



October 25, 2015

Anthony J Hood, Chairman
DC Zoning Commission
441 4th Street NW Suite 200S
Washington, DC 20001

Dear Chairman Hood and members of the Commission,

Please find attached to this letter the resolution of the Kalorama Citizens Association in ZC Case 14-13, Penthouses. This resolution was approved at KCA's regular monthly meeting, September 24, 2015, by a vote of 20-3, with 1 abstaining.

Sincerely,

Denis James
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ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Case No. 14-13 (Notice of Proposed Rulemaking -- 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).

Resolution of the Kalorama Citizens Association

Whereas, the Zoning Commission has issued a Notice of Proposed Rulemaking in Case No 14-13, setting out its proposed final text of revised Zoning Regulations concerning Rooftop Penthouses,

Whereas, the Comprehensive Plan mandates the protection of the scale, character and architectural integrity rowhouse neighborhoods and their role in providing housing for larger households and thus helping to keep young families in the District, through a collection of precise actions and policies, including some specifically relating to curtailing penthouses and added stories, that collectively constitute an *action program* by which by which this protection is to be achieved,

Whereas, among these Comprehensive Plan provisions is one requiring setback from adjoining side walls of row houses and semi-detached houses,¹ which is needed because rowhouses are relatively

1 Action LU-2.1 B: Amendment of Exterior Wall Definition

Amend the city's procedures for roof structure review so that the division-on-line wall or party wall of a row house or semi-detached house is treated as an exterior wall for the purposes of applying zoning regulations and height requirements.

Denis James ☐ President
Bob Ellsworth ☐ Vice President
Jean Stewart ☐ Delegate, DC Federation, Citizens Association

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CASE NO. 14-13
EXHIBIT NO. 137



short buildings, and the shorter building, the greater the proportionate contribution that a penthouse of a given height makes to the total mass of the structure, the shallower the viewing angle from the street, and thus the greater the visual intrusiveness of the penthouse and the greater the need for side-wall setback,

Whereas, for various historical reasons rowhouse neighborhoods were generally over-zoned in the 1958 Zoning Regulations, with substantially higher height limits and greater densities than were reflected in the neighborhoods as actually built, making them especially attractive targets for redevelopment, either by mass demolition or by addition of marketable space to individual buildings by expansion upward and outward,

Whereas, expansive redevelopment of individual buildings is peculiarly destructive in row house neighborhoods, in that a thoughtless change to the mass or height of one row house can automatically both directly diminish the livability of its immediate neighbors and rupture the integrity of the whole row;

Whereas, the market has increasingly incentivized popup developers to exploit the gaps between zoning standards and rowhouse neighborhoods as built,

Whereas, the immediately preceding draft text in this case set out options regarding FAR, height, setback, and allowable human occupancy of penthouses that could have produced regulations for R-5-B and higher rowhouse neighborhoods that would be disastrously at odds with what the Plan calls for; specifically, they would have offered popup developers the following irresistible incentive, as a matter of right, for any interior R-5B or higher rowhouse a penthouse ten feet high and as wide as the house itself, providing up to several hundred square feet of prime marketable apartment space, without any sacrifice of allowable FAR – an FAR freebie; experience with existing popup projects indicates that the result would often be a project that first adds at least one story and possibly as many as three, to get up to the 50-foot height limit, builds out horizontally if necessary to fill out the full zoning envelope, and then adds another 10-foot “story” of height with the penthouse,

Whereas, the proposed final text incorporates major changes that, as written or with further refinement, could forestall such damaging effects of excessive height and width of penthouses on rowhouses, specifically

(1) **Height and width:** §411.5 of the text prohibits rooftop penthouses as a matter of right on any “detached dwelling, semi-detached dwelling, rowhouse or flat in any zone”, other than for mechanical equipment or a guardrail. They are allowed by Special Exception, for the sole purpose of providing a stair or elevator for roof access and up to 30 square feet of storage space ancillary to a roofdeck, and cannot exceed ten feet in height. Assuming that 30 square feet is the total floor area of the roof structure – as we believe is intended, and this should be made clear – the dimensions of the structure’s exterior footprint would be proportionately curtailed, preventing it from spreading across the width of the building.

(2) **Setback:** The text requires setback from adjoining walls where the two buildings have the *same* legal height limit for R-1 through R-4 zones (§411.18(a)(3)), but for R-5 and other zones limits the requirement to walls adjacent to a property with a *lower* permitted height (§411.18(a)(4)). There is no perceptible reason for this arbitrary exclusion of rowhouses in



Adams Morgan and other R-5 and Mixed Use zones from the protection offered by the first of these provisions. This unwarranted discrepancy can be readily corrected by amending §411 18(a)(3) to apply to any "detached dwelling, semi-detached dwelling, rowhouse or flat in any zone" rather than just to buildings in R-1 through R-4, using the same language as in §411 5 dealing with height, just discussed.

Whereas, in practical effect, enacting these measures would largely achieve the objectives of the Comprehensive Plan provision cited above that is specifically intended to deal with setback problems by requiring that common walls of rowhouses be regarded as exterior walls for setback purposes;

Whereas, it is especially important to base zoning rules for such visually important building features as penthouse height, width and setback on the physical characteristics of the building – as in the phrase "detached dwelling, semi-detached dwelling, rowhouse or flat" employed in the Penthouse text's provision discussed above -- rather than its zoning, which often is seriously divergent from the built environment,

Whereas, the immediately preceding draft did not adequately address the question of compatibility of materials or design of a penthouse with the building, and presented options that would allow multiple structures, structures of differing heights, and structures with one or more non-vertical walls, conjuring visions of unsightly rooftop clutter randomly strewn about, and

Whereas, the proposed final text requires generally that "penthouses and mechanical equipment shall be placed in one (1) enclosure and shall harmonize with the main structure in architectural character, material and color" (§411 6) and that "[e]nclosing walls of a penthouse from roof level shall rise vertically" (§411 10),

Whereas, the immediately preceding draft had envisaged the possibility of substantially exempting penthouse floor area used for human habitation from inclusion within allowable gross floor area, and

Whereas, the proposed final text substantially curtails exemptions from gross floor area (§411 13),

Therefore it is resolved that Kalorama Citizens Association

- **Commends** the Zoning Commission for the very significant progress reflected in the proposed final text as regards protecting rowhouse neighborhoods from rooftop penthouses of excessive height, width and bulk,

- **Urges** the Zoning Commission to prohibit matter-of-right penthouses on any "detached dwelling, semi-detached dwelling, rowhouse or flat in any zone", and limit the use and height and other dimensions of rowhouse penthouses that are allowed thereon by special exception, by enacting §411 5 of the pending draft, and clarifying that 30 square feet is the maximum floor area of roof structures covered by this provision, and

- **Urges** the Zoning Commission to enact the side-wall setback formula provided in §411.18(a) of the pending text, with §411 18(a)(3) amended so as to apply to any "detached dwelling, semi-detached dwelling, rowhouse or flat in any zone" and §411 18(a)(4) amended so as to reflect this change,



- Commends** the Zoning Commission for the enhanced attention to the aesthetic impact of penthouses reflected in the proposed final text, through requirements regarding penthouse design and compatibility of materials and color,

- Commends** the Zoning Commission for substantially curtailing exemptions from the inclusion of penthouse floor area from allowable gross floor area in the proposed final text