



December 18, 2025

Zoning Commission of the District of Columbia  
441 4<sup>th</sup> Street, NW – Suite 210  
Washington, DC 20001

**VIA IZIS**

**Re: OAG Comments in the Alley Lot Regulations Text Amendment Proposed by the Office of Planning (“OP”) (Z.C. Case No. 25-06)**

The Office of the Attorney General (“OAG”) respectfully recommends that the Zoning Commission (“ZC”) approve certain aspects of OP’s proposed text amendment that will facilitate the development of alley lots because those aspects of the proposed amendment will support additional housing and reduce unnecessary and burdensome regulations, as the Comprehensive Plan (“CP”) <sup>1</sup> calls for. Specifically, OAG recommends that the ZC support:

- Reducing the alley width and proximity requirements for the conversion or subdivision of new alley record lots;
- Removing the prohibition against residential uses on alley lots in the R-1 and R-2 Zones;
- Expanding the number of dwelling units permitted on alley lots in the RF and RA Zones;
- Expanding development standard flexibility and clarity; and
- Expanding special exception relief for alley lot subdivisions and lot occupancy.

OAG supports these provisions and the overall intent of the proposed text amendment to expand existing development and use standards for alley lots to provide creative solutions to address the District’s housing needs, especially in lower-density zones.

However, OAG is concerned that some changes proposed by the amendment would impose additional, overly burdensome regulations on alley lots. The unique nature of alley lots, including both their location and average size, make them more difficult to efficiently develop than traditional lots. Additional complicated and restrictive regulations will further hinder development, thereby depriving the District of a valuable potential source of new housing units. OAG recommends that OP further simplify these provisions as discussed herein to ensure that the text amendment achieves its stated purpose. Appendix A includes OAG’s specific suggestions for amended text.

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<sup>1</sup> D.C. Mun. Regs. tit. 10-A (2021).

## I. The CP Calls for Reducing “Unnecessary and Burdensome” Regulatory Barriers to Producing Housing.<sup>2</sup>

The Zoning Act requires the ZC to promote the general welfare as guided by the CP. The CP establishes the District’s land use and planning goals through a public process culminating in approval by the Council and the Mayor.<sup>3</sup> The CP is therefore law. Under that law, the District’s elected representatives have determined that “it is the availability of safe, decent, affordable housing across all neighborhoods that will determine whether the District’s vision for an inclusive District will be realized.”<sup>4</sup> To achieve this goal of an inclusive and diverse city, the CP prioritizes the production and preservation of both affordable and market-rate housing to serve a variety of household types and income levels.<sup>5</sup>

*Simplifying Regulations to Address the District’s Housing Crisis.* The CP identifies rising housing costs as one of “the most pressing and critical issues facing the District.”<sup>6</sup> To increase housing supply, which would reduce housing costs, the CP calls for updating the Zoning Regulations to “[r]emove unnecessary and burdensome regulations and propose more efficient and effective alternatives for achieving important policy and regulatory goals.”<sup>7</sup> Many of OP’s proposed amendments to the alley lot regulations target current requirements for discretionary review by the Board of Zoning Adjustment (“BZA”) that are generally approved with little to no opposition. Eliminating these regulations that function as speed bumps to the creation of housing and add significant costs to the building process fulfills the CP’s explicit call to streamline housing construction.

*Adding “Gentle” Density to Achieve Housing Equity.* The CP encourages modest increases in density and more diverse housing types in low- and moderate-density neighborhoods, especially to produce additional affordable housing.<sup>8</sup> This “gentle” density, which is limited in scale and fits in with the existing built environment of low-rise houses with ample open space, is a critical tool to addressing past “discriminatory land use policies that have resulted in segregation by race and economic status.”<sup>9</sup> Many lower-density neighborhoods also have higher housing costs relative to the rest of the District, so the CP encourages more inclusive development in these areas through zoning and regulatory incentives and creating opportunities for more residential development and a greater variety of housing options.<sup>10</sup> Infill development on underused alley lots, especially those in low density areas, provides the option for small-scale density where it is most needed to diversify the size and affordability of dwelling units.

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<sup>2</sup> D.C. Mun. Regs. tit. 10-A, § 507.10 (2021).

