

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:      :
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Proposed Text Amendment : Case No.
to Clarify Regulations  : 19-13
Governing Alley Lots   :
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Monday,
July 13, 2020

Video Teleconference

The Public Hearing of Case No. 19-13 by the District of Columbia Zoning Commission convened at 4:00 p.m. EDT, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

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

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from
the Public Hearing held on July 13, 2020.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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 Text Amendment Re: Alley Lots

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

3:59 p.m.

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2
3 CHAIRMAN HOOD: Good afternoon, ladies and
4 gentlemen. Today's date is July the 13th, 2020. Today we're
5 here on Zoning Commission Case No. 19-13. We are convening
6 and broadcasting this public hearing via videoconference.

7 My name is Anthony Hood. Joining me this evening
8 are Vice Chair Miller, Commissioners Shapiro, May, and
9 Turnbull. We're also joined by the Office of Zoning staff,
10 Ms. Sharon Schellin and Mr. Paul Young, who will be working
11 with all of our virtual operations. We ask that all others
12 introduce themselves at the appropriate time.

13 Copies of today's virtual public hearing notice
14 are available on the Office of Zoning's website. Please be
15 advised that this proceeding is being recorded by a court
16 report. It is also webcast live; Webex and You Tube Live
17 video will be available on the Office of Zoning's website
18 after the hearing. Accordingly, all those listening on Webex
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20 have signed up to participate or testify will be unmuted at
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4 login or call-in instructions.

5 All persons planning to testify either in favor
6 or in opposition, or undeclared, we encourage you to sign up
7 in advance and we will call -- your name will be called. If
8 you wish to file written testimony or additional supporting
9 documents during the hearing, then please be prepared to
10 describe and discuss it at any time of your testimony.

11 The hearing will be conducted in accordance with
12 provisions under 11Z DCMR Chapter 5 as follows. We will have
13 preliminary matters, our presentation in this case is going
14 to be by the Office of Planning, report of our other
15 government agencies, report of various ANCs, I know we have
16 at least one or two, testimonies of organizations and
17 individuals. Again, testimony of organizations is five
18 minutes and individuals is three minutes.

19 While the Commission reserves the right to change
20 the time limits for presentations if necessary, it intends
21 to adhere to the time limits as strictly as possible and
22 notes that no time shall be ceded. Again, any issues, please
23 call the OZ hotline number at 202-727-5471.

24 At this time, the Commission will consider any
25 preliminary matters. Does the staff have any preliminary

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1 matters?

2 MS. SCHELLIN: The staff does not have any
3 preliminary matters, but would like to advise the Commission
4 that ANC 6C did upload some testimony -- or report at about
5 30 minutes or less before you guys went on this afternoon.
6 So it is -- it has now been uploaded so it's accessible by
7 the Commissioners. I don't know that you really have time
8 to look at it, but maybe during this testimony you can do
9 that.

10 CHAIRMAN HOOD: Great. I think that would be a
11 good example of us letting them explain it since they just
12 got it up. I know I have not had a chance to review it. I'm
13 not sure of others, but I have not had a chance to review it.

14 Okay. Ms. Schellin, do we have anything else?

15 MS. SCHELLIN: No, sir.

16 CHAIRMAN HOOD: Okay. Let's go to the Office of
17 Planning. I'm not sure -- Mr. Jesick, I believe you're
18 presenting? Or, Mr. Lawson? Whoever.

19 MR. JESICK: Yes, Mr. Chairman. This is Matt
20 Jesick. Can you hear me okay?

21 CHAIRMAN HOOD: Yes.

22 MR. JESICK: Great. My camera should be coming
23 up soon. I'll wait for that.

24 And, Mr. Young, if you wouldn't mind pulling up
25 the PowerPoint. Thank you.

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1 Good evening, again, Mr. Chairman and members of
2 the Commission. My name is Matt Jesick and I'll be
3 presenting OP's testimony for Case 19-13, the alley lots text
4 amendment.

5 Now going into this text amendment we had a couple
6 of different goals. The main goal really was to just add
7 clarity and organization to the regulations governing alley
8 lots. There were some instances where text was unclear and
9 we tried to straighten those out. There were places where
10 subtitles were not consistent, from Subtitle D to E, or E to
11 F, so we tried to fix those issues.

12 There are also some regulations that you could say
13 were missing. For instance, where is the building height
14 measuring point for an alley lot, or are performances
15 permitted in an artist's studio on an alley lot? Those are
16 questions which we had and wanted to fix in the regulations.

17 So hopefully by doing these things, we will make
18 the regulations easier to use, certainly for staff, also for
19 the public and even for the Board, the BZA; when they
20 consider these cases that come before them, they'll have
21 better tools to make decisions.

22 We also wanted to make a couple of more
23 substantive changes. One is to allow the conversion of alley
24 tax lots to alley record lots either as a matter of right or
25 by special exception. And then we also wanted to reduce the

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1 alleyway centerline setback from 12 feet to 7-1/2 feet.

2 Now there are also some things that this text
3 amendment will not do. This text amendment would not look
4 to create from scratch brand new alley lots. Amendments
5 we're proposing only deal with the conversion of existing tax
6 lots to record lots. Also we're not changing the buffer
7 requirements for alley lots. The height remains the same,
8 the lot occupancy remains the same. We're not changing the
9 yards, the rear yard or the side yard.

10 I do really want to emphasize that we're not
11 changing those things. There appears to be some confusion
12 about that, and so I wanted to be very clear.

13 I also wanted to note that some of the text that
14 was set down originally with this text amendment later got
15 incorporated into other text amendments, specifically 19-14,
16 which dealt with 5201, and 19-21, which dealt with rooftop
17 embellishments and building height. So this amendment got
18 a lot more streamlined, and I think that's a good thing.

19 Next slide, please, Paul. Thank you.

20 So importantly we feel these amendments would help
21 to implement goals and policies of the Comprehensive Plan.
22 The land use element seeks to utilize underdeveloped land and
23 looks for in-fill opportunities within existing
24 neighborhoods, so we hope that this amendment will help with
25 that in a small way.

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1 And the housing element really seeks to break down
2 barriers to housing production, both market-rate housing and
3 affordable housing, and also looks to provide housing for
4 different types of families, smaller families or even renting
5 singles. So again we hope that this text amendment can go
6 a little bit towards that goal. While we're not talking here
7 about affordable housing in a technical sense, that the
8 Zoning Regulations do, we think that alley lots just -- or,
9 alley dwellings I should say, because they're a little bit
10 smaller could add to the spectrum of affordability for those
11 seeking a residence in the District.

12 Now last year the Mayor issued an order on
13 housing. This is related to producing 36,000 new housing
14 units in the District over the next few years, and
15 specifically the Mayor tasked the Office of Planning with
16 looking at those barriers to housing production and what
17 could be done through zoning to make housing production
18 easier. So while amending alley lot regulations will not
19 solve the problem on their own, we hope that this is a small
20 piece in the larger puzzle for addressing housing in the
21 District.

22 Next slide, Paul. Thank you.

23 Now I mentioned the one item we're addressing is
24 converting tax lots to record lots, and this graphic is from
25 our report. We wanted to try and get a sense of what the

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1 universe of tax lots looks like.

2 There are about 1,000 existing tax lots -- alley
3 tax lots, I should say. And you can slice and dice these
4 numbers in a number of different ways, but to get a sense of
5 what we're looking at there are some existing residences,
6 some existing garages or commercial uses, and then there are
7 a number of vacant lots as well.

8 So on any of those lots, either vacant and/or with
9 garages, you could see potential new housing development, but
10 we also wanted to make it easier for those folks who are
11 living currently on alley lots to make necessary improvements
12 or upgrades to their residences when those are necessary.

13 And then you have lots that are less than 450
14 square feet, which wouldn't be -- they could not have a
15 residence built on them, but those lots could potentially
16 have other uses on them, like an artist studio, like parking,
17 like storage.

18 So hopefully that just provides some background
19 information on what the universe of tax lots looks like.

20 The Office of Planning of course is recommending
21 approval of the text amendment, as shown in the public
22 hearing notice, with the few small changes that were noted
23 in our report. We worked with OAG to develop those last few
24 amendments, so OAG is on board with those changes.

25 That concludes my testimony, but I'd be happy to

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1 take any questions. Thank you.

2 CHAIRMAN HOOD: Great. Thank you very much, Mr.
3 Jesick.

4 Let me just say, I'm going to be asking Ms.
5 Steingasser when it gets to me -- I know for a fact, so I
6 wanted to prepare her -- I'm going to be asking her a few
7 questions directly about this.

8 Let me go to Commissioner May, first. Any
9 questions or comments? Commissioner May?

10 COMMISSIONER MAY: Yes, as soon as I unmute
11 myself.

12 Yes, I have a handful of questions. So in your
13 report there were two specific case, BZA cases that were
14 cited and I happened to have been on the BZA for both of
15 those cases, so I'm relatively familiar with them. But I'm
16 wondering, if either of those cases were filed after we
17 passed this set of text amendments, would those simply become
18 a matter of right, or would there still be some sort of
19 special exception process for either of those cases?

20 MR. JESICK: You broke up a little bit there,
21 Commissioner May, but I think I understood your question.

22 I think both of the lots themselves could be
23 converted to regular lots as a matter of right. The way they
24 were proposed, both cases would still require special
25 exception, I think, for side yard or -- they would still --

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1 at least the one case would definitely still need alley
2 centerline setback. So both of those cases, in those
3 particular instances, would still come before the Board.

4 COMMISSIONER MAY: Okay. Thanks, because I didn't
5 have time to look back and think about all those -- all the
6 ins and outs and the relief that was involved in all of
7 those.

8 I appreciate the analysis of parking and the
9 turning radius issue for a 15-foot wide alley and the setback
10 and so on. I don't -- I think that the -- I don't know that
11 we necessarily need to regulate it, but I will say that a 15-
12 foot wide alley is still a very tight alley, and it may be
13 possible for a skillful driver to back their car into a 9 by
14 19 parking space, or whatever, off of a 15-foot wide alley,
15 but I can tell you I live next to a 15-foot wide alley and
16 there are two yards where people try to park. They don't
17 have garages but they try to park there.

