

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY  
JULY 8, 2019

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice, at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman  
ROBERT MILLER, Vice Chairman  
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)  
PETER G. MAY, Commissioner (NPS)  
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic Preservation  
JOEL LAWSON  
STEPHEN COCHRAN  
MATT JESICK

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from the Regular Meeting held on July 8, 2019.

P-R-O-C-E-E-D-I-N-G-S

(6:32 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRMAN HOOD: This meeting will please come to order.

Good evening, ladies and gentlemen. This is a public meeting of the Zoning Commission for the District of Columbia.

My name is Anthony Hood.

We are located in the Jerrily R. Kress Memorial Hearing Room.

Today's date is July 8, 2019.

Joining me are Vice Chair Miller, Commissioner Shapiro, Commissioner May, and Commissioner Turnbull. We are also joined by the Office of Zoning staff, Ms. Hanousek; Office of Attorney General, Mr. Tondro; and Office of Planning, Ms. Steingasser, Mr. Lawson, Mr. Jesick, and Mr. Cochran.

Is there some --

MS. HANOUSEK: Yes. One preliminary matter. The --

CHAIRMAN HOOD: Ms. Hanousek, let me just finish the opening statement.

MS. HANOUSEK: Oh, I'm sorry.

CHAIRMAN HOOD: Okay. I thought something was wrong.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Copies of today's meeting agenda are available to  
2 you and are located in the bin near the door. Accordingly,  
3 we must ask you to refrain from any disruptive noises or  
4 actions in the hearing room.

5           Please turn off all electronic devices at this  
6 time.

7           Now, does the staff have any preliminary matters?

8           MS. HANOUSEK: Yes. Hearing Action Item Case 16-  
9 22 was pulled from the agenda tonight by the applicant.

10          CHAIRMAN HOOD: Okay. Thank you, Ms. Hanousek.

11          Let's go straight to Consent Calendar item,  
12 modification of consequence of determination and scheduling.  
13 First, let me -- before I go to Ms. Hanousek to read what is  
14 before us, the -- well, I'll tell you what, Ms. Hanousek,  
15 could you just call the case?

16          MS. HANOUSEK: Sure. The applicant is requesting  
17 a modification of consequence to revise condition B.2 to  
18 extend the deadline for its financial contribution to Habitat  
19 for Humanity. ANC-6C, which is the only party, has been  
20 served but has not responded yet, and there is an OP report  
21 recommending approval at Exhibit 4. The Commission should  
22 now determine whether it believes this case is indeed a  
23 modification of consequence; and, if so, set up a timeframe  
24 for responses from the party.

25          CHAIRMAN HOOD: Okay. Thank you, Ms. Hanousek.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Again, colleagues, this is Zoning Commission Case Number 16-  
2 13E.

3 Does anyone believe that this should come off as  
4 a modification of consequence? Any objections? Okay. So  
5 it will maintain as a modification of consequence.

6 Okay. Ms. Hanousek, we will keep this as a  
7 modification of consequence. We will ask that you schedule  
8 it, please.

9 MS. HANOUSEK: Certainly. The ANC will have until  
10 July --

11 CHAIRMAN HOOD: Hold on one second.

12 VICE CHAIRMAN MILLER: I've got one question.

13 MS. HANOUSEK: Oh, sorry.

14 VICE CHAIRMAN MILLER: All right. So I just  
15 wanted to note that I think the -- there has to be some  
16 adjustment to the deadline that the applicant was proposing  
17 for the satisfaction of the condition. They had December  
18 31st. The building permit actually is only --

19 CHAIRMAN HOOD: Four days --

20 VICE CHAIRMAN MILLER: -- is four days earlier,  
21 so there has to be -- it should -- the deadline for the  
22 conditions reached should be the same as the building permit.  
23 When that -- when that gets finally approved, if it gets  
24 approved.

25 CHAIRMAN HOOD: Okay. I believe -- can we -- we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 can discuss all that. We can do that now, or do we -- yeah.  
2 We discuss that after we -- yeah. I understand. Okay. So  
3 can we do the schedule?

4 MS. HANOUSEK: Yes, sir. The ANC has until July  
5 22nd at 3:00 to respond, and the case will be considered for  
6 approval at the July 29th meeting.

7 CHAIRMAN HOOD: Okay. Any further questions?

8 VICE CHAIRMAN MILLER: No, sir.

9 CHAIRMAN HOOD: Okay. Ms. Hanousek, next case,  
10 please?

11 MS. HANOUSEK: Yes. Case 12-02A, 50 Florida  
12 Avenue, Development Associates, LLC. PUD modification of  
13 consequence at Square 3516. The applicant is requesting a  
14 modification of consequence to revise Condition B.4 to revise  
15 the streetscape improvements proffer.

