

TO: District of Columbia Zoning Commission
FROM: ^{JLS} Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: May 14, 2018
SUBJECT: ZONING COMMISSION 17-18: Supplemental Report – Request for a Text Amendment to the Zoning Regulations: Subtitle B - Definitions and Rules of Measurement and Other Changes and Correlating Rules in Subtitles D, E, F, J and K.

I. RECOMMENDATION

The Office of Planning (OP) recommends approval of the text amendments to the following zoning regulations as detailed in Section III:

- 1) Revision to Definitions (Subtitle B, Chapter 1) of:
 - Areaway (note: this change is being proposed after the public hearing)
 - Basement
 - Building area
 - Building, Height of
 - Building Height Measuring Point (BHMP)
 - Cellar
 - Floor Area Ratio (FAR)
 - Grade, Finished
 - Grade, Natural (note: this change is being proposed after the public hearing)
 - Gross Floor Area
 - Habitable Room
 - Story (note: this change was proposed after setdown)
 - Window well (note: this new definition is being proposed after the public hearing)
- 2) Revision to Rules of Measurement (Subtitle B, Chapter 3) for:
 - Gross Floor Area
 - Building Height: Non-Residential Zones
 - Building Height: Residential Zones
 - Number of Stories (note: this change is being proposed after the public hearing)
 - Areaway and Window Well Width for New Multiple Dwelling Developments in RA, NC, and MU Zones (note: this is being proposed after the public hearing)
- 3) Revision to specific zoning regulations as a result of proposed changes to Rules of Measurement
- 4) New regulations related to vesting (note: this change is being proposed after the public hearing)

II. BACKGROUND

After more than one year working with the ZR16 regulations and reviewing issues that have arisen with the Office of the Zoning Administrator (OZA), OP proposed amendments to the regulations intended to refine and clarify definitions and rules related to building height, adjacent grade, basements, cellars, and gross floor area. The goal is to provide clarity of intent for more consistent interpretations and to clarify Definitions from Rules of Measurement.

Since the text amendment was set down on October 16, 2017 and the Public Hearing was held on January 18, 2018, OP and the OZA staff have continued to work together and now propose vesting regulations as well as

some additional changes to the text of the Definitions and Rules of Measurement as specifically noted in Section III.

The proposed amendments establish measuring basements and cellars to the top of the finished floor of the “ground floor” (a defined term) instead of to the ceiling of the basement/cellar and adjust the height above/below grade to five feet instead of four feet; establish the measuring point as the lower of either adjacent natural or finished grade, and move some language currently in the Definitions of “Heights of Buildings” and “Gross Floor Area” to the Rules of Measurement section. Additionally, portions of the definition of “Story” were removed since they are duplicative of language contained under Rules of Measurement for Number of Stories, which is a more appropriate location.

As a result of proposed changes to Definitions and Rules of Measurement, a few specific regulations in other subtitles were revised to align with the proposed amendments. These are detailed in Section IV.

At the Public Hearing, there were a number of comments raised by the public and the Zoning Commission, and the Commission asked OP to provide more information on these topics. The supplemental information is provided in this report in the form of a matrix. As a separate case OP will examine how below grade space should be counted toward gross floor area, floor area ratio, and stories, as well as parking building codes and nonconformities. OP recommends that the Zoning Commission consider the current text amendments as proposed in this report.

III. PROPOSED TEXT AMENDMENTS

The Office of Planning recommends approval of the proposed text amendments listed in this section. It is important to note that a few of the proposed text amendments have had minor modifications from setdown report to hearing report, and a few additional changes have been proposed in this report. The new changes have been highlighted in this report and the other changes were noted in the hearing report and are now incorporated into the proposed text. The matrix of comments from the public hearing and responses can be found in Section IV. A summary of how the Public Space Committee reviews areaways in public space can be found in the Appendix.

The text in black with a ~~strike through~~ line is proposed to be deleted

The text in blue is proposed to be moved from “Definitions” to “Rules of Measurement”

The text in red is new proposed text.

A. AMEND SUBTITLE B § 100.2 – DEFINITIONS

Areaway: A subsurface space adjacent to a building open at the top or protected at the top by a grating or guard ~~that includes window wells~~ and passageways accessing basement/cellar doors.

Basement: That portion of a story partly below grade ~~where the finished floor of the ground floor,~~ the ceiling of which is four feet (4 ft.) ~~is five feet (5 ft.)~~ or more above the adjacent ~~natural or~~ finished grade, ~~whichever is the lower in elevation.~~

Building Area: The maximum horizontal projected area of a principal building and its accessory buildings. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title, ~~nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property.~~

Building area shall not include: Building components or appurtenances dedicated to the environmental sustainability of the building; cornices and eaves; sills, leaders, belt courses, and similar ornamental or structural features; awnings, serving a window, porch, deck or door; uncovered stairs, landings, and wheelchair ramps that serve the main floor; and chimneys, smokestacks, or flues.

