



MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: *JL* Joel Lawson, Associate Director, Development Review
Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: April 20, 2015

**SUBJECT: ZC 14-13, Text Amendment to the Zoning Regulations: Rooftop Penthouses
Second Public Hearing Report**

I. BACKGROUND

At its July 28, 2014 public meeting, the Zoning Commission received a report from the Office of Planning (OP) describing proposed amendments to the Zoning Regulations pertaining to rooftop penthouses. At the September 4, 2014 special public meeting, the Commission set down the draft text along with alternative text as requested. The Public Hearing was held on November 6, 2014, and the Zoning Commission then discussed the proposals at a public meeting on December 8, 2014. At that meeting, the Commission requested that OP provide a broader “matrix” of options, for further discussion by the Commission prior to holding an additional public hearing on revised penthouse regulations. This matrix was provided to the Zoning Commission for a public meeting held February 23, 2015. At that meeting, the Commission discussed the options noted in the matrix and other options, settling on a series of proposed amendments and alternatives to be re-advertised for a second public hearing, to be held April 30, 2015.

The proposed amendments to the zoning regulations are intended to complement recent amendments by the federal government to The Act to Regulate the Height of Buildings in the District of Columbia of 1910 (the Height Act), and to provide additional clarity and certainty to penthouse regulations. The federal amendments to the Height Act followed an expansive public outreach and discussion effort coordinated by OP and the National Capitol Planning Commission (NCPC), which included 10 community public meetings, including at least one meeting in each ward, as well as Council, NCPC, and a congressional hearing. Public discussions included allowing habitable space within the penthouse as one alternative, but also included options to raise the Height Act height limit in all or portions of the District. Final recommendations included allowing human occupancy of penthouses of one story and 20 feet in height maximum, and maintaining the 1:1 setback for penthouses. Because the current Zoning Regulations for penthouses are in most instances more restrictive than the Height Act, the changes to the Height Act cannot be given full effect until corresponding changes to the Zoning Regulations are also adopted by the Zoning Commission

II. PUBLIC NOTICE

The public hearing notice for this public hearing included a summary of the proposed changes, illustrations, and draft language to implement the alternatives. Concurrently, OP prepared a document for each ANC, summarizing the proposals and the alternatives with illustrations, including an ANC specific map showing the proposed changes to penthouse height / number of stories, instructions regarding how to participate in this case, and contact information. A sample copy for one ANC is attached to this report, but a separate document was prepared for each ANC. This document was emailed to each ANC commissioner on March 20, 2015 along with a full copy of the public hearing notice, and a hard copy of the summary document was mailed to each ANC

office on the same day. OP wanted to be sure that each ANC received this information prior to April meetings. This was in addition to public notification by the Office of Zoning. OP also prepared summary documents of the proposals, with illustrations, for posting on the OP website (www.planning.dc.gov) and blogsite (www.op-inions.com), which had received over 1,350 views since these articles were posted. OP also sent regular tweets, pointing our 5,300 followers to the blogposts and reminding them of the Zoning Commission public hearing.

As currently advertised, in most of the city the potential impact on rooftop penthouses would be a decrease, as the Commission advertised options that would lower, rather than raise, the currently permitted height and not permit habitable space within the penthouse in many zones. This reduction would apply to about 85% of the zoned land in the city. The remaining 15% of the zoned land, the medium to high density zoning, would, under the advertised text, allow a slightly higher height of twenty feet and would allow habitable space within the penthouse; most of this zoning is located in the downtown and along some of the major corridors such as New York Avenue NW/NE.

As noted in earlier reports, the proposed changes are consistent with the Comprehensive Plan, and with federal action. Below is a summary of the advertised options.

III. DESCRIPTION AND ANALYSIS OF ALTERNATIVES ADVERTISED

1. Penthouse Height (§§ 400.7 (c) & (d) and various other zone specific provisions):

Current Zoning Regulations: A penthouse height of 18'-6" maximum is generally permitted, although certain overlay zones have restrictions. As part of the ZRR process, the Commission has taken proposed action to approve limiting the height of a penthouse in the R-1 through R-4 zones to 10 feet maximum.

Height Act: Permits a penthouse height of twenty feet for habitable space within a penthouse located above the Height Act limit, and permits various things (over-runs, towers, minarets, etc.) to exceed this limit. Otherwise, the Height Act does not establish a maximum height, and does not regulate the height of a penthouse below the Height Act limit.

Options advertised:

- a. **Alternative 1:** Permit a penthouse height of up to 20 feet maximum, except limit penthouse height to 10 feet maximum:
 - i. For a penthouse above a single family dwelling or rowhouse in any zone; or
 - ii. In any zone in which the building height is limited to 50 feet or less by right, but permit a penthouse of up to 20 feet in height by special exception;

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

- b. **Alternative 2** – Similar to Alternative 1, but do not allow a penthouse on a single family dwelling or rowhouse by right; allow a penthouse of 10 feet max. by special exception only.

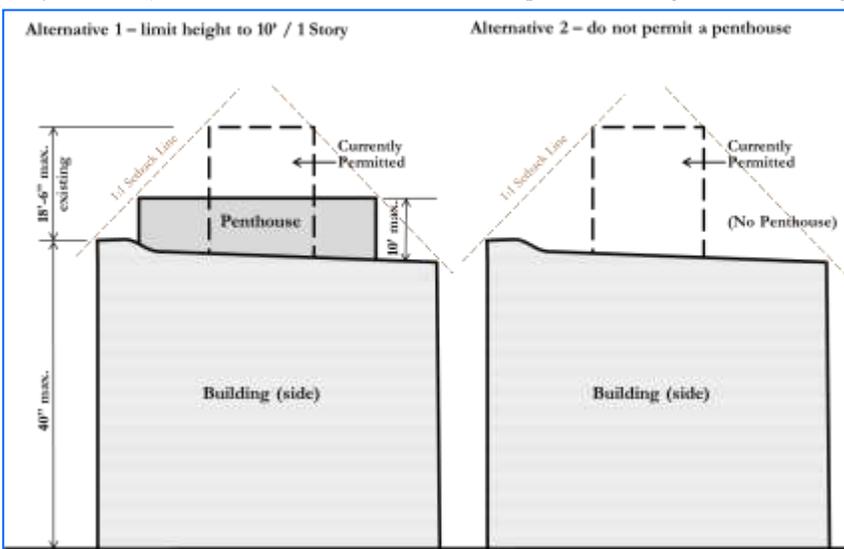
Analysis: Alternative 1 would reduce the height of penthouses in most parts of the city – approximately 85% of the zoned land would have penthouse height lowered to 10 feet maximum. OP is not opposed to this provision, provided it does not impair the ability to provide code-compliant access to communal rooftop recreation space on smaller multi-family or commercial buildings within these zones. Since elevator access is required to be provided to communal rooftop space, a form of elevator which does not place mechanical equipment on top of the elevator shaft would have to be employed, such as a side-slung or hydraulic elevator. OP

research indicates that, for buildings of 50 feet or less, these are typically viable options, although some literature indicates that these may be more expensive.

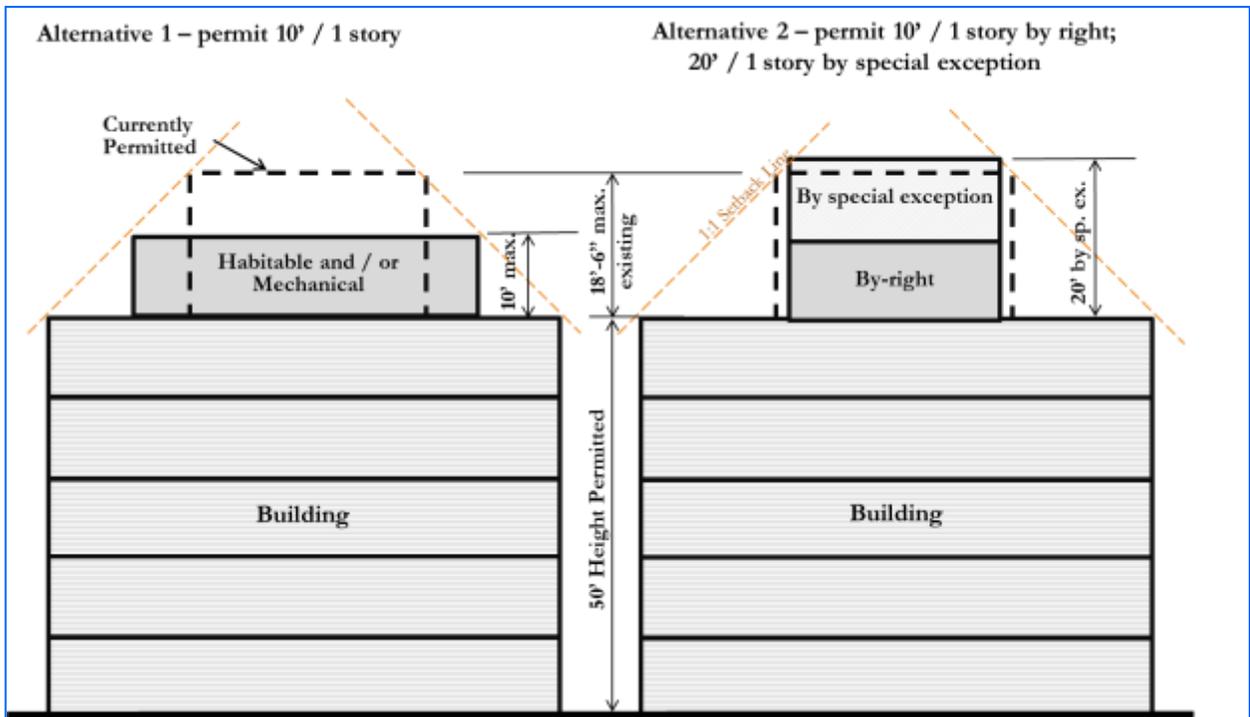
Under Alternative 2, no penthouse would be permitted on top of a single family dwelling or rowhouse – any access to a rooftop could be provided via an uncovered stairway, typically from a rear landing or balcony. The special exception process would allow for a penthouse, following community and BZA review. As such, OP is not opposed to this provision.

Penthouse Height					
Zones:	Permitted Building Ht	Existing Zoning	Ht Act	Alternative 1	Alternative 2
Residential:					
SFD/FLAT in any zone	40'	18.5'	20'	10'	Not permitted
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:					
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:					
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'	18.5'	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

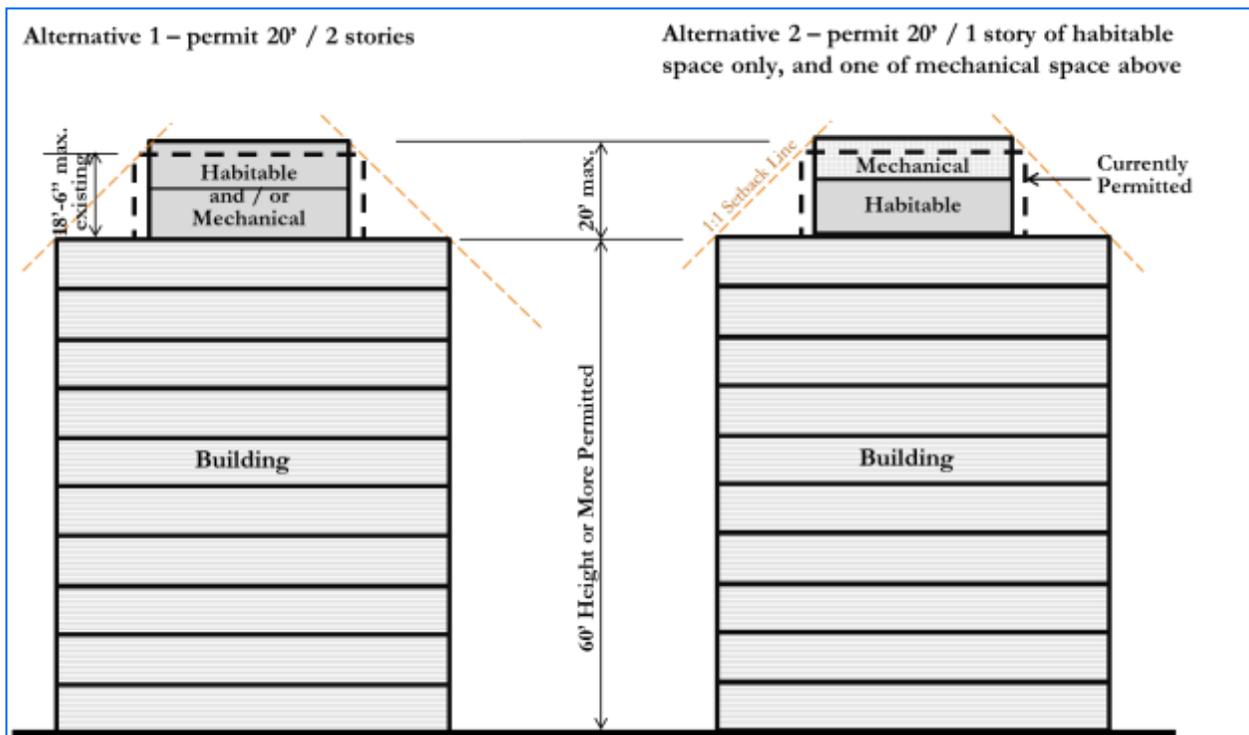
Note – for overlays not listed in the chart above, the permitted height would be as permitted in the base zone



One family dwellings and flats



Zones allowing buildings of 50' or less in height



Zones allowing buildings of 60' or more in height or less

2. Penthouse Number of Stories (proposed new § 411.18):

Current Zoning Regulations: Number of stories within a penthouse is not regulated or limited.

Height Act: Limits the number of stories to one for habitable space within a penthouse located above the Height Act. There is otherwise no limit on the number of stories (i.e. no limit stated for non-habitable space above, or for any penthouse below the Height Act limit).

Options advertised:

- a. **Alternative 1** - Limit penthouses to 1 story, but permit 2 stories by right in zones where a penthouse of 20 feet is permitted by right.
- b. **Alternative 2** - Limit habitable penthouse space to one story, but allow a second story for non-habitable (mechanical) space in all zones where penthouse is not limited to 10 feet in height.¹

Analysis: Where two levels would be permitted, landowners would have to weigh the benefits of having two levels, and therefore a taller penthouse that would require larger setbacks, or a lower penthouse that could have more floor area. Zoning Commission members expressed concern about allowing two levels of habitable space within a penthouse, particularly on lower buildings, as this could prove too much of an incentive to maximize penthouse volume. OP is not opposed to a one story limitation for habitable space, particularly for lower buildings, but supports a permission to allow a second level within the penthouse for mechanical equipment, particularly in higher density zones as proposed in Alternative 2.

Zones:	Permitted Building Height	Penthouse Number of Stories					
		Existing Zoning	Height Act		Alternative 1		Alternative 2 Below Ht Act
			Above Ht Act	Below Ht Act	Above Ht Act	Below Ht Act	
Residential:							
SFD/FLAT in Any Zone	40'	unlimited	1	unlimited	1	1	1
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

¹ For a single family dwelling or flat in any zone, permitted number of stories would be zero if the ZC decides to not permit a penthouse for those uses.

