

ZONING COMMISSION CASE 14-13 PENTHOUSE TEXT AMENDMENTS



NOVEMBER 6, 2014 PUBLIC HEARING

OFFICE OF PLANNING PRESENTATION TO
THE ZONING COMMISSION

EXISTING REGULATIONS



Regulation:	Height Act as Revised:	Current Zoning Regulations:
Height:	20 feet maximum for habitable space	18'-6" maximum in all zones
Stories:	1 for habitable space above the Height Act limit; otherwise not regulated	Not directly regulated
Setback:	1:1 from all building exterior walls	1:1 from all building exterior walls
Area:	Not regulated (other than setback)	.37 FAR maximum; 1/3 of area of roof below, maximum.
Permitted Uses:	Any, including habitable space and space for mechanical equipment	Mechanical space; Habitable space not permitted, other than limited space ancillary to rooftop recreation space in residential buildings below the Height Act

PROPOSED AMENDMENTS - SUMMARY



- Definitions;
- 1:1 setback requirement with clarification of how this is interpreted;
- Permitted penthouse height;
- Permitted number of stories in a penthouse;
- Permissions for solar panels on top of a penthouse;
- Uses permitted within a rooftop penthouse;
- Enclosing walls of a penthouse;
- Permitted penthouse size;
- Whether penthouse habitable space should count towards building FAR;
- Clarification of special exception review criteria;
- Process for amending a previous approved PUD or Design Review project;
- Affordable housing linkage for habitable penthouse space in a non-residential building;
- Inclusionary Zoning applicability to habitable penthouse space in a residential building; and
- Whether parking should be required for penthouse habitable space.

DEFINITIONS



- **Height Act** - Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09).
- **Penthouse** – A structure on or above the roof of any part of a building. The term includes all structures previously regulated as “roof structures” by § 411 prior to [THE EFFECTIVE DATE OF THIS AMENDMENT] including roof decks and mechanical equipment.
- **Story** - the space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of the building is measured.

For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars, or penthouses, ~~stairway or elevator or other roof structures; provided, that the total area of all roof structures located above the top story shall not exceed one-third (1/3) of the total roof area.~~

- **Story, top** - the uppermost portion of any building or structure that is used for purposes other than **housing for mechanical equipment or stairway or elevator** penthouses. The term "top story" shall exclude architectural embellishment.

