



2015 JUN -4 AM 8:00

RECEIVED
D.C. OFFICE OF ZONING

WORKSHEET

TO: District of Columbia Zoning Commission
FROM: *JL* Joel Lawson, Associate Director, Development Review
 Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: June 3, 2015
SUBJECT: ZC 14-13, Rooftop Penthouses: Proposed Worksheet

The Office of Planning has prepared the following worksheet to help the Zoning Commission organize the various issues and alternatives under discussion as part of this case. The worksheet supplements earlier OP reports, including the most recent supplemental report submitted June 1, 2015.

The worksheet is structured with some of the major issues under discussion - penthouse height, number of stories and permitted habitable space - organized by groupings of permitted building height, with a separate worksheet for single family and flat uses in all zones. Also attached to the worksheet is a large map showing the various permitted building heights, based on the zoning and corresponding to these groupings and for your reference.

As the Commission works through the issues and the worksheet, your direction or decisions on one issue may have implications for subsequent worksheet issues, or may render specific options moot.

A "gateway" question is whether to change the rooftop penthouse regulations at all – there is no requirement to do so. Although this would restrict the effectiveness of the changes to the Height Act, this option is reflected in the worksheet as retaining the existing situation, for each issue. Other options for discussion included in the worksheet are from previous Zoning Commission discussions, or are in response to specific recommendations submitted to the record as part of this case. Other options for discussion, or combinations of options, are also possible.

An OP recommendation has been provided for each issue – in all cases, reflecting one, or a combination of more than one, of the listed options for that issue. In general, OP is recommending that penthouse permissions be restricted, compared to current regulations, in the lower density zones, but that additional penthouse flexibility be provided in higher density zones.

Many respondents requested that the Commission proceed at this time with changes for higher density zones as they appear to have broader support and there is more pressing need for expeditious review and adoption.

ZONING COMMISSION
District of Columbia

CASE NO. 14-13
EXHIBIT NO. 121



The worksheet includes the following decision items:

- I. Detached Dwellings, Rowhouses and Flats – All Zones**
 1. Penthouse Height
 2. Penthouse Stories
 3. Penthouse Use
- II. Residential Zones with Building Height of 40 Feet Max. – Uses Other than SFD or Flat**
 1. Penthouse Height
 2. Penthouse Stories
 3. Penthouse Uses
- III. Other Zones with Building Height of 50 Feet or Less – Uses Other than SFD or Flat**
 1. Penthouse Height
 2. Penthouse Stories
 3. Penthouse Uses.
- IV. Zones with Building Height Limited to 65 Feet or Less – Uses Other than SFD or Flat**
 1. Penthouse Height
 2. Penthouse Stories
 3. Penthouse Uses
- V. Zones with Building Height of 70 Feet or More - Uses Other than SFD or Flat**
 1. Penthouse Height
 2. Penthouse Stories
 3. Penthouse Uses
- VI. Penthouse Setbacks**
- VII. Penthouse Area**
 1. Limitation of 1/3 of roof area in zones with a limit on number of stories within the building
 2. Exemption from F.A.R. for penthouse enclosed space
- VIII. Penthouse Design**
 1. Walls of Equal Height
 2. Walls Required to be Vertical
 3. Number of Permitted Penthouse Structures
- IX. Affordable Housing Linkage:**
 1. Non-Residential Buildings - Affordable Housing Linkage
 2. Residential Buildings - Inclusionary Zoning
- X. Parking for Penthouse Habitable Space**
- XI. Process for Amending an Approved PUD or Design Review Project**
- XII. Special Exception Review for Penthouse Regulation Relief**
- XIII. Definitions**

I. Detached Dwellings, Rowhouses and Flats – All Zones

Zones allowing detached dwellings, rowhouses and flats:
--

All zones other than Industrial zones – CM and M zones
--

1. Penthouse Height:

- *Retain existing permitted height of 18'-6"*
- Reduce permitted height to 10 feet maximum
- Do not allow a penthouse by right, allow only by special exception
- Do not allow a penthouse by right, allow by variance

OP Recommendation:

Do not allow a penthouse by right, allow a penthouse of 10 feet height maximum by special exception

Zoning Commission Action:

2. Penthouse Stories:

- *Retain existing – not regulated*
- Limit permitted stories to one maximum
- Do not allow a penthouse by right, limit to one story if provided

OP Recommendation:

