

January 4, 2026

Via IZIS

Anthony Hood, Chairperson
D.C. Zoning Commission
441 4th Street, N.W.
Suite 200-S
Washington, DC 20001
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Re: ZC Case No. 25-08 - Proposed Zoning Text Amendment to Update the RA-1 Zone

Dear Chairperson Hood and Members of the Commission:

Please accept these comments into the record for the above-referenced case. Our Firm has represented many RA-1 housing providers, for whom we have also handled numerous RA-1 BZA applications. Sullivan & Barros supports the proposed amendment but would like to provide a few comments.

Habitable Penthouse Proposal

For a 2-3 year period circa 2019-2021, habitable penthouses were approved and constructed in several RA-1 projects, using the 0.4 FAR bonus density with an IZ contribution. Around June 2021, the Office of Planning informed us that habitable penthouses were, in fact, *not* permitted in the RA-1 zone, and the handful of habitable penthouses that had been approved by OP, the BZA, and the Zoning Administrator prior to that, had been approved in error. We agreed, as the applicable regulation was clear:

C-1501.1(a): Within residential zones in which the building is limited to thirty-five feet (35 ft.) or forty feet (40 ft.) maximum [this includes RA-1], the penthouse use shall be limited to penthouse mechanical space and ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop unenclosed and uncovered deck, terrace, or recreation space;

Upon discovery of the error, the Office of Planning, as part of the broader text amendment case #14-13E, proposed a text amendment to allow habitable penthouse in the RA-1 zone. In the October 14, 2021 Zoning Commission meeting, the Commission opted to *not* include that particular amendment in its adoption of #14-13E.

However, if we may describe the character of the Commission's discussion in 2021, from the 10/14/21 transcript: While Commissioners Shapiro and Miller were in favor of immediately

allowing habitable penthouses in the RA-1 zone, Commissioners Hood and May preferred to consider the proposal together with the coming comprehensive RA-1 update, which was then thought to be a few months, not four years, away.

So, based on OP's 2021 proposal, and the Zoning Commission's stated desire to consider the proposal, it is surprising that any discussion of habitable penthouse is inexplicably absent from 25-08. We believe that it was a worthwhile proposal, and OP and the Zoning Commission seemed to think so as well, in 2021, and since then many of our housing-provider clients have been looking forward to its adoption.

Need More Special Exception Flexibility

We think that the increased side yard requirement, combined with the need for variance relief for new buildings, could unnecessarily discourage housing production in RA-1. Currently, a four-level building in RA-1 can have up to 11 units without triggering a requirement for *two* 8-foot side yards. This proposal lowers that 12-unit (3 per floor) trigger to just 5 dwelling units. Many RA-1 lots are of limited width, and the requirement for 16 feet of side yards, without any chance for special exception approval to reduce that requirement, could effectively suppress housing development or design flexibility on many RA-1 properties.

Some BZA Production Requirements May Be Overly Burdensome and Unnecessary.

A few of the additional proposed filing requirements are unnecessary and burdensome:

- **Shadow Study.** What is the purpose of reviewing a shadow study for a matter-of-right structure? The proposed Zoning Regulations already provide the basis for a reasonable structure; and the RA-1 zone already has the lowest density and footprint of any zone in the City. This seems to be an unnecessary expense to the housing provider, and it's not clear how it could be used to deny or alter an otherwise matter-of-right structure.
- **Stormwater Management.** Stormwater management is handled by DOEE at the building permit stage. To have an applicant have this reviewed at the BZA stage also seems redundant.

These two requirements could substantially increase pre-development expenses, prior to approval, which we believe from anecdotal evidence could meaningfully affect a housing provider's decision on whether to pursue or pass on a project; *i.e.*, it could discourage the production of housing, without providing any benefit for the BZA's review of a project.

We appreciate the Commission's consideration of these suggestions.

Respectfully Submitted,

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