

MEMORANDUM

TO: District of Columbia Zoning Commission
JLS
FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: April 29, 2016
SUBJECT: ZC 16- : Preliminary and Pre-hearing Report; Text Amendment to the Zoning Regulations: Subtitle B, Definitions, Subtitle D, Zones R-3, R-13, R-17 and R-20 and Subtitle E, RF zones¹

The Office of Planning recommends the Zoning Commission set the following text amendments down for a public hearing.

The proposed text amendments address concerns about excessively disproportionate rear additions to adjoining row buildings. The text reflects the ten foot (10 ft.) standard approved by the Zoning Commission on March 28, 2016 as a minor modification in response to a correspondence. The rear addition language establishes a ten foot limit as a matter of right and would allow for more than ten feet as a special exception. The new language would be applicable in combination with the other existing development standards such as lot occupancy and rear yards, to regulate the overall development of a lot. The ten foot rear addition limit could not be used to encroach into a required rear yard or to exceed lot occupancy.

The proposed text is limited to attached and semi-detached buildings because a detached building including any rear addition would be subject to side yard requirements.

- I. Rear Additions to Attached or Semi-detached Buildings in the rowhouse (R-3/13/17/20) and flat (RF) zones;**
- Limit matter of right rear additions to attached or semi-detached buildings in the rowhouse and flat zones (R-3 and R-4 in the 1958 regulations and the R-3, RF-1, RF-2 and RF-3 zones in the 2016 regulations) to no more than ten feet (10 ft.) beyond the rear wall of the principal building on an adjoining property; and
 - Create a special exception provision for rear additions to extend more than ten feet beyond the rear wall of the principal building on an adjoining property.

1. Add a new Subtitle D §§ 311, 711, and 1012 Rear Addition to read:

XXX Rear Addition (R-3, R-13, R-17 Rowhouse zones)

XXX.1 A rear addition to an attached or semi-detached building shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjoining property.

¹ The amendments are being proposed to the new 2016 Zoning Regulations that will become effective September 6, 2016. The proposed text is to amend the R-3 and R-4 equivalent zones in the ZR16 regulations.

XXX.2 **A rear addition may extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle Y Chapter 9 and Subtitle D §§ 5201.3 (a) through (d) and §§ 5201.4 through 5201.6.**

2. Add a new Subtitle D § 1212, Rear Addition to read:

1212 **Rear Addition** (R-20 Rowhouse zone)

1212.1 **In the R-20 zone a rear addition to an attached or semi-detached building shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjoining property.**

1212.2 **In the R-20 zone a rear addition may extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle Y Chapter 9 and Subtitle D §§ 5201.3 (a) through (d) and §§ 5201.4 through 5201.6.**

3. Add a new Subtitle E § 206 Rear Addition to read:

206 **Rear Addition** (RF Residential Flat zones)

206.1 **A rear addition to an attached or semi-detached building shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjoining property.**

206.2 **A rear addition may extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle Y Chapter 9 and Subtitle E §§ 5201.3 through 5201.6.**

II. OP met with the Zoning Administrator's Office and went through issues that they have seen with the administration of the recently adopted text from case 14-11 regarding conversions to apartment houses in the RF (R-4) zones. In response to their suggestions OP recommends the following text be set down for public hearing as part of this case.

Amend Subtitle U § 301.2 to provide clarification of Conversions of Non-residential Buildings.

- Change "a residential building" to "**an apartment building**". This change will clarify that the section applies when a non-residential building is converted to an apartment house and not when a change in use is to a matter-of-right single household dwelling or flat;
- Delete the phrase "existing prior to May 12, 1958". This change will allow for non-residential buildings such as churches, schools and fire stations, that were built as a matter of right after 1958 to be converted to an apartment house subject to the conditions of Subtitle U §§ 301.2 and 320.3; and
- Clarify that the existing non-residential building referenced in section 330.7 (a) is the building to be converted:

4. Amend Subtitle U § 301.2 (Matter of Right Uses in RF zone) as follows:

301.2 Conversion of an existing non-residential building or structure, ~~existing prior to May 12, 1958, to a residential building~~ **an apartment house** shall be permitted as a matter of right in the R-4 Zone District subject to the following conditions:

- (a) ~~The building or structure to be converted is in existence~~ **The building or structure to be converted is in existence** ~~There is an existing non-residential building on the property at the time of filing an application for a building permit;~~
- (b)...
- (e) A roof top architectural element original to the structure such as **cornices, porch roofs,** a turret, tower, or dormers shall not be removed or significantly altered, including **shifting its location,** changing its shape or increasing its height, elevation, or size;
- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent **compliant with any municipal code** on an adjacent property ~~required by any municipal code.~~ **A chimney or other external vent must be existing and operative at the date of the building permit application for the addition.**
- (g) Any addition, including a roof structure or penthouse, shall not **significantly** interfere with the operation of an existing ~~or permitted~~ solar energy system on an adjacent property. **For the purposes of this provision, “significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the system by more than five per cent (5%) on any one day,** as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator. **For the purposes of this provision “an existing solar energy system” shall mean a system that is installed and operative or a system for which a permit has been issued. If the permitted solar energy system is not operative within one (1) year of the issuance of the solar energy system permit, a system shall not be considered existing.**

5. Amend Subtitle U § 320.3 (Special Exception uses RF zones) to delete the phrase “existing prior to May 12, 1958” as follows:

320.3 Conversion of a **an existing** non-residential building or other structure ~~existing prior to May 12, 1958,~~ to an apartment house and not meeting one (1) or more of the requirements of Subtitle U § 301.2, shall be permitted as a special exception in an RF-1, RF-2 or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to the following provisions...

6. Amend Subtitle U § 320.2 (a) to add the word “height” as follows:

320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following provisions:

- (a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit **to a maximum height of forty feet (40 ft.)** ~~under Subtitle X, Chapter 9, subject to the following conditions:~~ **provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2 (f) through 320.2 (i).**
- (b)...
- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent **compliant with any municipal code** on an adjacent property ~~required by any municipal code.~~ **A chimney or other external vent must be existing and operative at the date of the building permit application for the addition.**
- (g) Any addition, including a roof structure or penthouse, shall not **significantly** interfere with the operation of an existing ~~or permitted~~ solar energy system on an adjacent property. **For the purposes of this provision, “significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the system by more than five per cent (5%) on any one day, as evidenced through a shadow, shade, or other reputable study acceptable to the Board. For the purposes of this provision “an existing solar energy system” shall mean a system that is installed and operative or a system for which a permit has been issued. If the permitted solar energy system is not operative within one (1) year of the issuance of the solar energy system permit, a system shall not be considered existing.**
- (h) A roof top architectural element original to the structure such as **cornices, porch roofs,** a turret, tower, or dormers shall not be removed or significantly altered, including **shifting its location,** changing its shape or increasing its height, elevation, or size.

The changes proposed in U § 320.2 (f), (g) and (h) above are to provide clarity in the administration of the upper story additions and roof elements.

7. Amend Subtitle B, § 100.2, the definition of Boarding House as follows:

Boarding House: A building or part thereof where, for compensation, lodging and meals are provided to three (3) or more guests on a monthly or longer basis; **a boarding house shall be considered a residential structure.**

This change clarifies that a boarding house is a residential structure and therefore conversion to an apartment house would be subject to special exception under Subtitle U § 320.2.

III. OP requests the flexibility to work with the Office of Attorney General on the Public Hearing Notice language.