Government of the District of Columbia
OFFICE OF ZONING

Z.C. CASE NO.: 04-31

As Secretary to the Commission, I herby certify that on OCT 2 1 2005 copies of this Z C. Notice of Final Rulemaking & Order No. 04-31 were mailed first class, postage prepaid or sent by inter-office government mail to the following

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2 All ANCs

3 All Councilmembers

4 Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N W
Washington, D C 20004

5 Office of Planning (Ellen McCarthy)

6 Ken Laden, DDOT

7. Zoning Administrator

8 Julie Lee
General Counsel
941 North Capitol Street, N E
Suite 9400
Washington, D C 20002

9 Office of Attorney General

ATTESTED BY: Sharon S. Schellin
Sharon S. Schellin
Acting Secretary to the Zoning Commission
Office of Zoning

ZONING COMMISSION
District of Columbia
CASE NO. 04-31
EXHIBIT NO. 13

ZONING COMMISSION
District of Columbia
CASE NO.04-31
EXHIBIT NO.13

Linda W. Cropp, At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 504
Washington, D.C. 20004

Carol Schwartz, At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 404
Washington, D.C. 20004

Phil Mendelson, At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 402
Washington, D.C. 20004

Jack Evans – Ward 2
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 106
Washington, D.C. 20004

Adrian Fenty – Ward 4
Council of the District of Columbia
1350 Pennsylvania Avenue, N W.
Room 408
Washington, D.C. 20004

Sharon Ambrose – Ward 6
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W
Room 102
Washington, D.C. 20004

Marion Barry – Ward 8
Council of the District of Columbia
1350 Pennsylvania Avenue, N W.
Room 400
Washington, D.C 20004

Kwame R. Brown, At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 406
Washington, D.C. 20004

David A. Catania, At Large
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 110
Washington, D.C. 20004

Jim Graham – Ward 1
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 105
Washington, D.C. 20004

Kathleen Patterson – Ward 3
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 107
Washington, D.C. 20004

Vincent B. Orange, Sr. – Ward 5
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W
Room 108
Washington, D.C. 20004

Vincent C. Gray – Ward 7
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Room 506
Washington, D C. 20004

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Mack James, Chair
ANC 1A
P O Box 73115
Washington, DC 20056

Dee Hunter, Chair
ANC 1B
P O. Box 73710
Washington, DC 20056

Alan Roth, Chair
ANC 1C
P.O. Box 21009
Washington, DC 20009

Jack McKay, Chair
ANC 1D
P.O. Box 43529
Washington, DC 20010

Vince Micone, Chair
ANC 2A
St. Mary's Court
725 24th Street, NW
Washington, DC 20037

Darren Bowie, Chair
ANC 2B
9 Dupont Circle, NW
Washington, DC 20036

Leroy Thorpe, Jr , Chair
ANC 2C
1704 5th Street,N.W.
Washington, DC 20001

Sandra Perlmutter, Chair
ANC 2D
2122 California Street, NW
Washington, DC 20008

Ed Solomon, Chair
ANC 2E
3265 S Street, NW
Washington, DC 20007

Charles Reed, Chair
ANC 2F
Washington Plaza Hotel
10 Thomas Circle, NW
Washington, DC 20005

Melissa Lane, Chair
ANC 3B
Guy Mason Rec Center
P O Box 32312
Washington, DC 20007

Nancy MacWood, Chair
ANC 3C
2nd Dist. Police Station
2737 Devonshire Place, NW
Washington, DC 20008

Alma Gates, Chair
ANC 3D
P O Box 40846 - Palisades Station
Washington, DC 20016

Amy B McVey, Chair
ANC 3E
St Mary's Church
5425 Western Avenue, NW
Washington, DC 20015

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Karen Lee Perry, Chair
ANC 3F
Capital Memoral Church
4401-A Connecticut Ave., NW - Box 244
Washington, DC 20008

Robert Gordon, Chair
ANC 3G
Chevy Chase Community Center
P.O Box 6252 - Northwest Station
Washington, DC 20015

James H. Jones, Chair
ANC 4A
7600 Georgia Avenue, NW
Washington, DC 20012

Judi Jones, Chair
ANC 4B
25 Sheridan Street, NW
Washington, DC 20011

Karen Archer, Chair
ANC 4C
4426 9th Street, NW
Washington, DC 20011

Keith Jackson, Chair
ANC 4D
143 Kennedy Street, NW
Washington, DC 20011

Joseph L. Bowser, Chair
ANC 5A
1322 Irving Streets, NE
Washington, DC 20017

William C Shelton, Chair
ANC 5B
1355 New York Avenue, NE
Washington, DC 20002

James D Berry, Jr , Chair
ANC 5C
140 Bates Street, NW
Washington, DC 20001

Joseph V. Fengler, Chair
ANC 6A
P.O. Bod 75115
Washington, DC 20013

Scott Cernich, Chair
ANC 6B
921 Pennsylvania Avenue, SE
Washington, DC 20003

Mark Dixon, Chair
ANC 6C
P O Box 77876
Washington, DC 20013

Andy Litsky, Chair
ANC 6D
65 I Street, SW
Washington, DC 20024

Angela Thompson-Murphy, Chair
ANC 7A
4310 Texas Avenue, SE
Washington, DC 20019

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Raymond Keith, Chair
ANC 7B
2110 Suitland Terrace, SE
Washington, DC 20020