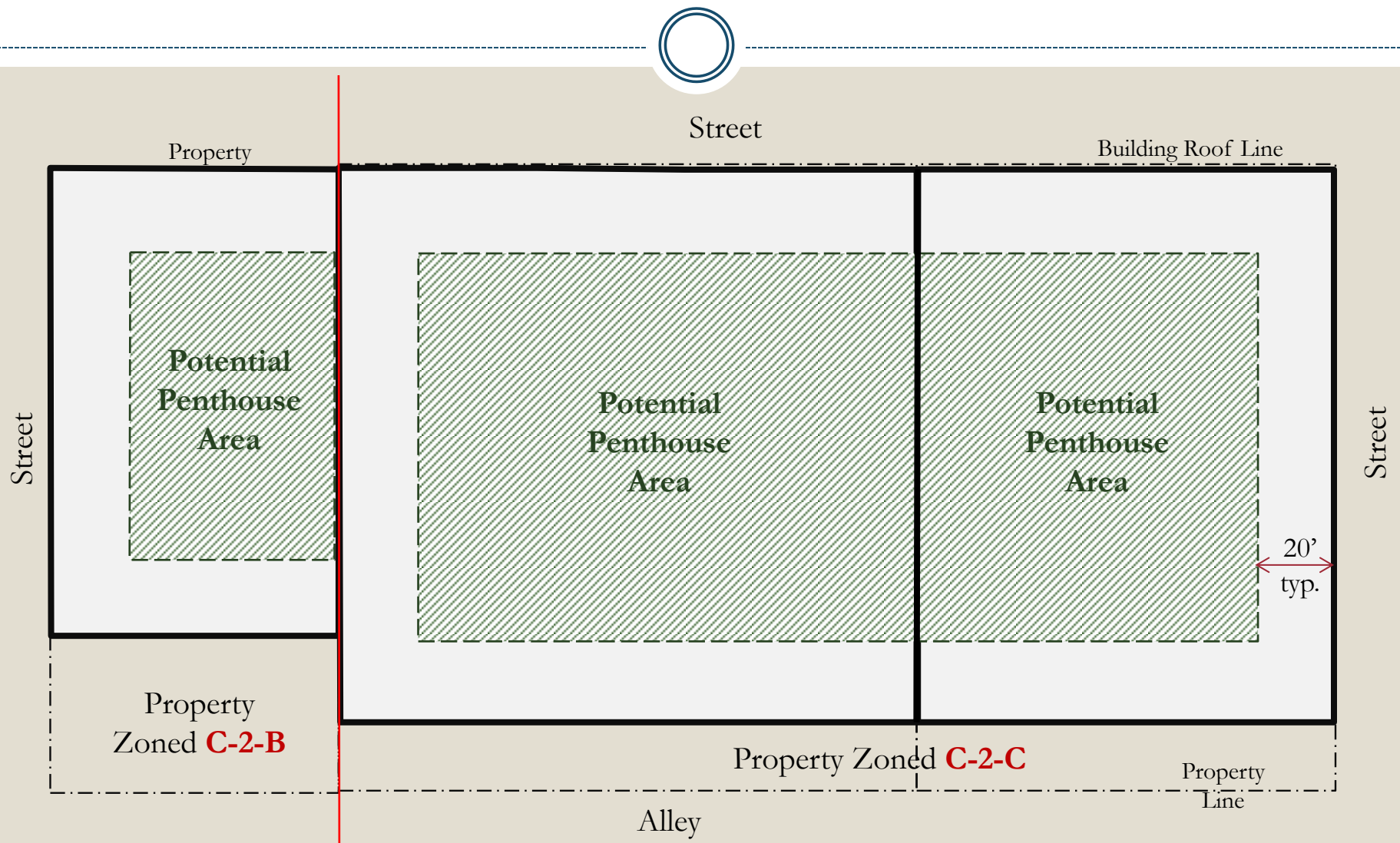
PENTHOUSE SETBACK



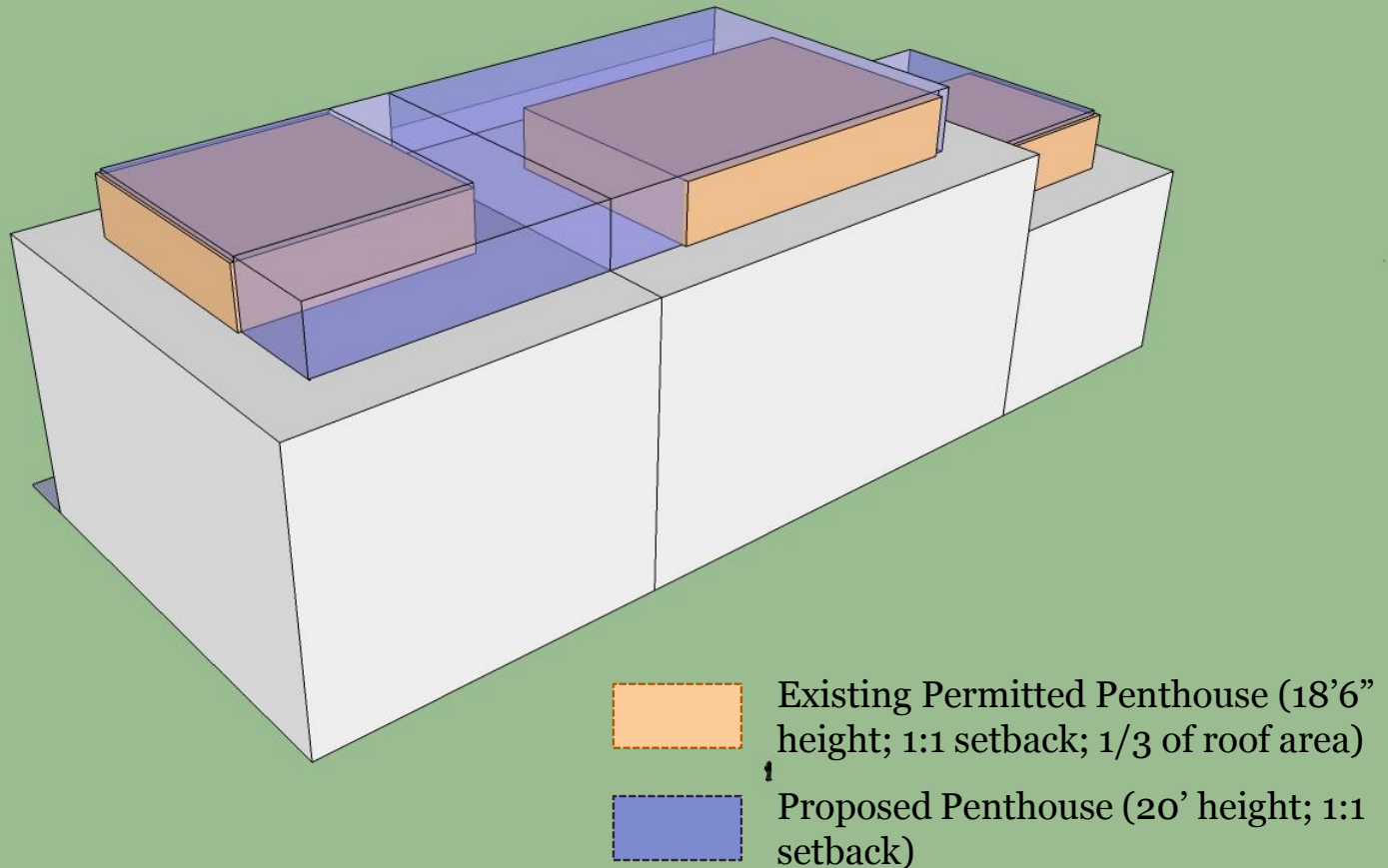
- **Require a 1:1 setback** from the exterior of the building wall below, including:
 - Any wall facing a public street;
 - Any wall facing a public alley;
 - Any wall facing a court open to a public street;
 - Any wall that provides a setback from a lot line that it faces;
 - Any wall that abuts a lot line, and is taller than the matter-of-right permitted height of the building on the adjacent property; or
 - Any wall that abuts a lot line shared with a property which is historic, or contains a historic building.



