

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



**MEMORANDUM**

**TO:** Zoning Commission for the District of Columbia  
**FROM:** Travis Parker, Zoning Review Manager  
**DATE:** December 1, 2008  
**SUBJECT:** ZC Case 08-06-1

**Proposed Amendments to the Height Regulations 11 DCMR**

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On September 25, 2008, the Office of Planning (OP) presented preliminary recommendations for revisions to the height regulations as part of the Zoning Review Process. Members of the Zoning Commission left the record open for further comment and modification of the recommendations. Below are further discussion and OP recommendation changes based on comments heard at and after the public hearing.

**1. Streets with Multiple Frontages**

No new analysis or change to this recommendation.

**Recommendation #1**

*Any street abutting a building's property line may be used to determine the maximum height allowable, based on the street's width, designation, and height restrictions imposed by this Chapter. There should be no requirement for the presence of an entrance to designate a building "front" or "face."*

**2. Streets Fronting on Open Space**

The two sides of this issue are either to adopt the precedent from the Techworld building and measure for height across the full reservation, or follow a more conservative approach of using just one of the rights-of-way adjacent to the reservation. OP has heard many good arguments on both sides of this issue.

OP completely accepts the urban design perspective that our public reservations are monumental spaces that should be framed by larger buildings and that a system that bases the height of buildings on the width of the street should provide for the largest buildings on the largest open spaces. However, we also recognize the language of the Height Act to say that the height shall be determined by the "widest street, avenue, or highway" and does not seem to allow for combination or addition of the reservation itself.

Based on analysis in the September 15 report, OP identified only five possible reservations that would be limited to a height less than 130' under a more conservative interpretation. Based on

this analysis and the language of the Height Act, OP does not propose any change to this recommendation.

#### Recommendation #2

*When any portion of a building abuts a property line that is directly across a street from a public open space or reservation, the building's maximum allowable height may be determined by the width of any single right of way that is not divided by the public open space or reservation and that is adjacent and parallel to any single side of the open space or reservation*

### **3. Business vs. Residential Streets**

No new analysis or change to this recommendation.

#### Recommendation #3

*A "Residence street" would be any block face that contains any residential property located in a low to moderate density zone district, as those zones may be described after completion of the zoning review process, or any block face entirely made up of properties of any existing residential zone.*

*A "Business street" would mean any other block face. As with Recommendation A.1, a property adjacent to both a commercial and a residence street could choose its frontage and utilize the greater of the zones' permitted heights.*

### **4. Single vs. Multiple Buildings**

Both before and after the hearing, OP has received dozens more examples of single buildings that do not meet the tests outlined in our original recommendation. Based on the totality of comments received, OP retracts the suggested requirement that there be a connection on multiple floors.

There are three tests that OP recommends be included in the distinction between single and multiple buildings:

- 1) the connection is above ground, and
- 2) the connection is enclosed, and
- 3) the connection either:
  - a) is common space shared by users of all portions of the structure (e.g. a lobby or recreation room), or
  - b) allows open passage between separate portions of the structure (e.g. an unrestricted doorway or walkway)

One issue remains with regard to test #2 above. Some buildings in the District have been built with private alleys for truck or vehicle access. There are examples of buildings where structures completely separated by a private drive were connected as one building by a covered walkway across the driveway that also allowed truck passage beneath the cover. Comments by Holland & Knight have raised this issue both to avoid the creation of non-conformity in existing buildings and to determine whether this type of connection should be considered in determining single

buildings in the future. OP is open to a review of these situations on a case-by-case basis, but hesitates to recommend a blanket definition of building that would allow roofed-only connection with no enclosed walls across alleys, private or otherwise. This potential exemption is not included in our recommendation below, but should be discussed by the Commission in deciding on this recommendation.

#### Recommendation #4

*A "building" is a structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or tangible property. ~~When separated from the ground up or from the lowest floor up by common division walls, each separate portion shall be deemed a separate building unless there is open access between all portions on at least half of the shared floors. Two or more structures that are in all other respects physically separate from each other cannot be combined to form a single building through the introduction of any type of physical connection between the structures, including a trellis, walkway, garage or tunnel, at any location.~~ In order to be considered one "building" for zoning purposes, separate structures must be connected in the following way:*

*1) the connection is above ground, and*

*2) the connection is enclosed, and*

*3) the connection either:*

*a) is common space shared by users of all portions of the structure (e.g. a lobby or recreation room), or*

*b) allows open passage between separate portions of the structure (e.g. an unrestricted doorway or walkway)*

### 5. Location of Bottom Measuring Point

For the reasons outlined in the report and the testimony at the public hearing, OP recommends that the Commission adopt Option 2 of the original recommendation (see below). Option 2 reflects the existing process for measuring height that has been used for over 60 years. To change the precedent would result in the creation of dozens, if not more, cases of non-conformity across the city and the potential to further limit the already restrictive development potential in new development areas.

#### Recommendation #5

*Clarify the determination of the measuring point for building height when a building faces more than one street. Option 1: The street chosen to determine the maximum allowable height must also be used to determine the point from which building height is measured. Option 2: Any abutting street which a building faces may be used to determine the measuring point regardless of which abutting street is used to determine maximum allowable height.*

### 6. Elevation of Bottom Measuring Point

No change to the original OP recommendation. For the draft text that will follow preliminary approval of this concept, OP will examine an exception to this rule for when there is no curb.