16 The two parties in this case, ANC-5E and Kimberly  
17 Konkell, have been served. The ANC supports the proposed  
18 changes at Exhibit 2, and OP recommends approval at Exhibit  
19 4. Ms. Konkell has not yet responded.

20 The Commission should determine whether it  
21 believes this case is indeed a modification of consequence;  
22 and, if so, set up a timeframe for responses from the party.

23 CHAIRMAN HOOD: Okay. Thank you, Ms. Hanousek.

24 Commissioners, does anyone believe that this is  
25 not a modification of consequence as presented? Okay. Not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 seeing any, Ms. Hanousek, can you do the schedule?

2 MS. HANOUSEK: Yes, sir. The party, Ms. Konkell,  
3 has until July 22nd at 3:00 to respond, and the case will be  
4 considered for approval at the July 29th meeting.

5 CHAIRMAN HOOD: So I see Mr. Freeman almost  
6 tripped trying to get up, so maybe he has some additional  
7 information in this case.

8 (Pause.)

9 MS. HANOUSEK: Well, I --

10 CHAIRMAN HOOD: Ms. Hanousek, do you want to turn  
11 your mic off?

12 (Pause.)

13 CHAIRMAN HOOD: Okay. We can continue. We have  
14 to afford the opportunity to be on -- proceed with caution.

15 Okay. Ms. Hanousek, can you give us the schedule  
16 again?

17 MS. HANOUSEK: Yes. Ms. Konkell has until July  
18 22nd at 3:00 to respond, and the case will be considered for  
19 approval at the July 29th meeting.

20 CHAIRMAN HOOD: Okay. Anything else on that case?

21 MS. HANOUSEK: No, sir.

22 CHAIRMAN HOOD: Okay. Under Further  
23 Deliberations, Zoning Commission Case 19-11. Ms. Hanousek,  
24 do you have anything you want to add?

25 MS. HANOUSEK: Okay. For Case 19-11, the Office

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 of Planning text amendments for the public schools, what's  
2 before the Commission tonight is reconsidering the emergency  
3 action and immediate publication of the proposed rulemaking,  
4 which they approved June 24th.

5           CHAIRMAN HOOD: Okay. Colleagues, this was us  
6 trying to be -- we won't go down in history for trying to be  
7 helpful or trying to do something to speed things along.  
8 It's always the other way around, but we were trying to be  
9 helpful in this case, and particularly in -- come up with an  
10 emergency off the cuff, and also notice of immediate  
11 publication.

12           But we found out this was not needed, so we are  
13 now being asked -- we couldn't basically make a  
14 justification. While I appreciate my colleagues and all of  
15 us, and our due diligence of trying to move things along,  
16 that -- this was one of the instances where we actually  
17 couldn't. And after further review, we've been asked to  
18 rescind the immediate publication, as well as the emergency.

19           So I guess we would need to do some type of motion  
20 to do that. So I would -- I would -- one of my colleagues  
21 want to make a motion? Commissioner Shapiro?

22           COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I  
23 think the motion would be to rescind the earlier emergency  
24 action and the immediate publication of the notice of  
25 proposed rulemaking, and also to schedule -- we would then

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 schedule the proposed text amendment for a hearing.

2 CHAIRMAN HOOD: And, again, that's for Zoning  
3 Commission Case Number 19-11, correct?

4 COMMISSIONER SHAPIRO: Yes, sir.

5 CHAIRMAN HOOD: Okay. So it's a motion. Can I  
6 get a second?

7 COMMISSIONER TURNBULL: Second.

8 CHAIRMAN HOOD: It has been moved and properly  
9 seconded. Any further discussion? All in favor, aye.

10 (Chorus of ayes.)

11 CHAIRMAN HOOD: Any opposition? Not hearing --  
12 Ms. Hanousek, would you please record the vote?

13 MS. HANOUSEK: Yes. For Case 19-11, the  
14 Commission approved reconsidering the emergency action and  
15 the publication -- immediate publication of proposed  
16 rulemaking, and will, instead, schedule the hearing of the  
17 proposed text amendment as -- as is standard. And that was  
18 a motion made by Shapiro and seconded by Turnbull, and Hood,  
19 May, Miller, Shapiro, Turnbull approve.

20 COMMISSIONER SHAPIRO: Mr. Chair?

21 CHAIRMAN HOOD: Also, May -- May also approved.  
22 She said May? Okay.

23 COMMISSIONER SHAPIRO: Just for -- to make sure  
24 we're as precise as possible, the motion was to rescind the  
25 earlier emergency action. Thank you, Mr. Chair.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: All right. So we're on the same  
2 page with that. We rescinded -- we're taking it all off the  
3 table. All right. Anything else on this case, Ms. Hanousek?

