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NCPC FILE No. Z.C. 14-13

APR 29 2015

Chairman Anthony Hood
Zoning Commission for the District of Columbia
441 4th Street NW, Suite 200S
Washington, DC 20001

RE: NCPC Staff Comments on ZC 14-13, Text Amendments to Rooftop Penthouse Regulations

Dear Chairman Hood:

Thank you for providing the National Capital Planning Commission (NCPC) staff the opportunity to comment on the proposed rooftop penthouse text amendments to the District of Columbia Municipal Regulation Title 11, Zoning Regulations. In 2014, President Obama signed Public Law 113-103, which amended restrictions related to human occupancy of penthouses as set forth in the 1910 Height of Buildings Act (Height Act). This amendment followed the completion of the Height Master Plan, a year-long study to explore strategic changes to the Height Act conducted by NCPC and the District of Columbia Office of Planning (DCOP) at the direction of Congress. The DCOP's proposed zoning text amendment would allow human occupancy of penthouses, as permitted in the Height Act.

NCPC is interested in the form and character of the nation's capital, particularly along streets and avenues that abut national resources in the monumental core. Basic elements of building form, including height, penthouse and setback contribute to the character of city streets, vistas, and the setting in and around major historic and cultural sites. NCPC staff has previously commented through the Zoning Regulations Review (Case No. 08-06A or ZRR) regarding the importance of building mass along such avenues as North Capitol Street, South Capitol Street, Pennsylvania Avenue, and Independence Avenue.¹ Although separate zoning regulatory cases, both the proposed rooftop penthouse regulations and the ZRR have interrelated implications for the basic elements of building form along these major streets and avenues.

Two avenues where it is particularly important to weigh the proposed penthouse regulations comprehensively with the ZRR include: Independence Avenue, which abuts the National Mall; and Pennsylvania Avenue, which connects the White House and the United States Capitol. The draft ZRR (as proposed in December 2014) contemplates new matter-of-right height for development on these significant avenues in the monumental core and in the case of Independence Avenue proposes limitations on penthouses. It is unclear how the new penthouse regulations would be applied to these areas and how they might impact important views surrounding the avenues and

¹ NCPC staff commented on ZC 08-06A sent to the Zoning Commission on 6/24/14 and 9/15/14.

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symmetry of development without knowing the final zoning to be adopted in the ZRR. See Appendix A for more detailed comments and illustrations. We respectfully request that the Zoning Commission review the application to amend the penthouse regulations for these two sections of the avenues concurrently with or after – rather than in advance of – the ZRR.

NCPC staff is also coordinating with the United States Secret Service (USSS) on the proposed penthouse regulations in relation to security concerns around the White House. The USSS have indicated to us that they are submitting comments to the Zoning Commission under separate cover.

Finally, NCPC recommends clarifying provisions related to parapet walls and railings, setbacks, and special exceptions. See Appendix B for more information.

These comments are provided by NCPC staff for your consideration and do not represent an official Commission action. NCPC staff enjoyed a cooperative relationship with DCOP during the Height Master Plan and ZRR and looks forward to the opportunity for additional engagement on these recommendations. If you have any questions, please contact Angela Dupont at (202) 482-7232 or Angela.dupont@ncpc.gov.

Sincerely,



Marcel C. Acosta
Executive Director

cc: L. Preston Bryant, Jr., Chairman, National Capital Planning Commission
Sharon Schellin, Secretary to the Zoning Commission

Pennsylvania Avenue, NW

In 1975, the Pennsylvania Avenue Development Corporation (PADC) adopted the PADC Plan which includes areas along Pennsylvania Avenue, NW between 3rd and 15th Streets, NW. The PADC Plan provides a framework for how development will occur along the Avenue. It includes height and setback regulations that frame the view of the U.S. Capitol. Development within this area is required to be consistent with the PADC Plan.

The historic Federal Triangle sits just to the south, and has lower building heights (approximately 81 - 137 feet) that heavily influence the overall character of the Avenue. The PADC Plan advocates for lower initial building heights on the north side of Pennsylvania Avenue before stepping back to achieve a maximum height of 160 feet, shifting this additional height out of the primary viewshed. This design solution accommodates the extra height, protects this nationally significant viewshed, and reinforces the symmetry of the Avenue.¹

Of the 15 blocks, there are only 4 instances on the Avenue where the square guidelines have ever allowed additional height to accommodate a penthouse: 3 of these were allowed to accommodate mechanical equipment or stairwell access up to 168 feet (Squares 291 - 1275 *Pennsylvania Avenue*, Square 322 - *Presidential Building* and Square 348 - 1001 *Pennsylvania Avenue*). The Willard Hotel (Square 225) has an 18.5' penthouse in addition to the 160' building.

