

Lindsley Williams
3307 Highland Place, NW
Washington, DC 20008-3234

Mobile 202-246-4814
Email LWilliams@his.com

April 30, 2015

The Honorable Anthony Hood, Chairperson
Zoning Commission of the District of Columbia
One Judiciary Square – Suite 210 South
441 Fourth Street, NW
Washington, DC 20001

Re: ZC Case 14-13 – Text Amendments to Multiple Chapters Affecting Definitions, Use
Permissions, Size and Other Attributes of Rooftop Penthouses and Other Elements

Dear Chairman Hood and Members of the Commission:

This letter provides my comments on the texts (and alternatives) set out in the Notice published in the ***DC Register*** March 20, 2015 in this case, ZC 14-13 and comments on aspects of the case following the public hearing of April 30. **I am writing solely for myself, not on behalf of any client or organization; I am participating in this case as I have for decades, trying to give life and value to rooftops (my first one resulted in the opening of roof structures to occupancy for accessory uses to rooftop recreational functions such as swimming pools).**

In general, I support taking a range of steps to give rooftops more value than just keeping a building's interior dry. Added use, when balanced against flanking residential uses so the new value does not detract from the use, value and enjoyment of that which is nearby, is an overall benefit to the District of Columbia's residents, businesses, those employed here, visitors – and municipal coffers.

Broadly speaking, I urge the Commission to adopt as much of the proposal as possible, taking into account the comments provided and guidance from the Office of Planning. With the present positive economic climate, the time to allow additional investment is current, not some imagined future. Also, recall the parable of the Golden Goose: avoid creating so many constraints that the flexibilities granted in some provisions are undermined by others.

These comments, in general, appear in the sequence in which proposals are presented in the published Notice.

§199.1 Definitions:

I support having an overall definition of “**Height Act**” and the amended language proposed for “**story**” and “**story, top**” (§199.1).

As to the proposed new definition of “**penthouse**,” I understand the intent but recommend you revert to having separate terms for the “**penthouse**” that is in keeping with how that term is understood by ordinary persons, wherein the last syllable – “**house**” – connotes enclosing, if not always providing a roof over, something – and in the context of long-standing zoning language precedent, something rising four

feet (4 ft.) or more above the roof, including stairways, elevator shafts, and mechanical equipment and provide that it is “an enclosed or fully screened structure situated on a roof....” along the following lines:

Penthouse – An enclosed or fully screened structure rising four feet or more as allowed above the roof of any part of a building. The term includes all structures four feet or more in height previously regulated by § 411 prior to [THE EFFECTIVE DATE OF THIS AMENDMENT] including roof decks and mechanical equipment.

As proposed, “penthouse” would include low-lying roof decks themselves – the proposed definition is stretched too far.

That said, the term “roof structure” should also be understood (but not necessarily defined) to include roof decks and low-lying mechanical equipment.

Notwithstanding the prior principal of following common meaning, I recommend the Zoning Commission solve the irregular exclusion of “balustrades” by defining the term “parapet” as follows (the terms are far more similar than a roof deck vis-à-vis an elevator core and its override):

Parapet - A wall, typically located along the edge of a flat or gently sloping roof, which rises above the surface of that roof, but not always so; provided the term may also include equivalent but more open alternatives such as those a balustrade would provide.

I also recommend that the Final Rule at least include a note to the effect that the changes being made do not change the definitions or regulations applying to various **antennas**, be they on or attached to a roof, penthouse, or parapet or otherwise. Alternatively, it may be preferable to add “**antennas**” to the items that § 411.16 excludes and to combine the effect of 411.17 within 411.16.

Finally, if you wish to respond in some way in this rulemaking to the letter filed April 30 by the Department of Homeland Security, you may want to anticipate that they would want certain equipment, barriers, or systems installed in areas where they express concerns for security beyond and below. Section 411.16 might be location for such a provision.

§ 400.7(b)(6) Setback Provisions When Permit-Seeking Property Abuts an Historic Landmark or a Contributing Building in an Historic District (and corresponding provisions in Other Zone Districts)

Again, I think I understand the intent – and I support that intent. However, to my way of thinking, the protections are needlessly burdensome.

In many, many instances, the property seeking a building permit will also be within the same historic district as the property(ies) that triggers the requirement. In such a case, the permit seeking property owner will face other review by the Historic Preservation Review Board and staff – as would be the case if the property itself fell within an historic district. That provides ample review by a Board and staff that are not shy about expressing their points of view and requirements under their broad authorities. The residual need, to me, is to provide this protection at least for any abutting historic landmark if not in an historic district and those cases where the permit seeking property is “just beyond” but abuts the limits of an historic district in which the flanking property is located and that flanking property is deemed “contributing”.