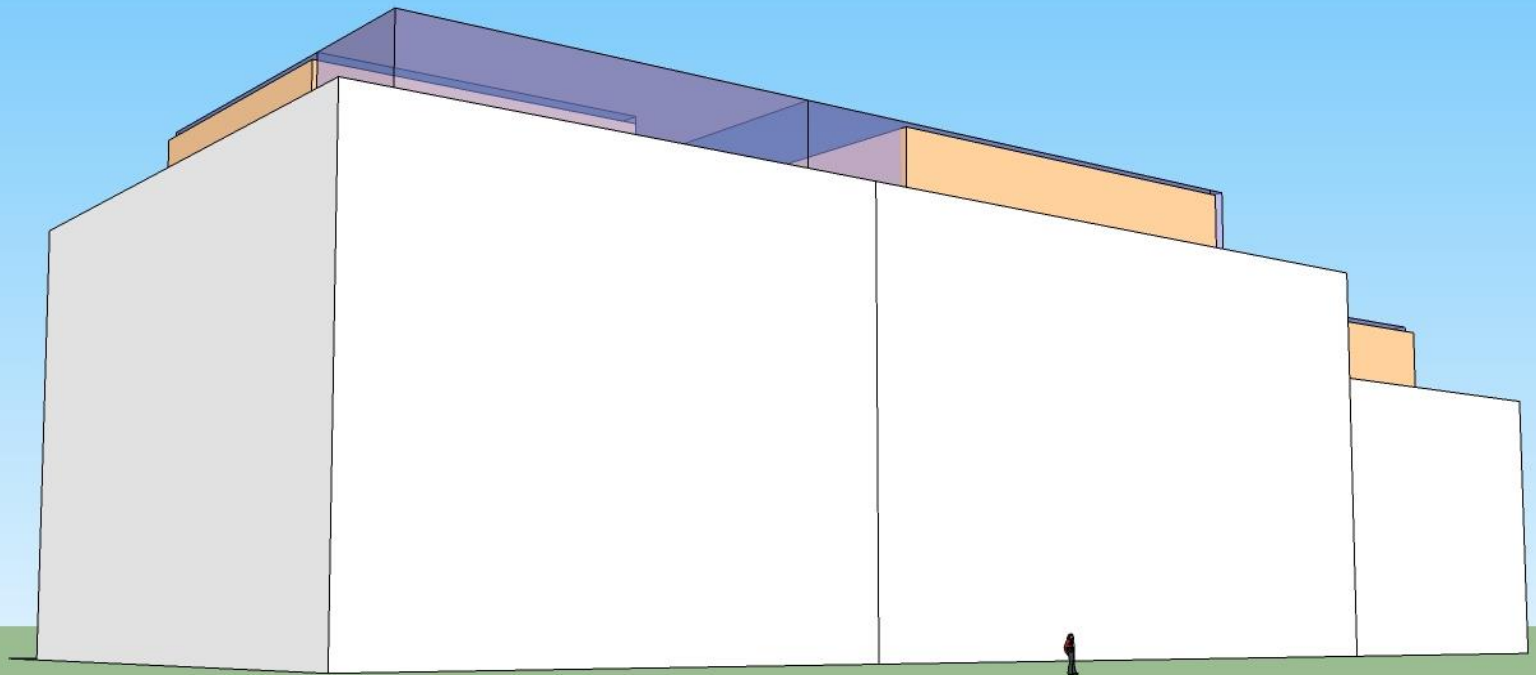
PENTHOUSE SETBACK – EXAMPLE 2



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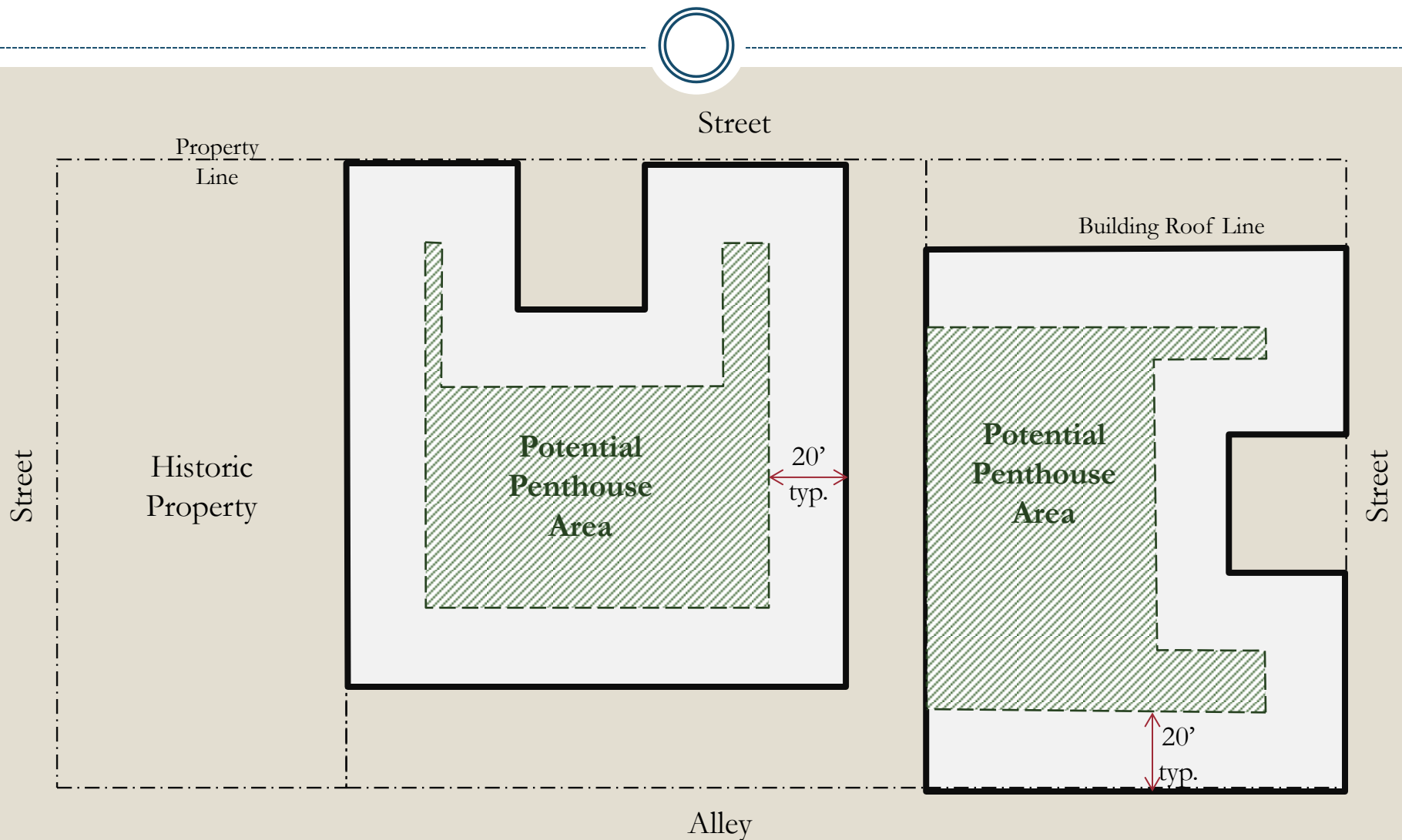


PENTHOUSE SETBACK – EXAMPLE 2

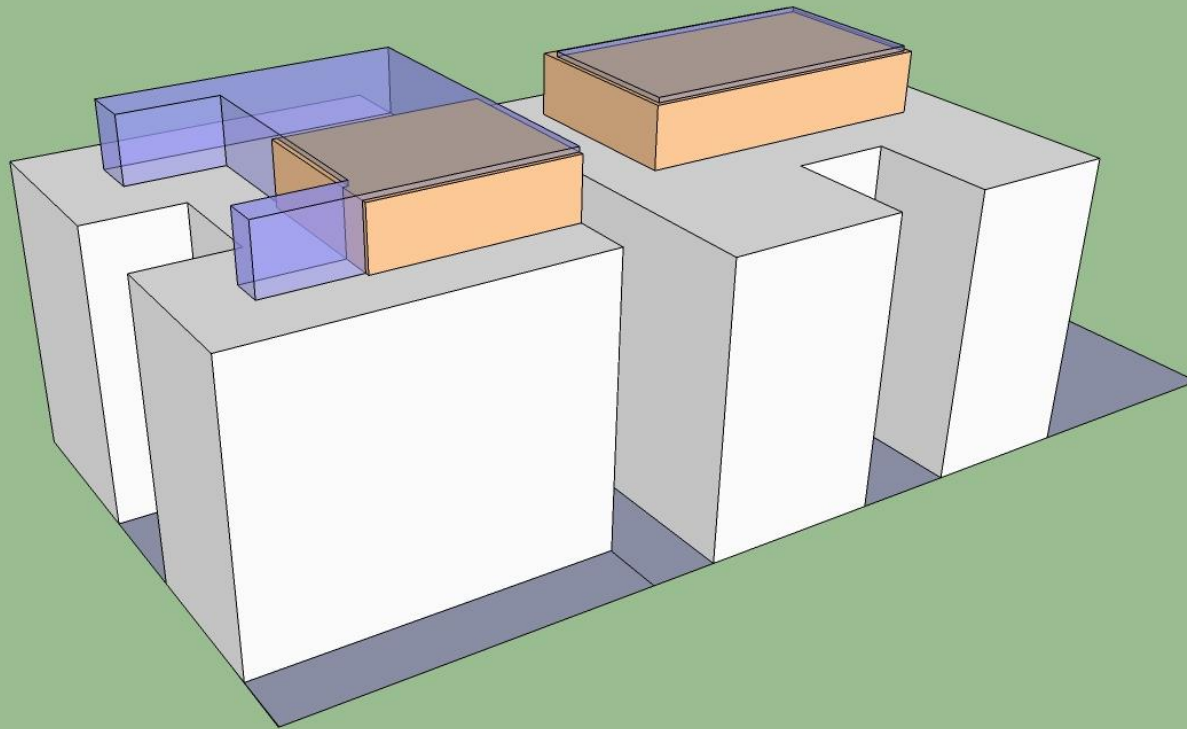


-  Existing Permitted Penthouse (18'6" height; 1:1 setback; 1/3 of roof area)
-  Proposed Penthouse (20' height; 1:1 setback)

