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**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** Travis Parker, Zoning Review Project Manager  
Stephen Cochran, Zoning & Special Projects Planner

**DATE:** October 12, 2010

**SUBJECT:** Supplemental Report for portions of ZC #08-06 – Zoning Regulations Review  
▪ General Height Chapter

ZONING COMMISSION  
District of Columbia

CASE NO. 08-06

EXHIBIT NO. 37

On September 20, 2010, the Zoning Commission held a public hearing on proposed language for the general zoning chapters on Height and on Use as a part of the zoning review. This report addresses issues raised at that hearing. It is supplemental to the Office of Planning (OP) report dated September 19, 2010. A blacklined version of the complete height-related text is attached to this report.

**1. Make more explicit the relationship between the height regulations in the District zoning text and height regulations in the federal Height Act.**

OP recommends the following revisions to the previously proposed §§ 400.2 and 400.3.

*400.3 In addition to the height limitations of the zoning regulations ~~described in this chapter~~, all buildings are ~~also~~ subject to and shall conform with the height limitations of D.C. Official Code 6-601.08 ("Height Act"). The regulatory interpretation of, and rules pertaining to, the Height Act, language adopted by the District Department of Consumer and Regulatory Affairs ("DCRA"), are located in Subtitle M.*

*402.1 This section provides rules of measurement for the purpose of determining compliance with zone height limitations. Unless otherwise stated, the rules of this section are identical to DCRA rules ~~applicable~~ for the measurement of building height under the Height Act, which appear in Subtitle M.*

**2. What is the timetable for DCRA's proposed codification of its interpretation of the Height Act?**

DCRA's legal counsel is reviewing the Zoning Administrator's draft regulations related to the Height Act. DCRA has not provided a timetable for the completion of this review or for the advertising of the proposed regulations.

**3. Eliminate all references to "street-based" height rules in the zoning text.**

The following changes to the amended notice of public hearing eliminate any remaining reference to street-based height regulations.

*401.3 Where the maximum height permitted within a zone differs from the maximum height permitted by ~~the street-based limitations~~ the Height Act, the more restrictive maximum height ~~will shall~~ apply.*

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~~401.5 Street-based limits and~~ *The height limits in each zone district apply to structures located in the public space included within the zone district's boundary.*

~~403.1 The following structures may be built above the street-based or~~ *limitations of the zone height, limitations subject to the conditions of this section: ...*

**4. For structures permitted atop a roof, change “over” roof elements to “enclosing” roof elements as appropriate.**

OP recommends the following revisions to the previously recommended § 403.1:

~~403.1 The following structures may be built above the street-based or zone height limitations, subject to the conditions of this section:~~

*(a) Spires;*

*(b) Towers, including towers erected from the ground;*

*(c) Domes, minarets, "pinnacles";*

*(d) Chimneys or smokestacks;*

*(e) Skylights;*

~~(f) Antennas;~~

~~(g) Penthouses over~~ *fully or partially enclosing utilitarian features including, but not limited to, mechanical equipment and its housing, elevators, and stairwells;*

~~(h) Building appurtenances dedicated to safety, including safety railings;~~

~~(i) Pergolas and similar architectural embellishments;~~

~~(j) Building components or appurtenances dedicated to the environmental sustainability of the building;~~

~~(k) Penthouses over~~ *fully or partially enclosing accessory-amenity features, such as communal enclosed recreation space, and structures accessory to outdoor recreation space; and.*

~~404.1 The Board may grant, by special exception, relief from §§ 403.2 (b) through (e) or § 403.4 if, in addition to meeting the general requirements of [§ 3104], the applicant demonstrates that granting the relief would not:~~

~~(a) Be incompatible with the purpose and intent of height regulations listed in §400.2 and not in conflict with the Height Act; or~~

~~(b) Result in adverse impact on:~~

~~(1) Existing solar or wind power generation facilities in the immediate vicinity; or~~

~~(2) The visual character of the surrounding neighborhood.~~

**5. Clarify how the point from which height is to be measured shall be determined when the location of that point is ambiguous.**

OP recommends changes to the language previously recommended for § 402.4; the addition of a new § 402.5, and the renumbering of the previously recommended §§ 402.5 and 402.6.

*402.4 When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using the first of the following four methods that is applicable to the site: ~~from either:~~*

- (a) ~~(d)~~ An elevation or means of determination established for a specific zone elsewhere in this title;*
- (b) ~~(e)~~ An elevation for the site that was previously determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors;*
- (c) ~~(a)~~ A street frontage of the building not affected by the artificial elevation; or*
- (d) ~~(b)~~ 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.*

**6. Include flats in § 402.5**

*402.56 One- and two-family dwellings, and any building setback from all lot lines by a distance at least equal to its own height, shall be measured from the ground level at the midpoint of the building face closest to the nearest public right-of-way.*

tp/slc

Attachment: Blacklined height chapter

## **ATTACHMENT 1:**

### **Proposed Chapter 4 in Title 11 Subtitle B: Revised October 12, 2010**

Changes from language discussed at the public hearing are ~~struck through~~ if deleted and underlined if added.

