



January 20, 2021

Anthony Hood, Chair  
District of Columbia Zoning Commission  
441 4<sup>th</sup> Street, NW, Suite 200  
Washington, DC 20001

RE: ZC-14-3E – Text Amendment to Penthouse Regulations

Dear Chairman Hood and Members of the Commission:

The DC Preservation League (DCPL), Washington’s citywide nonprofit advocate for the preservation and protection of our city’s irreplaceable historic resources, urges the Zoning Commission to reject OP’s proposed amendments to Section 1500.4 of Subtitle C of the 2016 Zoning Regulations related to penthouses.

Contrary to the *Public Hearing Report*, these changes are not mere clarifications of the existing zoning regulations. They constitute significant reversals of provisions enacted in 2015 and incorporated into the 2016 zoning rewrite intended to protect residential neighborhood character across the city. Given the strong development pressure being exerted throughout the District of Columbia today, particularly as related to housing, it is critical that current opportunities for public review of proposed changes in these neighborhoods not be curtailed.

In Case 14-13, there was discussion of the varying visual impact of penthouses on different types of structures, with agreement that protection was needed for rowhouse and other low-density residential neighborhoods. As a result, Subtitle C §1500.4 provided that penthouses – other than those needed for screening or required by the Construction Code for a roof deck – were not permitted on detached or semi-detached dwellings, rowhouses, or flats anywhere in the city; but that the Board of Zoning Adjustment (BZA) could authorize penthouses of limited size and function as a Special Exception. Since most of these applications were unopposed by ANC’s and approved by BZA, the Office of Planning (OP) now proposes that the protection provided by the Special Exception procedure be dispensed with and such penthouses be allowed as a matter of right (C §1501.1(a)). DCPL urges the Zoning Commission to reject this appeal to bureaucratic convenience over the clear need for continued public review of penthouse applications in low-density neighborhoods.

DCPL has not participated previously in this case. However, in reviewing the record, we find many valid cautionary statements urging rejection of the proposal before you. For example, in May 2015, Commissioner Kent Boese of ANC-1A observed that: “[p]enthouses are least compatible with century-old row dwelling structures, where the mere construction of stairwell access to a roof deck often appears as if an outhouse has been placed upon the rooftop.” He concluded by saying “it is imperative that any changes to zoning related to penthouse structures

does not undo the benefits derived from ZC 14-11 or result in a new assault on our century-old row house structures.” DCPL agrees wholeheartedly that this is precisely the danger entailed in OP’s current proposal and urges the Zoning Commission to reject the proposal to allow any penthouses to be matter-of-right in low-density areas.

In testimony before the Commission last year in Case 19-21, DCPL Vice President Fay Armstrong described the ways in which the amendments enacted through Case 14-11 to protect historic (small “h”) rowhouse neighborhoods have in fact been nullified over time by inadequate OP oversight and subsequent amendments. The proposed action today would further jeopardize these and other low-density residential neighborhoods. Not only does OP now seek to make small penthouses available as a matter of right in low-density neighborhoods, but it proposes to make larger ones without limit as to size or purpose available as “special” exceptions. Given the ease with which BZA grants special exceptions, we can expect that most applications will be granted – introducing ever more visually disruptive additions on houses throughout the city. One need look no further than Attachment V to the latest *Public Hearing Report* for confirmation of the negative impact that will ensue.

Because of the complexity of the package of amendments now before the Zoning Commission, DCPL has chosen to focus here on the single change that it considers most detrimental to historic neighborhoods. We endorse the broader analysis of the Kalorama Citizens Association and its more detailed textual recommendations.

Various studies over the past decade have confirmed that neighborhoods that have a mix of older, smaller buildings of different ages support greater levels of economic and social activity.. OP’s efforts in this case continue to deminimize the value and character of our neighborhoods across the city. We ask that the Zoning Commission put neighborhoods first over regulatory convenience.

Thank you for considering our views.

Sincerely,



Rebecca Miller  
Executive Director