4 MS. HANOUSEK: No, sir.

5 CHAIRMAN HOOD: Okay. Let's go to Further  
6 Deliberations, Zoning Commission Case Number 18-18, Office  
7 of Planning, text amendment to Subtitle K to creation of the  
8 Northern Howard Road Zone.

9 As you know, colleagues, with this, I think we  
10 have discussed this, but there was some clarifications that  
11 we have not basically fleshed out. There was a  
12 recommendation that the percentage being 15 -- 15 percent of  
13 affordability at the 50 to 60 MFI. But I think we were not  
14 clear on how we wanted to proceed. I think I've teed that  
15 up enough. I think we know pretty much what we need to  
16 continue to deliberate, but let me open it up for any  
17 comments or any solutions on this particular item, or  
18 anything else in this case.

19 Vice Chair Miller.

20 VICE CHAIRMAN MILLER: Thank you, Mr. Chairman.  
21 Yeah. The last time we considered this, a couple of weeks  
22 ago I think, or whenever that was, OP had noted in their  
23 first supplemental report I guess on May 24th that the ANC  
24 had recommended an increased affordability housing setaside  
25 from the 10 percent to the 15 percent amount, and needed the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 ANC report or the OP -- I mean, the ANC recommendation or the  
2 OP report, which noted that the higher setaside would be  
3 consistent with the purposes in the proposed Northern Howard  
4 Road Zone.

5 But, you know, neither the recommendations of the  
6 ANC or the OP report, nor our discussion about it, focused  
7 on the median family income level. I personally was assuming  
8 that it was the same affordable housing level, and we were  
9 just increasing the setaside amount, since that's all we  
10 talked about.

11 So I see now that there are two proposals from OP.  
12 One was the original 10 percent setaside at a deeper -- at  
13 a deeper affordability level, and now OP is suggesting that  
14 the higher 15 percent setaside amount affordability should  
15 be at a higher median family income level.

16 And this is a text amendment. This isn't a PUD  
17 that is a proffer, so I think we have the flexibility to do  
18 what we think is consistent with the purposes of this new  
19 Howard Road Zone.

20 I would just suggest -- I would suggest that we  
21 keep the deeper affordability level, which I think was  
22 originally proffered by the applicant when this was a PUD  
23 case, and it was a good proffer then, and it was a good  
24 proposed text amendment when it got carried forward in the  
25 text amendment, in terms of the deeper affordability level.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           The increased setaside I would suggest just is a  
2 -- instead of going to the 15 percent amount, maybe going to  
3 a 12 percent amount. Fifteen percent is almost like a 50  
4 percent increase in the amount, and it's -- and it's higher  
5 than a lot of -- when we've asked in mostly PUD cases, and  
6 maybe in some other cases, for them to -- for applicants to  
7 consider doing higher than the eight or ten percent setaside,  
8 they have often gone to the 12 percent, except in those cases  
9 where it's an all affordable project, and then it's 100  
10 percent.

11           So I think a reasonable -- I would be more  
12 comfortable keeping the deeper affordability level, which I  
13 think is, as I said, consistent with the purposes of this --  
14 of this zone. But maybe just increasing the amount of the  
15 setaside as -- maybe not as far as the ANC had recommended,  
16 and -- but to a 12 percent setaside, instead of 15 percent,  
17 and see where my colleagues are on that, or any other  
18 proposal.

19           CHAIRMAN HOOD:     Okay.     Thank you for that  
20 proposal. Let's open it up. Commissioner May?

21           COMMISSIONER MAY:   I think one of the advantages  
22 of having the -- having a 50 percent -- first of all, it's --  
23 I mean, it is more consistent with what the ANC had  
24 suggested. But I also think that there is a benefit to  
25 including some 80 percent FMI -- I mean, MFI IZ units within

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the development.

2           It's -- I mean, I've forgotten -- well, I don't  
3 know what the potential split might be or what the potential  
4 development might be, but I think our experience has been  
5 that -- that 80 percent MFI units are more likely to work as  
6 for sale units, and I think one of the things that we do want  
7 to encourage is ownership and not just renting.

8           And I think at the lower affordability levels  
9 there may be -- you know, there may be some ownership  
10 opportunities, but I think that the -- there is a real issue  
11 with condominium fees interfering with the actual  
12 affordability of those units.

13           So I think there is some real benefit in having  
14 80 percent units, and, you know, driving up the overall  
15 number I think is beneficial. So, I mean, I don't feel  
16 strongly that that's the better way to do it. I also feel  
17 like trying to keep the original split, but bump it up to 12  
18 percent. I feel like I need to have a little more analysis  
19 on that to understand whether that, in fact, makes sense in  
20 this special zone that we are creating.