18 One of them has no problem, because he's got a 20-
19 plus-foot wide roll-up door and can back in off the street.
20 He has to basically back in off the street in order to sort
21 of get into it because of where he is. Not the greatest
22 maneuver in the world.

23 And then there's another one where, even though
24 the lot may be 18 feet wide, because of the vehicle that
25 they're backing in there it takes probably about 10 movements

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1 to get it in there because they've got a big truck.

2 So it's -- I don't know how -- whether we can do
3 anything to try to address this, but I think it's vitally
4 important for people to understand that if you're going to
5 have a parking space off of a 15-foot wide alley, you've got
6 to have a wide opening to go into if you're going to try to
7 get anything there. And again, I don't know that we have to
8 change anything in the regulations, but some people don't
9 think it through all the way.

10 The Capitol Restoration Society submitted a letter
11 and they suggested that you address -- or, that we address
12 in the regulations, placement of trash receptacles. And
13 again, based on my own personal experience and the number of
14 trash cans that are lined up in the 15-foot wide alley next
15 to my house I think there's a lot to be said for that. I'm
16 not sure how we could address it, but -- I mean you're
17 supposed to keep your trash can on your property and then
18 bring it out when it gets collected, yet people leave them
19 in the alleys all the time.

20 And I think that if we -- anything that we do that
21 promotes further development on alleys, whether it's this or
22 the prior actions having to do with making accessory
23 dwellings more easier to do, we sort of ignored that issue.
24 And I feel like now is the opportunity to make sure, at least
25 in this circumstance, that we address those trash cans,

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1 because nobody keeps them on their own property. Except on
2 my alley, I do, but nobody else does.

3 Then the last thing -- yeah, I mean I think
4 there's some interesting comments in the letters of
5 opposition. One in particular that stuck with me is this
6 notion that when we're dealing with separate lots, as opposed
7 to an accessory dwelling, that there are different standards
8 that have to apply. And so if I'm putting a structure onto
9 -- as an accessory on my lot, I have to worry about more
10 things as the street-facing property owner than I would if
11 I was just developing a record lot.

12 I don't know that we necessarily have to do
13 anything differently, but I kind of would like to get the
14 Office of Planning's take on that issue. So that in
15 particular was in Exhibit 18, and it was, I think, the second
16 or third comment there about this difference in how an
17 accessory dwelling unit or an accessory structure would be
18 treated compared to a dwelling unit on a record lot.

19 So that's it for my questions, but I may have more
20 depending on what we see in testimony. So we'll see at the
21 end of the day. Thank you.

22 CHAIRMAN HOOD: Thank you, Commissioner May.

23 Commissioner Shapiro?

24 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Just
25 a few questions.

1 First of all, thank you, Mr. Jesick, for following
2 up on that issue related to the number of events that could
3 be held if there was a commercial use. The answer is clear,
4 the rationale is clear, so that makes sense for me.

5 Can you go back to the slide -- Paul, if you could
6 help with this, could you go back to the slide that had the
7 sort of the universe, the sort of Venn diagram thing that --
8 yes, that one. Exactly.

9 So I just want to make sure I'm understanding this
10 correctly. The universe that we're looking at of potential
11 alley lots are the four at the bottom? That's it? Any of
12 those four circles for different reasons could become --
13 could be developed in some way, shape or form?

14 MR. JESICK: Well, no, I think it also includes
15 the 376 that are also less than 450 square feet. It's just
16 that those could not have a dwelling on them. The minimum
17 size for a dwelling is -- for the lot, is 450 square feet.

18 COMMISSIONER SHAPIRO: All right. That's where
19 I was confused. So the only reason why you have garage or
20 commercial use is that garage or commercial uses actually
21 could come off the 376 as well?

22 MR. JESICK: Yes, that's correct. Yes.

23 COMMISSIONER SHAPIRO: Okay. All right. That
24 helps. That's where I was getting a bit confused.

25 So also the geographic distribution, have you

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1 mapped this, or is it screamingly obvious if you were to map
2 it, but is there some -- is this -- you know -- I don't know.
3 I curious about what this would look like on a map of D.C.

4 MR. JESICK: Yeah, clearly, as you might expect,
5 there are large numbers on Capitol Hill, also some in
6 downtown or Wards 2 and Wards 1, less so in the outer wards,
7 just the way they developed. You do see a few, but not many.

8 COMMISSIONER SHAPIRO: How easy or hard would it
9 be to actually map this?

10 MR. JESICK: It would be pretty easy. We could
11 produce that for you.

12 COMMISSIONER SHAPIRO: Okay. Thank you.

13 That's all I have for now, Mr. Chair. Thank you.

14 CHAIRMAN HOOD: Okay. Thank you.

15 Commissioner Turnbull?

16 COMMISSIONER TURNBULL: Thank you, Mr. Chair, and
17 thank you, Mr. Jesick, for your report. It cleared up --
18 there were some questions that I had, and there were a lot
19 of questions that were in the record about the side yard, the
20 rear yard, and all those going away, and there's this human
21 cry that goes, oh, you're going to destroy my alley by
22 putting up buildings that don't comply with anything. So I'm
23 glad you clarified that.

24 There's also some questions that came up about
25 requiring a 24-foot wide alley to go to a record lot. Am I

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1 correct on that?

2 MR. JESICK: That's the standard subdivision
3 requirement that --

4 COMMISSIONER TURNBULL: Yeah.

5 MR. JESICK: Right.

6 COMMISSIONER TURNBULL: That's what I had thought.
7 And you've got -- the Coalition for Smarter Growth is urging
8 to go to the smaller alley lot to allow more housing to be
9 built. What's your feeling on that?

10 MR. JESICK: Well, and that's a big question. I
11 mean like I said --

12 COMMISSIONER TURNBULL: We've struggled with it
13 for years.

14 MR. JESICK: Yes, when we set out to do this text
15 amendment we were not looking to rewrite the book on alley
16 lots. We did not want to change the standard subdivision
17 criteria. We did want to take those existing tax lots and
18 make it easier for them to convert, but we did not -- we
19 purposely did not look at creating new record lots.

20 COMMISSIONER TURNBULL: So that may be something
21 we -- I mean, I think I understand totally what you're trying
22 to do and basically working with the existing -- with what
23 we've got now, resolve that, and that if we -- further down
24 the we can look at something else if that is the case, if
25 that proves to be something worth looking at.

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1 MR. JESICK: Well, it's up to the Commission.
2 We're happy to take whatever direction you send us in. That
3 would probably have to be a new text amendment --

4 COMMISSIONER TURNBULL: Right. Right.

5 MR. JESICK: -- just because of the scope of it
6 and --

7 COMMISSIONER TURNBULL: Well, the scope changes
8 quite a bit. I mean it introduces more housing, but it also
9 sets up a lot more issues to think about. There's more
10 problems that are generated and there's more concerns that
11 can be going into neighborhoods to try to do that. So it's
12 more of a difficult balancing act in that situation, when you
13 go down to the smaller alley lots, I think.

14 MR. JESICK: Yes, and we would definitely have to
15 do a lot research on how many alley lots could potentially
16 be generated if we were to change the standards --

17 COMMISSIONER TURNBULL: Yes.

18 MR. JESICK: -- where they would be located, how
19 they would impact their alley system, et cetera.

20 COMMISSIONER TURNBULL: No, I -- well, I really
21 -- I greatly appreciate your report. I think you clarified
22 a lot of questions that I had. And you're right, we can go
23 down the road later on with these other things. Thank you
24 very much.

25 CHAIRMAN HOOD: Okay. Thank you.

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1 Vice Chair Miller?

2 VICE CHAIR MILLER: Thank you, Mr. Chairman.

3 Thank you, Mr. Jesick, for your report. I would
4 associate myself with all the comments of my colleagues,
5 particularly Commissioner Turnbull, in exploring future
6 development of alley lots for affordable housing, or housing
7 in general. We need -- we're limited in land area. We need
8 housing. The more housing supply we have, the more
9 affordable housing supply we have. So I would encourage that
10 exploration that Commissioner Turnbull suggested. So thank
11 you very much.

12 CHAIRMAN HOOD: Okay. Thank you.

13 I don't know -- and, Mr. Jesick, I think you did
14 a fine report. I'll do a second round.

15 Mr. Jesick, I think you did a sound report and it
16 seems like a lot of these are just clarifying amendments.

17 But one of the problems -- and I don't know if Ms.
18 Steingasser can come up or she can just speak from where she
19 is -- and the reason I'm going to Ms. Steingasser is because
20 she remembers when something happened on an alley lot, I got
21 -- I went to a couple meetings and I got -- I'm not going to
22 say beat up on it, because I didn't, but I got -- it was
23 mentioned to me by a number of community folks about what the
24 Zoning Commission did.

25 And I want to make sure, Ms. Steingasser, that

1 what we're doing here now -- and I think you remember,
2 because I called you -- what we're doing here now the tiny
3 houses, because people -- there's some serious concerns about
4 certain things that are going on in the alley lots behind
5 people's homes who have been there for a while. So I don't
6 want to sound like this is great, great, great and then be
7 some unintended consequences that are going to come up later
8 that are going to come back to bite us like they did with
9 them tiny houses, which I don't -- I still don't understand
10 that.

11 But can I get some assurances that this is minor
12 and that we're not getting to that -- building to that point?
13 Because as you know, I got approached by a number of people
14 of what we did. And some time we do stuff and it's
15 unintended in its impacts and we got to balance what we do.
16 So I'll let you help me.

17 MS. STEINGASSER: Okay. Well, thank you, Chairman
18 Hood. I believe the case in the tiny houses were a different
19 case, because they weren't actually permitted as houses.
20 They were there as camping. And so we did try to get a hold
21 of that through the zoning rewrite of '16.

22 This case is truly to clarify. We're not reducing
23 the size of the alley lots. We're not -- I think
24 Commissioner May hit it right that the one change we are
25 making is to the centerline distance of an alley and making

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1 that smaller, which we're happy to look at that again. But
2 this is not the same as the other tiny houses cases that you
3 worked on.

