

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

CASE NO. 25-12

+ + + + +

MONDAY

NOVEMBER 10, 2025

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT E. MILLER, Vice Chair
GWEN WRIGHT, Commissioner

OFFICE OF ZONING STAFF PRESENT:

PAUL YOUNG, Zoning Data Specialist
SHARON S. SCHELLIN, Secretary

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, ESQUIRE
BRIAN LAMPERT, ESQUIRE

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ALSO PRESENT:

JOEL LAWSON, DC Office of Planning
NOELLE WURST, Office of Attorney General
MARK ECKENWILER, Commissioner, ANC 6C
DENNIS SENDROS, Yes In My Back Yard (YIMBY)
CHERYL CORT, Coalition for Smarter Growth
NANCY MACWOOD, Committee of 100
BOB WARD, Chairman, Cleveland Park Smart Growth
KIRBY VINING, Commissioner, ANC 5E
BEN FIELD
HANNAH OLSEN
WILL TEASS

The transcript constitutes the minutes from the
Regular Public Hearing held on November 10, 2025.

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(4:00 p.m.)

CHAIRMAN HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public hearing by videoconferencing. My name is Anthony Hood. Joining me this evening are Vice Chair Miller, Commissioner Wright, and Commissioner -- Vice Chair Miller and Commissioner Wright. We are also joined by the Office of Zoning staff, Ms. Sharon Schellin, and Mr. Paul Young, who will be handling all of our virtual operations, as well as Mr. Jacob Ritting and Mr. Brian Lampert, who are representatives of our Office of Zoning Legal Division. I will ask all others to introduce themselves at the appropriate time.

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

Please state your name before providing your oral testimony on your presentation. Oral presentations should be limited to a summary of your most important points. When you are finished speaking, please mute your audio so that your

1 microphone is no longer picking up sound or background noise. If
2 you experience difficulty accessing Webex or with your telephone
3 call-in, then please call our OZ Hotline number at 202-727-0789
4 to receive Webex log-in or call-in instructions or if you need
5 assistance to sign up to testify.

6 All persons planning to testify either in favor,
7 opposition, or undeclared must sign up in advance and will be
8 called by name. If you wish to file written testimony or
9 additional supporting documents during the hearing, then please
10 be -- please request that the submission be entered into the
11 record and be prepared to describe it at the time of your
12 testimony.

13 The subject of this evening's hearing -- again, the
14 case was originally advertised for a single hearing. The
15 Commission later decided to break it up -- this case up into six
16 evenings of hearings. This is hearing number -- this is hearing
17 five, day five, and will consist of the following topics only:
18 accessory building area in R and RF zones, Subtitle D-5003, E-
19 5003, formally 16; accessory building side and rear setbacks in
20 R zones, Subtitle D-5004 and 5201, formally 17; accessory
21 apartments in RF, RA, and MU zones, Subtitle F-201, G-201, U-
22 201, 201, 410, 501, formally 18; and new dwellings in accessory
23 buildings in RF zones, Subtitle U-301, formally 24. Written
24 testimonies may be submitted at any time prior to the close of
25 the record. Witnesses at tonight's hearing must limit their

1 testimony to the specific text amendments under consideration for
2 this evening.

3 The hearing will be conducted in accordance with the
4 provisions of 11-Z DCMR, Chapter 4, as follows: preliminary
5 matters; we'll the presentation by the Office of Planning; we'll
6 have the report of other government agencies; we'll have -- hear
7 from the report of the ANC; then we'll hear from testimony of
8 organizations and individuals -- organizations, five minutes;
9 individuals, three minutes -- and we'll hear from those who are
10 in support, opposition, or undeclared. While the Commission
11 reserves the right to change the time limits for presentations,
12 if necessary, it intends to adhere to the time limits as strictly
13 as possible, and notes that no time shall be ceded.