PENTHOUSE SETBACK – EXAMPLE 3



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1

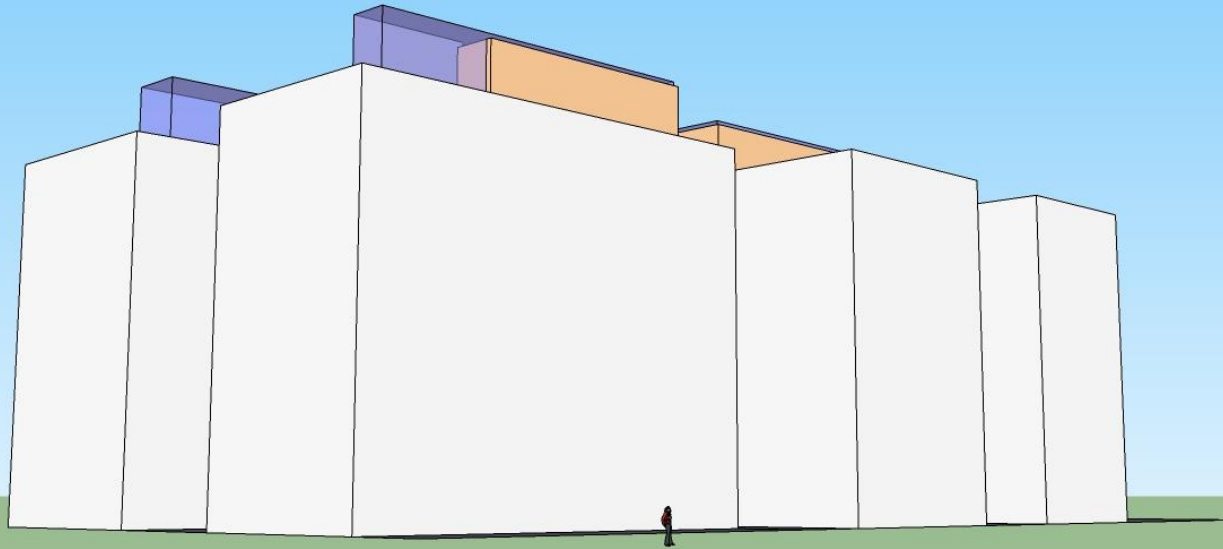


Existing Permitted Penthouse (18'6" height; 1:1 setback; 1/3 of roof area)



Proposed Penthouse (20' height; 1:1 setback)

PENTHOUSE SETBACK – EXAMPLE 3



Existing Permitted Penthouse (18'6"
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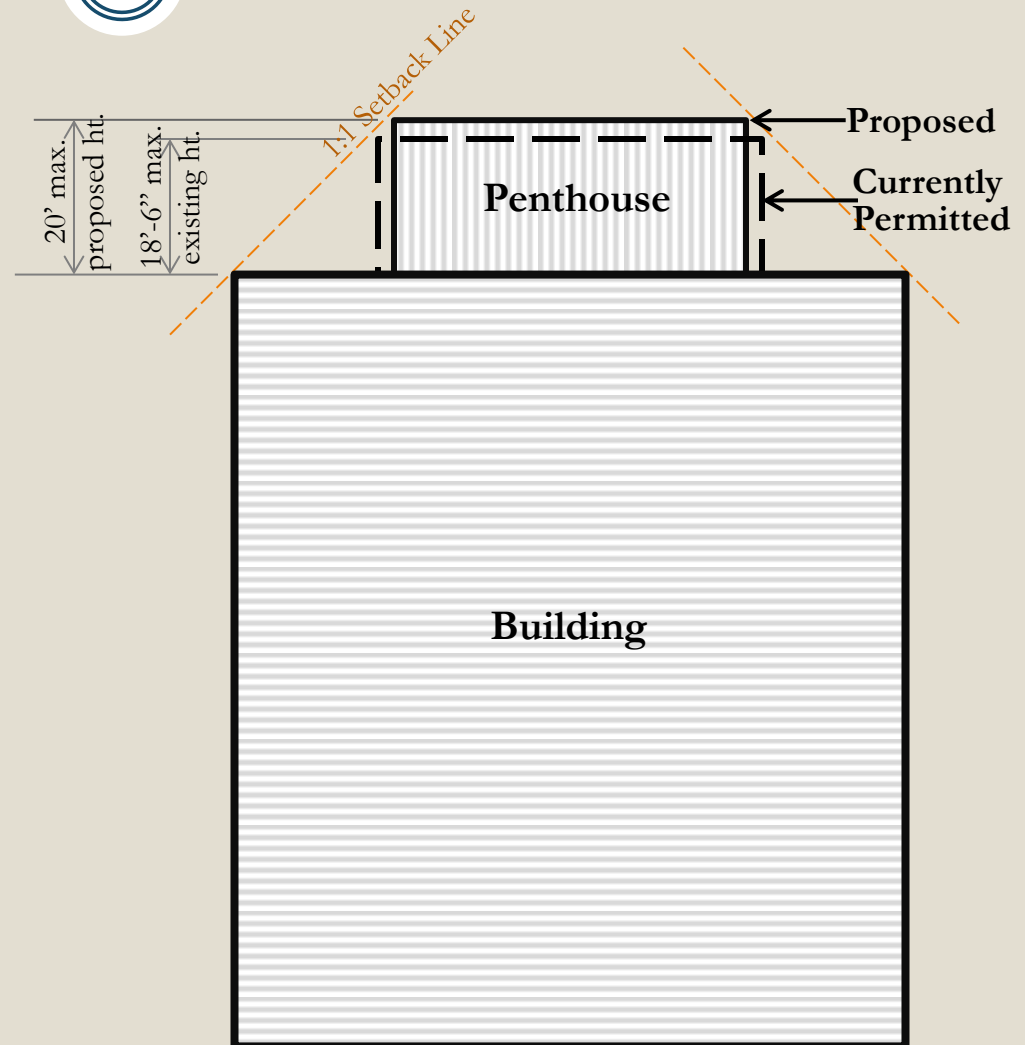


Proposed Penthouse (20' height; 1:1
setback)

PENTHOUSE HEIGHT



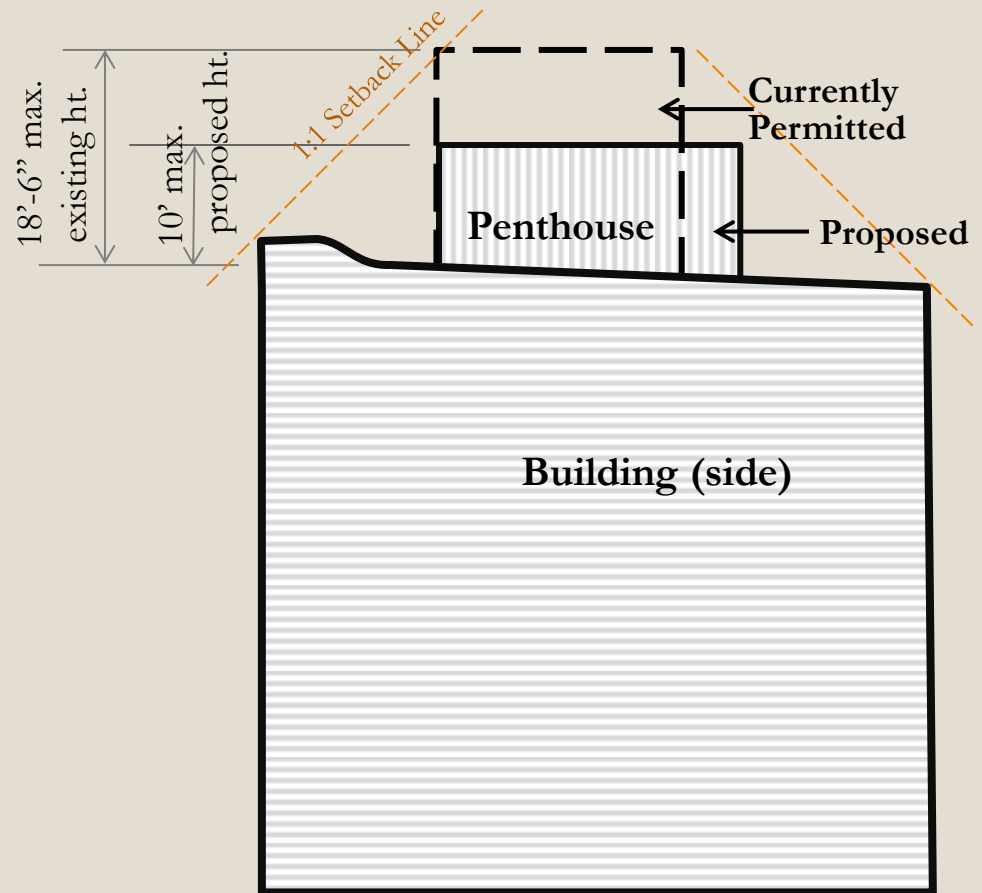
- Twenty feet for all other uses – commercial, multi-family residential, institutional, industrial, etc.
- Retain existing, more restrictive height limitations relevant to penthouses in zones where they exist.
- **Alternative** - Retain 18'-6" height, except 10' for one family dwellings or flats.