21           So, you know, again, I think since we have two  
22 possible recommendations from the Office of Planning, I would  
23 be happy to go with either one. I lean toward the 15 percent  
24 number, but I could go with either one. I think if we did  
25 something different, I want to understand it more thoroughly,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 and that means, you know, having to take more time to decide  
2 it, which may not be a good thing.

3 CHAIRMAN HOOD: Okay. Commissioner Shapiro?

4 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I  
5 just want to make sure I'm understanding the competing  
6 proposals. So, Mr. Vice Chair, you are suggesting -- what  
7 I'm hearing is that you suggest with the OP proposals, the  
8 one on the right, keep those affordability levels and just  
9 bump that up to 12 percent.

10 VICE CHAIRMAN MILLER: That's correct,  
11 Commissioner Shapiro.

12 COMMISSIONER SHAPIRO: Okay. And my personal view  
13 on this, Mr. Chair, is I'm fine with that. I'm fine with the  
14 Vice Chair's suggestion.

15 CHAIRMAN HOOD: Okay. Mr. Turnbull, do you have  
16 any comments on this one?

17 COMMISSIONER TURNBULL: Yeah. Just that, you  
18 know, ever since IZ was proposed and initiated, at least I  
19 and I'm sure my other -- a lot of my colleagues have thought  
20 that 80 percent was probably the wrong choice when we did it  
21 in the first place, because it's not helping -- I mean, it's  
22 close to market rate as it is.

23 So, but 50 percent of -- at 80 percent AMI is just  
24 -- that's a non-starter for me. I think the -- I think the  
25 Vice Chair has put together -- has -- is mentioning it is --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 his consideration, what he is proposing for a change, is a  
2 reasonable -- is a reasonable change. I don't know how the  
3 ANC will take it, but I still think it's a reasonable change.

4 I don't know whether you would want to add some  
5 80 percent, but I am -- I am really reluctant to do that.  
6 I mean, I don't know whether there needs to be more thought  
7 on this, but otherwise I would be in support of the Vice  
8 Chair's proposal.

9 CHAIRMAN HOOD: All right. Thank you. I, too,  
10 am in support. While I understand the other concerns, and  
11 I don't want to keep delaying red brick, red brick, seems  
12 like we're kicking red brick a lot. I don't want to see them  
13 just as much as they don't want to see us anymore.

14 I'm just hoping that our proposal this time  
15 doesn't come back like we tried to do with the emergency, and  
16 we have another problem. So I'm going to go with the Vice  
17 Chair, 12 percent, and the deeper affordability. I think  
18 that's the rational -- I just hope we can do it, because I  
19 don't want to have to come back at the next meeting and  
20 rescind it.

21 So it sounds like we -- we have enough to go  
22 forward with the Vice Chair's recommendation. Is there  
23 anything else?

24 COMMISSIONER MAY: I'm not going to buck the trend  
25 here over that. I just had a consideration, and I guess I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 was the only one who had that concern.

2 CHAIRMAN HOOD: And at the next meeting, if we  
3 have to come back and rescind it, then I'm going to be very  
4 disappointed. So anyway, let's see if we can move this  
5 along.

6 Anything else on this? All right. Would somebody  
7 like to make a motion with exactly what we discussed? And  
8 I think, Mr. Tondro, that will be in order, make a motion to  
9 approve and then -- okay.

10 VICE CHAIRMAN MILLER: So thank you, Mr. Chairman.  
11 I would move that we clarify that the proposed text amendment  
12 on the affordability levels for this Howard rezone -- Road  
13 Zone case in Case Number 18-18 be a 12 percent setaside of  
14 the amount, at the deeper -- original deeper affordability  
15 level percentages, and ask for a second.

16 COMMISSIONER SHAPIRO: Second.

17 CHAIRMAN HOOD: Okay. We have a motion, and it  
18 has been seconded, as we have discussed on this Zoning  
19 Commission Case Number 18-18, the Northern Howard Road. Is  
20 there any further discussion?

21 MS. HANOUSEK: Who seconded?

22 CHAIRMAN HOOD: Commissioner Shapiro seconded.  
23 Any further discussion? All in favor, aye?

24 (Chorus of ayes.)

25 CHAIRMAN HOOD: Any opposition? Not hearing any,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 Ms. Hanousek, would you please record the vote?

2 MS. HANOUSEK: Yes. The Commission voted five-  
3 zero-zero to clarify the affordability in Case 18-18, clarify  
4 it such that the amount of -- of affordable housing will be  
5 increased to 12 percent, and it will be at the deeper levels  
6 of a split of 50 percent and 60 percent. Is that correct?

7 CHAIRMAN HOOD: Correct.

8 MS. HANOUSEK: So the vote is five-zero-zero,  
9 Miller made the motion, Shapiro seconded, and Hood, May,  
10 Miller, Shapiro, and Turnbull approved.

