

MEMORANDUM

TO: District of Columbia Zoning Commission

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DATE: January 26, 2024

SUBJECT: ZC Case 23-17 – Public hearing report for a proposed text amendment to reduce parking requirements for publicly assisted affordable dwelling units.

I. RECOMMENDATION

The Office of Planning (“OP”) recommends that the Zoning Commission (“Commission”) **approve** the proposed text amendments, as provided in Appendix I of this report:

1. Revisions to Subtitle C, Chapter 7, Vehicular Parking (Table C § 701.5).
2. Revisions to Subtitle C, Chapter 10, Inclusionary Zoning (“IZ”) (Subtitle C §§ 1001.6 and 1001.7).

The proposal would **not be inconsistent** with the Comprehensive Plan when viewed through a racial equity lens. OP’s set down report at [Exhibit 2](#) provides a complete Comprehensive Plan analysis of the proposal.

OP requests flexibility to work with the Office of Zoning Legal Division (“OZLD”) to further refine the proposed language, if necessary.

II. BACKGROUND

Set Down

At its July 27, 2023 public meeting, the Commission set this case down for a public hearing. OP proposed to reduce parking requirements for publicly assisted affordable dwelling units in developments that exceed the requirements of the IZ program and are in proximity to public transportation as described in Subtitle C § 702.1.

Community Engagement and Outreach

During the summer of 2022, OP on several occasions met with affordable housing providers, housing advocates, building industry leaders, and staff from DHCD to discuss affordable housing concepts, including reducing parking requirements for affordable housing units. Key takeaways from these discussions can be found in Section II of OP’s set down report at [Exhibit 2](#). OP met with the following organizations:

| DC Building Industry Association (DCBIA) | Enterprise Community Partners | Jubilee Housing | SOME (So Others Might Eat) | National Housing Trust |
|--|---|--|------------------------------|--|
| Jaydot | Somerset Development Company | Coalition for Nonprofit Housing & Economic Development | Coalition For Smarter Growth | Greater Greater Washington |
| Ward3Vision | Local Initiatives Support Corporation (LISC DC) | Committee of 100 on the Federal City | Empower DC | Department of Housing and Community Development (DHCD) |

On November 1, 2022, OP held a public roundtable on housing and affordable housing. Approximately 70 people attended the meeting, with 12 organizations and two individuals testifying.

The Office of Zoning (“OZ”) filed the notice of the public hearing to the D.C. Register for December 22, 2023 issue ([Exhibit 3](#)) and sent the notice all ANCs and relevant District agencies on December 14, 2023 ([Exhibit 5](#)).

III. CHANGES SINCE SET DOWN

Parking Reduction

OP does not propose additional amendments to the parking reduction proposal. Section IV of this report provides analysis on why OP does not recommend applying the proposal to IZ units and Section V of this report provides a summary of the proposed text amendments.

Temporarily Exempt Inclusionary Units

The proposed amendment clarifies what is an “affordable dwelling unit” under Subtitle C § 1001.6(a) for the purposes of the proposed parking reduction. It also clarifies what is a temporarily exempt inclusionary unit (“TEIU”) for the purposes of determining the IZ set-aside requirement when an affordable control period ends. Without this additional amendment, there could be a miscalculation of the proposed parking reduction because Subtitle C § 1001.6(a) incorrectly refers to *any* “affordable dwelling unit” as a “TEIU.”

OP also proposes to generally reorganize the TEIU regulations of Subtitle C §§ 1001.6(a) and 1001.7 to ensure proper interpretation and administration. The proposed amendments to Subtitle C §§ 1001.6(a) and 1001.7 also clarify that TEIUs must be identified on plans submitted for a building permit and they must comply with the IZ development standards provided in Subtitle C § 1005. OP worked closely with both the Department of Buildings (“DOB”) and the Department of Housing and Community Development (“DHCD”) on these amendments, and the proposed text does not propose substantive changes to the IZ program regulations.

IV. COMMISSION COMMENTS FROM SET DOWN MEETING

OP received the following comment from the Commission at the July 27, 2023 set down meeting:

Commission Comment: Consider expanding the proposal to IZ units in market rate residential buildings.

