DCBIA
DISTRICT OF COLUMBIA BUILDING INDUSTRY ASSOCIATION

VIA EMAIL

Anthony J. Hood, Chairman
Zoning Commission
441 4th Street, NW Suite 200S
Washington, DC 20001

Re: Z.C. Case No. 21-02: Inclusionary Zoning, IZ XL, Phase #1 – Exempt Zones & Set-Aside Requirements by Construction Type

Dear Chairman Hood and Commissioners:

On behalf of the members of the D.C. Building Industry Association ("DCBIA"), we respectfully submit these comments regarding IZ XL, Phase #1. Given the timing of this submission relative to the public hearing, we respectfully request the Commission to accept this comments in to the record. Pursuant to 11-Z DCMR 103.13(g), the proposed comments are particularly relevant to the potential impacts of the proposed amendments under IZ XL Phase 1, and include detailed analysis that was only finalized this afternoon. Acceptance of these comments into the record will not unreasonably prejudice any party, but rather will provide valuable information to the Commission as it continues its efforts to evaluate refinements to the IZ regulations.

First and foremost, we appreciate the Commission's efforts to fine tune the IZ regulations so that production of affordable housing is maximized within that segment of the affordable housing continuum where IZ is effective. We also appreciate the phased, deliberative approach the Office of Planning ("OP") and the Commission are taking with regard to IZ XL.

From its inception, the success of the IZ program has been based upon a carefully prescribed balance between mandatory set asides, compensating bonus density, target income levels, and maximum purchase/rent limits. The assumptions underlying the Commission's original determination to exempt certain historic districts (Phase 1), conversions of non-residential building (Phase 2), and Downtown (D) zones (Phase 3), remain today.

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These include (i) compatibility issues and challenges to accessing IZ bonus density due to limits imposed by other discretionary reviews, (ii) the considerable extra costs associated with retrofitting a nonresidential structure to meet residential building codes compared to ground-up construction, and (iii) the significant land costs typical in D zones and competition with commercial development. These factors are beginning to be compounded by slowing population growth in the District, which may end up being exacerbated by the COVID-19 pandemic as residents seek larger properties outside the city and migration patterns potentially shift. The ongoing escalation of construction costs, which only has worsened by the pandemic, is another factor that is threatening the continued production of the housing market.

Regardless of what amendments are made to IZ, it is critical that the Commission continue to maintain the balance between set aside, incentive, and administrative limits on housing price in order for the IZ program to continue to incentivize the production of housing, even in the midst of waning demand and rising costs.

Vesting

In its hearing report dated April 19, 2021, OP requests additional time to study and propose text that would apply a vesting provision to clarify when the proposed text amendments would apply to a development project. We agree that a vesting provision should be adopted by the Commission in this case.

Development projects begin relying upon the Zoning Regulations from their very inception. Even before any substantial expenditure is made to develop permit plans, project proponents make assumptions based upon the Zoning Regulations to secure development partners and project financing. The study and planning involved in crafting a project concept and assembling the schematic, design, and construction drawings required for those efforts can take a year or more. Once a project's construction drawings are complete, upon submitting for permit, the amount of time it takes to navigate the various review processes can takes many months. Any required entitlement action would only add to those timeframes. While any change to the Zoning Regulations has the potential to impact a project that is deep into the planning or undergoing permit review, the proposed amendments under IZ XL – Phase 1, and Phases 2 and 3 for that matter, will have significant impacts without a vesting provision as they go directly to the underwriting of the entire project. Such impacts would likely prevent a project from going forward. As such, DCBIA recommends that the Commission adopt a vesting provision whereby the IZ XL amendments would go into effect six (6) months after the effective date of the Commission's final order for that particular phase of IZ XL and also allow projects to be vested prior to the IZ XL amendments' effectuation at the time a building permit is submitted to and accepted by DCRA. This would allow projects that are in the latter planning phases or undergoing permit review to vest under the current Zoning Regulations.

Set-aside requirement and construction type

To align with changes to the Construction Code, OP is proposing to increase the building height threshold for the 10% set aside category from 50 feet to 85 feet. As a result, developments located within a zone that permits a base matter-of-right height of 85 feet or less, and which utilize non-Type 1 construction for a majority of dwelling units would be required to set aside the greater of 10% of residential gross floor area or 75% of IZ bonus density used. To date, the record does not include any financial modeling that evaluates the impacts of the proposed amendments, or explains the underlying assumptions of the set aside change proposed. This is critical as it would show the values of the underlying assumptions related to returns and construction costs, and whether OP's modeling seeks to maintain land value or incorporates an assumed impact that has been deemed acceptable.

