

Section 9.12 Procedures for Waiver Requests in the /MIN Mixed Income Neighborhoods Overlay District

Pursuant to Section 14-533(3)(b) of the Zoning Code, the Department of Planning and Development shall approve or reject an Applicant's Waiver Request following the requirements and criteria stated herein.

9.12.1 Submission Requirements for an Applicant's Waiver Request

The applicant must notify the Department which of the two waiver options, listed in the Zoning Code Chapter 14-533(3) (b)(.1), they are applying for.

9.12.1.1 If seeking any waiver pursuant to 14-533(3) (b)(.1), at the time of application for a zoning permit, the applicant must submit to the Department of Planning and Development a waiver request that includes the following information:

9.12.1.1 The declaration of the Residential Housing Project, including a plan showing all parcels and their legal addresses, the number of planned and approved dwelling units, the number of planned and approved affordable dwelling units, and the dates of any previous approvals.

9.12.1.2 An affidavit that includes a narrative describing:

9.12.1.2.1 The exceptional circumstances of this proposed project and the particular substantial public benefit that would be derived from the proposed off-site development; and

9.12.1.2.2 The reasons that the development cannot provide the remaining affordable dwelling units on-site.

9.12.1.2 In addition, if seeking a waiver pursuant to 14-533(3) (b)(.1)(.a), the applicant must submit to the Department of Planning and Development the Certificates of Occupancy of any approved dwelling units within one-half mile of the remaining units included in the Residential Housing Project.

9.12.1.3 In addition, if seeking a waiver pursuant to 14-533(3) (b)(.1)(.b), the applicant must submit to the Department the following information:

9.12.1.3.1 A notarized affidavit, including a written description, stating the nature of any hardship which would accrue to the applicant by not complying with the Zoning Code and reasons that the development cannot provide the remaining affordable dwelling units on-site, and

9.12.1.3.2 A Market Study documenting the supply of and demand for housing that is affordable to households earning up to 40 percent of Area Median Income within one-half-mile of the Residential Housing Project

9.12.2 Additional Criteria for Granting a Waiver

9.12.2.1 A waiver pursuant to 14-533(3) (b)(.1)(.a) shall only be granted if all off-site affordable units claimed to satisfy the requirements of that section have been granted a certificate of occupancy prior to the submission of the waiver request.

9.12.2.2 A waiver pursuant to 14-533(3) (b)(.1)(.a) shall only be granted if the neighborhood affordability submitted pursuant to 9.12.1.3, above, demonstrates that, within one-half-mile of the Residential Housing Project, there is an adequate supply of supply of housing that is affordable to households earning up to 40 percent of Area Median Income, relative to the demand for such housing.

9.12.2.3 Dwelling units earned as part of any bonus program in the Zoning Code shall not be eligible to be included in the waiver request.

9.12.2.4 An applicant may not request a waiver for units which have received a Certificate of Occupancy more than three years in advance of their waiver request submission date.

9.12.2.5 If a waiver request is granted based upon the affordability of off-site units, the same off-site affordable units cannot be relied upon in later waiver requests by the same or different applicants.

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