4 CHAIRMAN HOOD: So even the tiny houses -- I heard
5 Mr. Jesick mention that we were looking at setback going from
6 12 feet to, I guess, 7-1/2 -- I may not have all that
7 correct. That also came up in some of those conversations
8 about setback to other people's homes. So I just don't want
9 -- what I don't like is -- and it sounds minor now. What I
10 don't like is later on we've done something and we didn't see
11 it coming. That's just kind of where I am.

12 MS. STEINGASSER: Well, I wish I could give you
13 that assurance, but I can't. That's not to say people aren't
14 going to not want somebody to live behind them in an alley,
15 but these are not the same as -- these regulations are
16 regulations that have been on the books for many years and
17 we're trying to clarify them and make them uniform.

18 The one change we are proposing is the alley
19 width, which is going from a 15 -- it would be a 15-foot wide
20 alley. The regulations currently require a 24-foot wide
21 alley, the assumption being that that setback would push into
22 the width of the -- into the private property as well. So
23 that change is somewhat different, and I think when we are
24 able to map some of these for you, it will be a little bit
25 clearer where these things might be, but as was pointed out

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1 these garage doors that are permitted more as fencing, then
2 anything else can be right up against the property line and
3 that creates a little bit of a conflict as well.

4 But I can't assure you that there won't be an
5 unintended consequence that we --

6 CHAIRMAN HOOD: So let me ask it this way, and,
7 Mr. Jesick, you can opine if you will. I don't want to just
8 -- all of this. I went to Ms. Steingasser again, like I
9 said, previously is that -- that's who I went to when all
10 this was going on and people coming at me at certain
11 meetings.

12 I want to make sure though that -- because once
13 we do something like this, what recourse does the community
14 have, because, you know, it's -- I hear this a lot, when they
15 come back and say, well the Zoning Commission did it. You
16 all reduced the setback. And then I'm like, no, we didn't
17 do it. We -- I'm thinking, no, we didn't do all that, but
18 in turn we did.

19 And I understand you can't give me any assurances,
20 but the residents of this city want those assurances that --
21 and I understand about the radius. I don't have -- those
22 kinds of things I don't have a problem. But the residents
23 need some predictability and they want some assurances. And
24 I don't like being approached like that at the meetings. I
25 want to make sure that we have done our due diligence.

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1 That's kind of where I am. So I don't know if you can give
2 me an answer or --

3 MS. STEINGASSER: Well, I think when we do some
4 mapping for you we can drill down so you can see some of
5 these locations and you'll have a better sense of what that
6 alley system is that these would be built -- these lots would
7 be created on, but these are private property. That's our
8 struggle. They're not private -- they're not public
9 property. And so that makes it a challenge.

10 CHAIRMAN HOOD: And we also want to make sure, Ms.
11 Steingasser and Mr. Jesick, that we're not opening -- and I
12 know we have to -- there are some things that should be done,
13 and I hear the private property issue, but we want to make
14 sure that we have a good neighbor policy and that neighbors
15 are getting along. We don't want to pit neighbors against
16 neighbors. That's just -- I don't necessarily have the
17 answers. I just want to talk it through --

18 MS. STEINGASSER: Yes.

19 CHAIRMAN HOOD: -- as we have done previously.
20 I don't have any answers. And I'm hoping that some of the
21 folks who mentioned it to me, which had every right to and
22 I agree with a whole lot of the cases that were mentioned to
23 me previously, but I just don't want to do -- and I know --
24 I just don't want to anything that's going to be worse. And
25 I know these regulations have been on the books, but I'm just

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1 trying to caution us as we talk about what Smarter Growth and
2 some of these other groups want. We also got to make sure
3 we hear what those folks who are going to be affected --
4 because I'm not saying they're not, but there's a lot more
5 people who are going to be in tune to what's -- what we're
6 doing, besides the groups that we hear from.

7 So I'm trying to cover that, probably not doing
8 a great job at it, but we will see what happens and we're
9 going to do our due diligence as we move forward.

10 MS. STEINGASSER: I mean, as Mr. Jesick pointed
11 out, we're not changing the setbacks, we're not -- and the
12 heights of the buildings. So the structure itself would
13 remain as is currently allowed by the regulations.

14 CHAIRMAN HOOD: Okay. I really appreciate the
15 report and the submission, Mr. Jesick. I just want you to
16 know that. While my questions weren't for you, I appreciated
17 that, I understood that, and I wanted to go to Ms.
18 Steingasser because we had been through that.

19 All right. Thank you very much, Ms. Steingasser.

20 Thank you, Mr. Jesick.

21 And thank you -- I'm sorry I didn't have any
22 questions for you today, Mr. Lawson, but I'll have some
23 probably before the week is out.

24 All right. Let me see. Do we have any follow-
25 up questions? Commissioner Shapiro, you had a follow-up?

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1 Okay. Commissioner May? Anybody?

2 Okay. Not seeing anyone, let's go to -- wait just
3 a moment, please.

4 MS. SCHELLIN: We have two ANCs to testify next.

5 CHAIRMAN HOOD: Yes, I'm going to my order here.

6 MS. SCHELLIN: Oh, sorry.

7 CHAIRMAN HOOD: Give me one second.

8 Okay. So do we have any other government reports
9 that I may have missed?

10 Not seeing any. Okay. So can we bring up -- I
11 do have a list, but we're going to bring up the ANCs first.
12 Hold on a second. I think Mr. Young has it as well. We're
13 going to bring up Commissioner Holman from 6B and
14 Commissioner Eckenwiler from 6C. And I think these are the
15 only two we have, commissioners, correct?

16 MS. SCHELLIN: Correct.

17 CHAIRMAN HOOD: I see -- I don't see Mr.
18 Eckenwiler yet, so, Mr. Holman, we can go ahead. Introduce
19 yourself and you may begin.

20 MR. HOLMAN: Thank you. Good afternoon,
21 Commissioners. My name is Corey Holman, 926 14th Street
22 Southeast, Commissioner for 6B-06 and Chair of ANC 6B's
23 Planning and Zoning Committee.

24 Before we go, I just to correct one small thing.
25 Right before this meeting you all were live, so I heard some

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1 thoughts on some stadiums and some football teams, but just
2 want to make sure you're aware of that.

3 Our report is in the record supporting the case
4 as captioned. While our report notes we have no issues or
5 concerns with the actual text amendment, I wanted to be here
6 today to answer any questions you may have about the nature
7 of our community's discussion.

8 After reading the other submissions, I also wanted
9 to note our ANC did not consider some of the other aspects
10 brought up, including -- excluding R Zones or large sub-
11 dividable alley lots. Those just quite simply don't exist
12 in ANC 6B.

13 And finally I wanted to thank Mr. Jesick, again,
14 for spending well over two hours with our committee last
15 month and to thank the neighbors, who you're going to hear
16 from later, for bringing attention to detailed issues,
17 ensuring our ANC gave these proposed amendments thoughtful
18 and careful consideration.

19 To summarize our report, ANC 6B supports the
20 intent of these changes to align the treatment of historic
21 alley records -- alley lots, and to further clarify the use
22 standards. And I'm available for questions. Thank you.

23 CHAIRMAN HOOD: Thank you, Commissioner Holman.

24 Let's see. Is Mr. Eckenwiler on the phone or --
25 okay. He's on the phone, so he may begin. Mr. Eckenwiler?

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1 MR. ECKENWILER: Can you hear me, Mr. Chairman?

2 CHAIRMAN HOOD: Yes, we can hear you.

3 MS. STEINGASSER: Okay. Very good. Thank you.

4 COMMISSIONER SHAPIRO: We can see you as well.

5 MR. ECKENWILER: Mark Eckenwiler, Vice Chair, ANC
6 6C. At the outset let me just say, I am -- I do also have
7 a phone connection here, so if the internet connection starts
8 to go south, I can switch over to that if necessary.

9 ANC 6C is in general support for the proposals
10 from the Office of Planning. You have our report, which as
11 Ms. Schellin indicated was put in earlier this afternoon at
12 Case Exhibit 24. Rather than you trying to read it right
13 now, let me just summarize it for you, because it's fairly
14 brief. I can isolate two distinct areas where we have some
15 additional recommendations.

16 One is going to the alley centerline setback. In
17 addition to -- there was a, sort of, technical inconsistency
18 we had noted for OP which they have now addressed in their
19 pre-hearing submission, but, more generally, our question is
20 whether it really makes any sense at all to have a different
21 centerline setback minimums for street-facing lots versus
22 alley lots. I mean, the considerations are identical, a
23 vehicle needs to go into a space, it doesn't really matter
24 where the lot is situated. And we did not take a position
25 on whether that should be 7-1/2 feet, 12 feet or something

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1 else, but we just -- we didn't understand why you would
2 reduce it only for alley lots and maintain the same for
3 street-facing lots.

4 And let me just add one additional thought here.
5 This was not within the ANC's resolution, and it's not
6 adverse to anything, it's just something that occurred to me
7 earlier and it was alluded to -- I think Commissioner May
8 made a comment about roll-up doors. As I understand it from
9 conversations with OP, right now the regulations only apply
10 to parking within a structure, so basically what we think of
11 as a garage, but there's no setback requirement for a roll-up
12 door.

13 And again, speaking in my individual capacity
14 here, this not part of the ANC resolution, I'm not sure I
15 really understand that. Same concerns, again, if a vehicle
16 has to negotiate into a space, you're going to have two posts
17 that create obstacles. It's not at all clear to me why you
18 wouldn't have that setback both for the benefit of that
19 particular property owner trying to navigate their vehicle,
20 but also for other uses of that same alley. So that's the
21 first area having to do with alley centerline setback.

22 The second goes to the provisions in Subtitle U
23 for uses, both as matter of right and pursuant to special
24 exception.

25 So as it exists today and as amended 600.1(f), and

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1 that's on page 17 of the hearing notice, addresses the
2 minimum criteria for residential use. And someone mentioned
3 earlier, basically -- I think it was Ms. Steingasser
4 mentioned that the rule is now going to be if this is adopted
5 effectively having access to a street through a 15-foot wide
6 alley.