Building, Height of: ~~In other than R, RF, RA, RC 1, CG 1, and D 1 zones, the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residential (R) zones the vertical distance measured at the existing natural grade at the midpoint of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. Berms or other forms of artificial landscaping shall not be included in measuring building height or stories.~~

~~The term “curb” shall refer to a curb at grade. 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 Rules of Measurement for Height (Subtitle B § 308). **The vertical distance measured from the Building Height Measuring Point (BHMP) to a point designated in a zone district, subject to limitations in the regulations.**~~

Building Height Measuring Point (BHMP): ~~The point used to measure building heights in R, RF, and RA zones.~~ **The point used in measuring building heights in a zone, subject to limitations in the regulations. See also, Subtitle B, Rules of Measurement.**

Cellar: That portion of a story **partly below grade where the finished floor of the ground floor,** ~~the ceiling of which is less than four feet (4 ft.)~~ **five feet (5 ft.)** above the adjacent **natural or** finished grade, **whichever is the lower in elevation.**

Floor Area Ratio (FAR): ~~The ratio of the total gross floor area of a building to the area of its lot, determined by dividing the gross floor area of all buildings on a lot by the area of that lot. See Also: Subtitle B §§ 304 and 305~~ **Chapter 3, Rules of Measurement.**

Grade, Finished: The elevation of the ground directly abutting the perimeter of a building or structure **or directly abutting a permitted exception. Exceptions to finished grade are:**

- (i) **a window well that projects no more than four feet (4 ft.) from the building face; and**
- (ii) **an areaway that provides direct access to an entrance and projects no more than five feet (5 ft.) from the building face, and is not more than five feet (5 ft.) wide along the face of the building; this areaway measurement does not include associated stairs or ramps.**

Grade, Natural: The undisturbed elevation of the ground of a lot prior to human intervention; or where there are existing improvements on a lot, the established elevation of the ground, exclusive of the improvements or adjustments to the grade made in the ~~two (2)~~ **five (5)** years prior to applying for a building permit; ~~natural grade may not include manually constructed berms or other forms of artificial landscaping.~~ **Exceptions to natural grade are:**

- (i) **a window well that projects no more than four feet (4 ft.) from the building face; and**
- (ii) **an areaway that provides direct access to an entrance and projects no more than five feet (5 ft.) from the building face; this areaway measurement does not include associated stairs or ramps.**

Gross Floor Area (GFA): **Unless otherwise specified,** ~~The~~ **the** sum of the gross horizontal areas of ~~the several~~ **all** floors of all buildings on a lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings. See Also: Subtitle B §§ 304 and 305 **Chapter 3, Rules of Measurement.**

Habitable Room: An undivided enclosed space used for living, sleeping, or kitchen facilities. Unless otherwise specified, The **the** term “habitable room” shall not include attics, cellars, corridors, hallways, laundries, serving or storage pantries, bathrooms, or similar space; neither shall it include mechanically ventilated interior kitchens less than one hundred square feet (100 sq. ft.) in area, nor kitchens in commercial establishments.

Story: The space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. ~~The number of stories shall be counted at the point from which the height of the building is measured.~~ See Also: Subtitle B, Chapter 3, Rules of Measurement.

~~For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.~~

Window well: A subsurface space adjacent to a building open at the top or protected by a grating or guard that affords access, air, light, or emergency egress to a basement window.

B AMEND RULES OF MEASUREMENT - SUBTITLE B §§ 304, 307, AND 308 AND ADD RULES OF MEASUREMENT §§ 310 and 329

304 RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA)

304.1 GFA is measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings.

304.2 Non-residential floor area shall be the total GFA of a building not dedicated to one (1) of the following uses: (a) Residential; (b) Community-based institutional facility; (c) Emergency shelter; (d) Lodging use with less than thirty (30) rooms; (e) Guest rooms and service areas of a lodging use with thirty (30) or more rooms; or (f) Education uses that are operated or chartered by the District government.

304.3 The GFA of a lodging use dedicated to function rooms, exhibit space, commercial adjuncts and any other use not considered guest room or service area shall be considered non-residential floor area.

304.4 For a building entirely detached from any other building, ~~calculation of GFA for the portion of a story located~~ **below the finished floor of the ground floor and partly above partially below adjacent natural or** finished grade **shall be calculated by the perimeter-wall method** as follows:

(a) Measure the portions of the perimeter of the story ~~located partially below the~~ **finished floor of the ground floor that are five feet (5 ft.) or more above the adjacent natural or finished grade, whichever is the lower in elevation** ~~finished grade that have a height greater than or equal to four (4) feet when measured between the finished grade, and the ground floor of the story above;~~

(b) Measure the total perimeter of the story ~~located partially below finished grade~~ **below the finished floor of the ground floor;**

(c) Divide the distance of the result of paragraph (a) by the distance of the result of paragraph (b); and

(d) Multiply ~~this~~ **the result from (c)** by the total floor area of the story ~~located partially below finished~~ **below the finished floor of the ground floor.**

304.5 For a ~~building attached at any point to a neighboring building~~ **semi-detached or attached building,** GFA of **for** the portion of a story **below the finished floor of the ground floor,** ~~located partially below~~ **and**

partly above adjacent natural or finished grade shall be calculated by the grade-plane method as follows:

- (a) Establish a line between the midpoint of a building façade facing the nearest street at the adjacent natural or finished grade, whichever is the lower in elevation, and the midpoint of the opposite ~~building~~ façade of the building at the adjacent natural or finished grade, whichever is the lower in elevation, subject to the following:
 - (1) For any excavations projecting from the building facing the nearest street or from the opposite façade of the building that are not permitted exceptions to natural or finished grade, the elevation of the midpoint of a building façade shall be the equivalent of the lowest such elevation; however, this does not include existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way.
- (b) Determine the portion of this line that is five feet (5 ft.) or more below ~~where the distance between it, and the ground~~ finished floor of the ground floor of the story ~~directly above, is greater than or equal to six (6) feet;~~
- (c) Project a perpendicular line from the point along the line described in paragraph (b) to the exterior walls of the building; and
- (d) Measure the floor area that is between the projected perpendicular line and the other portions of the ~~story that are~~ with a height greater than or equal to six feet (6 ft.) five feet (5 ft.) or more below the finished, ~~when measured from the perpendicular line to the ground floor of the story above~~ ground floor.