PENTHOUSE HEIGHT

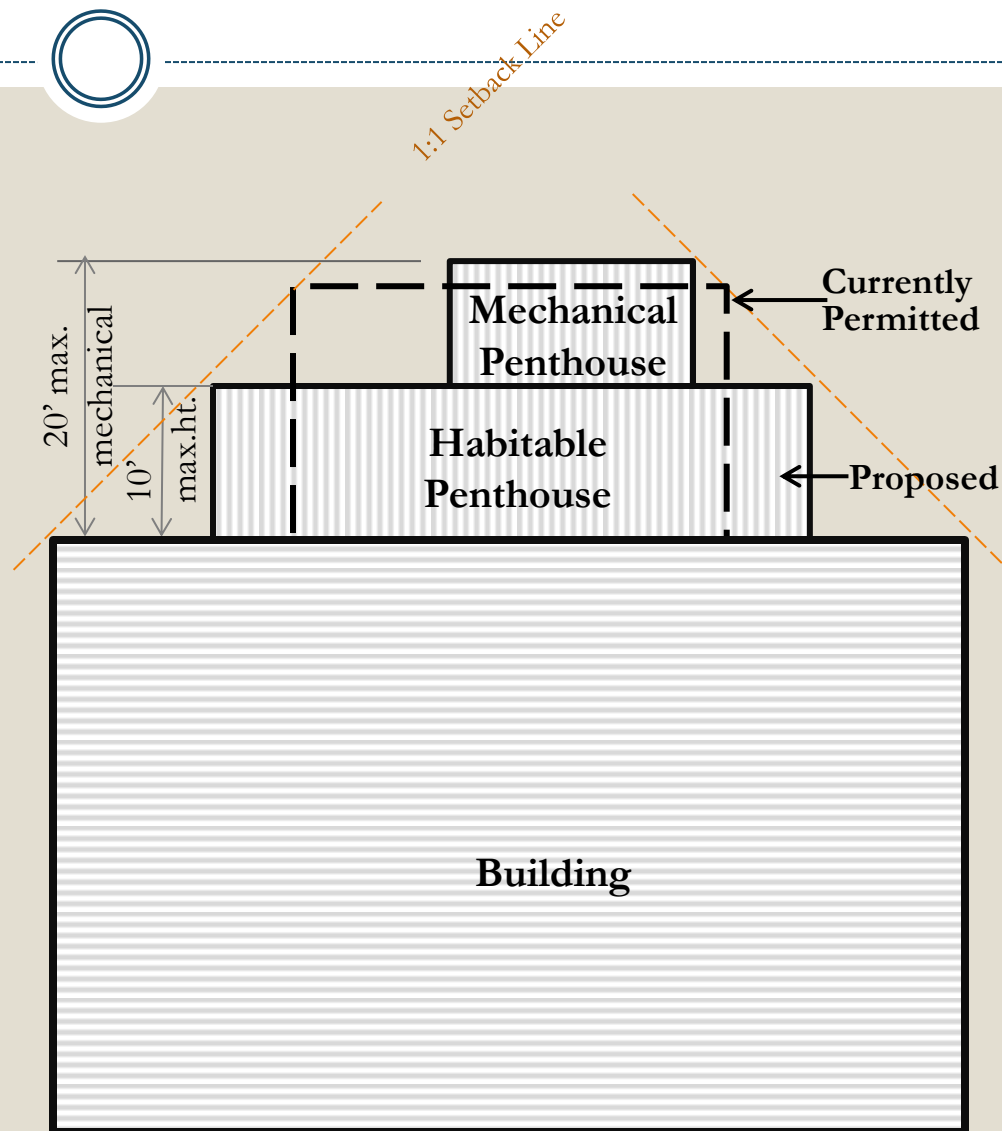


- Ten feet maximum for any one-family dwelling or flat, in any zone, reduced from currently permitted 18'-6" height.
- The current size limitation of 1/3 of the roof area is proposed to be retained.