Muriel Chambers, Chair
ANC 7C
1027 46th Street, NE
Washington, DC 20019

Dorothy Douglas, Chair
ANC 7D
P.O. Box 64052
Washington, DC 20019

Naomi Robinson, Chair
ANC 7E
5001 Hanna Place, SE, Ste B
Washington, DC 20019

Anthony Muhammad, Chair
ANC 8A
P.O. Box 73878
Washington, DC 20056

Jacque Patterson, Chair
ANC 8B
3521 21st Street, SE
Washington, DC 20020

Mary Cuthbert, Chair
ANC 8C
3325 MLK Jr Avenue, SE
Washington, DC 20032

O V Johnson, Chair
ANC 8D
632 Elmira Street, SE
Washington, DC 20032

Sandra Seegars, Chair
ANC 8E
P O Box 7050
Washington, DC 20032

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 04-31
Z.C. Case No. 04-31
(Text Amendments to Definitions Section, 11 DCMR § 199)
July 11, 2005

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, as amended, D C Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D C Official Code § 6-641 03), and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District of Columbia Charter, hereby gives notice of the adoption of amendments to § 199 (Definitions) of the Zoning Regulations (Title 11 DCMR). The amendments will define the terms "clear height" and "clear or low-emissivity glass " The Commission took final action to adopt the amendments at a public meeting held on July 11, 2005

This final rulemaking is effective upon publication in the *D C Register*

Existing Regulations

The existing regulations do not provide definitions of either term. However "clear height" is a term that has been included in the text of pending map amendments that would establish the Takoma Neighborhood Commercial Overlay District (Z.C Case No 04-16) and the Mount Vernon Triangle sub-area of the Downtown Development District (Z.C. Case No 04-08) In addition to these proposed amendments, "Clear or low-emissivity glass" has also been used in the following overlays· Capital Gateway (§ 1604 6) Downtown Development District (§ 1701 5(a)), Southeast Federal Center (§§ 1803 3(e) & 1804 3(e)), and Uptown Arts-Mixed Use (§ 1903.4(a)) Without these amendments, "clear height" or "clear or low-emissivity glass" would need to be defined in each section in which the term was used This would be an unnecessary encumbrance to the Zoning Regulations

Description of Text Amendment

Given the multiple instances in which these terms now appear or are proposed to appear in the Zoning Regulations, the Office of Planning initiated this rulemaking to define these terms once, rather than defining them repeatedly within individual overlay or sub-district regulations These specifications reflect new industry standards for quality retail space and other space not intended

for living-units The clear height requirement, as defined, is intended to be flexible enough to change with interior and market needs over time, and to stimulate pedestrian activity

Relationship to the Comprehensive Plan

The amendments are not inconsistent with the goals of the Comprehensive Plan and are consistent with the following sections of the Comprehensive Plan: § 708.2, which advocates designing buildings to complement or enhance the physical character of the District; §709 2(i) which encourages design features such as storefront windows to promote pedestrian activity along streets, and §713.2, which emphasizes the design of functionally active commercial areas throughout the District, and the orientation of major new development toward the street in order to emphasize the public space as a setting for active use.

Public Hearing and Proposed Action

The Commission held a public hearing on March 31, 2005 and took proposed action immediately thereafter to approve the advertised text. There was only one comment at the hearing, a strongly supportive statement from the Retail Committee of the District of Columbia Building Industry Association. A Notice of Proposed Rulemaking was published in the *D.C Register* on May 27, 2005 at 52 DCR 5092, for a 30-day notice and comment period. No comments were received

The proposed rulemaking was also referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District of Columbia Charter. NCPC, by report dated April 28, 2005, found that the proposed text amendment would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan.

The Office of the Attorney General determined that this rulemaking meets its standards of legal sufficiency.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on July 11, 2005 No substantive changes were made to the advertised prepared text

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the amendment of 11 DCMR § 199 1, to insert the following new definitions, in proper alphabetical order

1 **Clear Height, Floor to Ceiling** – floor to ceiling height is a vertical distance measured from the finished floor to the finished ceiling that is unobstructed by any of the following:

(a) Elements of the building structure, other than columns and walls;
(b) Components of mechanical, plumbing, or fire suppression systems; or
(c) Components of electrical systems, except lighting fixtures.

If the ceiling is not finished, the distance shall be measured to the lowest point of any of the structural elements of systems referenced in (a), (b) or (c) above

2. **Glass, Clear and/or Low-Emissivity** – glass with a visible light transmission rating of at least seventy percent (70%) and an outdoor visible light reflectance rating of no greater than seventeen percent (17%).

Vote of the Zoning Commission taken at its public meeting on March 31, 2005, to **APPROVE** the proposed rulemaking 5-0-0 (Carol J. Mitten, Kevin L. Hildebrand, Anthony J Hood, Gregory N Jeffries, and John G Parsons)

This order was **ADOPTED** by the Zoning Commission at its public meeting on July 11, 2005, by a vote of **5-0-0** (Carol J Mitten, Anthony J Hood, Gregory N Jeffries, Kevin L. Hildebrand, and John G Parsons).

In accordance with the provisions of 11 DCMR § 3028.9, this order shall become effective upon publication in the *D C. Register*, that is, on OCT 2 8 2005

CAROL J. MITTEN
CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 04-31
Z.C. Case No. 04-31
(Text Amendments to Definitions Section, 11 DCMR § 199)
July 11, 2005

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C Register*.