3. Uses Permitted Within a Penthouse (§§ 411.1 & 411.2):

Current Zoning Regulations: Uses within a penthouse are limited to mechanical equipment, elevator and stair overrides, and, for residential buildings only, a limited amount of amenity space directly associated with outdoor rooftop recreation spaces in. Habitable area such as living, office, commercial, or conference space is not permitted.

Height Act: Permits any form of habitable space within a penthouse above the Height Act limit, if it provides the 1:1 setback and is limited to one story; does not specifically address habitable space in a penthouse located below the Height Act limit.

Options advertised:

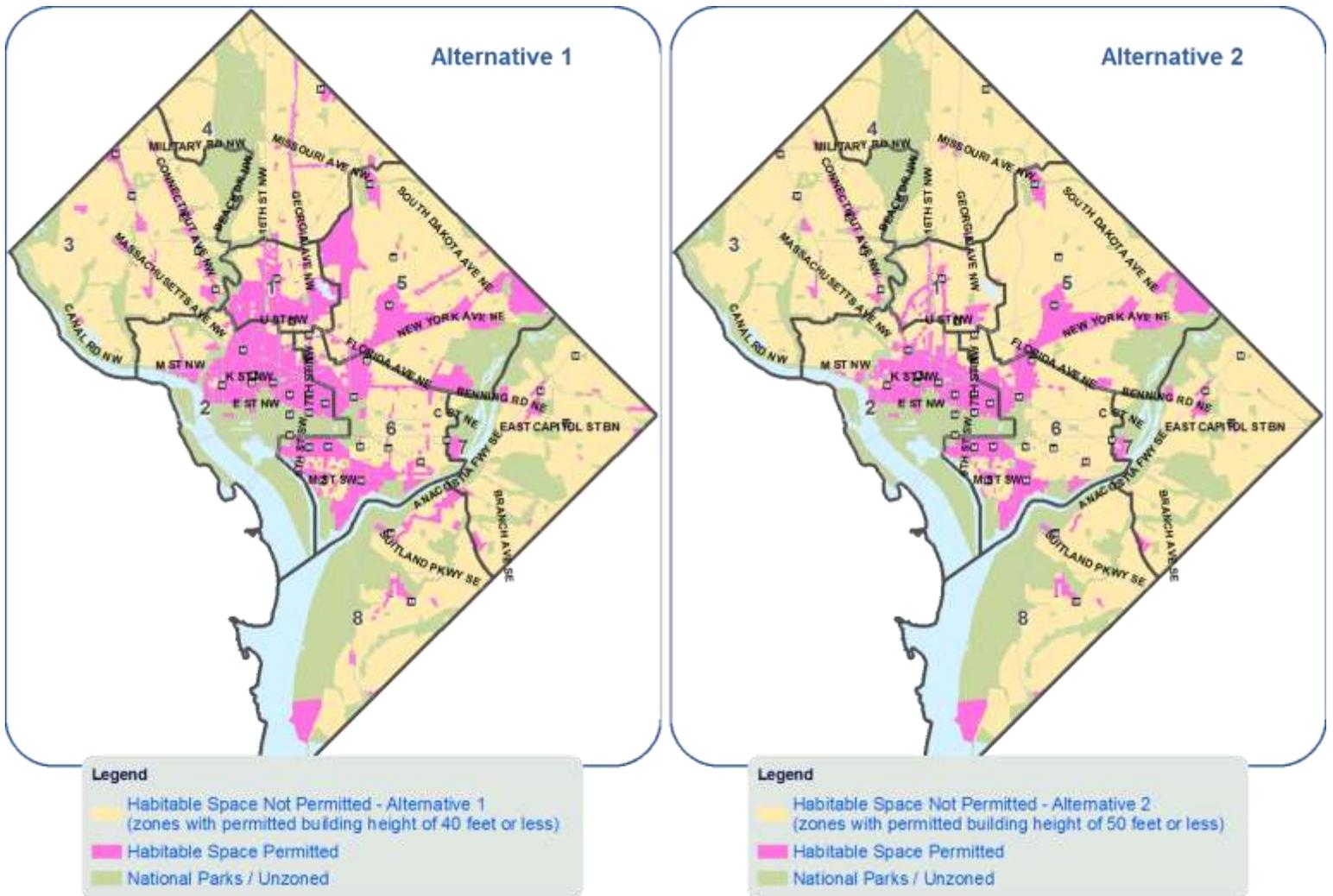
- a. **Alternative 1** - Allow habitable space within a penthouse only in those zones allowing a building height of more than 40 feet, by right. For a building with a permitted height of 40 feet or less, if a penthouse is permitted, allow it for rooftop access only.
- b. **Alternative 2** - Allow habitable space within a penthouse only in those zones allowing a building height of more than 50 feet, by right. For building with a permitted height of 50 feet or less, if a penthouse is permitted, allow it for rooftop access only.

Analysis: A main purpose of the 2014 amendment to the Height Act was to allow habitable space in buildings where the penthouse is located above the Height Act building limit. The intent was to allow habitable space that would more effectively screen mechanical space, and would add revenue to the District. The alternatives proposed would allow habitable space in taller buildings, generally in the medium to high density zones, but restrict habitable space within the penthouse of lower buildings.

OP is more supportive of Alternative 1, which would permit habitable space in moderate density mixed use zones as a way to encourage new development in these zones, particularly if the Commission elects to make specific uses in a penthouse permitted only by special exception (3B, below). However, there are concerns that this would allow habitable space within a penthouse of a building in zones that are more typically more proximate to lower density areas. As such, OP is not opposed to Alternative 2, provided that some allowance be made for habitable enclosed recreation space as part of the penthouse, to support currently permitted open rooftop recreation space, rather than the stricter prohibition on any habitable space as advertised.

Penthouse Habitable Space (living, office, retail, recreation space)					
Zones:	Existing Zoning	Height Act		Alternative 1	Alternative 2
		Above Height Act	Below Height Act	Above or Below Height Act	Above or Below Height Act
SFD / FLAT In Any Zone	Limited	Yes	n/a	no	no
Zones allowing 40' or less of building height <ul style="list-style-type: none"> • 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 (some enclosed space for outdoor recreation on a residential building only)	yes	n/a	no	no
Zones allowing 45' or 50' of building height <ul style="list-style-type: none"> • 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 <ul style="list-style-type: none"> • 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

Note: all overlay zones would be as per the underlying base zone, except as noted in the chart



3B Special Exception Restrictions for Specified Uses (§§ 411.1 & 411.2):

Options advertised:

- 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.

Analysis: Neither alternative would allow the introduction into the penthouse of a use not permitted in the zone. However, some uses when placed on the roof of a building could have more impact on adjacent properties, particularly in the lower to moderated density zones. The Zoning Commission, at setdown, requested additional input from the public, but also noted that other existing rules and regulations, such as alcohol beverage control, may provide appropriate regulation of these types of businesses. For example, alcoholic beverage regulations include standards regarding hours of operation, noise restrictions, control of litter, and signage. However, OP is not opposed to making the uses listed above permitted only by special exception, in the low to moderate density (buildings not more than 50 feet in height) zones.

4. Penthouse Setbacks (§400.7 and various other zone specific provisions):

Current Zoning Regulations: A setback of 1:1 is required from all exterior walls, although interpretation of how to apply this provision has varied somewhat over time, and the existing text is not clear from which walls the setback is reasonably required. The Zoning Commission has taken proposed action to approve clarified language as part of ZRR.

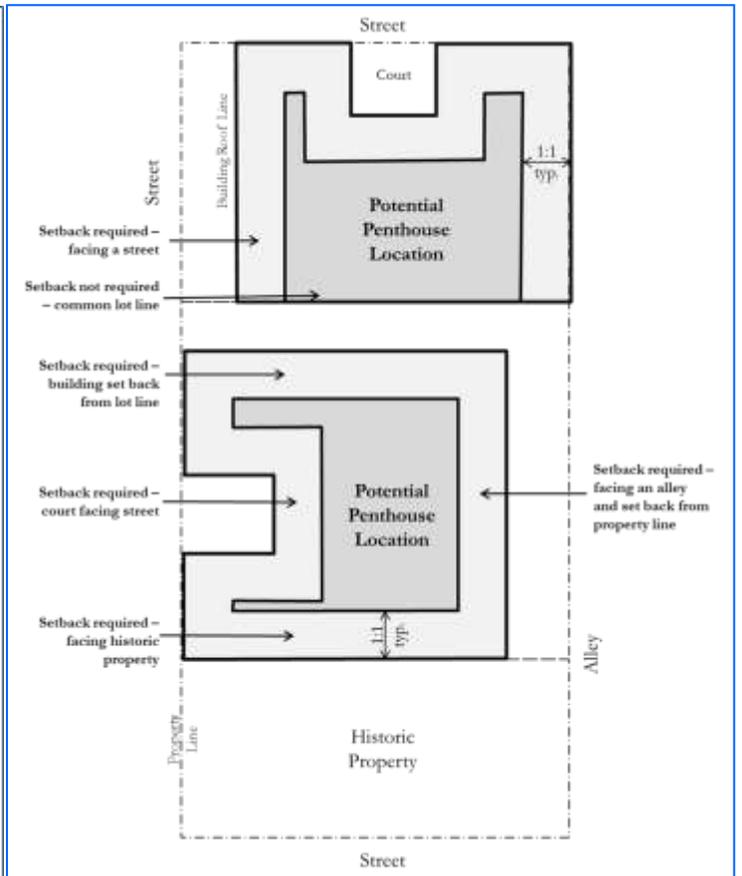
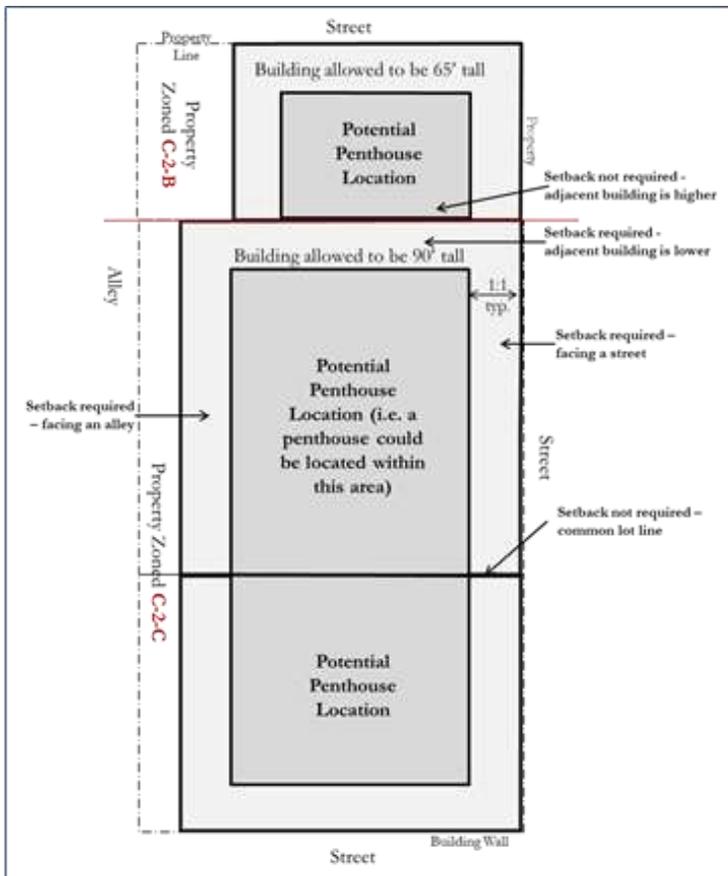
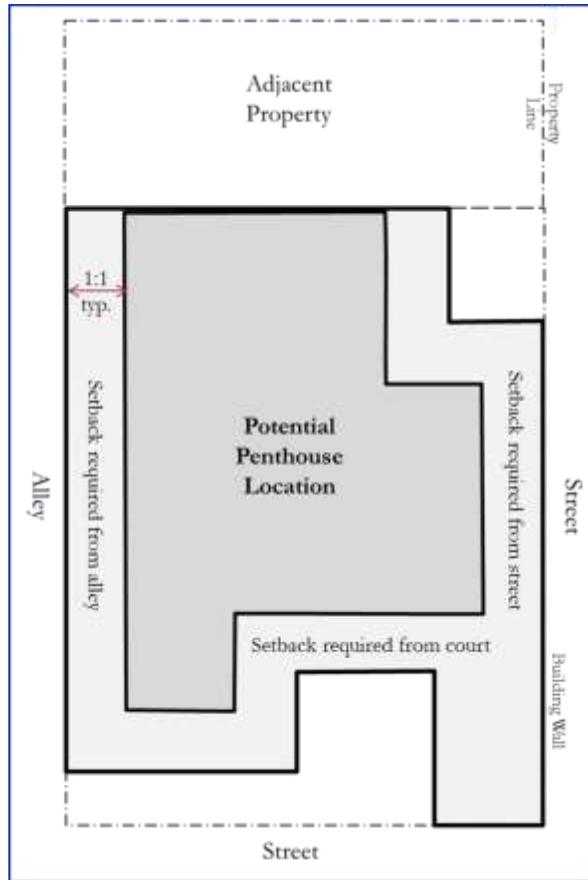
Height Act: Establishes a requirement that “*penthouses, ventilation shafts, and tanks shall be set back from the exterior walls distances equal to their respective heights above the adjacent roof*” – equal to a 1:1 setback. The recent Height Act amendment did not alter this.

Option advertised:

- a. Clarify and augment penthouse setback requirements, to require a setback from the edge of roof upon which the penthouse sits, from:
 - i. Any wall facing a public street, public alley; or court open to a public street;
 - ii. Any wall that provides a setback from the adjacent lot line;
 - iii. Any wall that abuts a common lot line, and is taller than the matter-of-right permitted height of the building on the adjacent property; or
 - iv. Any lot line shared with a property which is historic or contains a historic building, unless the adjacent historic building is of the same height or higher in height.

Analysis: OP is supportive of these clarifications to the regulations, including the new requirement (not considered as part of ZRR) to require a setback from a historic property.

Zones:	Penthouse Setback			
	Existing Zoning	Height Act		Proposal
		Above Ht Act	Below Ht Act	
Residential:				
Any Zone SFD/FLAT (if permitted)	1:1	1:1	n/a	1:1
Low (R-1 – R-4)	1:1	1:1	n/a	1:1
Moderate (R-5-A – R-5-B)	1:1	1:1	n/a	1:1
Medium to High (R-5-D – R-5-E)	1:1	1:1	n/a	1:1
Mixed Use:				
Low – Moderate (C-1, C-2-A)	1:1	1:1	n/a	1:1
Moderate – Medium (C-2-B, C-3-A, C-3-B)	1:1	1:1	n/a	1:1
Medium – High (C-2-C, C-3-C, C-4, C-5, CR)	1:1	1:1	n/a	1:1
Industrial:				
All (CM, M)	1:1	1:1	n/a	1:1



5. Penthouse Area - Limitation of 1/3 of roof area in zones with a limit on number of stories (§§ 411.8) – R-1, R-2, R-3, R-4, R-5-A, C-1, CM-1, CAP Overlay):

Current Zoning Regulations: Existing regulations limit the size of the penthouse to 1/3 of the roof area in specified low density zones and the CAP Overlay.