<sup>3</sup> D.C. Code §§ 6-641.01-6-641.02 (2001); *Wisconsin-Newark Neighborhood Coalition v. Dist. of Columbia Zoning Comm’n*, 33 A.3d 382, 389–90 (D.C. 2011); [District of Columbia Comprehensive Plan Act of 1984, D.C. Law 5-76 \(1984\)](#), as amended by the Comprehensive Plan Framework Amendment Act of 2019, D.C. Law 23-127 (2020), the Comprehensive Plan Amendment Act of 2021, D.C. Law 24-20 (2021); and the Comprehensive Plan Future Land Use Map and Generalized Policy Map Approval Resolution of 2021, D.C. Resolution R24-0292 (2021).

<sup>4</sup> *Supra* note 6, §§ 500.6a, 503.1 (2021).

<sup>5</sup> *Id.* §§ 206.1, 224.9, 310.10, 500.6a, 504.17 (2021).

<sup>6</sup> *Id.* § 206.1 (2021).

<sup>7</sup> *Id.* § 507.10 (2021).

<sup>8</sup> *Id.* § 310.15 (2021).

<sup>9</sup> [OP, \*Single-Family Zoning in the District of Columbia\* \(2020\)](#), at 21; *supra* note 6, §§ 310.1, 310.6, 310.15, 503.5, 503.10, 504.8.

<sup>10</sup> *Supra* note 6, §§ 503.10, 504.15, 504.19, 504.29, 507.9, & 507.10 (2021).

## **II. The Zoning Regulations for Alley Lots Should be Simplified to Expand Housing Choice.**

The CP’s call for simplified and streamlined regulations to facilitate development, particularly that of critically needed housing, echoes wider trends in planning and zoning to reduce over-regulation as a “process-oriented obstruction to growth” and to provide property owners with greater flexibility and certainty.<sup>11</sup> Other cities and jurisdictions are increasingly reducing regulations on a variety of land use topics in an effort to spur housing production, including promoting “missing middle housing,” eliminating parking minimums, and encouraging more by-right density and development options in certain locations.<sup>12</sup> Providing more by-right development options allows projects to proceed without the uncertainty imposed by lengthy discretionary review processes. While there is still a role for these processes, establishing clearer standards for what projects require them, and their evaluation criteria, allow them to function more effectively, specifically to protect neighboring properties in truly extraordinary situations where proposed development significantly exceeds what the by-right regulations anticipated.

The development of alley lots exemplifies this need for simplified regulations to provide greater housing choice to District residents. Alley lots present unique opportunities to utilize underdeveloped parcels to provide smaller-scale housing options, particularly in the lower-density R and RF Zones. These housing options, including smaller units and accessory apartments, are typically less expensive and provide residents with a wider set of choices in finding a home. However, the same factors that make alley lots a creative housing solution are the ones that make them difficult to develop. Alley lots are inherently unusual in their location, and often in their size and dimensions. As such, facilitating their development requires a flexible regulatory framework that does not impose overly burdensome regulations on property owners. Indeed, the need for this greater flexibility was the motivation for this text amendment.<sup>13</sup>

## **III. OAG Supports Maximum Flexibility for Alley Lots in Both Use and Development Standard Regulations.**

### ***A. OAG Supports the Reduction of Alley Width and Proximity Requirements and Recommends Additional Clarifications for the Related Special Exception Relief.***

OAG supports the reduction of alley width and proximity requirements proposed in multiple sections throughout the text amendment, including for the creation of new alley lots and for residential uses.<sup>14</sup> By reducing the required minimum alley width to 15 feet from the current 24 feet, and eliminating the requirement for alley lots to be within 300 linear feet of the public street, the amendment will expand the number of alley lots that can be created either through subdivision or conversion from tax lots. It will also increase the number of alley lots that will be

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<sup>11</sup> See generally, Ezra Klein & Derek Thompson, *Abundance* (2025), Yoni Applebaum, *Stuck* (2025), Victoria Guida, *Abundance vs. Populism: A Former White House Aide Wants Democrats to Have it Both Ways*, Politico (Oct. 22, 2025), <https://www.politico.com/news/magazine/2025/10/22/abundance-vs-populism-a-former-white-house-aide-wants-democrats-to-have-it-both-ways-00617550>.

<sup>12</sup> See, Patrick Sisson, *What is Zoning Reform and Why Do We Need It?*, APA Planning Magazine (Jan.28, 2023), <https://www.planning.org/planning/2023/winter/what-is-zoning-reform-and-why-do-we-need-it/>.

<sup>13</sup> OP Setdown Report at p.1-3 (Exhibit 2).

