



Text Amendment #2019-00001

Residential Reversions

Issue: (A) Initiation of a Text Amendment; and (B) Public Hearing and Consideration of a Text Amendment to the Zoning Ordinance create a new section to allow properties that meet certain criteria to revert to a residential use if the property was previously residential and is currently a commercial use.	Planning Commission Hearing:	March 5, 2018
	City Council Hearing:	March 16, 2018
Staff: Tony LaColla, AICP, Land Use Services Division Chief, anthony.lacolla@alexandriava.gov Mary Christesen, Zoning Manager, mary.christesen@alexandriava.gov		

PLANNING COMMISSION ACTION, MARCH 5, 2019: On a motion by Vice Chair Wasowski, and seconded by Commissioner Lyle, the Planning Commission voted to initiate Text Amendment #2019-0001. The motion carried on a vote of 6-0, with Commissioner McMahon absent.

On a motion by Vice Chair Wasowski, and seconded by Commissioner Lyle, the Planning Commission voted to recommend approval of Text Amendment #2019-0001, as submitted. The motion carried on a vote of 6-0, with Commissioner McMahon absent.

Reason: The Planning Commission agreed with the staff analysis.

Commissioner Lyle commented that she was pleased that the issue was being addressed.

Commissioner Brown commented that while he is comfortable with the language, there is a possible vagueness in the language that may need to be corrected in the future if the regulations are not working as intended.

I. Issue

Over the past few years, the number of requests to convert buildings currently occupied as commercial uses back to their original or previous residential use has increased as demand for housing in the area continues to grow. Many of these are residential properties that were rezoned during the comprehensive update to the Zoning Ordinance and Map in 1992 to zones that permit a variety of residential and small-scale commercial uses. Many residential buildings converted to commercial uses, primarily offices, shortly after the 1992 rezoning. Today, many property owners wish to once again use these buildings as residences. Unfortunately, they often do not meet the current parking, bulk or area regulations required by the zone for residential uses and thus require relief in the form of a Variance or a Special Use Permit.

The purpose of this text amendment is to allow commercial structures to convert back to their original or previous residential use when a property meets specific criteria. In the long run this text amendment will provide more flexibility for property owners to convert back and forth between residential and commercial uses.

II. Background

Commercial uses in commercial zones typically do not have open space, yard or lot requirements and can be considered complying structures under their current commercial zoning designation. When a change of use is requested, it triggers a review of the property to ensure compliance with the zoning regulations for the proposed use. Zoning Staff is finding that properties wishing to revert back to a previous residential use often cannot meet the current residential requirements outlined in the Zoning Ordinance. This is often because the lot was developed with a structure prior the existence of the Zoning Ordinance and Map in 1931 or because through rezoning over the years, most commonly the 1992 updates to the Zoning Ordinance and Map, the residential use requirements for the property have changed since it was last used as a residence. Because these properties became complying commercial structures, under the current regulations, they cannot revert back to a previous noncomplying status without requesting some form of relief.

Properties not meeting the criteria outlined below will still be eligible to seek relief from either the Board of Zoning Appeals with a Variance or from Planning Commission and City Council with a Special Use Permit.

III. Discussion of Proposed Text Changes

Staff proposes to add a new section to Article 12 of the Zoning Ordinance to create a new category of noncomplying structures under section 12-101 to include properties that meet specific criteria. To be eligible to revert to a residential use without meeting the current requirements, the applicant must demonstrate that the property was either originally constructed as a residence or was used as a residence prior to the comprehensive Zoning Ordinance and Map update on June 24, 1992. In addition to demonstrating the history of a residential use of the structure, the proposed residential use must be permitted in the current zone and may not contain more dwelling units than previously existed on the property.

The focus of this text amendment is properties that are still fundamentally residential in character, but which have been used commercially and wish to return to residential use. The underlying principle is that if these properties were once considered appropriate for residential occupancy in the past, it is OK to allow them to return to residential use now because we are just allowing them to revert to a previously approved status. To qualify, it will be important that neither the lot or the structure has been changed from its previous residential configuration in a way that results in an increase in the degree of noncompliance for the residential use. Additionally, only the amount of parking that existed when the property was last used as a residence will be required regardless of the current requirement to provide two off-street parking spaces for each dwelling unit.

The proposed text amendment will allow Zoning Staff to administratively approve residential reversions meeting the criteria outlined above subject to all applicable Building Code requirements.

IV. Recommendation

Staff **recommends approval** of the change to the Zoning Ordinance as proposed in Attachment #1.

Staff: Tony LaColla, AICP, Land Use Services Division Chief
Mary Christesen, Zoning Manager

Attachment #1

PROPOSED ZONING TEXT CHANGES

Section 12-100 - Noncomplying structures.

12-101. - Terms defined.

(A) Noncomplying structure means any building or structure that existed prior to the effective date of any change in the zoning regulations or restrictions, but which thereafter, by reason of such change, is not in compliance with the zoning regulations or restrictions then in effect.

(B) A building on a lot that does not meet the current zoning requirements for residential use, that was originally constructed or principally used prior to June 24, 1992 as a residence, may be reverted from commercial use to a residential use and shall be a noncomplying structure provided that:

- (1) The proposed residential use is permitted in the zone;
- (2) The proposed residential use contains a number of dwelling units equal to or less than previously existed on the property;
- (3) Since the most recent conversion to a commercial use, there has been no expansion to the structure and no changes to the lot of record that increase the degree of noncompliance for a residential use; and
- (4) Since the building was last a residential use, the number of parking spaces has not been reduced notwithstanding the requirements to provide parking in section 8-200.

~~(B)~~ (C) The term noncomplying structure does not include a structure that was grandfathered under prior law.

~~(C)~~ (D) In the event a nonconforming use is located in a noncomplying structure, the provisions of sections, 12-204, 12-205, 12-207, 12-208, and 12-209 shall apply.

~~(D)~~ (E) A structure located on a parcel that is reduced in size by virtue of the exercise of eminent domain shall be considered a noncomplying structure if the reduction in parcel size is the cause of such noncompliance and the structure preexisted the reduction in size.