

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 304  
CASE NO. 79-16

January 10, 1980

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on November 29, 1979 to consider amendments to the text of the D.C. Zoning Regulations. The amendments propose to explicitly clarify the rights extended to existing buildings and structures in commercial districts, and to close a loophole in the Zoning Regulations created by the adoption of several text amendments by the Zoning Commission in 1978.

On November 9, 1978, the Zoning Commission adopted Order #242, which changed the floor area ratio (FAR) requirements for the C-1 and C-2 Districts, and regulated uses in buildings based on the new FAR requirements. On September 14, 1978, the Zoning Commission adopted Order #234, which changed the FAR requirements in the C-3 and C-4 Districts. On November 9, 1978, the Zoning Commission adopted Order #243, which amended Article 54 of the Zoning Regulations regarding the rights of existing buildings and structures in commercial districts.

Under the Zoning Regulations that were in effect immediately prior to the adoption of Orders #234, 242, and 243, uses in buildings in the C-2-B Districts were regulated vertically through-out the building. Consequently, commercial uses were limited to the first two floors and residential uses, only, were permitted on the third floor and all floors above. The effect of the changes resulting from Orders # 234, 242, and 243 when read together, allows a greater commercial density in existing buildings in commercial districts than either the old or new regulations would normally permit.

Advisory Neighborhood Commission - 1C, by letters dated August 8, 1979 and September 12, 1979, advised the Zoning Commission of the inconsistency created by the various orders, cited existing residential buildings in the Adams-Morgan area which potentially could have been converted totally to commercial uses because of the revisions to the Regulations, and requested that the Zoning Commission take emergency action to amend the Zoning Regulations to prevent any immediate conversion of existing residential uses to commercial uses, thereby further depleting the housing stock.

On September 27, 1979, the Zoning Commission adopted Emergency Order #295, which temporarily stayed the conversion of existing residential uses into commercial uses in commercial districts, until the Zoning Commission could consider permanent regulations, following a public hearing.

The D.C. Office of Planning and Development (OPD) by memorandum dated November 20, 1979 and by testimony presented at the public hearing, recommended approval of the proposed text amendment, as advertised. The OPD believed that the proposed amendment not only resolved problems related to the displacement of residents and reduction of the housing supply but also addressed concerns about the potential increase in nonresidential uses which exceeded limits considered appropriate to the individual zones.

Advisory Neighborhood Commissions (ANC) - 1C, 2B, 3C, and 3F, the Wisconsin Avenue Corridor Committee (WACC), the Marquette Tenants' Association, the 1841 Columbia Road Tenants' Association, the Belmont Road Tenants' Association, and various individuals presented testimony at the hearing in support of the proposal. ANC's - 1C, 2B, and 3C, and various individuals and organizations also requested the Commission to broaden its consideration to amend and/or delete Article 54 of the Zoning Regulations.

A representative of the Hotel Association presented testimony that supported the intent of the proposal but opposed part of the specific proposal which, in the view of the Hotel Association, did not adequately protect the rights of the owners of property in certain circumstances.

It was not the intent of the Commission to permit the expansion of commercial uses in existing buildings in commercial districts to exceed the level of commercial uses permitted under the old or new Regulations. The language adopted in 1978 is applied by the Zoning Administrator did allow that situation to occur. The Commission, therefore, believe that the Regulations must be amended to prevent any further commercial expansion in this manner.

As to the concerns of various ANC's, individuals, and organizations requesting the Commission to broaden its consideration in amending Article 54, the Commission believes that such actions are not appropriate in the context of this case. Emergency Order #295 expires on January 25, 1980 and there is an urgent need to correctly state the intent of the Commission pursuant to Orders #234, 242, and 243, and to close the loophole. Furthermore, the notice of the hearing does not provide sufficient basis to enact the more sweeping changes suggested. It would be appropriate to consider the issue of broadening amendments to Article 54 in the context of another public hearing with appropriate notice. The Commission also believes that the concerns of the Hotel Association could equally be addressed in the context of another public hearing of broader scope.

The Proposed amendments were referred to the National Capital Planning Commission (NCPCC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPCC reported that the proposed amendment will not have a negative impact on the functions of the Federal Establishment or other Federal interests in the National Capital Region.

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 D. C. Zoning Regulations and the Zoning Act (D. C. Code, Sec. 5-413). The Zoning Commission of the District of Columbia therefore hereby adopts the following amendments to the Zoning Regulations:

1. Revise Sub-section 5301.1 to read as follows:

5301.1 Except as specified in Sub-section 5301.2 of this section, Section 5306 and Chapter 7, the maximum permitted floor area ratio of a building or structure in a commercial district shall be as specified in the following paragraphs.

5301.11 For a building or structure for which an application for a building permit was filed on or after November 17, 1978, the maximum permitted floor area ratio shall be as follows:

District	Floor Area Ratio (FAR)		
	<u>Apartment House or other Residential Use</u>	<u>Hotel or other Permitted Use</u>	<u>Maximum Permitted</u>
C-1	1.0	1.0	1.0
C-2-A	2.5	1.5	2.5
C-2-B	3.5	1.5	3.5
C-2-C	6.0	2.0	6.0
C-3-A	4.0	2.5	4.0
C-3-B	6.5	6.5	6.5
C-4	8.5	8.5	8.5
C-5 (PAD)	10.0	10.0	10.0

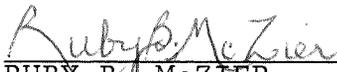
5301.12 For a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, the maximum floor area ratio to be devoted to a "hotel or other permitted use" shall be as shown in the table in Paragraph 5301.11. An apartment house or other residential use may occupy all or any portion of such a building or structure.

5301.13 The maximum permitted floor area ratio may be increased for specific applications approved by the Zoning Commission under the planned unit development process as specified in Section 7501.

2. Add the following sentence to the end of Sub-section 5402.2:

"This paragraph shall not be construed to permit the gross floor area of a "hotel or other permitted use," as shown in the table in Paragraph 5301.11, to be expanded in excess of the limitations contained in Paragraph 5301.12."

Vote of the Commission taken at the public meeting of December 13, 1979: 4-0 (Commissioners Walter B. Lewis, Theodore F. Mariani and Ruby B. McZier, to approve, and Commissioner George M. White, to approve by absentee ballot - Commissioner John G. Parsons, not voting not having participated in the case).

  
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RUBY B. MCZIER  
Chair  
Zoning Commission

  
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STEVEN E. SHER  
Executive Director  
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on January 10, 1980 by a vote of 4-0 (Walter B. Lewis, Theodore F. Mariani Ruby B. McZier and George M. White to adopt, John G. Parsons not voting, not having participated in the case).

In accordance with Section 3.6 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, the amendment to the Zoning Regulations is effective on 25 JAN 1980.