

**MEMORANDUM**

**TO:** Sara Bardin, Director, Office of Zoning  
**FROM:** JLS  
 Jennifer Steingasser, Deputy Director for Development Review & Historic Preservation  
**DATE:** July 10, 2015  
**SUBJECT:** **Request for Consent Calendar consideration of technical correction to §§ 330, 336 and 3202**  
 Zoning Commission Case No. 14-11.

The Office of Planning (OP) respectfully requests that the Commission consider making a technical correction to Zoning Commission Order No. 14-11 and that the matter be placed on the consent calendar pursuant to § 3030 of the Commission's rules. The correction would clarify changes to the R-4 Residential zone district as a consent calendar item.

In the final discussion of the text in case 14-11 the Commission and Office of Planning were both clear that the vesting was to address both residential and non-residential buildings (the relevant snippet from the transcript is below). OP also stated in various reports and public hearings that the intent was not to discourage the adaptive reuse of non-residential buildings. However in drafting the final order the Office of Planning inadvertently did not include the non-residential buildings in the vesting conditions. The proposed changes to § 3202.4 and 3202.9, and the inclusion of new § 3202.10 address this issue.

Two additional clarifying minor modifications are requested that became apparent as permits were reviewed:

- 1) The phrase "principal residential building or structure" should be modified to read only "principal residential building". In discussion with the Zoning Administrator it was pointed out that the phrase could be read as separate things: a structure or a principal residential building, and a structure could be anywhere on the property. The clarification is important when determining from where to measure the ten feet for the extension of new constructions or additions on adjoining property; and
- 2) Clarification that an expansion of an apartment house in an R-4 Zone District includes an expansion in the number of units and/or a structural expansion.

**PROPOSED CONSENT TEXT:****Section 330, R-4 DISTRICTS: GENERAL PROVISIONS**

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

- (a) There is an existing non-residential building on the property at the time of filing an application for a building permit;



- (b) The maximum height of any addition to the existing structure shall not exceed thirty-five feet (35 ft.);
- (c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;
- (d) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building ~~or structure~~ on an adjacent property;
- (e) A roof top architectural element original to the structure such as a turret, tower, or dormers shall not be removed or significantly altered, including 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 on an adjacent property required by any municipal code;
- (g) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator; and
- (h) An apartment house in an R-4 Zone District converted from a non-residential building prior to June 26, 2015, shall be considered a conforming use and structure, but shall not be permitted to expand **either structurally or through increasing the number of units**, unless approved by the Board of Zoning Adjustment pursuant to §§ 3104.1 and 3104.3 and § 337.

**336                    CONVERSION OF A RESIDENTIAL BUILDING EXISTING PRIOR TO MAY 12, 1958, TO APARTMENT HOUSES (R-4)**

- 336.13                An apartment house in an R-4 Zone District, converted from a residential building prior to June 26, 2015, or converted pursuant to §§ 3202.8, ~~or~~ 3202.9 **or 3202.10**, shall be considered a conforming use and structure, but shall not be permitted to expand **either structurally or through increasing the number of units**, unless approved by the Board of Zoning Adjustment pursuant to §§ 3104.1 and 3104.3 and this section.

**Chapter 32, ADMINISTRATION AND ENFORCEMENT, §3202, BUILDING PERMITS:**

- 3202.4                Except as provided in §§ 3202.8, ~~and~~ 3202.9 **and 3202.10**, any construction authorized by a permit may be carried to completion pursuant to the provisions of this title in effect on the date that the permit is issued, subject to the following conditions:

- (a) The permit holder shall begin construction work within two (2) years of the date on which the permit is issued; and
- (b) Any amendment of the permit shall comply with the provisions of this title in effect on the date the permit is amended.

3202.9 Notwithstanding § 3202.4, a building permit application (including a foundation-to-grade permit application) (the Application) for construction involving the conversion of a one- (1) family dwelling or flat to an apartment house, **or the conversion of an existing non-residential building to an apartment house** in the R-4 Zone District shall be processed, and any work authorized by the building permit may be carried to completion pursuant to the provisions of the R-4 regulations in place as of July 17, 2014, if:

New §3202.10 to read as follows:

**3202.10 Notwithstanding § 3202.4, a building permit application (including a foundation-to-grade permit application) (the Application) for construction involving the conversion of an existing non-residential building to an apartment house in the R-4 Zone District shall be processed, and any work authorized by the building permit may be carried to completion pursuant to the provisions of the R-4 regulations in place as of July 17, 2014, it the Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs prior to June 26, 2015.**

June 8, 2015TRANSCRIPT EXERPT:

MS. STEINGASSER: I'm sorry. That probably wasn't clear. We just referred to them as residential buildings, and we meant all buildings for residential use, whether they were single-family or conversions. If they've been going through any kind of design process or governmental process, they've received a special exception but they -- you know, you have two years to file a building permit if you've received your special exception. We wanted to make sure we captured all of those, similar to the way we did, the Commission did for the green area ratio and pervious surface.

MR. MILLER: Well, that's reassuring.