

District of Columbia
Office of Planning



ZONING COMMISSION
District of Columbia

CASE NO. 14-13

EXHIBIT NO. 75

ZONING COMMISSION CASE 14-13 PROPOSED ROOFTOP PENTHOUSE REGULATION AMENDMENTS

DC OFFICE OF PLANNING
ZONING COMMISSION PUBLIC HEARING
APRIL 30, 2015



REVIEW PROCESS

2013 – 2014 Process to amend the Height Act:

- Public meetings in each ward, including discussion of allowing habitable space in a penthouse as an option
- Council and NCPC hearings, Congressional hearing
- Amendments signed into law by the President May, 2014

2014 – 2105 Process to amend the Zoning Regulations:

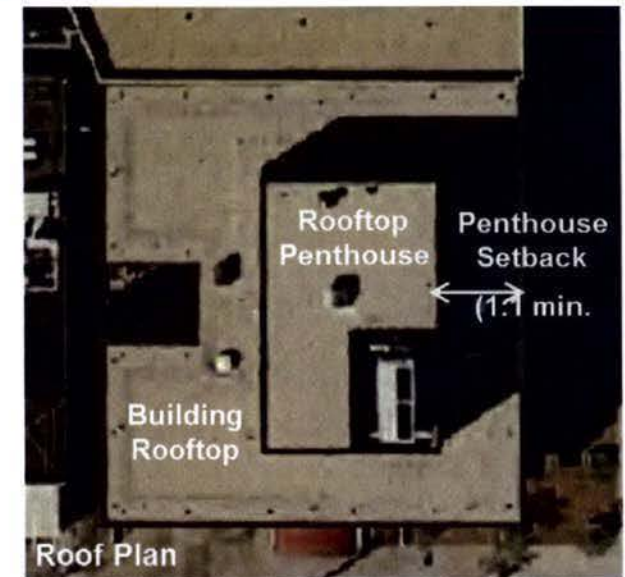
- July 28, 2014 – OP report to the Zoning Commission
- September 4, 2014 – set down by the Zoning Commission
- November 6, 2014 – Zoning Commission Public Hearing
- December 8, 2014 – Zoning Commission Public Meeting
- February 23, 2015 – Zoning Commission considers the matrix of options and instructs which to advertise for an additional public hearing
- March 20, 2015 – OP emailed ANC specific information to each ANC commissioner and mailed to each ANC office; summaries posted on the OP website and blogsite; multiple tweets
- April 30, 2015 – Public Hearing



EXISTING REGULATIONS:

The Height Act: amended to permit habitable space (such as living space or office space) within rooftop penthouses, if the penthouse is one story and 20 feet in height or less

Zoning Regulations: more restrictive than the Height Act



Regulation:	Height Act as Revised:	Current Zoning Regulations:
Height:	20 feet maximum for habitable space	18'-6" maximum in all zones and all uses, except 10'-0" within the CAP Overlay
Stories:	1 for habitable space above the Height Act limit; otherwise not regulated	Not regulated
Setback:	1:1 from all building exterior walls	1:1 from all building exterior walls; has required some interpretation
Area:	Not regulated (other than by setback)	.37 FAR maximum; 1/3 of area of roof below, maximum.
Permitted Uses:	Any, including habitable space (provided the penthouse is 1 story and less than 20 feet in height) 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 to Penthouse Regulations:

1. Permitted penthouse height
2. Permitted number of stories in a penthouse
3. Uses:
 - 3A. Habitable space within a rooftop penthouse
 - 3B. Uses permitted by special exception within a penthouse
4. Required setbacks for rooftop penthouses
5. Penthouse area limitations – maximum size
6. Penthouse area counted towards building F.A.R.
7. Penthouse structure design:
 - 7A. Walls of equal height
 - 7B. Vertical walls
 - 7C. Permitted number of structures
8. Affordable housing linkage:
 - 8A. Habitable penthouse space in a non-residential building
 - 8B. Habitable penthouse space in a residential building
9. Special exception review criteria
10. Process for amending a previous approved PUD or Design Review project
11. Definitions
12. Whether parking should be required for penthouse habitable space

1. PENTHOUSE HEIGHT

Alternative 1: Permit penthouse of 20 feet max. except limit height to 10 feet maximum:

- Above a single family dwelling or rowhouse in any zone; or
- In any zone in which the building height is limited to 50 feet or less by right;

Retain more restrictive penthouse heights in overlay zones where they currently apply.

Alternative 2: Do not allow a penthouse on a single family dwelling or rowhouse.

Penthouse Height					
Zones:	Permitted Building Ht	Existing Zoning	Ht Act	Alternative 1	Alternative 2
SFD/FLAT in any zone	40'	18.5'	20'	10'	Not permitted
Residential Zones:					
Low (R-1 – R-4)	40'	18.5'	20'	10'	10'
Moderate (R-5-A – R-5-B)	40' - 50'	18.5'	20'	10'	10'
Medium to High (R-5-C, R-5-D, R-5-E)	60' - 90'	18.5'	20'	20'	20'
Mixed Use Zones:					
Low – Moderate (C-1, C-2-A, W-0, W-1)	40' – 50'	18.5'	20'	10'	10'
Medium – High (C-2-B, C-3-A, C-3-B, C-2-C, C-3-C, C-4, C-5, CR, SP-1, SP-2, W-2, W-3)	60' – 130'	18.5'	20'	20'	20'
Industrial Zones:					
Low (CM-1)	40'	18.5'	20'	10'	10'
Medium - High (CM-2, CM-3, M)	60' – 90'	18.5'	20'	20'	20'
Capitol Interest Overlay (R-4, R-5-B, C-2-A, SP-1)	40'	10'	20'	10'	10'
Cleveland Park Overlay (C-2-A)	40'	18.5'	20'	10'	10'
Woodley Park Overlay (C-2-A, C-2-B)	40' – 50'	18.5'	20'	10'	10'
Eighth Street Overlay (C-3-A)	45'	18.5'	20'	10'	10'
Reed Cooke Overlay (R-5-B, C-2-A, C-2-B)	40' – 50'	18.5'	20'	10'	10'
Naval Observatory Overlay (R-1-A, R-1-B, R-3, R-5-A, C-2-A)	40'	18.5'	20'	10'	10'
Fort Totten Overlay	40 – 90' per zone	Within max. building height	20'	Within max building ht.	same
Uptown Arts Overlay (ARTS/C3A)	75'	83.5' above measuring pt.	20'	83.5' above measuring pt.	same

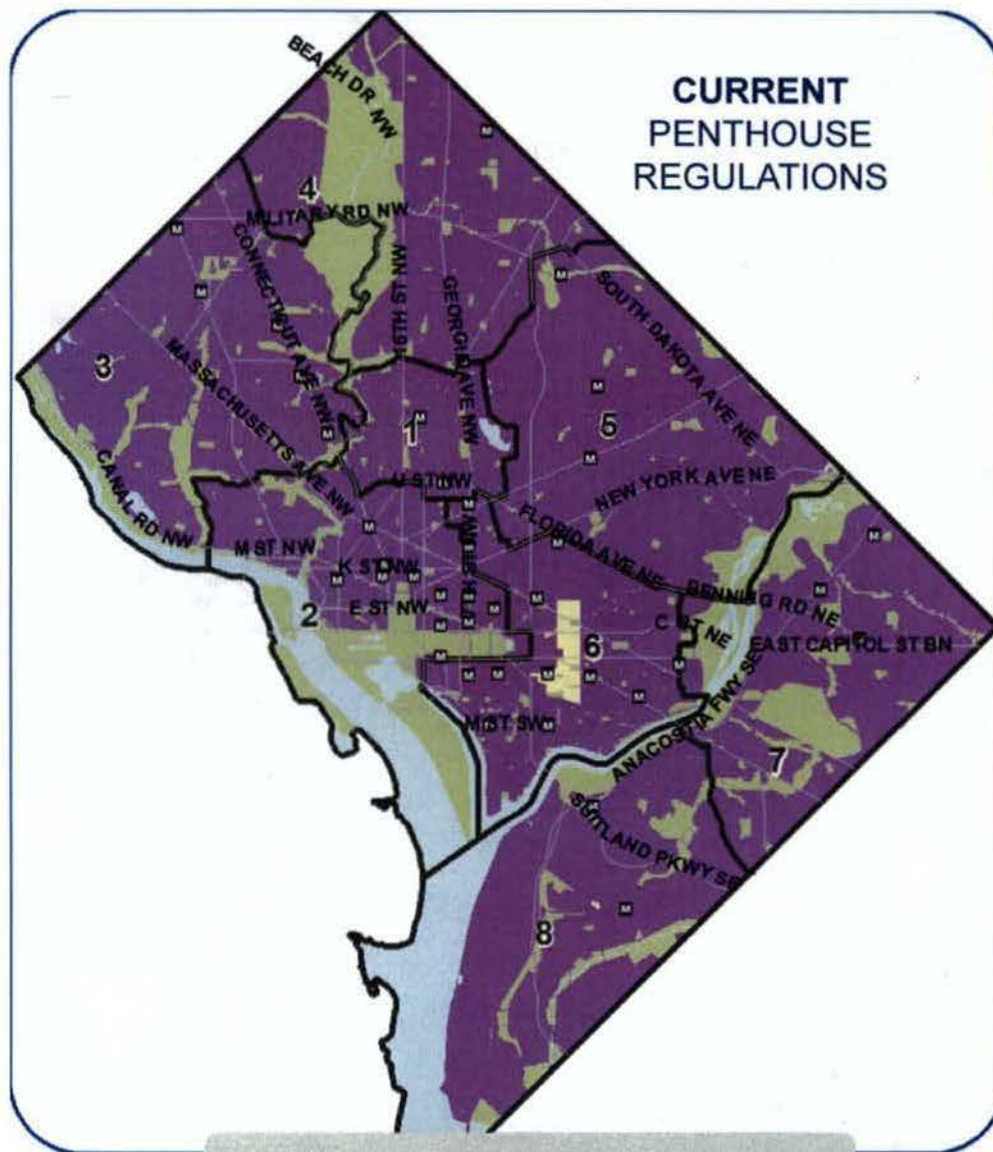
2. PENTHOUSE NUMBER OF STORIES

Alternative 1: Permit 2 stories in zones where a penthouse of 20 feet height is permitted; otherwise limit penthouses to 1 story.

