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The Honorable Phil Mendelson

**Executive Director**

Marcel C. Acosta

**IN REPLY REFER TO:  
NCPC FILE No ZC 14-11**

**May 13, 2015**

**Zoning Commission of the  
District of Columbia  
441 4<sup>th</sup> Street NW  
2<sup>nd</sup> Floor, Suite 210  
Washington, DC 20001**

**Members of the Commission:**

Pursuant to delegations of authority adopted by the Commission on August 6, 1999,

I found that the proposed Text Amendments to Chapters 1, 3, 4, 26, and 31,

Maximum Height and Minimum Lot Dimension Requirements and Use

Permissions in the R-4 District, would not be inconsistent with the Comprehensive

Plan for the National Capital. A copy of the Delegated Action of the Executive

Director is enclosed.

Sincerely,

**Marcel C. Acosta  
Executive Director**

**Enclosure**

cc: Eric Shaw, Acting Director, DC Office of Planning  
Anthony Hood, Chairman, Zoning Commission

**ZONING COMMISSION  
District of Columbia**

CASE NO. 14-11  
EXHIBIT NO. 207  
ZONING COMMISSION  
District of Columbia  
CASE NO. 14-11  
EXHIBIT NO. 207

2015 MAY 11 PM 3:48

**Delegated Action of the Executive Director****PROJECT**

Text Amendments to Chapters 1, 3, 4, 26, and 31, Maximum Height and Minimum Lot Dimension Requirements and Use Permissions in the R-4 District  
Washington, DC

**NCPC FILE NUMBER**

ZC 14-11

**NCPC MAP FILE NUMBER**

00 00(06 20)44071

**REFERRED BY**

Zoning Commission of the District of Columbia

**DETERMINATION**

Approval of report to the Zoning Commission of the District of Columbia

**REVIEW AUTHORITY**

Advisory per 40 U S C § 8724(a) and DC Code § 2-1006(a)

On March 30, 2015, the Zoning Commission of the District of Columbia took a proposed action to amend text in Chapters 1, 3, 4, 26 and 31 of the Zoning Regulations; the text amendments effectively limit the vertical expansion or “pop-up” of row houses and row house conversions to apartment dwellings in the R-4 Zone District. A “pop up” generally is a row dwelling upon which an addition is constructed that results in the structure visibly rising above the roofs of adjacent dwellings. The proposed rulemaking will be published in the D.C. Register on May 1, 2015, for a 30-day comment period. The comment period will end on June 1, 2015. The Zoning Commission anticipates taking final action on the proposed text amendments at its June 8, 2015, meeting.

The proposed text amendments modify allowable heights for residential and non-residential buildings within the R-4 Zone District; modify how mezzanine areas are counted within the number of allowable stories within the R-4 Zone District; modify conditions for conversions of residential single-unit or flat structures to apartment structures within the R-4 Zone District, and modify conditions for conversions of non-residential structures to apartment structures in the R-4 Zone District.

On the issue of height, existing row houses and the new construction of two or fewer row houses are allowed a height of 40 feet as a matter-of-right. The Zoning Commission proposes to amend the Zoning Regulations to allow a height of 35 feet as a matter-of-right and 40 feet by special exception. For new construction and additions to existing non-residential buildings which are currently allowed a height of 40 feet as a matter-of-right, the Zoning Commission also proposes to amend the Zoning Regulations to allow a height of 35 feet as a matter-of-right and 40 feet by special exception.

On the issue of how mezzanine areas are counted within the number of allowable stories, currently a mezzanine is exempt from the limit on the number of stories. The Zoning Commission proposes to amend the Zoning Regulations to include a mezzanine within the limit on the number of stories.

On the issue of conversions of residential row houses to apartment buildings, conversions are currently allowed as a matter-of-right, but these conversions are required to have a minimum 900 square feet of land area for each dwelling unit.

For conversions of four units or less, the Zoning Commission proposes to continue these matter-of-right conversions but to amend the Zoning Regulations to require a number of new conditions that must be met. These conditions include:

- Maximum height as a matter-of-right of 35 feet.
- A mezzanine shall count toward the maximum number of floors.
- There shall be 900 square feet of land area per dwelling unit and no more than four units shall be permitted
- The 4th unit shall be subject to Inclusionary Zoning at 80% area median income (AMI).
- A conversion shall not result in the demolition of more than 30 percent of the gross floor area of the original structure
- A rear addition shall not extend further than ten feet past the rear wall of any adjacent residential row structure
- An upper floor addition shall not result in the removal or significant alteration of a roof top architectural element original to the house such as a turret or tower
- Any upper floor addition shall not block or impede the functioning of a chimney or other external vent required by any municipal code on an adjacent property.
- An upper or rear addition shall not interfere with the operation of any immediately adjacent solar energy system.

For conversions of five units or more, the Zoning Commission proposes to amend the Zoning Regulations to require these projects to seek a special exception from the Board of Zoning Adjustment. To receive the special exception, the project must meet the following conditions:

- There shall be a minimum lot area of 900 square feet for each dwelling unit.
- The conversion shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular.
- The light and air available to neighboring properties shall not be unduly affected;
- The privacy of use and enjoyment of neighboring properties shall not be unduly compromised,
- The effectiveness of any chimney, vents or solar energy system on neighboring properties shall not be substantially reduced, and
- The resulting structure as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage
- An upper floor addition shall not result in the removal or significant alteration of a roof top architectural element original to the house such as a turret or tower
- Any upper floor addition shall not block or impede the functioning of a chimney or other external vent required by any municipal code on an adjacent property.
- An upper or rear addition shall not interfere with the operation of any neighboring solar energy system.


- The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties

For conversions of non-residential structures to apartment structures, the Zoning Commission proposes to maintain the matter-of-right conversions of these structures and to continue to subject them to the 900 minimum square feet of land area condition for each dwelling unit. However, the Zoning Commission proposes to amend the Zoning Regulations to grant relief from this requirement through a special exception from the Board of Zoning Adjustment.

The R-4 Zone District is designed by the District of Columbia to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into structures for two or more families. The R-4 Zone District is not intended to be an apartment house district. The proposed text amendments are designed to minimize a land owner's ability to convert existing and often historic row houses into apartment houses. While some federal properties may be included within an R-4 Zone District, federal properties are not subject to local zoning requirements so the proposed text amendments will not affect the development or operation of any federal properties within an R-4 Zone District. Further, the proposed limitations of row house heights and further maintenance of row house street patterns and architectural elements within the R-4 zone should help to preserve the historic character of some of Washington's neighborhoods as well as the views and vistas within these neighborhoods. As such, the proposed text amendments are not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital nor other federal interests.

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Pursuant to delegations of authority adopted by the Commission on August 6, 1999 and 40 U.S.C §8724(a), and DC Code §2-1006(a), I find that the proposed Text Amendments to Chapters 1, 3, 4, 26, and 31, Maximum Height and Minimum Lot Dimension Requirements and Use Permissions in the R-4 District, would not be inconsistent with the Comprehensive Plan for the National Capital nor affect other federal interests

  
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Marcel Acosta  
Executive Director

5-1-15  
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[Date]