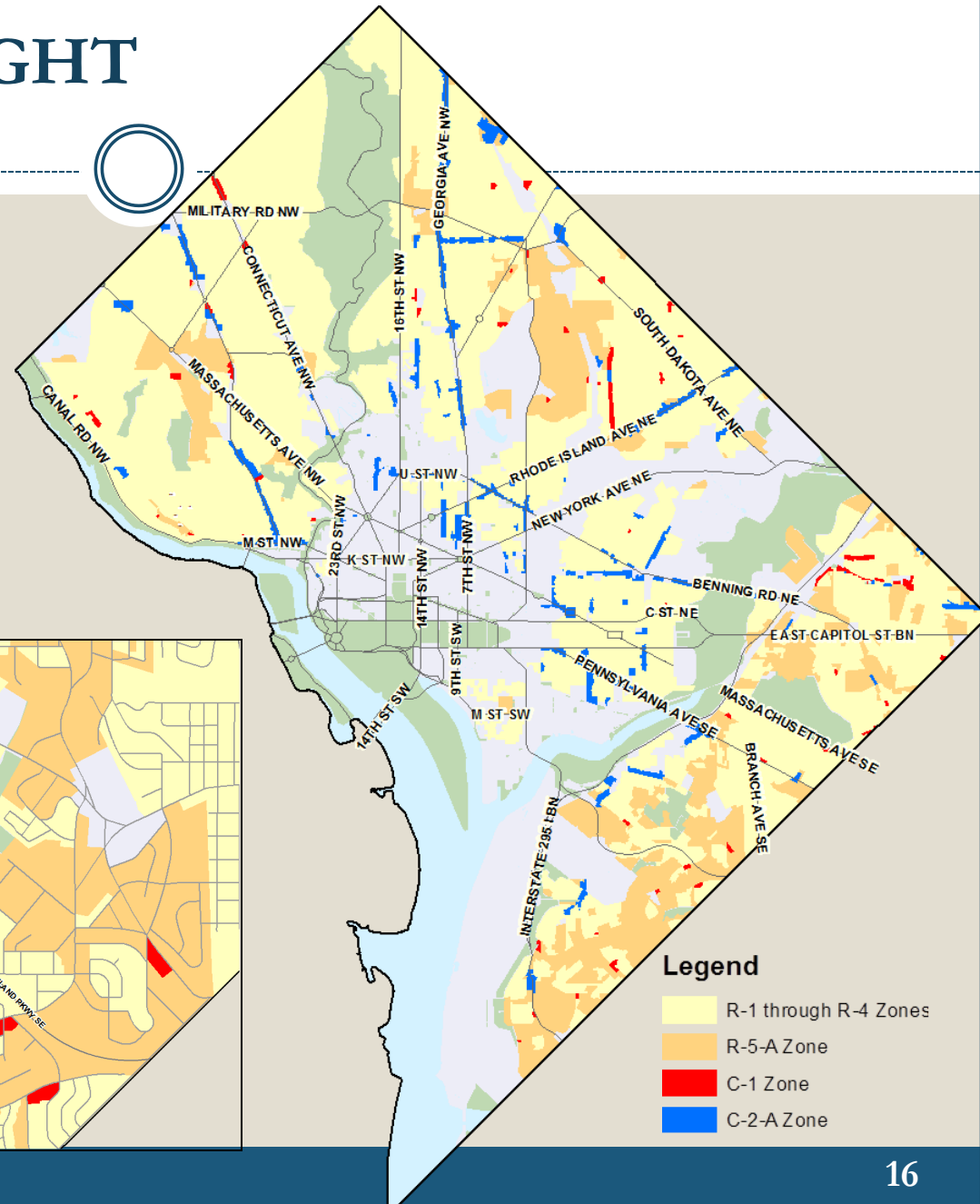
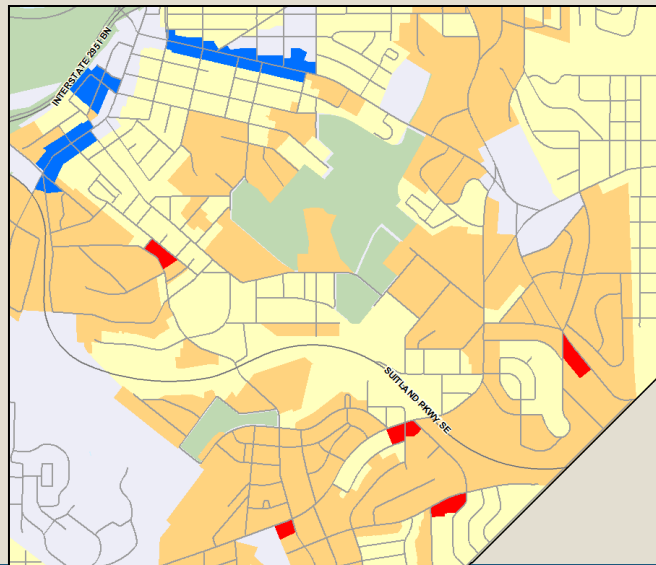
PENTHOUSE HEIGHT – NEW PROPOSAL

- Generally consistent with ZRR, permit a 20 foot mechanical penthouse but limit habitable penthouse to 10 feet in zones permitting a maximum height of 40 feet:
 - Non-low density residential buildings in the R zones;
 - Multi-family or non-residential buildings in R-5-A; and
 - Buildings within the C-1 mixed use zone.
- Consider this limit also for the C-2-A zone.



PENTHOUSE HEIGHT

- Map showing the location of low / moderate density residential and mixed use zones



PENTHOUSE STORIES



- **Permit two stories, except**
- **Limit the number of stories to one, if:**
 - The penthouse is located on a building that is located within the R-1 through R-4 zones;
 - The penthouse is located on a one-family dwelling or flat in any zone;
 - There are more restrictive existing zoning height limits relevant to penthouses; or
 - Any portion of the height or volume of the penthouse is located above the height limit established by The Height Act for the site.

PENTHOUSE STORIES



Penthouse
Limited to
One Story

Penthouse

Penthouse
Limited to
One Story

Height Act
Building
Height Limit

Penthouse
May be
Two Stories

Building

Building

Building

SOLAR PANELS ON A PENTHOUSE

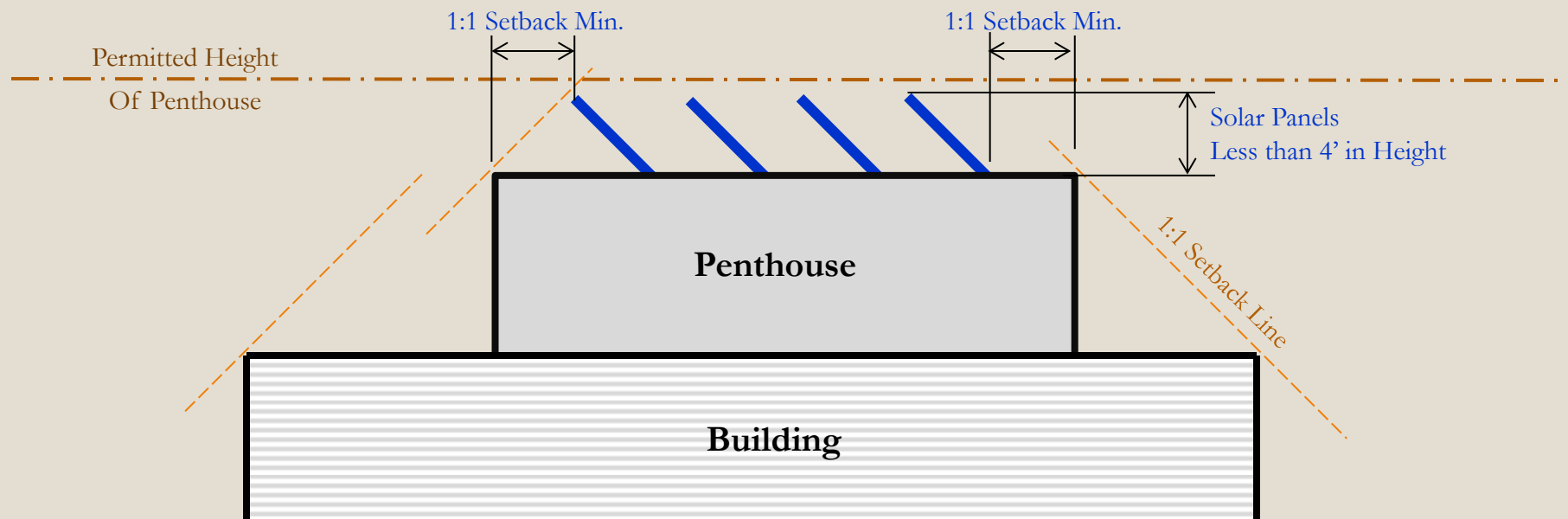


- **Alternative** — Do not permit mechanical equipment on a penthouse roof, including solar energy equipment
- **Alternative** — Do not permit mechanical equipment on a penthouse roof, but provide provisions for various situations that would permit but restrict solar equipment on top of a penthouse
- **Alternative** — Defer discussion of solar equipment on a penthouse roof, to be part of a broader and more comprehensive review of regulations and permissions related to solar equipment placement

