially assist in the production of residential uses that are affordable to households earning equal to or less than the income limits established by Subtitle C § ~~1003.7~~ **1003.8**, in accordance with this section.

III. Proposed Amendment to Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES

Subsection 105.1⁹ of § 105, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO RESIDENTIAL APARTMENT (RA) ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

105.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications to certain development standards and bonus density, shall apply to all RA zones as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and the zone-specific development standards of this subtitle, ~~except for;~~ **provided that in** the RA-5 and RA-10 zones, ~~in which~~ the IZ requirements, modifications, and bonus density shall not apply **except that IZ Plus Inclusionary Developments that are located in the RA-5 and RA-10 zones shall be subject to the IZ requirements of Subtitle C, Chapter 10.**

Subsection 302.2¹⁰ of § 302, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

⁸ Subtitle C § 1505 is proposed to be amended by the proposed text amendment in ZC Case No. 14-13E. Upon final action in that case, this proposed revision will be updated to reflect the new text.

⁹ Subtitle F § 105.1 is proposed to be amended by the proposed text amendment in ZC Case No. 19-27. Upon final action in that case, this proposed revision will be updated to reflect the new text.

¹⁰ Subtitle F § 302.2 is proposed to be amended by the proposed text amendment in ZC Case No. 19-27. Upon final action in that case, this proposed revision will be updated to reflect the new text.

302.2 **The Except for IZ Plus Inclusionary Developments, the** Inclusionary Zoning (**IZ**) requirements, modifications, and bonus density of Subtitle C, Chapter 10, shall not apply to the RA-5 zone.

Subsection 602.2¹¹ of § 602, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

602.2 **The Except for IZ Plus Inclusionary Developments, the** Inclusionary Zoning (**IZ**) requirements, modifications, and bonus density of Subtitle C, Chapter 10, shall not apply to the RA-10 zone.

IV. Proposed Amendment to Subtitle G, MIXED-USE (MU) ZONES

Subsection 104.1¹² of § 104, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO MIXED-USE (MU) ZONES, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

104.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all MU zones, except for the portion of the MU-13 zone in the Georgetown Historic District and the MU-27 zone, as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that new penthouse habitable space, as described in Subtitle C § 1500.11,¹³ **and IZ Plus Inclusionary Developments, that is are** located in the portion of the MU-13 zone in the Georgetown Historic District or in the MU-27 zone shall be subject to the IZ requirements **of Subtitle C, Chapter 10.**

Subsection 504.3¹⁴ of § 504, LOT OCCUPANCY, of Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

504.3 Except for new penthouse habitable space, as described in Subtitle C § 1500.11, **and IZ Plus Inclusionary Developments,** the Inclusionary Zoning (**IZ**) requirements, and modifications of Subtitle C, Chapter 10, shall not apply to the portion of the MU-13 zone in the Georgetown Historic District.

¹¹ Subtitle F § 602.2 is proposed to be amended by the proposed text amendment in ZC Case No. 19-27. Upon final action in that case, this proposed revision will be updated to reflect the new text.

¹² Subtitle G § 104.1 is proposed to be amended by the proposed text amendment in ZC Case No. 19-27A. Upon final action in that case, this proposed revision will be updated to reflect the new text.

¹³ Subtitle C § 1500.11 is proposed to be amended by the proposed text amendment in ZC Case No. 14-13E. Upon final action in that case, this proposed revision will be updated to reflect the new text.

¹⁴ Subtitle G § 504.3.1 is proposed to be amended by the proposed text amendment in ZC Case No. 19-27A. Upon final action in that case, this proposed revision will be updated to reflect the new text.

Subsection 804.3¹⁵ of § 804, LOT OCCUPANCY, of Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

804.3 Except for new penthouse habitable space, as described in Subtitle C § 1500.11, **and IZ Plus Inclusionary Developments**, the Inclusionary Zoning (**IZ**) requirements, and modifications of Subtitle C, Chapter 10, shall not apply to the MU-27 zone.

V. Proposed Amendment to Subtitle I, DOWNTOWN (D) ZONES

Subsection 502.3 of § 502, DENSITY – FLOOR AREA RATIO (FAR) (D-1-R), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN ZONES, is proposed to be amended to read as follows:

502.3 ~~Residential~~ **Except for IZ Plus Inclusionary Developments, residential** density in the D-1-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter ~~9~~ **10**.