#### **CHAPTER 4 HEIGHT**

##### **400 INTRODUCTION TO HEIGHT REGULATION CHAPTER**

400.1 This chapter provides height regulations for the District. The provisions of this chapter apply to all zones.

400.2 The intent of regulating height is to:

- (a) Promote successful transitions between areas of differing density;
- (b) Ensure adequate light and air to neighboring properties and zones; ~~and~~
- (c) Provide vertical control to accommodate appropriate density and good design; and

400.3 In addition to the height limitations of the zoning regulations ~~described in this chapter~~, all buildings are also subject to and shall conform with the height limitations of the Height Act, (D.C. Official Code 6-601.08) ("Height Act"). The regulatory interpretation of, and rules pertaining to, the Height Act language adopted by the District Department of Consumer and Regulatory Affairs ("DCRA") is are located in Subtitle M.

##### **401 RELATIONSHIP TO THE LAND USE SUBTITLES**

401.1 In addition to the general regulations of this subtitle, each land use subtitle shall include a height regulations chapter containing height regulations specific to the zones within that subtitle, including tables identifying zone-specific height maximums, conditions, and exceptions.

401.2 Zone height limitations shall be codified and presented in the development standards table within each land use subtitle.

401.3 Where the maximum height permitted within a zone differs from the maximum height permitted by ~~the street-based limitations~~ the Height Act, the more restrictive maximum height ~~will~~ shall apply.

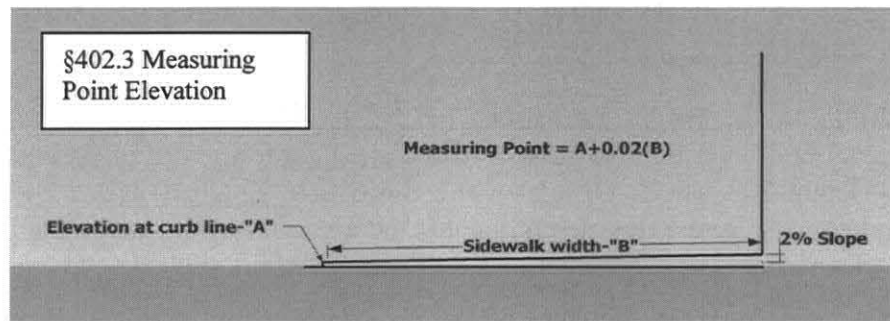
401.4 *Zone* height limits shall be stated in terms of feet, and shall be evenly divisible by five (5).

401.5 ~~Street-based limits and~~ The height limits in each zone district apply to structures

located in the public space included within the zone district's boundary.

## 402 GENERAL RULES OF MEASUREMENT

- 402.1 This section provides rules of measurement for the purpose of determining compliance with zone height limitations. Unless otherwise stated, the rules of this section are identical to DCRA rules ~~applicable~~ for the measurement of building height under the Height Act, which appear in Subtitle M.
- 402.2 The height of a *building* shall be measured from its midpoint along any abutting *street frontage*. Where no *street frontage* exists, the height of a *building* shall be measured from its midpoint along its façade nearest to a public street.
- 402.3 The measuring point for determining height shall be the elevation at the midpoint of the adjacent curb except as provided in §402.4, plus a two percent (2%) gradient between the curb and the property line, up to a maximum height difference of twelve inches (12 in.). When an adjacent curb does not exist, the elevation for the measuring point shall be the elevation at the property line midpoint, where the street right of way meets the property line.



- 402.4 When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a *building* shall be measured using the first of the following four methods that is applicable to the site ~~from either~~:
- (a) ~~(d)~~ An elevation or means of determination established for a specific zone elsewhere in this title.
  - (b) ~~(e)~~ An elevation for the site that was previously determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors; or
  - (c) ~~(a)~~ A street frontage of the building not affected by the artificial elevation; or
  - (d) ~~(b)~~ 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;.

402.5 One- ~~and two~~-family dwellings, and any building setback from all lot lines by a distance at least equal to its own height, shall be measured from the ground level at the midpoint of the building face closest to the nearest public right-of-way.

402.6 *Building* height shall be measured to the top of the roof including any parapet or balustrade on exterior walls, or any other continuation of the exterior walls. For purposes of calculating the *zone*-specific height, a parapet or balustrade of up to four feet (4 ft.) may be excluded from the height measurement. This exclusion does not apply in calculating maximum height for the street-based height limitation. This exclusion does not apply in calculating maximum height under the Height Act.