7 For any lot that has -- if it's a legal record lot
8 that does not meet those minimum criteria for residential
9 use, then you would have to go to 601.1(f). That's on page
10 19 of the hearing notice, Case Exhibit 4. We have some
11 concerns about the way in which -- frankly, the way that
12 special exception provision is framed today, but the way in
13 which I think it would be made worse by the proposed
14 amendments.

15 So today what the regulation says in 601.1(f) is
16 that the BZA needs to solicit input from a variety of
17 agencies, including DDOT and DPW, and it identifies specific
18 considerations. So for DDOT they're specifically calling for
19 input on traffic and parking. As a formal matter it's not
20 ideal to have things framed in that way, because that implies
21 that input from other parties, say nearby residents or ANCs,
22 would not be weighed. And we don't think that would be --
23 that that's appropriate. I'm not sure that's really the
24 practice. As OP has now proposed to revise
25 the text, the criteria will all go away and it's simply a

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1 matter of BZA sends out a request for comment to these
2 agencies. There would be no specific criteria listed, it
3 doesn't say what BZA is supposed to do with those comments,
4 and we think it's much more appropriate -- I know you've been
5 wrestling with this in 19-21 with the protection of adjacent
6 solar systems. It is crucial when the Board is looking at
7 special exception relief to have before it a set of discrete
8 criteria. And so we think that things like traffic and
9 parking -- those need to be specifically enumerated as
10 factors to be considered by the Board in its deliberations.

11 That in a nutshell is our testimony. I'm happy
12 to answer any questions.

13 CHAIRMAN HOOD: Thank you. I want to thank you
14 both, Commissioner Holman and Commissioner Eckenwiler.

15 Commissioner Holman, I do want to respond to --
16 we knew we were -- we knew that the attendees could hear us
17 talking about --

18 MR. HOLMAN: Okay.

19 CHAIRMAN HOOD: -- but we -- we weren't live, but
20 we knew that the public could hear and we were basically
21 refuting, so I just wanted to make sure I let you know --

22 MR. HOLMAN: Okay.

23 CHAIRMAN HOOD: -- that we knew we were live. So
24 we were kind of engaging you all even though you couldn't
25 respond.

1 MR. HOLMAN: Got it.

2 CHAIRMAN HOOD: But anyway, hopefully you'll be
3 a Giants fan. But anyway, let me see if my colleagues have
4 any questions or comments.

5 Commissioner May, for either commissioner?

6 COMMISSIONER MAY: No, I mean I'm still trying to
7 absorb Commissioner Eckenwiler's testimony. And I did not
8 have the time to read the submission, so --

9 CHAIRMAN HOOD: I can come back. I can come back,
10 if you want.

11 COMMISSIONER MAY: Yes. No, I mean -- well,
12 maybe. Yes, we'll see.

13 CHAIRMAN HOOD: We'll see. We'll see. Okay.

14 Commissioner Shapiro?

15 Commissioner Turnbull?

16 Vice Chair Miller?

17 VICE CHAIR MILLER: No questions, no comments.
18 Thank you, Commissioner Eckenwiler.

19 CHAIRMAN HOOD: Okay. If the Commissioners are
20 going to be around a minute and you have -- if questions come
21 up, we can bring them back up. It's up to you, but we
22 appreciate both commissioners. Thank you both for the input
23 and all the work that you and your commission do. Thank you.

24 MR. HOLMAN: Thank you.

25 CHAIRMAN HOOD: Okay. Let's see what I have.

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1 Give me one moment, please.

2 Okay. Let's bring up proponents. Zachary
3 Reinstein -- hopefully I pronounced all that correct, Lona
4 Alia, Nick Burger, Cherly Cort and Meridith Moldenhauer. I
5 think we can get everybody up. And we're going to start
6 hopefully with the order that I called.

7 MS. ALIA: Would it be okay if I go first? This
8 is Lona Alia.

9 CHAIRMAN HOOD: Sure, you can go first.

10 MS. ALIA: Only because I'm six hours ahead of you
11 guys and it's about bed time.

12 CHAIRMAN HOOD: Oh, yes, go first. Yes, you go
13 first.

14 MS. ALIA: Thank you so very much. My name is
15 Lona Alia. I am -- my address is 2017 Rear 2nd Street
16 Northeast, Washington, D.C., 20002.

17 I am trying to build my first home with my husband
18 and two kids in an alley lot. We found a piece of land that
19 was affordable to us, however, it's taken us one year to
20 convert this lot to a record lot, which we finally have done
21 so. In addition, we are at a big disadvantage because we
22 have to bring water and sewer into our lot, which is actually
23 really expensive. It cost 150 to \$250,000. And I feel that
24 as an alley lot owner it puts us at a huge disadvantage from
25 other street owners. So if you can do anything to make these

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1 rules a bit easier for us, I'd really appreciate it.

2 I thought there was something about -- in the text
3 change in terms of subdivision as a matter of right, but I
4 don't think I saw that on Mr. Jesick's presentation. So that
5 was what I was most interested in, is how can I make the most
6 out of my lot, because I had a very big lot, 4,500 square
7 feet, and it cost me so much money to be able to bring water
8 and sewer into this lot.

9 So, in conclusion, I am in support. I'd love to
10 see looser regulations just because in the future these lots
11 will be converted at some point, just like you said. The
12 Mayor wants more houses. The world has more people on it,
13 so at some point we have to do something more to get this
14 land more useable. But I wish that for regular people, like
15 me, it was a bit easier to be able to build on our land
16 versus having to resort to sell it some developer and then
17 they'll get around the laws and do what they want really.

18 So what I'm trying to do is, how can I make this
19 affordable for me and my family, especially with the cost of
20 water and sewer.

21 CHAIRMAN HOOD: All right. Thank you, Ms. Alia.
22 I appreciate it. We're going to see if we have any questions
23 or comments, too, but I appreciate your comments, because
24 that's exactly for me what I needed to hear, because I know
25 there's another side to that whole piece. It's about a

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1 balancing for me. So I appreciate your comments.

2 Commissioners, any follow-up questions for Ms.
3 Alia since she's six hours -- Commissioner May?

4 COMMISSIONER MAY: For some reason my control
5 panel is very slow to come out.

6 So anyway, I do have a -- I mean do you have any
7 specific suggestions on something that could be done to
8 alleviate your situation, because it sounds like what you're
9 talking about is a utility infrastructure cost. It doesn't
10 really enter into the zoning regs at all.

11 MS. ALIA: So I think that in my testimony, my
12 letter of support -- let's see, did I -- I unmuted myself?
13 Yes. Okay.

14 So in my letter of support, there is Subtitle C,
15 Chapter 306.1 and 306.2 to allow alley record lots consistent
16 with existing record lot rules. So basically to support
17 change of alley lot subdivision rules and facilitate matter
18 of right subdivision. That's what I would propose.

19 COMMISSIONER MAY: But that's what's in there now.

20 MS. ALIA: Yes, I just didn't see it on Matt
21 Jesick's report, so I didn't know whether this was part of
22 the changes. But this would really actually help me a lot
23 to make this build somewhat affordable, if I'm able to even
24 share it with my parents or someone that can help me build
25 on it, just because, as I said, it's very expensive to be

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1 able to get this lot, to a buildable state.

2 COMMISSIONER MAY: Okay. Yes, I understand. And
3 it's a very large lot, at 4500 square feet.

4 MS. ALIA: Yes.

5 COMMISSIONER MAY: Okay. All right. Thank you.

6 MS. ALIA: Thank you.

7 CHAIRMAN HOOD: Okay. Let me look at my list.
8 Thank you. Oh, I'm sorry. Commissioner Shapiro, any
9 questions?

10 COMMISSIONER SHAPIRO: No, sir.

11 CHAIRMAN HOOD: Commissioner Turnbull? You can
12 just shake your head. You don't have to unmute.

13 Commissioner Turnbull?

14 COMMISSIONER TURNBULL: No, I don't have any
15 questions. It's unfortunate you're being hit with such an
16 infrastructure bill for your lot. I hope -- you know, as
17 Commissioner May says, it's one of those things that we
18 really don't get into in zoning, and so whatever we can do
19 zoning-wise to help, I -- hopefully it does help, but thank
20 you for being online.

21 MS. ALIA: Thank you.

22 CHAIRMAN HOOD: Okay. Vice Chair Miller?

23 VICE CHAIR MILLER: No questions, no comments, Mr.
24 Chairman.

25 Thank you for your testimony.

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1 CHAIRMAN HOOD: Ms. Alia, thank you for your
2 testimony.

3 Now let me see. Mr. Reinstein? Hopefully I
4 pronounced that correctly.

5 MR. REINSTEIN: Hi. Yes, I'm here.

6 CHAIRMAN HOOD: Okay. You may begin.

7 MR. REINSTEIN: I'd just like to also come out in
8 support of the proposed alley regulation, especially the 7.5-
9 foot setback. The lot that I am also looking to build on,
10 like Ms. Alia, is rather narrow. And so without that
11 setback, and using the current setback, the house that I
12 would end up building would be about 13 feet wide, which is
13 essentially just a long hallway and not extremely useable for
14 many different functions. So I think the new setback would
15 be a huge step forward in usability for some of these narrow
16 alley lots. And like Ms. Alia said, it's extremely expensive
17 to build the utility portion, but obviously that's not within
18 your purview. So, yes, just the current Office of Planning
19 report I am in full support of it.

20 CHAIRMAN HOOD: Okay. Thank you very much, Mr.
21 Reinstein. If you can hold tight, we may have some questions
22 for you.

23 Let's go to -- let's go in this order, Mr. Burger.
24 Nick Burger is next. And then we will hear from Cheryl Cort,
25 in that order. I think I got everybody who's on the phone.

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1 So in that order.

2 MR. BURGER: Okay. Great.

3 CHAIRMAN HOOD: Okay. You may begin.

4 MR. BURGER: Okay. Thank you so much, sir. Thank
5 you for having me testify today. I'm here obviously to
6 testify in support of the proposed changes for 19-13.

7 I want to first acknowledge that I am an owner of
8 an alley tax lot in Capitol Hill. I'm also someone who's
9 advocated for many years, including during my time as ANC
10 commissioner for expanding housing, expanded affordable
11 housing and more alley lot development, which are all issues
12 I feel strongly about sort of without regard to the alley lot
13 that I own.