OP Response: OP reviewed the potential of providing parking reductions for IZ units in exchange for more IZ units and found several problems with the concept:

- The 2016 Zoning Regulations lowered the parking requirements from the 1958 standards and established a base requirement that is generally below the demand for market rate units. As a result, developments are likely to provide more parking than required by the regulations.
- Parking reductions only provide value to developments when they can eliminate at least one entire level of below grade parking. The parking minimums under the 2016 Zoning Regulations accomplished this as discussed above, and the savings, in part, enabled the IZ program to target lower incomes as part of Commission case no. 04-33G. OP's analysis of further parking reductions in exchange for IZ units found that the potential reduction would be unlikely to save typical developments enough to eliminate a whole level of parking.
- OP's review of approximately 60 past BZA cases for parking relief under the 2016 Zoning Regulations found that in almost all instances, the lots either had no public alley access (and a curb cut from the street would have been prohibited) or the lots were extremely small or irregular in shape. Thus, parking relief for these cases was not requested to simply save money, but instead, was needed to resolve conflicting regulatory requirements. Requiring residential developments to provide 'voluntary' IZ units to eliminate parking requirements, that the projects cannot legitimately comply with would be unduly punitive. It would also be inconsistent with the existing parking special exception, which serves as an important release valve when parking cannot be physically provided due either to District Department of Transportation ("DDOT") standards or the unusual shape of the property.
- OP analyzed patterns of IZ developments by zone to determine the probability of whether a developer would be willing to increase their IZ affordability requirement in exchange for reducing the site's parking requirement.

OP found that 88 percent of the IZ projects were near metro stations or priority bus networks and were eligible for the one-half reduction in minimum parking. OP found that when the parking reduction is applied, projects in all zones can meet the minimum zoning requirement through one level of parking. This means absent eliminating parking altogether, they are unlikely to increase their IZ affordability requirements in order to reduce their parking requirement. Of the 12 percent outside the reduced parking areas, most were in areas where parking could be met through surface or one-level of parking. Of the 657 IZ projects tracked by DHCD, only six were high-density projects outside the metro parking reduction areas in Buzzard Point by the soccer stadium.

Based on this analysis, OP concluded that market rate projects with IZ units provide parking based on market demand and not minimum zoning requirements. It is therefore highly unlikely developers would choose to increase their affordability requirements in order to reduce parking. For those projects that are close to the margin, simple changes in unit size and mix of bedrooms can often achieve the desired reduction in parking sufficient to eliminate an entire floor.

- Eliminating IZ units from parking requirements also goes against IZ program principles that market-rate and IZ units should be comparable in overall design and amenities. In particular, IZ residents in market-rate buildings are often put at a disadvantage for obtaining on-site parking because new buildings often lease up first with market-rate tenants who often rent most, if not all, of the on-site parking.
- Finally, parking reductions in exchange for more IZ units create an added level of complexity to administering the program. The IZ program already provides several options for increasing or decreasing the IZ square footage requirement. In consultation with the Zoning Administrator and DHCD, OP concluded that adding another flexibility would make program difficult to administer.

V. SUMMARY OF PROPOSAL

The proposal would amend Table C § 701.5 to revise parking requirements for publicly-assisted affordable dwelling units in multiple dwelling developments from 1 parking space per 3 dwelling units in excess of 4 dwelling units to 1 parking space per 3 affordable dwelling units **in excess of 40 affordable dwelling units**, if the development meets the following criteria to qualify for the parking reduction:

- The affordability of the multiple dwelling development must exceed the requirements of the IZ program as specified in Subtitle C § 1001.6(a); and
- The property must be located within either a one-half mile (0.5 mi.) of a Metrorail station, a one-quarter mile (0.25 mi.) of streetcar line, or one-quarter mile (0.25 mi.) of a Priority Corridor Network Metrobus route as specified in Subtitle C § 702.1.

Table C § 701.5 would also be amended to prohibit the parking reduction from applying to market rate dwelling units. Similarly, the proposal would amend Subtitle C § 1001.6(a) to clarify that the proposed parking exemption in Table C § 701.5 is only for “affordable dwelling units” that meet the criteria of the subsection.

The following table compares the existing parking requirements to the proposed parking requirements and assumes that each scenario exceeds the IZ program requirements and is in proximity to transit as specified in Subtitle C § 702.1:

| Scenario | Existing Parking Requirement (spaces) | Proposed Parking Requirement (spaces) |
|---|---------------------------------------|---------------------------------------|
| 40 affordable dwelling units | 12 or 6 with transit reduction | 0 |
| 100 affordable dwelling units | 32 or 16 with transit reduction | 10 with transit reduction |
| 300 affordable dwelling units | 99 or 49 with transit reduction | 43 with transit reduction |
| 40 affordable dwelling units and 60 market rate units | 32 or 16 with transit reduction | 9 with transit reduction |

VI. COMMUNITY COMMENTS

No community comments were filed to the record at the time this report was filed.

