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ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Case No. 14-13 (Office of Planning – Text Amendments to Chapters 1, 4, 5, 6, 7, 12, 15, 19, 26, 27, 29, and 33: Definitions, Use Permissions, and Size Restrictions for Rooftop Penthouses).

**Supplemental Statement of Larry Hargrove
May 11, 2015**

The following comments, submitted in response to comments by Commissioner May and others toward the end of the April 30, 2015 hearing this case, are personal only,

Framing the question. The basic question posed by this case is: What, if any, are the new opportunities for beneficial development that are presented to the District by the Congressional action on human occupancy and increased height of penthouses erected above the Federal height limit? From the outset, however, the case as framed has been broader, since it also asks whether it wouldn't be a good idea -- while we're at it -- to allow human occupancy and increased height in penthouses constructed below the Federal height limit as well. Having been asked, both questions deserve to be addressed on their merits. And I think one reason for the consternation that this penthouse case has caused many is that, in justifying its proposals, rather than addressing these questions on the merits OP seemed to be arguing that the mere fact of the Congressional action was reason enough to do what it proposed (which it clearly was not, even as to penthouses constructed above the Height Act limit).

Opportunities presented. That said, my own view is that the Federal action on height and human occupancy, and to some extent its application by analogy to penthouses constructed below the Height Act limit, do provide some very significant opportunities. I think they are largely limited to high-rise commercial and residential buildings. They are not restricted to using penthouses as recreational space, but might well could include other uses allowed in the zone, as OP has proposed, including restaurant use, for which a high elevation with a scenic view can be especially attractive. But I think that at least some subset of these uses, including but not limited to prospective ABC licensees, should be screened through a Special Exception process (for restaurants, bars and certainly for clubs, the

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ANC licensing process alone would not provide sufficient safeguards against adverse effects on the surrounding area).

A more careful look at penthouse design. As a Washingtonian with aspirations for a city of exemplary architecture, I do have a concern about penthouse design on these high-rise buildings, which seems to me to have been inadequately treated in the case documentation thus far. To me the ideal – not necessarily always achievable -- is a single, geometrically simple structure, uniformly set back from the perimeter of the roof, of materials and design that present it as organic part of the main building. Proposals now on the table do not address the question of compatibility of materials or design at all, and some of the options on the table – which would allow multiple structures, structures of differing heights, and structures with one or more non-vertical walls – conjure visions of unsightly rooftop clutter randomly strewn about. My recollection is that a separate study of roof structure design was proposed and/or undertaken in the District a decade or more ago, with what outcome I can't say. But I believe the design issue in the present case needs further and more intensive examination, and that the cost of penthouse construction should not be the main determinant.