14 I want to highlight four arguments in favor of the
15 proposed changes. First, there is no meaningful distinction
16 between pre-existing tax and record lots for alleys. We've
17 seen some of this data, a little bit of it today, but if you
18 look at the broader set of data that compares alley and
19 record lots, which OP has collected, on alley lots in Capitol
20 Hill there are roughly the same number of tax lots and record
21 lots. If you break those down by lot size, historic district
22 location, alley size, et cetera, there's really no meaningful
23 patterns. And it's almost as if tax and record lot status
24 were assigned at random from a historical perspective.

25 Two, street-facing lots are treated differently

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1 than alley tax lots. And we've heard about this today. A
2 street-facing lot can be converted to a record lot even if
3 it does not meet the requirements for creating a record lot
4 in that zone. So for example, in the RF-1 in Capitol Hill
5 a street-facing lot less than 1,800 square feet can be
6 converted to a record lot through an administrative process.
7 Many street-facing lots also have rear structures on 15-foot
8 alleys that conform to the center -- 7.5-foot centerline
9 setback. Alley lots in these ways are disadvantaged.

10 Three, in ZR-16 the District clearly intended to
11 support building homes on alley lots. The current alley
12 Zoning Regulations are holding back alley lot development due
13 to what I would argue amounts to a technicality. The
14 proposed amendments thus are consistent with the intent of
15 ZR-16 and sort of the intent I think of the Commission and
16 also the city as a whole.

17 And four, most alley lots are going to require
18 some zoning relief. We touched on this a little bit ago in
19 terms of getting feedback from the community. Much of the
20 opposition I've seen to both the proposed amendments here and
21 sort of alley lot development generally manifests as concerns
22 that there will be too much alley lot development. And
23 leaving aside the ZR-16 intent, even with the proposed
24 changes many alley lots are still going to need relief for
25 side yards, for example.

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1 There are some I think reasonable and thoughtful
2 restrictions put in place by OP and the Zoning Code on alley
3 lots, and that means a lot of these alley lots, even if we
4 make the changes proposed today, are still going to have to
5 go through a review process. I think there will be ample
6 opportunity in cases where it's warranted for neighbors and
7 others to weigh in.

8 I want to neither overstate or understate the
9 importance of alley lots when it comes to housing and
10 affordable housing, but I also want to note that alley lots,
11 while they're not going to solve the District's affordable
12 housing crisis, they are part of the solution because they're
13 smaller lots, they're less desirable lots and they tend to
14 produce lower-cost housing. Thank you.

15 CHAIRMAN HOOD: Okay. Thank you, Mr. Burger.

16 Okay. We're going to go to Ms. Cort. And then
17 I understand Ms. Moldenhauer is now a proponent, so we will
18 hear from her after Ms. Cort.

19 Okay. You may begin, Ms. Cort.

20 MS. CORT: Thank you, Mr. Chairman and members of
21 the Commission. Can you hear me?

22 CHAIRMAN HOOD: Yes, we can hear you. Yes, you're
23 good.

24 MS. CORT: Can you hear me?

25 CHAIRMAN HOOD: Yes, we hear you now.

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1 MS. CORT: Yes?

2 CHAIRMAN HOOD: Yes. Yes.

3 MS. CORT: Okay.

4 CHAIRMAN HOOD: We can hear you.

5 MS. CORT: Great. I'm Cheryl Cort with the
6 Coalition for Smarter Growth and I've submitted more detailed
7 testimony. I just wanted to summarize that here.

8 We really appreciate the Zoning Commission taking
9 up the need to refine alley lot development regulations. We
10 are in support of the proposed changes that you are
11 considering. I just wanted to give a little bit of context
12 that in March of 2019 we coordinated a tour of four alley
13 lots, three of which were built and one was not built because
14 it wasn't really feasible to do the plan, although it was
15 possible zoning-wise. It was the utilities at issue.

16 And what we found were attractive and distinctive
17 buildings and spaces and learned -- but we learned that alley
18 lot development is excessively difficult and often the result
19 of unique and rare circumstances. Thus, we appreciate the
20 Zoning Commission taking up looking at revising these
21 regulations in order to do what it can to facilitate more
22 feasible, less costly development of alleys that can become
23 new homes in underutilized but otherwise accessible spaces.
24 And we think these are -- these could be reasonable rules
25 that could help contribute to our overall need to create more

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1 housing and accessible housing in the city, including
2 affordable housing.

3 Currently the alley lot Zoning Regulations
4 theoretically permit new homes to be built, but the many
5 regulatory restrictions and other things related to building
6 make it physically or financially impossible, or very
7 difficult.

8 And we do support the reforms proposed by Office
9 of Planning and we'd also like to ask for additional steps.

10 First, we support OP's recommendation to reduce
11 the alley setback. We support -- we ask to make the
12 requirements of new alley record lots in sync with existing
13 record lots to facilitate matter of right subdivision. We
14 ask to reduce the alley lot size requirement for new lots to
15 allow the -- right now it's 1,800 square feet. We think that
16 is excessive. Somewhere between 1,800 and 450 square feet
17 is probably where it should be; maybe half of that, 900
18 square feet.

19 And we ask to look at eliminating parking
20 requirements. Accommodating vehicle parking and living units
21 really leaves little space for people to live in it and since
22 alley lots are not eligible for residential parking permits,
23 a new home on an alley lot cannot get street parking, the
24 extremely cheap street parking. So we think that this is a
25 reasonable trade-off between an alley lot as a place, a home

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1 for people to live in or for a car to live in.

2 We support allowing matter of right uses for R
3 Zones including accessory apartments where the R Zone
4 standards are met. And we ask to provide a path to record
5 lot conversion for residential lots that are less than 450
6 square feet through a special exception process.

7 We appreciate the zoning update of 2016 was
8 intended to create new housing opportunities and create
9 greater flexibility and we remain frustrated that alley lot
10 development is really lagging because there's just so many
11 challenges. There are a lot of cost challenges that are not
12 related to zoning, but we really want to do what we can to
13 make zoning as supportive as it can be while protecting the
14 public interest and really helping to contribute to diverse
15 and interesting places in neighborhoods across our city with
16 interesting and distinctive alley residences. Thank you.

17 CHAIRMAN HOOD: Okay. Thank you very much.

18 Ms. Moldenhauer?

19 MS. MOLDENHAUER: Good afternoon, Chairman Hood
20 and members of the Commission. My name is Meridith
21 Moldenhauer from Cozen O'Connor. I'm sorry that I did not
22 file a testimony in the record. As I think you may have
23 seen, my colleague Eric DeBear was supposed to testify, but
24 he ended up having his first child over the weekend. And so
25 I jumped in and I am here today. So I will present to you

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1 my kind of written statements, or oral statements.

2 The proposed text amendment for alley lot
3 regulations contain a lot of positive improvements to the
4 Zoning Regulation. As an active stakeholder I submit this
5 testimony in support along with some following comments.

6 The proposed clarifications for the BHMP, the
7 change to the centerline setback and clarifications are all
8 very helpful to owners, architects, developers and
9 stakeholders in the city.

10 In reviewing the record, both the letters of
11 support, what we've heard so far today from those individuals
12 in support requesting for new alley lots to be provided by
13 a matter of right and removing the 24-foot minimum lot width,
14 I am supportive of and wholeheartedly agree with, but I've
15 also reviewed some of the letters of concern. I also heard,
16 Chairman Hood, your comments regarding some impacts. And I
17 would like to talk about two specific issues today.

18 One, the potential creation of a new record lot.
19 Right now the proposal really only addresses tax --
20 conversion of tax lots, but it does not change the
21 requirements for subdividing or creating a new record lot.
22 And I think that that really should be considered. Right now
23 if you had two identical lots somewhere in the city and one
24 simply had arbitrarily been issued a tax lot before September
25 6th, 2016, it could go through a special exception process.

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1 But if somebody had a larger lot that they wished
2 to subdivide, right now they're left in a kind of unceded
3 area which really pushes them into a variance. So there's
4 -- it's really an unfortunate situation where you're creating
5 a date certain in which you've switched between a special
6 exception and a variance relief. And I think that I would
7 ask that the Zoning Commission consider that and look to some
8 of the existing regulations.

9 Right now under the new proposed 306.1(e) the
10 Office of Planning is proposing a special exception standard
11 for an alley lot, again created after '58 but before '16 is
12 able to do a special exception relief, even for something
13 that is as small as 450 square feet. I would again want to
14 at least have the Zoning Commission consider and not delay
15 for another day, but consider maybe adding a section that
16 would allow the creation of an alley lot that is after
17 September 2016 by special exception, not pushing this whole
18 group into a variance standard, but maybe add in a
19 requirement that it be -- it meet the minimum lot
20 requirements, but then still allow for that to be a special
21 exception.

22 And I think that that really would address some
23 of the concerns we've heard from Commissioner Hood and
24 Commissioner Turnbull. It would allow for that public
25 process, even as Mr. Burger stated, and not have a situation

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1 which was matter of right, but not also push it so far into
2 a variance where you are putting the burden on the BZA and
3 the Office of Planning to meet that really high standard as
4 the Board always states.

5 That would also, as the regulations are written
6 in the R Zones, require not 1,800 square feet, but actually
7 in an R-2 3,000 square feet for a semi-detached or 2,000
8 square feet for an R-3 row home. Right now if a property
9 wishes to subdivide and create a new record lot, even if they
10 have 2,000 square feet in an R-3 or 4,000 square in an R-2,
11 they would need to go for variance relief. And I think that
12 that's something that is -- does not -- is not consistent
13 with the Comprehensive Plan as we heard from OP encouraging
14 in-fill and encouraging development, and as we heard from
15 many of the individuals in support.

16 The last point that I wanted to identify are the
17 MU Zones. I want to -- the current regulations again are
18 only talking about tax lots. They don't talk about new lots.
19 And under the MU Zones they all have 1100.2, which says that
20 new alley lots may be created provided it complies with
21 Subtitle C, Chapter 3. So that then kicks you back to the
22 MU Zones to your requirement to have a 24-foot-wide alley,
23 meet your minimum lot size, but does not allow you an
24 exemption from that 24-foot-wide alley if you are in an MU
25 Zone and you want to create a new record lot. Interestingly

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1 enough, under the D Zone 210.3, it allows for matter of right
2 if you're either 24 foot wide or on an improved alley not
3 less than 15 feet with 300 feet.

4 So the question I think is -- we've seen so much
5 great development in Blagden Alley, Cady's Alley. I took a
6 case before the BZA for development in Linden Court, which
7 if there wasn't this 24-foot-wide alley and there was an
8 alternative for 15 feet or -- and 300 feet to a public right
9 of way, it would allow for some of that development to move
10 forward without having to go through BZA in commercial zones
11 where those types of development are -- where they create a
12 great environment that our city really does thrive from and
13 that is very unique.

14 That being said, I think that there are -- I'd ask
15 if the Zoning Commission to consider again either providing
16 some level of special exception and not kicking a new record
17 lot that complies with all of the setback, minimum lot
18 standards into a variance, rather allowing that to be by
19 special exception, allowing community input and then also
20 looking at the MU Zones and making sure that's more parallel
21 with the other higher density zones and allowing for that as
22 well. Thank you very much, Commissioners.

23 CHAIRMAN HOOD: Okay. Thank you very much, Ms.
24 Moldenhauer. Next time that I cut you off, remember I let
25 you go this time much -- way over your time.

1 MS. MOLDENHAUER: I'm sorry. I appreciate it.
2 Thank you.

3 CHAIRMAN HOOD: No, that's fine, but I just want
4 you to remember. So I wanted to throw that out so you
5 remember the next time. All right. No, that was good.

6 MS. MOLDENHAUER: I will.

7 CHAIRMAN HOOD: Thank you.

8 Let me start off before I forget, because by the
9 time the other four guys go I'll have forgotten.

10 So, Mr. Burger, I think for my concern and some
11 of the issues I brought up your testimony was right in line
12 with what I was -- and one of the things you mentioned, you
13 said that those who have opposition or concern would have
14 another bite at the apple or another chance to be able to
15 comment, or a way to participate. And that was just my
16 concern and I just need to find out from you what other way
17 would they have to participate? Is there a process that I'm
18 not thinking about, or could you help me with that, because
19 I really appreciate your testimony.

20 MR. BURGER: Yes, I think there's two ways: I
21 mean, one that you're probably both -- familiar with both,
22 but I mean there's -- one is the formal process. So part of
23 the argument I was making was that I think even under the
24 amendments proposed that we are discussing today alley lots,
25 tax or record lots, in many cases will still need to go

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1 through some kind of zoning relief process. So they're going
2 to come before you all, and that automatically provides an
3 opportunity for neighbors to engage and participate both
4 directly at the BZA, but also through the preamble, which is
5 often the ANC, or at least that's how it works in 6B.

6 There are still requirements for side setbacks,
7 rear setbacks if that alley lot is abutting a street-facing
8 lot. There are -- anyway, there are a number of requirements
9 that will not change as a part of this process that I think
10 many alley lots -- because they're already fairly small, the
11 owners of those lots are still going to want to pursue some
12 of those sources of relief.

13 Now that won't be true in all cases, and in some
14 ways that's -- I think that's okay because that's kind of the
15 definition of by-right zoning, right? If your alley lot or
16 your street-facing lot conforms to the Zoning Code, I don't
17 know that we should be burdening people with additional
18 review even if in some cases neighbors want a bite at the
19 apply. So that's one way.

20 I think the other is through -- what I experience
21 as a commissioner is a more informal but common process of
22 adjudicating disputes or conversations between neighbors.
23 So even if the case wasn't coming before the BZA or before
24 the Historic Preservation Review Board, if there was a
25 concern where a neighbor felt like something another neighbor

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1 was doing, even if it was by-right, sort of rose to the level
2 of an imposition or if they made them nervous or they weren't
3 sure where they were going to put their trash cans or
4 whatever it would be, the ANC commissioners still came in and
5 often helped to adjudicate that or at least facilitate a
6 conversation. And that was something I thought was both
7 beneficial and helpful.

8 So those are the kinds of things I was talking
9 about. I didn't have other kind of magical solution.

10 CHAIRMAN HOOD: No, that's good. I appreciate
11 that, those comments.

12 And also -- thank you, Mr. Burger and thank you,
13 Mr. Reinstein.

14 Ms. Cort and Ms. Moldenhauer, I listened to your
15 comments which I think would change this -- if we put that
16 in this section, then we have to renotice, so I'm going to
17 ask -- some of the things I think we're very helpful. And,
18 Ms. Cort, I heard what you were saying about let's move this
19 along. And I kind of agree with you, but I want us to move
20 it along to where -- I always like to try to strike a
21 balance, so I think we can move along. We're looking at
22 getting affordable housing, which I totally agree.

23 And, Ms. Moldenhauer, I think you two made points
24 that I'm going to ask the Office of Planning to go back --
25 and I don't know if we can put it right in there with what

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1 we have without having to renote, but maybe we need to come
2 back with another case. But I'll hear from others. I'm not
3 sure of the legality of it, but I do think that both of you
4 all had some great comments that we need to look at and I
5 would ask -- I don't know if Office of Planning has already
6 done it; I don't recall, but if they have, then we need to
7 see if we there's spear another case so we can deal with both
8 comments that I think you all have made in this case.

9 I think that's all I have. So since we're going
10 in reverse order, Vice Chair Miller?

11 Well, maybe we better go back in the regular
12 order. Commissioner May, do you have any questions or
13 comments?

14 Okay. Commissioner Shapiro, questions or
15 comments?

16 COMMISSIONER SHAPIRO: No, I'm just -- Mr. Chair,
17 the only thing I'd say is to join with you. I think what --
18 the comments that we heard helped me think about what else
19 I would like to see, but I don't want that to get in the --
20 I don't want the perfect to be enemy of the good. It feels
21 like what I'm hearing. And there's more to hear, so keep my
22 mind open. But I'd like to hear from OP about whether these
23 are changes that could be made now or whether this would need
24 to be considered as another case. That's all I have, Mr.
25 Chair.

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1 CHAIRMAN HOOD: All right. Thank you.

2 Mr. Turnbull?

3 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I
4 would agree. I think there's room for follow up. I think
5 we want to go ahead with what we're doing, but there is room
6 for follow up on a lot of elements. And notwithstanding
7 that Ms. Moldenhauer always has a lot to say, I think we'd
8 really have to read the transcript; at least I would, to go
9 back and look at all her comments. But I think OP would have
10 to weigh into a lot of these things also. I would like to
11 hear OP's comments on a lot of this and -- but I think there
12 is room for follow up on a lot of the elements that were
13 mentioned.

14 CHAIRMAN HOOD: Okay. I would agree.

15 And, Ms. Moldenhauer, I think you said you didn't
16 provide anything. Could you give that, what you gave us in
17 a snapshot, your testimony?

18 MS. MOLDENHAUER: I have notes that I read from,
19 so I can put that and just file that in the record.

20 CHAIRMAN HOOD: Okay. Sounds -- and could you
21 tell Mr. DeBear we all said congratulations?

22 MS. MOLDENHAUER: I definitely will.

23 CHAIRMAN HOOD: He have triplets?

24 MS. MOLDENHAUER: Just one boy, Jack.

25 CHAIRMAN HOOD: Oh, okay. Okay. Well, tell him

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1 we asked did have triplets. But anyway tell him we said
2 congratulations to him and the Mrs.

3 Okay. Let's see. Vice Chair Miller?

4 Sound must be -- Vice Chair Miller?

5 MS. SCHELLIN: He is texting. Said he was reading
6 some of the documents that were submitted later this
7 afternoon, so he may have turned off his sound and then still
8 reading.

9 CHAIRMAN HOOD: Okay. Thank you. All right.
10 Thank you, all. We appreciate your testimony and your
11 comments. Very helpful.

12 Let's see. I have one other person here to bring
13 up. Let's see who this is. The person is undeclared. Let
14 me just get the name. Let me look back at my notes. Brian
15 Levy. Heard that name before. Brian Levy?

16 Mr. Levy, can you hear us? Oh, you just muted
17 yourself. Can you unmute yourself? There we go. You may
18 begin, Mr. Levy.

19 Mr. Levy?

20 I think we must be having a storm because I think
21 we've -- I actually think we lost Rob. Somebody's having --
22 sure not in my neighborhood.

23 Mr. Levy?

24 I see you, and you're muting and unmuting your mic
25 so -- there you go. We can't hear you now though. Do you

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1 want to call in?

2 So let's do this: Let me -- can you call -- I'm
3 going to call -- I'm going to give you a number to call.
4 Okay. Let me give you a number to call. We can see you, but
5 I'm going to give you a number to call. As soon as I pull
6 it up, I'll give you the number. Give me one second. Oh,
7 call 202-727-5471. 202-727-5471.

8 (Pause.)

9 MR. LEVY: Hello. Can you hear me now?

10 CHAIRMAN HOOD: Yes.

11 MS. SCHELLIN: Ah, there we go.

12 MS. MOLDENHAUER: You can hear me now? Okay.

13 CHAIRMAN HOOD: Yes.

14 COMMISSIONER TURNBULL: We can hear you now.

15 MR. LEVY: Okay. I really apologize, everyone,
16 for wasting your time there. I was trying -- I thought I was
17 set up and I was not.

18 CHAIRMAN HOOD: That's all right. You may begin.

19 MR. LEVY: Let me jump in. Commissioners and
20 Chairman, thank you so much for your time here today.

21 So I'm a long-time D.C. resident, not a developer,
22 not a realtor, not a lawyer. I own an alley lot. I'd like
23 to build sustainable homes on it or perhaps sell it to a
24 developer.

25 I'd like to take a minute today to support the

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1 current text amendment, but also to propose significant
2 needed revisions. I'd also like to demonstrate very quickly
3 how the current code, including these revisions
4 unfortunately, continues to make it very hard to do the right
5 thing, which is to my mind build sustainable, appropriately-
6 sized housing in alleys that fits the fabric of the
7 community.

8 So by way of background I own a 5,200-square-foot
9 R-3 alley lot in Ward 5. So DCRA a number of years ago
10 validated that I -- with the 80 percent lot occupancy of the
11 current code I could actually build an 8,384-foot -- square-
12 foot single family, two-floor residence by right under the
13 current rules, which is remarkable. By contrast the average
14 size of adjacent row homes is approximately 2,000 square
15 feet. So clearly that wouldn't fit the fabric of the
16 community.

17 If I were to try to build something kind of
18 appropriately-sized, say 2,500 square feet, because of the
19 aforementioned civil costs being so hard; I believe Lona and
20 others testified, that's going to be about 124 to \$150,000
21 to bring in water/sewer. I could get into why that -- why
22 it's so expensive, but that basically makes the ROI on that
23 appropriately-sized single family home negative. So not an
24 option.

25 So the second option was actually to be -- build

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1 big, right? Not tiny, but big. Eighty-three hundred square
2 foot, maybe six bedroom, co-living arrangement. The ROI on
3 that is much better. And I share this in my testimony on
4 page 3, my calculations. I'm kind of under no illusions that
5 that's the preferred option by OP or Zoning or neighbors.
6 That's a very large footprint building. It's not in keeping
7 with the fabric of the community.

8 So the third option then would be to subdivide the
9 lot into three lots of around 1,800 square feet, or a little
10 bit less. There's four problems with that under the current
11 code.

12 For one, the -- I would need to get relief because
13 right now I can't create a new record lot because the
14 alleyway is not 24 feet wide. In fact I'm skeptical there's
15 many 24-foot-wide alley lots anywhere in the city. In any
16 case current allows by right construction on existing 15-
17 foot-wide alley lots, but if I want to make a new one, it
18 needs to be 24-foot wide. So to me, to my mind that just
19 seems like a clear inconsistency in the code that should be
20 remedied.

21 Secondly, current code allows one to build on 450
22 square feet, but if you subdivide the standard suddenly jumps
23 up to 1,800 square feet. So here, too, there's a -- to my
24 mind there's a clear inconsistency that we should be making
25 minimum lot sizes for new alley lots reflect the current

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1 codes.

2 Third, the parking requirements, they end up --
3 as a Coalition for Smarter Growth folks have said, they cut
4 into so much to the space of the home that it makes -- it
5 really significantly impacts the layout of the house and the
6 economics for building on the lot. So those are some of the
7 issues.

8 So basically to do the right thing I have to go
9 -- I hate to say it, but I kind of consider it like a BZA
10 tax, right? I have to spend a lot of time. There's a lot
11 of unknown risks and a lot of money in legal fees to try to
12 get relief when actually it makes more sense financially to
13 just build this big behemoth building on the lot currently.

14 And additionally, there's another issue that we
15 haven't discussed on this -- during this testimony and that
16 is the alley naming process, which of course I don't think
17 we can do anything about, but it's a significant issue. It
18 allows positively for a lot of community input, but in order
19 for a permit to be pulled to build anything on an alley lot
20 in the city you need the alley named, and there's a 12-step
21 process that is required to go through before you can -- to
22 name the alley before you can get the building code.

23 So between the BZA process and the alley naming
24 process and the civil costs it's all kind of pushing alley
25 lot owners into a certain direction and I'm not sure -- so

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1 sure it's a direction that we want to be going in. It's to
2 build as big as you can on some of these bigger lots.

3 And finally I just wanted to say to -- and to wrap
4 up; I know my time is short here, with the recent order on
5 housing I just wanted to read the number of alley zones that
6 you cannot do anything residential on. It's R-1, 2, 6, 7,
7 8, 9, 10, 11, 12, 14, 15, 16, 19, 20 and 21. Can't do
8 anything residential there. I would submit that if we're
9 serious in our attempt to address the housing crisis, we
10 should be opening up all alley lots to residential
11 developments.

12 I would also submit that DCRA and others have
13 already permitted 300-square-foot microunits, most notably
14 in the Wharf downtown. So this idea of having a 450-square-
15 foot lot restriction for residential use seems a little high.
16 You could easily build very beautiful small microstructures
17 on 200 square feet and greater. And in fact DHCD themselves
18 have put two of these very beautiful small homes on a vacant
19 alley lot. So the city has already done this.

20 So I know I'm over time. I really appreciate
21 allowing me to speak today and I'm happy to answer any
22 questions. Thank you.

23 CHAIRMAN HOOD: Okay. Thank you very much. Let's
24 see. Commissioner May, any comments or questions?

25 Commissioner Turnbull, any comments or questions?

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1 Commissioner Shapiro, any comments or questions?

2 Okay. Mr. Levy, thank you very much for your
3 testimony, and I'll also incorporate and include some of your
4 comments to the Office of Planning as well as we do further
5 discovery as we move down this line. So thank you very much.

6 MR. LEVY: Thank you very much.

7 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have
8 anybody else?

9 MS. SCHELLIN: No, sir. That was it.

10 CHAIRMAN HOOD: Okay. Mr. Jesick? Is
11 Mr. Jesick still with us?

12 Okay.

13 MR. JESICK: Yes, sir.

14 CHAIRMAN HOOD: Mr. Jesick, I think you've heard
15 all of the comments. I'm not sure -- I know we can't deal
16 with it tonight -- colleagues, I think going forward I want
17 to include -- I think going forward, as I mentioned, I would
18 be willing to go ahead and move with what we have in front
19 of us. And then all the comments we heard from Mr. Levy, Ms.
20 Moldenhauer, Ms. Cort -- and I don't want to leave anybody
21 -- all the comments we heard I would ask that we look at
22 those comments and move in that fashion at another time, or
23 soon. Because I think what I heard from Ms. Cort is they
24 would like to move even faster.

25 And I think that I've heard some great ideas, even

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1 to the fact of looking at Mr. Levy of where we could -- if
2 some of those other zoning areas could be included to
3 develop. So and let's at least look into it. If it's not
4 doable, then let's just exit out, but at least make sure we
5 look at all our options as we move forward.

6 Let me -- anybody else have anything they want to
7 opine or add?

8 Okay. So, Ms. Schellin, we have any dates, or
9 closeout?

10 MS. SCHELLIN: Yes, sir. I'd like to ask, if Mr.
11 Jesick is still on with us, how much time he might need to
12 -- I mean are you guys having him come back with any language
13 or are you going to proceed with proposed action tonight
14 since you're okay with what you have before you, or --

15 CHAIRMAN HOOD: I think that what I see is
16 clarification, but I think I don't want to exclude the -- as
17 I mentioned, the points that everybody else made, unless
18 somebody else sees it differently, may have to even be
19 renoticed or have another hearing. So I think we can move
20 what we have, and we might have to set up another case. So
21 I would like Mr. Jesick and them to look into that.

22 But as far as what we have here now, unless
23 somebody else disagrees, I think this is where we are, but
24 I also want to put the other piece, what we heard from others
25 -- I want to expedite. I want us to go ahead. As Ms. Cort

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1 said, let's quit messing around with it and get it done, and
2 get it done to the point that it's balanced. That's all I
3 want.

4 MS. SCHELLIN: Okay. So --

5 CHAIRMAN HOOD: So not hearing I'm not --

6 COMMISSIONER SHAPIRO: I agree, Mr. Chair.

7 CHAIRMAN HOOD: Okay.

8 MS. SCHELLIN: So are you going to -- since you
9 want to move forward then, you want to move with proposed
10 action this evening? Do you have -- are you guys planning
11 to do that? I guess I'm confused on what you want to --

12 CHAIRMAN HOOD: Oh, okay. So this is a -- that's
13 right, this is a two-vote case.

14 MS. SCHELLIN: It's a two-vote, yes.

15 CHAIRMAN HOOD: Okay. Let me hear from my
16 colleagues. What are you all would like to do? Not
17 dispelling the comments that we heard because we're going to
18 put -- hopefully get Mr. Jesick and the OP to put that on
19 fast track. Mr. Turnbull?

20 COMMISSIONER TURNBULL: Mr. Chair, I think there's
21 a lot of issues we could talk about. I mean there's a lot
22 of points that were brought up. I would -- what's before us
23 -- I'm fine with what's before us, the changes that have been
24 made. I would hate to try to go back down the road and try
25 to add or make more changes to what we've already -- what Mr.

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1 Jesick has already presented, what OP has presented. I'd
2 rather finish one item. And if we at least -- I mean unless
3 there's some total opposition to some elements in it, if
4 there's -- nobody's in opposition and we're all okay with
5 what we have before us, I would rather move that down the
6 road and get that done.

7 And if there's other things we want to do, like
8 you said, I think we have to set up another case. Otherwise,
9 I'm sure we'd have to readvertise and go back if we're going
10 to start making changes.

11 CHAIRMAN HOOD: Okay. Let me hear from others.
12 Any comments?

13 COMMISSIONER SHAPIRO: I'm happy to take proposed
14 action tonight, Mr. Chair.

15 CHAIRMAN HOOD: Okay. Commissioner May, you look
16 puzzled.

17 COMMISSIONER MAY: Well, I'm just thinking. So
18 if we took action today, then we could take -- we'd wind up
19 being able to take final action in September sometime,
20 something like that?

21 MS. SCHELLIN: Yes, sir. And if you decide it's
22 based on a supplemental report from Mr. Jesick and/or
23 comments received, as you said, you could still take final
24 action on what's before you this evening. And based on
25 comments and/or the supplemental report that you've asked him

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1 to check into, you could have another case maybe an A to
2 this, a 19-13A case, come -- started and set down for a
3 future hearing. And that's coming from OAG. I've received
4 a message from OAG on that. So if you guys decide to move
5 forward with some more to this, that could be a separate
6 case, but you could move forward with what you have before
7 you.

8 COMMISSIONER MAY: So if we were to ask for Mr.
9 Jesick to look at this further and provide another report,
10 could we actually vote on it on the 27th and then still be
11 -- I mean what I'm thinking about is there -- if there are
12 small things that could be incorporated now, or any actions
13 that could be incorporated now as a result of this hearing,
14 whether that might actually be a faster path to accomplish
15 more.

