


## **SUPPLEMENTAL MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Michael Jurkovic, AICP, Development Review Specialist  
 Joel Lawson, Associate Director Development Review

**DATE:** October 8, 2024

**SUBJECT:** BZA Case 21156, OP Supplemental Report to permit a new Semi-Detached Single Family Dwelling at 1351 C Street, NE.

### **I. BACKGROUND**

At Exhibit 25 is in OP Preliminary Report, noting concerns with the relief requested in this case by the applicant, and that discussions with the applicant were not resolved. At Exhibit 26 are a series of submission by the applicant, filed on October 7, 2024, amending the requested relief and providing updated architectural drawings and a statement of justification for the revised relief. With these revisions and additional information, OP is able to provide analysis and a recommendation.

### **II. RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following special exception pursuant to Subtitle X § 901:

- C § 1501.1 Penthouse Uses (No habitable space above the matter-of-right height, 9ft. and one story above matter-of-right proposed.)

### **III. LOCATION AND SITE DESCRIPTION**

Address:	1351 C Street, NE
Applicant:	Joel Heisey of Inner City Development, LLC. on behalf of Richard Weinland and Sandra Novo
Legal Description:	Square 1033; Lot 149
Ward / ANC:	Ward 6; ANC 6A
Zone:	RF-1
Historic Districts	N/A
Lot Characteristics:	Rectangular Interior Lot measuring 21.69 ft. x 67.45 ft. with a 9 ft. and 15 ft. wide public alley in the rear.
Existing Development:	Two-family flat with Roof Deck
Adjacent Properties:	Residential Flats
Surrounding Neighborhood Character:	Moderate Density Residential Neighborhood
Proposed Development:	Two-family flat with habitable penthouse and roof deck.

Board of Zoning Adjustment

District of Columbia

CASE NO. 21156

EXHIBIT NO. 28



#### IV. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed <sup>1</sup>	Relief:
Density E § 201	2 principal units max.	2 units	No Change	None Requested
Lot Width E § 202	18 ft. min.	26.69 ft.	No Change	None Requested
Lot Area E § 202	1,800 sq. ft. min.	1463 sq. ft.	No Change	Existing Non-conformance
Height E § 203	35 ft. max.	32 ft. 10 in.	No Change	None Requested
Penthouse Height E § 205	12 ft. and 1 story max.	N/A	9 ft. and one story	None Requested
<b>Penthouse Uses – Habitable Space Height C § 1501.1(b)(2) &amp; (3)</b>	<b>Within the matter of right height</b> and not larger than 9 ft. and one story.	N/A	<b>Above the matter of right height;</b> 9 ft. and 1 story.	<b>Sp. Ex. Relief Requested</b>
Penthouse Uses – Habitable Space Area C § 1501.1(b)(4)	Contains only stair or elevator access to the roof plus a maximum of thirty square feet (30 sq. ft.) of space ancillary to a rooftop deck or terrace;	N/A	Stair access and 30 sq. ft. of ancillary space.	None Requested
Penthouse Setbacks – Front C § 1504	Distance equal to height	N/A	15.04 ft.	None Requested
Penthouse Setbacks – Rear C § 1504	Distance equal to height	N/A	10.16 ft.	None Requested

#### V. OP ANALYSIS

##### Subtitle C Chapter 1501 PENTHOUSES AND ROOFTOP STRUCTURES

*1501.1 A penthouse or rooftop structure may house mechanical equipment or any use permitted within the zone, except that penthouse habitable space shall be restricted as follows:*

- (a) Within residential zones in which the building is limited to thirty-five feet (35 ft.) or forty feet (40 ft.) maximum, the penthouse use shall be limited to penthouse mechanical space and ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop*

*unenclosed and uncovered deck, terrace, or recreation space;*

- (b) *Penthouse habitable space shall only be permitted on the roof of a single household dwelling or flat in any zone, or on the roof of an apartment house converted pursuant to Subtitle U § 320.2, if it:*

- (1) *Is not located on an alley lot;*
- (2) *Is located entirely within the matter of right permitted height for the building;*
- (3) *Is a maximum of nine feet (9 ft.) in height and one (1) story; and*
- (4) *Contains only stair or elevator access to the roof plus a maximum of thirty square feet (30 sq. ft.) of space ancillary to a rooftop deck or terrace;*

- (c) *Penthouse habitable space that satisfies the requirements of paragraph (b) of this subsection except that it would be partially or entirely above the matter-of-right permitted height for the building shall only be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9;*

Because the stairwell and enclosed accessory space would be partially above the permitted building height of 35 feet, the proposal requires special exception relief for the penthouse and rooftop structure development standard which establishes that a penthouse or rooftop structure, including a stairwell to a roof deck, as proposed, must be within the matter of right permitted height for the building in this zone. Although what is proposed would still satisfy paragraph (b) criterion (1), (3), and (4), special exception relief is required.

#### **Subtitle X Section 901 SPECIAL EXCEPTION REVIEW STANDARDS**

901.2 *The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:*

- (a) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

While the provision is specifically intended to discourage the use of stairwells to access roof decks in this zone, the proposed penthouse would be within the nine foot / 1 story height limit for a stairwell in this zone, and would provide all of the required setbacks. In particular, it would be set well back from both the front and rear elevations and designed to minimize potential visual impacts as seen from below, it would be unlikely to result in a building for that would appear to be inconsistent with the intent of the zone.

- (b) *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

A roof deck itself is permitted by right. The special exception is required for the stairwell and small storage area, which are permitted by right if within that permitted building height. The proposed stairwell would appear to have minimal if any impact

on the use of neighboring property.

(c) *Subject in specific cases to the special conditions specified in this title.*

This form of relief has no additional special conditions or criteria.

## VI. OTHER DISTRICT AGENCIES

DDOT has informed OP via email that have no objections to the approval of the application. As of the writing of this report, there are no other comments from other agencies in the record.

## VII. ADVISORY NEIGHBORHOOD COMMISSION

At Exhibit #22, ANC 6A submitted a letter of support to the record.

## VIII. COMMUNITY COMMENTS

At Exhibit #24 there is a letter of support from an adjacent property owner.

Figure 1: Location Map

