

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: *JLS for*
Ellen McCarthy, Director

DATE: December 1, 2006

SUBJECT: ZC 06-47 – Text Amendment to §§ 330.5, 401.3 and 403.2 of the Zoning Regulations to clarify the expansion requirements for existing apartments in the R-4 District and limit the lot occupancy upon conversion of row dwellings to apartment uses in the R-4 District.

RECOMMENDATION

The Office of Planning recommends text amendments to §§ 330.5, 401.3, 403.2 of the Zoning Regulations to clarify that within the R-4 District, the number of units in apartment houses existing prior to May 12, 1958 could be expanded even if there was not 900 square feet of lot area for each unit. A recent Board decision concluded that the lot area requirement applied to "converted", but not existing, apartment houses. Under this logic, compliance with the 900 foot limitation would only be required when a building is first converted to an apartment house, but not to any later renovations of that same structure. This is clearly contrary to the intent to the R-4 regulations.

The OP proposed text is intended to clarify existing criteria designed to protect the zone district's moderate density/rowhouse character. OP also recommends lot occupancy limit of 60% to conversion of a row dwelling to an apartment use, which is consistent with the existing row house limit.

This recommendation is consistent with Zoning Commission Order # 211 of March, 9 1978 (attached) which found that the intent of the Zoning Regulations "*was not only to apply the 900 square foot criteria to conversions of buildings which are single family dwellings or flats, but also to apply such criteria to conversions of buildings which are multiple dwellings (e.g. rooming houses) to apartments.*" Thereafter, the original regulations were amended to apply the 900 square feet criteria to conversions. OP contends that this criteria is also applicable to the expansion of structures subsequent to their conversion to prevent excessive density and bulk inappropriate for the moderate density R-4 District.

ZONING COMMISSION
District of Columbia

CASE NO.

06-47
ZONING COMMISSION
District of Columbia
CASE NO. 06-47
EXHIBIT NO. 1

EXHIBIT NO.

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The following is proposed:

(New text is shown in **bold** and underline and deleted text is shown with ~~strikethrough~~):

1. **Amend 330.5 (c) to read:**

The conversion of a building or other structure existing before May 12, 1958, to an apartment house as limited by §§ ~~350.4 (c) and 401.3~~ **401.3 and 403.2**

2. Amend the table in § 401.3 to read as follows:

R-4

Conversion of **a building or structure** to an apartment house (**§330.5**)

900/apartment or

None prescribed

3. Amend the table in § 403.2 to read as follows:

R-4

~~Conversion to multiple dwelling~~
Conversion of a building or structure to an apartment house
(§330.5)

~~None prescribed~~
Greater of 60% or the lot occupancy as of the date of conversion

4. A new § 401.11 to read as follows:

401.11

An apartment house in an R-4 District, whether converted from a building or structure pursuant to § 330.5 or existing before May 12, 1958, may not be renovated or expanded so as to increase the number of dwelling units unless there is 900 square feet of lot area for each unit, both existing and new.

BACKGROUND

The Harold Lewis Report (1956)¹ informed the adoption of the current Zone Regulations. The report provided the basis of the R-4 Zone designation as it established a scale of density whereby a row dwelling would be permitted on a lot of 1,800 square feet, and further stated that *“any type of one family dwelling could be converted for the use of two or three families, if it has a lot area of at least 1,000 square feet per family.”*² In the 1958 the Zoning Ordinance, corresponding regulations were adopted to limit the erosion of the row house character. Section 401.3 permits the conversion of pre-1958 building in the R-4 District to apartment uses subject to the requirement of 900 square foot of lot area per apartment. Subsequently, after a public hearing on February 23, 1978 to consider an amendment to limit the number of apartments based on the area of the lot in the R-4 District, (ZC Case No. 77-42, Order 211) the Commission determined that the application of the 900 square feet of lot area/apartment criteria was applied to all structures within the zone district to prevent excessive density and help stabilize the district.

ANALYSIS

Based on the Zoning Regulations' definition of an apartment house as being three (3) or more units (§ 199), and the conversion requirement of 900 square feet minimum lot area per apartment, lots 2,700 square feet or more in area present the potential for conversion in the R-4 District.

Preliminary data obtained by OP reveals that there are approximately 3,885 lots (primarily located in Wards 4, 5, and 6 with a small percentage in Wards 2, 3 and 8) which meet or exceed this area requirement. Of these, approximately 1,890 lots (49%) are classified as existing residential row, detached or semi-detached - single family structures throughout the District. 949 conversions of less than 5 units are currently recorded and 289 apartments (walk-up and elevator) are identified. No information is currently available to OP at this time regarding when these conversions occurred or if in fact the data is current to 2006.

OP believes that it is important that the R-4 district regulations are clear to future redevelopment initiatives, particularly with respect to vacant or abandoned structures, as well as other large existing structures which may be able to convert to apartment uses in the future.

