

The Committee of 100
on the Federal City



BY IZIS

February 21, 2025

Mr. Anthony J. Hood, Chairman
DC Zoning Commission
One Judiciary Square
441 4th St. N.W., Second Floor
Washington, D.C. 20016

Re: Z.C. Case No. 23-27
Notice of Proposed Rulemaking for the Navy Yard East (NYE) Zone

Dear Chairman Hood and Members of the Commission:

The Committee of 100 on the Federal City (C100) offers these comments in response to a Notice of Proposed Rulemaking (NPRM) published in the DC Register on January 24, 2025. The origin of the text amendments is a proposal by the Office of Planning to create a new zone on 15 acres of currently unzoned land in the southeast corner of the Washington Navy Yard. The new zone would be slated for development by Redbrick LMD. The Committee of 100 previously submitted comments in opposition to the proposed text amendments (Exhibit 19) and testified against the proposal at the December 12, 2024, public hearing. Since the proposal is basically unchanged, our objections remain.

We offer the following comments on the Notice of Proposed Rulemaking:

Inclusionary Zoning

C100 previously argued that, under established zoning rules, IZ Plus should apply to the proposed development on the site. This in fact is what the initial report from the Office of Planning required. OP subsequently changed its position, presumably under pressure from the developer and others.

In response to C100's comments at the public hearing, the NPRM states: "OP testified that a higher affordable housing set-aside [under IZ Plus] should not apply to the new NYE zone

because the site is a unique property owned by the US Navy but to be developed by a private developer.” NPRM, p. 4.

This is a totally inadequate rationale for exempting the new zone from IZ Plus. The regulations at Subtitle X, section 502.2 state that:

The requirements of this section shall not apply to a map amendment that (c) The Zoning Commission determines is not appropriate for IZ Plus due to the mitigating circumstances identified by the Office of Planning in its report recommending the map amendments not be subject to IZ Plus...

Neither the Office of Planning nor the Office of Zoning in the proposed rule have presented any “mitigating circumstances.” There is nothing about the “uniqueness” of the property that would justify the exemption. The land is being provided by the Navy for private development under a long-term lease, with provision for the ultimate transfer to the developer once the agreement terms are met. This is a straightforward private development, and no justification exists or is provided for exempting the new zone from IZ Plus.

As noted, the original proposal from OP called for IZ Plus. Apparently, it’s “uniqueness” wasn’t then evident. It is not a justification to say that the exemption is in the MOU. The MOU basically provided everything the Navy and the developer were proposing, suggesting that the Zoning Commission could not exercise any independent judgement on the elements of the proposed new NYE Zone, including the exemption from IZ Plus.

Further the NPRM states that in addition to normal IZ the property will have “deeper affordability requirements”. This is illusory. The set aside for disabled veterans is not means tested and the additional affordable housing mentioned (7%) relies on the developer applying for and getting LIHTC and HPTF funding. This is a highly speculative commitment and is inconsistent with the justification for IZ Plus, which is to generate higher amounts of affordable housing **without** government subsidies. Even if it comes to pass, the amount of affordable housing would be less than would be the case under IZ Plus. A gratuitous provision in the MOU (not even in the zoning text) is hardly a **requirement**. In fact, it’s a specious promise. One alternative would be to require IZ Plus, but credit against IZ Plus any affordable commitments under funding from LIHTC/HPTF.

The NYE Zone should be subject to IZ Plus and not be exempted. Section 1302 should be deleted.

Height Act

As the NPRM notes, C100 has stated that the proposal misapplies the Height Act due to an improper assumption of the location of the “measuring point.” C100 had suggested that O Street rather than the 11th St. Freeway should be considered the front to the buildings for

Height Act purposes. The NPRM states that “OP noted that O Street cannot be used to measure height as a frontage because it is a private street.” This sentence is misleading and should be stricken. While O Street is currently blocked by the Navy for security reasons, it will be opened for the new development. In fact, it will be the only road access to the interior of the new development.

C100 believes that the Height Act issue merits further review. As a compromise, the Committee of 100 asked the Zoning Commission to set a maximum height of 90 feet above natural grade (in excess of what would be allowed using O Street as the measuring point). Such a height limit would be more compatible with the area and with the Navy Yard National Historic Landmark District. That compromise proposal was rejected. C100 continues to recommend that the map and text amendments should limit the maximum height of buildings to 90 feet above natural grade.

Please feel free to contact me if you have any questions.

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