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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance
From: Sharon S. Schelkin^{S3}
Secretary to the Zoning Commission
Date: May 14, 2008
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on May 23, 2008:

1. Z.C. Notice of Public Hearing (Case No. 08-06-1).

Attachment

ZONING COMMISSION
District of Columbia

CASE NO. 08-06-1

EXHIBIT NO. 1

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, July 10, 2008, @ 6:30 PM**
 Office of Zoning Hearing Room
 441 4th Street, N.W., Suite 220
 Washington, D.C. 2001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 08-06-1 (Comprehensive Zoning Regulations Rewrite: Height)

THIS CASE IS OF INTEREST TO ALL ANCs

This Notice of Public Hearing announces the first of several proposed subject areas the Zoning Commission for the District of Columbia (the "Commission") will considered under this docket. All such text offered by the Office of Planning under this docket have been reviewed by a working group and a subject matter task force as part of a process design to ensure full public participation. Nevertheless, this process cannot replace or limit the public hearing process required in the Zoning Act or the Commission' responsibility to consider the merits of each proposal submitted.

This hearing will consider general rules applicable to the measurement of height. The rules also set forth the circumstances under which parapets and roof structures may exceed otherwise applicable zoning height limitations, up to the limit allowed by the Height Act. In addition, the rules propose a revision to the definition of building and add a definition of exterior wall. If adopted, the Commission may later move the definitions to a definition section applicable to the entire title. As to the proposed definition of "exterior wall", this definition is not binding upon the Department of Consumer and Regulatory Affairs with respect to its interpretation of the same term, which appears in the Height Act, unless it adopts a similar provision.

This hearing, like all others to follow under this case number, is being scheduled without adherence to the set-down requirements stated at 11 DCMR § 3011 because the Commission waived the requirement at its public meeting held April 14, 2008. The Commission also waived the requirement that a pre-hearing statement be submitted before such hearing notices can be published.

Although the Commission may authorize the publication of a Notice of Proposed Rulemaking following or soon after this hearing, it may wait to take final action until after all hearings under this case number are concluded. In order to keep track of all text considered in this process, the Commission will utilize a numbering system different from that found in the District of Columbia Municipal Regulation. Ultimately, all text adopted will conform to the DCMR standard.

Title 11 DCMR (Zoning) is proposed to be amended as follows:

H ZONING HEIGHT LIMITATION

H.1 CHAPTER PURPOSE

- H.1.1 The purpose of this Chapter is to provide generally applicable regulations concerning the height of building and structures.
- H.1.2 Specific limitations of building height are stated within the chapters pertaining to each zone district.
- H.1.3 Except as provided in H.1.4, should there be any conflict between these rules, other provisions of this Title, or other provisions of any District of Columbia law or regulation, the strictest provision applies.
- H.1.4 The height of freestanding antenna towers and monopoles and the placement of antennas and related structures on buildings and structures are governed by Chapter ____ of this title.

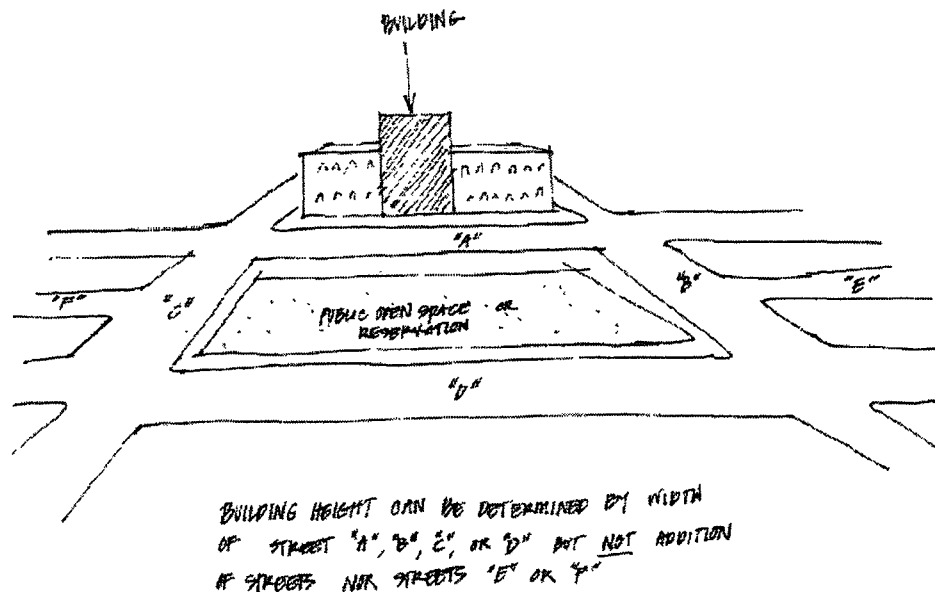
H.2 CONSISTENCY WITH HEIGHT ACT

- H.2.1 Pursuant to § 6 of the Zoning Act (D.C. Code § 6-641.06), the permissible height of buildings in any district shall not exceed the maximum height of buildings authorized upon any street in any part of the Height Act.
- H.2.2 For the purpose of administering this title, that portion of the Height Act that designates certain streets as "business streets" shall be interpreted to mean those sides of a block frontage containing any property located in a [*all zones other than low & moderate density residential*] zone district and the portion that designates certain streets as "residence streets" shall be interpreted to mean all other streets.

