

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:           :
                               :
Text Amendment to Subtitles I and U : Case No.
For Animal Care and Animal Sales   : 20-20
Requirements                       :
- - - - - :

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MONDAY

NOVEMBER 30, 2020

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The Public Hearing of the District of Columbia Board of Zoning Commission convened via Videoconference, pursuant to notice at 4:00 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

BOARD OF ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chair
- PETER SHAPIRO, Commissioner
- MICHAEL G. TURNBULL, Commissioner
- PETER G. MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

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OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
JOEL LAWSON
JENNIFER STEINGASSER

The transcript constitutes the minutes from the
Regular Public Hearing held on November 30, 2020

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 Mr. Lawson

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

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is November 30th, 2020. We are convening and broadcasting this public hearing by video conferencing. My name is Anthony Hood. Joining me is Vice Chair Miller, Commissioner Shapiro, Commissioner May and Commissioner Turnbull. We're also joined by the Office of Zoning staff Ms. Sharon Schellin as well as Mr. Paul Young who's handling all of our virtual operations. We ask all to introduce themselves at the appropriate time.

Tonight's case is Zoning Commission Case 20-20. It's a Text Amendment to Animal Boardings, Subtitle U, Animal Cares Uses.

Copies of today's virtual public hearing notice are available on the Office of Zoning's website. Please be advised that the proceeding is being recorded -- it's being recorded by a court reporter and it's also webcast live, Webex and YouTube live. The video will be available on the Office of Zoning's website after the hearing. Accordingly, all those listening on Webex or attending by phone will be muted during the hearing and those who have signed up to testify will be unmuted at the appropriate time.

In all cases we ask that you sign up in advance so that you are sworn in. If you have not signed up, please contact the staff on the hotline number which will be given out shortly. When speaking please -- when you are finished speaking, please mute your audio so that your microphone is no longer picking up sound

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1 or background noise. If you experience any technical difficulty
2 or any problems during these proceedings, please call our OZ
3 hotline number at 202-727-5471 and the staff will assist you. If
4 you wish to file written testimony or additional supporting
5 documents during the hearing, then please be prepared to describe
6 and discuss it at the time of your testimony. The hearing will be
7 conducted in accordance with provisions of 11-Z DCMR, Chapter 5 as
8 follows: preliminary matters; presentation in this case is the
9 Office of Planning which has up to 60 minutes but certainly we
10 don't need 60 minutes tonight; reports of other government
11 agencies; report of the ANC, in this case is all ANC citywide;
12 testimony of organizations, five minutes; and individuals, three
13 minutes; and we are hearing the order from those in support,
14 opposition or undeclared. While the Commission reserves the right
15 to change the time limits for presentations if necessary, it
16 intends to adhere to the time limits as strictly as possible and
17 notes that no time shall be ceded. Again, if you have any issues
18 please call the OZ hotline number. It's 202-727-5471.

19 At this time the Commission will consider any
20 preliminary matters. Ms. Schellin, do we have any preliminary
21 matters?

22 MS. SCHELLIN: No, sir. Only to advise that Steve
23 Mordfin and Joel Lawson from the Office of Planning will be
24 providing the information for this evening's case. Other than
25 that, staff has no preliminary matters.

1 CHAIRPERSON HOOD: Okay. If we can bring Mr. Mordfin
2 and Mr. Lawson up, and Mr. Lawson and Mr. Mordfin you can begin as
3 soon as you're ready.

4 MR. MORDFIN: Okay. Good afternoon Chairman and members
5 of the Board -- members of the Commission. This Text Amendment is
6 to not require animal care uses to be separated by one floor of
7 non-residential use from residential uses when located within a
8 mixed-use building, and second it's also to add missing animal
9 care and sales uses from the Zoning Commission Cases No. 05-21A
10 and 14-10 that were not carried forth from ZR58 to ZR16 and
11 thirdly, it's also to permit pet grooming as a matter of right use
12 and mixed-use Zone groups C, D, E, F and G. The application was
13 set down by the Commission at its September 14th, 2020 meeting.
14 At that meeting the Commission had no requests of the Office of
15 Planning. OP continues to find the application to be not
16 inconsistent with the comprehensive plan, especially the land use
17 and economic development chapters. Therefore, OP recommends the
18 Commission approve the application. Thank you, and I'm available
19 for questions.

