

(slide 1). Good evening, my name is Guillermo Rueda, an architect with focused experience in bringing attention to zoning and building code matters affecting residential properties across the city. Thank you for this time to offer comments and suggestions to OP's 10/6/2017 Memorandum and Set down report amended on 1/8/2018. I appreciate the amount of effort and time put forth by the Offices of Planning and Zoning and to the Zoning Commission for hearing this. I SUPPORT many of the changes proposed and offer some suggestions and objections. The evolving language and recent addition of the power point presentation by the Zoning Administrator suggests there is still work to do to ensure consistent and informed interpretation of many zoning terms and regulations. His presentation discusses additional ideas beyond those stated in the 1/8/18 memo that would require further exploration.

Submission requirements. Proposed language needs to include submission requirements for applications. Drawings and analysis to depict the applicant's proposed conformance with the Zoning Regulations. Existing conditions, proposed work and referenced standards with defined terms should be recorded in one place on the drawings. Too many permit applications submit vague, incomplete drawings that should not be accepted for review that rely on the Zoning Reviewers or the Administrator to allow or disallow proposed work.

(slide 2) Cellar/ Basement language refinement to include stories (for zones that limit stories). The proposed definitions of basements and cellars should also include wording to account for stories that measure sufficiently above grade (basement) or below grade (cellar). Proposed text is as follows:

***Basement:** Any story or portion of a story partly below grade **where the finished floor of the ground floor**, is five feet (5 ft.) or more above the adjacent natural or finished grade, whichever is lower in elevation [as calculated in Subtitle B, Rules of Measurement.]

***Cellar:** Any story or portion of a story **partly below grade where the finished floor of the ground floor** is less than **five feet (5 ft.)** above the adjacent **natural or** finished grade, **whichever is lower in elevation** [as calculated in Subtitle B, Rules of Measurement.]

New OP language proposed in January about Mean Finished Grade (MFG), later removed in ZA's Exhibit 15.5, needs to be further explored for properties with variations in natural or finished

grade. MFG could be used to determine the BHMP, and also as a point of measure for stories above natural or finished grade and to calculate GFA. Cellars and Basements remain terms of building art that speak to their origin in regulations determining what should be considered habitable and chargeable to GFA. Because these revisions maintain the terms “basement” and “cellar” rather than “story—either above or below grade” habitability is by default at issue. Just as stories above grade are typically considered habitable with non-habitable rooms, spaces or attics, so too stories below grade are considered non-habitable with the possibility of habitable rooms or spaces. This suggests the addition of a defined term for habitable story or level. Keeping or creating code language that allows for development of single story dwelling units functionally below grade needs further consideration and creates the problem of areaways that struggle to keep small footprints for modern code acceptable stairways. **ADDENDUM NOTE:** Commissioner May’s example of a 6’ clear height basement is exactly why habitability does matter as part of zoning regulations and definitions that speak to GFA and perhaps story counts as well. The example highlights the situation where floor area below the ground floor is considered above ground (a basement). Is it therefore chargeable a story or GFA because it is not habitable (similar to an attic). Excavation would make it made habitable and potentially in violation if preceded by an additional story above. Just as an attic could be increased in height to create a story, a non-habitable basement could be excavated to be made habitable.

(slide 3). Finished Grade. The definition of finished grade in the 1/8/18 language is contradictory and seeks to formalize a long standing controversial interpretation that excludes areaways from finished grade. The presentation from the ZA acknowledges this. The proposed contradictory language after “OR” describes measuring finished grade at the top edge of a window well or areaway, which is typically defined by a retaining wall structure and should not be allowed.

(slide 4) Areaways. If the Commission agrees that areaways can be excluded from finished grade calculations, then finished grade MUST by definition be measured at the ground abutting the areaway structure (or at the top of stairs). There are too many examples where the

*top of an areaway wall has been used as the point of measure to establish whether the level below the ground floor is a cellar or a basement. **ADDENDUM NOTE:** It is my experience that areaways and other important grade related aspects of the Zoning regulations are not inspected or measured for compliance once built, unless and until there is a complaint or challenge from a neighbor or interested party. Enforcement by DCRA / Zoning of as-built vs permit plans remains the biggest issue in my opinion, that contributes to illegal construction and begs the question if any zoning rewrite would help alleviate the issues we face as a city without additional enforcement.*

(slide 5) Mean Finished Grade. *Rather than exclude areaways from finished grade, I would submit that using 1/8/18 idea of Mean Finished Grade to account for variations in finished or natural grade at the perimeter of the building needs to be further explored for BHMP determinations, story counts and GFA. The elevation of natural or finished grade can be counted as part of an average determined at a minimum of 3 points across a facade or at all corners and meaningful level changes. In this way the MFG will properly describe the elevation where a level or portion of a level below the ground floor is sufficiently above grade to count towards GFA.*

(slides 6-10) *To conclude my thoughts, I will point to various revisions to Sections B-304.4 and B-304.5 that describe how to determine GFA for attached and detached dwellings when determining FAR for a project. My thoughts are intended to be included for the record. My proposed language would in theory simplify the wording with the inclusion of defined terms to provide additional clarity that would presumably alleviate problems where Zoning interpretations for allowed development are leveraged against ‘development’ restrictions of the building code for reasons of life safety. Too often, zoning development has been allowed to trump life safety issues clearly identified by the Building code. This might be handled administratively at DCRA and not perhaps the purview of the regulations.*

Thank you for your time.

Discussion points:

- A. Is to include language in the ZPT that requires applicants to properly document how their projects meet the regulations.*
- B. Propose the incorporation of the word 'Story' to the ZPT definitions of Basement and Cellar and their relation to GFA.*
- C. Reiterate the importance of maintaining the definition for finished grade without modification to what constitutes the measuring point aka the ground abutting the perimeter of buildings or structures.*
- D. Suggest that the inclusion of "Mean Finished Grade" in the 1/8/18 OP text be properly explored as a defined term that relates to how areaways can contribute as part of the finished grade calculation to a basement or a cellar condition.*
- E. Submit language to the record that rewords Sections B304.4 and B304.5 in Rules for Measurement for GFA to include defined terms and to describe those portions that are above grade and count towards GFA. Instead of describing portions that do not.*