APPENDIX I – PROPOSED TEXT AMENDMENT

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

Table C § 701.5 of § 701, MINIMUM VEHICLE PARKING REQUIREMENTS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

701.5 Except as provided for in Subtitle C § 702, parking requirements for all use categories are as follows (all references to “sq. ft.” refers to square feet of gross floor area as calculated in Subtitle C § 709):

TABLE C § 701.5: PARKING REQUIREMENTS

| Use Category | Minimum number of vehicle parking spaces |
|-------------------------------------|---|
| Agriculture, large | 1.67 per 1,000 sq. ft. |
| ... | |
| Residential, flat | 1 per 2 dwelling units. |
| Residential, multiple dwelling unit | 1 per 3 dwelling units in excess of 4 <u>dwelling</u> units, except <u>as follows:</u> 1 per 2 dwelling units for any R or RF zone; 1 per 6 <u>dwelling</u> units of publicly assisted housing, reserved for the elderly and /or handicapped <u>in any zone; or</u> <u>1 per 3 affordable dwelling units in excess of 40 affordable dwelling units in any zone for a development that meets the criteria of Subtitle C § 1001.6(a) and Subtitle C § 702.1. All other dwelling units not described in this paragraph shall comply with the appropriate minimum parking requirement listed in this table.</u> |
| Residential, rooming house | 1 plus 1 for each 5 rooming units |
| ... | ... |

Subsection C § 1001.6(a) of § 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

1001.6 The requirements of this chapter shall not apply to:

(a) Any development subject to a mandatory affordable housing requirement **to provide affordable dwelling units** that **exceeds exceed** the requirements of this chapter as a result of District law or financial subsidies funded in whole or in part by the Federal or District Government and administered and/or monitored by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA); provided:

(1) **Prior to the issuance of a building permit, The the development shall set aside, for so long as the project exists, affordable dwelling units designate certain affordable dwelling units as (Temporarily Exempt Inclusionary Units) in accordance with the minimum income standards of Subtitle C § 1001.6(a)(2) and equal to at least the gross square footage that would have been otherwise required pursuant to the set-aside requirements in Subtitle C § 1003 for the zone in which the development is located and these Temporarily Exempt Inclusionary Units shall be identified on plans submitted for building permit and the following conditions:**

(A) **Temporarily Exempt Inclusionary Units shall be identified on the plans submitted for a building permit;**

(B) **Temporarily Exempt Inclusionary Units shall be reserved as follows:**

(i) **The square footage set aside for rental units shall be at or below sixty percent (60%) MFI; and**

(ii) **The square footage set aside for ownership units shall be at or below eighty percent (80%) MFI; and**

(C) **Temporarily Exempt Inclusionary Units shall meet the development standards of Subtitle C § 1005;**

(2) **The Temporarily Exempt Inclusionary Units shall be reserved as follows:**

(i) **The square footage set aside for rental units shall be at or below sixty percent (60%) MFI; and**

(ii) **The square footage set aside for ownership units shall be at or below eighty percent (80%) MFI;**

(3) **Upon the expiration of the affordable housing requirements of the District law or financial subsidies administered by DHCD, DCHFA, or DCHA, The the Temporarily Exempt Inclusionary Units identified in Subtitle C § 1001.6(a)(1) shall be sold or rented in accordance with the Inclusionary Zoning Program (as defined by the IZ Act) upon the expiration of the affordable housing requirements of the District law or financial subsidies administered by DHCD, DCHFA, or DCHA;**

(4) **The requirements set forth in subparagraphs (1), (2), and (3) of this paragraph Subtitle C §§ 1001.6(a)(1) and (2), shall be stated as**

declarations within a covenant running with the land for the benefit of the District of Columbia, found technically sufficient by ~~the Zoning Administrator and legally sufficient by the Office of Zoning Legal Division; and DHCD;~~

~~(5)(4)~~ The approved covenant shall be recorded in the land records of the District of Columbia prior to the date that the first application for a certificate of occupancy is filed for the project; except that for developments that include buildings with only one (1) dwelling unit, the covenant shall be recorded before the first purchase agreement or lease is executed; and

~~(5)~~ No exemption may be granted unless the Zoning Administrator receives a written certification from the Director of DHCD that the development meets the requirements of Subtitle C §§ 1001.6(a)(1), (2), and (3).

(b) Assisted living facilities, community residence facilities...

...

(f) Any development, other than an IZ Plus Inclusionary Development...

Subsection C § 1001.7 of § 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be deleted:

1001.7 ~~No exemption may be granted pursuant to Subtitle C § 1001.6(a) unless the Zoning Administrator receives a written certification from the DHCD Director that the development meets the requirements of Subtitle C §§ 1001.6(a)(1) and (4). [DELETED]~~

1001.8 If a development exempted from this chapter...

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