

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Matt Jesick, Case Manager  
JL Joel Lawson, Associate Director for Development Review

**DATE:** May 1, 2018

**SUBJECT:** BZA #19683 – 260 Lincoln Court, SE – OP Supplemental Report  
Request for relief in order to create new alley record lot and construct a new single-family dwelling on the alley lot

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At the April 17, 2018 public hearings for BZA cases 19629 and 19683, the Board asked OP to request information from DCRA regarding building permits and tax lots, and what work and/or uses could be enacted on alley tax lots. OP met with the Zoning Administrator (ZA) and discussed a number of questions around this topic. OP has restated the ZA’s responses below, and the ZA has reviewed this memo and confirmed that OP’s summary is accurate.

- 1) Can the owner of an unpaved alley tax lot, without a building permit, do general maintenance of the parking pad, such as adding gravel to the surface?

**Yes. It was the opinion of the ZA that general maintenance of an unpaved parking pad, such as adding gravel, would not require a building permit.**

- 2) Can the owner of an unpaved alley tax lot pave the parking pad – e.g, grading, prepare sub base, apply asphalt – without a building permit?
- 3) Can the owner of a paved alley tax lot maintain and re-pave the parking pad (in kind replacement), including replacing in-kind existing bollards – without a building permit?

**No. It was the opinion of the ZA that any sort of paving or re-paving of a parking pad or parking lot would require a building permit. A permit would also be required for things like installing or replacing bollards, fences or light poles.**

**However, in such circumstances, the ZA explained that the required building permit would not require the conversion of a tax lot to a record lot. Subtitle A § 301.3 (attached in full) states that “a separate lot of record” is required for permits “issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure”. The examples like paving and installing or replacing bollards, fences, or light poles would not involve a principal structure. Permits, therefore, could be issued even if the subject lot is a tax lot. As such, unimproved alley tax lots that are used for**

**parking could continue to be used for parking and would only need to be converted to a record lot to allow for construction of a principal structure.**

- 4) Does a property owner need a business license to rent their alley tax lot parking pad?
- 5) If so, to get a business license would that owner need to have a Certificate of Occupancy (C of O)?

**Yes. The ZA believes that if any income is generated for a commercial business then a business license would be required, and a C of O would also be required.**

- 6) If so, would the owner need a record lot to obtain a C of O?

**No. It was the opinion of the ZA that an owner would not need to convert a tax lot to a record lot in order to obtain a C of O.**

Attachment – Text of Subtitle A § 301.3

301.3 **Except as provided in the building lot control regulations for Residence Districts in Subtitle C and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled “An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities,” and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Official Code § 9-101.05, a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; ...**