304.6 GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses (unless otherwise specified); attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.

304.7 GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.

304.8 For an existing building where the finished floor of the ground floor is removed or altered in elevation in association with a renovation where a raze of the building has not occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for calculating the gross floor area pursuant to B-304.4 and B-304.5.

307 RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES

307.1 In other than R, RF, RA, RC 1, CG 1 and D 1 residential zones, as defined in Subtitle A §101.9, the building height shall be the vertical distance measured from the building height measuring point (BHMP) at the level of the curb, opposite the middle of the front of the building, to the highest point of the roof or parapet or a point designated by a specific zone.

- 307.2 Unless otherwise restricted or permitted in this title, in those zones in which the height of the building is limited to forty feet (40 ft.), the height of the building ~~may~~ **shall** be measured from **the BHMP at the adjacent natural or finished grade, whichever is the lower in elevation,** level at the middle of the front of the building to the ceiling of the top story.
- 307.3 In those zones in which the height of the building is limited to sixty feet (60 ft.), in the case of a building located upon a terrace, the height of the building may be measured from the top of the terrace to the highest point of the roof or parapet, but the allowance for terrace height shall not exceed five feet (5 ft.).
- 307.4 Except as provided in Subtitle B § 307.6, where a building is removed from all lot lines by a distance equal to its proposed height above **the adjacent natural or finished grade, whichever is the lower in elevation,** the height of building shall be measured from the **BHMP at the adjacent natural or finished grade, whichever is the lower in elevation,** at the middle of the front of the building to the highest point of the roof or parapet.
- 307.5 Except as provided in Subtitle B § 307.7, if a building fronts on more than one (1) street, any front may be used to determine the maximum height of the building; but the basis for the height of the building shall be determined by the width of the street selected as the front of the building.
- 307.6 Except as provided in Subtitle B § 307.4, in those zones in which the height of building is permitted to be ninety feet (90 ft.) or greater, the height of buildings shall be measured from the finished grade level at the middle of the front of the building to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.
- 307.7 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 (4) methods that is applicable to the site: (a) An elevation or means of determination established for a specific zone elsewhere in this title; (b) An elevation for the site that was determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors; (c) A street frontage of the building not affected by the artificial elevation; or (d) 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.
- 307.8 The term “curb” shall refer to a curb at grade. 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 Rules of Measurement for Height in this section.**
- 308 RULES OF MEASUREMENT FOR BUILDING HEIGHT: ~~R, RF, RA, RC-1, CG-1, AND D-1~~ RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9**
- 308.1 The height of buildings, not including a penthouse, in ~~R, RF, RA, RC-1, CG-1, and D-1~~ **residential** zones, **as defined in Subtitle A § 101.9,** shall be measured in accordance with the rules provided in this section. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.
- 308.2 The building height measuring point (BHMP) shall be established at the ~~existing~~ **adjacent natural or finished grade, whichever is the lower in elevation,** at the mid-point of the building façade of the

principal building that is closest to a street lot line. **If any areaway(s) or other excavation project more than five feet (5 ft.) or window well(s) project more than four feet (4 ft.) from anywhere along the building façade facing the nearest street, the BHMP shall be the equivalent of the lowest elevation of the areaway(s), excavation, or window well(s) along the façade, excluding:**

- (a) driveways directly connecting a garage and public right of way, only where existing,**
or
- (b) for building permit applications officially accepted by the Department of Consumer and Regulatory Affairs as being complete prior to the effective date of this title, so long as the driveway is not expanded in width along the façade.**

- 308.3 The height of a building with a flat roof shall be measured from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.
- 308.4 The height of a building with a roof that is not a flat roof shall be measured as follows: (a) From the BHMP to the average level between the highest eave, not including the eave of a dormer and the highest point of the roof; and (b) Where there are no eaves, the average level shall be measured between the top of the highest wall plate and the highest point of the roof.
- 308.5 The height of a building permitted to be ninety feet (90 ft.) shall be measured from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.
- 308.6 Where a building is removed from all lot lines by a distance equal to its proposed height above grade, the height of building shall be measured from the BHMP to the highest point of the roof or parapet.
- 308.7 If a building fronts on more than one (1) street, any front may be used to determine street frontage; but the basis for measuring the height of the building shall be established by the street selected as the front of the building.
- 308.8 A conforming structure in existence on June 14, 2013, that would have been rendered nonconforming as a result of the adoption of amendments to this section made in Z.C. Order No. 12-11, shall be deemed conforming; provided that the height of the structure may neither be increased or extended.

310 RULES OF MEASUREMENT FOR NUMBER OF STORIES

- 310.1 The number of stories shall be counted at the point from which the height of the building is measured.
- 310.2 For the purposes of determining the maximum number of permitted stories, the term “story” shall not include cellars or penthouses.
- 310.3 Except in the RF zones, a mezzanine shall not be considered a story in determining the maximum number of permitted stories.
- 310.4 In an RF zone, a mezzanine shall be considered a story in determining the maximum number of permitted stories within a principal structure, but shall not be considered a story in determining the maximum number of permitted stories within an accessory building.