Alternative 2: Limit habitable penthouse space to one story; allow a second story for non-habitable (mechanical) space in all zones where a penthouse of 20 feet height is permitted

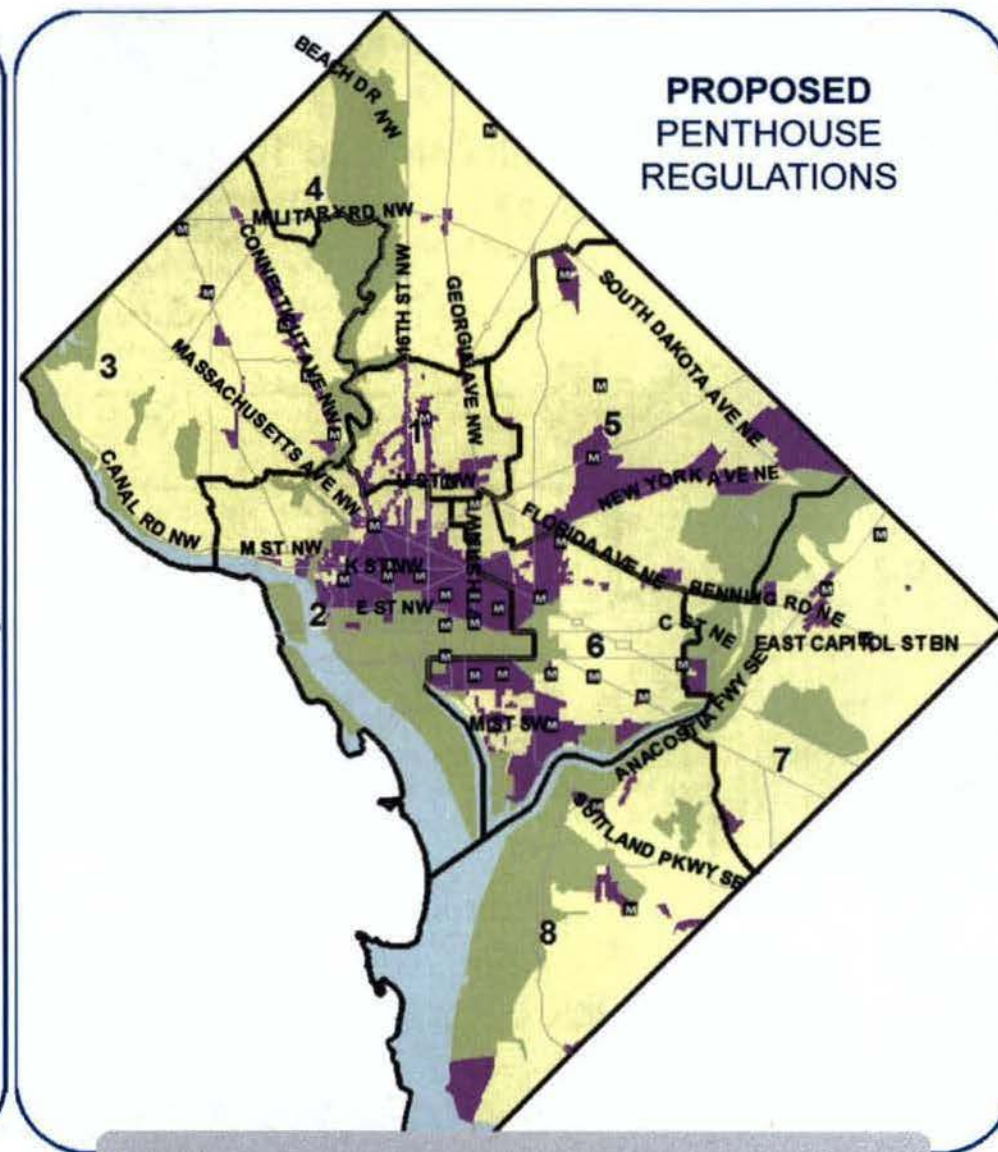
Zones:	Building Ht	Penthouse Stories (assumes penthouse limited to 1 story where building height is 50' or less)					
		Existing Zoning	Height Act		Alternative 1		Alternative 2
			Above Ht Act	Below Ht Act	Above Ht Act	Below Ht Act	Below Ht Act
SFD/FLAT in Any Zone	40'	unlimited	1	unlimited	1	1	1 (or 0)
Residential:							
Low (R-1 – R-4)	40'	unlimited	1	unlimited	1	1	1
Moderate (R-5-A – R-5-B)	40' – 50'	unlimited	1	unlimited	1	1	1
Medium to High (R-5-C, R-5-D, R-5-E)	60' – 90'	unlimited	1	unlimited	1	2	1, 2 for non-hab.
Mixed Use:							
Low – Moderate (C-1, C-2-A, W-0, W-1)	40' – 50'	unlimited	1	unlimited	1	1	1
Medium – High (C-2-B, C-3-A, C-3-B, C-2-C, C-3-C, C-4, C-5, CR, SP-1, SP-2, W-2, W-3)	60' – 130'	unlimited	1	unlimited	1	2	1, 2 for non-hab
Industrial:							
Low (CM-1)	40'	unlimited	1	unlimited	1	1	1
Medium - High (CM-2, CM-3, M)	60' – 90'	unlimited	1	unlimited	1	2	1, 2 for non-hab
Capitol Interest Overlay (R-4, R-5-B, C-2-A, SP-1)	40'	unlimited	1	unlimited	1	1	1
Cleveland Park Overlay (C-2-A)	40'	unlimited	1	unlimited	1	1	1
Woodley Park Overlay (C-2-A, C-2-B)	40' – 50'	unlimited	1	unlimited	1	1	1
Eighth Street Overlay (C-3-A)	45'	unlimited	1	unlimited	1	1	1
Reed Cooke Overlay (R-5-B, C-2-A, C-2-B)	40' – 50'	unlimited	1	unlimited	1	1	1
Naval Observatory Overlay (R-1-A, R-1-B, R-3, R-5-A, C-2-A)	40'	unlimited	1	unlimited	1	1	1
Fort Totten Overlay	40 – 90'	unlimited	1	unlimited	1	1	1, 2 for non-hab
Uptown Arts Overlay (ARTS/C3A)	75'	unlimited	1	unlimited	1	1	1, 2 for non-hab

Penthouse height and number of stories - maps



Legend

- Current Zoning - Penthouse of 10'
- Current Zoning - Penthouse of 18'6"
- National Parks / Unzoned