11 CHAIRMAN HOOD: Commissioner Shapiro?

12 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Just  
13 for clarification, make sure to your point, make sure we're  
14 getting this right. So the proposals -- and maybe I'm just  
15 misreading this, but the proposals from OP, the one that we  
16 -- is most akin to what we voted for says that -- also says  
17 that 25 percent of all IZs will be -- IZ units will be three  
18 bedrooms. But it doesn't specify the affordability level.

19 So I just want to be clear with what action we're  
20 taking in relation to this. And I don't mind OP weighing in  
21 with at least what their intention was with this. That might  
22 help inform us as well.

23 VICE CHAIRMAN MILLER: The OP summary chart for  
24 the 10 percent setaside that was -- that was originally in  
25 this case says 75 percent of IZ at 60 percent MFI, 25 percent

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 of IZ at 50 percent MFI, and then 25 percent of all IZ will  
2 be three bedrooms. And we were making that amount of the  
3 setaside to be 12 percent.

4 As to the affordability level, I would -- I could  
5 be wrong, and I would ask OP to correct me if I'm wrong. I  
6 assume that the IZ are at the 60 percent and 50 percent level  
7 for the three bedrooms or were they all at the three -- were  
8 they all at the 60 percent level?

9 Whatever the original proposal for deeper  
10 affordability levels for each of those categories is what I  
11 was putting into my motion. If OP can just clarify what that  
12 three-bedroom units IZs were going to be, that would be --  
13 that would help us understand.

14 MR. JESICK: I'll try to clarify, Commissioner  
15 Miller. This is Matt Jesick with Office of Planning. There  
16 are two sections that work in concert to govern the IZ on the  
17 -- in the new zone. One is what the Commission has just been  
18 discussing, and in that Section 1002.5 simply states that 25  
19 percent of the total IZ setaside shall be three-bedroom  
20 units.

21 Then there was the second text amendment that was  
22 -- the Commission may recall was originally part of the map  
23 amendment, and the Commission incorporated it into the text  
24 amendment. And that says that all inclusionary units  
25 setaside at 50 percent MFI shall be three-bedroom units.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 That would probably mean that almost all of the three-bedroom  
2 units would be at 50 percent MFI.

3 VICE CHAIRMAN MILLER: But then that was my  
4 intent, to move the original deeper -- the deeper  
5 affordability levels. So that's -- so the 50 percent MFI for  
6 all of the -- for all of the three-bedroom IZ units. That's  
7 what you're saying.

8 MR. JESICK: And I should clarify, now that I am  
9 reading this again --

10 VICE CHAIRMAN MILLER: Because I read it a  
11 different way, so I thought it was just split between a 60  
12 and 50. But if you're saying it's all at the 50 --

13 MR. JESICK: Well, there's a slight nuance here  
14 in what I believe is the new Section 1012. All the 50  
15 percent MFI units shall be three-bedroom units. Then it goes  
16 on to say that one-third of all the inclusionary units  
17 setaside at 60 percent shall be three-bedroom units.

18 So I think you're getting a mix weighted towards  
19 50 percent.

20 MR. JESICK: Okay. So there is -- there is a  
21 split.

22 VICE CHAIRMAN MILLER: There is a split.

23 MR. JESICK: But it's more -- but more of those  
24 three -- there is a split for the three-bedroom units between  
25 50 and 60, but more of them will be at the 50 percent MFI

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 level based on that -- the reading of those two provisions  
2 together.

3 MR. JESICK: I'd have to do the math to be sure,  
4 but I think that's what it ends up being.

5 VICE CHAIRMAN MILLER: Okay. I was going with the  
6 original deeper affordability list, whatever it was.

7 MR. JESICK: This is the original language that's  
8 --

9 VICE CHAIRMAN MILLER: Okay. I think that's what  
10 the -- my colleagues were assuming as well.

11 CHAIRMAN HOOD: Okay. I think we are straight and  
12 moving forward. We have already voted on this case.  
13 Anything else? Any other follow-ups?

14 Okay. All right. Ms. Hanousek, can you call the  
15 first hearing -- well, the only Hearing Action case?

16 MS. HANOUSEK: Case 19-13, office of Planning,  
17 text amendment to Subtitles B to G, I, J, and U, alley lot  
18 regulations. And, OP, take it away.

19 MR. JESICK: Thank you, again, Mr. Chairman, and  
20 members of the Commission. My name is Matt Jesick. The  
21 Office of Planning is proposing text amendments to the  
22 regulations governing alley lots, and I want to emphasize  
23 that these amendments are only for alley lots and alley --  
24 buildings on alley lots, not for accessory structures, not  
25 for street-facing lots, just for alley lots.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Now, since the option of ZR16, the Office of  
2 Planning and the Office of the Zoning Administrator have  
3 noted areas where the regulations have been confusing to  
4 staff and the public, and where development of lots that  
5 would otherwise be suitable for development is hindered  
6 simply because the properties in question are tax lots.