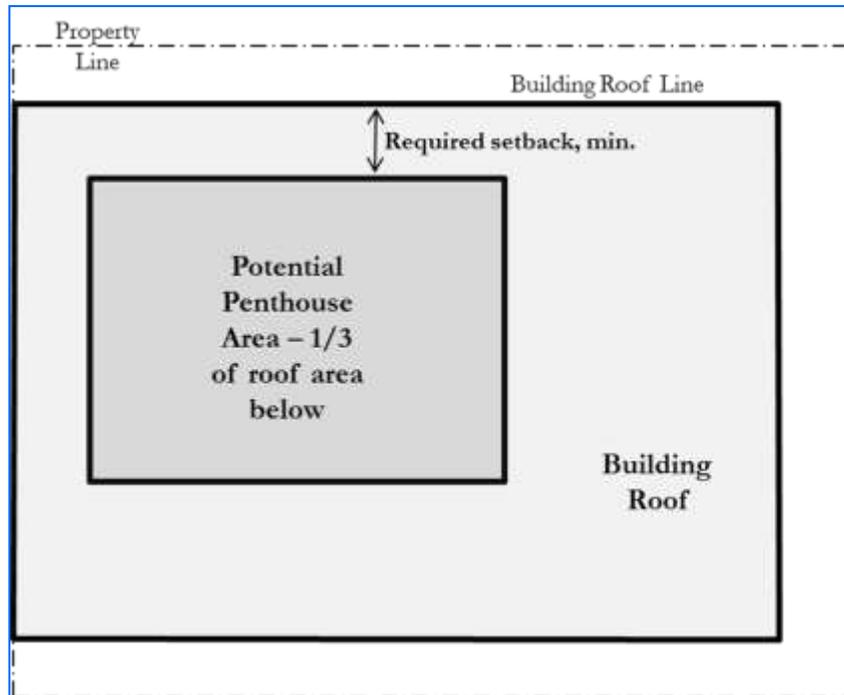
Height Act: Does not limit penthouse size, above or below the Height Act, other than the 1:1 required setback.

Option advertised: Retain the 1/3 of roof area limitation of the penthouse area 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.

Analysis: OP is supportive of this proposal. The existing and clarified setback requirements would provide an appropriate limitation on the potential penthouse size. In these zones, the Commission is also considering not allowing a penthouse at all, or not allowing habitable space within the penthouse, potentially with the exception of habitable recreation space, so the incentive to maximize the size of the penthouse would be limited. In the R-5-A zone, any new multi-family development is subject to special exception review by the BZA, and this includes review of any rooftop penthouse space.

Zones:	Penthouse Area Limited to 1/3 of Roof Below			
	Existing Zoning	Height Act		Proposal
		Above Ht Act	Below Ht Act	
Residential:				
Any Zone SFD/FLAT	n/a	n/a	n/a	1/3 max. *
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 – Moderate - C-1	1/3 max.	n/a	n/a	Not required
C-2-A	n/a	n/a	n/a	n/a
Moderate – 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:				
CM-1	1/3 max.	n/a	n/a	Not required
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. ⁴

* Note – if the ZC removes the permission to have a penthouse in these zones, an alternative noted in Option 3, then the 1/3 limit would be removed as well.



6. Penthouse Area - Exemption from FAR for penthouse enclosed space (§§ 411.7):

Current Zoning Regulations: In those zones that have an FAR limit (all zones other than low density residential) an increase of allowable FAR of not more than 0.37 is permitted for space within a penthouse. Any penthouse area, regardless of use, greater than 0.37 FAR would count towards permitted building FAR². As part of the Zoning Regulations Review process (ZRR), the Commission took proposed action to approve a proposal to slightly increase this to 0.40 FAR.

Height Act: Does not limit penthouse area, above or below the Height Act, other than indirectly through the 1:1 required setback.

Options advertised:

- a. **Alternative 1** - Exempt all enclosed penthouse space, habitable and non-habitable, from building FAR.
- b. **Alternative 2** - Exempt enclosed mechanical space in a penthouse from building FAR, but provide a maximum exemption for habitable space - the 0.4 FAR exemption per ZRR.

Analysis: Alternative 1 would allow the penthouse size to be dictated by the required 1:1 setback and the 1/3 of roof area limitation (where applicable). Alternative 2 could count some habitable space towards the building FAR, but would exempt mechanical space from the FAR exemption which would provide greater flexibility in the use of penthouse space, where provisions would allow habitable space within the penthouse.

If the Commission elects to restrict habitable space to one story, retain the setback requirements, and limit or not permit habitable space for lower buildings, OP would support Alternative 1. This would allow the greatest flexibility and permit optimal affordable housing linkage, while maintaining appropriate restrictions. If habitable space is counted towards building FAR, this

² Section 411.7: "Solely for the uses designated in this section, an increase of allowable floor area ratio of not more than thirty-seven hundredths (0.37) shall be permitted."

could add flexibility to building massing (slightly more height within which to fit the same density), but the benefit would be sufficiently small that it would not be considered a “bonus”, so an affordable housing linkage requirement, other than standard IZ requirements for residential buildings, would be ineffective.

Zones:	Penthouse FAR Exemption				
	Existing Zoning	Height Act		Alternative 1	Alternative 2
		Above Ht Act	Below Ht Act		
Residential:					
Any Zone SFD/FLAT (if permitted)	n/a	n/a	n/a	n/a	n/a
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 – Moderate (C-1, C-2-A)	.37 max.	n/a	n/a	Do not limit	.4 max.
Moderate – Medium (C-2-B, C-3-A, C-3-B)	.37 max.	n/a	n/a	Do not limit	.4 max.
Medium – 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.

7. Enclosing Penthouse Walls of Equal Height and Vertical (§§ 411.6):

Current Zoning Regulations. All walls of the penthouse are required to be of one height, to encourage a more unified penthouse massing.

Penthouse walls are also required to rise vertically to a roof, generally at a 90° angle to the roof below, although the Zoning Administrator has advised OP that some lee-way on what is considered “vertical” has been granted. The Zoning Commission requested clarification.

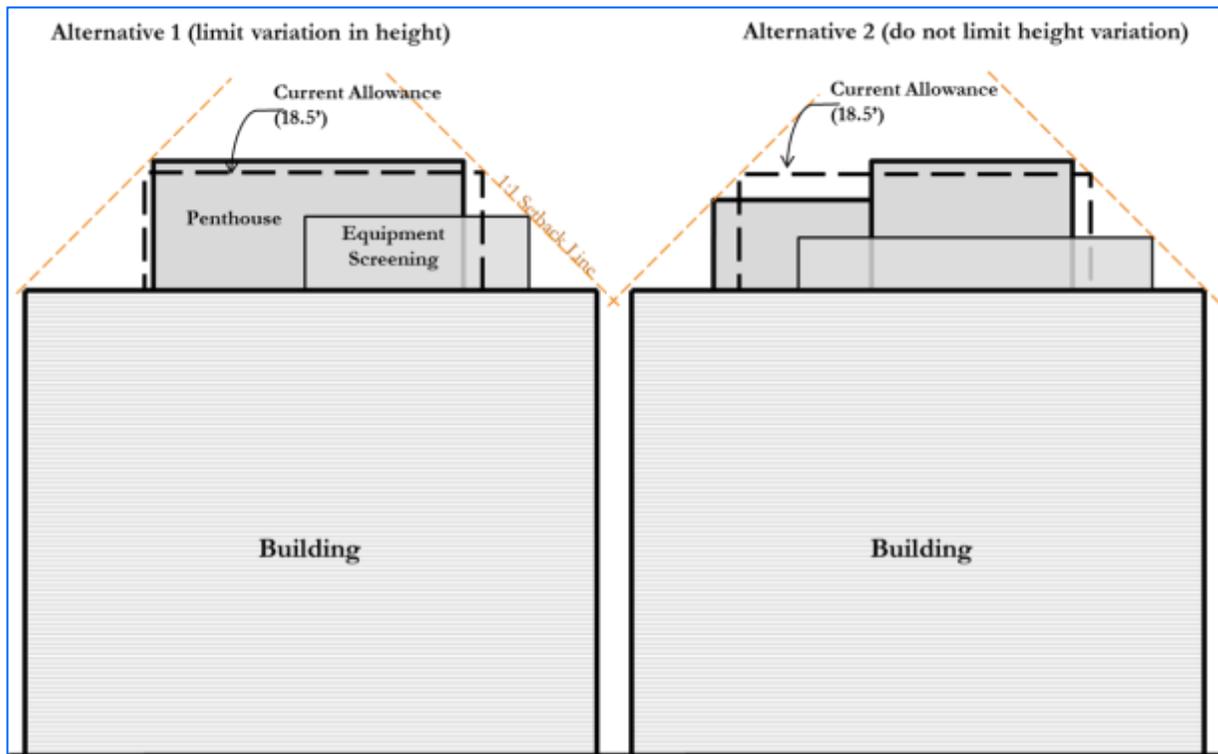
The zoning regulations also require that all penthouses be located within one structure. This can also lead to penthouses that are made artificially large, but can also encourage a simpler, more unified rooftop design. OP did not originally propose changes to this provision, but the Commission requested options that would provide more flexibility.

Height Act. Does not address these issues, above or below the Height Act limit.

7A Walls of Equal Height (§ 411.6):

Options advertised:

- a. **Alternative 1** - Retain requirement that the walls of an enclosed penthouse shall be of equal height above roof level but permit screening walls for mechanical equipment not contained within a penthouse to be of a second, uniform height.
- b. **Alternative 2** - Delete the requirement that all penthouse walls be of equal height.



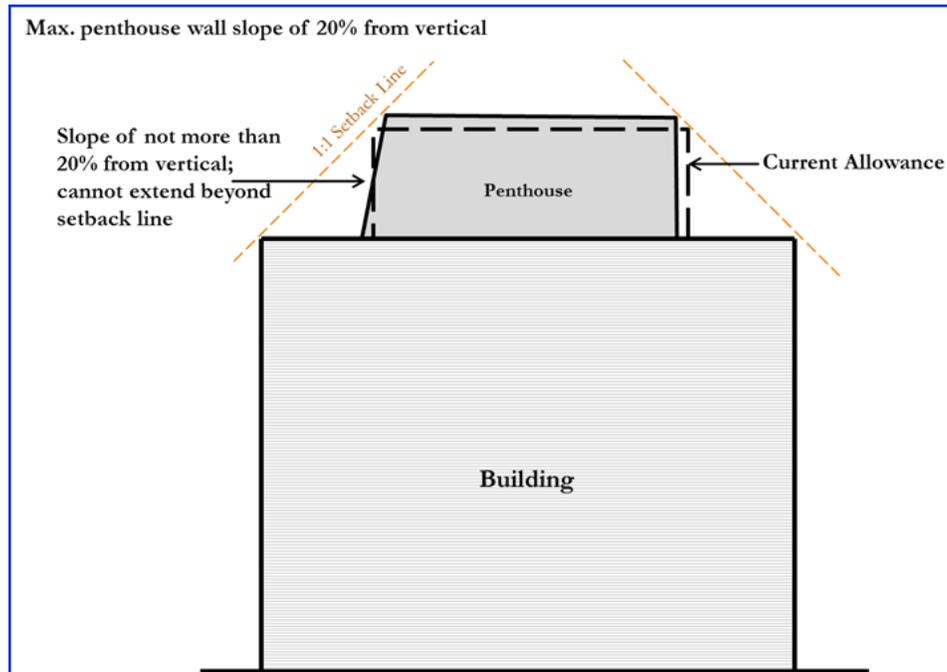
Analysis: A requirement that all penthouse walls be of one height can lead to penthouses that are larger than otherwise required and more expensive to construct. BZA relief from this provision is the most common form of penthouse relief approved. Some additional flexibility could help to limit the bulk of penthouses, but, as noted by the Commission, could also result in penthouses that are more visually complex. OP supports some additional flexibility, while also providing some limits. As such, OP supports Alternative 2 (as proposed by Historic Preservation staff), but would also support additional flexibility which would allow one penthouse height for habitable space (particularly if the Zoning Commission limits habitable space to one story maximum), and a second height for non-habitable space. Otherwise, if habitable space is permitted and provided, the potentially taller elevator over-ride would cause the entire penthouse to be taller but smaller in area than would otherwise be permitted.

As such, particularly for zones and buildings which would allow a penthouse height of twenty feet (or the current 18' – 6" if this height is retained by the Commission), OP would support an alternative which would permit a maximum of three heights - one height for all mechanical equipment, one height for habitable space, and one height for screening for uncovered mechanical equipment. All would be within the maximum permitted height for a penthouse in that zone.

7B Walls Required to be Vertical (§ 411.6):

Option advertised:

- a. Retain the requirement that the walls of an enclosed penthouse be vertical, but provide language clarifying that a wall that is up to 20% from vertical would be considered conforming to this requirement”.



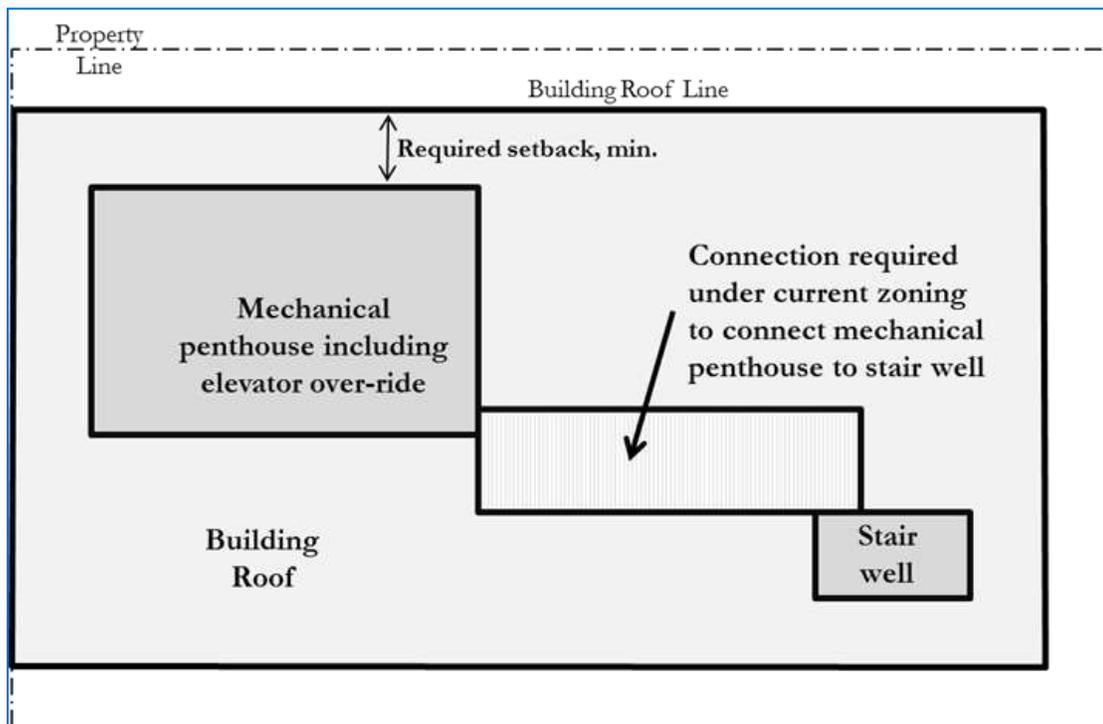
Analysis: The advertised text included a provision allowing a penthouse wall that is up to 20% from vertical to be considered conforming to this requirement – this would read as a vertical wall while providing some design flexibility. A significantly larger angle resulted in walls that did not appear to meet the Commission’s intent, and could be considered to be a way around the 1:1 (45°) setback requirement. A such, OP is not opposed to this provision, but continues to look for input regarding both the amount of deviance from vertical, and the most appropriate way to measure it – as a percentage from vertical, or as degrees from vertical.