14 I do have a preliminary matter, and I first would like
15 to wish Ms. Sharon Schellin a happy birthday. Today is her
16 birthday, and I did not remember that until today, so, again,
17 happy birthday, Ms. Schellin, and many, many, many more. Usually,
18 I'm on my game, and I did not remember that, but we appreciate
19 all you do and happy birthday to you.

20 VICE CHAIR MILLER: I second that comment.

21 MS. SCHELLIN: Thank you.

22 CHAIRMAN HOOD: So, at this time, the Commission will
23 consider any preliminary matters. Does the staff have any
24 preliminary matters?

25 MS. SCHELLIN: Just very briefly. As before, OP's

1 updated report is at Exhibit 82. ANC 5F's report is at Exhibit
2 10, and they specified whether they are in support, opposition,
3 or in support with conditions regard to the four topics this
4 evening. The same thing with ANC 5E, their report at Exhibits
5 83 and 83A; DDOT's report at Exhibit 16, no objection; Office of
6 the Attorney General has a report at Exhibit 17, and I believe
7 Ms. Wurst will be here to testify this evening and let you know
8 where they stand on those topics. Thank you.

9 CHAIRMAN HOOD: All right. Thank you. Mr. Ritting,
10 you have something?

11 MR. RITTING: Yeah. I popped up because I wanted to
12 request that we have a very brief closed meeting to discuss
13 process and to give you some legal advice about how to do that.
14 We could do it now or we could do it at the end, depending on
15 your preference. I realize I'm sort of surprising you with this,
16 so you might want to wait until the end of the hearing, but it
17 might be a long night tonight, too, so I'll leave it to you to
18 give you some guidance.

19 CHAIRMAN HOOD: So I actually saw that request. Here's
20 what I'm going to do. I've been watching BEGA a lot, so, BEGA,
21 I hope you watch this recording. We're going to go ahead and
22 hear from the public first, and depending up on what time, we
23 may do the closed meeting at the end, as you mentioned, or --
24 and that's what they do -- or we will do it on the -- at the
25 beginning of the hearing on the 20th -- no, I'm sorry -- on the

1 13th it is, the 13th. So I will -- I will -- we will work on
2 that, and I'm going to see how my colleagues feel. It depends
3 on how long we go. We're starting at four o'clock, so we may be
4 able to do it at the end. So that's what I propose going forward.
5 I'm looking at the Vice Chair and Commissioner Wright.

6 COMMISSIONER WRIGHT: (Nods head affirmatively.)

7 VICE CHAIR MILLER: (Indicates thumbs up.)

8 CHAIRMAN HOOD: Okay. Sounds good. That's how we'll
9 proceed.

10 MR. RITTING: Thank you.

11 CHAIRMAN HOOD: All right. Thank you. All right.
12 Where is -- where is -- oh, there's Mr. Lawson. Okay. I was
13 about to say, "We can do it now"; Mr. Lawson's not here," but
14 Mr. Lawson's here from the Office of Planning. I turn it over
15 to you.

16 MR. LAWSON: Great. Thank you. And from the Office
17 of Planning, Happy Birthday, Sharon. I didn't know it was your
18 birthday today, so hope it's a great one. No better way to spend
19 your birthday, I know.

20 MS. SCHELLIN: Thank you.

21 MR. LAWSON: Good afternoon, and thank you once again.
22 Joel Lawson from the DC Office of Planning. We're here for the
23 fifth of six hearings on the omnibus text amendment case. This
24 one deals generally with accessory buildings, as well as with
25 accessory units allowed in accessory buildings. Some of these

1 have generated a bit more discussion than some of the other ones,
2 but I'll get to that as I go through the presentation. The
3 introduction section to this presentation is being provided at
4 the beginning of each of these hearings, as it forms the basis
5 for this initiative and there may be different members of the
6 public attending each of the hearings. However, once again, I'll
7 try and be brief in providing the summary of the slides as part
8 of this verbal presentation.

9 Next slide. This slide just provides the process to
10 date. The public portion began in June with ANC open house
11 sessions and continues through the hearing tonight.