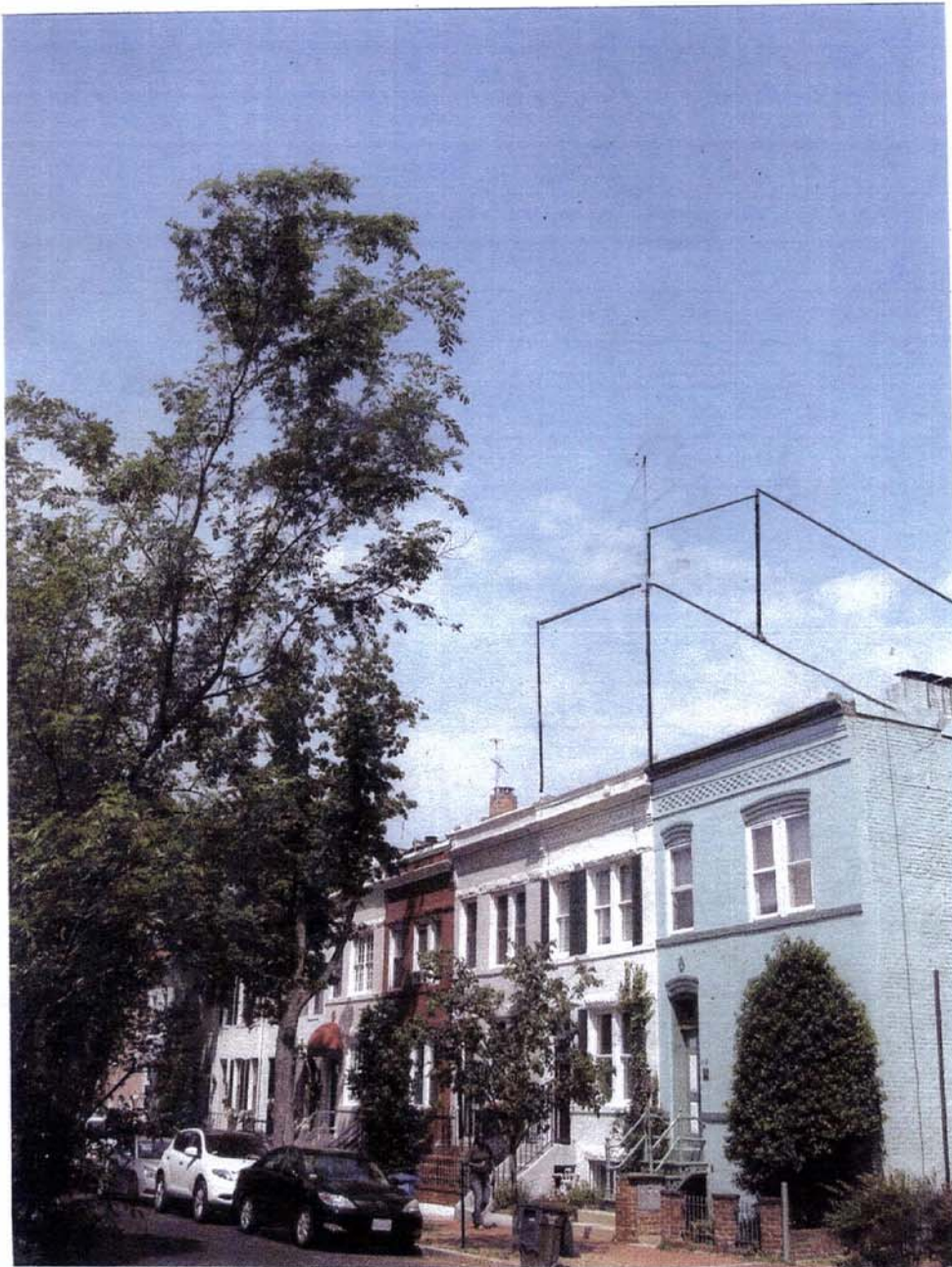
Tailoring the rules to fit the building. Since zoning in DC works with a largely already-built environment, its rules need to be smart enough to pick out the existing buildings for which they are appropriate. In general this cannot be reliably done by granting additional zoning permissions on the basis of the permitted height or other development standards of the existing zoning, since there may be – and in the case of rowhouse neighborhoods, are – large discrepancies between zoning and the built environment, and also because in the case of rowhouses, the architectural form of the building is a controlling factor.

This is one of the reasons why, when it comes to penthouses, rules that can enlarge the amenities and enhance the economic value of high-rise buildings are going to create damaging economic incentives and be otherwise utterly inappropriate for buildings with lower permitted *or actual* height, including rowhouses especially – as I and others argued on April 30. Accordingly, we argue that, for R5-B and lower, and for rowhouses generally regardless of permitted height, penthouse height should be limited to 10 feet, human occupancy for uses otherwise permitted in the zone should not be allowed, and in the case of rowhouses, setback should be required from side walls. (This will not impede having a roof deck, which

can be a wonderfully enjoyable amenity, or, for probably most rowhouses, having access to the deck via an enclosed stairway as a matter of right.)

To make the point graphically I've appended some photographs of several R5-B and -D rowhouse blocks, superimposed with the outline of a matter-of-right popup development that could be available and would be incentivized should the Commission opt to allow human occupancy in penthouses in R-5 districts. (The assumption is a project that builds up to the applicable zoning height limit – 50 feet and 90 feet respectively – and then adds a penthouse of maximum allowable height – a pattern already exemplified in past pop-up developments.) The prospective results range from the merely grossly inappropriate to the grotesque. These buildings are not atypical, although the Commission does not have before it data on building height or construction in R-5 areas of the sort that OP provided in the R-4 case, and so we cannot quantify with precision. What we do know is that the rowhouse is the predominant building form in R-5, as in R-4