7C Number of Permitted Penthouse Structures (§§ 411.3):

Options Advertised:

- a. **Alternative 1** - Retain requirement that all penthouses and mechanical equipment be placed in one enclosure (current requirement).
- b. **Alternative 2** - Generally retain requirement that all penthouses and mechanical equipment must be placed in one enclosure, but permit emergency egress stairwells as required by the building code to be in a separate enclosure.

Analysis: At the last public hearing, the Commission requested that this option be advertised for comment. Requiring remote stairwells required by the building code to be within the same enclosure as the remainder of the penthouse can result in structures that are larger and more expensive to construct, although relief from this provision is common. This can also limit flexibility regarding the use of the rooftop, for either recreation or other purposes. As such, OP is supportive of Alternative 2.



8. Affordable Housing Linkage:

Current Zoning Regulations. Because the ability to provide habitable penthouse space on a non-residential building is very limited, the zoning regulations do not include a housing linkage requirement, although Inclusionary Zoning (IZ) would be required for any new residential space, in zones and parts of the city where IZ applies. There is no affordable housing linkage for non-residential space. However, current regulations do include a requirement for a housing linkage for discretionary gains of non-residential density through the PUD process or through a street or alley closing; the October 2014 proposal is based on this existing requirement.

Height Act. The Height Act does not address this issue.

8A Affordable Housing Linkage for the Provision of Habitable Penthouse Space on Non-Residential Buildings (not within current regulations, proposed new § 414):

Option Advertised:

- a. Establish a requirement that new habitable penthouse greater than 1,000 sq.ft. for a non-residential building provide affordable housing, using criteria generally consistent with the current housing linkage formula:
 - i. 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, depending on the distance of the affordable housing from the subject site; or
 - ii. 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
 - iii. Apply this requirement to new non-residential habitable space in all parts of the city.

Analysis: OP is supportive of this provision; input from both affordable housing advocates and the building industry has also been generally positive for this provision. Provided that the

provision of habitable space is not overly restricted, this could result in noticeable affordable housing contributions.

8B Inclusionary zoning for the Provision of Habitable Penthouse Space on Residential Buildings- (Chapter 26, IZ):

Current Zoning Regulations: Habitable penthouse space on a residential building is limited to space associated with outdoor rooftop recreation space. As such, the zoning regulations do not address penthouse space specifically, although Chapter 26 IZ would currently apply to habitable space within a penthouse, at a rate of 8 or 10% of gross floor area at a rate of 50% to 80% of AMI, as required by zoning in those areas where IZ currently applies.

Height Act: The Height Act does not address this issue.

Options Advertised:

- a. **Alternative 1** - Apply current IZ provisions to new habitable residential space within a penthouse (i.e. penthouse space not currently permitted), in a manner 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), but apply to new habitable penthouse space in zones and areas of the city where IZ currently does not apply.
- b. **Alternative 2** - As in Alternative 1 above, but require a deeper level of affordability (50% of AMI) for all required affordable housing.

Analysis: OP is also supportive of this provision, which would require an affordable housing contribution that is both deeper and more broadly applied than the current IZ program. Provided that the ability to provide habitable penthouse space is not overly restricted, this could result in noticeable affordable housing contributions.

9. Special Exception Review Criteria for Penthouse Regulation Relief and Clarification of the term “Operating Difficulties” (§ 411.11):

Current Zoning Regulations: Special exception review of specified aspects of the penthouse regulations is permitted. One of the criteria for approval of a special exception is a demonstration by the applicant that a conforming penthouse is “*impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable...*”. The phrase “operating difficulty” was identified by the Commission as needing clarification.

Height Act: The Height Act does not address this issue. The Board of Zoning Adjustment cannot approve penthouse structure relief that would be inconsistent with the Height Act.

Option Advertised:

- a. Retain the current review criteria for special exception relief from specified penthouse regulations but provide additional clarification of the term “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

Analysis: OP is supportive of this clarification.

10. Process for Amending an Approved PUD or Design Review Project (not within current regulations, proposed §411.20):

Current Zoning Regulations: A minor modification process for a PUD exists (§3030). The process does not address situations such as this, where the zoning regulations and by-right permissions may change following approval of a PUD or design review application.

Height Act: Does not address this issue.

Option Advertised:

- a. Permit the minor modification process, but establish additional filing criteria:
 - i. A dimensioned copy of the approved and the proposed roof-plan; and elevations as necessary to show the proposed changes;
 - ii. A written comparison of the proposal to the zoning regulations;
 - iii. Verification that the affected ANC has been notified of the request; and
 - iv. The item not be placed on a consent calendar for a period of 30 days minimum following the filing of the application.
 - v. Require the submission of an OP report with analysis of the request.

Analysis: OP is supportive of this provision. It would facilitate otherwise permitted modifications to existing buildings or designs approved through a PUD process, while establishing appropriate mechanisms for review of any changes.

11. Definitions (§199):

Current Zoning Regulations: Does not include a definition of the Height Act in the list of definitions; and uses various terms for rooftop enclosures.

Height Act: Uses the term “penthouse” to refer to rooftop space, whether for mechanical equipment or habitable space.

Option Advertised:

- a. Provide definitions for “Height Act”³ and for “Penthouse”, and amend the definitions of “Story” and “Story, top”; amend the regulations throughout to use these terms consistently.

Analysis: OP supports these clarifications.

³ A definition “Height Act” has also been included as part of the ongoing ZRR amendments to the regulations.

12. Parking for Penthouse Habitable Space (§§ 537.2, 777.2, 639.2, 845.2, 936.2):

Current Zoning Regulations: In most zones, penthouse space is exempted from parking requirements, although such penthouse space is currently limited to mechanical or support recreation space which would not generate additional parking demand. The exceptions are the residential zones (R-1 through R-5), where, under the current parking regulations, any new residential units permitted in a penthouse under these proposed changes would be subject to the parking requirement for that zone.

Height Act: The Height Act does not address parking requirements.

Options Advertised:

- a. **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 (i.e. habitable space in a penthouse would not count towards parking requirements).
- b. **Alternative 2** - Continue to exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.

Analysis: OP is supportive of Alternative 2, which would clearly tie parking requirements to the provision of new gross floor area that could result in increased parking demand.



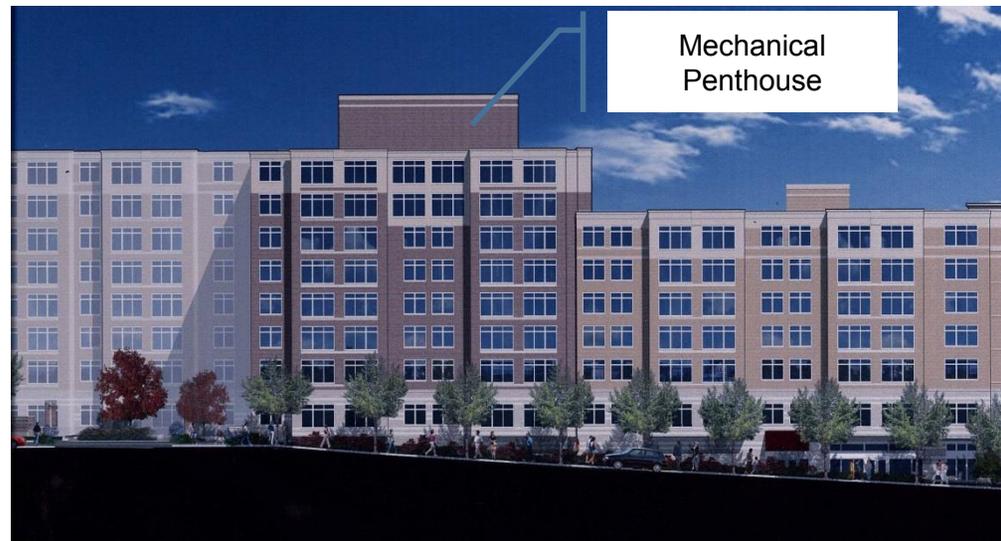
ZONING COMMISSION CASE 14-13 SUMMARY OF PROPOSED ROOFTOP PENTHOUSE REGULATION AMENDMENTS

March, 2015

THIS SUMMARY IS PROVIDED IN ADVANCE OF THE ZONING COMMISSION PUBLIC HEARING REGARDING ZC CASE 14-13, TO BE HELD APRIL 30, 2015.

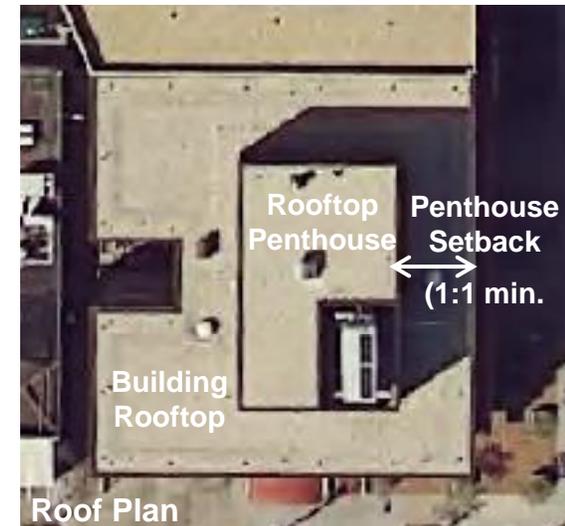
What is a penthouse, and how is it regulated?

- A rooftop penthouse, in DC, is a small rooftop structure containing uses like rooftop mechanical equipment, elevator or stairwell over-runs, and sometimes a room supporting a rooftop deck – storage, washrooms, etc.
- Not every building has a penthouse. In fact, most one-family homes and rowhouses and many small commercial or apartment buildings – especially ones without an elevator or a rooftop deck - do not. Where they do exist, you may not always notice them, since current regulations require that they be set back from the edge of the building below, to minimize their visual impact
- The federal Act to Regulate the Height of Buildings in the District of Columbia of 1910 (the Height Act) was recently 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.
- Habitable space in a penthouse would include residential living space, office space, common recreation space (which could be associated with a rooftop terrace), or even commercial space such as a lounge or a restaurant on the roof. In the current regulations, the only form of habitable space permitted within a rooftop penthouse is a small amount of auxiliary space associated with a rooftop terrace in residential zones.
- Non-habitable space, on the other hand, is enclosed penthouse area that is used for things like mechanical equipment, or stair or elevator overruns.



Why revise the zoning regulations for penthouses?

- In addition to being regulated by the Height Act, penthouses are also regulated by zoning, which generally:
 - Permits a height of 18'-6" for a rooftop penthouse in all zones (including low density residential zones);
 - Does not limit the number of stories within a penthouse;
 - Requires a 1:1 setback from the edge of the roof below; and
 - Does not permit most forms of "habitable" space within a penthouse
- The Zoning Regulations pertaining to penthouse are generally more restrictive than what the Height Act would permit. Therefore, the changes to the Height Act cannot be given full effect until changes to the Zoning Regulations are also adopted, and OP was instructed by the Commission to bring forward amendments to the zoning regulations. The Zoning Commission received OP's original proposal for penthouse regulation amendments in 2014, and the Zoning Commission held a public hearing on November 6, 2014. After the hearing, the Commission instructed OP to prepare an amended set of alternatives for penthouse regulations, to be discussed at an additional public hearing.
- This document provides a summary of the current proposals, including the alternatives advertised, with illustrations. Not all of the changes under discussion directly relate to the amendments to the Height Act, though – some are meant to provide additional clarity or new penthouse regulations or requirements not addressed by the Height Act; these are pointed out in the discussion of the proposals that follow.
- Additional background information is available on the DC Office of Zoning website, the Office of Planning website, and the Office of Planning blog – web addresses are all at the end of this document.
- The Zoning Commission will be holding a public hearing on this case on **April 30, 2015 at 6:30 pm** – more information on how to participate or provide comments is at the back of this document.



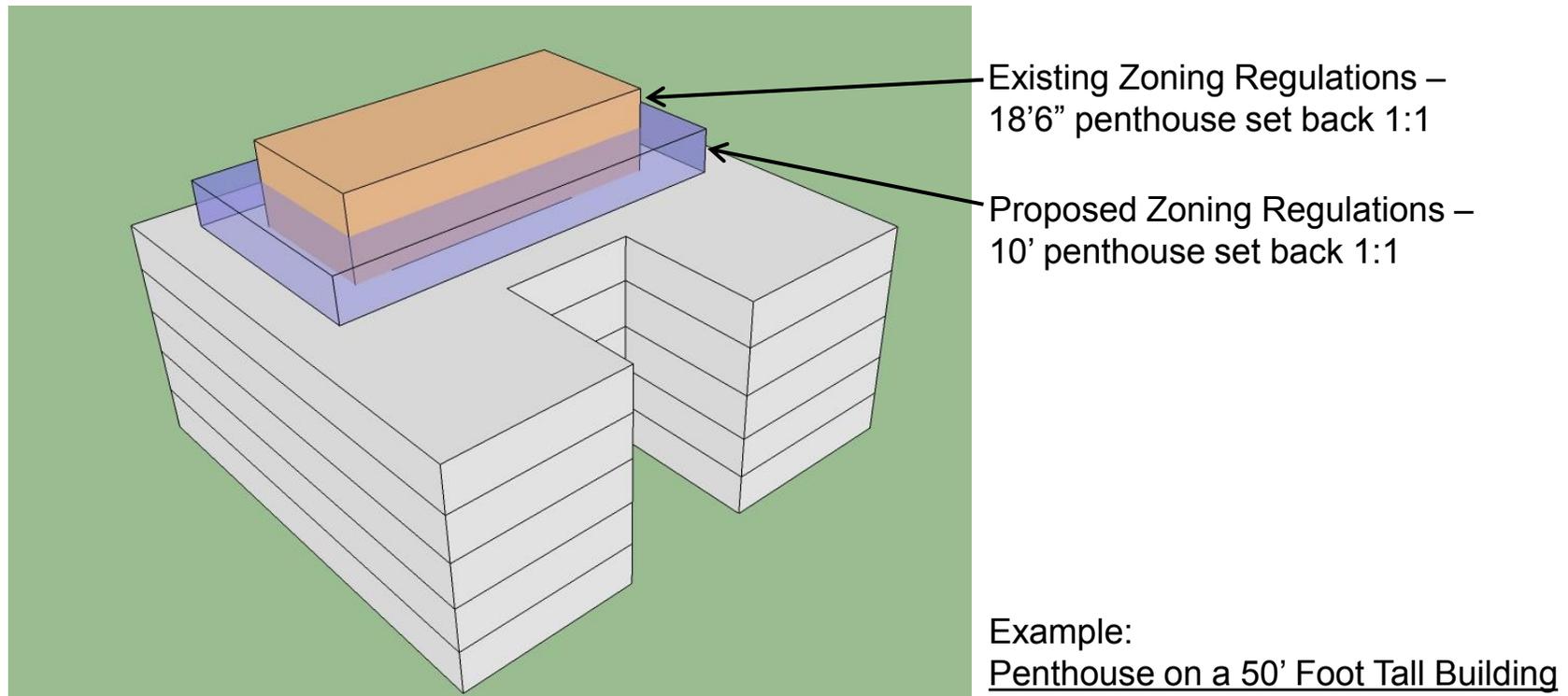
What are the proposals for penthouse height & stories?

