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Anthony Hood, Chairperson
D.C. Zoning Commission
Office of Zoning
441 4th Street NW, Suite 210
Washington, DC 20001

**Re: Z.C. Case No. 14-13
Goulston & Storrs Comments regarding Rooftop Penthouse Text
Amendments**

Goulston & Storrs ("Goulston") provided comments to the Zoning Commission, dated November 5, 2014, regarding the proposed Rooftop Penthouse Regulations under consideration in Z.C. Case No. 14-13. This submission reiterates those comments. Goulston continues to support the proposed text amendments, which will allow greater use of rooftop structures for recreational and common space uses as well as for additional residential and commercial office space. Goulston notes, and supports, the comments that have been provided to the Zoning Commission by DCBIA.

Institutional Uses

Goulston recommends that the proposed regulations permit broader uses within institutional buildings, such as churches, museums, libraries, public and private schools, colleges and universities, and government and other civic uses. The additional space gained through the expanded permitted uses will allow these institutions to accommodate program and space needs without outward physical expansion. To this end, Section 411.2 should be amended as follows.

Section 411.2 A penthouse may house mechanical equipment, stairway and elevator overrides, or any use permitted within the zone in which the penthouse is located; except that it may house only mechanical equipment or stairway and elevator overrides:

- (a) If the penthouse is located on a one-family dwelling or flat; or
- (b) In any zone in which the building height is limited to forty feet (40 ft.) or less by right.

Notwithstanding the foregoing, penthouses on institutional buildings that exceed a height of forty feet (40 ft.) may be permitted to be used for any institutional use either permitted

as a matter of right or approved for the building pursuant to applicable special exception standards.

Clarification Regarding What Uses Trigger a Linkage Requirement

The proposed regulations should more clearly state (a) what uses are permitted above the roof level and (b) which uses trigger an affordable housing requirement and which do not. Although we understand the Commission's desire to produce additional affordable housing within the District as an offset for additional residential units or office space that is gained through the amendments, we also strongly believe that such affordable housing requirements should not apply to recreational space and other common areas, whether such recreational/common space is in a residential or commercial building. Similarly, such affordable housing requirements should not apply to penthouse space devoted to institutional uses, such as churches, museums, libraries, public and private schools, universities, and other government and civic uses.

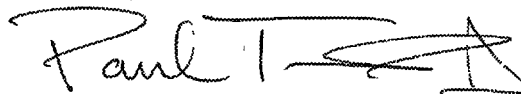
To this end, Goulston recommends the following change to the definition of "penthouse non-residential gross floor area," which will ensure that recreational space and other common areas as well as penthouse space devoted to institutional uses do not trigger a linkage requirement:

Section 414.2 For the purposes of this section, the term "penthouse non-residential GFA" shall mean all of the gross floor area of a penthouse devoted to hotel, retail, service, office, or other commercial uses, except that the term shall exclude common recreational space, whether or not such space is accessory to rooftop deck space; not otherwise occupied by dwelling units; space accessory to rooftop deck space such as storage, rest rooms, or change rooms; mechanical equipment; stairway; or elevator overrides.

Conclusion

We appreciate the opportunity to comment on the proposed amendments and we look forward to the Commission's consideration of these recommendations.

Sincerely,



Paul Tummonds


David Avitabile