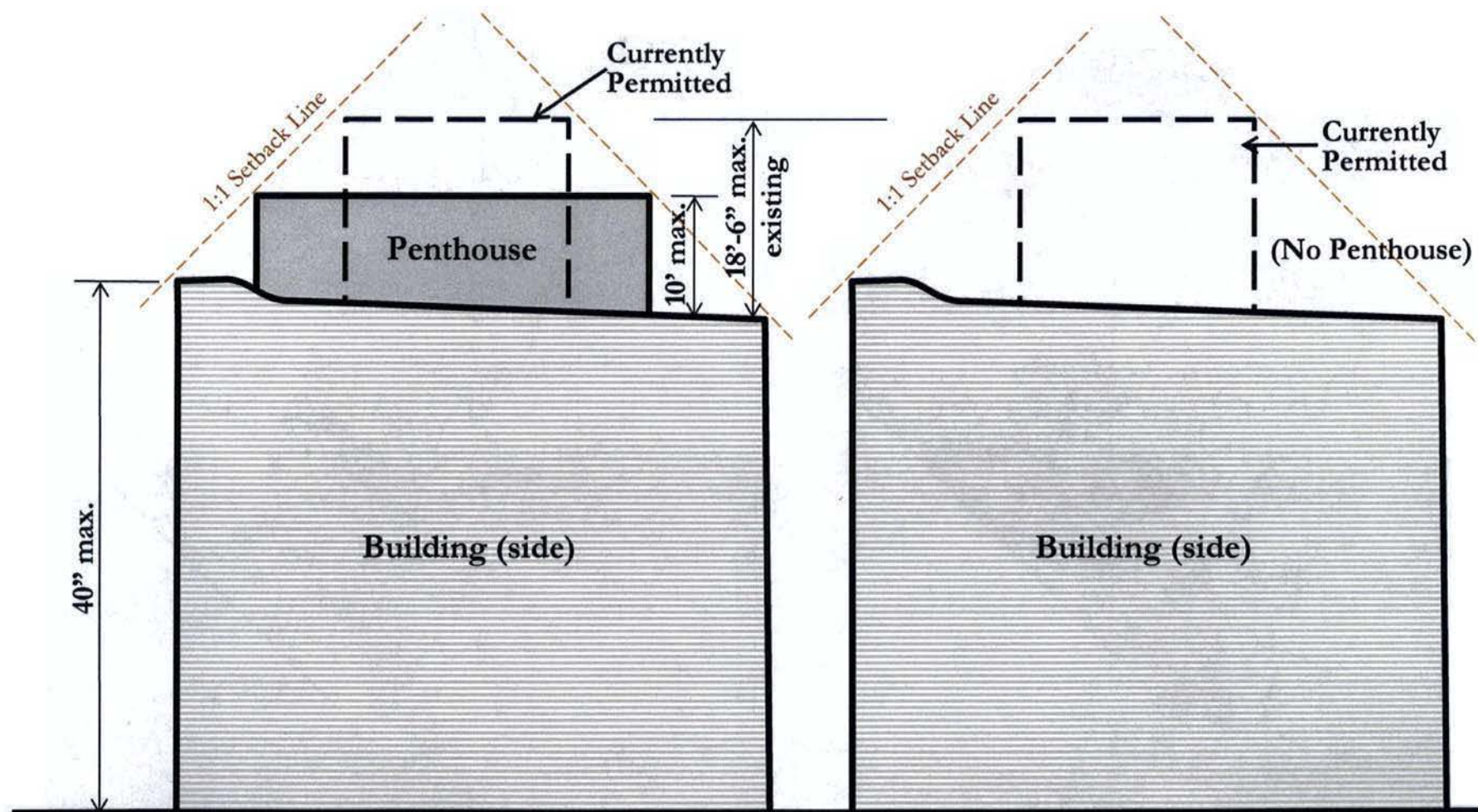
Legend

- Penthouse Proposed to be Limited to 10' / 1 Story in Height (i.e. permitted penthouse height would be lowered by 8.5' min.)
- Penthouse Proposed to be 20' / 2 Stories in Height (i.e. permitted penthouse height would be raised by 1.5 feet)

Penthouse height & stories – one-family dwellings and flats:

Alternative 1 – limit height to 10' / 1 Story

Alternative 2 – do not permit a penthouse

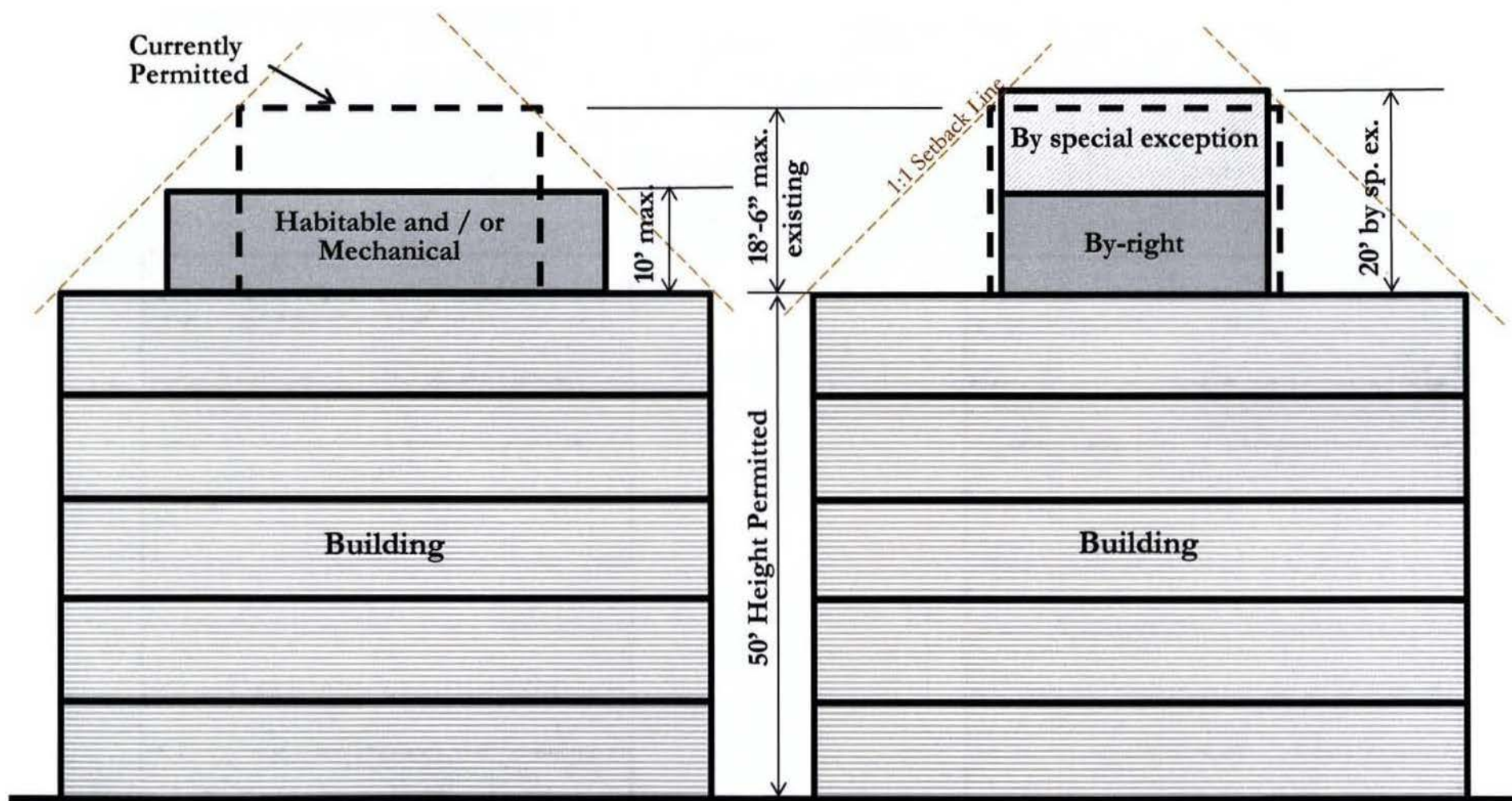


Building Elevations

Penthouse height & stories – zones allowing buildings of 50' or less in height

Alternative 1 – permit 10' / 1 story

Alternative 2 – permit 10' / 1 story by right;
20' / 1 story by special exception

