



**MEMORANDUM**

**TO:** District of Columbia Zoning Commission  
**FROM:** *JLS*  
Jennifer Steingasser, Deputy Director  
**DATE:** April 6, 2016  
**SUBJECT:** ZC #15-09 Re-Map Portions of Lanier Heights From R-5-B to R-4  
Supplemental Memo for Proposed Accompanying Text Amendment

As part of the Office of Planning's (OP's) supplemental memorandum dated April 4, 2016 (Exhibit 127), OP recommended a text amendment intended to render existing apartment buildings conforming, as well as apartment buildings for which a building permit was applied for prior to setdown, which would otherwise be considered nonconforming under the proposed R-4 zone.

It has come to OP's attention that conflicting interpretations exist for § 3202.5, which governs building permits submitted in an area considered for a rezoning, and which may impact the proposed text amendment. Section 3202.5 states, in part:

3202.5 If an application for a building permit is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone district classification of the site of the proposed construction, the processing of the application and the completion of work pursuant to the permit shall be governed as follows:

- (a) If the application is filed on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by § 3202.4. The application shall be accompanied by any fee that is required, and by the plans and other information required by § 3202.2, which shall be sufficiently complete to permit processing without *substantial change or deviation*, and by any other plans and information that are required to permit complete review of the entire application under any applicable District of Columbia regulations; [Emphasis added.]

The phrase "substantial change or deviation" has at times been interpreted in such a way as to "kick out" existing building permit applications, even if those applications are being brought into

more conformity with the Zoning Regulations. Therefore, in order to allow for these modifications, as well as to ensure that the text amendment language is read as narrowly as possible, OP proposes the following change to the text amendment language. New text is shown in **blue, bold and underline**.

“§ 330.5 The following uses shall be permitted as a matter of right in an R-4 District:

[...]

(j) A multiple dwelling in Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587 or 2589, in existence as of December 14, 2015 with a valid Certificate of Occupancy, or under review for a building permit as of December 14, 2015, provided that the multiple dwelling shall not be expanded in floor area or in number of units. Said multiple dwellings, however, may be repaired, renovated, remodeled, or structurally altered. **Notwithstanding § 3202.5(a), said building permit applications may be revised to address structural, mechanical, building code, or other similar issues raised during review, or to bring the building into greater compliance with zoning, so long as the proposed building does not expand in volume, number of stories or number of units, all as stated in the initial building permit application and plans.”**