

LAW OFFICES  
GRIFFIN, MURPHY, MOLDENHAUER & WIGGINS, LLP

MARK G. GRIFFIN (DC, MD)  
BRIAN P. MURPHY (DC, MD)  
ASHLEY E. WIGGINS (DC, MD, VA)  
MERIDITH H. MOLDENHAUER (DC, MD, VA)  
ERIC M. DANIEL (MD, DC)

Direct Dial (202) 530-7158  
E-mail [kbray@washlaw.com](mailto:kbray@washlaw.com)

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Anthony J. Hood, Chairman  
Zoning Commission for the District of Columbia  
441 Fourth Street NW, Suite 210 South  
Washington DC 20001

Re Zoning Commission Case No. 14-11

Dear Chairman Hood and Members of the Commission

This letter details our comments and opposition to the above-referenced text amendment. The vast majority of our clients are individual homeowners, individual investors, and small- to medium-sized developers specializing in single-family and small multi-family/condo renovations. Smaller and moderate-sized developers are far more likely to come before the BZA asking for minor to moderate zoning relief to facilitate the development of a single property project than the institutional developers who seek Planned Unit Developments. Many of our clients own property in the R-4 Zone, and many of those properties are currently under renovation.

We feel strongly that the proposed text amendment would have a disproportionate effect on a unique group of owners and developers and will suppress the creation of desperately needed housing in the District of Columbia, for both families and individuals alike. These adverse impacts greatly outweigh the benefits of the proposal, which leaves many questions about the overall direction and plan for regulating housing in low- to moderate-density neighborhoods.

The primary concerns as expressed in OP's report and by numerous residents through the course of the ZRR and discussion of this particular text amendment have been (a) "pop-ups" in residential neighborhoods and (b) the loss of single-family housing stock as structures are converted to multi-family dwellings. Yet, many of the "pop-ups" that have caused a stir along rows of attached dwellings have been located in R-5 and Commercial Zones.<sup>1</sup> This proposal would do nothing to limit the aesthetic impact in these

<sup>1</sup> As discussed in the following articles: <http://www.popville.com/2015/01/popping-up-in-bloomingtondale-2/> (referring to 1831 First Street NW, in the C-2-A zone, and [http://dcist.com/2013/03/v\\_street\\_pop-](http://dcist.com/2013/03/v_street_pop-)

neighborhoods – instead it would diminish an existing property right in a low density (read, predominantly single family) zone – the right to construct to 40 feet – without any form of compensation or alternate flexibility to off-set such reduction. Moreover, the limitation of construction in low-density neighborhoods to 35 feet in height significantly limits the ability for families to expand and adapt in their homes. Often, homeowners are pressed for space as they welcome the addition of children to their families, and the best way to accommodate increased needs for bedrooms, play rooms, and family dining are by building above the existing dwelling. Limiting the ability for families to adapt in their own District homes increases the likelihood of these families departing for the suburbs.

Similarly, the elimination of the right to convert any structure in the R-4 that meets the existing standard of 900 square feet of land area per dwelling unit to multiple units is tantamount to a downzoning. There are a plethora of large attached dwellings throughout the city that are appropriate for conversion. Often such conversion can be done without any impact to the structure as perceived from the street, therefore the conversion itself causes no permanent neighborhood disruption. In other cases, attached dwellings have been previously converted to single room occupancy, rooming houses, boarding houses, and group homes, and have been so significantly altered as to make conversion back to single family homes a very expensive, and unlikely, proposition. Conversion of these types of residential structures, which would be prohibited under the proposal before you, has the benefit of restoring residential neighborhood to true residential (rather than institutional use) and significantly improving the tax base. It is these conversions that have led to the infusion of capital into neighborhoods such as Shaw, Columbia Heights, Eckington, Bloomingdale, Mount Pleasant, and Hill East/Near Southeast, which are characterized not only by their pedestrian-scale and family-friendly nature, but also by a vibrant mix of apartment houses, professional offices, community service center uses, and single family housing. It is this mix of housing types – and land uses – that make living in these neighborhoods desirable for many residents.