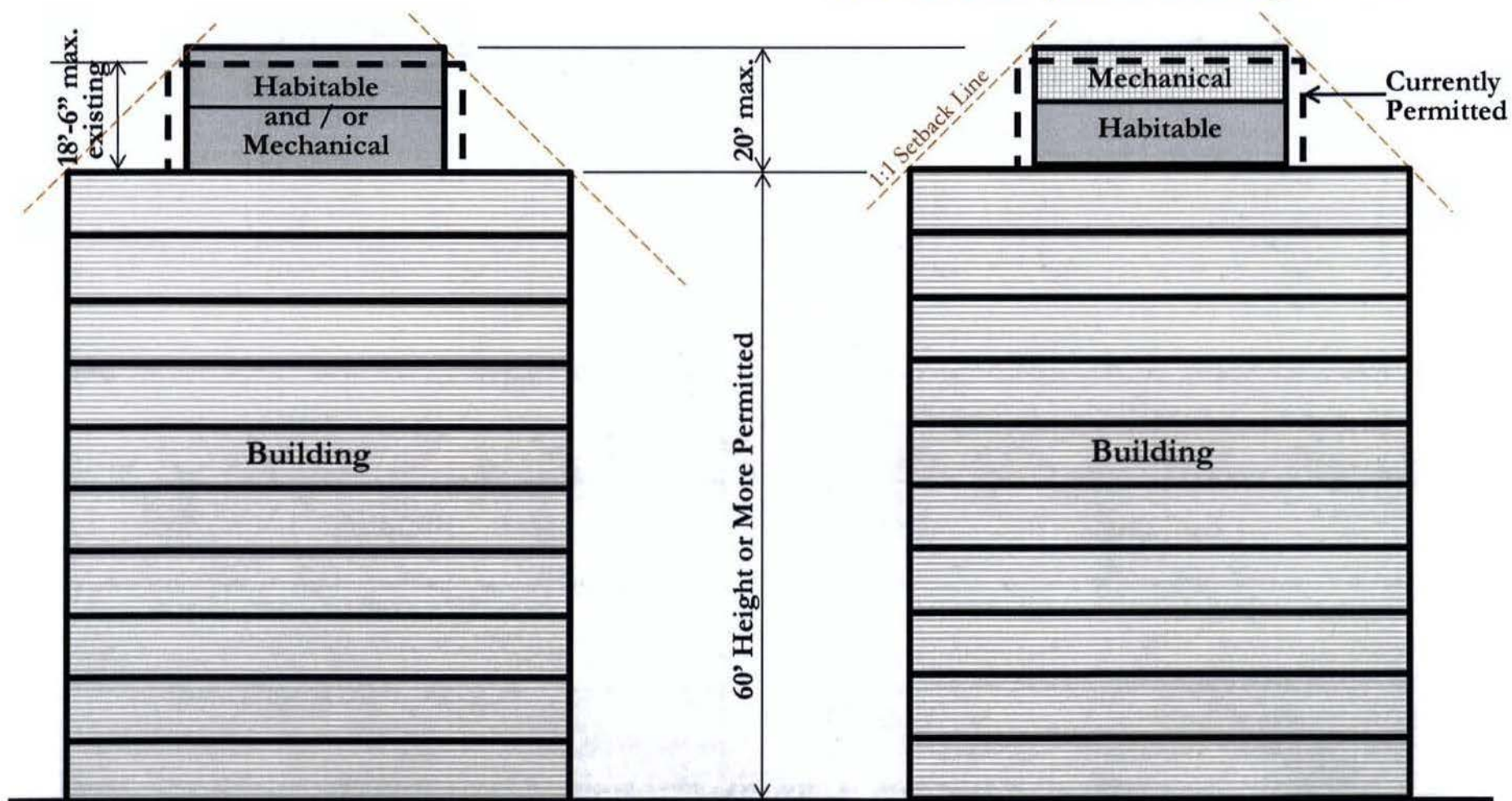


Building Elevations

Penthouse height & stories – zones allowing buildings of 60' or more in height:

Alternative 1 – permit 20' / 2 stories

Alternative 2 – permit 20' / 1 story of habitable space, and one of mechanical space above within the 20' penthouse height limit



Building Elevations

3. USES

3A. HABITABLE SPACE WITHIN A PENTHOUSE

Alternative 1: Allow habitable space within a penthouse in zones allowing a building height of more than 40 feet.

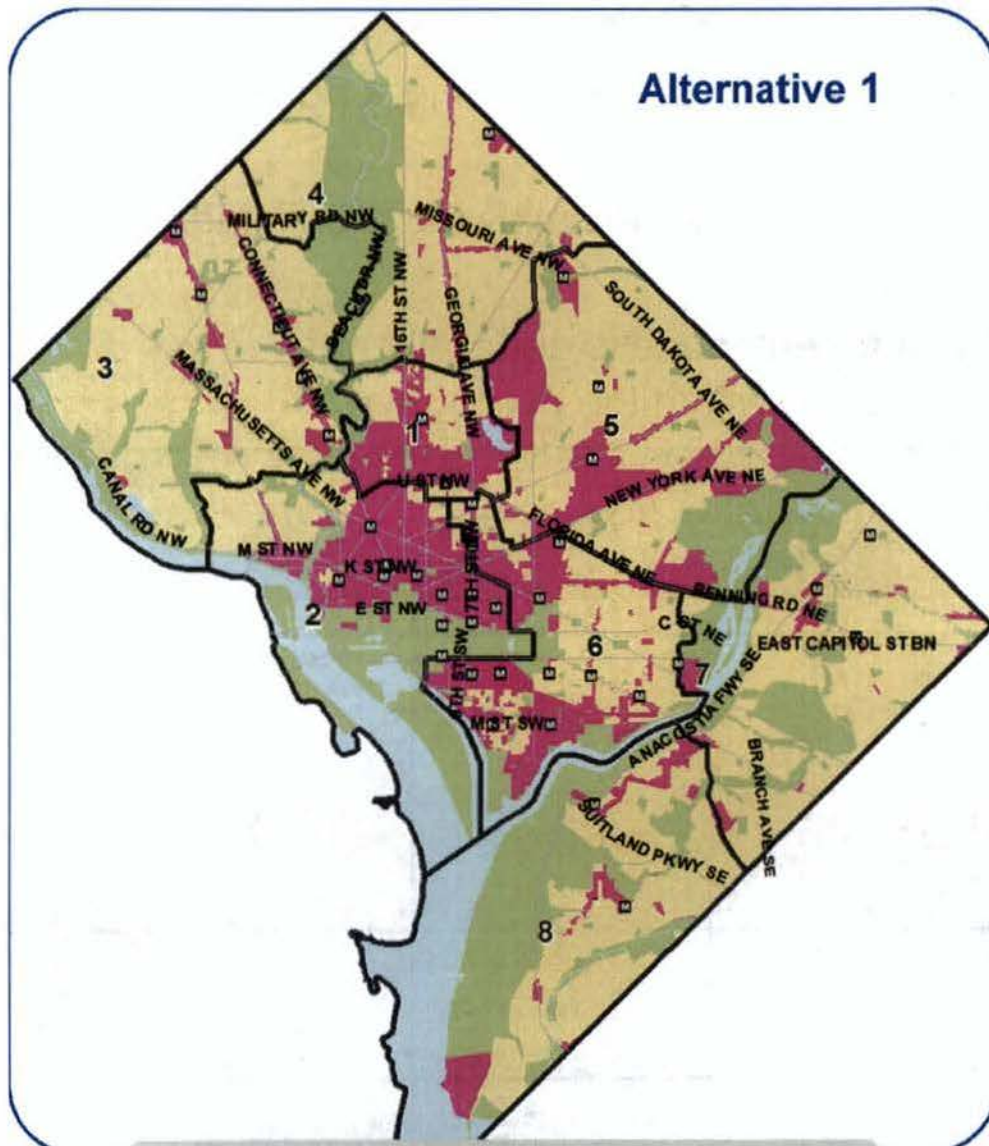
Alternative 2: Allow habitable space within a penthouse in zones allowing a building height of more than 50 feet.

Additional alternative: Where habitable space in a penthouse is generally not permitted, allow enclosed communal recreation space within the penthouse.

Penthouse Habitable Space (living, office, retail, recreation space)					
Zones:	Existing Zoning	Height Act		Alternative 1 Above or Below Height Act	Alternative 2 Above or Below Height Act
		Above Height Act	Below Height Act		
SFD / FLAT In Any Zone	Limited	yes	n/a	no	no
Zones allowing 40' or less of building height - R-1-A, R-1-B, R-2, R-3, R-4, R-5-A - C-1, W-0, CM-1 - CAP/R-4, CAP/R-5-A, CAP/C-2-A, CAP/SP-2, CHC/C-2-A, CHC/CAP/C-2-A - CP/C-2-A, WP/C-2-A, - RC/R-5-B, RC-C-2-A, NO/all zones - StE-1, 4, 8, 10, 11, 14, 19	Limited	yes	n/a	no	no
Zones allowing 45' or 50' of building height - R-5-B, C-2-A, W-1 - WP/C-2-B, ES/C-3-A, RC/C-2-B - StE-7a, HE-1	Limited	yes	n/a	yes	no
Zones allowing more than 50 feet in height - R-5-C, R-5-D, R-5-E - C-2-B, C-3-A, C-3-B, C-2-C, C-3-C, C-4, C-5, CR, SP-1, SP-2, W-2, W-3 - CM-2, CM-3, M - HE-2, HE-3, HE-4; All other StE zones	Limited	yes	n/a	yes	yes
<i>Note: overlay zones would be as per the underlying base zone, except as noted in the chart</i>					

Penthouse habitable space alternative proposals:

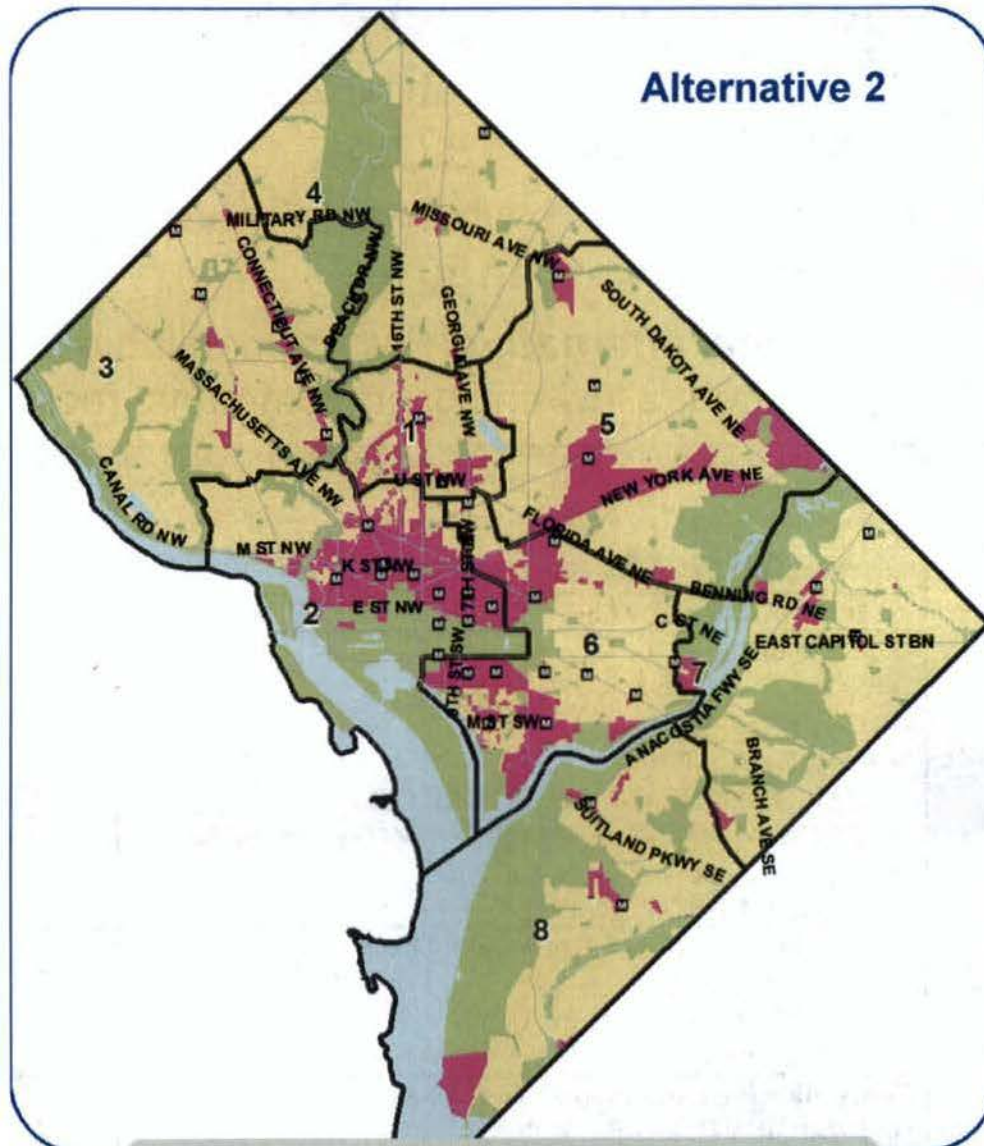
Alternative 1



Legend

- Habitable Space Not Permitted - Alternative 1
(zones with permitted building height of 40 feet or less)
- Habitable Space Permitted
- National Parks / Unzoned

Alternative 2



Legend

- Habitable Space Not Permitted - Alternative 2
(zones with permitted building height of 50 feet or less)
- Habitable Space Permitted
- National Parks / Unzoned

3B. USES PERMITTED ONLY BY SPECIAL EXCEPTION

Alternative 1: Permit any use permitted within the zone to be provided within the penthouse, provided that the zone allows habitable space within the penthouse.

Alternative 2: Where habitable space within a penthouse is allowed, permit specified uses that are otherwise permitted within the zone to be located within a penthouse only by special exception, such as nightclub, bar, lounge, or restaurant.

Additional alternative: Permit all uses in the penthouse by-right in higher density zones (provided the use is permitted in the zoning), but permit specified uses only by special exception in lower density zones, if habitable space of any kind is permitted.

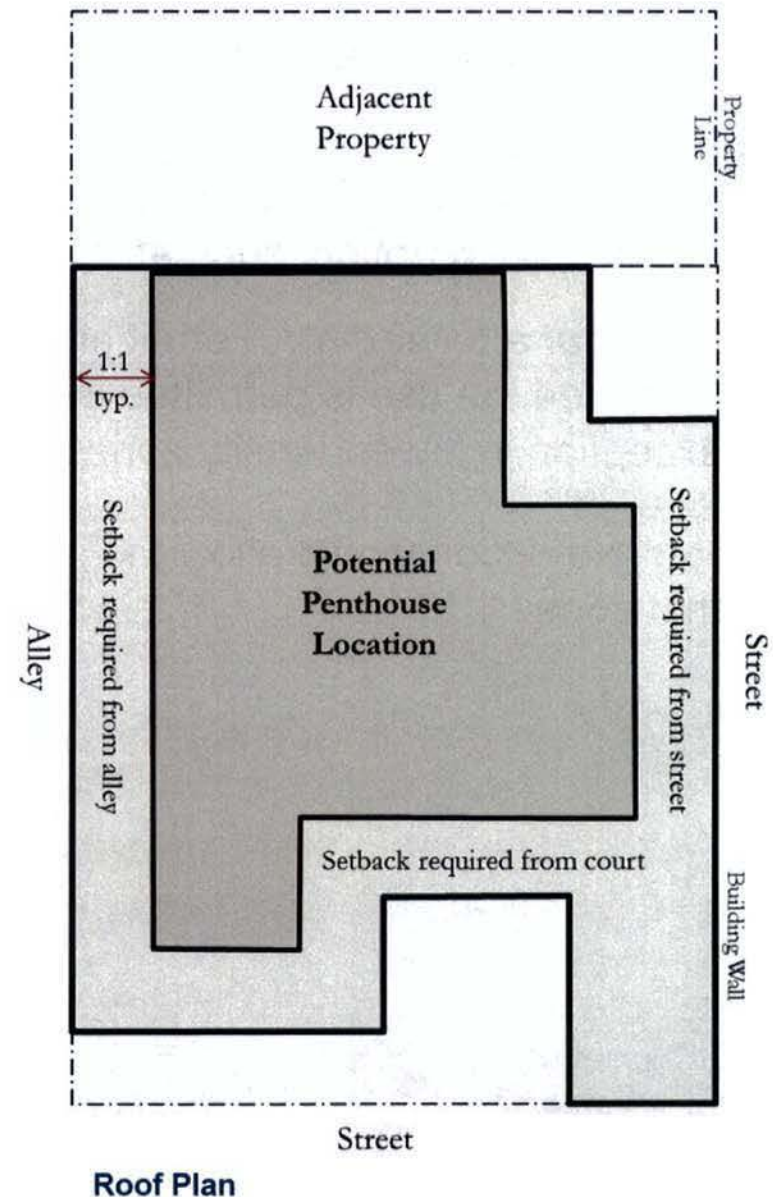
Note: No option would allow the introduction into the penthouse of a use not permitted in that zone.

4. PENTHOUSE SETBACKS

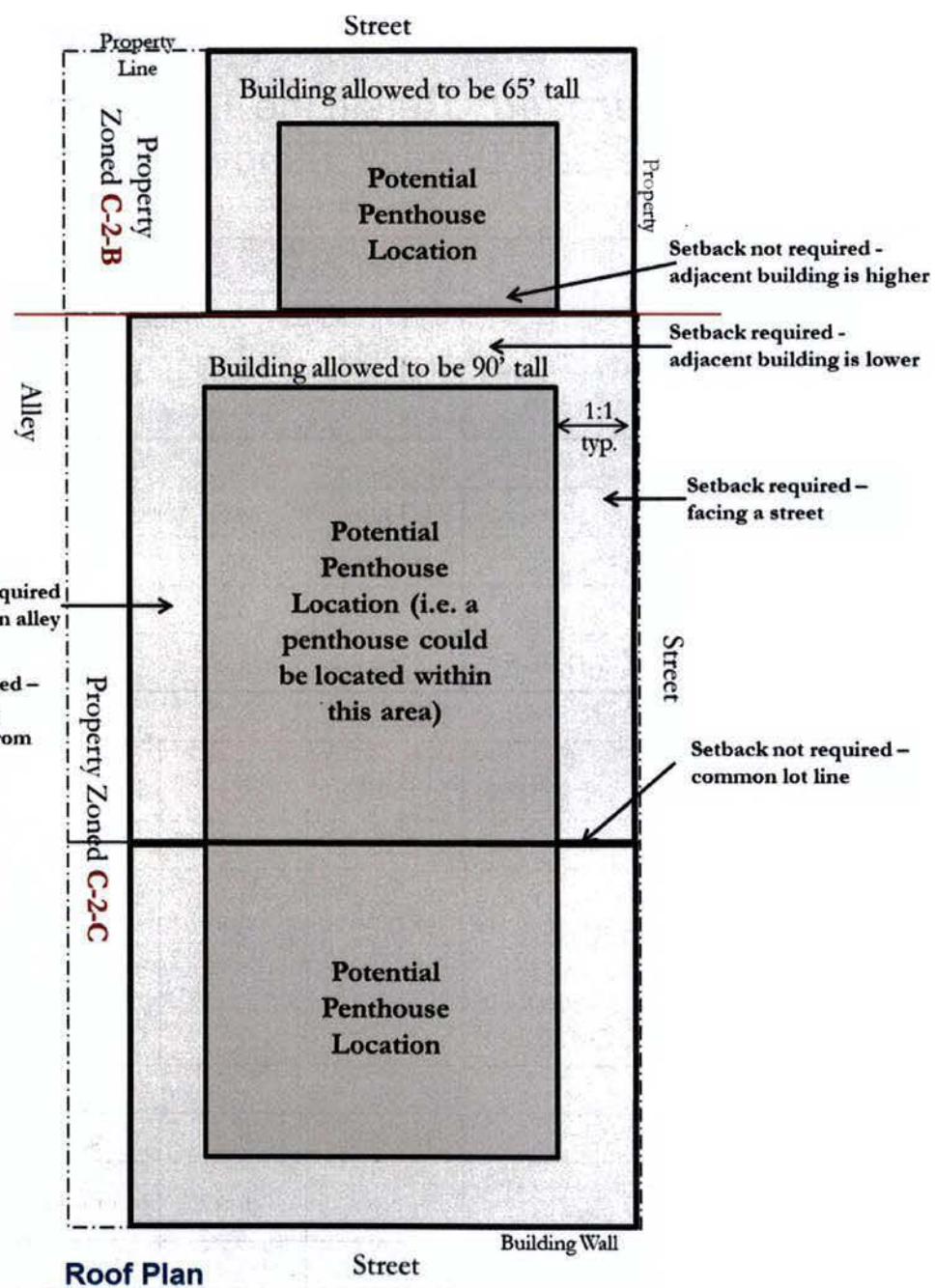
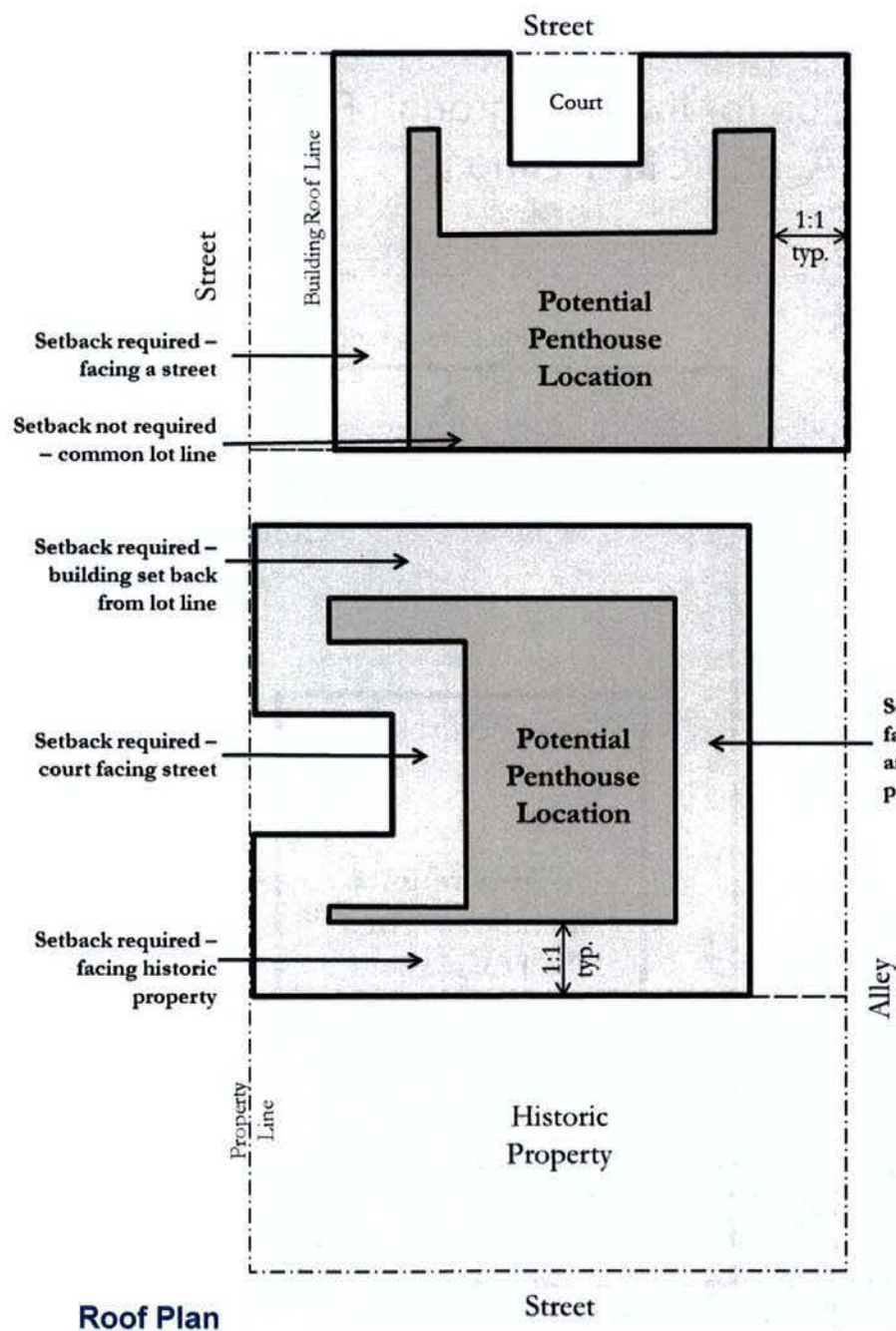
Option advertised:

Penthouse required to be setback from:

- Any building wall facing a public street;
- Any building wall facing a public alley;
- Any building wall facing a court open to a public street;
- Any building wall that provides a setback from a property line that it faces;
- Any building wall on a property line if the building is taller than the adjacent property's existing or permitted height; or
- Any building wall on a property line shared with a property which is historic or contains a historic building; except not be required if the adjacent historic building is of equal or higher height.



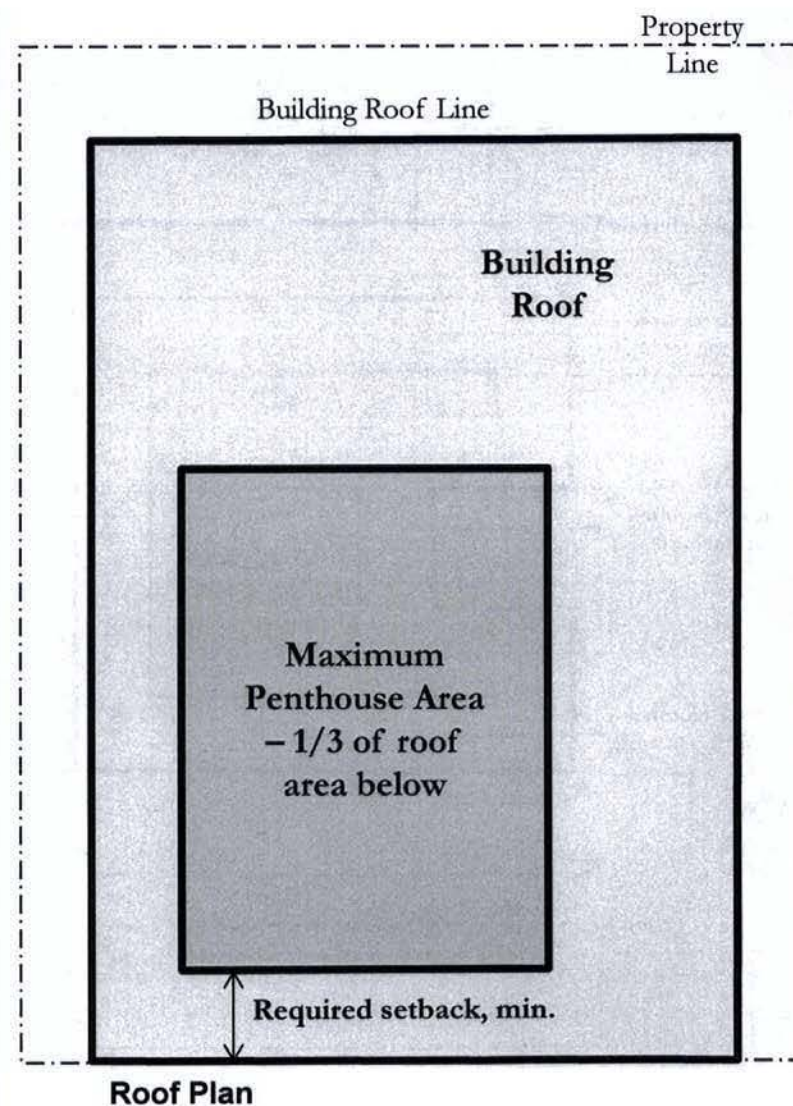
PENTHOUSE SETBACKS



5. MAXIMUM PENTHOUSE AREA – 1/3 RULE

Option advertised: Retain the 1/3 of roof area limitation for the R-1 through R-4 zones and for the Cap Overlay; remove it for the C-1, R-5-A, and CM-1 zones.

Zones:	Penthouse Area Limited to 1/3 of Roof Below			
	Existing Zoning	Height Act		Proposal
		Above Ht Act	Below Ht Act	
Residential:				
Low - R-1 – R-4	1/3 max.	n/a	n/a	1/3 max.
Moderate - R-5-A	1/3 max.	n/a	n/a	Not required
R-5-B	n/a	n/a	n/a	n/a
Medium to High - R-5-D, R-5-E	n/a	n/a	n/a	n/a
Mixed Use:				
Low to Moderate – C-1	1/3 max.	n/a	n/a	Not required
C-2-A	n/a	n/a	n/a	n/a
Moderate to Medium – C-2-B, C-3-A, C-3-B	n/a	n/a	n/a	n/a
Medium – High – C-2-C, C-3-C, C-4, C-5, CR	n/a	n/a	n/a	n/a
Industrial:				
Low - CM-1	1/3 max.	n/a	n/a	Not required
Moderate to High – CM-2, CM-3, M	n/a	n/a	n/a	n/a
CAP Overlay: (all zones)	1/3 max.	n/a	n/a	1/3 max.



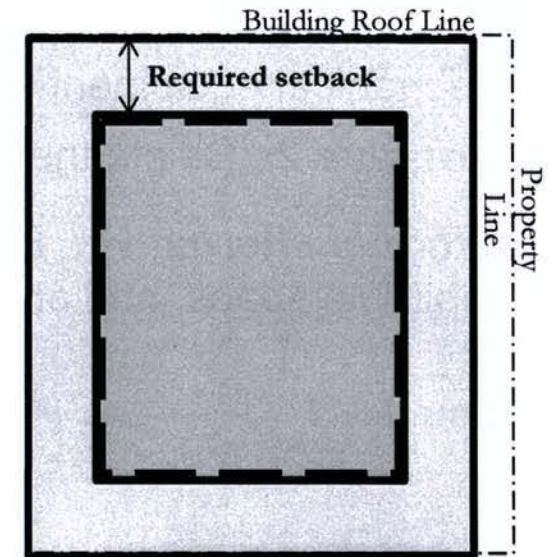
6. MAXIMUM PENTHOUSE AREA – F.A.R. EXEMPTION

Alternative 1: Exempt all enclosed penthouse space, habitable and non-habitable, from building F.A.R.

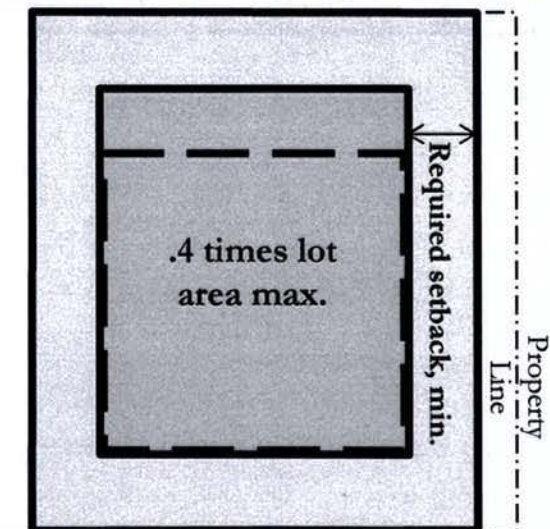
Alternative 2: Exempt enclosed mechanical space and, possibly, communal recreation space from F.A.R.; provide a 0.4 F.A.R. exemption for habitable space.

	Penthouse F.A.R. Exemption				
Zones:	Existing Zoning	Height Act		Alternative 1	Alternative 2
		Above Ht Act	Below Ht Act		
Residential:					
Low - R-1 – R-4	n/a	n/a	n/a	n/a	n/a
Moderate - R-5-A – R-5-B	.37 max.	n/a	n/a	Do not limit	.4 max.
Medium to High R-5-D – R-5-E	.37 max.	n/a	n/a	Do not limit	.4 max.
Mixed Use:					
Low to Moderate - C-1, C-2-A	.37 max.	n/a	n/a	Do not limit	.4 max.
Moderate to Medium C-2-B, C-3-A, C-3-B	.37 max.	n/a	n/a	Do not limit	.4 max.
Medium to High C-2-C, C-3-C, C-4, C-5, CR	.37 max.	n/a	n/a	Do not limit	.4 max.
Industrial:					
All zones - CM, M	.37 max.	n/a	n/a	Do not limit	.4 max.

Alternative 1 – no FAR limitation



Alternative 2 - .4 FAR limitation



Roof Plans

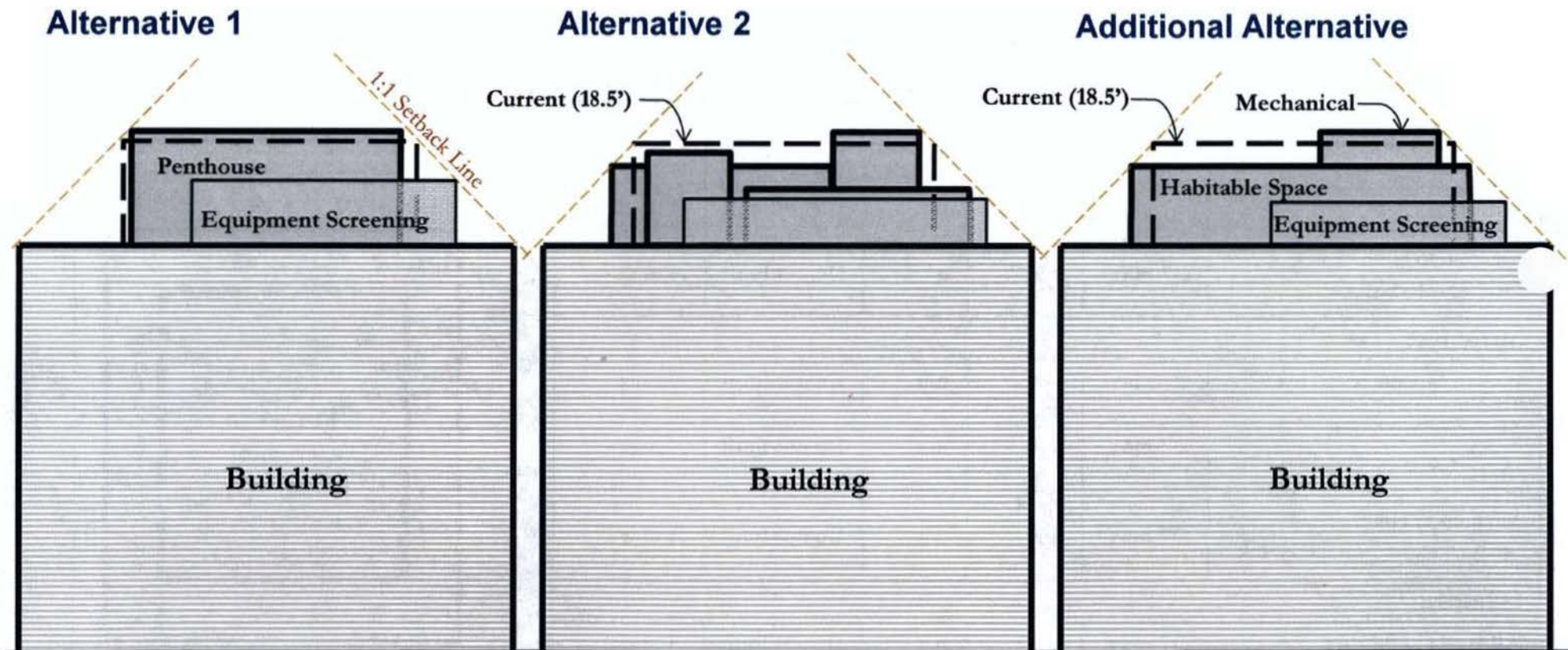
7. PENTHOUSE DESIGN:

7A. SINGLE HEIGHT

Alternative 1: Require the walls of an enclosed penthouse shall be of equal height; permit mechanical equipment screening walls to be of a second, uniform height.

Alternative 2: Delete the requirement that all penthouse walls be of equal height.

Additional alternative: Permit three heights - one for mechanical equipment, one for habitable space, and one for screening for uncovered mechanical equipment.

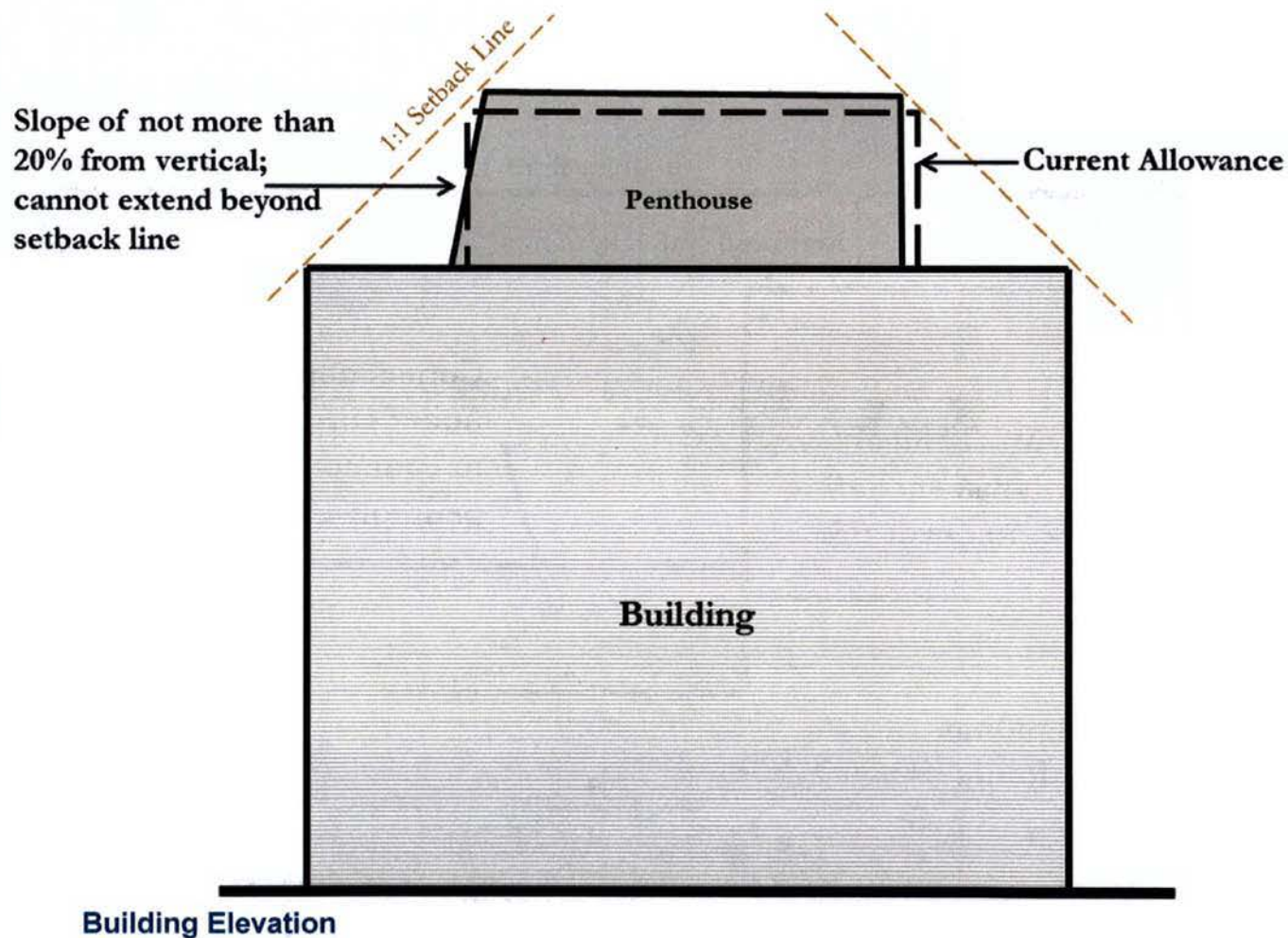


Building Elevations

7B. VERTICAL WALLS

Option advertised: Require walls of an enclosed penthouse be vertical; provide clarification that a wall that is up to 20% from vertical would be considered vertical

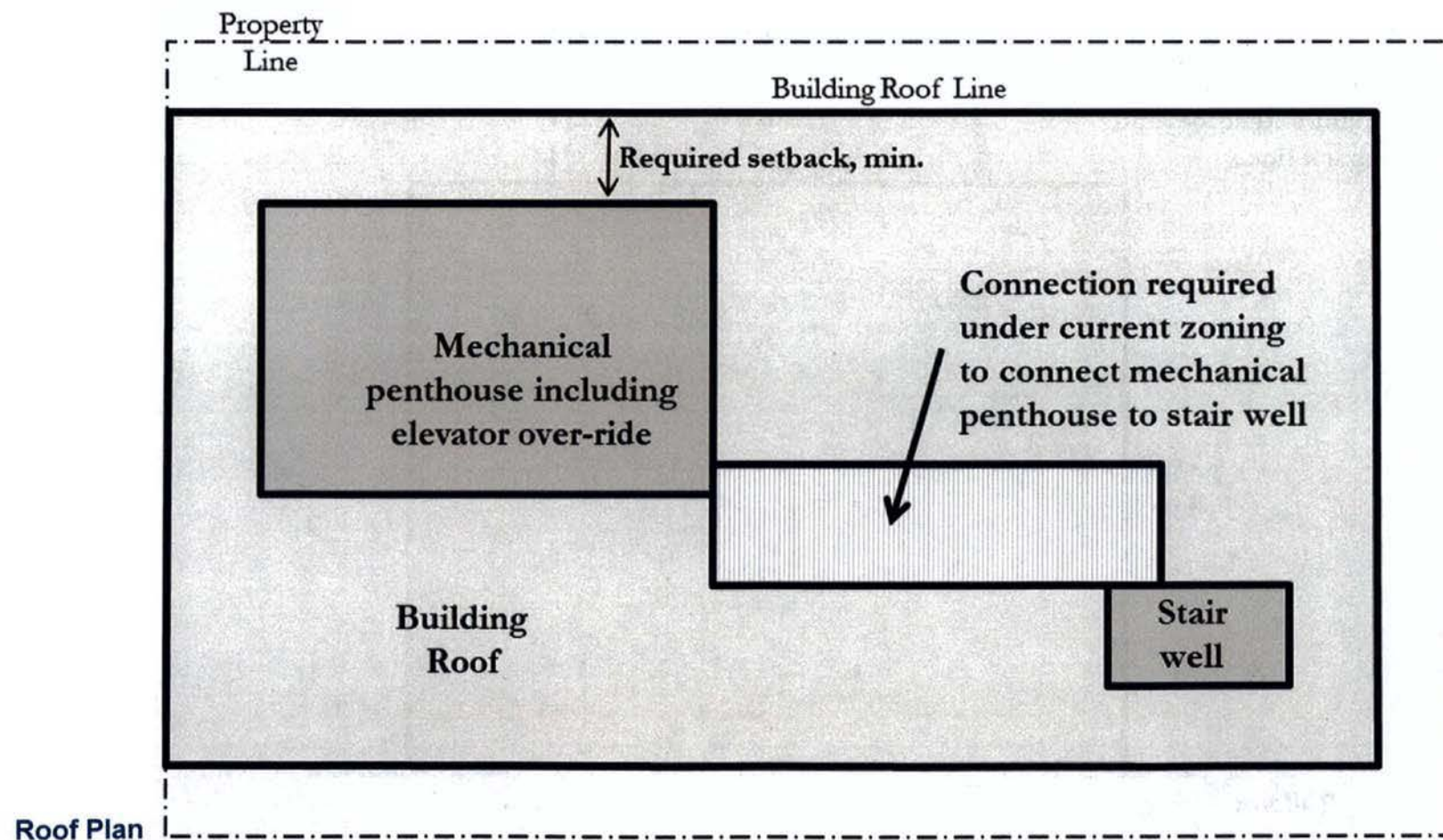
Max. penthouse wall slope of 20% from vertical



7C. NUMBER OF STRUCTURES

Alternative 1: Require all penthouses and mechanical equipment be in one enclosure.

Alternative 2: Require all penthouses and mechanical equipment be placed in one enclosure; permit emergency egress stairwells as required by the building code to be in a separate enclosure.



8. AFFORDABLE HOUSING LINKAGE FOR PENTHOUSE SPACE

8A. Non-Residential Building:

Option Advertised: Establish a requirement that new habitable penthouse greater than 1,000 sq.ft. provide affordable housing, using criteria generally consistent with the current housing linkage formula:

- Provide affordable housing (on or off-site) at a rate of $\frac{1}{2}$ to $\frac{1}{4}$ of the area of the applicable penthouse space; or
- Provide a contribution to a housing production trust fund equal to $\frac{1}{2}$ of the assessed value per square foot of the applicable penthouse area; and
- Apply this requirement to new non-residential habitable space in all parts of the city.

8B. Residential Building:

Alternative 1: Apply current IZ provisions to new habitable residential space within a penthouse:

- Consistent with the current IZ regulations, i.e. 8% – 10% of residential space at a rate of 50% to 80% of AMI, depending on the zone and construction type; except
- Apply to new habitable penthouse space in all zones and all parts of the city.

Alternative 2: As in Alternative 1 above, but require 50% of AMI for all affordable housing, in all zones and all parts of the city.

9. SPECIAL EXCEPTION STANDARDS

Option Advertised: Retain the current review criteria for special exception relief from specified penthouse regulations but clarify “operating difficulties”:

“Operating difficulties such as meeting building code requirements for roof access and stairwell separation or elevator stack location to maximize efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable”

10. PUD MODIFICATION

Option Advertised: Minor modification process to achieve improvements to the penthouse that are otherwise matter of right, but establish additional filing criteria:

- A dimensioned copy of the approved and the proposed roof-plan; and elevations as necessary to show the proposed changes;
- A written comparison of the proposal to the zoning regulations;
- Verification that the affected ANC has been notified of the request;
- The item not be placed on a consent calendar for a period of 30 days minimum following the filing of the application; and
- Require the submission of an OP report with analysis of the request.

11. DEFINITIONS

Option Advertised: Provide definitions for “Height Act” and for “Penthouse”, and amend the definitions of “Story” and “Story, top”;
amend the regulations throughout to use these terms consistently.

12. PARKING

Alternative 1: Retain the current provision for mixed-use (SP, C, CR, and W) and Industrial (CM, M) zones - that penthouse space not count towards parking requirements.

Alternative 2: Exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other habitable space, including additional residential units, office, or retail space.