§ 400.7(c) [Limiting height of roof structures for elevator overrides]

I generally support a tiered approach. But, where elevators are one of the things being “enclosed,” ten feet is likely not enough for even a hydraulic lift that serves a roof level. The next step up is to a class of elevator known as “machine room less,” which is serviced through open areas by mechanics standing on the roof of the elevator cab.

From what I can determine informally, the elevator codes require that there be six feet of headroom above the elevator cab’s roof when the elevator is situated at its highest landing. For a conventional cabin that is 8 feet interior, this would add as much as 7 more feet, after which there would be a cross beam (for hoisting equipment) and either –

- The roof of a hydraulic elevator core (perhaps 6” more)
- Access to the machinery (in a “machine room-less” system) or
- The floor of a standard elevator’s machine room (which would rise for additional height from there).

Accordingly, if an elevator is to have a landing at a roof level, it would seem essential to allow a height of at least sixteen feet (16 ft.) from the level of that landing.

As to comments by the Chairman Hood and Commissioner Turnbull, I have updated my own understanding and appreciation of hydraulic lifts:

- Current hydraulic technology usually has two pistons, one on each side and these are fully contained within the overall area of the elevator’s surrounding walls (thus containing any fluid leaks to the elevator pit, not the soils below; these supplant former “single piston” wells below).
- Their vertical speed is typically less than other systems
- They are not recommended when total vertical travel extends more than 50 feet, which buildings in DC might well have from basement to rooftop landing even in “40 foot” zones.

Aside #1! Not all Buildings Have Flat Roofs, but Typical Elevator Override Profiles Do:

Please note that in the diagrams I submitted at the hearing, all the overrides have a flat roof. I recommend that the Zoning Commission allow sloped roofs that rise above this plane when they are associated with a building whose other main roof surfaces slope in the same manner and direction so the resulting roof structure can be more compatible with the building of which it is a part by right, at the discretion of the Zoning Administrator, if the uppermost flat portion is or could have been flat and complying with height limits.

Aside #2! Is it reasonable to limit height or requires setbacks of any roof structure if its height, measured from the applicable measuring point is less than the allowed by-right height of the building.

To me, it would seem that when the mass of a building is situated below the by right height allowed, then any roof structure should be allowed at any location on that roof up to the point where the applicable roof structure height limit is reached, be it for an elevator override or any other allowed purpose. Likewise, setback rules should not apply until the height limit for the building’s mass is reached. In both cases, where parapets (or balustrades) are allowed and provided in addition, this should allow additional height and starting point for any required setback.

§ 411.2(b), and [in Alternative Text #2] (c)[Providing what a penthouse may contain when by-right height is forty feet (40 ft.) or fifty feet (50 ft.) or less; and requiring Special Exceptions for certain uses.

Again, for the fourth time, I think I understand the intent. But, I feel this thwarts the objectives of providing a balance between fuller utilization of roofs and perceived risks to flanking or nearby properties.

Both alternatives proposed become more restrictive when as a function of height allowed in a given zone district, the more restrictive at forty feet (40 ft.) and the more permissive at fifty feet (50 ft.). Wherever choice is made, the language should, in my view, not appear to apply to those buildings whose overall height is allowed higher than the general standard by overriding permissions. For example, in Residence zones, see §§ 400.5 through 400.12.

Section 411.2(c) in Alternative Text #2 would universally require Special Exception review for nightclubs, bars, and lounges, restaurants (eating and drinking establishments). That imposes a tough hurdle that will drastically limit the market. Could this not be limited to locations where the use could be disturbing, for example when the property abuts or is separated only by a public alley from a Residence zone district?

§ 411.6(b) [Requiring walls of penthouses to be vertical or nearly so]

The zoning regulations and the Height Act both apply an angle of 45 degrees to ease appearance of verticality. This limit fits the District's overall scheme better than the slope limit proposed of 20% off vertical. Moreover, the slope of a roof structure should be required to begin the uppermost level of the roof or any allowed parapet (or, per earlier) balustrade or equivalent. (Areas under such a roof structure should be counted only where the vertical clearance from main roof to its interior sloped wall segment is six feet, six inches (6 ft., 6 in) or more, as it would be in "attics".)

§ 411.20 [Allowing Approved and Existing Planned Unit Developments, to amend plans to develop and use rooftops as a Minor Modification].

I support this provision as proposed, most appropriate.

On Exhibit 74 from Department of Homeland Security

In their submission, DHS notes concerns about penthouse and use of rooftops when it exposes areas they monitor. Except as discussed hypothetically above in terms of exceptions at § 411.16, I would encourage the Zoning Commission to find a way to engage DHS on their concerns and address them at this time or in the forthcoming regulations rewrite.

Thank you for moving forward on this case.

Respectfully,

A handwritten signature in black ink, appearing to read 'L. Williams', with a long horizontal flourish extending to the right.

Lindsley Williams

Cc: Jennifer Steingasser and Joel Lawson, OP