

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 15-33**

**Z.C. Case No. 15-33**

**Insight E Street, LLC**

**(Consolidated Planned Unit Development & Related Map Amendment @ Square 1043)**

**September 12, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on June 30, 2016, to consider an application from Insight E Street, LLC ("Applicant") for the consolidated review and approval of a planned unit development ("PUD") and a related Zoning Map amendment for the subject property (collectively, the "Application"). The Commission considered the Application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR")<sup>1</sup>. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the Application.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. On December 22, 2015, the Applicant filed an application with the Commission for the consolidated review and approval of a PUD and a related Zoning Map amendment for the subject property which is located in Square 1043, including Lots 128, 156, 157, 818, and 819 (the "Site").
2. The Applicant proposes to build a four-story apartment house on the Site. The proposed PUD will have approximately 123,549 square feet of gross floor area and will include approximately 152 units (the "Project"). The maximum height of the building is 46 feet, three inches to the highest point of the roof and 50 feet, three inches to the top of the parapet. The Project includes a habitable penthouse, which has a height of 13 feet to the top of the parapet, while the elevator override within the penthouse rises to a maximum height of 15 feet. The Project also includes approximately 90 parking spaces.

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<sup>1</sup> Chapter 24 and all other provisions of Title 11 DCMR were repealed on September 6, 2016. Chapter 24 was replaced by Chapter 3 of Subtitle 11-X. However, because this application was set down for hearing prior to that date, the Commission's approval was based upon the standards set forth in Chapter 24.

community. The building design is sculpted away from the neighboring residences to the east. In addition, the replacement of the existing improvements and uses on the Site with the Project constitutes a significant benefit, and will bring the Site into compliance with the goals of the Future Land Use Map and Comprehensive Plan. The Project will also retain the portion of the existing rowhouse on Lot 156, which fronts on E Street, to maintain continuity with the surrounding residences to the east;

- c. *Housing & Affordable Housing (§ 2403.9(f)).* The Project results in the creation of new housing and replaces industrial uses in an area designated for residential use and consistent with the goals of the Zoning Regulations and the Comprehensive Plan and Future Land Use Map. The Project will replace existing non-residential uses with up to 123,549 square feet of gross floor area as well as additional floor area in both the penthouse and cellar dedicated to residential use. The Project will include a range of units, including three-bedroom, family-oriented homes on a site on which residential use would otherwise not be permitted. If the Site was developed as a matter of right, no residential uses would be permitted since the current Site zoning is C-M-1. The Project will contain approximately 11,518 square feet of gross floor area dedicated to affordable housing in accordance with the IZ regulations. This amount of affordable housing represents a substantial increase in residential floor area when compared to the fact that no affordable housing would be generated if the Site was developed as a matter of right. In an effort to provide greater affordability, the Applicant will set aside the first three units for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, followed by each additional odd number unit being set aside for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median. The result is one additional unit within the required amount of IZ. The Applicant will dedicate a minimum of two three-bedroom units as affordable housing within the 11,518 square foot affordable housing provided. One of the three-bedroom units will be affordable for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, and the other three-bedroom unit shall be affordable to a household of one or more individuals with a total annual income adjusted for household size equal to between 51% and 80% of the Metropolitan Statistical Area median. In response to the Commission's comments, the Applicant revised the IZ unit layout so that fewer IZ units reserved for households making equal to less than 50% of the Metropolitan Statistical Area median faced the interior courtyard;
- d. *Environmental Benefits (§ 2403.9(h)).* The Project incorporates a variety of sustainable design features such as on-site rooftop photovoltaic solar panels, which will generate approximately one percent of the energy for the Project. In response to the Commission's comments at the public hearing, the Applicant

7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give "great weight" to the issues and concerns raised in the written report of the affected ANC. In this case, ANC 6B voted unanimously to support the project and recommended that the Commission approve the Application. (Ex. 30.) The Commission has given ANC 6B's recommendations great weight in approving this Application.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to the recommendations of OP in all zoning cases. The Commission carefully considered the OP reports and found OP's reasoning persuasive in recommending approval of the application.
11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission **ORDERS APPROVAL** of the Application for the consolidated PUD and the PUD-related Zoning Map amendment to rezone the Site from C-M-1 to R-5-B. This approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on, or during a certain time, the timing of the obligation is noted in bold and underlined text.