### 403 HEIGHT LIMIT EXCEPTIONS

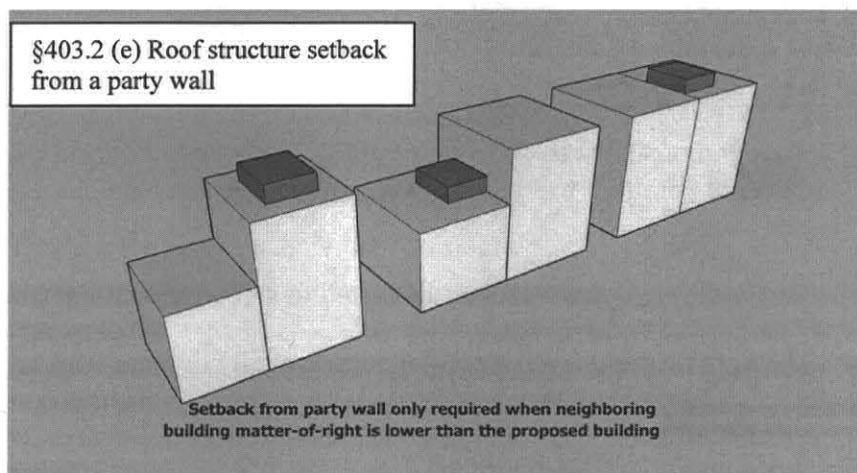
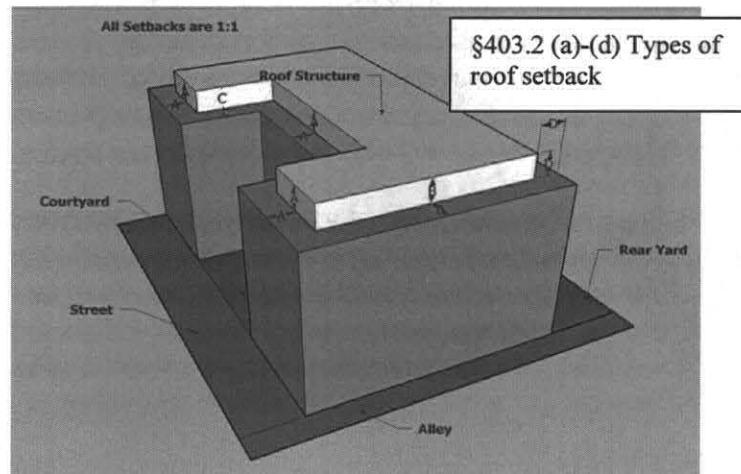
403.1 The following *structures* may be built above the ~~street-based~~ or zone height limitations, subject to the conditions of this section:

- (a) Spires;
- (b) Towers, including towers erected from the ground;
- (c) Domes, minarets, pinnacles;
- (d) Chimneys or smokestacks;
- (e) Skylights;
- (f) ~~(k)~~ Antennas.
- (g) ~~(f)~~ Penthouses ~~over~~ fully or partially enclosing utilitarian features, including, but not limited to, mechanical equipment and its housing, elevators, and stairwells;
- (h) ~~(g)~~ Building appurtenances dedicated to safety, including safety railings;
- (i) ~~(h)~~ *Pergolas* and similar architectural embellishments
- (j) ~~(i)~~ Building components or appurtenances dedicated to the environmental sustainability of the building;
- (k) (j) Penthouses ~~over~~ fully or partially enclosing accessory amenity features, such as communal ~~enclosed~~-recreation space, and structures accessory to outdoor recreation space, ~~and~~

403.2 A *structure* listed under § 403.1 (f) through (k) must be *setback* greater than or equal to its height above the roof on which it is situated from:

- (a) Any wall facing a public street;
- (b) Any wall facing a public alley;

- (c) Any wall facing a *courtyard* open to a public street;
- (d) Any wall that maintains a *setback* from and faces a lot line; or
- (e) Any wall that abuts a lot line and that is taller than the greater of the adjacent property's existing or matter-of-right height.



403.3 *Structures* listed under § 403.1 (f) through (k) shall not rise more than twenty feet (20 ft.) above the roof.

403.4 Space enclosed by walls on a roof is limited to forty percent (40%) of the *building's* total footprint.

#### **404 HEIGHT SPECIAL EXCEPTION STANDARDS**

404.1 The Board may grant, by special exception, relief from §§ 403.2 (b) through (e) or 403.4 if, in addition to meeting the general requirements of [§ 3104], the applicant demonstrates that granting the relief would not:

(a) Be incompatible with the purpose and intent of height regulations listed in §400.2 and not in conflict with the Height Act; or

(b) Result in adverse impact on:

(1) Existing solar or wind power generation facilities in the immediate vicinity; or

(2) The visual character of the surrounding neighborhood.