Removal of the option for property owners to convert existing residential structures to multiunit buildings as a matter of right is inconsistent with the goals of the District's Historic Preservation Law to encourage adaptive reuse of historic structures, and may encourage the degradation of residential neighborhoods by making conversion to other permitted uses, such as child development centers, group homes, medical clinics, and transient housing more attractive. As the map provided with OP's Report shows, there is an enormous amount of R-4 zoned property in historic neighborhoods such as Capitol Hill and Mount Pleasant, and property owners in those neighborhoods are already limited in what alterations they may legally make to their properties. Further limiting the height, density, and ability to convert vacant and underutilized properties to active multiunit properties will result in substantial hardship to property owners in those neighborhoods.

As we believe all can acknowledge, the real estate market ebbs and flows based on many factors. Our Zoning Regulations, particularly those that primarily impact home owners, should not just respond to the issue of the day (which seems to be the aesthetics of "pop

ups” in non-historic neighborhoods) The Zoning Commission’s duty is to view the larger picture and create regulations that implement the goals of the Comprehensive Plan, which is a long-range plan Likewise, although the current real estate market seems to be demanding smaller units, as our city’s schools, public services, and other infrastructure continues to blossom, naturally the market will look for preservation of low density housing for single family use Implementing the proposal before you will not change the market The market will change over time, and the ability for property owners to adapt to that market is critical As relayed by a DC Resident recently (and included in the comments submitted into the record in this matter by Jeffrey Brune at Exhibit 67), if a homeowner has the flexibility to adapt his home in many different ways, he or she is likely to be able to stay in place for a much longer period of time.

*My neighbor bought [his home] as a three-unit building as a single guy in the very early 1980s He didn’t need an entire house, and couldn’t afford to live in it by himself, but liked the idea of the investment potential So, he lived on the first floor and rented out the two units upstairs After he married, when he and his wife wanted to have children, they “annexed” the middle unit to make the lower two floors a large 2 5 bedroom property When they had another child later, they “annexed” the top floor, converted it into a master suite, and used the whole house After the children moved away, they converted the first floor back to an apartment and downsized to the upper unit They are now older, own the house outright, and thinking about moving back to the first floor to avoid the stairs and either renting the larger upper unit or converting it back to two smaller apartments He often says that he’s been in that house for over 35 years, and he’s adapted it to whatever phase of life he was in at the time and loved it*

Such adaptations would not be possible under the current proposal, which restricts the conversion of any R-4 housing stock to more than two units

Our greatest concern, however, is with the timeline for implementation and enforcement of the proposed amendment We ask that if you accept the proposed text amendment, regardless of which alternative you support, you consider delaying implementation of the change to allow for projects that are currently being designed and those that are already under review by DCRA to proceed under the current regulations To do otherwise would create extreme hardship on homeowners or developers who have already exhausted resources and expense to conduct due diligence and design review for projects already effectively underway under the current regulations. Not providing a delay of at least 90 days for implementation of the proposed changes would waste a great deal of time at DCRA by requiring projects to be resubmitted for approval after substantial government resources have been expended reviewing the original plans Implementation of such a radical change in the permitted use without sufficient notice to the public at large, and the development community specifically, is likely to cause chaos and a large backlog in reviews at DCRA, which, although improving, is constantly under fire to process

building permit applications more quickly

We strongly encourage the Zoning Commission to table this legislation and direct the Office of Planning to undertake a greater study than has happened to date prior to addressing this issue. As stated above, this is a critical issue for families and businesses across the District and requires careful thought, evaluation of empirical evidence, and significant public input. The current proposal is more likely to do harm than help stabilize and preserve the District's single family housing stock, and therefore we must oppose this action.

Sincerely yours,  
GRIFFIN, MURPHY,  
MOLDENHAUER & WIGGINS, LLP

By   
Kinley R. Bray