DCBIA has conducted an independent analysis of the potential impacts of the proposed amendment for the RA-3, MU-5, and MU-8 zones. The results of this analysis and description of key assumptions are attached as Exhibit A. In general, our analysis shows that under any development scenario, the IZ XL proposal will have a negative impact to land value for current land owners, and that the extent of the impact increases in zones that permit greater density. For example, the impact of moving from the 8%/50% bonus used set aside requirement category to the 10%/75% bonus used set aside category in the RA-3 zone would likely be an immediate decrease to land value likely to range between 3% - 6%. Meanwhile, the same change in the MU-8 zone would likely be an immediate decrease to land value likely to range between 3% - 7%. The degree of impact on projects that utilize a higher percentage of IZ bonus density may diminish the incentive for developers to build higher. As a result, developers may forego building to the maximum height to avoid the substantial cost of an additional level of concrete (which would likely be required to attain building heights above 50 feet), or even stay entirely within stick construction, and instead look to maximum lot occupancy to help subsidize the increased IZ set aside. Considering typical building standards for residential development (unit depth, corridor width, etc.), a potential downside to the proposed amendment could be an increase in smaller-sized market rate and IZ units that typically have higher rent per square foot yields. We believe these are important factors that need to be considered in this case given the recent down trend in rental rates in the District, and interest in larger units with outdoor space that are more conducive to increase telework arrangements due to COVID.

Applicability to certain exempt zones

DCBIA supports the effort to study the application of IZ to certain exempt zones, but questions how other discretionary reviews by the Historic Preservation Review Board ("HPRB") and the U.S. Commission of Fine Arts ("CFA") will impact an applicant's ability to access the bonus density or other modifications being proposed by OP to help compensate for the newly imposed IZ set aside. Considering their general focus on historic character and architectural design, and not necessarily on the production of affordable housing, it is not uncommon for the HPRB and

CFA review processes to limit development compared to what would otherwise be permitted under zoning. To that end, there is reason to believe that an applicant would be subject to the full IZ set aside requirement while not even being able to achieve the height, density, and/or lot occupancy that is currently available through a matter of right zoning envelope (without any IZ bonus or additional flexibility elements), let alone take advantage of bonus and modifications proposed by OP. Thus, rather than subject developments within currently exempt historic districts to the typical IZ set aside, DCBIA recommends that the Commission consider adopting a special set aside that accounts for the special circumstances that exist in the areas that were originally exempt by the Commission when it adopted IZ, such as applying an IZ set aside only to the bonus and modification proposed by OP that are actually able to be utilized.

Thank you for your consideration of these comments and the ability to input on this matter. We appreciate your time and would be happy to provide any additional information that might be helpful in consideration of the above or the IZ XL concepts generally.

Respectfully Submitted,

Lisa María Mallory

Lisa María Mallory, CEO
District of Columbia Building Industry Association

Attachment: Exhibit A

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

ATTACHMENT: EXHIBIT A

RA-3 RESIDUAL LAND VALUE ANALYSIS

	5-Stories	6-Stories	5-Stories	6-Stories
	By-Right	Current IZ	IZXL	IZXL
	8.00%	8.33%	10.00%	12.50%
FAR	**3.00**	**3.60**	**3.00**	**3.60**
GSF	180,000	216,000	180,000	216,000
RSF	148,500	178,200	148,500	178,200
Market Rate	136,620	163,350	133,650	155,925
Affordable	11,880	14,850	14,850	22,275
# of Units	198	238	198	238
Market Rate	182	218	178	208
Affordable	16	20	20	30
Parking Spaces	65	78	65	78
Hard Costs per GSF	**$192**	**$207**	**$192**	**$207**
VALUATION	**$32,657,856**	**$34,889,448**	**$31,806,073**	**$32,759,992**
$/SF	***$181***	***$162***	***$177***	***$152***
Valuation Increase $		***$2,231,592***		***$953,918***
Valuation Increase %		***6.83%***		***3.00%***
Land Value Change			***-2.61%***	***-6.10%***

	By Right	6-Stories	By Right	6-Stories
Product Type	5-Story Type IIIA	5-over-1	5-Story Type IIIA	5-Over-1
Floor Plate	36,000	36,000	36,000	36,000
Lot Area	60,000	60,000	60,000	60,000
Lot Coverage	**60.0%**	**60.0%**	**60.0%**	**60.0%**