20 CHAIRPERSON HOOD: Okay. Thank you, Mr. Mordfin.
21 Commissioners, any questions or comments? Commissioner May?

22 COMMISSIONER MAY: Yes. So, Mr. Mordfin, thank you very
23 much for the report. You'll recall that we were on the -- I was
24 on the BZA one case recently where the issue came up about
25 separation between dwelling units and the dog or use that was

1 proposed in that case and I'm wondering -- I mean, I know that
2 this is going to address that concern for which we have a path, a
3 more readily available path to approve uses like that, but I'm
4 just curious do you happen to know how that case turned out in the
5 end because I know that we only granted special exception but
6 didn't grant the variance. Do you know if the Zoning
7 Administrator agreed that the intermediate floor costs through the
8 floor, I'm just curious?

9 MR. MORDFIN: Okay. I -- well there were two cases
10 recently. One was approved by the Board and one was denied. I
11 think you're talking about the one at first in (indiscernible)
12 Northeast, where the applicants were building a floor in between
13 the two and there was a question as to whether or not is that a
14 mezzanine or a floor. And my understanding is is that that was
15 accepted, that that was a separate floor by definition. So by him
16 constructing that floor within a space and he had a 20-foot-high
17 ceiling which is why he was able to do it, that that did suffice
18 and that he is able to move forward. That's what I
19 (indiscernible) from the applicant that he (indiscernible) open in
20 that space.

21 COMMISSIONER MAY: So the applicant in that case did
22 submit a letter to the record in this case but it didn't indicate,
23 it seemed to imply that he was able to move forward but I was just
24 wondering if that was known for sure? Anyway.

25 MR. MORDFIN: Yes. Okay.

1 COMMISSIONER MAY: Thank you.

2 CHAIRMAN HOOD: Yes, thank you. Commissioner Shapiro,
3 do you have any questions or comments? Commissioner Turnbull, any
4 questions or comments? Commissioner Turnbull.

5 COMMISSIONER TURNBULL: Yes. I just have -- I guess
6 it's just a consistency. I am -- on the sound items that are
7 mentioned, the soundproofing the -- on page, let's see what page,
8 16 of the OP report which I believe it's found to be 5 516 --
9 516.1(j)(4)(a), the use of (indiscernible) but the building was
10 designed or constructed or will be redesigned and renovated
11 depending to mitigate noise to limit negative impacts on
12 residential units that the use will abut including the use of
13 acoustical tiles, caulking to seal penetrations made in floor
14 slabs for pipes, and spray-on noise insulation.

15 But if I go back to page 10 of the report for 5.513.1,
16 you're basically -- it basically says here shall use industry
17 standard sound-absorbing materials such as acoustical floor and
18 ceiling panels, acoustical concrete and masonry, solid core doors
19 and acoustical landscaping. I'm not sure what the landscaping is
20 on -- in the building. I just think you've got the same type of
21 thing that you're trying to address but you're asking different
22 language in both situations. I think we need to just tighten up
23 both of them so that the -- you've got the one on the one hand and
24 then the other part of the reference -- we know the intent of what
25 you're trying to do.

1 The only other thing I would add is that by limiting
2 materials to certain kinds, we might be limiting something new
3 that could come along in the future, so the only thing I would
4 think about adding is that or other acoustical material that is
5 professionally recommended in that particular use, or something
6 like that where you would say -- instead of actually specifying
7 each material specifically, also add maybe something that says or
8 another material specifically recommended or shown to be effective
9 in the installation.

10 MR. MORDFIN: Okay.

11 COMMISSIONER TURNBULL: I think it could work with OAG
12 and something like that, but I would just try to tighten up or
13 make both areas consistent with the language. I know what you're
14 trying to do and they're both -- they're similar but they're a
15 little different. I would just tighten them up so that they both
16 read the same.

17 MR. MORDFIN: Okay. We can make them both read the
18 same. We don't say such as, okay, but we can make sure that all
19 of the materials that -- that means the wording is the same.