12 Next slide. The proposed text amendments generally
13 address one or more of the main objectives of particular ones
14 arising from the Comprehensive Plan. Like I said, the
15 Comprehensive Plan policy objectives are important in
16 helping -- and these proposals will help to address housing
17 policy and equity issues. They're also intended to remove
18 unnecessary barriers to the provision of new housing
19 opportunities, including regulations and processes for providing
20 IZ units in all parts of the city.

21 They're intended to add clarity to the zoning
22 regulations, remove redundancies, and add consistency of language
23 to make it easier for residents and designers to use and for
24 staff to interpret and to administer, consistent with their
25 intent. They are intended to ease administrative burdens for

1 homeowners and property owners, as well as the BZA, ANCs, and
2 staff. This is achieved through removing unnecessary hurdles,
3 to decrease the time and expense for all homeowners and property
4 owners in obtaining permits, and, finally, they're intended to
5 update the 2016 zoning regulations to current regulation
6 standards and practices within the city.

7 We've tried to balance neighborhood character goals
8 with the needs and aspirations of property owners and homeowners
9 to modernize their homes to current standards, to update them to
10 reflect changing family needs, whether that be a growing family
11 or aging in place or intergenerational family living so that our
12 existing residents can remain within their community. The Office
13 of Planning also considers potential future residents of the
14 city; are we providing an inviting and accessible opportunity to
15 them as well.

16 Next slide please. These various proposals were raised
17 by a multiple -- multitude of different sources, sometimes by
18 multiple sources, including by the Zoning Commission, itself, and
19 BZA members, usually through comments and instructions to OP, as
20 part of Zoning Commission or BZA deliberations and hearings.
21 Some are being proposed by DC agencies, obviously including us,
22 Office of Planning, as well as Department of Buildings,
23 Department of Transportation, Departments of Parks and
24 Recreation, and Department of Energy and Environment. Many have
25 come from architects, designers, and builders and their

1 representatives. ANCs have suggested some changes, and
2 homeowners and the community -- members of the community have led
3 to some of these changes, often, again, through BZA review.

4 Next slide. As with any Zoning Commission case, the
5 proposals in this text amendment are not inconsistent with the
6 Comprehensive Plan, including when viewed through a racial equity
7 lens. The OP setdown and hearing reports provide this analysis
8 in more detail.

9 The proposals do not include any rezonings of property
10 or substantial changes to permitted use, height, or density,
11 beyond what is anticipated by the zones. They would help to
12 address barriers to the provision of housing, including to the
13 provision of affordable housing units, consistent with the IZ
14 program.

15 They would also reduce some impediments to creative
16 building design, the provision of outdoor space valued by
17 residents in all neighborhoods, and the provision of services
18 throughout the city. They would provide additional clarity to
19 aspects of the regulations and remove unnecessary procedural
20 hurdles to residents and property owners in all parts of DC.

21 Though any one amendment could have a significant
22 impact on a particular proposal for an individual property,
23 either in terms of the regulation, itself, or the process that
24 they would have to go through, but these are not considered major
25 zoning moves and are not the result of any major policy shifts.

1 Next slide. Collectively and individually, the
2 proposed amendments would address policy statements from many of
3 the citywide elements of the Comprehensive Plan. This is
4 discussed fully in our reports. The proposals do not generally
5 target any specific geographical part of the city or address any
6 specific Comp Plan Area Element policy objectives or specific
7 guidance from Small Area Plans for individual neighborhoods.

8 Next slide. With respect to a review of Comprehensive
9 Plan policy through a racial equity lens, it can be difficult to
10 determine the potential impact of a series of discrete text
11 amendments, which do not significantly impact use or building
12 type or form. In general, we do not anticipate the -- that the
13 proposals would have a significant impact on overall demographics
14 in the city or of any particular neighborhood or neighborhood
15 type.