<sup>14</sup> Subtitle C § 306.1, Subtitle I § 210.4, Subtitle U § 600.1(f)(6).

able to provide residential uses. This expansion of “by-right” alley lots will facilitate more efficient development, particularly of housing, by reducing the need to request special exception relief from the BZA, where applications seeking relief from the alley width and proximity requirements currently comprise over 50% alley lot cases.

While expanding the number of alley lots qualifying for by-right development, the amendment also maintains the ability to seek special exception relief from the alley width requirements for the subdivision of alley lots. OAG supports maintaining this option for zoning relief but notes that additional clarification could be provided as to the issues the BZA should consider in evaluating the relief as well as the role of the individual District agencies to which the special exception applications are referred.

As discussed in greater detail below, OAG also supports the changes to the special exception standards for alley lot residential uses in Subtitle U § 601 that are intended to support expanded residential uses on these lots. However, OAG believes that the language of this section can be further clarified to more explicitly state which use standards can be waived by special exception. OAG believes that this clarified language will allow property owners to better understand the limits and flexibility available for the development of these lots. OAG also notes that the special exception criteria for alley lot relief in the D-Zones (Subtitle I § 210.5) are different from the same relief in other sections of the regulations. OAG recommends that a uniform set of standards be adopted for alley lot special exceptions in all zones.

***B. OAG Supports the Expansion of R-Zone Alley Lot Use Permissions but Recommends Greater Flexibility in the Alley Lot Development Standards.***

OAG supports the expansion of residential use permissions to alley lots in the R-1 and R-2 Zones pursuant to the amendment to Subtitle U § 600.1(f)(1). OAG believes that removing this prohibition will help to facilitate residential development on alley lots in these zones. This is especially important for those R-Zones that are considered “high-cost and high-opportunity” as a diversity of housing options will encourage more equitable and inclusive growth.<sup>15</sup> The R-Zones present significant opportunities for alley lot development with over half of the total 683 R-Zone alley lots being vacant. While this expansion of residential use permissions represents a significant step in encouraging context-sensitive, “gentle density” in the District’s lowest density zones, OAG is concerned that the positive effects of this change are blunted by the amendment’s proposed changes to the R-Zone development standards, particularly in the R-1 Zones. OAG believes that many of the amended development standards will actually limit residential development on alley lots in these zones and will outweigh the flexibility gained through the use permissions. Thus, OAG proposes certain changes to the amendment, including providing greater flexibility in the minimum lot size, yard, lot occupancy requirements, and permitting greater height on alley lots either by-right or by special exception.

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<sup>15</sup> OP, *Single-Family Zoning* (2020), at 2, 10 and 16.

### *1. Minimum Lot Size and Rear and Side Yards*

The amendment proposes to radically expand the rear and side yard requirements for the R-1 Zones up to 25 feet from the current requirement of five feet. Given the generally smaller size of alley lots, these requirements could significantly impact the ability to develop these lots for residential use. OAG notes that the amendment also imposes substantial minimum lot area requirements for alley lots in the R Zones (between 2,000 and 7,500 square feet depending on the zone and building type). OAG is concerned that the combination of large minimum lot sizes and large yard requirements will limit the number of alley lots in the R Zones, particularly the R-1 Zones. To facilitate the use of these lots in providing gentle, context-sensitive residential development, OAG recommends that the minimum yard requirement in the R-1 Zones be reduced to 15 feet from abutting non-alley lots and that the minimum lot size be two-thirds of the minimum required in the zone. Both these changes would still provide for a substantial amount of open space on alley lots while providing greater flexibility for development.

### *2. Lot Occupancy*

The amendment significantly increases the lot occupancy requirements for alley lots in the R-1 and R-2 Zones. While previously lots were permitted between 80% and 100% based on lot size, the amendments now propose requirements of between 40% and 80% based on lot size.<sup>16</sup> While OAG supports the inclusion of lot occupancy amongst the development standards from which special exception relief can be obtained per the proposed Subtitle D §5201.3(a), in light of the unique nature of alley lots, particularly their typically smaller size, OAG believes that it would be more efficient to permit greater flexibility by-right and believes that the existing 80% and 100% requirements should be retained for all zones.