310.5 **Where there are multiple elevations for the finished floor of the ground floor, the height used for counting the number of stories shall be determined by the highest elevation of the finished floor.**

310.6 **For an existing building where the finished floor of the ground floor is removed or altered in height in association with a renovation where a raze of the building has not occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for counting the number of stories.**

C. CLARIFICATION OF SPECIFIC REGULATIONS AS A RESULT OF PREVIOUS CHANGES

Subtitle D

207.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

Subtitle E

§§ 303.5, 403.5 and 603.4

A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

Subtitle F

203.4 Except as provided in Subtitle F §§ 203.2 and 203.3, a building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

Subtitle J

203.3 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.) not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

Subtitle K

305.2 The measurement of building height shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by ~~Subtitle C, Chapter 5~~ **Subtitle B § 307.1.**

D. TEXT RELOCATION

Some text has been proposed to be moved from Definitions to Rules of Measurement as noted in Section IV-B.

E. DEFINE VESTING RULE UNDER SUBTITLE A

301 BUILDING PERMITS

301.15 Notwithstanding Subtitle A § 301.4, any building permit application (including a foundation-to-grade permit application) (the Permit Application) may be carried to completion with applicable rules in place prior to the effective date of Order No. 17-18, if the permit application was legally filed with, and accepted as complete, by the Department of Consumer and Regulatory Affairs prior to the effective date of Order No. 17-18.

IV. MATRIX OF COMMENTS FROM PUBLIC HEARING AND DECISION POINTS

A. AMEND SUBTITLE B § 100.2 – DEFINITIONS

Proposed Amendment: Basement:

Basement: That portion of a story partly below grade where the finished floor of the ground floor, the ceiling of which is ~~four feet (4 ft.)~~ **is five feet (5 ft.)** or more above the adjacent natural or finished grade, **whichever is the lower in elevation.**

DCRA comments:

Taking the lower in elevation of natural (“existing”) or finished grade is intended to discourage the strategic raising of finished grade to create a cellar.

Public comments:

- Five feet may not allow adequate space between ceiling and floor (DC BIA suggests 6’)
- Concern about lowering floors
- Add additional language to regulate alteration of floor levels in relation to adjacent properties
- Add “Any story or...” to start of definition

Zoning Commission comments:

- How do the regulations address a split-level ground floor? Maybe add language to address that.
- May need to address potential lowering of floor in gut renovations

OP Recommendation:

This would change the measuring surface from ceiling to the “finished floor of the ground floor.” This will help avoid the use of artificially dropped ceilings and clarifies the use of the “ground floor” which is a defined term in the regulations. OP supports five feet as the dimension to the top of floor, and proposes to make it consistent with the Rules of Measurement 304.4 and 304.5. OP confirmed with DCRA that one foot is standard in the construction industry for the ceiling to floor dimension. DCRA has proposed new Rules of Measurement as Subtitle B Sections 310.5, 310.6 and 304.8 to address floor levels in split level and gut renovation scenarios (see Section IV. B.).

Zoning Commission Decision:

Proposed Amendment: Building Area

Building Area: The maximum horizontal projected area of a principal building and its accessory buildings. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title, nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property.

Building area shall not include: Building components or appurtenances dedicated to the environmental sustainability of the building; cornices and eaves; sills, leaders, belt courses, and similar ornamental or structural features; awnings, serving a window, porch, deck or door; uncovered stairs, landings, and wheelchair ramps that serve the main floor; and chimneys, smokestacks, or flues.

OP Recommendation:

This removes the allowance for space that is still above grade. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Height of Building

Building, Height of: ~~In other than R, RF, RA, RC-1, CG-1, and D-1 zones, the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residential (R) zones the vertical distance measured at the existing natural grade at the midpoint of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. Berms or other forms of artificial landscaping shall not be included in measuring building height or stories.~~

~~The term “curb” shall refer to a curb at grade. 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 Rules of Measurement for Height (Subtitle B § 308). **The vertical distance measured from the Building Height Measuring Point (BHMP) to a point designated in a zone district, subject to limitations in the regulations.**~~

OP Recommendation:

Strikethrough blue text is moved to Rules of Measurement B-308. With the changes proposed in this text amendment, height will be measured from the lower of natural or finished grade and berming will not be an issue and as such the berm text is no longer proposed for relocation. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Building Height Measuring Point

Building Height Measuring Point (BHMP): ~~The point used to measure building heights in R, RF, and RA zones.~~ The point used in measuring building heights in a zone, subject to limitations in the regulations. See also, Subtitle B, Rules of Measurement.

Public comments:

Consider the use of three points to measure mean height.

OP Recommendation:

This proposed change recognizes that a BHMP is used in all zones. The Zoning Commission recently supported the use of BHMP as the measuring location and it has been widely accepted. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Cellar

Cellar: That portion of a story partly below grade where the finished floor of the ground floor, ~~the ceiling of which is less than four feet (4 ft.)~~ five feet (5 ft.) above the adjacent natural or finished grade, whichever is the lower in elevation.

DCRA comments:

Taking the lower in elevation of natural (“existing”) or finished grade is intended to discourage the strategic raising of finished grade to create a cellar.

Public comments:

- Five feet may not allow adequate space between ceiling and floor (DC BIA suggests 6’)
- Add “Any story or...” to start of definition

Zoning Commission comments:

- How do the regulations address a split level ground floor? Maybe add language to address that.