MU-5 RESIDUAL LAND VALUE ANALYSIS

	5-Stories	6-Stories	7-Stories	5-Stories	6-Stories	7-Stories
	By Right	Current IZ	Current IZ	IZXL	IZXL	IZXL
	8.00%	8.00%	8.00%	10.00%	10.71%	10.71%
FAR	**3.60**	**4.20**	**4.20**	**3.60**	**4.20**	**4.20**
GSF	216,000	252,000	252,000	216,000	252,000	252,000
RSF	178,200	207,900	207,900	178,200	207,900	207,900
Market Rate	163,944	191,268	191,268	160,380	185,625	185,625
Affordable	14,256	16,632	16,632	17,820	22,275	22,275
# of Units	238	277	277	238	277	277
Market Rate	219	255	255	214	248	248
Affordable	19	22	22	24	30	30
Parking Spaces	78	91	91	78	91	91
Hard Costs per GSF	**$192**	**$207**	**$218**	**$192**	**$207**	**$218**
LAND VALUATION	**$39,189,427**	**$40,903,105**	**$37,461,752**	**$38,167,288**	**$39,284,718**	**$35,843,366**
$/SF	***$181***	***$162***	***$149***	***$177***	***$156***	***$142***
Valuation Change $		***$1,713,678***	***($1,727,674)***		***$1,117,430***	***($2,323,922)***
Valuation Change %		***4.37%***	***-4.41%***		***2.93%***	***-6.09%***
Land Value Change				***-2.61%***	***-3.96%***	***-4.32%***

	By Right	6-Stories	7-Stories	By Right	6-Stories	7-Stories
Product Type	5-Story Type IIIA	5-over-1	5-over-2	5-Story Type IIIA	5-Over-1	5-Over-2
Floor Plate	43,200	42,000	36,000	43,200	42,000	36,000
Lot Area	60,000	60,000	60,000	60,000	60,000	60,000
Lot Coverage	**72.0%**	**70.0%**	**60.0%**	**72.0%**	**70.0%**	**60.0%**

ATTACHMENT: EXHIBIT A

MU-8 RESIDUAL LAND VALUE ANALYSIS

	6-Stories	7-Stories	7-Stories	8-Stories	6-Stories	7-Stories	7-Stories	8-Stories
	By Right	By Right	Current IZ	Current IZ	By Right IZXL	By Right IZXL	IZXL	IZXL
	8.00%	8.00%	8.33%	8.33%	10.00%	10.00%	12.50%	12.50%
FAR	**5.00**	**5.00**	**6.00**	**6.00**	**5.00**	**5.00**	**6.00**	**6.00**
GSF	300,000	300,000	360,000	360,000	300,000	300,000	360,000	360,000
RSF	247,500	247,500	297,000	297,000	247,500	247,500	297,000	297,000
Market Rate	227,700	227,700	272,250	272,250	222,750	222,750	259,875	259,875
Affordable	19,800	19,800	24,750	24,750	24,750	24,750	37,125	37,125
# of Units	330	330	396	396	330	330	396	396
Market Rate	304	304	363	363	297	297	347	347
Affordable	26	26	33	33	33	33	50	50
Parking Spaces	109	109	131	131	109	109	131	131
Hard Costs per GSF	**$207**	**$218**	**$218**	**$226**	**$207**	**$218**	**$218**	**$226**
VALUATION	**$48,694,172**	**$44,597,324**	**$53,232,862**	**$49,545,699**	**$47,274,535**	**$43,177,687**	**$49,683,768**	**$45,996,605**
$/SF	***$162***	***$149***	***$148***	***$138***	***$158***	***$144***	***$138***	***$128***
Valuation Change $		***($4,096,848)***	***$4,538,689***	***$851,526***		***($4,096,848)***	***$2,409,233***	***($1,277,930)***
Valuation Change %		***-8.41%***	***9.32%***	***1.75%***		***-8.67%***	***5.10%***	***-2.70%***
Land Value Change					***-2.92%***	***-3.18%***	***-6.67%***	***-7.16%***

	6-Stories	7-Stories	7-Stories	8-Stories	6-Stories	7-Stories	7-Stories	8-Stories
Product Type	5-over-1	5-over-2	5-over-2	5-over-3	5-over-1	5-over-2	5-Over-2	5-over-3
Floor Plate	50,000	42,857	51,429	45,000	50,000	42,857	51,429	45,000
Lot Area	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000
Lot Coverage	**83.3%**	**71.4%**	**85.7%**	**75.0%**	**83.3%**	**71.4%**	**85.7%**	**75.0%**

KEY ASSUMPTIONS

Rentable to Gross Efficiency	82.50%
Avge Unit Size	750
Parking Ratio	0.33 stalls / unit
Recordation & Closing	1.75% of land cost
Site Work	$10.00 per GSF
Wood Hard Costs	$160.00 per GSF
Concrete Hard Costs	$250.00 per GSF
Parking Costs	$55,000.00 per Stall
Costs Outside of GMP	$2.00 per GSF
Soft Costs	16.00% of hard cost
Owner's Contingnecy	7.50% of hard & soft cost
Fees	4.00% of hard & soft cost
Loan Recordation & Fees	2.50% of loan amount
Interest Rate	5.25%
Years of Cap. Interest	1.25
Loan to Cost	*65%*
Market Rent	$3.95 per SF
Affordable Rent (60% AMI)	$1.75 per SF
Parking Income	$200.00 per Stall
Other Income	$75.00 per Unit
Vacancy & Loss Factor	5.00%
OpEx Margin	32.00%