Subsection 516.2 of § 516, DENSITY – FLOOR AREA RATIO (FAR) (D-3), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN ZONES, is proposed to be amended to read as follows:

516.2 ~~Residential~~ **Except for IZ Plus Inclusionary Developments, residential** density **in the D-3 zone** is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

Subsection 531.4 of § 531, DENSITY – FLOOR AREA RATIO (FAR) (D-4-R), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN ZONES, is proposed to be amended to read as follows:

531.4 ~~Residential~~ **Except for IZ Plus Inclusionary Developments, residential** density in the D-4-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

Subsection 539.2 of § 539, DENSITY – FLOOR AREA RATIO (FAR) (D-5), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN ZONES, is proposed to be amended to read as follows:

¹⁵ Subtitle G § 804.3.1 is proposed to be amended by the proposed text amendment in ZC Case No. 19-27A. Upon final action in that case, this proposed revision will be updated to reflect the new text.

539.2 **Residential Except for IZ Plus Inclusionary Developments, residential** density in the D-5 zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

Subsection 547.3 of § 547, DENSITY – FLOOR AREA RATIO (FAR) (D-5-R), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN ZONES, is proposed to be amended to read as follows:

547.3 Except for Square 487 **and IZ Plus Inclusionary Developments**, residential density in the D-5-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

Subsection 555.2 of § 555, DENSITY – FLOOR AREA RATIO (FAR) (D-6), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN ZONES, is proposed to be amended to read as follows:

555.2 **Residential Except for IZ Plus Inclusionary Developments, residential** density in the D-6 zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

Subsection 562.3 of § 562, DENSITY – FLOOR AREA RATIO (FAR) (D-6-R), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN ZONES, is proposed to be amended to read as follows:

562.3 **Residential Except for IZ Plus Inclusionary Developments, residential** density in the D-6-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

Subsection 569.2 of § 569, DENSITY – FLOOR AREA RATIO (FAR) (D-7), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN ZONES, is proposed to be amended to read as follows:

569.2 **Residential Except for IZ Plus Inclusionary Developments, residential** density in the D-5 zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

VI. Proposed Amendment to Subtitle K, SPECIAL PURPOSE ZONES

Subsections 500.4 and 500.6 of § 500, GENERAL PROVISIONS, of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended to read as follows:

500.4 **The** Inclusionary Zoning (**IZ**) development standards for the CG zones are as established in this chapter and indicated by the abbreviation IZ, and all other Inclusionary Zoning requirements for the CG zones are as specified in Subtitle C, Chapter 10, **including IZ Plus Inclusionary Developments**.

...

500.6 **The Except for IZ Plus Inclusionary Developments, the** Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10, shall not apply to the CG-1 zone, provided that the IZ bonus density of Subtitle C § 1002.3 is available for Voluntary Inclusionary Developments in the CG-1 zone.

VII. Proposed Amendment to Subtitle U, USE PERMISSIONS

Paragraph (b) of § 320.2¹⁶ of § 320, SPECIAL EXCEPTION USES (RF), of Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, of Subtitle U, USE PERMISSIONS, is amended to read as follows:

- 320.2 The conversion of an existing residential building ... and subject to the following conditions:
- (a) The building to be converted or expanded ...
 - (b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § ~~1003.6~~ **1003.10**; and
 - (c) There shall be a minimum ...

VIII. Proposed Amendment to Subtitle X, GENERAL PROCEDURES

The title of § 500, MAP AMENDMENTS, of Chapter 5, MAP AMENDMENTS, of Subtitle X, GENERAL PROCEDURES, is proposed to be amended to read as follows:

500 ~~MAP AMENDMENTS~~ AMENDMENT REVIEW STANDARDS

Subsection 500.1 of §500, MAP AMENDMENT REVIEW STANDARDS, of Chapter 5, MAP AMENDMENTS, of Subtitle X, GENERAL PROCEDURES, is proposed to be amended to read as follows:

- 500.1 The Zoning Commission will evaluate and approve, disapprove, or modify a map amendment application or petition according to the standards of this **section chapter**.