- **Penthouse Height:** Limit height of a penthouse to 10 feet maximum on the roof of a one-family dwelling or flat in any zone, or for any building within a zone (including any overlay zone) for which the maximum permitted building height is 50 feet or less. Otherwise, permit 20 feet maximum for other zones and uses.

In the alternative, do not permit, by right, a penthouse above a single family dwelling or flat in any zone; allow a 10 foot maximum height penthouse only with BZA approval of a special exception.

- **Penthouse Stories:** Limit a penthouse to one story on the roof of a one-family dwelling or flat; or in any zone where the building height is limited to 50 feet maximum; permit 2 stories for other higher height and density zones.

In the alternative, limit habitable penthouse space to one story in all zones, but allow a second story for non-habitable (mechanical) space in zones where a penthouse of 20 feet in height is permitted.

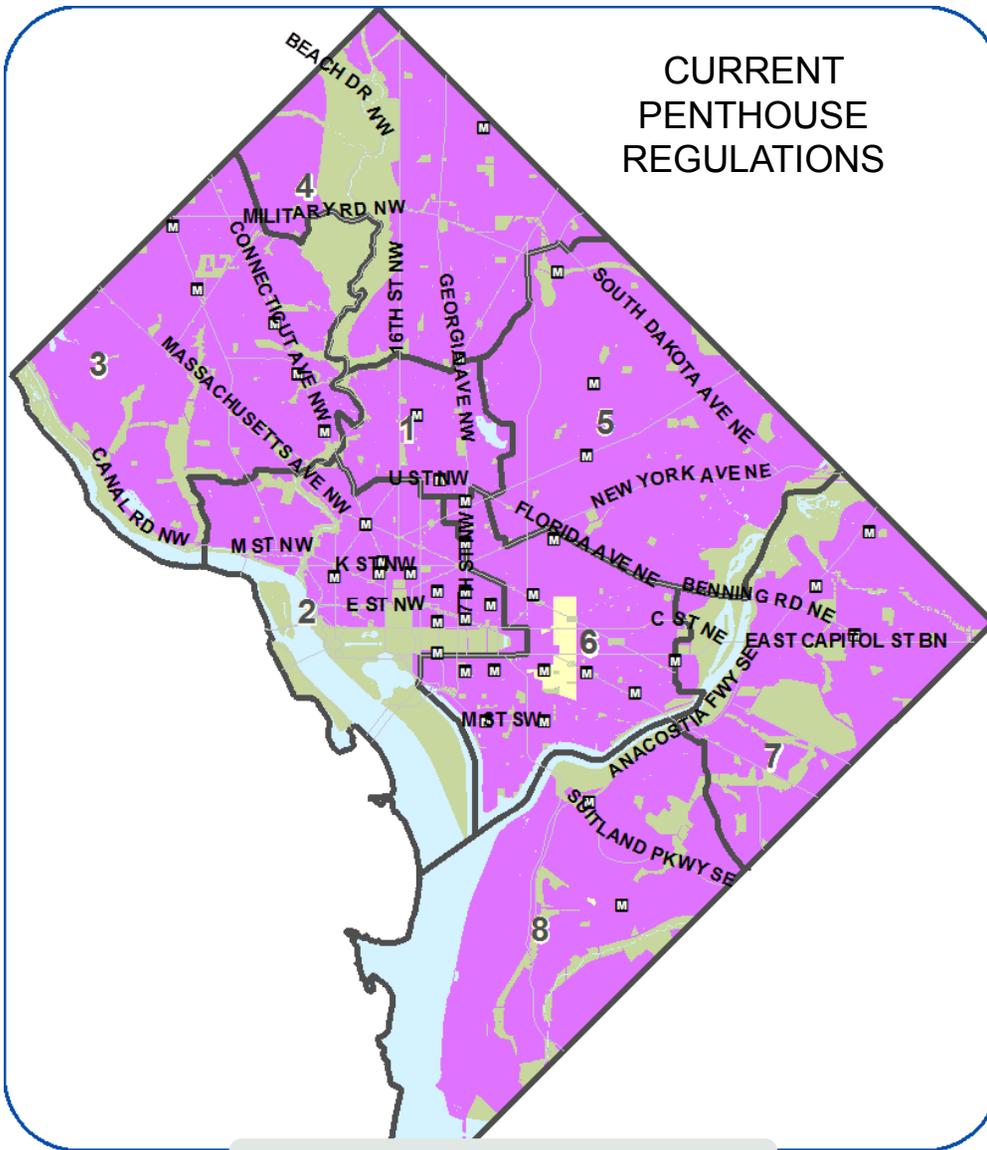


What are the proposals for penthouse height & stories?

Zones:	Permitted Building Height	Penthouse Height				Penthouse Number of Stories					
		Existing Zoning	Height Act	Alternative 1	Alternative 2	Existing Zoning	Height Act		Alternative 1		Alternative 2
							Above Ht Act	Below Ht Act	Above Ht Act	Below Ht Act	Below Ht Act
Residential:											
SFD/FLAT in Any Zone	40'	18.5'	20'	10'	Not permitted	unlimited	1	unlimited	1	1	1
Low (R-1 – R-4)	40'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Moderate (R-5-A – R-5-B)	40' - 50'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Medium to High (R-5-C, R-5-D, R-5-E)	60' - 90'	18.5'	20'	20'	20'	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'	18.5'	20'	10'	10'	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'	18.5'	20'	20'	20'	unlimited	1	unlimited	1	2	1 2 for non-hab
Industrial:						unlimited	1	unlimited	1		
Low (CM-1)	40'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Medium - High (CM-2, CM-3, M)	60' – 90'	18.5'	20'	20'	20'	unlimited	1	unlimited	1	2	1 2 for non-hab
Capitol Interest Overlay (R-4, R-5-B, C-2-A, SP-1)	40'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Cleveland Park Overlay (C-2-A)	40'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Woodley Park Overlay (C-2-A, C-2-B)	40' – 50'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Eighth Street Overlay (C-3-A)	45'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Reed Cooke Overlay (R-5-B, C-2-A, C-2-B)	40' – 50'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Naval Observatory Overlay (R-1-A, R-1-B, R-3, R-5-A, C-2-A)	40'	18.5'	20'	10'	10'	unlimited	1	unlimited	1	1	1
Fort Totten Overlay		Within max building height	20'	Within max building height	same	unlimited	1	unlimited	1	1	1 2 for non-hab
Uptown Arts Overlay		83.5' above measuring pt.	20'	83.5' above measuring pt.	same	unlimited	1	unlimited	1	1	1 2 for non-hab

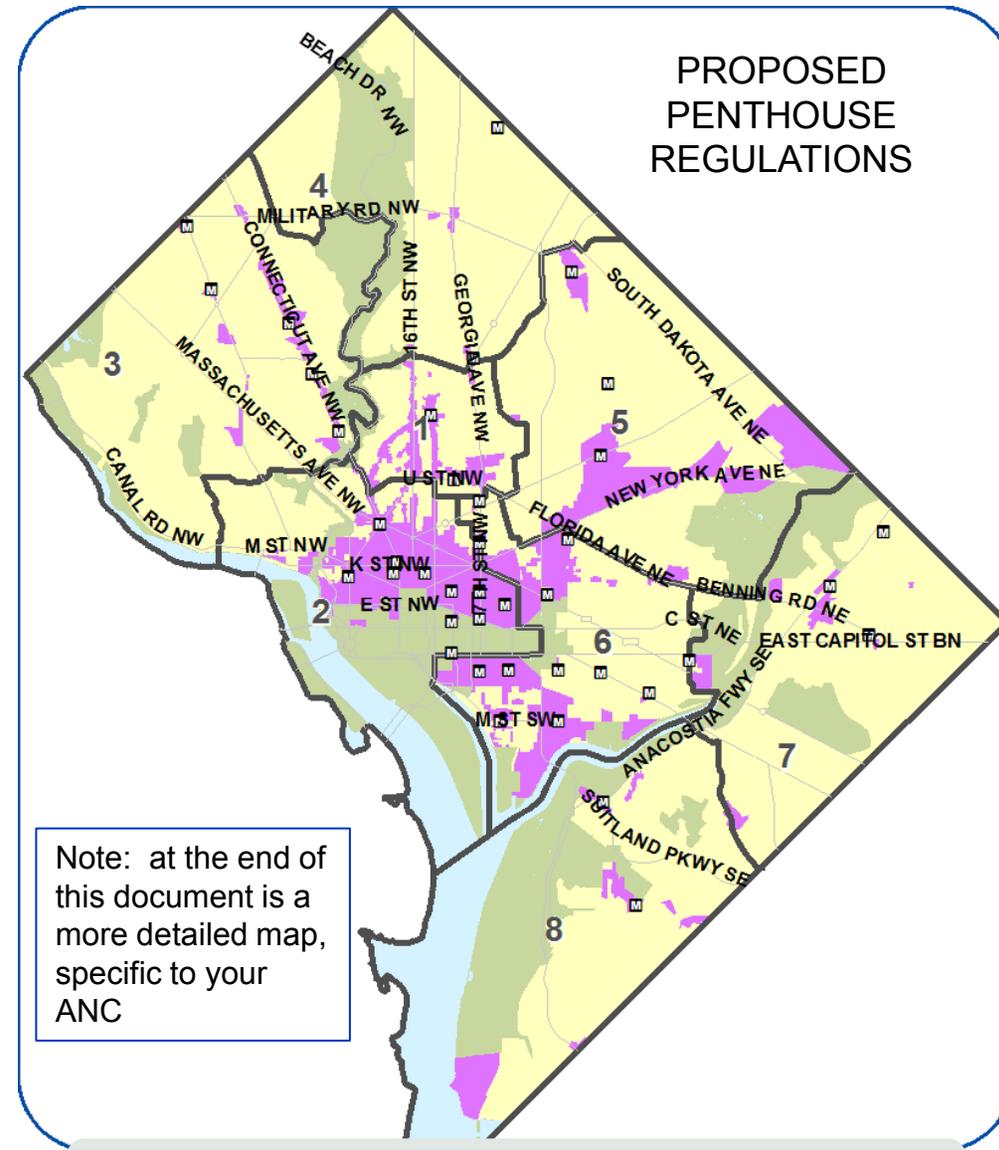
Note – for overlays not listed in the chart above, the permitted height and number of stories would be as permitted in the base zone

