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Anthony Hood, Chairperson
Zoning Commission of the District of Columbia
One Judiciary Square, Suite 220-South
441 4th Street, NW
Washington, DC 20001

Re ZC Case 14-13 - Definitions, Use of, Placement, and Size Limits for
Rooftop Structures and Penthouses Post Hearing Comments and
Recommendations

Dear Chairman Hood and Members of the Commission:

This letter provides some additional comments on the text advertised and the Office of Planning's discussion of that (Exhibit 6)

As to Setbacks (OP's Historic Preservation Addendum):

I am troubled by OP's language (page 5) about adding a broad setback requirement "from any lot line shared with a property which is historic, or contains a historic building." The record reflects fairly uniform opposition to this from "developers" and their industry association, DCBIA – who supported other aspects of the advertised text in that it allows creative utilization of rooftops and human occupancy of roof structures by the building's occupants and guests along with patrons of uses validly established in the premises or on its roof. I expressed my own support, and concerns, earlier as well (Exhibit 18, and my testimony)

My sense, now, is that OP identified an issue worthy of attention for which there may be several less onerous ways of dealing with such a flanking "historic" factor

For starters, any such provision should come into play only when other systems, notably those relating to historic preservation, do not. Thus, if the property to be developed itself is in an historic district, it will face review by HPRB and its staff who will examine the entire proposal from the ground up, they have ample authority to deal with setback of roof structures. Second, if the property to be developed abuts land that is in an historic district but the developing property is not, then review would not be justified, in my view, if the land in the historic district was vacant or contained only a "non-contributing" building.

To me, properties that abut a property containing a designated landmark may warrant some sort of roof structure setback standard, but only when the landmarked building's own roof structures are below those planned or, if at the same level or above, they are set back from the common property line. In my view, I do not feel a case has been made to require roof structures to be setback from common lot lines when the adjacent property is in an historic district even if it is developed with a building that is deemed "contributing" solely by reason of not having been declared "non-contributing." You could also frame a test tied to the date the adjacent building

ZONING COMMISSION
District of Columbia
CASE NO. 14-13
ZONING COMMISSION
EXHIBIT NO. 30
CASE NO. 14-13
EXHIBIT NO. 30

was built and compare that to the period of significance for the applicable historic district, requiring setback when the adjacent building dates from the same era, not requiring setback otherwise

As to Special Exception Relief:

As to relief from penthouse standards, OP recommends keeping the present special exception process intact, but clarifying “operating difficulties” (page 10 of their report) At least as to setback relief, I would concur with the idea that such could be taken up on some sort of expedited “consent” calendar But, for setback that is required because of an adjacent “historic” factor, provide the owner of the property seeking a building permit a choice – come for a review by:

- The BZA or ZC (hopefully, on an expedited potential consent calendar track) or
- A review of just the penthouse edge not set back along the adjacent property line by staff of the HPRB who could docket the matter to the HPRB, if needed

It is my sense that HPRB staff can operate more quickly and with lower application fees than any zoning process now extant (and still give notice to ANCs) This would reduce the cost and delay that any zoning panel review would entail and provide an adequate measure of protection from any historic asset that is either a landmark (or “contributing” or “dating from period of significance” if you want those cases reviewed as well) I would expect that developers who face other zoning issues needing relief or review would just add the roof structure setback to the overall submission, but those that face roof structure setback alone might opt for the “HPRB” pathway

As to Fears of Overdevelopment or Excessive Height:

The case record, as of November 20, includes submissions from two witnesses “opposed” to the overall case as proposed As to their concerns about vast increases in height with expansive penthouses by right but especially when seeking to utilize added density and height that PUD guidelines can allow, my sense is that the nature of these limits is something applicants, effectively, “earn” only if the planned project will bring benefits that you conclude flow to the District and area and adverse impacts, if any, are mitigated -- far from an automatic entitlement, this “balancing test” is, in my view, something your final rulemaking should re-state

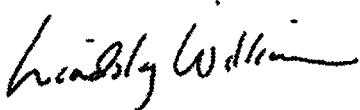
Still, the ZC could in this rulemaking look at the height limit restrictions that are developing in the overall ZRR case, 08-06A and apply these to the “penthouse” case or simply delay the penthouse provisions of this case where by right height and/or density is below some minimum until ZRR itself becomes effective You could, for example, provide that these changes would initially apply to some or all of the following where by-right height is 60 feet or more and/or where by-right overall FAR is 3.5 or more You could also restrict them from applying, pending ZRR, in “sensitive” overlay zones, for example, Neighborhood Commercial (“NC”) and Reed-Cooke (“RC”) **The proposed provisions should certainly go into effect in areas where considerable height is already allowed by right and where substantial overall density is allowed by right.**

Conclusion:

As these provisions are implemented, I would hope to see relocation of much of the “mechanical equipment” now most often located on rooftops to portions of the floors below In ZRR case records, some members of the architectural community note efficiency benefits when air supply and exhaust ducts serve only a single floor instead of having to transit thru floors from and to the

roof This would yield discernable environmental "efficiency" benefits, encourage less valuable exposures on each floor to serve utilitarian purposes, expand the potential area for rooftops to provide amenities to the occupants and provide additional high value, marketable (and taxable) space **Rooftops should be positioned in zoning regulations a potential asset, not as a mere necessity to keep water out or just "unusable" space where HVAC systems and other utilities can be dropped, subject only to their being setback, screened from view, and within the applicable height limit.**

Thank you

A handwritten signature in black ink, appearing to read "Lindsley Williams". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lindsley Williams