### *3. Height*

The amendment proposes a minimal 10% increase in maximum alley lot height from 20 to 22 feet in the R Zones. This is despite the fact that the R Zones uniformly permit up to 40 feet and three stories for non-alley lot buildings. OAG believes that the by-right height for alley lots could be further increased while still remaining subordinate to street-facing buildings, and suggests that the maximum height should instead be two-thirds of the maximum height permitted in the underlying zone for non-alley buildings. Rather than an arbitrary number, tying the maximum alley lot height to the zone's maximum height would allow buildings on alley lots to remain secondary in scale to street facing lots while still reflecting the general scale and pattern of the surrounding area. Additional height could also be provided by special exception, either as an alternative or in addition to increased by-right height. This would provide additional flexibility to property owners in developing alley lots while still ensuring review of the impacts of the additional height on neighboring properties.

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<sup>16</sup> Per the amendment, the existing lot occupancy requirements would now apply only to the R-3 Zones (Proposed Subtitle D § 5100.2(d)).

***C. OAG Supports the Expansion of the Residential Use Permissions in the RF Zones but Recommends Greater Clarity and Flexibility in the Development Standards.***

The RF Zones present the greatest opportunity to leverage alley lots for housing production—the RF-1 Zone alone has 887 alley lots, the highest of any zone, of which 367 (41%) are vacant. As such, OAG supports the proposed expansion of the residential use permissions in the RF Zones to permit up to two principal dwelling units in order to capitalize on the abundance of existing alley lots. However, OAG is concerned that several of the proposed changes to the RF Zone development standards will counteract these expanded use permissions by limiting the ability to effectively develop alley lots. OAG proposes certain changes to the amendment to provide clearer and more flexible minimum lot requirements, permit greater height either by-right or by special exception, and to align the pervious surface requirements with the underlying RF Zone requirements.

*1. Minimum Lot Requirements*

The greatest potential obstacle to residential development in the RF Zones is the minimum lot requirements. Per the proposed amendment to Subtitle E § 5100.2(a), the newly imposed minimum lot area requirements for alley lots will be based on the requirements of the underlying zone. The existing RF Zone minimum lot dimension regulations are based on building type rather than specific zone, with 1,800 square feet required for row dwellings, 3,000 square feet for semi-detached dwellings, and 4,000 square feet for all other building types.<sup>17</sup> These requirements are important when understood in conjunction with the amendment’s proposed changes to Subtitle U § 600.1(f)(4), which will permit up to two principal dwelling units per alley lot *provided* that the alley lot is a minimum of 1,800 square feet.<sup>18</sup> These overlapping requirements present a problem for alley lots that are less than 1,800 square feet (and therefore unable to meet Subtitle U § 600.1(f)(4)’s area requirement for two dwelling units) but that are also unable to satisfy the 4,000 square foot requirement for a detached structure proposed in Subtitle E § 5100.2(a). It is also unclear whether it would be possible to obtain special exception relief from the 1,800 square foot requirement under Subtitle U § 601.1(f)(4). This lack of clarity and conflict between provisions could result in a situation where developable lots remain vacant due to their size.

To address this issue, OAG recommends that a uniform minimum lot area requirement be established to serve as the baseline for residential development. One option would be for the Commission to adopt the 900 square feet per unit required for apartment houses in the RF Zones under the current Subtitle U §§ 301.2 and 301.5. A 900 square foot per unit requirement would align with the proposed requirement for 1,800 square feet per two units. An alternative would be to adopt the 450 square foot lot minimum required for residential use under the proposed Subtitle U § 600.1(f)(1). This lower minimum requirement would allow for the utilization of a greater number of alley lots, as there are currently 259 alley lots between 450 square feet and 900 square feet in the RF-1 Zones. If the Commission was to adopt this much smaller minimum lot area, OAG would recommend a corresponding decrease in the minimum lot area required for two units on an RF zoned alley lot to 900 square feet. In either case, OAG recommends a corresponding change

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<sup>17</sup> Subtitle E § 202.1.

<sup>18</sup> Subtitle U § 301.1(b) permits up to two residential units per lot on non-alley lots in the RF-1 Zone.

to the special exception criteria of Subtitle U § 601.1(f) to clarify whether it would be possible for a property owner to obtain special exception relief for a non-compliant lot.

## *2. Height*

To take full advantage of the development potential of RF Zone alley lots, the maximum height requirements should be increased. The amendment only proposes a minor increase in height from 20 feet to 22 feet, which will not allow for any significant expansion in buildable area. However, the RF-1 Zone permits a maximum height of 35 feet for non-alley lots, with 40 feet and 50 feet permitted in the RF-4 and -5 Zones. Given this, it would be possible to increase the by-right height limit for alley lot structures while still ensuring that they remain subordinate in scale to the street facing buildings. As discussed above for the R Zones, OAG suggests that the maximum height in alley lots in RF Zones be two-thirds of the maximum height in the zone—resulting in a maximum height of 23.5 feet in the RF-1 and 26.8 feet and 33.5 feet in the RF-4 and -5 Zones respectively.