2000 BLOCK NEWPORT PLACE, NW, NORTH SIDE — R5-B



2300 BLOCK 20TH STREET, NW, WEST SIDE — R5-B



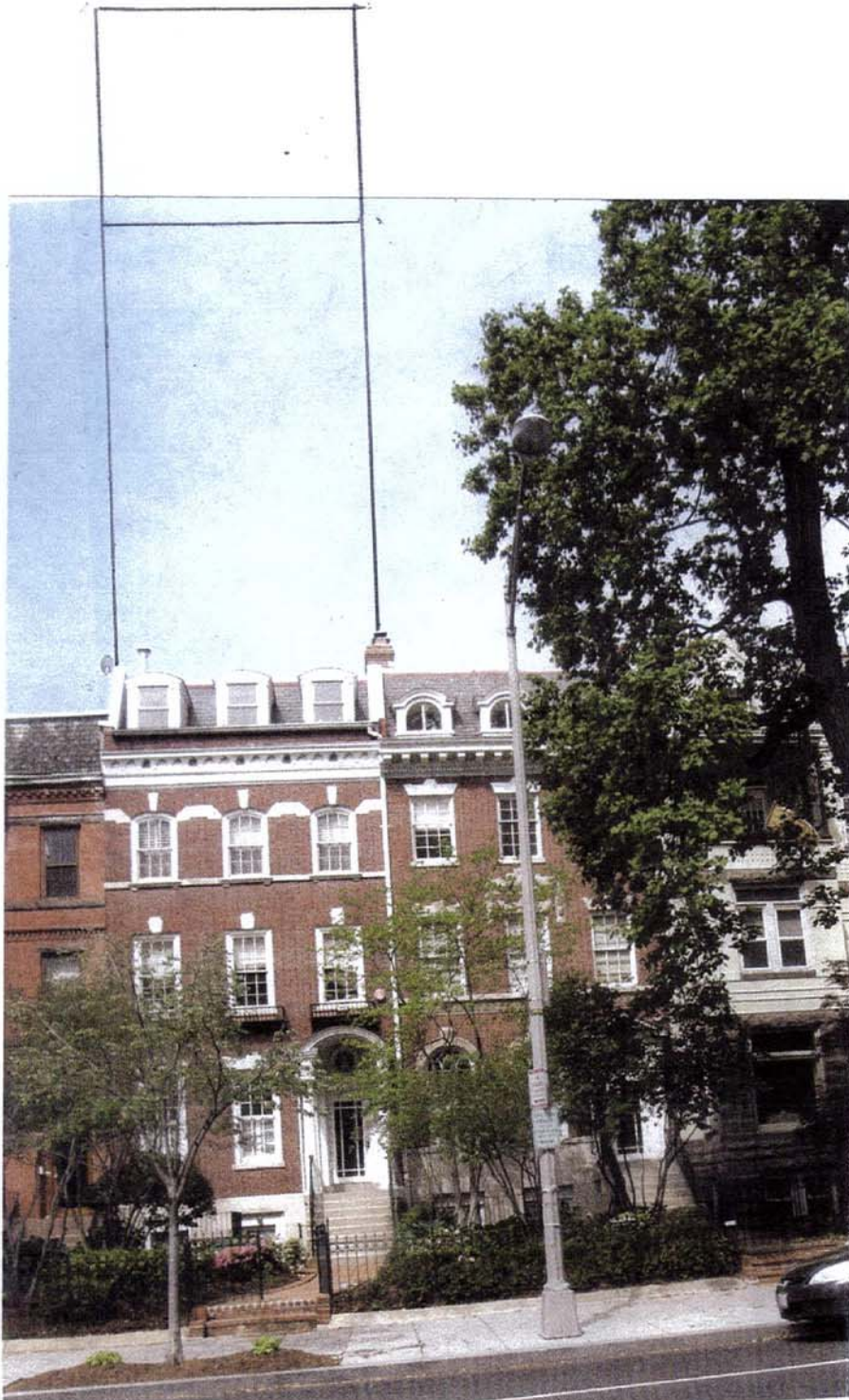
2000 BLOCK COLUMBIA ROAD, NW, WEST SIDE – R5-D