16 Overall, they could have some limited positive impact
17 on equity throughout the city. They should not result in direct
18 or indirect displacement of residents or businesses and, in some
19 case, may make it easier for existing residents and property
20 owners to use and to update their property in a way that is both
21 consistent with policy and consistency -- and consistent with the
22 intent of the zoning. Adding clarity and certainty to the
23 regulations would also be a benefit to all residents of the city,
24 reducing time, cost, and uncertainty for ordinary acceptable
25 updates to property.

1 Next slide. As noted earlier, these proposals include
2 ones that were generated by suggestions and comments made by
3 various sources, including ANCs, community and business groups
4 and individuals, often through BZA and Zoning Commission cases.
5 On June 24th and 26th of this year, we held virtual open house
6 meetings for ANC members, intended to provide advanced awareness
7 of the text amendments, to solicit early feedback, and to answer
8 questions about the issues and proposed zoning changes. OP
9 amended the proposal, as discussed -- as part of the setdown
10 meeting based on these discussions.

11 OP held two additional ANC virtual open houses on
12 October 7th of this year. Again, a video of the meeting was
13 posted on the OP website, along with the OP presentation to the
14 ANCs. Since then, there have been additional discussions with
15 members of the public and with individual ANCs. At the time the
16 OP report was drafted -- the OP hearing report was drafted, some
17 public comments had been added to the record, and OP tried to
18 address those comments in the hearing report and, in a few cases,
19 have recommended adjustments and additional amendments based on
20 those comments. After the hearing report was filed, there have
21 also been additional conversations literally right up to today.
22 Many public comments have been filed in support of the various
23 proposed changes; others offer support, opposition, or
24 suggestions for changes to specific proposals. OP will note a
25 response in our verbal testimony tonight.

1 Next slide. Next slide please.

2 (Brief pause.)

3 MR. LAWSON: I can probably continue while Mr. Young
4 reuploads the presentation. I would just note that as with any
5 other hearing dates, I'm going to provide a quick overview of the
6 four proposed amendments on the agenda tonight. The OP hearing
7 report provides additional analysis for each of these proposals,
8 including more information on their origin, intent, and potential
9 or intended impact, as well as illustrations and analysis of past
10 BZA cases, where appropriate. The report also notes other
11 proposed technical or corrective changes to regulations otherwise
12 being amended, such as reordering or correcting references, which
13 I'll typically not address in this verbal presentation. And I
14 think now I would need the presentation, if possible.

15 MS. SCHELLIN: Sorry. Mr. Young got disconnected, so
16 he is trying to get back on, if we could just give him a moment,
17 Chairman Hood.

18 CHAIRMAN HOOD: Yeah, that's fine. We can wait. Let's
19 take a five-minute break, even though we just got started.

20 MS. SCHELLIN: Thank you.

21 (Brief pause to allow Mr. Young to reconnect to
22 videoconference.)

23 MR. YOUNG: I'm back. I'm sorry about that.

24 CHAIRMAN HOOD: Okay. Is everybody still around? Okay.
25 We're still here. All right. Mr. Lawson, we can continue. Thank

1 you.

2 MR. LAWSON: Thank you, Mr. Chair. So the first
3 proposal this evening addresses the permitted footprint and,
4 therefore, the size of an accessory building. Oh, I'm sorry.
5 Can we go to the next slide please? Perfect. Thank you. So,
6 once again, this is addresses the footprint and therefore size
7 of an accessory building in the R and RF for low to moderate-
8 density residential zones. Both of these zones set a maximum
9 building area for an accessory building of 450 square feet or an
10 area equal to 30 percent of the required rear-yard area, whichever
11 is greater. On many lots, particularly ones that are smaller or
12 narrower, 450 square feet is the greater figure. On a larger
13 and, particularly, a wider lot, the 30 percent of rear yard
14 provision would allow a larger accessory building, because the
15 lot, itself, is larger and wider and better able to accommodate
16 a larger accessory building, while still addressing other zoning
17 requirements, like lot occupancy and rear yard. The accessory
18 building footprint limit was generally carried forward from the
19 ZR-58 regulations.