H.3 DETERMINATION OF MAXIMUM ZONING HEIGHT ALLOWED

- H.3.1 The provisions of this section repeat or paraphrase the provisions of the Height Act that also apply to the determination of height under this title.
- H.3.2 Any street abutting a building may be used to determine the maximum allowable building height permitted under this title, based on the street's width, designation, and height restrictions imposed by this Chapter. When a building abuts more than one street, the street chosen to determine maximum allowable height must also be used to determine the measuring point for building height. This measuring point will set the basis for all height measurements of the building.

- H.3.3 No building on a business street may be constructed to a height greater than the lesser of either 130 feet or twenty feet more than the street's right of way. However, a building located on the north side of Pennsylvania Avenue between First and Fifteenth Streets Northwest, may be constructed to 160 feet in height.
- H.3.4 No building on a residence street may be constructed to a height greater than the lesser of either 90 feet or the street width minus ten feet, except that buildings on residence streets less than 70 feet wide may be built to a height equal to the width of the street, up to a maximum of 60 feet.
- H.3.5 Where a street less than 90 feet wide has building restriction lines for the length of a particular block or blocks, the width of that/those block(s) for the determination of height shall include the full distance between the building restriction lines.
- H.3.6 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 abuts and runs parallel to any single side of the open space or reservation.



H.4 BOTTOM MEASURING POINT FOR HEIGHT

- H.4.1 Except as provided below, the height of a building shall be measured from the midpoint of the building frontage at the 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 between the level of the curb and the level of the property line.

- H.4.2 For the purposes of this section, the “natural elevation” or “natural grade” of a property is the 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.
- H.4.3 In those districts where the height of buildings is limited to forty feet (40 ft.), the height of a building shall be measured from the natural elevation at the midpoint of the building front.
- H.4.4 When a building is set back by a distance at least equal to its own height from all street frontages, the building height shall be measured from the natural elevation at the midpoint of the building face closest to the nearest street.
- H.4.5 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.

H.5 TOP MEASURING POINT

- H.5.1 Buildings shall be measured to the top of roof including any horizontal parapet, balustrade, or railing on exterior walls, or any other horizontally-oriented continuation of the exterior walls.
- H.5.2 If the height of the building as measured by H.5.1 is less than that allowed under the Height Act, the property owner may elect to exclude a parapet of up to 4' from in the height measurement.

H.6 DEFINITION OF BUILDING

- H.6.1 For the purposes of this title a “building” 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 all of the portions share mechanical systems and at least one floorplate, and there will be 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 can not 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.

H.7 STRUCTURES ABOVE HEIGHT LIMITATIONS

H.7.1 The following features may exceed the limitations on height set forth in this title, subject to the provisions of this section:

- (a) Ornamental features that are aesthetic, primarily vertical elements of a building, even if used to cover/hide/mask utilitarian or amenity features, limited to spires, towers, domes, pinnacles, and minarets.
- (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 communal enclosed recreation space, structures accessory to outdoor recreation space, pergolas, and structures providing individual unit access to private, unenclosed space atop a roof.

H.7.2 Ornamental features, such as described in § H.7.1(a) may not rise more than thirty (30) feet above the roof, unless approved by the Board of Zoning Adjustment as a Special Exception.

H.7.3 Except as provided by H.7.3 and H.7.9, utilitarian and amenity features such as described in §§ H.7.1(b) and H.7.1(c), respectively, may not rise more than twenty feet (20 ft) above the roof, and must be set back in accordance with H.7.5 from: (a) any exterior wall as defined H.7.4, (b) any wall facing a lot line that is set back from the lot line, and (c) any lot line wall built higher than the greater of the neighboring building's actual height or matter-of-right height.

H.7.4 The setback required by H.7.3 shall be a distance at least equal to the height of the equipment or feature above the roof upon which it is located.

H.7.5 An exterior wall means any wall facing a public street or alley, as shown on the Records of the DC Surveyor, or any area dedicated to the District and accepted by the Council for the use of pedestrians or vehicles.

H.7.5 An identical definition of the term "exterior wall" appears at __ DCMR __ for the purposes of determining the set back required by Section 5 of the Height Act (D.C. Official Code § 6-601.05 (h)).

- H.7.4 Utilitarian and amenity features, such as described in H.7.1(b) and H.7.1 (c), respectively, located entirely within an ornamental feature as described in H.7.1 may be relieved of setback requirements, if approved by the Board of Zoning Adjustment as a Special Exception.
- H.7.5 Roof structures on one and two family dwellings must be set back from all exterior walls and from all walls facing lot lines except party walls less than five feet higher than the roof of the existing abutting structure.
- H.7.6 Space on a roof enclosed by walls shall be limited to 40% of that roof's total area, but shall not count toward overall building FAR.
- H.7.7 No structures for human habitation shall be constructed on a building's roof unless authorized by District law or regulation.
- H.7.8 The following shall not be subject to the requirements of this section:
- (a) Skylights;
 - (b) Gooseneck exhaust ducts; and
 - (c) Plumbing vent stacks.
- H.7.9 The Board of Zoning Adjustment may approve, as a special exception, and subject to the Height Act, relief from the requirements of Sections H.7.2, H.7.3, H.7.5, or H.7.6 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.

PROCEDURES

The public hearing on this part of Case No. 08-06 will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. The Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

**Z.C. NOTICE OF PUBLIC HEARING
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Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C. 20001. Please include the number of the particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, CURTIS L. ETHERLY, JR., GREGORY N. JEFFRIES, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.