OP Recommendation:

This changes the measuring surface from ceiling to the “finished floor of the ground floor.” This change will help avoid the use of artificially dropped ceilings and clarifies the use of the ground floor, which is a defined term. OP supports five feet as the dimension to the top of floor, and proposes to make it consistent with the Rules of Measurement 304.4 and 304.5. DCRA has proposed new Rules of Measurement as Subtitle B Sections 310.5, 310.6 and 304.8 to address the split level scenario (see Section IV. B.).

Zoning Commission Decision:

Proposed Amendment: Floor Area Ratio

Floor Area Ratio (FAR): The ratio of the total gross floor area of a building to the area of its lot; ~~determined by dividing the gross floor area of all buildings on a lot by the area of that lot.~~ See Also: Subtitle B §§ 304 and 305
Chapter 3, Rules of Measurement

OP Recommendation:

The text proposed to be deleted is already in Subtitle B Section 303 and is therefore not needed in the Definition. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Finished Grade

Grade, Finished: The elevation of the ground directly abutting the perimeter of a building or structure **or directly abutting a permitted exception. Exceptions to finished grade are:**

- (iii) **a window well that projects no more than four feet (4 ft.) from the building face; and**
- (iv) **an areaway that provides direct access to an entrance and projects no more than five feet (5 ft.) from the building face, and is not more than five feet (5 ft.) wide along the face of the building; areaway measurement does not include stairs or ramps.**

DCRA comments:

- Remove the struck-through text in (ii) as noted in OP hearing report.
- Remove “top edge of window well”
- Intent to clarify the maximum dimensions of areaways and window wells for determination of grade. Determination of grade can impact the measuring point for stories, height, and gross floor area.
- Consider change to definition of areaway to clarify that the access must lead from grade or public way to the interior of the building (if no access then the space would be considered a window well).
- Provide definition of window well
- Amend definition of “Grade, Natural”: change the timeframe from 2 years to 5 years to restrict grade manipulation; add in exception for areaways and window wells for consistency with definition of finished grade

Public comments:

- Concern about allowing any exceptions to finished grade
- Does a 5’ areaway include stairs?
- Areaways and window wells could be limited to a percentage of the façade (e.g., under 50%)
- City building code and zoning for areaway should align
- Consider changing to a mean finished grade with 3 grade points
- Check with DDOT on areaway regulation

Zoning Commission comments:

- Consider an entry under a porch or a perpendicular areaway
- A developer could lower the ground floor
- Check with DDOT on areaway policy for public space
- General practice is to exclude stairs and ramps from areaways but may need to be explicit in regulations
- Consider impacts of areaways across face of building
- Consider driveways and measuring point

OP Recommendation:

The proposed text clarifies the exceptions to finished grade. The text “or at the top edge of window well” has been removed from the proposed changes. Additional language has been added to the definition regarding stairs and ramps. OP has proposed the recommended change to the definition of natural grade. Driveways, ground floor measurement, and limiting areaways have been addressed in Rules of Measurement. Building codes do not regulate the size constraints of an areaway and OP has provided additional information on how areaways and window wells in public space are reviewed in the Appendix.

Zoning Commission Decision:

Proposed Amendment: Natural Grade

Grade, Natural: The undisturbed elevation of the ground of a lot prior to human intervention; or where there are existing improvements on a lot, the established elevation of the ground, exclusive of the improvements or adjustments to the grade made in the ~~two (2)~~ **five (5)** years prior to applying for a building permit; ~~natural grade may not include manually constructed berms or other forms of artificial landscaping.~~ **Exceptions to natural grade are:**

- (i) **a window well that projects no more than four feet (4 ft.) from the building face; and**
- (ii) **an areaway that provides direct access to an entrance and projects no more than five feet (5 ft.) from the building face; areaway measurement does not include stairs or ramps.**

DCRA comments:

- This change is proposed to make this definition consistent with the definition of finished grade as well as to extend the timeframe for alterations to grade. This was introduced by DCRA at the public hearing but not included in the hearing report - DCRA proposed to amend definition of “Grade, Natural”: change the timeframe from 2 years to 5 years to restrict grade manipulation; add in exception for areaways and window wells for consistency with definition of finished grade

OP Recommendation:

This will allow for an assessment of changes to grade within the past five years and includes exceptions that align with finished grade. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Gross Floor Area

Gross Floor Area (GFA): **Unless otherwise specified,** The **the** sum of the gross horizontal areas of ~~the several~~ **all** floors of all buildings on a lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings. See Also: Subtitle B §§ ~~304 and 305~~ **Chapter 3, Rules of Measurement.**

OP Recommendation:

This proposed change clarifies that GFA may be specifically modified elsewhere in the title and that GFA includes “all” floors. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Habitable Room

Habitable Room: An undivided enclosed space used for living, sleeping, or kitchen facilities. **Unless otherwise specified,** ~~The~~ **the** term “habitable room” shall not include ~~attics, cellars,~~ corridors, hallways, laundries, serving or storage pantries, bathrooms, or similar space; neither shall it include mechanically ventilated interior kitchens less than one hundred square feet (100 sq. ft.) in area, nor kitchens in commercial establishments.