20 COMMISSIONER TURNBULL: Wording is consistent --

21 MR. MORDFIN: Kind of confusing.

22 COMMISSIONER TURNBULL: -- from one to the other. Both
23 are (indiscernible.)

24 MR. MORDFIN: Okay.

25 COMMISSIONER TURNBULL: That's my only comment.

1 MR. MORDFIN: Okay.

2 COMMISSIONER TURNBULL: (Indiscernible.)

3 MR. MORDFIN: Or with OAGM we will, you know, straighten
4 out the -- that make sure everything is consistent.

5 COMMISSIONER TURNBULL: Yes. Other than that, I have no
6 issues.

7 MR. MORDFIN: Okay. Thank you.

8 COMMISSIONER HOOD: Okay. Thank you, Commissioner
9 Turnbull. Vice Chair Miller, questions or comments?

10 VICE CHAIR MILLER: No questions. Thank you, Mr.
11 Mordfin, for your report and I support moving forward with this
12 text amendment, with the refinements recommended by Commissioner
13 Turnbull.

14 CHAIRMAN HOOD: Mr. Mordfin, the only question I have is
15 do we have any unintended consequences that, and I'm sure if you
16 had seen some you would have probably dealt with it in your
17 report, do you know of any situations that may be unintended
18 because especially when we're talking about doing, making these
19 types of amendments it's always say well, the Zoning Commission
20 did that or the Zoning Commission did this. Through your analysis
21 and your reporting and looking at I guess those two previous cases
22 that Commissioner May spoke about, do you see any -- is there any
23 consequences that may come, that may show up but we think we can
24 deal with it? I guess that's pretty much how, I'm going -- I'm
25 going to leave it at that.

1 MR. MORDFIN: Yes. Well we have the language in there
2 with all those different ways to control noise and sound and well,
3 noise and sound are the same thing, and odors and all those other
4 things that are meant to protect the adjoining residential units,
5 and by having the additional floor was just an extra thing. But
6 still any of these applicants are going to have to do all of those
7 different items that are listed there to protect the adjoining
8 residential uses from the noise and from the odor and whatever
9 else there may be so that whoever lives next door is not adversely
10 affected.

11 So I think that we're covered. I think we were doing
12 it, you know, twice. One was do all these things, so you don't
13 bother anybody and then don't go near anybody, you know, be
14 separate by one floor. So that's why I tend to think that this
15 should be okay because you still have the criterion. If you were
16 not in conformance with the criteria, then you're in violation of
17 your order.

18 CHAIRPERSON HOOD: Well, but you don't have to meet all
19 the criteria, or did I read that, or was that another case that I
20 was reading? I thought you --

21 MR. MORDFIN: No you -- no you do have to meet all those
22 criteria for the different things for the sound and for the noise
23 and for the odors and all those different things. You have to do
24 all those different things unless the Commission were to grant
25 relief for an applicant for any one of them for any -- for

1 whatever reason.

2 CHAIRPERSON HOOD: Okay. Understood. Well thank you,
3 thank you, Mr. Mordfin, for all the work that you and the Office
4 of Planning have put into this. I think due to the track record
5 of some of the cases that we've already dealt with, I think this
6 is ready, at least I'm ready to move forward. Just, but let me
7 see. Ms. Steingasser, did you have anything you wanted to add?

8 MS. STEINGASSER: No, sir. But thanks, well no sir, but
9 I will anyway. The -- I just wanted to assure you, we think that
10 there are no unintended consequences. We will continue to monitor
11 these cases as we do all the BZA cases and if we see something,
12 but we think that we've put in enough flexibility and enough
13 guidance to avoid that.

14 CHAIRPERSON HOOD: Okay. Well thank you very much. I
15 appreciate all the work that you all at the Office of Planning has
16 done into this. Let me see. Any follow, second rounds? Not
17 seeing any -- I don't think we have any, okay, I don't think we
18 have anyone signed up to testify. I didn't see any ANC letters in
19 the letter, I mean in the record. We do have a letter from
20 Vincent E. Tucker I think that was spoken to from Duncan Dog
21 Hotel. That's Exhibit No. 6 in support. Am I missing anything?

22 MS. SCHELLIN: We now have one person to testify in
23 support, Michael Pastreich.

24 CHAIRPERSON HOOD: Okay.

25 MS. SCHELLIN: Hope I got that right, but one person to

1 testify this evening.

2 CHAIRPERSON HOOD: So let me call for everyone, let the
3 record reflect that I'm calling for anyone who wants to testify on
4 Zoning Commission Case 20-20 in support and opposition and
5 undeclared. I'm going to call you at this time. Okay. So we
6 have one who's noted.