Penthouse height and number of stories - maps



Legend

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



Note: at the end of this document is a more detailed map, specific to your ANC

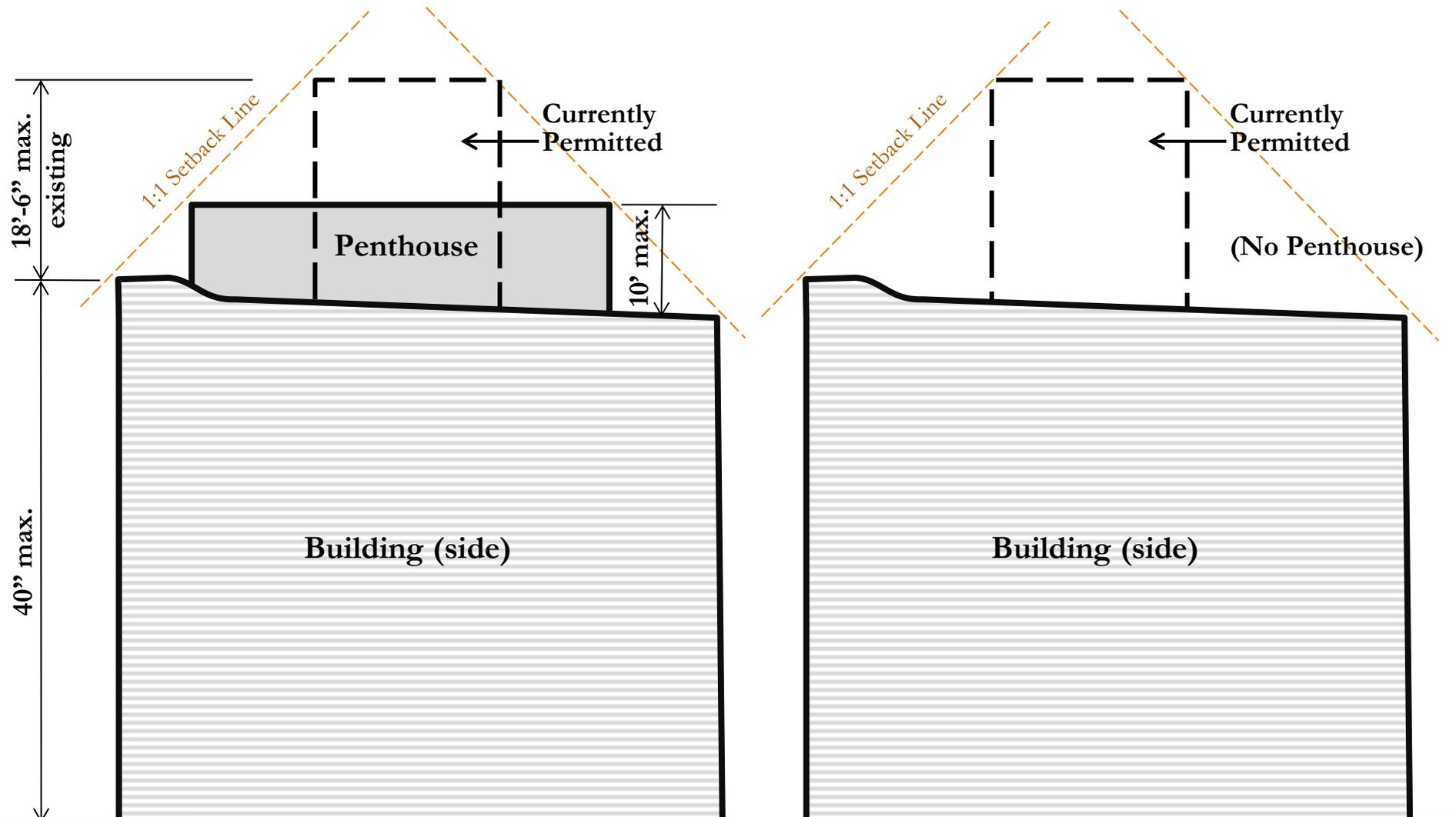
Legend

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

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

Alternative 1 – limit height to 10' / 1 Story

Alternative 2 – do not permit a penthouse

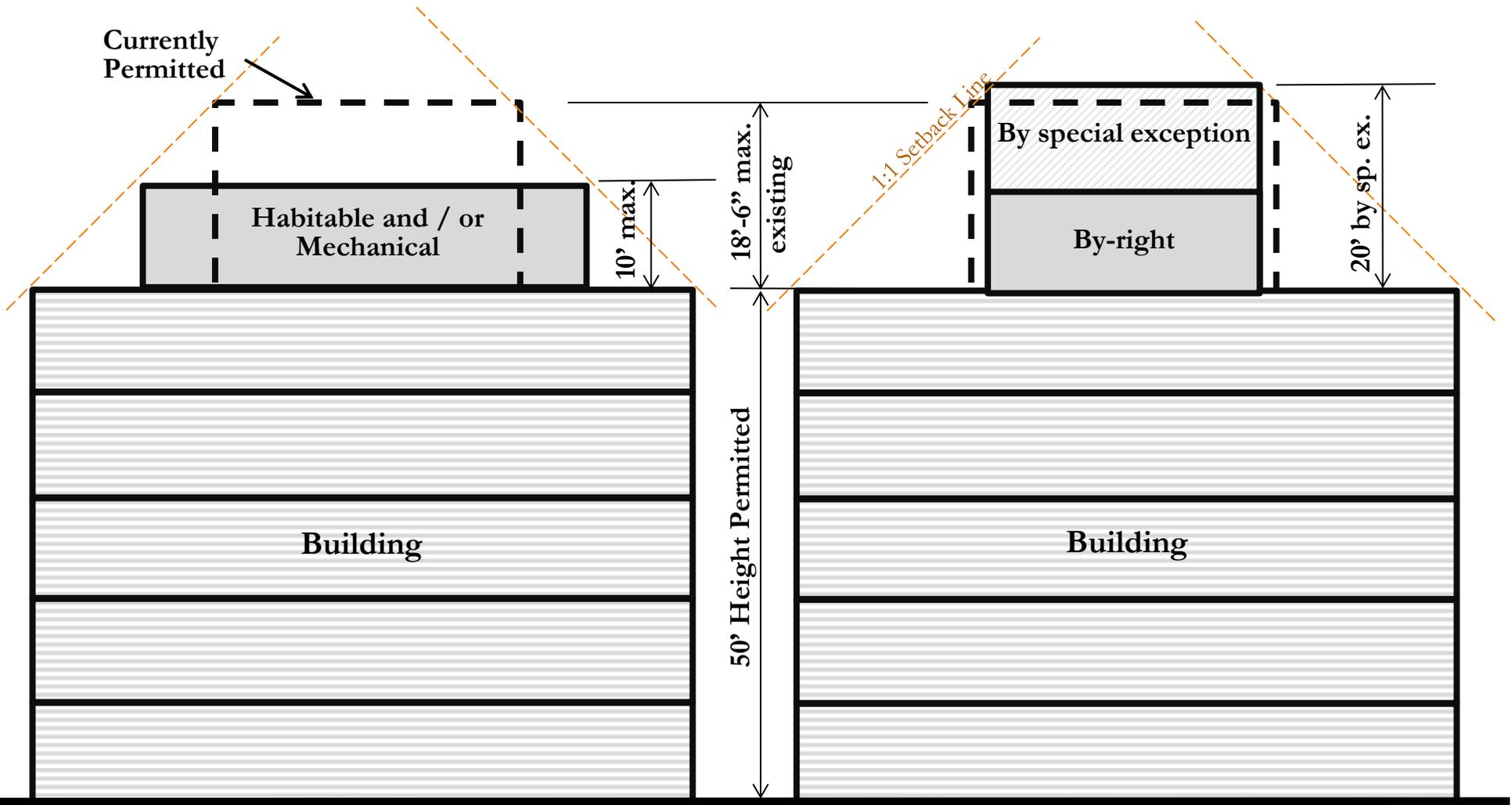


Building Elevations

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

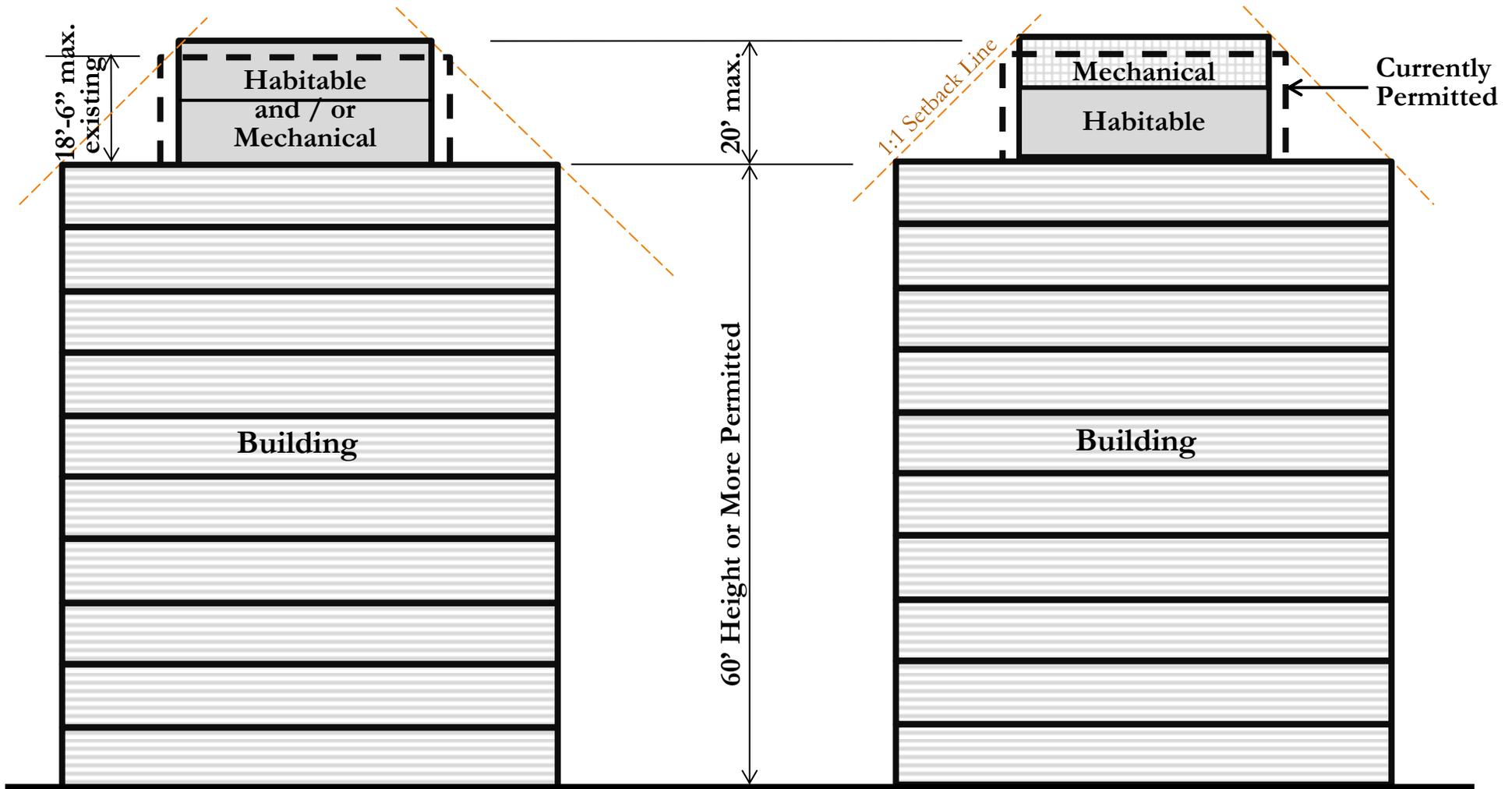


Building Elevations

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 only, and one of mechanical space above



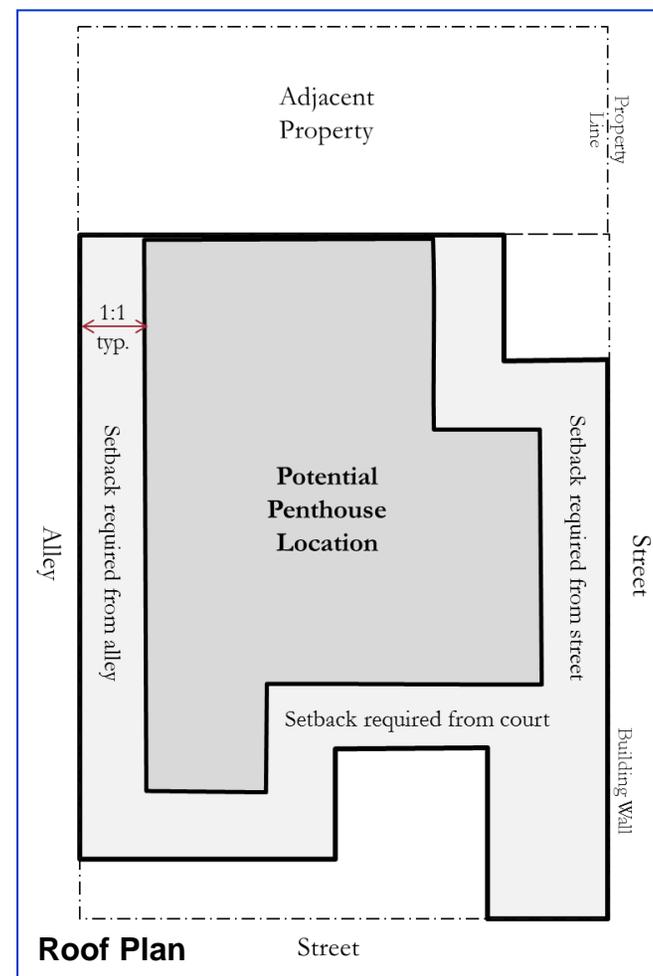
What are the proposals for penthouse setbacks?

A penthouse is required to be set back from the edge of the roof below it – the required setback is 1:1 – i.e. the distance that the penthouse is set back from the edge of the roof must be at least equal to or greater than the height of the penthouse structure. A 10 foot tall penthouse would have to be at least 10 feet from the edge of the roof. This is mainly to try to minimize the potential visual impacts of penthouses.

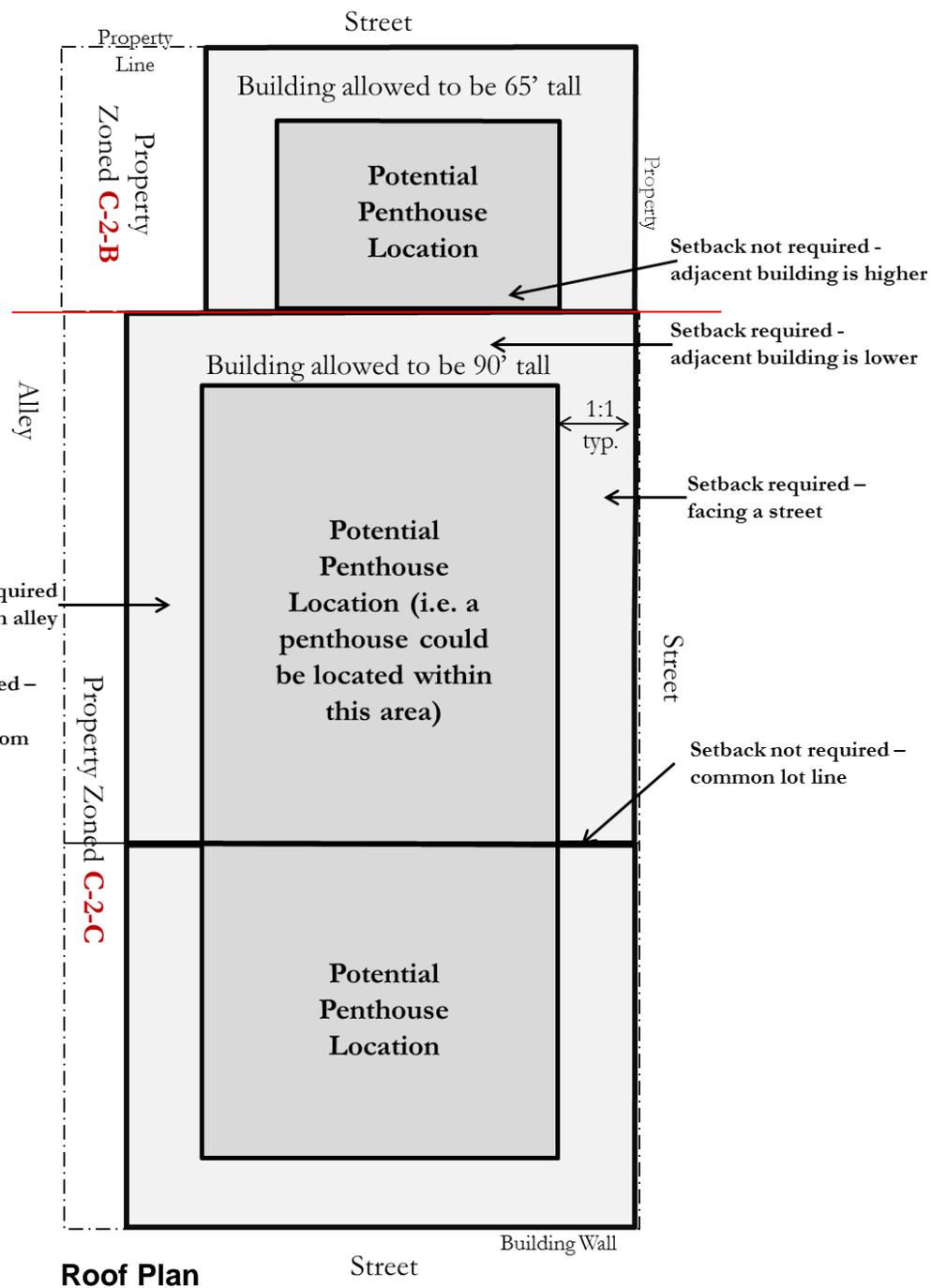
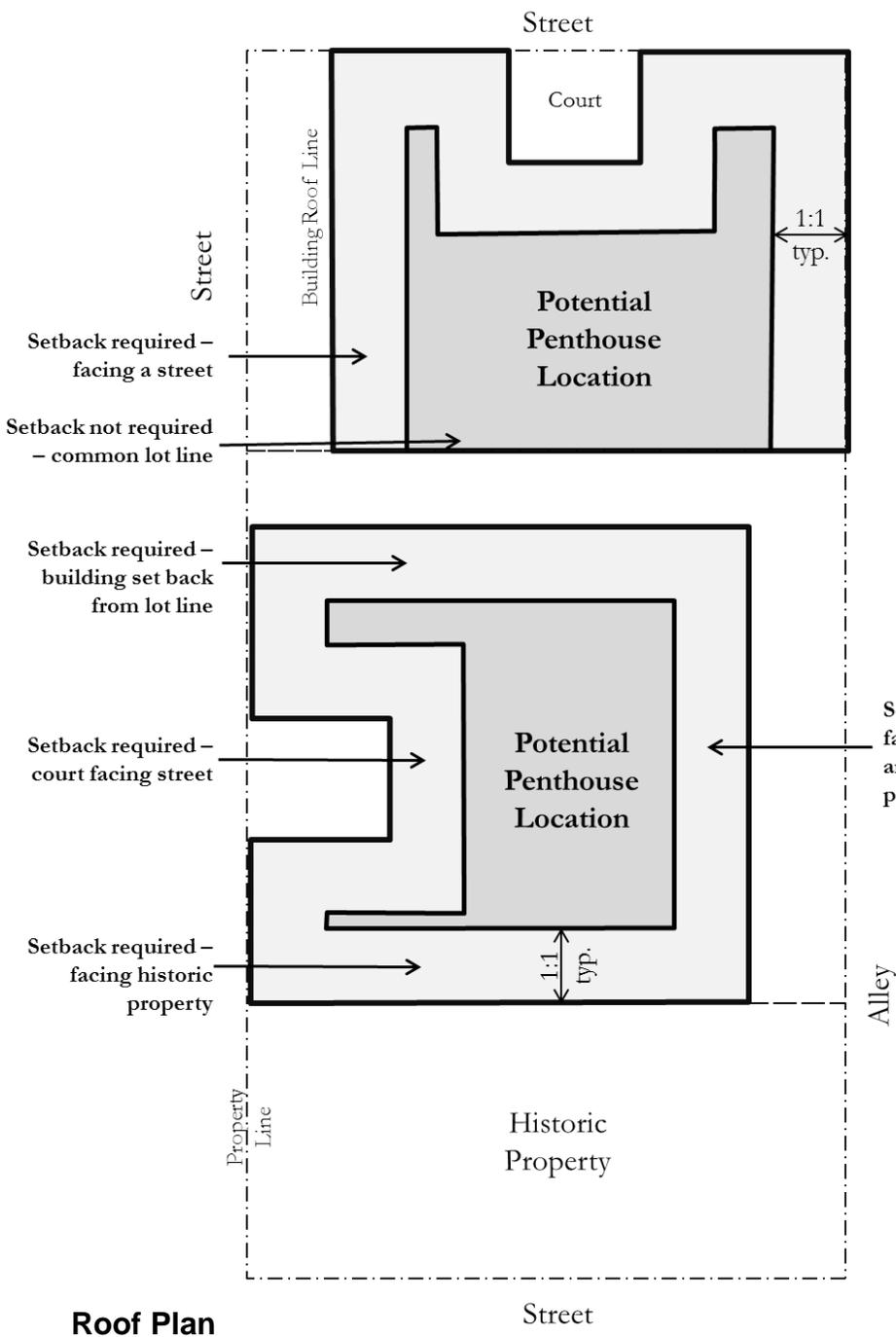
Although the amendments to the Height Act did not alter rooftop penthouse setback requirements, clarification is proposed in the zoning regulations for when the 1:1 setback is required, including establishing a new setback requirement from a common lot line with a historic building or property, if the historic building is lower than the subject building.

