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**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 14-13

(Text Amendment – 11 DCMR)

**(Text Amendment to Chapters 1, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 18, 19, 24,
26, 27, 28, 29, 31, and 33, Penthouse Regulations)**

Alma H. Gates
October 8, 2015

Members of the Zoning Commission:

Why in the name of all that is reasonable would you, the members of the DC Zoning Commission even consider penthouses for low and moderate density residential districts? What brand of influence is promoting these regulations? The idea certainly didn't come from Congress. As a matter of fact, Congress didn't require the DC Office of Planning to take any action, or develop the regulations proposed in Case No. 14-13 - that action came from the Zoning Commission. And, Congress never intended for the entire city to be changed by the appearance of top-knots perched on roofs or entertainment venues with the best monumental views to top-off prime downtown real estate. No, these proposals are being driven by the city's own economic development folks.

Height, which couldn't be achieved through the ZRR, would be accomplished through approval of the proposed penthouse regulations. New visual barriers to viewsheds will result and remove many familiar sights. Wasn't the damage done to Banneker Overlook by development at the Wharf enough of a lesson? Yes, the Zoning Commission ignored that very special riparian vista when it approved a high density curtain wall which blocks the entire stretch of waterfront. The Banneker damage has been done – Banneker Overlook is now a place without a purpose. Will the Zoning Commission grant developers the ability to replicate this type of damage to other special views as a matter of right, or possibly make the Banneker lost viewshed even worse, by passing the proposed penthouse regulations?

Think back to the time before the Congressional hearings when the ZRR Task Force was addressing the subject of "Height." Those considerations seem insignificant when compared to the penthouse proposals. Congress began its debate on the Height Act with the issue of whether habitable penthouses should be

ZONING COMMISSION
District of Columbia
CASE NO. 14-13
EXHIBIT NO. 131
EXHIBIT NO. 131

allowed where buildings were already at Height Act maximums. How did this awful litany of regulations emerge from a proposal to allow “20 ft. and one story?” Instead of setting reasonable and realistic perimeters, the Zoning Commission opened Pandora’s Box when it turned to OP for the development of actual regulations and is now faced with the potential to inflict a true pox across the entire city.

You will recall the NCPC hearings where it was noted by Councilmember Mendelson that 39 out of 41 who testified before the DC Council were opposed to the proposed changes to the Height Act. The testimony at NCPC was also heavily weighted against changes to the Height Act and NCPC voted not to support OP; but we’re back at the zoning table looking at many of the same suggestions. Is it really so hard for the Zoning Commission to understand that residents of the city don’t want to see its character changed, that they actually treasure iconic vistas? Is it really so hard to understand that those who have invested in neighborhoods aren’t interested in having penthouses perched on adjacent houses or low rise apartment buildings? Is it really so hard to understand that these same folks abhor the idea of PUDs reaching even greater heights in their characteristically low rise communities?

The proposed regulations ignore the reason penthouses are excluded when a building’s height is measured. Obviously, a mechanical penthouse serves no purpose other than to allow a building to function and the one-to-one setback requirement acknowledges that penthouses, while necessary, should be minimized as much as possible. Yet, the proposed regulations have given them an entirely different purpose and physical presence within the zoning regulations.

Change is inevitable, but please get this right! Not all areas of the city need to be taller or sporting wedding cake tops. Some areas, particularly low density residential areas need to be left as they are. Commercial areas – those limited to 50 ft. in height - which abut residential areas, need to be carefully considered. Homeowners chose to invest in a particular neighborhood. They appreciate the scale of development, and as the Comprehensive Plan points out, there are 132 distinct neighborhoods in the city. Neighborhoods stand to be affected in the name of economic development if the penthouse regulations are implemented as proposed.

The affordability aspects of the proposals are not going to solve the city’s housing needs. In the past the Chair has questioned, “Affordable for whom?” Well, it’s sure not the folks who were recently displaced from Barry Farm! There’s just too

much hocus pocus potential for any good to come of what began as a heartfelt suggestion to balance profit and *noblesse oblige*. Unless it's clearly spelled out and carefully monitored, housing affordability will go the way of the dodo bird, and it's already well on its way.

Realistically, the Zoning Commission is aware that habitable rooftop space will not solve the city's housing needs because penthouses will not be implemented as affordable housing. Also, there just isn't that much off-set space or money going into the Housing Trust Fund to make a real difference. Rather, affordable housing is its own issue which deserves serious consideration by all responsible DC agencies and should not be viewed as an adjunct to penthouse zoning proposals.

There's little in Case No. 14-13 that gives reason to believe this will end well or that the city will be a better place if the proposed penthouse regulations are approved. The Zoning Commission must make some hard decisions which hopefully won't be based on one of OP's multiple choice menus. In effect, the Zoning Commission would allow a price tag to be placed on the iconic horizontal vista which frames the nation's capital. Think hard before you sign that blank check over to developers. There's no going back once the ink is dry.

A handwritten signature in cursive script that reads "Alma H. Gates".

Alma H. Gates