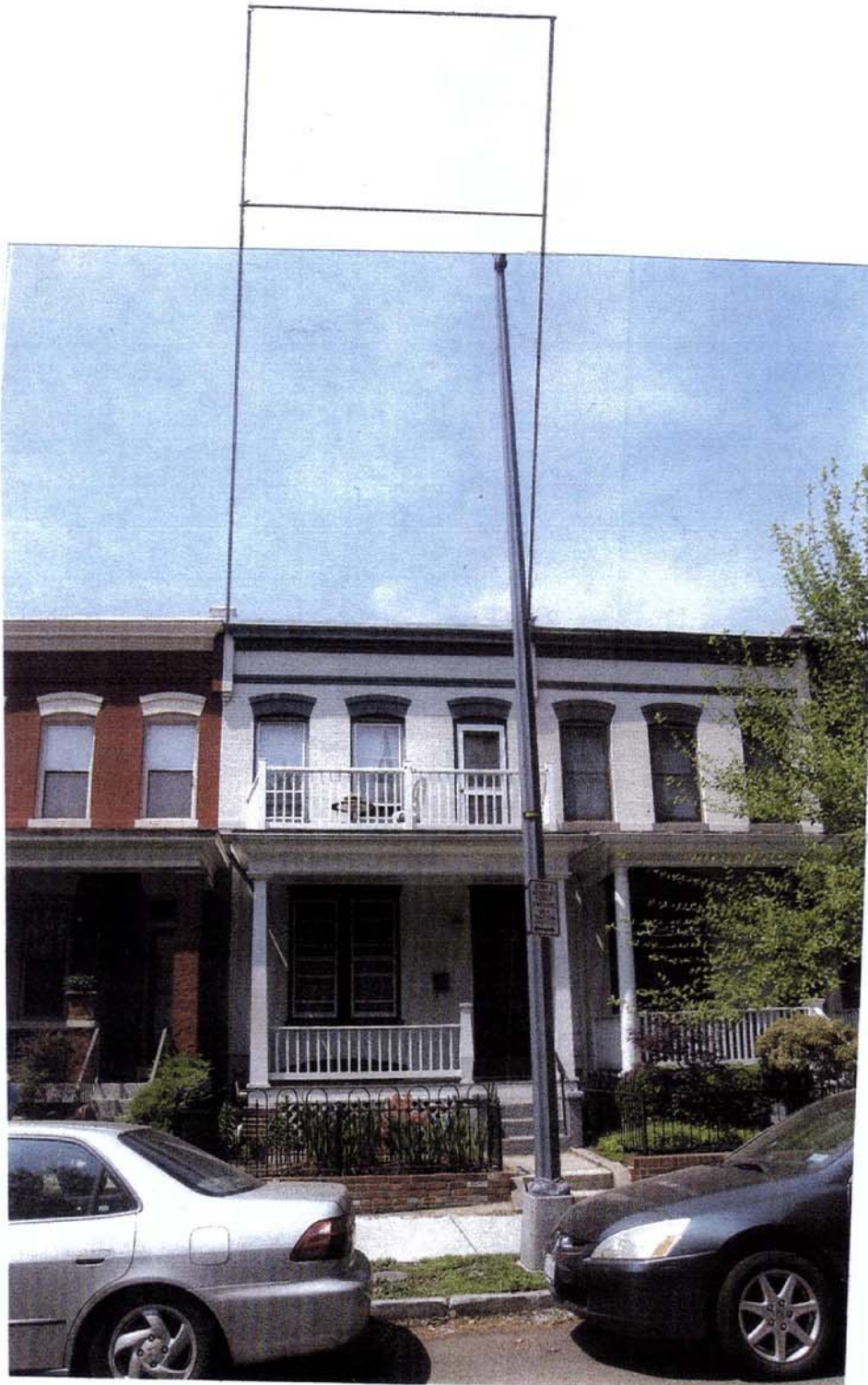
1600 BLOCK FLORIDA AVENUE, NW, SOUTH SIDE – R5-B