As proposed, a setback would be required 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 this setback would not be required if the adjacent historic building is of equal or higher height.



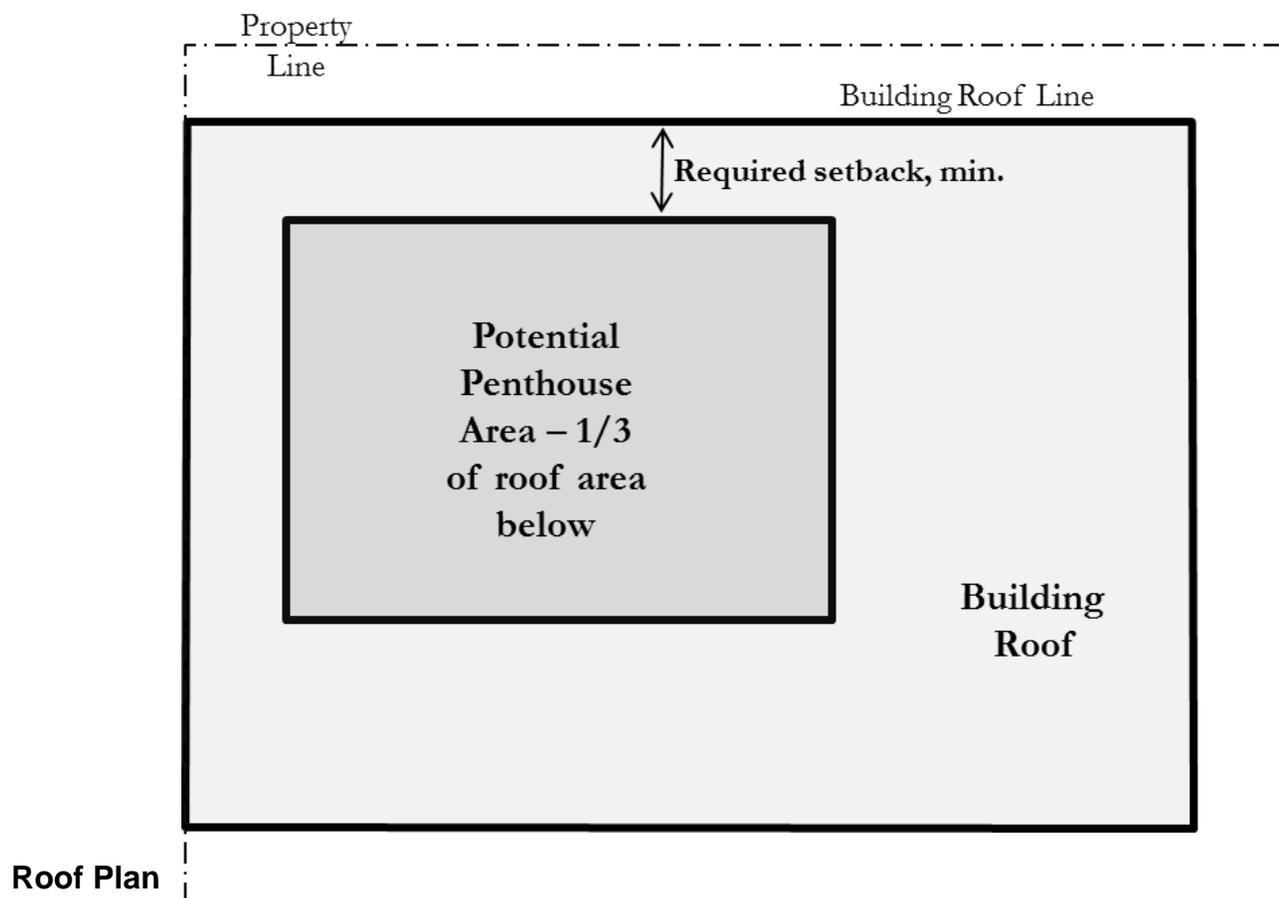
Penthouse setback – illustration of setback requirements



What are the proposals for penthouse maximum area?

- For zones which have a specified limit on the permitted number of stories within the building (R-1 – R-4, R-5-A, C-1, CM-1, and zones within the Capitol Interest Overlay), the current regulations limit the size of a penthouse to no more than 1/3 of the area of the building roof.

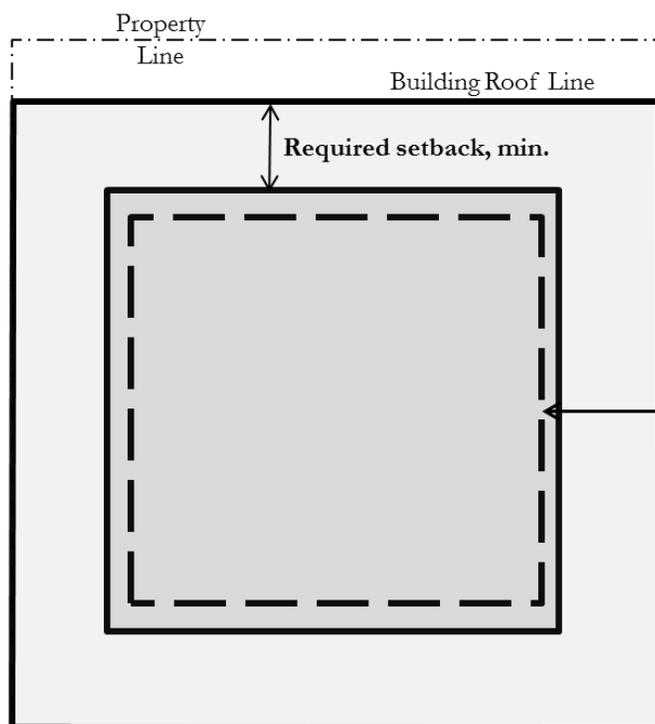
The proposal is to retain this limitation in the R-1 through R-4 zones and the CAP Overlay zones, but to delete this requirement in the R-5-A, C-1, and CM-1. Setbacks would limit the size of the penthouse.



What are the proposals for penthouse maximum area?

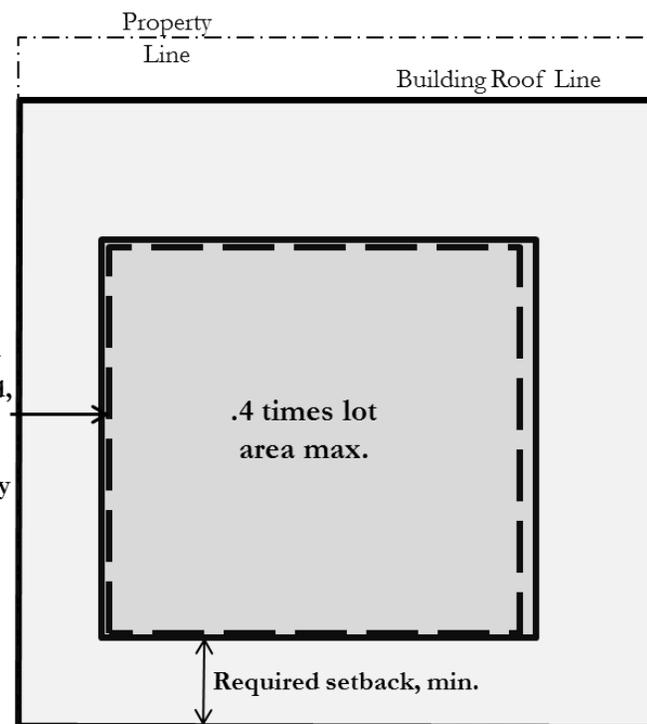
- The current zoning regulations also provide for a .37 exemption from overall building FAR for rooftop penthouse space. The Zoning Commission is looking at two alternatives to amend this provision:
 - Exempt all enclosed penthouse space, habitable and non-habitable, from building FAR, allowing the 1:1 setback and the 1/3 of roof area limitation (where applicable) to dictate penthouse size.
 - Exempt enclosed mechanical space in a penthouse from building FAR, but provide a maximum exemption for habitable space of 0.4 FAR. Any habitable penthouse space above that amount would count towards the overall building FAR.

Alternative 1 – no FAR limitation



Size of penthouse, including habitable space, defined by setbacks

Alternative 2 - .4 FAR limitation



Any amount greater than .4 FAR would count towards building FAR.

What are the proposals for penthouse uses?

- Under the proposed alternatives, additional forms of habitable space (such as actual residential or office space or recreation space) would be permitted in the penthouse, provided that the use is permitted within the zone. For example, new commercial space would not be permitted in the penthouse of a building in a residential zone.
- Alternative Proposals:
 - Allow habitable space within a penthouse in zones allowing a building height of more than 40 feet, by right.
 - Allow habitable space within a penthouse in zones allowing a building height of more than 50 feet, by right.
- The Zoning Commission also invited the public to comment on whether some specified uses, such as a nightclub, bar, lounge, restaurant, or others, should be permitted only by special exception within a penthouse.

Penthouse Habitable Space (living, office, retail, recreation space)					
Zones:	Existing Zoning	Height Act		Alternative 1	Alternative 2
		Above Ht Act	Below Ht Act	Above or Below Ht Act	Above or Below Ht Act
Any Zone SFD/FLAT	Limited	Yes	n/a	no	no
Zones allowing 40' or less of building height					
<ul style="list-style-type: none"> R-1, R-1, R-3, R-4, R-5-A C-1, W-0, W-1 CM-1 CAP/R-4, CAP/R-5-A, CAP/C-2-A, CAP/SP-1 CP/C-2-A WP/C-2-A RC/R-5-B, RC-C-2-A NO/all zones 	Limited	Yes	n/a	No	no
Zones allowing 45' or 50' of building height					
<ul style="list-style-type: none"> R-5-B, C-2-A WP/C-2-B ES/C-3-A RC/C-2-B 	Limited	Yes	n/a	yes	no
Zones allowing more than 50 feet in height					
<ul style="list-style-type: none"> 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 	Limited	Yes	n/a	yes	yes
Fort Totten Overlay	Limited	Yes	n/a	yes	yes
Uptown Arts Overlay	Limited	Yes	n/a	yes	yes

Note: all overlay zones would be as per the underlying base zone, except as noted in the chart

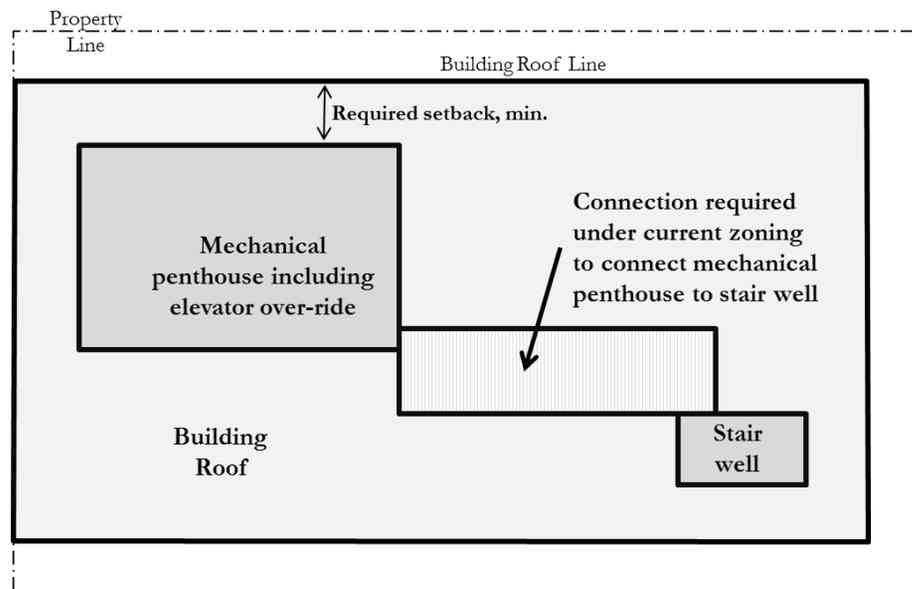
What are the proposals for penthouse walls?

- Single Structure:** Current zoning regulations require that there only be one penthouse structure – that all mechanical equipment, stair and elevator overrides, and (if permitted) habitable space be contained within one enclosure. This can result in unnecessarily large enclosures, for example to connect the mechanical penthouse to a required emergency egress stair.

