

MEMORANDUM

TO: District of Columbia Zoning Commission

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DATE: May 17, 2021

SUBJECT: ZC Case 21-02 – Supplemental Report #1 for Proposed Text Amendment: IZ-XL Phase #1 – Exempt Zones¹ and Set-Aside Requirements by Construction Type.

I. BACKGROUND

At its April 26, 2021 public hearing, the Zoning Commission (“Commission”) considered text amendments for Case No. 21-02 and heard public testimony about

- Applying the existing Inclusionary Zoning (“IZ”) program to exempt zones;
- Increasing the set-aside requirement height threshold as it relates to construction type from 50 feet to 85 feet; and
- The need for a vesting provision.

Prior to taking proposed action, the Commission requested that the Office of Planning (“OP”) work with the Office of Attorney General (“OAG”) to prepare a vesting provision for the existing IZ set-aside requirement to certain development projects. The Commission also requested that OP meet with the Historic Anacostia Block Association (“HABA”) to further discuss the proposed text amendments.

Since the time of the public hearing, OP recommends the Commission consider additional text amendments to the NC-6 (Eighth Street) zone as they pertain to the IZ height bonus regulation as part of this Case No. 21-02. In its public hearing report (Exhibit 8) OP initially proposed to set down amendments to the NC-6 zone as a separate text amendment case. However, OAG advised that these amendments should be considered as part of this case as they are in response to this case and would not further expand the IZ height bonus proposed in this case.

¹ Other than R-1-A/R-1-B and Downtown (“D”) zones that are exempt from the IZ program.

II. ANALYSIS

Vesting

The Commission received public testimony requesting a vesting provision because the height threshold change from 50 feet to 85 feet could result in higher IZ set-aside requirements for certain development projects. Concerns were expressed that the change in threshold height could affect the financing of projects in the planning phase that do not yet have a building permit.

For matter-of-right projects, OP recommends that the Commission make the effective date of the final order January 1, 2022, which will simplify the vesting provision and eliminate the need to prescribe a date in the Zoning Regulations. For all other projects listed below, Appendix I of this report contains the proposed vesting language along with the existing set-aside requirements for vested projects that will be part of the Zoning Regulations.

OP in coordination with OAG, proposes to apply a vesting provision to make the following types of development projects subject to the existing IZ set-aside requirements which includes the existing 50-foot threshold:

Project Type:	Vested By:	Requirements:
Matter-of-Right	December 31, 2021	<ul style="list-style-type: none"> Final order for Case 21-02 effective January 1, 2022. Building permit must be issued prior to order becoming effective.
Zoning Commission: <ul style="list-style-type: none"> First-Stage, Second-Stage, or Consolidated PUD, or Design Review 	December 31, 2021	<ul style="list-style-type: none"> Commission must have taken a vote to approve final action prior to January 1, 2022. Approval must be unexpired. Building permit for above grade construction must be filed and accepted prior to January 1, 2025.
Board of Zoning Adjustment (“BZA”): <ul style="list-style-type: none"> Variance or Special Exception 	December 31, 2021	<ul style="list-style-type: none"> BZA must have taken a vote to approve prior to January 1, 2022. Approval must be unexpired. Building permit for above grade construction must be filed and accepted prior to January 1, 2025.
Historic Preservation Review Board (“HPRB”) or Commission of Fine Arts (“CFA”): <ul style="list-style-type: none"> Concept Design or Project Design 	December 31, 2021	<ul style="list-style-type: none"> HPRB or CFA must have taken a vote to approve prior to January 1, 2022. Approval must be unexpired. Building permit for above grade construction must be filed and accepted prior to January 1, 2025.
Mayor’s Agent	December 31, 2021	<ul style="list-style-type: none"> Mayor’s Agent approval order must be issued prior to January 1, 2022. Approval must be unexpired.