7           Most of the proposed amendments are intended to  
8 increase clarity and consistency within the regulations, and  
9 make the regulations more usable for the public, staff, the  
10 BZA, and the Commission.

11           One example of a clarifying amendment would be to  
12 state where the building height measurement point is located  
13 for alley lots. Today the regulations only address street-  
14 facing lots, but an amendment to Subtitle B would state that  
15 the building height measuring point could be taken at the  
16 alley adjacent to the alley lot.

17           Only a few of the amendments would actually change  
18 zoning policy. Those include allowing pre-'58 tax lots to  
19 convert to record lots as a matter of right, and tax lots  
20 created between 1958 and 2016 to be converted to record lots  
21 through a special exception.

22           OP also proposes to reduce the alley centerline  
23 setback from 12 feet to seven and a half feet, and the  
24 amendments would allow five performances or shows in an  
25 artist's studio on an alley lot, a topic that is not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 addressed in the present regulations.

2 I wanted to note one other change that we are  
3 considering that came up after we wrote our report. And we  
4 would want to look at allowing tax lots that are smaller than  
5 450 square feet to convert to record lots by special  
6 exception. That could allow a property owner trying to  
7 construct, say, a garage or a similar structure to obtain  
8 building permits.

9 The 450-square-foot lot size minimum for  
10 residential uses would still remain in Subtitle U, and any  
11 relief to that would remain a variance.

12 So, overall, we are not trying to totally reinvent  
13 the alley lot regulations. Again, most of the proposed  
14 amendments are simply intended to increase the consistency,  
15 clarity, and usability of the regulations.

16 Thank you, and I would be happy to take any  
17 questions.

18 CHAIRMAN HOOD: Okay. Thank you, Mr. Jesick.

19 Let me just ask, with this proposal, what are we  
20 doing? I mean, there has got to be some -- there is an  
21 adverse to how it exists today. There is an adverse impact  
22 on it, and I want to know, do -- have we looked into that,  
23 and what is it? Because I didn't see it in the report. I  
24 know there's an -- anything we do there is something adverse,  
25 that it's going to be an adverse effect on it some kind of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 way.

2           And I want to kind of get a handle or a feel for  
3 that first before we start moving to this other stuff. What  
4 is the adverse effect on this? Of us doing this, reducing  
5 things and making things closer together? What is the  
6 adverse effect on it?

7           MR. JESICK: Well, I think -- you know, again, I  
8 think most of the amendments are simply clarifications or  
9 increasing consistency within the regulations. I think when  
10 you look at items such as allowing tax lots to convert to  
11 record lots, what we're really trying to do is make it easier  
12 in certain conditions for property owners to obtain building  
13 permits, which you can't do when you have a tax lot.

14           And what we have seen in albeit limited sample  
15 size are properties that come forward that are otherwise  
16 suitable for development. But simply for the fact that they  
17 are tax lots, they cannot obtain building permits. And even  
18 when going to the BZA, Office of Planning has denied some of  
19 these cases, and the Board itself has denied the cases.

20           Again, these are lots that are otherwise suitable  
21 for development. With the standards in place for alley  
22 development. They would still be limited in height. There  
23 are lot occupancy limits. There are yard requirements for  
24 alley lots. So you still have basic protections that zoning  
25 affords any development.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           And also -- we also feel there is a limited  
2 universe of these lots that could potentially be developed  
3 based on our GIS analysis.

4           CHAIRMAN HOOD: Okay. Mr. Jesick, thank you. But  
5 if this is set down, I still would like to ask that we have  
6 this discussion. If we get to a hearing point, I would like  
7 to know up front what -- it's something I want to be able to  
8 -- be able to evaluate and look at what the adverse -- if you  
9 could research that, look into that, some of the adversity  
10 of us doing something like this, and we can wait until we get  
11 to that hearing process.

12           I'm sure it will be -- it will be revealed, but  
13 I'd like for us to -- I'd like to be ahead of that through  
14 your analysis.

15           Okay. Any other questions? Commissioner May.

16           COMMISSIONER MAY: Yeah. If I could just -- on  
17 that same point, I -- you know, I recall at least two cases  
18 with alley development, and I don't remember the particulars  
19 of them, but I remember them being contentious. And so I  
20 think some of the ones where the BZA -- where the Office of  
21 Planning did not recommend in favor, and when -- and where,  
22 in fact, the BZA voted against them in the end, there was  
23 substantial neighborhood opposition just because they didn't  
24 want to see those particular alley lots developed. Is that  
25 -- am I remembering that correctly?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 MR. JESICK: I believe you served on two cases  
2 that were heard the same day.