16 MS. SCHELLIN: If we could have OAG, Mr. Tondro
17 brought on, I think that once we publish it, maybe if there
18 are tiny things that are not substantive, if there are things
19 that could have been -- my understanding from way back was
20 if there were little things that could be foreseen, they're
21 not major changes -- I think between proposed and final I
22 think that you can do that. But again, if Mr. Tondro could
23 be brought on, he could answer that better. If Paul could
24 bring him up.

25 MR. YOUNG: Sorry, who was it?

1 COMMISSIONER MAY: Max Tondro.

2 MS. SCHELLIN: Max. OAG.

3 MR. TONDRO: Hello.

4 COMMISSIONER MAY: Hello.

5 MR. TONDRO: Yes. So first of all addressing what
6 Sharon just said, it is -- there is a limited but a very
7 limited possibility of changing proposed action once
8 published at final. It has to be a non-substantive. So
9 generally limited to let's say renumbering or clarification
10 that doesn't change any substance. So really once you
11 publish the proposed you're really more or less stuck with
12 it.

13 I think in this case the other possibility that
14 you may have; I'd want to research it and confirm, but that
15 you could go ahead with the text amendment as proposed right
16 now and then split off a related text amendment that would
17 consider those other issues. That related text amendment
18 would be sort of a 19-13A. You would go forward with this
19 one right now, but I think that 19-13A could continue without
20 having to have another public hearing notice. You would
21 basically rely on it growing out of this same public hearing
22 notice that it would start. I believe you can do that. I'd
23 have to do some more research to confirm that, but I think
24 that that's an option.

25 And finally I would say that in response to

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1 Commissioner May's question the other option you could do is
2 if you wanted to hold off until the 27th in order to allow
3 OP to make very sort of smaller changes, you could then take
4 proposed action at that time on that text as amended and then
5 I could by then confirm for you if you could then split off
6 then those issues into a related case that would proceed
7 parallel.

8 COMMISSIONER MAY: Well, I'm not really sure I see
9 the benefit to having a spinoff case versus just doing a
10 whole new case, particularly since some of the things that
11 were suggested today are actually very substantive. Now I
12 mean numbering doesn't really matter to me. It's a question
13 of whether it would be -- require another hearing notice.
14 Of course it's going to require another hearing, I would
15 think, because we really need to make sure people know what
16 we are considering, right? That's what the issue is.

17 So if it's question of making sure that what we
18 do right now is as complete as it could be, I don't know if
19 either Mr. Jesick or Ms. Steingasser has thoughts on whether
20 we should -- whether it would be better to hold off on our
21 action until the 27th in order to address some of the smaller
22 things that are -- that could be written into the proposal
23 before we take action and yet would still be covered by the
24 initial notice.

25 MS. SCHELLIN: Chairman Hood --

1 MR. JESICK: Commissioner May, this is Matt
2 Jesick.

3 MS. SCHELLIN: Wait. Mr. Jesick, if I may, Ms.
4 Steingasser would like to speak.

5 CHAIRMAN HOOD: I was going to let Mr. Jesick go,
6 but since you -- you decided that as the supervisor --

7 MS. SCHELLIN: Oh, okay.

8 CHAIRMAN HOOD: -- let's go with the supervisor.

9 MS. SCHELLIN: I'm sorry. I think that she wanted
10 to speak first.

11 CHAIRMAN HOOD: Okay.

12 MS. STEINGASSER: Well, both Mr. Jesick and I were
13 texting each other behind the scenes, like, oh, I wish we
14 could talk. So I don't mean to butt in, but there are a few
15 things.

16 We would rather this case come to completion and
17 then start a new case rather than start (audio interference)
18 things together. There were a few things that were brought
19 up tonight that we think could be incorporated in your
20 proposed action tonight. Mr. Eckenwiler brought up retaining
21 the criteria for the special exception. That -- we don't
22 have any problem incorporating in the text to provide that
23 guidance. But I think we would prefer that the Commission
24 take action on the text as before you (audio interference)
25 bring forward another case in the fall for the rest of the

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1 (audio interference). Because you're right, there were some
2 substantive things that need a little bit of focus and
3 analysis.

4 COMMISSIONER MAY: So the sorts of things that Mr.
5 Eckenwiler was proposing, I take it that we would want to see
6 that in revised text and then vote on it on the 27th.

7 MS. STEINGASSER: Well, it was advertised as being
8 deleted, as being text that was going to be removed, so the
9 Commission could just decline to delete that and keep it as
10 part of this case tonight, if we wanted to do that.

11 COMMISSIONER MAY: All right. Well, so but that
12 was just one example. And were there other things where --
13 I'm just trying to get to the point of should we vote on it
14 today or should we vote on it on the 27th? What's going to
15 be clearer for the public to understand or for us to have a
16 clearer legal path, as it were?

17 MS. STEINGASSER: I'm checking my behind-the-scene
18 notes.

19 Mr. Jesick, which do you prefer? My instinct is
20 to just accept Mr. Eckenwiler's comments on the special
21 exception and then take proposed action on this.

22 MR. JESICK: Yes, I agree with Ms. Steingasser.
23 We can work with Mr. Tondro on that change if the Commission
24 wants to make that one change tonight. We can incorporate
25 that into the text for the notice of proposed rulemaking.

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1 COMMISSIONER MAY: Okay. All right. I mean I --
2 thinking back over it I'm not sure if there were any other
3 smaller things that you would want to incorporate. Is that
4 the only one that you thought was worth trying to incorporate
5 now?

6 MS. STEINGASSER: I did not hear any that's --
7 that were already within the advertised text.

8 COMMISSIONER MAY: Yes.

9 MS. STEINGASSER: -- that would make -- made
10 Commissioner Eckenwiler's --

11 COMMISSIONER MAY: Right.

12 MS. STEINGASSER: -- easy. It was already
13 advertised.

14 COMMISSIONER MAY: Okay. All right. That's fine.
15 I'll go with that.

16 MS. STEINGASSER: Okay.

17 CHAIRMAN HOOD: Okay. So I believe as Mr. Tondro
18 has already mentioned with the 19 -- if we come -- Ms.
19 Steingasser and Mr. Jesick, if we do a 19-13A, all those
20 other things that we may have -- dribbles that we have may
21 still out there, we can put everything together at that
22 point. And I'm looking forward to 19-13A, even with
23 substantive stuff. All right? And if we leave some of the
24 small stuff out, we can incorporate that at that time. I
25 think right now we can move forward. And I'm looking to Mr.

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1 Tondro to make sure as well from a legal standpoint we can
2 go ahead and move forward.

3 Let me -- the Vice Chair dropped off, has had a
4 connectivity issue, so I see he's back. Vice Chair, you have
5 anything you want to add?

6 VICE CHAIR MILLER: I'm comfortable with the
7 direction we're going in. Thank you, Mr. Chair.

8 CHAIRMAN HOOD: Okay. All right. Okay. So I
9 would move -- if everybody's had a chance to talk, I would
10 move that we approve with the one addition that we heard
11 tonight that's going to be posted for the 30 days and the
12 next submission that goes out in this case, 19-13 -- that we
13 approve the text as proposed with that one addition that was
14 just discussed, and I ask for a second.

15 VICE CHAIR MILLER: Second.

16 CHAIRMAN HOOD: It's been moved and properly
17 seconded.

18 Ms. Schellin, would you do a roll call vote,
19 please?

20 MS. SCHELLIN: Yes. Commissioner Hood?

21 CHAIRMAN HOOD: Yes.

22 MS. SCHELLIN: Commissioner Miller?

23 VICE CHAIR MILLER: Yes.

24 MS. SCHELLIN: Commissioner Shapiro?

25 COMMISSIONER SHAPIRO: Yes.

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1 MS. SCHELLIN: Commissioner May?

2 COMMISSIONER MAY: Yes.

3 MS. SCHELLIN: Commissioner Turnbull?

4 COMMISSIONER TURNBULL: Yes, with the caveat that
5 we could just repeat for the record online what the special
6 exception language is.

7 CHAIRMAN HOOD: Okay.

8 MS. SCHELLIN: Somebody want to do that?

9 MS. STEINGASSER: Let me just get to the public
10 hearing notice.

11 MR. JESICK: Ms. Schellin, this is Matt Jesick.
12 I think if the Commission would allow us the flexibility to
13 refine this with OAG, I think it would read something -- we
14 would keep in current section, Subtitle U, 601.1(f)(4), and
15 that reads the Board of Zoning Adjustment shall consider
16 relevant agency comments concerning (a) public safety
17 including any comments from FPMS and MPD; (b) water and sewer
18 services including any comments from DC Water (audio
19 interference) including any comments from (audio
20 interference).

21 MS. SCHELLIN: Okay. Does that satisfy you, Mr.
22 Turnbull?

23 COMMISSIONER TURNBULL: Yes, we were losing him
24 for a bit, but I got -- we think we got the gist of what he
25 was saying.

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1 MS. SCHELLIN: Okay. So staff records the vote
2 five to zero to zero to approve proposed action in Zoning
3 Commission Case No. 19-13.

4 CHAIRMAN HOOD: Okay.

5 MS. SCHELLIN: And that's with the special
6 exception language, and OAG will work with OP on the --
7 refining the language.

8 CHAIRMAN HOOD: Okay. Ms. Schellin, do we need
9 to have a --

10 MS. SCHELLIN: And other than that --

11 CHAIRMAN HOOD: Do we have a closing or anything
12 else? I mean, not a closing -- do we need --

13 MS. SCHELLIN: Nothing else.

14 CHAIRMAN HOOD: -- any dates?

15 MS. SCHELLIN: This will probably come up for
16 final in September.

17 CHAIRMAN HOOD: Okay. All right. Does anybody
18 have anything else?

19 Okay. The record in this case is closed other
20 than what we've asked for. And with that I guess again the
21 Zoning Commission will be meeting tomorrow night on another
22 case; let me just announce it, which is Zoning Commission
23 Case No. 19-28, tomorrow night, Square 417, LLC map amendment
24 of Square 417.

25 So with that this hearing for tonight is

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1 adjourned. I'll see everybody tomorrow.

2 (Whereupon, the above-entitled matter went off the
3 record at 5:38 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 07-13-20

Place: teleconference

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



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