		<ul style="list-style-type: none">• Building permit for above grade construction must be filed and accepted prior to January 1, 2025.
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NC-6 Zone

On April 1, 2021, OP met with members of ANC 6B to discuss the proposal to make the NC-6 (Eighth Street) zone in the Capitol Hill Historic District subject to the existing IZ regulations. Concern was expressed that the proposed provision of an IZ height bonus along 8th Street, SE, to permit buildings up to a maximum of 55 feet, was contrary to the purpose of the reduced height of the NC-6 zone. It was pointed out that the NC-6 zone had a height limit of 45 feet to ensure that the viewshed of the historic Latrobe Gate at the intersection of 8th Street, SE and M Street, SE would not be negatively impacted. After discussion with ANC 6B, it was determined that a 1 to 1 setback starting above 45 feet would be sufficient at protecting the viewshed of the Latrobe Gate.

This additional text amendment would apply a 1 to 1 setback requirement for all portions of a building or an addition facing 8th Street, SE above 45 feet. The maximum IZ height limit of 55 feet proposed under this case would not be changed. This text amendment would also provide special exception relief from the setback requirement to be reviewed by the Board of Zoning Adjustment. An applicant requesting relief would be required to demonstrate that the viewshed of the of the Latrobe Gate would not be unduly impacted. A review and written recommendation would also be required by the Historic Preservation Office.

Appendix II of this report provides the revised zoning text to incorporate this change into the height requirements².

Historic Anacostia Block Association

OP attended a meeting hosted by HABA on May 13, 2021 to discuss the text amendment to remove the exemptions from IZ, which would result in applying the IZ requirements to the R-3 zone in the Anacostia Historic District. OP explained that there are 37 neighborhood historic districts in the city and the IZ regulations apply to all 37 historic districts except for:

- The R-3 zone portion of the Anacostia Historic District;
- The MU-13 zone portion of the Georgetown Historic District;
- The RA-5 and R-10 portions of the Dupont Circle Historic District; and
- The NC-6 (Lower Barracks Row on Eighth St) portion of the Capitol Hill Historic District.

Questions were asked about the potential to reduce lot widths to 16 feet for providing an IZ unit and the compatibility with the historic district. OP explained that many of the lots are 16 feet wide or narrower and that any application to reduce a lot width to 16 feet would have to be reviewed by both the Board of Zoning Adjustment and Historic Preservation Office. OP also discussed the IZ set-aside requirements height threshold as it relates to construction type and explained that there will be no change to the maximum permitted height in the historic district.

Concern was raised about putting more affordable housing in the community while other parts of the District do not have many affordable housing options. OP discussed how applying an IZ requirement would support Mayor Bowser’s housing goals of providing 36,000 housing units by 2025, including

² OP’s proposed revisions to Subtitle H §§ 103 and 702 as provided in Appendix III are to remain.

12,000 new affordable units. Questions were asked about how the District chose to distribute the housing goals and OP discussed resources, including the Housing Equity Report, that could provide more information.

APPENDIX I – PROPOSED TEXT AMENDMENT – VESTING

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):

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~~ **Except as provided in Subtitle C § 1003.11, an** Inclusionary Development 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~~ **eighty-five** feet (~~50~~ **85** ft.) or less, shall set aside for Inclusionary Units the sum of the following:

...

1003.2 ~~An~~ **Except as provided in Subtitle C § 1003.11, an** Inclusionary Development 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~~ **eighty-five** feet (~~50~~ **85** ft.), shall set aside for Inclusionary Units the sum of the following:

...

1003.11 An Inclusionary Development other than an IZ Plus Inclusionary Development shall be subject to the set-aside requirements of Subtitle C §§ 1003.12 and 1003.13 (instead of those of Subtitle C §§ 1003.1 and 1003.2) if:

(a) Prior to January 1, 2025, the Department of Consumer and Regulatory Affairs has accepted as complete an application for a building permit, not including a foundation-to-grade permit, to construct the Inclusionary Development; and

(b) The plans filed with this building permit application are consistent with an unexpired approval for:

(1) A first-stage, second-stage, or consolidated planned unit development or design review for which the Zoning Commission voted to approve final action prior to January 1, 2022;

(2) A variance or special exception that the Board of Zoning Adjustment voted to approve prior to January 1, 2022;

(3) A concept design or project that either the Historic Preservation Review Board or Commission of Fine Arts voted to approve prior to January 1, 2022; or

(4) A Mayor’s Agent decision for which a final order was issued prior to January 1, 2022.

1003.12 An Inclusionary Development subject to Subtitle C § 1003.11 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 gross floor area dedicated to residential use 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.

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

1003.13 An Inclusionary Development subject to Subtitle C § 1003.11 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 gross floor area dedicated to residential use 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.

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

APPENDIX II – PROPOSED TEXT AMENDMENT – NC-6 ZONE

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):

Proposed Amendment to Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES

Subsection 703.1 of § 703, HEIGHT, of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

- 703.1 The maximum permitted building height, not including the penthouse, in the NC-6 zone shall be ~~forty-five feet (45 ft.)~~; **as follows:**
- (a) **Forty-five feet (45 ft.), or fifty-five feet (55 ft.) for Inclusionary Developments; and**
 - (b) **A one-to-one (1:1) building setback shall be provided for any portion of a building or structure facing Eighth Street, SE that exceeds forty-five feet (45 ft.)**.

New § 709, SPECIAL EXCEPTION – EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE, is proposed to be added and to read as follows:

709 SPECIAL EXCEPTION CRITERIA – EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE

709.1 The Board of Zoning Adjustment may grant as a special exception pursuant to Subtitle X, Chapter 9, the reduction or elimination of the required one-to-one (1:1) building setback under Subtitle H § 703.1(b); provided that the reduction or elimination of the required setback would not unduly impact the viewshed of the Latrobe Gate.

709.2 The Office of Zoning shall refer the application to the Historic Preservation Office (HPO) for their review and recommendation, to be filed in the case record within the forty- (40) day period established by Subtitle A § 211.

APPENDIX III – PROPOSED TEXT AMENDMENT – FULL TEXT

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 Amendments to Subtitle C, GENERAL RULES

Subsections 1003.1 and 1003.2 of § 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~~ **Except as provided in Subtitle C § 1003.11, an** Inclusionary Development 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~~ **eighty-five** feet (~~50~~ **85** ft.) or less, shall set aside for Inclusionary Units the sum of the following:

...

1003.2 ~~An~~ **Except as provided in Subtitle C § 1003.11, an** Inclusionary Development 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~~ **eighty-five** feet (~~50~~ **85** ft.), shall set aside for Inclusionary Units the sum of the following:

...

New subsections 1003.11 through 1003.13 of § 1003, SET-ASIDE REQUIREMENTS, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be added and to read as follows:

1003.11 An Inclusionary Development other than an IZ Plus Inclusionary Development shall be subject to the set-aside requirements of Subtitle C §§ 1003.12 and 1003.13 (instead of those of Subtitle C §§ 1003.1 and 1003.2) if:

(a) Prior to January 1, 2025, the Department of Consumer and Regulatory Affairs has accepted as complete an application for a building permit, not including a foundation-to-grade permit, to construct the Inclusionary Development; and

(b) The plans filed with this building permit application are consistent with an unexpired approval for:

(1) A first-stage, second-stage, or consolidated planned unit development or design review for which the Zoning Commission voted to approve final action prior to January 1, 2022;

- (2) A variance or special exception that the Board of Zoning Adjustment voted to approve prior to January 1, 2022;**
- (3) A concept design or project that either the Historic Preservation Review Board or Commission of Fine Arts voted to approve prior to January 1, 2022; or**
- (4) A Mayor’s Agent decision for which a final order was issued prior to January 1, 2022.**

1003.12 An Inclusionary Development subject to Subtitle C § 1003.11 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 gross floor area dedicated to residential use 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.**

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

1003.13 An Inclusionary Development subject to Subtitle C § 1003.11 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 gross floor area dedicated to residential use 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.**

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

II. Proposed Amendment to Subtitle D, RESIDENTIAL HOUSE (R) ZONES

Section 105, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) 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, shall apply to the R-2, R-3 (~~except for the portion in the Anacostia Historic District~~), R-10, R-13, R-17, and R-20 zones as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle.

Section 302, DENSITY – LOT DIMENSIONS, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended by revising §§ 302.2-302.5, to read as follows:

302.1 Except as provided in other provisions of this title ...

302.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10, shall not apply to the R-1-A and R-1-B zones, ~~or to that portion of the Anacostia Historic District within the R-3 zone.~~

302.3 Except as provided in Subtitle D § 302.4, the minimum dimensions of lots for Mandatory Inclusionary Developments in the R-2 and R-3 (~~other than that portion in the Anacostia Historic District~~) zones, shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:

...

302.4 The minimum lot width for Mandatory Inclusionary Developments in the R-2 and R-3 (~~other than that portion in the Anacostia Historic District~~) zones may be reduced to no less than as set forth in the following table if granted as a special exception pursuant to Subtitle D § 5206.1 by the Board of Zoning Adjustment.

302.5 Voluntary Inclusionary Developments in the R-2 and R-3 (~~other than that portion in the Anacostia Historic District~~) zones shall require special exception relief pursuant to Subtitle D § 5206.2 to utilize the following IZ modifications, authorized by Subtitle C § 1002.2:

...

Section 5206, SPECIAL EXCEPTIONS FOR MODIFICATIONS FOR INCLUSIONARY DEVELOPMENTS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended to read as follows:

5206.1 For Mandatory Inclusionary Developments in the R-2, R-3 (~~except that portion in the Anacostia Historic District~~), R-10, R-13, R-17, and R-20 zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle D §§ 302.4, 502.4, 702.4, 1002.3, and 1202.4.

5206.2 For Voluntary Inclusionary Developments in the R-2, R-3 (~~except that portion in the Anacostia Historic District~~), R-10, R-13, R-17, and R-20 zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width and lot area requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle D §§ 302.5, 502.5, 702.5, 1002.4, and 1202.5. Relief granted pursuant to this subsection shall not require additional relief pursuant to Subtitle D § 5206.1.

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

Section 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, ~~provided that in the RA-5 and RA-10 zones the IZ requirements, modifications, and bonus density shall not apply except that IZ Plus Inclusionary Developments shall be subject to the IZ requirements of Subtitle C, Chapter 10.~~

Section 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 by deleting § 302.2, renumbering and revising current § 302.3, to read as follows:

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

~~302.3~~ 302.2 The maximum permitted FAR for Inclusionary Developments in the RA-1 through RA-~~4~~5 zones, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, shall be as set forth in the following table; provided that in the RA-1 zone Voluntary Inclusionary Developments shall require special exception relief pursuant to Subtitle F § 5206.1 to utilize this modification:

TABLE F § 302.3: MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR INCLUSIONARY DEVELOPMENTS

Zone	Maximum FAR for Inclusionary Developments
RA-1	1.08 (Voluntary Inclusionary Developments require special exception relief under Subtitle F § 5206.1)
RA-2	2.16
RA-3	3.6
RA-4	4.2
<u>RA-5</u>	<u>7.2</u>

Section 304, LOT OCCUPANCY, 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:

304.1 Except as provided in other provisions of this chapter, the maximum permitted lot occupancy shall be established for lots in the RA-1, RA-2, RA-3, RA-4, and RA-5 zones as set forth in the following table:

TABLE F § 304.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy (Percentage)
RA-1	40
RA-2	60
RA-3	75
RA-4	75
RA-5	75
	80 (IZ)

Section 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 by deleting § 602.2 and renumbering and revising current § 602.3, to read as follows:

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

~~602.3~~ **602.3** The maximum permitted FAR for Inclusionary Developments in the RA-8 **and through** RA-~~9~~**10** zones, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, shall be as set forth in the following table:

TABLE F § 602.2: MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR INCLUSIONARY DEVELOPMENTS

Zone	Maximum FAR for Inclusionary Developments
RA-8	2.16
RA-9	4.2
RA-10	7.2

Section 604, LOT OCCUPANCY, 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:

604.1 The maximum lot occupancy shall be established for lots in the RA-8, RA-9, and RA-10 zones as set forth in the following table:

TABLE F § 604.1: MAXIMUM PERCENTAGE OF LOT OCCUPANCY

Zone	Maximum Lot Occupancy (Percentage)
RA-8	60
RA-9	75

RA-10	75
	80 (IZ)

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

Section 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, and IZ Plus Inclusionary Developments, that 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 502.1 of § 502, DENSITY – FLOOR AREA RATIO (FAR), 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:

502.1 The maximum permitted FAR of buildings, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G §§ 502.2 and 502.3:

TABLE G § 502.1: MAXIMUM PERMITTED LOT FLOOR AREA RATIO (FAR)

Zone	Maximum FAR	
	Maximum Total Permitted FAR	Maximum Non-Residential Use FAR
MU-11	0.5	0.5
MU-12	2.5	1.0
	3.0 (IZ)	
MU-13	4.0	2.0
	4.8 (IZ)³	
MU-14	6.0	5.0
	7.2 (IZ)	

Subsection 503.1 of § 503, HEIGHT, 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:

³ The current version of the unofficial Zoning Regulations erroneously prescribes a 4.8 IZ FAR.

503.1 The maximum permitted building height, not including the penthouse, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G § 503.3:

TABLE G § 503.1: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Height (ft.)
MU-11	40
MU-12	45
	50 (IZ)
MU-13	60
	80 (IZ)
MU-14	90
	100 (IZ)

Subsection 504.3 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 deleted:

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

Subsection 802.1 of § 802, DENSITY – FLOOR AREA RATIO (FAR), 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:

802.1 The maximum permitted FAR in the MU-27 zone shall be ~~2.5 FAR with a maximum density of 1.5 FAR for non-residential use.~~ shall be as set forth in the following table:

TABLE G § 802.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Maximum Total FAR	Maximum Non-Residential FAR
<u>2.5</u>	<u>1.5</u>
<u>3.0 (IZ)</u>	

Section 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:

804.1 The maximum permitted lot occupancy for residential use in the MU-27 zone shall be sixty percent (60%), or seventy-five percent (75%) for Inclusionary Developments.

~~804.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the MU-27 zone.~~

V. Proposed Amendment to Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES

Section 103, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO NEIGHBORHOOD MIXED-USE (NC) ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

103.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all NC zones, except **for Square 907 in** the NC-6 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, **in Square 907** in the NC-6 zone shall be subject to the IZ requirements.

Section 702, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

702.1 The maximum permitted FAR ~~for permitted commercial and residential uses~~ in the NC-6 zone shall be ~~3.0~~. **as set forth in the following table:**

TABLE H § 702.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Maximum Total FAR	Maximum Non-Residential FAR
3.0	3.0
3.6 (IZ)	

702.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to **Square 907 in** the NC-6 zone.

Subsection 703.1 of § 703, HEIGHT, of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

703.1 The maximum permitted building height, not including the penthouse, in the NC-6 zone shall be ~~forty-five feet (45 ft.)~~. **as follows:**

- (a) **Forty-five feet (45 ft.), or fifty-five feet (55 ft.) for Inclusionary Developments; and**
- (b) **A one-to-one (1:1) building setback shall be provided for any portion of a building or structure facing Eighth Street, SE that exceeds forty-five feet (45 ft.).**

New subsection 709, SPECIAL EXCEPTION – EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE, is proposed to be added and to read as follows:

**709 SPECIAL EXCEPTION CRITERIA – EIGHTH STREET SOUTHEAST
NEIGHBORHOOD MIXED-USE ZONE**

709.1 The Board of Zoning Adjustment may grant as a special exception pursuant to Subtitle X, Chapter 9, the reduction or elimination of the required one-to-one (1:1) building setback under Subtitle H § 703.1(b); provided that the reduction or elimination of the required setback would not unduly impact the viewshed of the Latrobe Gate.

709.2 The Office of Zoning shall refer the application to the Historic Preservation Office (HPO) for their review and recommendation, to be filed in the case record within the forty- (40) day period established by Subtitle A § 211.

VI. Proposed Amendment to Subtitle K, SPECIAL PURPOSE ZONES

Subsection 500.6 of § 500, GENERAL PROVISIONS (CG), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be deleted:

~~**500.6 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.**~~

Subsections 501.3 and 501.6⁴ of § 501, DEVELOPMENT STANDARDS (CG-1), 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:

501.3 The maximum permitted floor area ratio (FAR) in the CG-1 zone shall be 6.0, **or 7.2 for Inclusionary Developments.**

501.6 The maximum permitted lot occupancy for residential use in the CG-1 zone shall be seventy-five percent (75%), **or ninety percent (90%) for Inclusionary Developments.**

⁴ The current version of the unofficial Zoning Regulations erroneously prescribes 90% IZ lot occupancy.