3 COMMISSIONER MAY: Yeah.

4 MR. JESICK: Where, yes, they were both  
5 contentious.

6 COMMISSIONER MAY: Yeah. So, I mean, I think the  
7 potential -- one of the potential adverse impacts is that it  
8 would open the door for some of these alley lots to be more  
9 readily developed over the objections of neighbors. So I  
10 think that's one of the impacts we have to be thinking about.

11 CHAIRMAN HOOD: Thank you. Thank you,  
12 Commissioner May.

13 COMMISSIONER MAY: And I'm not saying that --

14 CHAIRMAN HOOD: And that's what I'm looking for.

15 COMMISSIONER MAY: Yeah.

16 CHAIRMAN HOOD: I want to know that.

17 COMMISSIONER MAY: Right. And that's why I  
18 brought that up, because I thought that's the kind of effect  
19 you were potentially concerned about. And I -- you know, I  
20 don't have strong feelings one way or another in those  
21 circumstances, but I think that some of the lessons learned  
22 from those cases are worth understanding when we consider  
23 this.

24 I just want to clarify. You did say five events  
25 per year in an artist's studio, right?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. JESICK: Correct.

2 COMMISSIONER MAY: Okay. Because in the summary  
3 at the very top of your report it said four performances,  
4 which was inconsistent with what showed up --

5 MR. JESICK: Five is the correct number.

6 COMMISSIONER MAY: Five is the correct number.  
7 Okay. I -- I mean, I do think there are some other potential  
8 adverse impacts not associated with the development of the  
9 tax lots, having to do with alley centerlines. And I think  
10 understanding something about turning radiuses and what that  
11 means, because, again, I remember -- I remember another case  
12 where there was a house on a 10-foot alley and it was -- it  
13 was impossible for a vehicle of -- I mean, a normal-sized  
14 vehicle to get into the proposed garage that was going to be  
15 on the 10-foot alley.

16 And it took a long time to convince them to even  
17 open -- you know, widen the door a little bit, so that you  
18 could get a vehicle in. And they were convinced they could  
19 do it because they had done it with their vehicle.

20 I mean, I think knowing something about how alleys  
21 work and how vehicles go in and out of garages on an alley  
22 like that I think is actually an important thing to  
23 understand. You know, whether -- you know, what it really  
24 means, I don't know.

25 I mean, there are ways to mitigate that. You

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 know, clearly, the 12-foot setback is based to allow enough  
2 room to swing a vehicle in and out of some sort. And if you  
3 don't have that, you know, what are the other ways that you  
4 can mitigate that? One is with the width of the opening or,  
5 you know, things like that.

6 So it's worth considering, worth thinking about.

7 Thank you.

8 CHAIRMAN HOOD: Okay. Thank you, Commissioner  
9 May.

10 Commissioner Turnbull.

11 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

12 Mr. Jesick, I just had question on the height.  
13 "Maximum height and storage of a building on alley lots in  
14 R zone shall be 20 feet and two stories, including the  
15 penthouse." I'm assuming you could still have a four-foot  
16 parapet around the building?

17 MR. JESICK: Yes, I believe that's correct.

18 COMMISSIONER TURNBULL: Okay.

19 CHAIRMAN HOOD: Okay. Any other questions?  
20 Commissioner Shapiro.

21 COMMISSIONER SHAPIRO: Briefly. A question about  
22 the artist studios and the rationale for the proposed -- I  
23 have no problem with setting this down, and I'm just curious  
24 about this, and perhaps there might be some further  
25 clarification in preparation for assuming there is a hearing.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           The reason why you chose -- the rationale for  
2 choosing five is that you used the yard sales as a point of  
3 reference. And I'm just curious about the rationale for why  
4 only five yard sales, because I would be -- I would be more  
5 inclined to open this up to considering -- for more  
6 opportunities for performances or art shows, especially  
7 because the proposal would -- specifies that noise  
8 regulations, and I imagine other similar neighborhood impact  
9 issues, would remain in place.

10           So why only five? To dive deeper into that and  
11 consider other options to expand it.

12           Thank you, Mr. Chair.

13           CHAIRMAN HOOD: Okay. Vice Chair Miller?

14           VICE CHAIRMAN MILLER: Thank you, Mr. Chairman.  
15 Yeah. I prepared to set down this modest case for a -- this  
16 case for a hearing. I think it -- I think there are modest  
17 clarifications that would facilitate some of these alley lots  
18 to be developed without having to jump through unnecessary  
19 hoops. And I -- while I understand the concerns that have  
20 been expressed by Chairman Hood and Commissioner May -- and  
21 I, too, would be interested in seeing some kind of an  
22 overview and summary analysis of the contentious BZA cases  
23 of alley lot developments to see what the issues were and  
24 whether these particular amendments would have had any  
25 relationship to those particular cases.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I'm not sure that they would, but I do associate  
2 -- so I'm interested in seeing that analysis of potential  
3 adverse impacts, but I think we also have to be cognizant --  
4 very cognizant -- of the housing crisis that exists in our  
5 city. And these are only modest changes that might  
6 facilitate or require a little less hoop-jumping to get some  
7 of these spots into lots developed.