Do not allow a penthouse by right, limit to one story if permitted by BZA

Zoning Commission Action:

3. Penthouse Use

- *Retain existing – habitable space not permitted*
- Permit habitable space
- Permit only limited habitable space that is ancillary to a rooftop deck only
- Allow any habitable penthouse space only by special exception

OP Recommendation:

Do not allow a penthouse by right, allow ancillary space to a rooftop deck by special exception

Zoning Commission Action:

II. Residential Zones with Building Height of 40 Feet Max. – Uses Other than SFD or Flat

Zones with a Building Height of 40 feet maximum:
R-1-A, R-1-B, R-2, R-3, R-4, R-5-A, R-5-B/CAP, R-5-B/RC

1. Penthouse Height:

- *Retain existing height limit of 18'-6"*
- Retain the 18'-6" height limit, but limit any form of habitable space to 10 feet clear height, measured from the building roof upon which the penthouse sits
- Reduce permitted height to 10 feet maximum, permit up to 20 feet of height by special exception
- Reduce permitted height to 10 feet maximum

OP Recommendation:

Retain the 18'-6" height limit, but limit any form of habitable space to 10 feet clear height, measured from the building roof upon which the penthouse sits

Zoning Commission Action:

2. Penthouse Stories:

- *Retain existing – not regulated*
- Limit permitted habitable stories to one, allow a second story for mechanical equipment either by-right or by special exception
- Limit permitted stories to one maximum

OP Recommendation:

Limit permitted stories to one maximum

Zoning Commission Action:

3. Penthouse Uses:

- *Retain existing – habitable space not permitted*
- Permit only limited habitable space that is ancillary to a rooftop deck only
- Do not permit habitable space of any kind in a penthouse

OP Recommendation:

Permit limited habitable space – ancillary to a rooftop deck only

Zoning Commission Action:

III. Other Zones with Building Height of 50 Feet or Less – Uses Other than SFD or Flat

Zones with a Building Height of 40 - 50 feet maximum:
R-5-B (except within specified overlays noted above)
C-1; C-2-A, C-2-B/RC; C-2-B/WP, C-3-A/ES
SP-2/CAP
W-0, W-1
CM-1
HE-1, StE-1, StE-4, StE-8, StE-11, StE-10, StE-14

1. Penthouse Height:

- *Retain existing height of 18'-6"*
- Retain the 18'-6" height limit, but limit any form of habitable penthouse space to 10 feet clear height, measured from the building roof upon which the penthouse sits
- Reduce permitted height to 10 feet maximum, permit up to 20 feet of height by special exception
- Reduce permitted height to 10 feet maximum

OP Recommendation:

Retain the 18'-6" height limit, but limit any form of habitable penthouse space to 10 feet clear height, measured from the building roof upon which the penthouse sits

Zoning Commission Action:

2. Penthouse Stories:

- *Retain existing – not regulated*
- Limit permitted habitable stories to one, allow a second story for mechanical equipment either by-right or by special exception
- Limit permitted stories to one maximum

OP Recommendation:

Limit permitted habitable stories to one, allow a second story for mechanical equipment by right

Zoning Commission Action:

3. Penthouse Uses:

- *Retain existing – habitable space not permitted*
- Permit habitable space
- Permit habitable space, but limit specified uses to being permitted only by special exception (example, bar, restaurant, nightclub) when permitted in the zone
- Permit limited habitable space – ancillary to a rooftop deck only

OP Recommendation:

Permit habitable space, but limit specified uses to being permitted only by special exception (bar, restaurant, nightclub) when permitted in the zone

Zoning Commission Action:

IV. Zones with Building Height Limited to 65 Feet or Less – Uses Other than SFD or Flat

Zones with a Building Height of 60 - 65 feet maximum:
R-5-C
C-2-B; C-3-A (except within specific overlays noted above)
SP-1
W-2
CM-2
StE-2, StE-5, StE-9

1. Penthouse Height:

- *Retain existing height of 18'-6"*
- Retain the 18'-6" height limit, but limit any form of habitable space to 10 feet clear height, measured from the building roof upon which the penthouse sits
- Permit up to 20 feet of height

OP Recommendation:

Retain the 18'-6" height limit, but limit any form of habitable space to 10 feet clear height, measured from the building roof upon which the penthouse sits

Zoning Commission Action:

2. Penthouse Stories:

- *Retain existing – not regulated*
- Limit permitted habitable stories to one, allow a second story for mechanical equipment either by-right or by special exception
- Limit permitted stories to one maximum

OP Recommendation:

Limit permitted habitable stories to one, allow a second story for mechanical equipment

Zoning Commission Action:

3. Penthouse Uses:

- *Retain existing – habitable space not permitted*
- Permit habitable space
- Permit habitable space, but limit specified uses to being permitted only by special exception (example, bar, restaurant, nightclub) when permitted in the zone
- Permit limited habitable space – enclosed space ancillary to a rooftop deck only

OP Recommendation:

Permit habitable space, but limit specified uses to being permitted only by special exception (bar, restaurant, nightclub) when permitted in the zone

Zoning Commission Action:

V. Zones with Building Height of 70 Feet or More - Uses Other than SFD or Flat

Zones with a Building Height of 70 - 80 feet maximum:
C-2-B-1, C-3-B
HE-2, StE-3, StE-7, StE-12, StE-15, StE-17
Zones with a Building Height of 90 Feet or More:
R-5-D, R-5-E
C-2-C, C-3-C, C-4, C-5, C-R
SP-2
W-3
CM-3, M
HE-3, HE-4, StE-13, StE-16, StE-18, StE-6, USN

1. Penthouse Height:

- *Retain existing height of 18'-6"*
- Retain the 18'-6" height limit, but limit any form of habitable space to 10 feet clear height, measured from the building roof upon which the penthouse sits
- Permit a penthouse of up to 20 feet of height
- As recommended by NCPC staff – do not permit a penthouse within the PADC area.
- As recommended by NCPC staff –do not permit a penthouse along the south side of Independence Avenue SW

OP Recommendation:

Permit a penthouse of up to 20 feet of height Allow a penthouse with habitable space within the PADC, meeting setback requirements Allow a penthouse on a property fronting Independence Avenue SW, meeting expanded setback requirements

Zoning Commission Action:

2. Penthouse Stories:

- *Retain existing – not regulated*
- Permit two stories
- Limit permitted habitable stories to one, allow a mezzanine for habitable space or a second story for mechanical equipment
- Limit permitted stories to one maximum

OP Recommendation:

Limit permitted habitable stories to one; allow a mezzanine for habitable space or a second story for mechanical equipment

Zoning Commission Action:

3. Penthouse Uses:

- *Retain existing – habitable space generally not permitted*
- Permit habitable space
- Permit habitable space, but limit specified uses to being permitted only by special exception (bar restaurant, nightclub) when permitted in the zone
- As recommended by the USSS – do not permit any form of habitable space within a penthouse within an area bound by I Street NW to the north, Constitution Avenue to the south, 19th Street to the west and 13th Street to the east

OP Recommendation:

Permit habitable space, but limit specified uses to being permitted only by special exception (bar, restaurant, nightclub) when permitted in the zone, incorporate the restriction on habitable space proposed by the USSS

Zoning Commission Action:

VI. Penthouse Setbacks

- *Retain existing setback requirements and interpretations*
- Use text for which the Zoning Commission took proposed action as part of the ZRR, except clarify that the setback is measured from the edge of the roof upon which the penthouse actually sits

Roof Structures shall be setback from the edge of the roof upon which the penthouse actually sits as follows

(a) A distance equal to its height from the following:

- (1) Front building wall provided that when located atop a building with differing levels, the roof structure shall be setback from the front wall of the level on which it is located;*
- (2) Rear building wall,*
- (3) Side building walls in the R and RF zones that are adjacent to a property which has a lower or equal permitted matter of right building height,*
- (4) Side building walls in other than the R and RF zones that are adjacent to a property which has a lower permitted matter of right building height,*
- (5) Adjacent property that is improved with a designated landmark or contributing structure to a historic district that is built to a lower height regardless of the permitted matter of right building height, and*

(b) A distance equal to half of its height from any side building wall that is not adjoining another building wall and not meeting the conditions of C §1502 1 (a) (3) through (5),

Except as required by C § 1502 1, no setback is required from any side building wall that is adjoining another building wall with an equal or greater matter of right height

- Also require a setback from common lot lines / party walls in some or all zones
- Retain the 2:1 setback requirement within the PADC area, and require a 2:1 setback from Independence Avenue SW as per ZRR

OP Recommendation:

Use text for which the Zoning Commission took proposed action as part of the ZRR, except clarify that the setback is measured from the edge of the roof upon which the penthouse actually sits; and

Retain the 2:1 setback requirement within the PADC area, and require a 2:1 setback from Independence Avenue SW as per ZRR

Zoning Commission Action:

VII. Penthouse Area

1. Limitation of 1/3 of roof area in zones with a limit on number of stories within the building: R-1, R-2, R-3, R-4, R-5-A, C-1, CM-1, C-3-B, and CAP Overlay zones

- *Retain the existing limitation that roof structures may not exceed 1/3 of the total roof area in zones with a limit on number of stories within the building R-1, R-2, R-3, R-4, R-5-A, C-1, CM-1, C-3-B, and CAP Overlay zones (§§ 411 8 and 411 14)*
- Retain the 1/3 of roof area limitation for the penthouse in all of the zones in which it current applies other than C-3-B (the remainder of the zones are all low to moderate density zones whereas C-3-C is a medium density zone)
- Remove the 1/3 of roof area limitation for the penthouse in the C-1, CM-1, C-3-B zones, retain it in the R-1 through R-4 and R-5-A zones and for the Cap Overlay
- Remove the 1/3 of roof area limitation in all zones where it currently applies
- As per ZRR, restrict penthouse area on a building fronting on Independence Avenue SW to 1/3 of the roof area.

OP Recommendation:

Retain the 1/3 of roof area limitation for the penthouse in all of the zones in which it currently applies other than C-3-B; clarify that it is 1/3 of the total roof on which the roof structure sits, and include the area restriction for properties fronting onto Independence Avenue SW

Zoning Commission Action:

2. Exemption from F.A.R. for penthouse enclosed space

- *Retain current exemption for all enclosed penthouse space, habitable and non-habitable, from gross building area calculations, and therefore building floor area ratio (F A R) (§§ 411 7 and 411 13)*
- Exempt enclosed mechanical space from F A R., and
 - Exempt all habitable space from building FAR in some or all zones, or
 - Provide a 0.4 F.A.R. exemption for habitable space in some or all zones, or
 - Include all habitable space in building FAR in some or all zones
- In addition to the above, also exempt communal rooftop recreation space from F A R calculations
- Include all enclosed penthouse space within building F A R

OP Recommendation:

Exempt enclosed mechanical space and enclosed communal rooftop recreation space from building F.A.R., include other forms of habitable space within FAR but provide a 0.4 F A R maximum exemption for habitable space

Zoning Commission Action:

VIII. Penthouse Design

1. Walls of Equal Height

- *Require the walls of an enclosed penthouse to be of one, equal height, permit mechanical equipment screening walls to be of a second, uniform height (§411.5)*
- Delete the requirement that all penthouse walls be of equal height
- Permit up to two heights - one for enclosed mechanical and habitable space, and one for screening for uncovered mechanical equipment
- Permit up to three heights - one for mechanical equipment, one for habitable space, and one for screening for uncovered mechanical equipment

OP Recommendation:

Permit up to three heights - one penthouse height for mechanical equipment, one for habitable space, and one for screening for uncovered mechanical equipment

Zoning Commission Action:

2. Walls Required to be Vertical

- *Require walls of an enclosed penthouse be vertical (§411.5)*
- Require walls of an enclosed penthouse be vertical, provide clarification that a wall that is up to 20% from vertical would be considered vertical
- Permit a penthouse wall to have a slope of up to 45 degree (1.1) (i.e. remove this provision)

OP Recommendation:

Require walls of an enclosed penthouse be vertical, provide clarification that a wall that is up to 20% from vertical would be considered vertical

Zoning Commission Action:

3. Number of Permitted Penthouse Structures

- *Require all penthouses and mechanical equipment to be in one enclosure and one enclosure for each elevator core at each roof level (§§ 411.3 and 411.4)*
- Require all penthouses and mechanical equipment to be placed in one enclosure, permit emergency egress stairwells as required by the building code to be in a separate enclosure
- Remove the limit on penthouse structure enclosures

OP Recommendation:

Require all penthouses and mechanical equipment to be placed in one enclosure, permit emergency egress stairwells as required by the building code to be in a separate enclosure that solely encloses the stairwell

Zoning Commission Action:

IX. Affordable Housing Linkage:

1. Non-Residential Buildings - Affordable Housing Linkage

- *Retain existing - no affordable housing linkage requirement*
- For non-residential buildings in all zones and all parts of the city, if new habitable penthouse space greater than 1,000 sq ft is provided, require affordable housing linkage using criteria generally consistent with the current housing linkage formula:
 - Provide affordable housing (on or off-site) at a rate of $\frac{1}{2}$ to $\frac{1}{4}$ of the area of the applicable penthouse space; or
 - Provide a contribution to a housing production trust fund equal to $\frac{1}{2}$ of the assessed value per square foot of the applicable penthouse area
- As above, but apply this requirement only to habitable space other than communal recreation space within the penthouse

OP Recommendation:

For non-residential buildings in all zones and all parts of the city, if new habitable penthouse space greater than 1,000 sq.ft is provided, require affordable housing linkage using criteria generally consistent with the current housing linkage formula

However, if the Zoning Commission elects to include habitable penthouse space within building FAR limits, then do not require an affordable housing linkage for non-residential buildings

Zoning Commission Action:

2. Residential Buildings - Inclusionary Zoning

- *Retain existing - apply current IZ provisions to new habitable residential space within a penthouse, i.e. 8% – 10% of residential space at a rate of 50% to 80% of AMI, depending on the zone and construction type*
- As above, but apply to new habitable penthouse space in all zones and all parts of the city
- As above, but require all affordable units to be provided at 50% of AMI
- As above, but do not apply IZ to communal recreation space within the penthouse
- As above, but permit a contribution to a housing production trust fund in lieu of providing the affordable units on-site for penthouse additions to existing residential buildings, or for habitable penthouse space on a residential building not otherwise subject to Inclusionary Zoning requirements

OP Recommendation:

For residential buildings, include new habitable penthouse space in all zones and all parts of the city within the IZ calculations, with all affordable units provided at 50% of AMI, provide for a contribution to a housing production trust fund in lieu of providing the units on-site for additions to existing buildings or buildings not otherwise subject to IZ

However, if the Zoning Commission elects to include habitable penthouse space within building FAR limits, then apply the current IZ provisions to penthouse habitable space within residential buildings, but apply in all parts of the city and in all zones

Zoning Commission Action:

X. Parking for Penthouse Habitable Space

- *Exempt penthouse space from parking requirements*
- Exempt mechanical space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other habitable space, including additional residential units, office, or retail space
- As above, but also exempt communal recreation space from parking calculations
- Include all penthouse space within parking calculations

OP Recommendation:

Exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other habitable space, including additional residential units, office, or retail space

Zoning Commission Action:

XI. Process for Amending an Approved PUD or Design Review Project

- *Do not establish a specific minor modification process for amending an approved PUD or design review project*
- Establish a minor modification process for review of approved proposals to permit conforming habitable space within an approved PUD project, but establish additional criteria
 - The applicant to provide a dimensioned copy of the approved and the proposed roof-plan and elevations as necessary to show the proposed changes, a written comparison of the proposal to the zoning regulations, and verification that the affected ANC was notified of the request;
 - The item not be placed on a consent calendar for a period of 30 days minimum following the filing of the application, and
 - The submission of an OP report with analysis of the request
- Permit a minor modification process for review of proposals to permit conforming habitable space within an approved PUD project as a consent calendar item, with no additional criteria

OP Recommendation:

Establish a modification process for review of proposals to permit conforming habitable space within an approved PUD project, with the proposed additional criteria

Zoning Commission Action:

XII. Special Exception Review for Penthouse Regulation Relief

- *Retain current review criteria for special exception relief from specified penthouse regulations (§ 411 11)*
- Allow special exception relief from all penthouse provisions but expand provision to include penthouse height

- Retain current review criteria for special exception relief from specified penthouse regulations but clarify “operating difficulties”

“Operating difficulties such as meeting building code requirements for roof access and stairwell separation or elevator stack location to maximize efficiencies in lower floors, size of building lot, or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable”

- Add additional special exception review criteria specific to penthouse review, such as

The requested relief shall not result in a rooftop penthouse that substantially adversely affects the use or enjoyment of any abutting or adjacent dwelling or property, in particular.