#### Recommendation #6

*The height of a building shall be measured from the midpoint of the building's property line along a public street. The elevation for this point is determined by the level of the curb as approved by the District government plus a 2% gradient between the curb and the property line, up to a maximum height difference of 12 inches.*

## **7. Natural Grade & Artificial Grade**

This recommendation contains two parts, “natural grade” and areas of artificial elevation. A concern has been raised regarding areas of artificial elevation where the elevation level has been previously determined (e.g. L’Enfant Plaza, or the Portals development). The intent of the second part of this recommendation was to provide a way to calculate building elevation in areas that the determination had not previously been made and rely on precedent where it is available. OP has amended the recommendation to clarify this.

### **Recommendation #7**

*The “natural elevation” or “natural grade” of a property is the ground elevation that existed prior to the issuance of the first special or building permit, including a raze permit, needed to begin the construction of the building for which a height measurement is being made.*

*Where natural elevation, is interrupted by a bridge, viaduct, embankment, ramp, abutment, tunnel or other type of artificial elevation, the height of a building will not be measured from the human-constructed elevation, but will be measured from either a street frontage not affected by the artificial elevation, or from a level determined by the Zoning Administrator to represent the logical continuation of the surrounding street grid where height is not affected by the discontinuation of the natural elevation. Where the measuring point elevation has previously been determined for purposes of buildings and/or elevated streets, the previously recognized elevation will control.*

## **8. Top Measuring Point**

No new analysis or change to this recommendation.

### **Recommendation #8**

*Buildings shall be measured to the top of the roof including any parapet on exterior walls, or any other continuation of the exterior walls. When a building's measurement, inclusive of a the full height of a parapet or balustrade, is below the maximum permitted height under the Height Act, a parapet or balustrade of up to 4' may be excluded from the height measurement.*

## **9. Structures Permitted Atop a Roof**

No new analysis or change to this recommendation.

### **Recommendation #9**

*The following features may exceed the limitations on height set forth in this title, subject to the provisions of this section:*

- (a) Ornamental features limited to spires, towers, domes, pinnacles, and minarets, that are aesthetic, primarily vertical elements of a building, even if used to cover/hide/mask utilitarian or amenity features;
- (b) Utilitarian features including, but not limited to, mechanical equipment, safety railings, stairwell access, elevator penthouses, and building components or appurtenances dedicated to the environmental sustainability of the building; and
- (c) Amenity features such as structures accessory to communal outdoor recreation space, communal pergolas, communal enclosed recreation space, and structures limited to providing individual unit access to private, unenclosed space atop a roof.

*No structures for human habitation shall be constructed on a building's roof unless otherwise authorized by District law or regulation.*

#### **10. Height, Width and Massing of Structures Atop a Roof**

Based on comments at and after the public hearing, OP no longer recommends a limit to the height of ornamental features. In addition, OP recommends that the limitation of roof structure area be calculated not on roof area, but rather on building footprint. Using the roof area that results after required upper-story setbacks in certain areas can easily result in overly constrained roof structures.

##### **Recommendation #10**

*Space enclosed by walls on a roof shall be limited to 40% of ~~that roof's total area~~ the building's total footprint, but shall not count toward overall building FAR. The enclosing walls need not be vertical or of uniform height, and multiple roof structure enclosures shall be permitted.*

*Utilitarian and amenity features may not rise more than twenty feet (20 ft) above the roof.*

~~*Ornamental features should be restricted to those now permitted and may not rise more than thirty (30) feet above the roof, unless approved by the Board of Zoning Adjustment as a Special Exception.*~~

*Under Special Exception review, utilitarian and amenity features could be entirely enclosed within ornamental features not setback from exterior walls.*

#### **11. Roof Structure Setbacks**

The original OP recommendation would have allowed roof structures visible from the street along the side walls of open courts. The recommendation has been changed to require a setback in those locations and to reflect changes to the definition of exterior wall in Recommendation #12.

**Recommendation #11**

*Utilitarian and amenity features shall be set back at a distance at least equal to their height above the adjacent roof from (a) any exterior wall; ~~(b) any wall facing an alley;~~ (c) any wall facing a court open to a street; ~~(b)~~ (d) any wall that is set back from and facing a lot line,; and ~~(e)~~ (e) any lot line wall built higher than the greater of the neighboring building's actual height or matter-of-right height.*

*The following shall not be subject to the requirements of this section:*

*Skylights; Gooseneck exhaust ducts; and Plumbing vent stacks.*

*The Board of Zoning Adjustment may approve relief as a special exception from the requirements of this section where compliance would be impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area, provided that the intent and purpose of this chapter and title shall not be affected adversely.*

**12. Exterior Walls**

Based on the comments of the Commission at the public hearing and others since, OP agrees to remove its recommendation that alleys be considered “exterior walls” for the purposes of rooftop setbacks. This distinction is only relevant at the level of the Height Act. Alleys would still have a setback requirement under zoning at all heights, but would not be considered an exterior wall for purposes of the Height Act which would allow a special exception from the alley wall setback requirement at all heights.

**Recommendation #12**

*An exterior wall is any wall facing a public street, ~~alley, or any area dedicated to the District for the public use of pedestrians or vehicles.~~*