SOLAR PANELS ON A PENTHOUSE



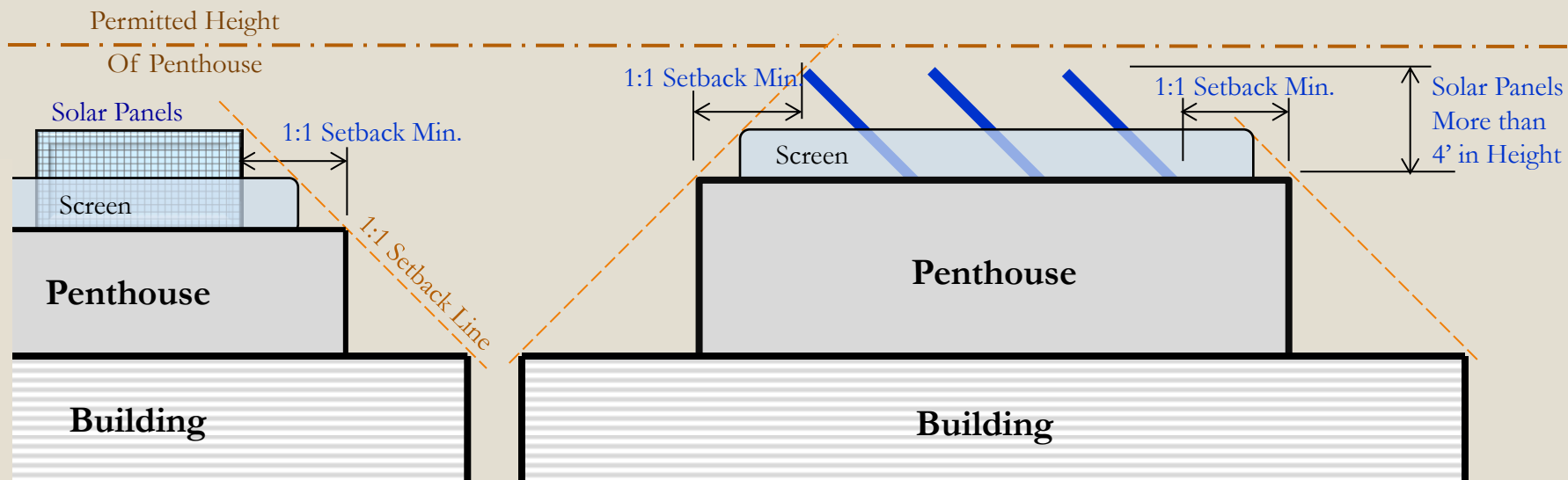
- If the top of the solar panel is below the height permitted for the penthouse (i.e. the penthouse is less than the permitted height) and the solar panel is less than 4 feet in height:
 - require a setback from all edges of the penthouse roof equal to the maximum height of the solar panel.



SOLAR PANELS ON A PENTHOUSE



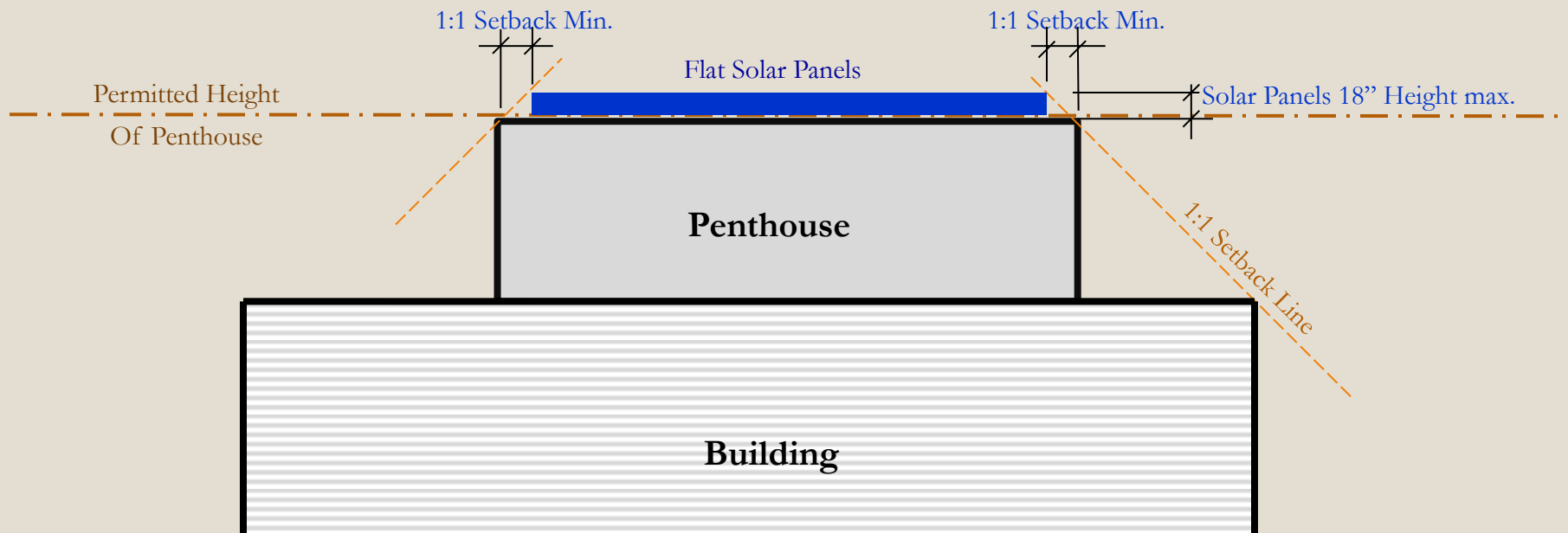
- If the top of the solar panel is below the height permitted for the penthouse but the solar panel is greater than four feet in height:
 - require a setback from the all edges of the penthouse roof equal to the maximum height of the solar panel, and
 - require screening of a height equal to at least one half ($1/2$) the maximum height of the solar panels.