The majority of 160' buildings for the 15 blocks on the north side of Pennsylvania Avenue do not include penthouses. Most recently, square guidelines were developed through the PADC Plan process (which is a federal requirement) for the Newseum site (Square 491). While the building is allowed 160' in height, the guidelines required penthouse related uses (mechanical equipment) to be incorporated into the 160' building height.

Based on this most recent application of square guidelines and the majority of buildings along the Avenue today, NCPC staff believes that penthouse related uses should be incorporated into the 160' building height, consistent with the overall guidance in the PADC plan.

Recommendation

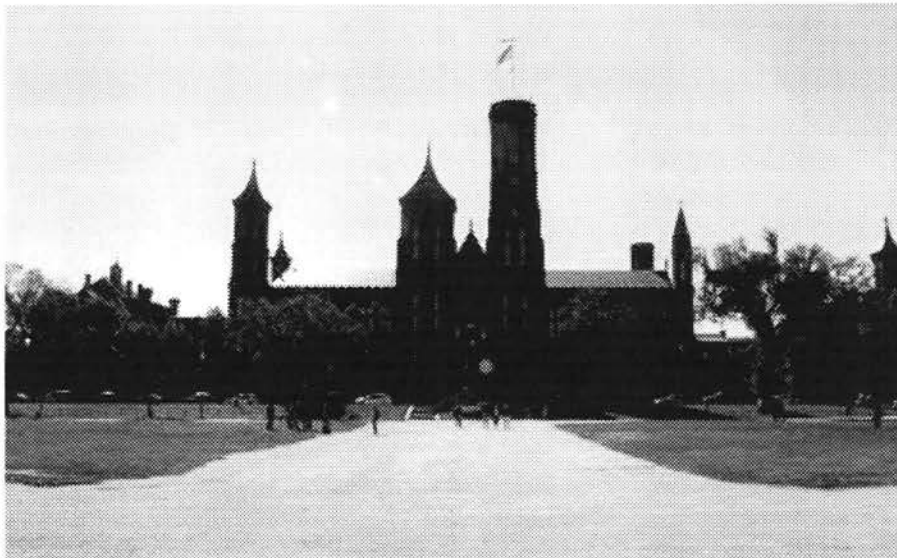
NCPC staff proposes that no penthouses (both mechanical and habitable) be allowed on 160' buildings within the PADC boundary (squares fronting Pennsylvania Avenue between 3rd and 15th Streets, NW) unless otherwise allowed through individual square guidelines in the Pennsylvania Avenue Development Plan.

¹ [i] "New construction adjacent to historic structures will be required to take into account the qualities of the adjacent structures (with regard to height, scale, proportion, rhythm, texture, materials, architectural detail, and amount of variety among the structures with respect to these qualities as well as style and date of erection) to ensure that these structures maintain their historic or architectural integrity, but will not necessarily be required to conform to them " (PADC General Guidelines Section 910.14)

"All new development is conceived as an integral part of its surroundings, which include the remainder of the development Area, the Mall, the Federal Triangle, and the District's downtown and should support Pennsylvania Avenue's function as a bridge between the monumental Federal core to the south and the District's Downtown to the north." "The design of any development shall be coordinated with the massing, architectural design, servicing, pedestrian amenities, and uses of nearby development as prescribed under the Plan." (PADC General Guidelines Section 910 11)