DCRA comments:

- Remove attics and cellars from definition due to confusion related to the meaning and application of the term “habitable room”
- Habitable room has limited use in regulations
- Consider removing entire second sentence of definition

Public comments:

- Concern about this change and desire to keep this defined term in regulations
- Maybe get away from habitable space and talk about chargeable space (to GFA/stories)
- Allowing habitable space in cellars means larger units in RF-1 zone
- If cellars count towards GFA, that change would create tens of thousands of non-conforming units
- All habitable space should be counted; may need to amend density restrictions in some zones
- IZ regulations include cellar dwelling units
- Add “within a story”: “An undivided enclosed space within a story used for...”
- Change defined term to “Habitable story/Building area” and define as: A story or building area with adequate ceiling height and sufficiently above adjacent natural or finished grade to count towards GFA as defined and calculated in Subtitle B, suitable for living, sleeping or kitchen facilities. Unless otherwise specified, the term “Habitable Story or Building Area” shall not include attics, cellars, or similar space”

Zoning Commission comments:

- Bigger policy question about cellars
- Currently could be incentive to use cellar as free story
- Not allowing cellar dwelling space could lead to more pop backs
- Perhaps discount cellar space (50% GFA)
- Consequence of the change would be non-conforming spaces
- What is our goal in terms of density?

OP Recommendation:

The proposed change removes the automatic exclusion of attics and cellars from the definition of Habitable Room. OP supports DCRA’s proposal to remove the second sentence of the definition for simplification and clarification of the regulations. but at this point is only proposing what was presented at the Public Hearing. Many of the public comments and concerns are specifically about the issue of counting living space in cellars toward GFA and number of stories, which will be addressed in a separate report (see Section III.). OP recommends approval of the above text.

Zoning Commission Decision:

Proposed Amendment: Story

Story: The space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. ~~The number of stories shall be counted at the point from which the height of the building is measured.~~ **See Also: Subtitle B, Chapter 3, Rules of Measurement.**

For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.

DCRA comments:

Public comments:

OP Recommendation:

The definition of story is currently duplicative under Definitions and Rules of Measurement. All deletions are proposed to be removed from Definitions but will remain in the Rules of Measurement (Sections 310.1 and 310.2). OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Window Well

Window Well: A subsurface space adjacent to a building open at the top or protected by a grating or guard that affords access, air, light or emergency egress to a basement window.

DCRA comments:

Need to distinguish between window wells and areaways. This definition was introduced by DCRA at the public hearing but not included in the hearing report.

Public comments:

Zoning Commission comments:

OP Recommendation:

OP has provided additional information on how areaways and window wells in public space are reviewed in the Appendix. OP recommends approval of this change.

Zoning Commission Decision:

B. AMEND RULES OF MEASUREMENT - SUBTITLE B § § § 304, 307, AND 308 AND ADD RULES OF MEASUREMENT §§ 310 and 329

Subtitle B § 304 RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA)

Proposed Amendment: Calculation of Perimeter-Wall Method

- 304.4** For a building entirely detached from any other building, calculation of GFA for the portion of a story located below the finished floor of the ground floor and partly above ~~partially below~~ adjacent natural or finished grade shall be calculated by the perimeter-wall method as follows:
- Measure the portions of the perimeter of the story ~~located partially below the~~ finished floor of the ground floor that are five feet (5 ft.) or more above the adjacent natural or finished grade, whichever is the lower in elevation finished grade that have a height greater than or equal to four (4) feet when measured between the finished grade, and the ground floor of the story above;
 - Measure the total perimeter of the story ~~located partially below finished grade~~ below the finished floor of the ground floor;
 - Divide the distance of the result of paragraph (a) by the distance of the result of paragraph (b); and
 - Multiply this result from (c) by the total floor area of the story located ~~partially below finished~~ below the finished floor of the ground floor.

Public comments:

- Calculation should be described in relation to what is above the adjacent natural or finished grade – not partially below the floor (i.e., “(a) Measure the portions of the perimeter below the finished floor of the ground floor that are five feet or more above the adjacent natural or finished grade, whichever is lower in elevation;”)

Zoning Commission comments:

- Perhaps include diagrams in regulations

OP Recommendation:

This section explains what is commonly referred to as the perimeter-wall method. This text proposes to change the measuring surface from ceiling to the “finished floor of the ground floor.” This change will help avoid artificially dropped ceilings and clarifies the use of the ground floor which is a defined term instead of “story above” which is not a defined or exact term. It also aligns the height with the section below (the grade-plane method) to a consistent five feet. The text has been revised to ensure that it measures what is above grade. OP can continue to work with OZ on providing diagrams and graphics. OP recommends approval of the language shown above.

Zoning Commission Decision:

Proposed Amendment: Calculation of Grade-Plane Method

- 304.5** For a building attached at any point to a neighboring building semi-detached or attached building, GFA of ~~for~~ the portion of a story below the ground floor, ~~located partially below~~ and partly above adjacent natural or finished grade shall be calculated by the grade-plane method as follows:
- (a) Establish a line between the midpoint of a building façade facing the nearest street at the adjacent natural or finished grade, whichever is the lower in elevation, and the midpoint of the opposite ~~building~~ façade of the building at the adjacent natural or finished grade, whichever is the lower in elevation, subject to the following:
 - (1) For any excavations projecting from the building facing the nearest street or from the opposite façade of the building that are not permitted exceptions to natural or finished grade, the elevation of the midpoint of a building façade shall be the equivalent of the lowest such elevation; however, this does not include existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way.
 - (b) Determine the portion of this line that is five feet (5 ft.) or more below where the distance between it, and the ground finished floor of the ground floor of the story directly above, is greater than or equal to six (6) feet;
 - (c) Project a perpendicular line from the point along the line described in paragraph (b) to the exterior walls of the building; and
 - (d) Measure the floor area that is between the projected perpendicular line and the other portions of the story that are with a height greater than or equal to six feet (6 ft.) five feet (5 ft.) or more below the finished, ~~when measured from the perpendicular line to the ground floor of the story above~~ ground floor.