8 We need housing at all income levels in every part  
9 of this city. You know, other cities have recently proposed  
10 eliminating single-family zoning. I think Minneapolis did  
11 that, and I think a city in Oregon, Portland, maybe is  
12 considering doing that. And I think there may be an  
13 amendment being offered to the comprehensive plan tomorrow  
14 by one -- by a Council member that calls for consideration  
15 of that.

16 When you restrict a huge swath of your city,  
17 particularly in my neck of the woods, to the most restrictive  
18 single-family zoning, you're taking a lot of valuable land  
19 and not allowing for it to be developed with the housing that  
20 we need in the city.

21 So I am -- so I think that's just the flipside of  
22 the coin or the adverse impacts that some of my colleagues  
23 were talking about. And I do support more a mixture -- the  
24 more expansive uses, like the artist studios. That seems a  
25 very modest use.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           You know, the whole mixture of uses is something  
2 that has evolved since 1958 when the original zoning was  
3 adopted and based on the concept of separating all of these  
4 different uses from each other and having these exclusive  
5 zones. And I think a mixture of uses leads to more vibrant  
6 neighborhoods for everybody, in addition to having more  
7 opportunities for housing development, which we need so  
8 badly.

9           So with that, I am supportive of setting down this  
10 case for hearing, which doesn't really get to that issue at  
11 all. It's very modest.

12           CHAIRMAN HOOD: Oh, I think -- I listened to the  
13 conversation, and I want to say this to the Vice Chair. A  
14 very wise person said at their confirmation hearing one time,  
15 and I never forgot this -- I'm going to say it now -- they  
16 said that I want to respect the past and prepare for the  
17 future.

18           So one of my colleagues up here said that, so I  
19 was thinking about that as we were doing this. That's why  
20 I asked for the adverse impacts, and it was you, Vice Chair  
21 Miller.

22           VICE CHAIRMAN MILLER: I think I was quoting from  
23 your confirmation hearing.

24           CHAIRMAN HOOD: Oh. Well, one of us said it. But  
25 anyway, that's all I want to do is make sure we strike that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 balance. And you're right, I do know --

2 VICE CHAIRMAN MILLER: I agree.

3 CHAIRMAN HOOD: -- limits. Okay. All right. So  
4 with that -- did I say that? But anyway, with that, would  
5 somebody like to make a motion to set down?

6 COMMISSIONER TURNBULL: Mr. Chair, I would move  
7 that we set down Zoning Case 19-13, the amendments for the  
8 zoning regulations concerning alley lots.

9 VICE CHAIRMAN MILLER: Second.

10 CHAIRMAN HOOD: Okay. It has been moved and  
11 properly seconded. Any further discussion? All in favor,  
12 aye.

13 (Chorus of ayes.)

14 CHAIRMAN HOOD: Any opposition? Not hearing any,  
15 Ms. Schellin -- I mean, Ms. Hanousek, would you please record  
16 the vote?

17 MS. HANOUSEK: Yes. The Commission voted five-  
18 zero-zero to set down Case 19-13, the Office of Planning text  
19 amendment to alley lot regulations. The motion was made by  
20 Turnbull, seconded by Miller, and Hood, May, Miller, Shapiro,  
21 and Turnbull approved.

22 And this was set down for -- as a -- sorry. This  
23 was set down as a rulemaking.

24 CHAIRMAN HOOD: Okay. Thank you, Ms. Hanousek.  
25 Do we have anything else tonight, Ms. Hanousek?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. HANOUSEK: No, sir.

2 CHAIRMAN HOOD: Ms. Steingasser?

3 MS. STEINGASSER: No, sir.

4 CHAIRMAN HOOD: I need to ask you about short-term  
5 -- do we have an updated status?

6 MS. STEINGASSER: No, sir. We do not.

7 CHAIRMAN HOOD: Okay. So we're still under legal  
8 review. Okay. All right. Thank you.

9 Anybody have anything else? All right. Then,  
10 with that, I want to thank everyone for their participation,  
11 and this meeting is adjourned.

12 (Whereupon, the above-entitled matter went off the  
13 record at 7:14 p.m.)

14

15

16

17

18

19

20

21

22

23

24

25



C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Regular Meeting

Before: DCZC

Date: 07-08-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



-----  
Court Reporter

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701