#### **A. PROJECT DEVELOPMENT**

1. The PUD shall be developed in accordance with the plans titled "Bowie Redevelopment Site", prepared by SK&I Architectural Design Group, LLC dated April 8, 2016, and marked as Exhibits 16A1-16A9 of the record, and as modified by the plans included with the Applicant's Post-Hearing Submission dated July 14, 2016, and marked as Exhibit 39B of the record (collectively the "PUD Plans").

2. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior (i.e., street or alley facing) configuration of the building;
  - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction;
  - c. To increase the final number of residential units by no more than 10% above the total number approved to respond to market demand, or to decrease the final number of residential units within the approved gross floor area in order to accommodate demand for larger units;
  - d. To vary the location, attributes and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the DDOT Public Space Division;
  - e. To make refinements to the garage configuration, including layout, parking spaces, and other elements, so long as the Project includes at least one space for every two dwelling units and one space for Capitol Hill Village; and
  - f. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, fencing around private outdoor terrace space, or any other changes to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals.

## **B. PUBLIC BENEFITS**

3. **Prior to issuance of a certificate of occupancy for the Project**, the Applicant shall make streetscape improvements in public space, including new paving for the sidewalks, street lighting fixtures, a continuous five-foot-wide planting strip, new and replacement shade trees, and four bike racks, all subject to approval by DDOT, as shown on Sheet L002 of Exhibit 16A8 of the record. The Applicant shall prune the groundcover on two existing tree boxes that are located on E Street, between the eastern edge of the Site and 14<sup>th</sup> Street, S.E., and the Applicant shall provide a decorative, low metal fence around the two existing tree

boxes, subject to approval by DDOT, as shown on slide 24 of Exhibit 35 of the record.

4. **For the life of the Project**, the Applicant shall provide the following housing and affordable housing:

- a. The Project shall provide up to 123,549 square feet of residential gross floor area of housing, and approximately 7,843 square feet of habitable penthouse space, including amenity space. Up to 119,874 square feet of gross floor area of this total will be market-rate housing, and approximately 11,518 square feet will be affordable housing;
- b. The affordable housing shall be provided in accordance with the following:

Residential Unit Type	GFA & Percentage of Total		Units	Income Type	Affordable Control Period	Affordable Unit Type
Total GFA	123,549 sq. ft.	100%	153			
Market Rate	98,709 sq. ft.	90%	138	N/A		
IZ Total	11,518 sq. ft.	10%	15	Mixed	Duration of Project	Rental
IZ Units (50%)	Base	6,034 sq. ft.	9	50% AMI	Duration of Project	
	Provided	6,316 sf. Ft.				
IZ Units (80%)	Base	5,484 sq. ft.	6	80% AMI	Duration of Project	
	Provided	5,203 sf. ft.				

- c. The affordable housing units shall be distributed generally in accordance with the matrix and plans marked as Exhibit 39C, sheets A-501 through A-505 of the record, subject to the flexibility noted on the plans;
- d. The Project shall include a minimum of two three-bedroom units as affordable housing units. One of the three-bedroom units shall be affordable to a household of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, and the other three-bedroom unit shall be affordable to a household of one of more individuals with a total annual income adjusted for household size equal to between 51% and 80% of the Metropolitan Statistical Area median. The Applicant shall set aside the first three units for households of one or more individuals with a total annual income adjusted for household size equal to less than 50% of the Metropolitan Statistical Area median, followed by each additional odd number unit being set aside for households of one or more individuals with a total annual income adjusted for household size equal to less than

50% of the Metropolitan Statistical Area median, in accordance with § 2603.3 of the Zoning Regulations; and

- e. The monitoring and enforcement documents required by 11 DCMR § 2409.10 shall include a provision requiring compliance with Conditions 4.b, 4.c, and 4.d.
5. **For the life of the Project**, the Applicant shall dedicate approximately 1,200 square feet of space in the Project rent free to facilitate the delivery of programs and services assisting seniors living in the neighborhood in accordance with the Memorandum of Understanding with Capitol Hill Village marked as Exhibit 30 of the record. **Prior to issuance of a final certificate of occupancy for the Project**, the Applicant shall renovate the existing rowhouse located at 1355 E Street, S.E. with low-impact universal design elements. The Applicant shall deliver the existing rowhouse as “warm-lit shell”, which shall include: (i) basic mechanical, electrical, and plumbing infrastructure; (ii) drywall; (iii) one bathroom; and (iv) sub-flooring. All fit-out and finishes shall be the responsibility of the eventual occupant. The Applicant shall dedicate one parking space in the Project’s below-grade parking garage for the occupant’s staff to use. The parking garage may be accessed via a card access reader and shall be provided at no cost to the occupant.
6. **The Applicant shall submit with its building permit application**, a checklist evidencing that the Project has been designed to achieve 60 points under LEED-2009 for New Construction, which is equivalent to the USGBC LEED-Gold standard.
7. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall provide on-site rooftop photovoltaic solar panels, which will generate approximately one percent of the energy for the Project.
8. **During the operation of the building**, the Applicant shall provide a Transportation Management Program, as set forth in the Transportation Demand Management (“TDM”) section of the Comprehensive Transportation Review in the record at Exhibit 27A. The Transportation Demand Management Plan shall include the following:
  - a. The Applicant shall offer an annual Capital Bikeshare, or car sharing membership and usage credit, of approximate equivalent value for each residential unit for a period of five years from the opening of the development;
  - b. Fifty-one bike parking spaces shall be provided in a secure space in the below-grade parking garage as well as eight short-term spaces along the E Street frontage of the building. A bicycle repair station with work bench

and bicycle cleaning facilities shall be provided within the bicycle storage room;

- c. The residential building lobby shall display transit and other alternate mode information, using an electronic message board;
- d. The Applicant shall establish a TDM marketing program;
- e. Printed materials related to local transportation alternatives shall be distributed to each resident upon move-in that includes information such as:
  - i. Promotion for DDOT's goDCgo website;
  - ii. Brochures on car-sharing, ride-sharing, and bike-sharing programs;
  - iii. Tips on apps and websites to use to navigate public transportation;
  - iv. Maps for nearby bicycle trail routes and bike lanes; and
  - v. Maps for Metro, bus and streetcar routes;
- f. A cargo bicycle shall be made available for residents to use for errands;
- g. Two grocery carts with wheels shall be made available for residents to use for grocery shopping purposes;
- h. The development shall be designed to enable residents to better work from home, which may include conference room facilities, copying/printing capabilities, free Wi-Fi in common area spaces, and common areas for meeting; and
- i. The Applicant shall provide one electric car-charging station in its below-grade parking garage.

9. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall place \$20,000 in an escrow account to be used by the Applicant for costs and fees associated with the feasibility evaluation and concept design for the future redevelopment of the Peter Bug Site into a public park. All funds paid out by the Applicant in connection with the feasibility evaluation and concept design for the future redevelopment of the Peter Bug Site shall be used as approved by ANC 6B.

10. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall expend \$65,000 towards improvements and programming at the

Potomac Avenue Metro Plaza, if approved by WMATA and DDOT. The Applicant shall provide to the Zoning Administrator evidence that the improvements and/or programming approved by WMATA and DDOT have been or are being provided. In the event that DDOT and WMATA do not agree to the proposed improvements to Potomac Avenue Metro Plaza, the Applicant shall work with ANC 6B to identify a public and/or recreation space improvement project, **and prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall place \$65,000 in an escrow account to be used by the Applicant to pay for costs and fees related to such project. The scope of the project and funds paid out shall be as directed by ANC 6B.

11. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall provide a screened trash collection area in the eastern alley that can accommodate approximately nine District issued trash totes and shall be made available to the owners of Lots 80, 81, 82, 83, 84, 840, 47, 48, and 864 all in Square 1043.
12. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall repave the five-foot expansion along with the entire alley adjacent to the Project. The paving shall identify pedestrian and vehicular spaces to increase safety within the alley system. The Applicant shall place lighting on its building façade that fronts the alleys abutting the western and southern property lines. The lighting shall be affixed on the building at a level that is not more than the second story in order to minimize possible impacts on surrounding properties. Security cameras may be added to building exteriors to monitor loading dock and garage entrance areas. The Applicant shall affix mirrors to façades of its buildings abutting the intersection of the north-south and east-west alleys in order to help improve safety for vehicles, pedestrians, and bikes moving through the alley network. The Applicant may convert the intersection of the north-south and east-west alleys to a four-way stop, if approved by DDOT.
13. **During the operation of the building**, the Applicant shall ensure that areas of the public alley system abutting the west and south façades of the Project are cleared of snow within 24 hours of a snowfall of more than three inches.
14. **During the construction of the Project**, the Applicant shall abide by a construction management plan including those elements identified in the Memorandum of Understanding between the Applicant and ANC 6B marked as Exhibit 30 of the record.

#### C. MISCELLANEOUS

15. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner of the Site and the District of Columbia, that is satisfactory to the Office of the Attorney



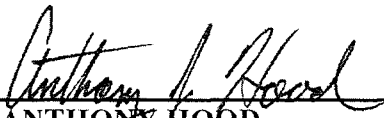
General and DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Commission.


16. The PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit for the first phase or the entire building as specified in 11 DCMR § 2409.1. Construction of the Project approved by the building permit shall begin within three years of the effective date of this Order.
17. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On June 30, 2016, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Miller, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the Application at the conclusion of the public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

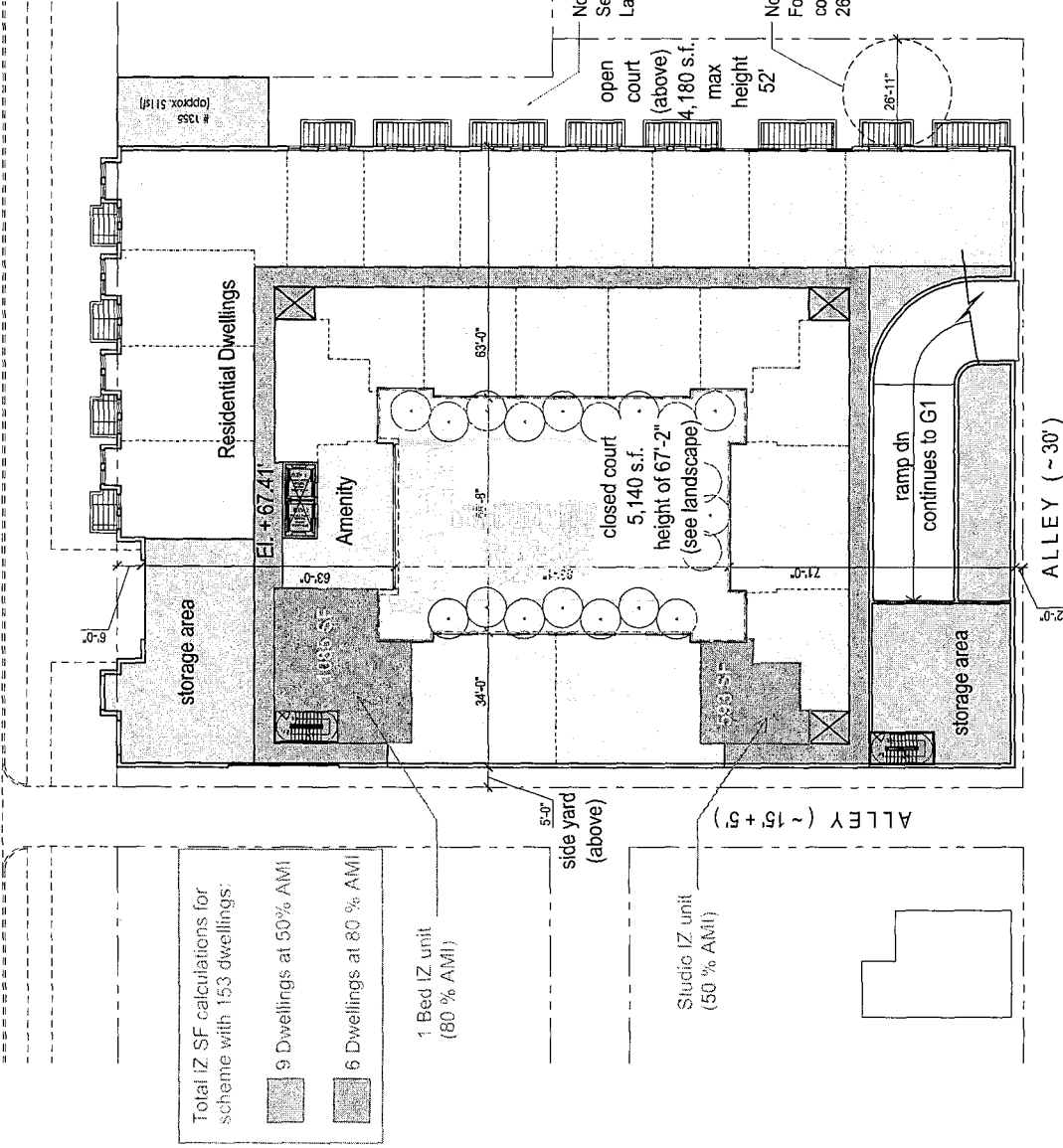
On September 12, 2016, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; third Mayoral Appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on November 18, 2016.

  
ANTHONY HOOD  
CHAIRMAN  
ZONING COMMISSION

  
SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING

**Notes:**  
The IZ unit locations are based upon the current 153 dwelling unit count as submitted in the Applicant's Prehearing Submission. The number and location of the IZ units are subject to change if the total number of dwelling units changes within the range requested as part of the PUD flexibility.



Residential Unit Type	GFA & Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type
Total GFA	123,549 sq. ft. 100%	153			
Market Rate	98,709 sq. ft. 90%	138	N/A		
IZ Total	11,518 sq. ft. 10%	15	Mixed	Duration of Project	Rental
IZ Units (50%)	Base 6,034 sq. ft. 52.4% Provided 6,316 sq. ft. 54.8%	9	50% AMI	Duration of Project	
IZ Units (80%)	Base 5,484 sq. ft. 47.6% Provided 5,203 sq. ft. 45.2%	6	80% AMI	Duration of Project	

PUD Unit Mix

	Studio Dwellings		One Bedroom Dwellings		Two Bedroom Dwellings		Three Bedroom Dwellings			Total
	* IZ at 50% AMI Studio	IZ at 80% AMI Studio	Market Rate Studio	* IZ at 50% AMI 1 Bed	IZ at 80% AMI 1 Bed	Market Rate 1 Bed	* IZ at 50% AMI 2 Bed	IZ at 80% AMI 2 Bed	Market Rate 2 Bed	
Penthouse	0	0	3	0	0	4	0	0	0	8
4th	1	0	7	1	1	17	1	0	0	32
3rd	0	0	7	0	0	17	0	0	0	32
2nd	0	1	7	1	1	17	0	1	0	32
1st	0	1	7	0	0	11	0	0	0	24
Cellar	1	0	6	1	0	11	0	0	0	24
Subtotals	2	2	37	6	2	77	1	1	1	152

Total IZ units	15
Total Market Rate Units	137

Totals	4 / 15	37 / 137	8 / 15	77 / 137
Percentage	26.67%	27.01%	53.33%	56.20%

\* Note: The 9 units includes an additional unit at 50% above the base-IZ requirement as well as a unit resulting from the penthouse habitable space.  
 \*\* Note: The applicant commits to providing two 3 bedroom units with one at 50% AMI and one at 80% AMI