¹ *Harold Lewis - A New Zoning Plan for the District of Columbia - Final Report of the Zoning Study. November 9, 1956.*

² The 1958 R-4 Zone Regulations prescribes 900 square feet of lot area per family for row house conversions.

Lot Occupancy

OP believes that the character of the district is also affected by the lot occupancy requirement. None is currently prescribed for conversions, whereas a single-family row dwelling or flat is currently limited to 60% as a matter-of-right. OP believes that the subsequent conversion to an apartment use should be also limited to 60%, in keeping with the present limitations of existing row structures. This would provide clear guidance for the redevelopment of abandon or vacant structures in need of rehabilitation within the zone district, ensuring the intent that the moderate density/ rowhouse character be retained. As no lot occupancy is currently prescribed, current practice of rehabilitation of such structures varies and is confusing in its application.

Many large non-conforming structures within the zone district exceed the 60% lot occupancy requirement. If converted to an apartment house they would have to abide by the 900 square feet per unit requirement as proposed by the amended § 401.3 and would be limited to the lot occupancy in existence at the time of conversion.

COMPREHENSIVE PLAN

OP believes that the Comprehensive Plan fully supports limiting the number of apartment units in the R-4 District, since the alternative would be counterintuitive to the general theme of protecting and enhancing the District's neighborhoods particularly the row house districts as indicated in the following sections of the Plan.

102 STABILIZING AND IMPROVING THE DISTRICT'S NEIGHBORHOODS

102.2 The District elements of the Plan propose that the residential character of neighborhoods be maintained and improved. Many city neighborhoods are historic or possess social, economic, and physical qualities that make them unique and desirable places in which to live. These qualities can also lead to development and redevelopment pressures that threaten the very qualities that make the neighborhoods desirable. These pressures and potential adverse impacts must be controlled to ensure that the character of our neighborhoods is preserved and enhanced.

As previously stated, redevelopment pressures would have an adverse impact on the unique character of historic row house districts including Capitol Hill, as well as contributing row structures in Adams Morgan, Bloomingdale, Eckington, Le Droit Park, Trinidad, and Ivy City to name a few. While restoration and upgrading of such structures are supported and encouraged, even to apartment houses within their prescribed limits, these are diverse and unique row house neighborhoods which are currently under pressure unsympathetic of development. The proposed text changes would clarify that conversions are intended to maintain a rowhouse character density and bulk.

108 PRESERVING THE HISTORIC CHARACTER OF THE DISTRICT

108.1 *The Nation's Capital contains many buildings and collections of buildings, which contribute to its beauty and fabric, as well as affording a picture of its history. Over the years, individual buildings and collections of buildings have been protected through historic preservation laws. The Plan recognizes the importance of historical Washington and provides policies to nurture this historic urban center.*

Many of the District's historic neighborhoods have a high percentage of row structure residences, including Capitol Hill and Le Droit Park. Conflicting R-4 Regulations would provide avenues for differing interpretations to the detriment of the Zone Plan and the historic character of these neighborhoods.

1102 OBJECTIVES FOR RESIDENTIAL NEIGHBORHOODS

1102.1 *The residential neighborhood objectives are as follows:*

- (a) To conserve and enhance the essentially satisfactory qualities of the District's many stable residential neighborhoods including those qualities that make them unique;*
- (b) To enhance other neighborhoods and achieve stability;*

1104 POLICIES IN SUPPORT OF THE RESIDENTIAL NEIGHBORHOOD OBJECTIVES

1104.1 *The policies established in support of the residential neighborhoods objectives are as follows:*

- (a) Promote the conservation, enhancement, and revitalization of the residential neighborhoods of the District for housing and neighborhood-related uses;*
- (b) Conserve and maintain the District's sound, established neighborhoods through the strict application and enforcement of housing, building, and zoning codes and the maintenance of the general level of existing residential uses, densities, and heights;*
- (c) Ensure a broad range of residential neighborhood options ranging from quiet, low density, park-like neighborhoods to active, high density, mixed-use urban neighborhoods;*
- (d) Develop neighborhood improvement programs and neighborhood land use proposals for residential areas that have deficiencies which threaten neighborhood quality, coordinated community and government action programs and plans, systematic monitoring of neighborhood social and physical conditions, and continuing assessment of land use and regulatory actions to correct deficiencies;*

The R-4 District regulations require strict application if neighborhoods are to remain intact for the enjoyment of future generations of the District. Any deficiency that threatens the neighborhood quality should be addressed as proposed to ensure the continued viability of the neighborhoods which comprise the R-4 Districts.

Apartment buildings are a vital part of the District's fabric and are supported and encouraged in many areas along corridors close to Metro stations, and of course areas

zoned for apartment use and shown as such in the Comprehensive Plan and Land use Map.