(a) The light and air available to neighboring properties shall not be unduly affected,

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised,

(c) The penthouse addition or structure, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage,

(d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways, and

(e) The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties ”

- Do not permit special exception relief from penthouse provisions

OP Recommendation:

- Retain current review criteria for special exception relief from specified penthouse regulations but clarify “operating difficulties”

Zoning Commission Action:

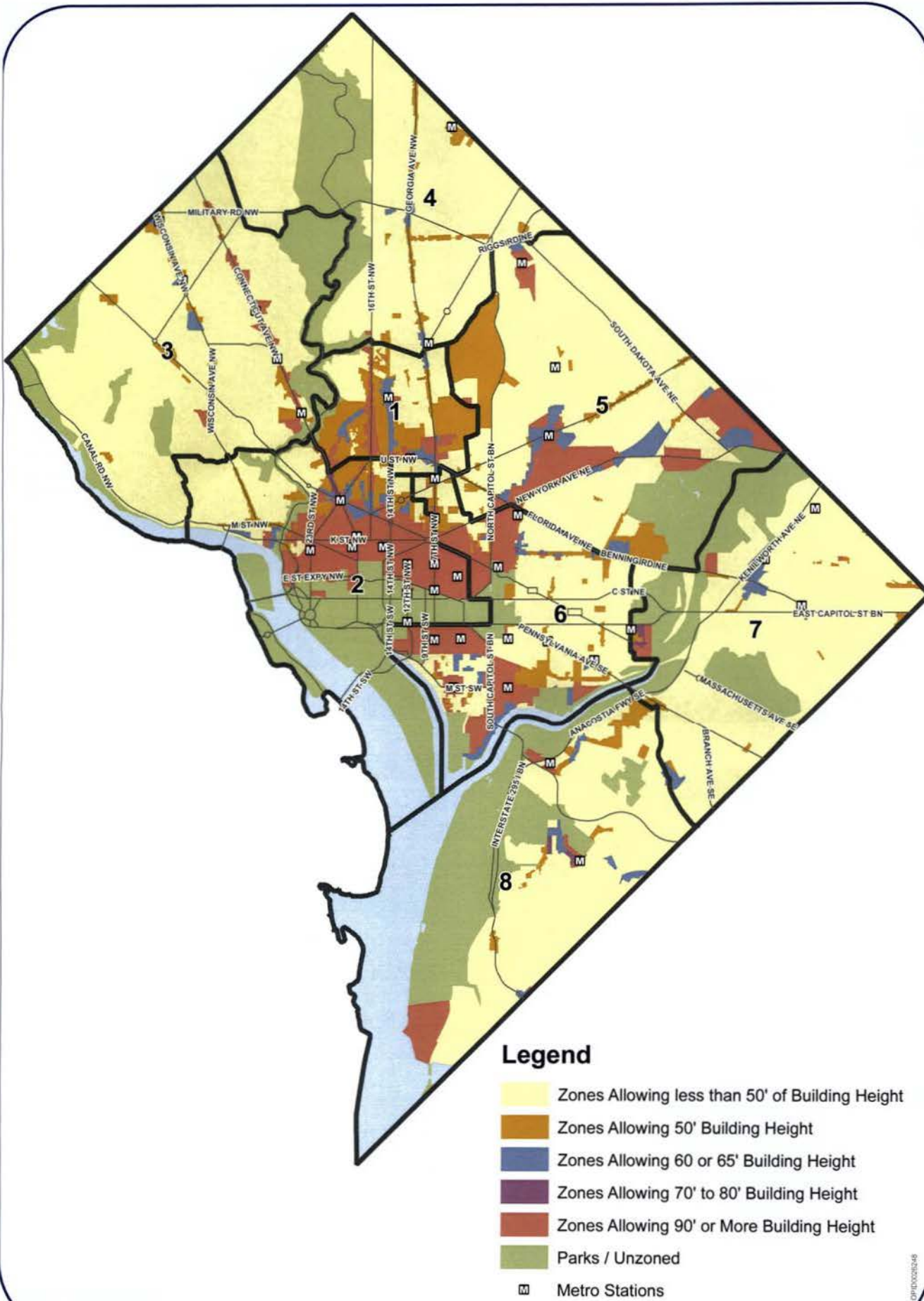
XIII. Definitions

- *Retain current definitions and terminology*
- Provide definitions for “Height Act” and for “Penthouse”, and amend the definitions of “Story” and “Story, top”; amend the regulations throughout to use these terms consistently

OP Recommendation:

Add / amend the definitions as advertised

Zoning Commission Action:



Building Heights by Zone Group

Government of the District of Columbia
Office of Planning ~ June 2015



This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.