¹⁶ The text of Subtitle U § 320.2 shown here reflects the final text approved by the Commission in Z.C. Case No. 19-21, published in the Notice of Final Rulemaking in the November 13, 2020, *D.C. Register*.

Section 501, APPLICATION OR PETITION REQUIREMENTS, of Chapter 5, MAP AMENDMENTS, of Subtitle X, GENERAL PROCEDURES, is proposed to be amended to read as follows:

501.1 An application/ or petition for a map amendment shall meet the requirements of Subtitle Z § 304.

A new § 502, is proposed to be added to Chapter 5, MAP AMENDMENTS, of Subtitle X, GENERAL PROCEDURES, to read as follows:

502 APPLICABILITY OF INCLUSIONARY ZONING PLUS

502.1 Except as provided in Subtitle X § 502.2, the requirements of this section shall apply to:

(a) A map amendment that rezones a property:

(1) From a PDR zone to a R, RF, RA, MU, D, CG or ARTS zone;

(2) From any zone other than a PDR zone to a D zone without a prescribed residential FAR; or

(3) From unzoned to a R, RF, RA, MU, D, CG, or ARTS zone; or

(b) A map amendment not described in Subtitle X § 502.1(a), which rezones a property from any zone to a zone that allows a higher maximum FAR, both exclusive of the twenty percent (20%) IZ bonus density, if applicable.

502.2 The requirements of this section shall not apply to a map amendment that:

(a) Is related to a PUD application;

(b) Is to a HE, NHR, SEFC, StE, USN, or WR zone;

(c) The Zoning Commission determines is not appropriate for IZ Plus due to the mitigating circumstances identified by the Office of Planning in its report recommending that the map amendment not be subject to IZ Plus; or

(d) Was filed as an application that was accepted by the Office of Zoning prior to November 16, 2020.

502.3 The requirements of Subtitle C, Chapter 10 shall apply to any map amendment subject to this section.

502.4 **In its order approving a map amendment subject to Subtitle X § 502.1(b), the Zoning Commission shall state the maximum permitted FAR of the existing zone, exclusive of twenty percent (20%) IZ bonus density, if applicable. For computation purposes of this subsection, the R-1 and R-2 zones shall have a FAR equivalent to 0.4, the R-3 zones shall have a FAR equivalent to 0.6, and the RF-1 zones shall have a FAR equivalent to 0.9.**

502.5 **Property subject to a map amendment subject to the requirements of this section shall be indicated with a “IZ+” symbol on the Zoning Map.**

IX. Proposed Amendment to Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE

Subsection 400.5 of § 400, SETDOWN PROCEDURES: SCHEDULING CONTESTED CASE APPLICATIONS FOR HEARING, of Chapter 4, PRE-HEARING AND HEARING PROCEDURES: CONTESTED CASES, of Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is proposed to be amended to read as follows:

400.5 For all other types of applications, the Commission, at a public meeting, shall determine if the application should be scheduled (setdown) for a hearing. The Office of Planning shall review each such application and submit a report ~~and recommend~~ **that recommends** whether the application should be set down for a hearing, **with the report on a map amendment application to include whether the application is:**

- (a) Not inconsistent with the Comprehensive Plan;**
- (b) Consistent with the purpose of the map amendment process;**
- (c) Appropriate for IZ Plus per Subtitle X § 502 including mitigating circumstances, if any; and**
- (d) Generally ready for a public hearing to be scheduled.**

Subsection 500.5 of § 500, SETDOWN PROCEDURES: SCHEDULING RULEMAKING PETITIONS FOR HEARING, of Chapter 5, PRE-HEARING AND HEARING PROCEDURES: RULEMAKING CASES, of Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is proposed to be amended to read as follows:

500.5 For all petitions, the Commission, at a public meeting, shall determine if the petition should be scheduled (setdown) for a hearing. The Office of Planning shall review ~~and recommend~~ **the petition and submit a report that recommends** whether the petition should be set down for a hearing, **with the report on a map amendment petition to include whether the petition is:**

- (a) Not inconsistent with the Comprehensive Plan;**
- (b) Consistent with the purpose of the map amendment process;**
- (c) Appropriate for IZ Plus per Subtitle X § 502 including mitigating circumstances, if any; and**
- (d) Generally ready for a public hearing to be scheduled.**