DCRA comments:

- Add text to (a): “If any areaway(s) or other excavation project more than five feet (5 ft.) or window well(s) project more than four feet (4 ft.) from anywhere along the building façade facing the nearest street or from the opposite façade of the building, the measuring points shall be the equivalent of the lowest elevation of the areaway, excavation, or window well(s) along the façade;”
- Perhaps include a restriction on the amount façade that can be excepted from grade (e.g., areaways(s) and/or window well(s) may not extend in aggregate width more than 50% of the length along an adjacent building face. A Special Exception could be applied to achieve a greater amount.)
- Perhaps have different standards for different zones.

Public comments:

- Calculation should be described in relation to what is above the adjacent natural or finished grade – not partially below the floor
- Consider using mean finished grade (not midpoint)

Zoning Commission comments:

- Text clarification: “for a building attached at any point to a neighboring building” might be changed to “for an attached or semi-detached building...”
- Should diagrams be included in regulations?

OP Recommendation:

This section explains what is commonly referred to as the grade-plane method. This text proposes to change the measuring surface from ceiling to the “finished floor of the ground floor.” This change will help avoid the use of

artificially dropped ceilings and clarifies the use of the ground floor which is a defined term instead of “story above” which is not a defined or exact term. It also aligns the height with the section above (the perimeter-wall method) to a consistent five feet. OP supports the change in text to “attached or semi-detached” as proposed. The text has been revised to ensure that it measures what is above grade. OP can continue to work with OZ on providing diagrams and graphics. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Calculation of Grade-Plane Method

304.6 Where the finished floor of the ground floor is removed or altered in elevation in association with a renovation where no raze of the building has occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for calculating the gross floor area pursuant to B-304.4 and B-304.5

DCRA comments:

- This is proposed in response to the comments at the public hearing about property owners possibly altering the level of ground floors.

OP Recommendation:

This is in response to the comments at the public hearing about property owners possibly altering the level of ground floors to manipulate below grade space. OP recommends approval.

Zoning Commission Decision:

307 RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES

Proposed Amendment: Building Height Measuring Point

307.1 In other than ~~R, RF, RA, RC-1, CG-1 and D-1~~ **residential** zones, **as defined in Subtitle A §101.9**, the building height shall be the vertical distance measured from **the building height measuring point (BHMP) at** the level of the curb, opposite the middle of the front of the building, to the highest point of the roof or parapet or a point designated by a specific zone.

OP Recommendation:

- The proposed changes to this chapter are for clarification. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment: Building Height Measuring Point

307.2 Unless otherwise restricted or permitted in this title, in those zones in which the height of the building is limited to forty feet (40 ft.), the height of the building ~~may~~ **shall** be measured from **the BHMP at the adjacent natural or finished grade, whichever is the lower in elevation,** ~~level~~ at the middle of the front of the building to the ceiling of the top story.

OP Recommendation:

The proposed changes to this chapter are for clarification. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment:

307.4 Except as provided in Subtitle B § 307.6, where a building is removed from all lot lines by a distance equal to its proposed height above **the adjacent natural or finished grade, whichever is the lower in elevation,** the height of building shall be measured from the **BHMP at the adjacent natural or finished grade, whichever is the lower in elevation,** at the middle of the front of the building to the highest point of the roof or parapet.

OP Recommendation:

The proposed changes to this chapter are for clarification. OP recommends approval of this change.

Zoning Commission Decision:

**308 RULES OF MEASUREMENT FOR BUILDING HEIGHT: R, RF, RA, RC-1, CG-1, AND D-1
RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9**

Proposed Amendment: MEASUREMENT FOR BUILDING HEIGHT

**308 RULES OF MEASUREMENT FOR BUILDING HEIGHT: R, RF, RA, RC-1, CG-1, AND D-1
RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9**

OP Recommendation:

Clarifies title of the Section. OP recommends approval of this change.

Zoning Commission Decision:

308.1 The height of buildings, not including a penthouse, in R, RF, RA, RC-1, CG-1, and D-1 **residential zones, as defined in Subtitle A § 101.9**, shall be measured in accordance with the rules provided in this section. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.

OP Recommendation:

The proposed changes to this chapter are for clarification. OP recommends approval of this change.

Zoning Commission Decision:

Proposed Amendment:

308.2 The building height measuring point (BHMP) shall be established at the ~~existing~~ **adjacent natural or finished grade, whichever is the lower in elevation**, at the mid-point of the building façade of the principal building that is closest to a street lot line. **If any areaway(s) or other excavation project more than five feet (5 ft.) or window well(s) project more than four feet (4 ft.) from anywhere along the building façade facing the nearest street, the BHMP shall be the equivalent of the lowest elevation of the areaway(s), excavation, or window well(s) along the façade, excluding:**

(a) driveways directly connecting a garage and public right of way, only where existing or for building permit applications officially accepted by the Department of Consumer and Regulatory Affairs as being complete prior to the effective date of this title, so long as the driveway is not expanded in width along the façade.

DCRA comments:

- “Existing grade” is not a defined term unlike “finished grade” and “natural grade”; inconsistent measuring points for building height and basement/cellar.
- Strike the text that was added: **provided that it is equal to or lower than the mean finished grade across**

the building façade, which shall otherwise be the BHMP.