7 Mr. Pastreich, if you can unmute and turn on your camera
8 if you wish, and you may begin.

9 MR. PASTREICH: Can you hear me?

10 CHAIRPERSON HOOD: Yes, we can hear you now. Yes.

11 MR. PASTREICH: Thank you so much for both allowing me
12 to speak and for covering this important topic.

13 I am in the very early phase of starting a dog daycare.
14 I have not yet requested any permissions yet and just wanted to
15 note that due to the pandemic, dog ownership in the U.S. is at an
16 all time high, and there's a crisis that's coming when people go
17 back to work and they need to figure out what to do with their
18 dogs.

19 My background is in symphony orchestras. I worked on
20 building concert halls and as -- as you have already studied,
21 there are very good acoustic solutions to these problems and to
22 make sure that the residents who are above the dog daycare are
23 able to have the quiet that they need. I -- so I am again hugely
24 grateful for you addressing this issue and for my, letting me
25 speak and for what sounds like your potential support of this

1 change. Thank you.

2 CHAIRPERSON HOOD: Thank you so much, Mr. Pastreich, for
3 coming in and testifying and provide your comment, I mean giving
4 us your comments. I'm just saying coming down, you didn't really
5 go anywhere, but anyway, let me see if we have any follow-up
6 questions or comments. Not seeing any, thank you very much. We
7 appreciate you taking the time to give us your testimony, and good
8 luck.

9 MR. PASTREICH: Thank you, sir.

10 CHAIRPERSON HOOD: Okay. Ms. Schellin, do we have
11 anything else?

12 MS. SCHELLIN: No, sir. That's it.

13 CHAIRPERSON HOOD: Okay. Commissioners, I think this is
14 pretty straightforward. I'm going to close the hearing and what I
15 would like to do is, if we're so inclined and in favor, if
16 somebody would like to make a motion.

17 VICE CHAIR MILLER: Yes, Mr. Chairman. I would --

18 (Loss of audio.)

19 (Audio resumes.)

20 VICE CHAIR MILLER: -- amendment to animal care to
21 animal care uses and ask for a second?

22 COMMISSIONER TURNBULL: Second.

23 CHAIRPERSON HOOD: Okay. So moved and properly seconded
24 by Mr. Turnbull. Thank you, Vice Chair, for making the motion and
25 Mr. Turnbull for seconding.

1 VICE CHAIR MILLER: And --

2 CHAIRPERSON HOOD: Any further discussion?

3 VICE CHAIR MILLER: -- (indiscernible) refinements that
4 were recommended by Commissioner Turnbull that were already worked
5 out by OP and OAG.

6 COMMISSIONER TURNBULL: Mr. Turnbull, do you accept your
7 refinements? Okay. So moved and seconded. Any further
8 discussion? Not seeing any, Ms. Schellin, would you do a roll
9 call vote please?

10 MS. SCHELLIN: Yes, sir. Commissioner Miller.

11 VICE CHAIR MILLER: Yes.

12 MS. SCHELLIN: Commissioner Turnbull.

13 COMMISSIONER TURNBULL: Yes.

14 MS. SCHELLIN: Commissioner Hood.

15 CHAIRPERSON HOOD: Yes.

16 MS. SCHELLIN: Commissioner May.

17 COMMISSIONER MAY: Yes.

18 MS. SCHELLIN: And Commissioner Shapiro.

19 COMMISSIONER SHAPIRO: Yes.

20 MS. SCHELLIN: The vote is 5 to 0 to 0 to take proposed
21 action in Zoning Commission Case No. 20-20.

22 CHAIRPERSON HOOD: Okay. Ms. Schellin, do we have
23 anything else before us?

24 MS. SCHELLIN: No, sir.

25 CHAIRPERSON HOOD: I'm hoping everyone had a happy and

1 safe Thanksgiving. The Zoning Commission's next meeting will be
2 December the 7th and that'll be Zoning Commission Case 20-21, the
3 Office of Planning Text Amendment to Barry Farms, the creation of
4 the Barry Farms Zones. That'll be December the 7th at 4 p.m. So
5 with that, I want to thank everyone for their participation. This
6 hearing is adjourned.

7 (Whereupon, the above-entitled matter went off the
8 record at 4:20 p.m.)

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: 11-30-20

Place: Teleconference

was duly recorded and accurately transcribed under my
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