SOLAR PANELS ON A PENTHOUSE



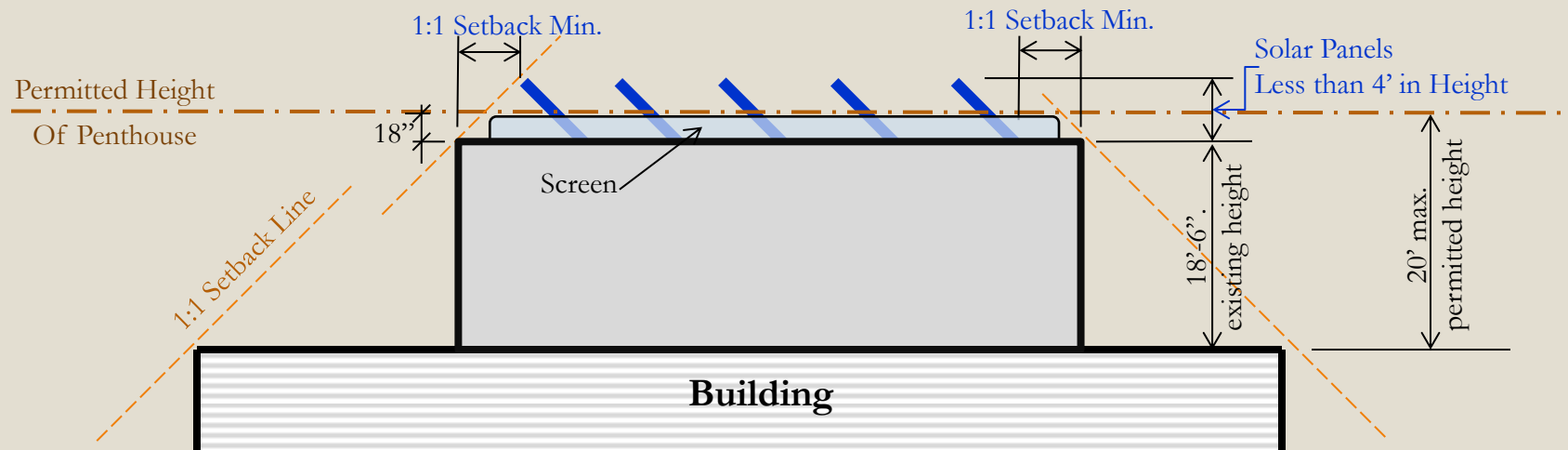
- If the penthouse is constructed to the maximum permitted height, allow a flat solar panel (one with no slope) provided:
 - it is no more than 18” in maximum height above the penthouse roof; and
 - it is set back from all edges of the penthouse roof by a distance equal to its height (i.e. a 1:1 setback).



SOLAR PANELS ON A PENTHOUSE



- For an existing penthouses constructed to the currently permitted height of 18'-6", permit solar panels if:
 - the maximum height of the panels is four feet;
 - the panels are set back from the edge of the penthouse a distance equal to their height (i.e. a 1:1 setback); and
 - parapet or screening is provided at the edge of the penthouse to a max. height of 18" above penthouse roof (i.e. to 20' height above building roof below).



PERMITTED USES IN A PENTHOUSE



- Generally permit any use within a penthouse which is permitted within that zone.
- Within the R-1 through R-4 zones, or any one-family dwelling or flat in any other zone, limit permitted uses within a penthouse to mechanical equipment, stairway and elevator overrides, or ancillary space directly associated with a rooftop deck.
- **Alternative:**
 - Permit specific uses only by special exception, such as a nightclub, bar, or restaurant.
 - Consider making this a restriction only if the building is located adjacent to a residential zone, or if there is any residential use within the building.

PENTHOUSE ENCLOSING WALLS



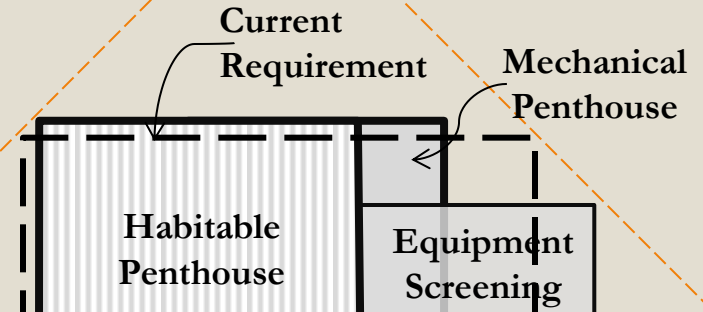
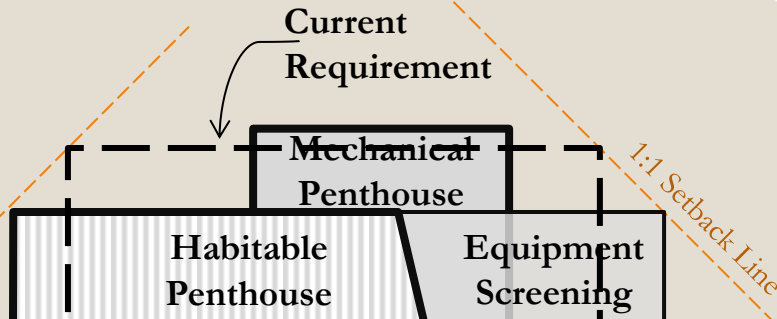
Equal Height:

- Delete the requirement that penthouse walls all be of equal height.
- **Alternative** - allow separate but uniform heights for:
 - enclosed non-habitable (mechanical) space; and
 - habitable enclosed space; and/or
 - unenclosed mechanical equipment screening walls.

Vertical Walls:

- Delete the requirement that penthouse walls be all vertical.

PENTHOUSE ENCLOSING WALLS



PENTHOUSE AREA AND FAR



Area

- Delete the current size limitations for penthouses, except
- Retain the requirement that a penthouse area cannot exceed 1/3 of the total roof area within the R-1 through R-4 zones or on any one-family dwelling or flat in any other zone

FAR

- Continue to not count penthouse gross floor area towards the permitted FAR for the building.
- **Alternative** - the Zoning Commission invited public comment on whether penthouse habitable space should count towards the permitted FAR for the building

SPECIAL EXCEPTION RELIEF



- Retain the review criteria for special exception relief from specified penthouse regulations; and
- Provide additional clarification of the term “operating difficulties” - “meeting building code requirements for roof access and stairwell separation or elevator stack location to maximize efficiencies in lower floors”.

AMENDMENT OF A PUD



- Provide for a consent calendar minor modification approval process for penthouse improvements for ZC approved PUD or design review proposals.
- Consider the following application requirements:
 - a dimensioned copy of the approved and the proposed roof-plan;
 - elevations as necessary to show the changes;
 - a written comparison of the proposal to the zoning regulations;
 - verification that the affected ANC has been notified of the request; and
 - The Office of Zoning not place the item on a consent calendar for a period of 30 days minimum following the filing of the application.

HOUSING LINKAGE – NON-RESIDENTIAL BUILDING



- Require the provision of an affordable housing linkage, generally consistent with the current housing linkage program, for new habitable penthouse greater than 1,000 sf, by either:
 - Providing affordable housing (on or off-site) in the formula established for the current housing linkage requirement; or
 - Providing a contribution to a housing production trust fund.
- **Alternatives:**
 - Apply the requirement to areas of the city where the current housing linkage programs does not apply, such as downtown.
 - Require a larger contribution:
 - ✦ one square foot of density for low-income households for every one square foot of new penthouse non-residential gross floor area; or
 - ✦ a contribution to a housing production trust fund equal to the full assessed value of the proposed penthouse non-residential gfa.

INCLUSIONARY ZONING - RESIDENTIAL BUILDING



- Apply IZ requirements to new habitable residential penthouse space.
- **Alternative:**
 - Broaden this requirement to apply to areas where IZ does not currently apply, such as the downtown and TDR receiving areas.
 - Require a larger affordable housing set-aside:
 - ✦ one square foot of gross floor area for inclusionary units for every square foot of penthouse residential gfa; and
 - ✦ all targeted at low-income (50% of AMI) households.

PARKING FOR PENTHOUSE AREA



- Require parking spaces, at the rate required for the rest of the building, for additional residential units in a penthouse.
- Consider requiring parking for new commercial or office at the rate required for the rest of the building.
- Continue to not include communal recreation space, conference rooms, other amenity space, or mechanical space in parking calculations.