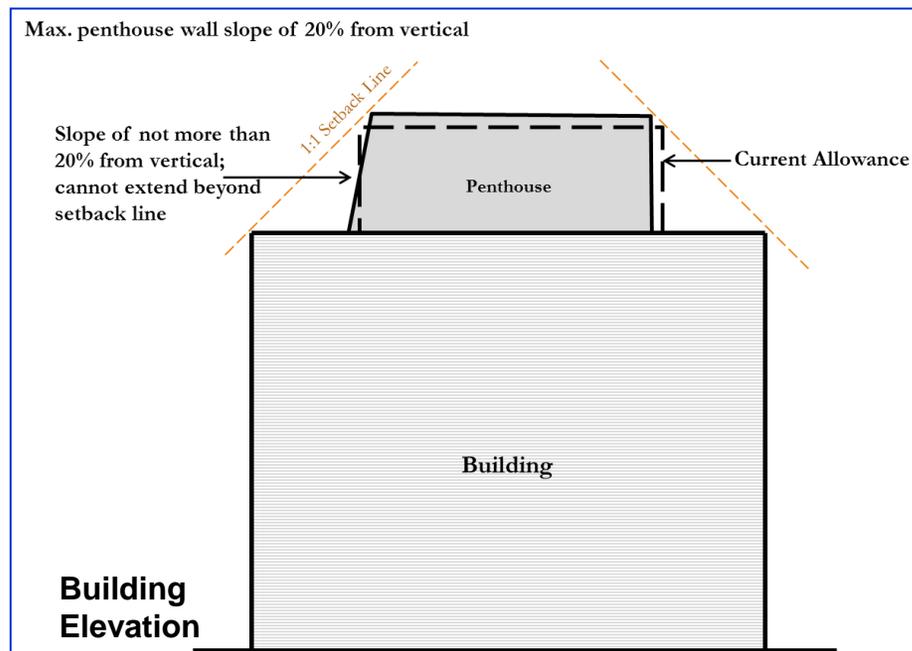
While one option is to retain this requirement, the Zoning Commission also wanted an alternative advertised – to generally require that all penthouses and mechanical equipment be placed in one enclosure, but permit emergency egress stairwells as required by the building code to be in a separate enclosure.

- Vertical Walls:** Current zoning regulations require that the penthouse walls be vertical – sloping walls or walls that are not straight up-and-down are not permitted, although there has been some leeway in interpreting this section.

The Zoning Commission decided to retain this provision but clarify the interpretation of what is considered “vertical”, to allow some leeway in the interpretation of this section and allow some limited design flexibility. The proposal would allow walls that could vary as much as 20% from vertical, but alternative proposals are invited.



Roof Plan

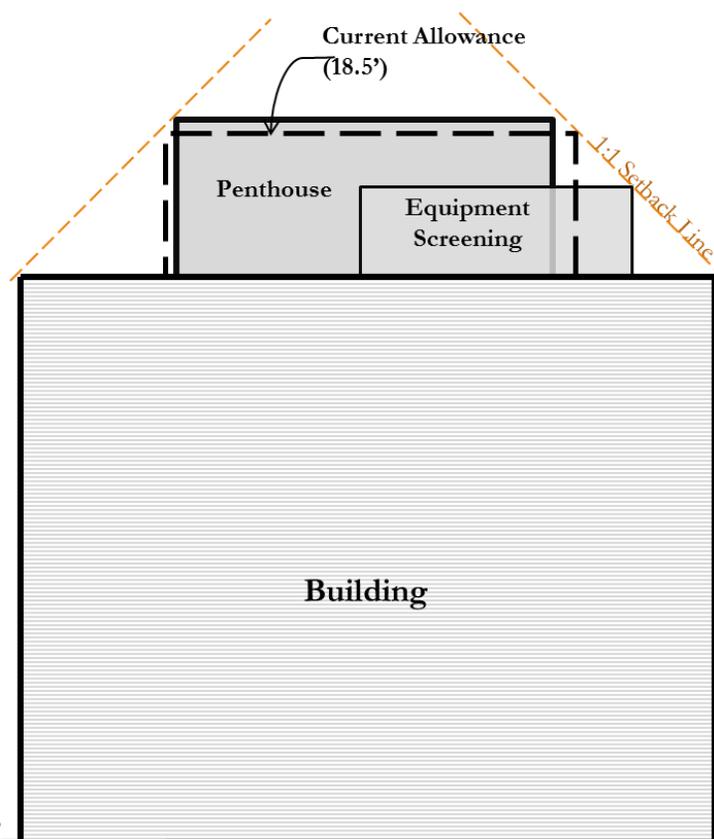


Building Elevation

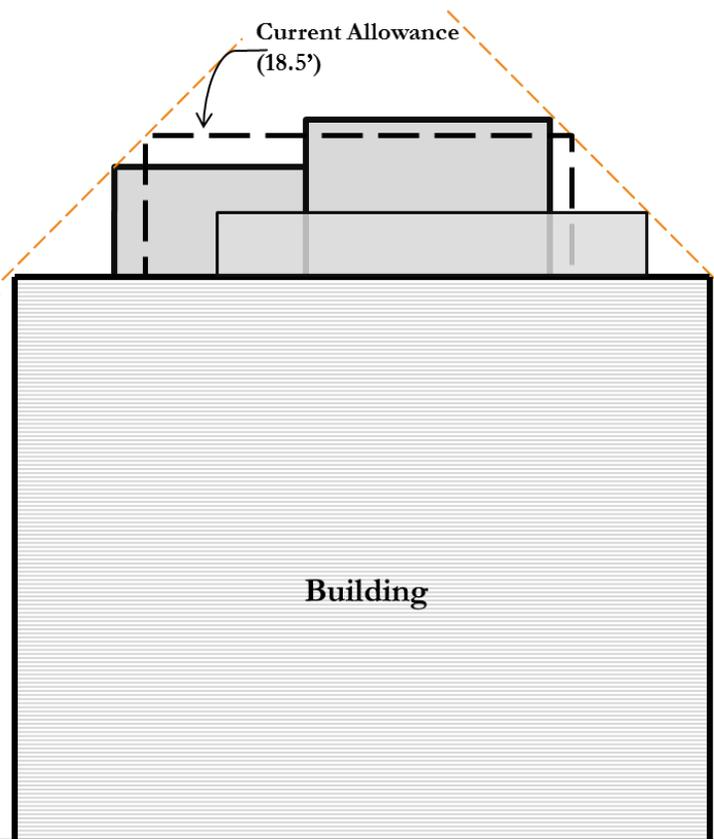
What are the proposals for penthouse walls?

- **Single Height:** Current zoning regulations require that the entire penthouse structure be of one height only – variation in penthouse structure height is not permitted. This can lead to penthouses that are larger than necessary, but can also result in a more unified penthouse design. Two alternatives were advertised:
 1. Retain the requirement that the walls of an enclosed penthouse shall be of equal height above roof level, but permit screening walls for mechanical equipment not contained within a penthouse to be of a second, uniform height.
 2. Delete the requirement that all penthouse walls be of equal height.

Alternative 1 (limit variation in height)



Alternative 2 (do not limit height variation)



What are the proposals for affordable housing linkage?

- Requiring an affordable housing linkage for the provision of habitable space within a penthouse would support broader DC objectives to address housing and housing affordability in the District, and would be consistent with housing linkage and affordable housing requirements of other regulations. The Zoning Commission examined alternatives for an affordable housing requirement for new penthouse space, balancing the feasibility of various options. The following proposals were generally supported by the Commission and members of the public, including developers and affordable housing advocates. Separate proposals for new habitable space in a penthouse for a residential building and for a non-residential building were proposed:

1. **Non-Residential Building:**

Establish a requirement that new habitable penthouse greater than 1,000 sq.ft. for a non-residential building provide affordable housing, using criteria generally consistent with a current housing linkage formula for new commercial space gained through a Planned Unit Development:

- 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, depending on the distance of the affordable housing from the subject site; 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.

2. **Residential Building:**

Apply current Inclusionary Zoning (IZ) provisions to new habitable residential space within a penthouse (i.e. penthouse space not currently permitted), 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).

Apply this requirement to new habitable penthouse space in zones and areas of the city where IZ currently does not apply.

As an alternative, the Commission is also considering requiring a deeper level of affordability for the IZ housing – 50% of AMI for all affordable housing required by this provision.

Other proposed changes:

- **Definitions** for “The Height Act” and for “Penthouse”, and an updated definition for “Story, top”.
- **Special Exception Relief:** Provide clarification of what is meant by “operating difficulties” as justification for special exception relief from penthouse requirements.
- **PUD Modification:** An approved PUD includes an “order” – a document that establishes exactly what can be constructed on the site. Other than very minor flexibility set out in the order, changes to the design or additions to the building – even if they conform to zoning regulations – are not permitted. The owner of a site with an approved PUD could not amend the penthouse design without a Zoning Commission public hearing, even if the changes would fully conform to any new penthouse provisions adopted by the Commission. As such, this amendment would allow the existing minor modification process for consent calendar review to apply in cases of a request to amend the approved penthouse design or use, subject to the following requirements:
 1. That the application include a dimensioned copy of the approved and the proposed roof-plan and elevations; a written comparison of the proposal to the zoning regulations; and verification that the affected ANC has been notified of the request.
 2. That the item not be placed on a Zoning Commission agenda for at least 30 days following the filing of the application.
 3. The submission of an OP report with analysis of the request.

As with any minor modification request, the Zoning Commission could remove it from their consent calendar and require a public hearing for the proposed changes.
- **Parking:** Current regulations do not require parking for penthouse space – not surprising, since most penthouse uses such as mechanical space would not result in increased parking demand. If habitable space is permitted, however, parking demand could also increase. The Commission is considering two options:
 1. Retain the current provision for mixed-use and industrial zones, that penthouse space not count towards parking requirements (residential zones do not currently have this exemption, so parking requirements would apply to any new residential penthouse space).
 2. Apply parking requirements of the zone and use to penthouse area such as additional residential units, office, or retail space, but not to communal recreation space.

Where to go for more information?

- www.planning.dc.gov (DC Office of Planning website) or <http://op-inions.com> (DC Office of Planning blog) for more detailed information
- www.dcoz.dc.gov (DC Office of Zoning website) – to view all submissions to date to the Zoning Commission for ZC Case 14-13
- Call or email Joel Lawson, Associate Director for Development Review, 202-442-8808; joel.lawson@dc.gov

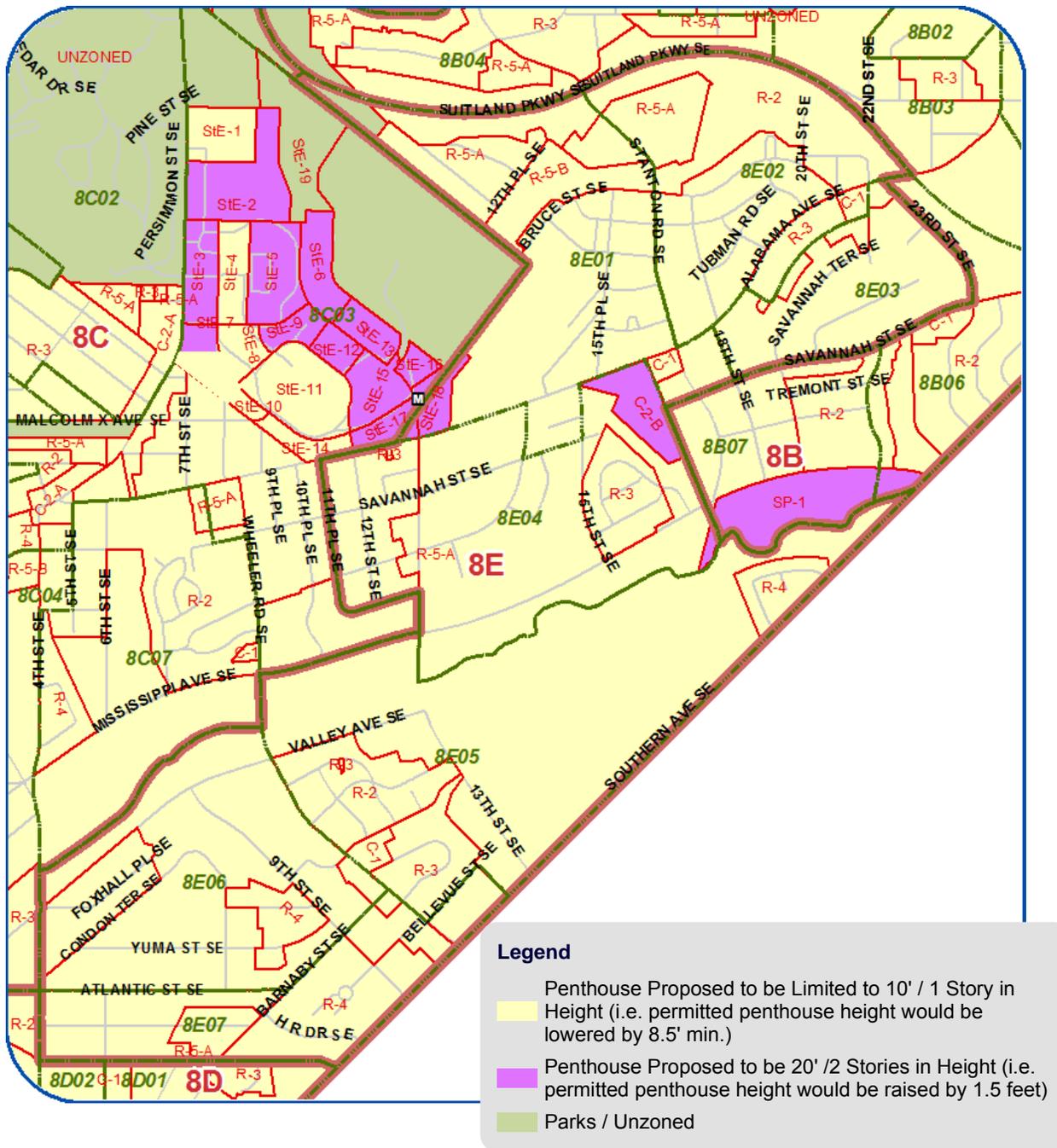
Where to go to provide comments?

- You may attend the Zoning Commission Public Hearing, to be held:
April 30, 2015 at 6:30 pm
441 4th Street, N.W. Suite 220-S
Washington, D.C. 20001
- You may submit written comments in advance of the public hearing to:
The Secretary of the Zoning Commission, DC Office of Zoning
Suite 210, 441 4th Street, N.W.
Washington, D.C. 20001.

Please include the case number, ZC 14-13, and your daytime telephone number.

For further information, please contact the Office of Zoning at (202) 727-6311.

ANC 8E - Proposed Penthouse Permitted Height and Number of Stories



Current penthouse regulations:

- Permit a height of 18'-6" for a rooftop penthouse in all zones;
- Do not limit the number of stories within a penthouse;
- Require a 1:1 setback from the edge of the roof below; and
- Do not permit most forms of "habitable" space within a penthouse.

The federal Height Act:

- Permits habitable space in a penthouse provided it is no more than 20 feet in height and one story.

Proposed penthouse regulations:

- Limit height to 10' / 1 story in any zone which limits building height to 50' or less.
- Permit a height of 20 feet / 2 stories in other zones, which permit a building with a height of more than 50 feet.
- Alternative: Do not permit a penthouse above a single family dwelling or flat in any zone.
- Alternative: Penthouses of 20' in height would also be limited to one story, with a second story for mechanical equipment only.
- Permit habitable space in a penthouse only in buildings permitting a height of 40 feet or more.
- Alternative: Permit habitable space in a penthouse only in buildings permitting a height of 50 feet or more.