1700 BLOCK 16TH STREET NW, WEST SIDE – R5-D



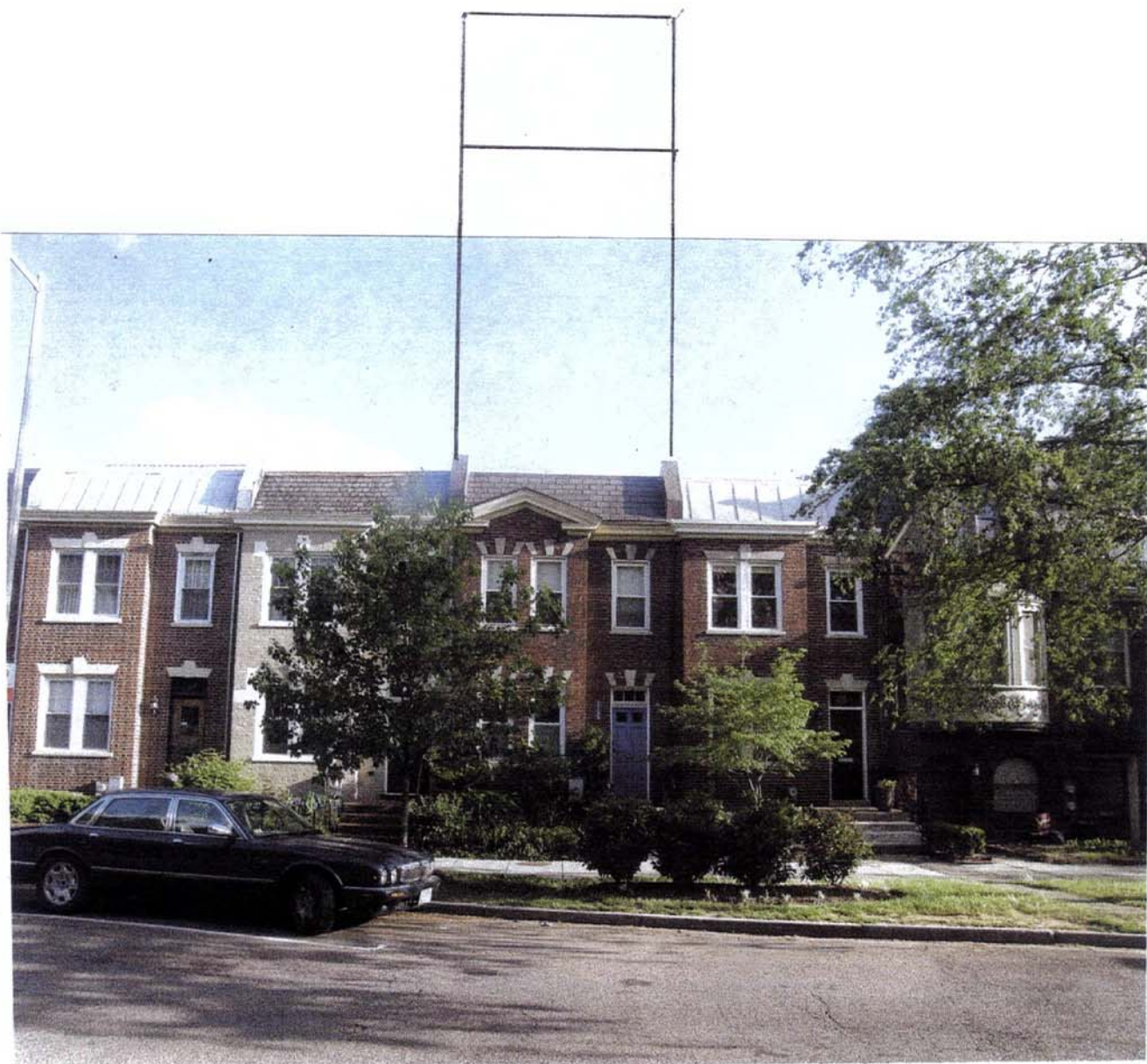
2200 BLOCK ONTARIO ROAD, NW, WEST SIDE – R5-B



2000 BLOCK ALLEN PLACE, NW, NORTH SIDE — R5-B



1700 BLOCK V STREET NW, SOUTH SIDE – R5-B



1600 BLOCK 16TH STREET NW, EAST SIDE — R5-D