However, continued expansion of row dwellings and their subsequent conversion to large in the R-4 District apartments would increase the density of development to levels contrary to the Comp Plan and zone district. The amended §§ 330.5, 401.3 and 403.2 would permit continued conversion of structures in the R-4 District, within the limit of a minimum lot area of 900 square feet per apartment and the 60% lot occupancy upon expansion. This is in keeping with the matter-of-right provisions of the zone district.

Thus, OP concludes that the recommended clarifications would prevent an inappropriate increase in the intensity in the R-4 Zone. OP believes that the changes would conform to the Comprehensive Plan and Generalized Land Use Map and Zoning Commission Order No. 211.

RECOMMENDATION AND PROPOSED TEXT

Based on the above discussion, including the intent of the R-4 regulations and the objectives of the Comprehensive Plan, the Office of Planning recommends that the Zoning Commission:

- Amend §§ 330.5, 401.3 and 403.2, and
- Include new text, § 401.11 as further clarification to address potential renovation of existing apartment dwellings in the R-4 District.

OP believes the amended language addresses and protects against adverse impacts that could result from the conversion and expansion of row structures and apartments of the R-4 District. The proposed text is not intended to inhibit the current uses of residential properties in the R-4 District, but rather to address a pressing threat to the single family row house character with the addition of more apartments. Therefore, the following is proposed:

(New text is shown in **bold** and underline and deleted text is shown with ~~strikethrough~~):

1. **Amend 330.5 (c) to read:**
The conversion of a building or other structure existing before May 12, 1958, to an apartment house as limited by §§ ~~350.4 (c) and 401.3~~ 401.3 and 403.2
2. Amend the table in § 401.3 to read as follows:

R-4

Conversion of a building or structure to an apartment house (§330.5)

900/apartment or

None prescribed

3. Amend the table in § 403.2 to read as follows:

R-4

Conversion to multiple dwelling
Conversion of a building or
structure to an apartment house
(§330.5)

None prescribed
Greater of 60% or the lot
occupancy as of the date
of conversion

4. A new § 401.11 to read as follows:

401.11 An apartment house in an R-4 District, whether converted
from a building or structure pursuant to § 330.5 or existing
before May 12, 1958. may not be renovated or expanded so as
to increase the number of dwelling units unless there is 900
square feet of lot area for each unit, both existing and new.

Government of the District of Columbia
ZONING COMMISSION



Zoning Commission Order No. 211

Case No. 77-42

March 9, 1978

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on February 23, 1978 to consider an amendment to the text of the D. C. Regulations. The proposed amendment would limit the number of apartments, based on the area of the lot, which could be located in a building in an R-4 District.

The present Zoning Regulations currently permit an existing building to be converted to a multiple dwelling provided that there is 900 square feet of lot area for each dwelling unit proposed to be created. This provision has consistently been interpreted such that it is not applied to multiple dwellings already in existence in 1958, since changing such buildings to apartments would not be a "conversion to" a multiple dwelling. The Board of Zoning Adjustment, in a case appealing the decision of the Zoning Administrator, has recently confirmed that ruling.

The Commission finds that the intent of the Zoning Regulations was not only to apply the 900 square foot criteria to conversions of buildings which are single family dwellings or flats, but also to apply such a criteria to conversions of buildings which are multiple dwellings (for example, rooming houses) to apartments. The Commission further finds that the present Regulations, as written, are being properly interpreted and that the Regulations should be amended to specifically apply the 900 square feet criteria to such conversions. The Commission finds that such a regulation would prevent excessive density in the R-4 District, and would tend to help stabilize those areas of the District where the R-4 zone is concentrated.

The Commission finds that the proposed amendment was referred to the National Capital Planning Commission under the terms of the District of Columbia Self Government and Governmental Reorganization Act and that the NCPC reported that the proposed amendment would not have a negative impact on the interests or functions of the Federal Establishment within the National Capital.

The Commission finds that the proposed amendment is in the best interests of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act. The Commission therefore hereby orders adoption of the following amendments to the Zoning Regulations:


1. Change Paragraph 3104.33 to read as follows:

"The conversion of a building or other structure existing before May 12, 1958 to an apartment house as limited by paragraph 3301.1".

2. Change the table applicable to the R-4 District in Sub-section 3301.1 to read as follows:

<u>Row dwelling and flat</u>	1,800	18
<u>One family semi-detached dwelling</u>	3,000	30
<u>Conversions to apartment house</u>	900 per <u>apartment or bachelor apartment</u>	none prescribed
<u>All other structures</u>	4,000	40

Vote of the Commission taken at the public hearing held on February 23, 1978: 4-0 (George M. White, Ruby B. McZier, Walter B. Lewis and John G. Parsons to adopt, Theodore F. Mariani not present, not voting).



WALTER B. LEWIS
Chairman



STEVEN E. SHER
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on March 9, 1978 by a vote of 4-0 (Ruby B. McZier, George M. White, Walter B. Lewis and John G. Parsons to adopt, Theodore F. Mariani not present, not voting).

In accordance with Section 3.62 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is effective on 24 MAR 1978.