



Government of the District of Columbia
**Advisory Neighborhood
Commission 6C04**

August 16, 2021

Anthony J. Hood
Chair
Zoning Commission
of the District of Columbia
441 4th Street, NW
Suite 210-S
Washington, DC 20001

Re: ZC 14-13E (Proposed Rulemaking, Penthouses and Rooftop Structures)

Dear Chairman Hood:

I am writing to offer additional comments¹ on the proposed rulemaking addressing penthouses and rooftop structures.

Definitions

OP's summary in the proposed rulemaking asserts at page 4 that it "[n]arrowed the definitions of 'penthouse' and 'rooftop structure' as proposed by ANC 6C." This is incorrect.

ANC 6C's earlier comments pointed out that trellises with beams spaced 24" or less apart were not covered at all by the previous text. We urged the Commission to include such roofed, unenclosed structures within the definition of "penthouse," noting that "[t]he visual impacts of a roofed structure with no enclosing walls can be just as significant as for a partially enclosed roofed structure." Exhibit 9 at 1.

Instead of accepting ANC 6C's proposed revision, OP has instead changed the definition of "rooftop structure" in an attempt to include all trellises with unenclosed sides. (The previous proposal, Exhibit 7A3 at 3, referred only to trellises with beam spacing greater than 24".)

This change is problematic. Specifically, the definition of "rooftop structure" begins by declaring that this category includes only structures "with no roof." The difficulty is that the Zoning Administrator has adopted a rule of interpretation that trellises with beam spacing of 24"

¹ Because the proposed rulemaking appeared in the July 16 *Register*, ANC 6C—which last met on July 14 and will not convene again until September—is not able to take a new vote on the proposed rulemaking. The ANC designated me as its representative for purposes of the January 2021 hearing (*see* Exhibit 9), but it is unclear whether the Zoning Commission views that delegation of authority as carrying forward to the rulemaking stage.

or less are effectively **roofed** structures that count towards building area and lot occupancy. See Zoning Administrator Interpretation ZA-006 (Oct. 1, 2019), available at <https://dcra.dc.gov/publication/zoning-administrator-interpretation-6-pergolas-and-trellis-cross-member-spacing-be>. Under that interpretation, such trellises would not qualify as a rooftop structure “with no roof,” and as a result they would fall entirely outside the proposed regulations.

- **Recommendation:** To avoid any uncertainty, insert “(regardless of beam spacing)” after “trellises with unenclosed sides”. This edit does no harm, and would foreclose any potential misunderstanding about the scope of the “rooftop structure” definition with respect to trellises.

Setback exceptions

ANC 6C’s original comments noted that in RF zones the setback exceptions in subsection C-1504.2

create a direct conflict with the purposes of section E-206, which protects the integrity and appearance of rooftop architectural elements. Section E-206 does so by prohibiting, absent special-exception relief, any rooftop addition that enlarges or extends a feature like a cornice or mansard roof. [...]

Adoption of proposed section C-1504.2, however, would undermine that effort by allowing roof decks, solar panels, and guardrails to rise *directly* above original rooftop architectural elements, in some cases as high as 4’.

Exhibit 9 at 5.

The preface to the proposed rulemaking states that the Zoning Commission rejected this objection (and the proposed revision) on the grounds that RF zones “have protections for original architectural rooftop elements.” Unfortunately, the otherwise substantial protections of E-206 would simply not apply here.

Specifically, the Zoning Administrator has interpreted section E-206 as requiring a 3’ setback only for “the addition of a floor or penthouse.” Zoning Administrator Interpretation ZA-007 (Oct. 1, 2019), available at <https://dcra.dc.gov/publication/zoning-administrator-interpretation-7-rooftop-architectural-element>. Because none of the features exempted under proposed section C-1504.2 is a floor or penthouse, section E-206 provides no protection whatsoever with respect to their construction. Thus, as ANC 6C noted previously, adopting section C-1504.2 in its proposed form “would undermine [section E-206] by allowing roof decks, solar panels, and guardrails to rise *directly* above original rooftop architectural elements, in some cases as high as 4’.”

* * *

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Eckenwiler', with a stylized flourish at the end.

Mark Eckenwiler
Vice-Chair, ANC 6C