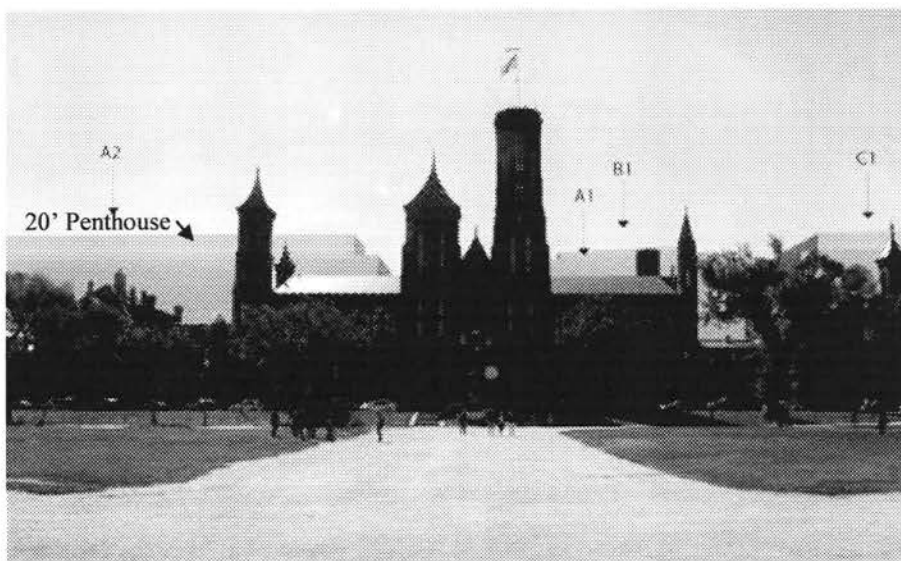
Independence Avenue, SW

NCPC staff identified concerns with the proposed penthouse regulations for both the current and proposed zoning on Independence Avenue between 6th and 12th Streets, SW. Current zoning allows buildings on Independence Avenue a matter-of-right height of 90' and 130' through the Planned Unit Development (PUD) process. The DCOP's proposed zoning in the Zoning Regulations Review (ZRR) allows buildings on Independence Avenue a matter-of-right height of 130' with an upper story step-back at 110' (in addition to a building line setback of 88' from Independence Avenue). Today, the National Mall is a public space within a park-like setting framed by trees and civic institutions as opposed to private development. The two images below show the impact of a 20' penthouse on top of 130' buildings on Independence Avenue as seen from the National Mall.



Left Image:

View of the Smithsonian Castle today from the center of the National Mall.



Left Image:

View of the Smithsonian Castle with new buildings at 130' in height with a 20' penthouse (total height of 150').

Note: This model assumes the proposed SW Ecodistrict parcelization. If Virginia Avenue and 11th Street are not rebuilt, the impact of development could be more significant because parcel size would substantially increase.

As previously indicated in staff's oral and written testimony to the ZC, any development over this 130' height (whether mechanical or habitable penthouses) would negatively impact the public open space views from the National Mall.

Recommendation

If buildings on Independence Avenue (between 6th and 12th Streets, SW) are allowed to achieve 130' in height (either through the PUD process with the current zoning or as a matter-of-right in the proposed Zoning Regulations Review):

NCPC staff proposes that no penthouses (both mechanical and habitable) be allowed.² All rooftop equipment and mechanical structures should be incorporated into the 130' building. Any penthouse development over 130' negatively impacts views of the Smithsonian campus and views from the National Mall.

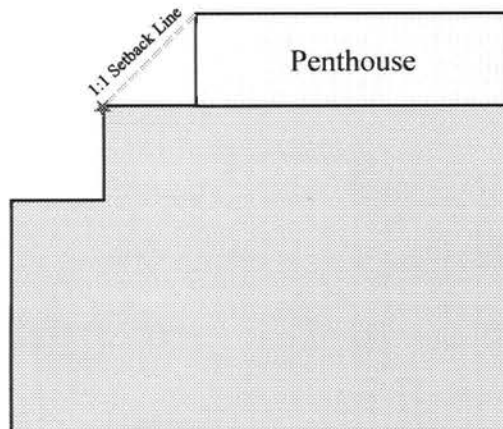
² NCPC staff comments on the ZRR sent to the Zoning Commission on 6/24/14 and 9/15/14 recommend that buildings on Independence Avenue in the proposed D8 zone be allowed a maximum building height of 110' and that they be setback 88' from the right-of-way centerline. If this recommendation were to be approved by the Zoning Commission in the ZRR, NCPC staff finds the proposed penthouse language acceptable with one caveat: an applicant should not be able to seek a special exception for setback relief for the side of the penthouse facing Independence Avenue.

Parapet Walls, Safety Railings, and Guard Rails

The proposed zoning regulations in §411.16 state that safety railings or guard rails required by the construction code shall not be considered as penthouses, therefore, would not have the proposed 1:1 setback for penthouses. The Height Act and zoning should continue to reinforce the street level views and minimize the visibility of rooftop elements. NCPC staff recommends revising the proposed regulations in §411.16 to clarify that any safety railings and guard rails above the limit of height in the Height Act should meet a 1:1 setback from the edge of the roof. NCPC staff notes that the Height Act allows parapet walls below the limit of height and all safety railings/guard rails that do not extend above the limit of height, would not require a setback.

Penthouse Setback

The proposed 1:1 penthouse setback is consistent with the Height Act, which requires penthouses, ventilation shafts, and tanks to be setback from the exterior walls with a distance equal to their respective heights above the adjacent roof. For clarification purposes, NCPC staff recommends adding a diagram (see example below) and/or revising the proposed language in §400.7(b), §530.5(b), §630.4(b), §770.6(b), §840.3(b), and §930.3(b) to explain where to measure the 1:1 penthouse setback when buildings have an upper story step-back.



Special Exceptions

The proposed regulations in §411.11 would allow the BZA to grant relief from penthouse setback requirements under certain conditions. NCPC staff recommends clarifying in the proposed zoning regulations that only the portion of the penthouse under the limit of height of the Height Act would be eligible for setback relief and the height above the limit would require the 1:1 setback (as shown in the image below).