Additional height could also be granted through special exception by including height with the other standards from which zoning relief is available in Subtitle E § 5201.3. The regulations for the RF Zones already permit special exception relief for height for non-alley lots up to 40 feet under Subtitle E § 5202. Allowing additional height by special exception would balance a property owner's need for greater flexibility to develop an alley lot, given their location and typically smaller size, with a desire to ensure that the alley lot structure would not unduly impact surrounding properties.

## *3. Pervious Surface*

The amendment maintains the current requirement that alley lots in the RF Zones provide a minimum of 10% pervious surface. However, this requirement exceeds the 0% currently required by the RF Zone regulations for non-alley lots under 1,800 square feet. Given the unique nature of alley lots and their general tendency to be smaller, OAG recommends that this requirement should be changed to match the requirements of the underlying zone.

### ***D. OAG Supports the Greater Flexibility in the RA Zone Lot Occupancy Requirements but Recommends Greater Flexibility for Height Requirements and Revised Language for Yard Requirements.***

OAG largely supports the changes to the RA Zone alley lot regulations, but as with the RF and R Zones, believes the amendments can go further to facilitate new residential development.<sup>19</sup> In particular, OAG supports the inclusion of the lot occupancy requirements for the RA Zones, ranging from 80% to 100% depending on the lot size. These requirements represent a significant increase over the by-right standards of 40% (RA-1) and 60% (RA-2) in the underlying zones and will provide significant flexibility to property owners seeking to develop their alley lots. The

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<sup>19</sup> OAG notes that the proposed Subtitle F § 5201.3(c) refers to pervious surface rather than Green Area Ratio which is the standard used in the RA Zones.

inclusion of lot occupancy as a standard from which special exception relief can be sought will also provide additional flexibility.

However, OAG believes that the RA Zone height maximums should be increased. The RA Zones follow the pattern of the lower-density zones by providing only a 10% increase in maximum alley lot height to 22 feet. The RA-1 Zone permits heights up to 40 feet and three stories. As with both the R and RF Zones, OAG recommends that maximum height on alley lots be keyed to the underlying zone and limited to two-thirds of the zone's maximum height, with additional height possible through special exception relief.

***E. OAG Supports the Proposed Amendments to the MU, D & PDR Zones but Recommends Greater Flexibility for the Height Requirements in the MU Zones.***

Finally, OAG largely supports the proposed amendments to the alley lot regulations in the non-residential zones. These amendments mostly make non-substantive changes that clarify existing standards and, given the more permissive standards of the MU and D Zones and the prohibition against residential uses in the PDR Zones, OAG does not anticipate that these amendments will result in a significant impact to residential development. Nevertheless, OAG notes that there may be room for additional clarity and flexibility, specifically in the height limits for the MU Zones.

Both the MU and D Zones largely maintain the restrictive alley lot height limits of the residential zones, despite the MU and D Zones permitting significantly greater maximum height for non-alley buildings. The amendment maintains the existing 30-foot maximum height for alley lots in all D Zones and in five MU Zones, with all other MU Zones subject to the proposed 22-foot maximum.<sup>20</sup> Given that these zones permit significantly greater heights, OAG recommends that the two-thirds of zone maximum height standard proposed for the residential zones be applied in the D and MU Zones as well, with the option for special exception relief from height. OAG believes that this standard will allow for alley lot structures that are subordinate in scale to street facing buildings but still consistent with the greater scale and densities of MU and D zoned neighborhoods.

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OAG therefore recommends that the ZC approve those provisions in the amendment that will facilitate residential development on alley lots and further expand development flexibility as noted above to encourage further production of housing and affordable housing through clearer rules and incentives.

Respectfully submitted,

**BRIAN L. SCHWALB**

Attorney General for the District of Columbia

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<sup>20</sup> MU-6, MU-8, MU-9, MU-10, and MU-11 Zones. OAG notes that while these five MU Zones represent some of the higher MU Zones, not all of the MU Zones where significant heights are permitted are included.

**OAG Comments in Support – December 18, 2025**  
**Text Amendment – Office of Planning– Alley Lots**  
**Z.C. Case No. 25-06**

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 18, 2025, a copy of the foregoing petition was served on the following by email.

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