- Add text: insert driveway exclusion

Public comments:

- Consider using a mean finished grade with 3 grade points

Zoning Commission comments:

OP Recommendation:

The proposed changes to this chapter are for clarification. The Zoning Commission recently supported the use of BHMP as the measuring location and it has been widely accepted. OP recommends approval.

Zoning Commission Decision:

310 RULES OF MEASUREMENT FOR NUMBER OF STORIES

Proposed Amendment: Split Level Ground Floors

310.5 Where there are multiple elevations for the finished floor of the ground floor, the height used for counting the number of stories shall be determined by the highest elevation of the finished floor.

DCRA comments:

- This is a new proposed section in response to the comments at the public hearing about split level ground floors.

Public comments: N/A – this change was not proposed at the time of the public hearing

Zoning Commission comments:

OP Recommendation: This proposed text is in response to the comments at the public hearing about the need to address measurement of split level ground floors. OP recommends approval.

Zoning Commission Decision:

Proposed Amendment: Altered Finished Floor

310.6 **Where the finished floor of the ground floor is removed or altered in height in association with a renovation where no raze of the building has occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for counting the number of stories.**

DCRA comments:

- This is proposed in response to the comments at the public hearing about property owners possibly altering the level of ground floors.

Public comments: N/A; This change was not proposed at the time of the public hearing

Zoning Commission comments:

OP Recommendation: This is in response to the comments at the public hearing about property owners possibly altering the level of ground floors to manipulate below grade space. OP recommends approval.

Zoning Commission Decision:

C. CLARIFICATION OF SPECIFIC REGULATIONS AS A RESULT OF PREVIOUS CHANGES

The following sections are proposed to be amended for the purposes of clarity and consistency with other amendments.

Proposed Amendment:

Subtitle D, Residential House (R) Zones, § 207.4 is proposed to be amended as follows:

A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation**

OP Recommendation: OP recommends that the Zoning Commission approve this text amendment.

Zoning Commission Decision:

Proposed Amendment:

Subtitle E, Residential Flat (RF) Zones, §§ 303.5, 403.5 and 603.4 are proposed to be amended as follows:

A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation**

OP Recommendation: OP recommends that the Zoning Commission approve this text amendment.

Zoning Commission Decision:

Proposed Amendment:

Subtitle F, Residential Apartment (RA) Zones, § 203.4 is proposed to be amended as follows:

Except as provided in Subtitle F §§ 203.2 and 203.3, a building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

OP Recommendation: OP recommends that the Zoning Commission approve this text amendment.

Zoning Commission Decision:

Proposed Amendment:

Subtitle J, Production Distribution and Repair (PDR) Zones, § 203.3 is proposed to be amended as follows:

A building or other structure may be erected to a height not exceeding ninety feet (90 ft.) not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent natural or finished grade, whichever is the lower in elevation.**

OP Recommendation: OP recommends that the Zoning Commission approve this text amendment.

Zoning Commission Decision:

Proposed Amendment:

Subtitle K, Chapter 3 Union Station North Zone (USN), § 305.2 is proposed to be amended as follows:

The measurement of building height shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by ~~Subtitle C, Chapter 5~~ **Subtitle B § 307.1.**

OP Recommendation: OP recommends that the Zoning Commission approve this text amendment.

Zoning Commission Decision:

D. TEXT RELOCATION

The text in the section is merely being relocated and no changes are being proposed to the text. OP recommends approval.

<p>GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses (unless otherwise specified); attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.</p>	<p>This paragraph is proposed to be relocated from Definitions and moved to the Rules of Measurement, B-304.6.</p>
<p>GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.</p>	<p>This paragraph is proposed to be relocated from Definitions and moved to the Rules of Measurement, B-304.7.</p>
<p><u>304.6 GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses (unless otherwise specified); attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.</u></p>	<p>This paragraph is proposed to be added to Rules of Measurement and deleted from the definitions of GFA; Because GFA is a calculation, this paragraph serves as part of a rule more than a definition.</p>
<p><u>304.7 GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.</u></p>	<p>This paragraph is proposed to be added to Rules of Measurement and deleted from the definition of GFA; Because GFA is a calculation, this paragraph serves as part of a rule more than a definition.</p>
<p><u>307.8 The term “curb” shall refer to a curb at grade. 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 Rules of Measurement for Height in this section.</u></p>	<p>This paragraph is proposed to be added to Rules of Measurement and deleted from the definition of Building, Height of.</p>

308.10 The term “curb” shall refer to a curb at grade. 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 Rules of Measurement for Height in this section.

This paragraph is proposed to be added to Rules of Measurement and deleted from the definition of Building, Height of.

E. VESTING

The Commissions asked for a recommendation on vesting for these proposed changes to the regulations. OP worked with DCRA on proposed language consistent with the general approach used in other similar cases.

Proposed Amendment:

A § 301.15 Notwithstanding Subtitle A § 301.4, any building permit application (including a foundation-to-grade permit application) (the Permit Application) may be carried to completion with applicable rules in place prior to the effective date of Order No. 17-18, if the permit application was legally field with, and accepted as complete, by the Department of Consumer and Regulatory Affairs prior to the effective date of Order No. 17-18.

Zoning Commission comments: The Zoning Commission requested some language to address vesting.

OP Recommendation: OP recommends that the Zoning Commission approve this text amendment.

Zoning Commission Decision: