

**Testimony of Meridith Moldenhauer
ZC 19-13**

July 13, 2020 – Draft Talking Points

Good afternoon Chairman Hood and members of the Commission. My name is Meridith Moldenhauer with Cozen O'Connor. The proposed text amendments to alley lot regulations contain positive improvements in the current Zoning Regulations. As an active stakeholder, I submit this testimony in support with the following comments and recommendations.

The proposed clarifications regarding BHMP, change to centerline setback and clarifications are always helpful for owners, architects, developers and stakeholders.

I have reviewed the record in this case, and most letters of support with comments are asking the ZC to outright allow new alley lots by right so long as they comply with zoning development standards and remove the 24' minimum alley width requirement. While I wholly support this request, I am here today to propose a compromise which should be able to be added to the current Text Amendment and not require future delay or notice.

The Office of Planning's report focuses on the issue of converting tax lots to record lots and does not address creation of new alley lots. Thus the current proposal leaves a gap in the regulations which would leave new alley lots requiring variance relief.

The proposal should be expanded to allow for the creation of more housing in the District of Columbia when a potential new alley lot can be created that would comply the minimum lot size and dimensions in the zone.

I encourage the ZC to consider by proposal language that creates an arbitrary cut off limiting new housing stock. If a tax lot was created before September 6, 2016 then a special exception standard would apply. If a property owner wishes to subdivide a lot post September 6th what makes that any different so that it would change the standard from a special exception to a variance. It seems that issue is not specifying a date but more consistent with the current text amendment is maintaining a public process. Thus, if you have two identical properties why would one need to prove a practical difficulty in applying a variance standard and yet the other applies a special exception only due to a date differential.

If you do not feel comfortable make the change to a by-right development as proposed by many testifying today; then at least apply the same public hearing special exception standard and see how communities review these new cases. Allow the ANC and neighbors to weigh in on a case by case basis.

I propose allowing a special exception standard for any new alley lot thus maintain a public process that would open a dialogue with neighbors, ANC and OP – but also not approving language that would arbitrarily create a difference between variance relief and special exception relief based on a September 6, 2016. Proposed language below in red.

306 NEW ALLEY RECORD LOTS

306.1 New alley record lots shall comply with the following:

- (a) Have frontage along a public alley with a minimum alley width of twentyfour feet (24 ft.), and have access from the lot to a street through an alley or alleys with an alley width of not less than twenty-four feet (24 ft.) at any point between the lot and the street;
- (b) Meet the lot area standards applicable under the title of the respective zone and, if no minimum lot area standard is provided, the alley lot shall be a minimum of eighteen hundred square feet (1,800 sq. ft.) of lot area;
- (c) Where existing abutting alley record lots, or alley tax lots created on or before May 12, 1958, are combined into a larger alley record lot, the subdivision need not comply with paragraphs (a) and (b) of this subsection.
- (d) An alley tax lot created on or before May 12, 1958 may be, as a matter-of-right, converted to a record lot, provided the tax lot has a minimum square footage of four hundred and fifty square feet (450 sq. ft.). The lot need not comply with paragraph (a) of this subsection; and
- (e) An alley tax lot created after May 12, 1958 and before September 6, 2016 may be, by special exception, converted to a record lot, provided the tax lot has a minimum square footage of four hundred and fifty square feet (450 sq. ft.). The lot need not comply with paragraph (a) of this subsection.

(1) The Office of Planning shall coordinate review of the application and prepare an analysis of the proposal, which shall include comments or recommendations from relevant government agencies, including, but not limited to:

- (A) District Department of Transportation (DDOT);
- (B) Department of Public Works (DPW);
- (C) Metropolitan Police Department (MPD);
- (D) Fire and Emergency Medical Services Department (FEMS);
- (E) DC Water (WASA); and
- (F) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

- (f) An alley lot created after September 6, 2016 may be, by special exception, subdivided or converted to a record lot, provided the new alley lot meets the lot area standards applicable under the title of the respective zone and, if no minimum lot area standard is provided, the alley lot shall be a minimum of eighteen hundred square feet (1,800 sq. ft.) of lot area. The lot need not comply with paragraph (a) of this subsection. (1) The Board shall consider in connection with special exception review comments or recommendations from relevant government agencies, including, but not limited to:

- (A) District Department of Transportation (DDOT);
- (B) Department of Public Works (DPW);
- (C) Metropolitan Police Department (MPD);
- (D) Fire and Emergency Medical Services Department (FEMS);
- (E) DC Water (WASA); and
- (F) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

By maintaining the minimum land area for all R zones, the combination of requiring the minimum lot area and width in connection with satisfying the special exception standard should provide the ZC with confidence that no adverse impact on neighbors, zone plan or character would be approved.

Finally, the proposed text amendment focuses primarily on residential zones but does not consider the restrictions the current regulations place on development of mix use or higher density zones. In higher density zone, in which alleys can bring life to a community. Similar to Blagden Alley and Cady's Alley – the zoning regulations restrict subdivision of new alley lots in such zones. All MU Zone Districts – include General Provisions (example: 1100.2 “New alley lots maybe created as provided in Subtitle C, Chapter 3”). Thus, the MU zone should encourage redevelopment of vacant sites and infill opportunities.

It is recommend that the ZC consider changing the MU language to language that is similar to the D Zones. The D Zone – allows for (210.3 Residential use is permitted, subject to the following conditions: (a) A building may not be constructed or converted to a single or multiple dwelling unit unless there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area per unit; and (b) The alley lot has access to an improved public street as follows: (1) Through an improved alley or alleys twenty-four feet (24 ft.) or more in width; or (2) On an improved alley no less than fifteen feet (15 ft.) in width and within three hundred (300) linear feet of a public street.)