

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** Jonathan Kirschenbaum, AICP  
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JLS  
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**DATE:** June 17, 2021

**SUBJECT:** ZC Case 21-02 – Supplemental Report #2 for Proposed Text Amendment: IZ-XL  
Phase #1 – Exempt Zones and Set-Aside Requirements by Construction Type.

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**I. WAIVER OF RULES FOR LATE SUBMITTAL**

This report is being submitted less than 10 days prior to the Zoning Commission’s Public Meeting. The Office of Planning (“OP”) respectfully requests that the Commission waive its rule and accept this report into the record.

**II. BACKGROUND**

At its May 27, 2021 public meeting, the Zoning Commission (“Commission”) voted to take proposed action to adopt the text amendments proposed in Case No. 21-02. As explained in further detail below, OP proposes to make several changes to the vesting language (Appendix I).

Since the time of the vote, OP has worked closely with the Office of Attorney General (“OAG”) to refine the proposed vesting language. Upon further review of the proposed vesting language and of the existing general vesting rules in the Subtitle A of the Zoning Regulations, there is not a need to provide a separate vesting provision in Subtitle C § 1003.11 for Inclusionary Zoning (“IZ”) developments that receive either a Board of Zoning Adjustment (“BZA”) or Commission approval.

Subtitle A § 301.7 already provides general vesting rules<sup>1</sup> for applications that receive an order from either the BZA or Commission, which permits an application for a building permit to be

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<sup>1</sup> Subtitle A § 301.7 states: All applications for building permits authorized by orders of the Board of Zoning Adjustment, or authorized by orders of the Zoning Commission in a contested case, may be processed in accordance with the Zoning Regulations and Zoning Map in effect on the date the vote was taken to approve the Board or Commission application, to the extent the proposed building or structure is depicted on any plans approved by the Board or Commission. No Board of Zoning Adjustment or Zoning Commission order shall be deemed to include relief from any zoning regulation unless such relief was expressly requested by the applicant and expressly granted in the order.

subject to the Zoning Regulations in effect on the date of the vote of approval. Thus, the existing vesting provisions in Subtitle A § 301.7 are sufficient to vest BZA and Commission applications previously proposed in OP’s last supplemental report (Exhibit 16).

OP recommends that references to BZA and Commission cases be removed from Subtitle C § 1003.11 to reduce duplicative vesting regulations. Vesting language is still proposed for approvals from the Historic Preservation Review Board (“HPRB”) and Commission on Fine Arts (“CFA”) and decisions from the Mayor’s Agent because Subtitle A § 301.7 does not provide vesting rules for these applications.

OP also recommends additional vesting language be added to Subtitle C § 1001.6 for HPRB and CFA approvals and Mayor’s Agent decisions. This additional vesting language will clarify that if these applications are in a zone proposed to be no longer exempt from the IZ program, the project will be allowed to stay exempt from IZ based on the same vesting rules for the IZ set-side requirements under Subtitle C § 1003.11. This is necessary to ensure that projects that are in the planning phase but have yet to obtain a building permit will be fully vested under the existing IZ exemptions to ensure that the financing of projects is not negatively impacted. Without this additional vesting language, HPRB and CFA approvals and Mayor’s Agent decisions will have an IZ requirement if they receive a building permit after December 31, 2021.

OP continues to request that the Commission grant flexibility to work with OAG to further refine the proposed zoning text, if needed. OP also requests that the Commission authorize OP to file a submission at the end of the public comment period that addresses the public comments.

## APPENDIX I – PROPOSED TEXT AMENDMENT – REVISIONS TO VESTING PROVISION

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; and new text since the vote to take proposed action is shown in blue):

**Section 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended by revising § 1001.6, to read as follows:**

1001.6 The requirements of this chapter shall not apply to:

...

(f) Any development, other than an IZ Plus Inclusionary Development, that is located in the portion of the R-3 zone within the Anacostia Historic District, in the portion of the MU-13 zone within the Georgetown Historic District, or in the RA-5, RA-10, MU-27, NC-6, or CG-1 zones if:

(1) 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 development; and

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

(i) 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

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

**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~~ 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)~~ **(1) 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)~~ **(2) 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 – 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

Section 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended by revising § 1001.6, to read as follows:

1001.6 The requirements of this chapter shall not apply to:

...

**(f) Any development, other than an IZ Plus Inclusionary Development, that is located in the portion of the R-3 zone within the Anacostia Historic District, in the portion of the MU-13 zone within the Georgetown Historic District, or in the RA-5, RA-10, MU-27, NC-6, or CG-1 zones if:**

**(1) 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 development; and**

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

**(i) 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**

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

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 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**
  - (2) 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
	<u>80 (IZ)</u>

**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-910** 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
<b>RA-10</b>	<b>7.2</b>

**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
	<b>80 (IZ)</b>

**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
	<b>4.8 (IZ)<sup>2</sup></b>	
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:**

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
	<b>80 (IZ)</b>
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.~~

<sup>2</sup> The current version of the unofficial Zoning Regulations erroneously prescribes a 4.8 IZ FAR.

**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**

<u>Maximum Total FAR</u>	<u>Maximum Non-Residential FAR</u>
<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**

<u>Maximum Total FAR</u>	<u>Maximum Non-Residential FAR</u>
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<u>3.0</u>	<u>3.0</u>
<u>3.6 (IZ)</u>	

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 501.6<sup>3</sup> 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.**

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<sup>3</sup> The current ODAI version of the official Zoning Regulations erroneously omitted the IZ lot occupancy of 90%.