

Dear Commission Members,

I am writing today in regards to amendment 19-13. I submit this letter in opposition the text amendment as it is currently written. I believe more time and consideration needs to be given to certain details before the Commission moves forward with such amendments. I want to first clarify that I am not opposed to building on alley lots in general – there are a number of existing structures in my house’s alley system that could benefit from improvement. I also understand the need for DC to have a method to decide if and how Alley Tax Lots may be turned into alley record lots to facilitate improvement or development.

However, the current text amendment omits a number of critical issues. These issues vary, in part because some Alley Tax Lots have been empty for some time for a variety of reasons. Some, because building on them would have deprived neighbors of minimum levels of light and air, others because they might have provided critical parking services. Furthermore OP has shown there are only a handful throughout the city (274 in the most recent report) that could have residential structures through this text amendment where a few new apartment or condo building could provide the same number of units and provide other community benefits, such as increased low-income housing.

The proposed text amendments would lift many of the zoning restrictions in a blunt, uniform manner, which may be inappropriate in the variety of circumstances developers must now observe. For instance, although these alley lots are zoned in a similar manner as ‘normal’ street-facing lots (non-alley), there will be less development restrictions upon them than for a typical developer on a street lot. A street-facing lot has restrictions on building 10 feet past a neighbor’s wall or up to 70% of a lot or have a backyard less than 15-20 feet, but these same impacts on neighbors are not given the same consideration when building on alley lots.

In many cases, accessory structures are likely to be the only other similarly situated structures on an alley (many times abutting alley lots) and are required to be much smaller, but this text amendment could create the opportunity for much bigger structures that are similarly situated to someone’s yard and home, and structures that are allowed to build in ways that neighboring accessory structure owners cannot. If an accessory structure is built, the owner of the street-facing residence in front of it has to weigh the impacts on their yard and home, but there is no such opportunity for those who live in similarly situated homes. The same issues that provide for minimal impact on neighboring structures for street-facing houses, such as the 10-foot rule, do not apply to alley lots and can therefore dwarf abutting accessory structures. I hope that the Commission would hold all developers to consistent standards to ensure future residential developments will occur in a thoughtful manner that considers impacted neighbors whether they live on an adjacent property on a street or an alley.

In addition, allowing exceptions to the subdivision standards for alley lots creates an uneven playing field between alley lots and street-facing lots, as street-facing lots must

still go through a more burdensome subdivision process for reasons OP has not yet appeared to explain in their reports.

Below are additional specific issues in the text amendment and suggestions:

Subtitle C, Chapter 3, Section 302, “Subdivision Regulations”

This part of the existing zoning code (particularly 302.1) ensures that the new record lots created through subdivision complies with the applicable requirements for lot size, lot width, lot occupancy, yards, etc. Alley Tax Lots can share an underlying record lot with other non-alley lots and the text amendment appears to create an exception only for alley lots; however, the new OP report does not clarify why such a large exception has been made, whether this would have implications for the other street-facing lot owners, or why street-facing lot owners would continue to have the same restrictions in place for creating new record lots. By adding in these new subdivision exceptions only for alley lots, the Commission would therefore continue to put this burden on street-facing lots and create special rules solely for alley lots, widening an inequity between street-facing lot owners and alley lot owners.

Subtitle C, Chapter 3, Section 306, “New Alley Record Lots”

This text amendment clarifies that even those lots that are large enough and with large enough alleys would need to ensure that the non-alley record lot created complies with the applicable requirements for lot size, lot width, lot occupancy, yards, etc. When speaking with OP, they did not clarify why pre-1958 tax lots should not go through the special exception process other than there was somehow no rhyme or reason to why lots were tax compared to record lots before that time. I would suggest that the Commission seek further answers from OP and ask them to further research pre-1958 tax/record lot distinctions, as they seemed to be entirely unaware of this history. Currently there seems to be no compelling reason to distinguish tax lots from before 1958 and between 1958 and 2016, so I suggest that they all be covered under the new special exception process.

It also was not clear whether the subdivision process would impact street-facing lots on the same underlying record lot. Therefore, I would also suggest an addition that any application or special exception that requires the new non-alley record lot created needs the owners of the other lots to be in agreement, either by signing the application or supporting the special exception, if the changes in subdivision would have any impact their lots.

In addition, I think that when considering special exceptions in 306.4, the Commission should clarify that the BZA needs to consider the impacts of potential by-right structures that would be allowed by the creation of an Alley Record Lot through special exception. It is not clear in the current text amendment language whether a special exception for creating a record lot would consider the impacts of the lot itself (which may be an empty lot), a concurrent building proposal, or the by-right potential for the lot on the light and air impacts and privacy and use of enjoyment of neighboring properties, among other

things required of special exceptions for new or enlarged buildings. If the by-right structure is not considered during the special exception, a developer could put forward an application without stating what they intend to build or to build something smaller and then later build up to what would be allowed by right for what is now a record lot.

In addition, the special exception process was not discussed in OP's setdown report and further items referring to consistency with subdivision standards have been deleted in its most recent report, so it continues to be unclear why they made the changes they did to the final language and why now they have removed the 450 foot minimum from the special exception.

#### Subtitle D-F Chapter 51, "Alley Lot Regulations (R, RF, RA)"

In considering what exists currently in Subtitles D-F, Chapter 51 and is maintained in this text amendment, 5 yards is too short as a standard for a backyard, particularly when non-alley lots are required to have much larger yards when similarly abutting a neighboring property, depending on the zone. When a neighbor builds an accessory structure in their backyard, it is much smaller – some can only be 10 feet tall, some can only be 30% of a yard, and they all need to be smaller than a principal structure. A 5-foot yard might make sense for side yards, where required, as a path rather than a place to enjoy the outdoors. Therefore, I suggest that the Commission increase the back yard requirement to the same as other backyards in that zone (or at least greater than 5 feet) and adding that new structures or additions should not go 10 feet past neighboring structures. That would ensure ample outdoor space for alley structure residents and lessen light and air impacts on street-facing and accessory structure neighboring residents.

OP also states in the most recent report that the new alley centerline setback of 7.5 feet would account for a 15-foot alley for turning-radius purposes. However, that setback would not actually ensure that the alley is 15 feet wide. For instance, for an alley 10 feet wide, a 7.5 foot setback would mean that the alley would be only 12.5 feet wide at that point, as the setback is from the midpoint, not the full width of the alley. Therefore, the setback should be increased to account for the width of alleyways in the district that allow cars or else garages could be allowed by-right that do not ensure adequate turning radii.

#### Other Considerations

In addition, the proposed changes to the zoning code do not currently clarify that residential buildings, including those on alley lots, need to account for the storage of trash and recycling containers. Street-facing neighbors have backyards or garages (or both) to keep those containers out of public space, but the potential for an alley structure to have no such garage (as they are not required) or yard through the special exception process also means they could have no space for storing trash and recycling containers. The Commission should consider an addition to special exceptions for alley lots to require a trash and recycling container storage plan on the property. DC residents are required to remove trash and recycling containers from public space, but without requiring any yards

or garages, alley structure designs can and do neglect these considerations. Once these buildings are built and a storage location is not identified, it places a burden on the neighbors and city to ensure that a storage location is identified where one may not exist after a structure is already built.

Thank you for your time and consideration. I look forward to thoughtful analysis by OP and the Commission on the best path forward with changes to these zoning code amendments.

Respectfully,

Lauren Friedman  
215 3<sup>rd</sup> St SE