20 Since then, however, the regulations have been amended
21 to allow a dwelling unit in an accessory building, and homeowners
22 now want to take advantage of this on their property. Staff have
23 received multiple -- excuse me -- multiple comments from property
24 owners and designers that the current 450-square-foot limitation
25 can make it difficult to provide a reasonable dwelling unit,

1 along with required parking, vertical circulation, and the other
2 things expected in a two-story accessory building. A 450-square-
3 foot footprint allows a by-right two-story accessory building at
4 900 square feet, but this limitation has also led to many, but
5 generally uncontentious BZA cases.

6 Next slide. So OP's proposing to increase the
7 permitted size for an accessory building in the R-1 and R-2 zones,
8 where the lots tend to be larger and wider, from 450 square feet
9 to 600 square feet, allowing an accessory building of 1,200 square
10 feet. In the R-3 and RF zones, OP is proposing an increase from
11 the 450 square feet to 550 square feet, along an accessory
12 building of 1,100 square feet. This proposal intends to balance
13 an allowance for additional accessory building size to meet
14 homeowner wishes and housing policy with other requirements of
15 zoning, such as lot occupancy and rear-yard requirements, which
16 OP is not proposing to change. As is the case now, any
17 application conforming to the -- any application conforming to
18 the building foot size, but not conforming to other zoning
19 requirements, or one wishing to provide an accessory building of
20 a larger footprint would continue to be required to seek BZA
21 relief by special exception. We feel that the proposal is
22 consistent with the intent of the provisions.

23 With regard to community comments, there are a number
24 of letters in opposition from residents, noting that the large
25 size would have -- large proposed size would have an impact on

1 neighborhoods with smaller lots or lots in historic districts.
2 Many of these letters were from residents within the Cleveland
3 Park Historic District. I discussed this issue with my colleagues
4 in the Historic Preservation Office, who advised that any
5 alteration or new construction of an accessory building,
6 including one with an accessory apartment, would require HPRB
7 review to address the issues raised.

8 The Committee of 100 is in opposition, noting that the
9 existing special exception relief valve is appropriate and that
10 it is not good policy to remove it and that the current size is
11 adequate for an accessory apartment. We would just note that
12 many designers and others have indicated that the current size
13 is not adequate, which is why there have been so many requests
14 for relief. Finally, we are not establishing policy through
15 these proposed amendments, but, rather, are implementing Comp
16 Plan policy to support additional housing options, including
17 accessory dwelling units and appropriate infill and to remove
18 regulatory obstacles to property owners, including the ones for
19 the provision of new housing.

20 The record also includes many comments that are
21 supportive in concept, but which recommend changes. The first
22 change is proposed by the Coalition for Smarter Growth. It would
23 be to allow larger permitted size to accommodate more accessible
24 universally-designed units, with the Coalition recommending 650
25 square feet. While OP is comfortable with the proposal that we

1 have before the Commission already, we would not be opposed to
2 this change, which would provide some additional flexibility to
3 homeowners, but should not cause undue impacts on the other
4 relevant zoning regulations, such as lot occupancy.

5 The second alternative is recommended in multiple
6 filings, including ones from DC YIMBY, ANCs 5E and F, and even a
7 representative from AARP. It would be to change the provision
8 to one based on square footage of the building, rather than
9 footprint, and 1,200 square feet is proposed, which is equivalent
10 to what we are proposing in the R-1 and R-2 zones. This would
11 allow even more flexibility to owners, as it would allow a
12 significantly larger footprint if the building were to be
13 constructed all on one floor. However, this approach has not
14 been studied for how it would impact issues such as lot occupancy,
15 rear yard, side yard, or the pervious surface requirements of
16 these zones. It would also generally allow an accessory building
17 of about the same size as what OP is proposing. If the Commission
18 wishes to consider this option, analysis -- additional analysis
19 by OP would be required and conversations with the Department of
20 Buildings, Department of Energy and Environment, and Department
21 of Transportation, at least, to discuss potential impacts and,
22 potentially, historic preservation as well. OP does not
23 recommend this change as part of this filing.

24 Next slide. The zoning regulations currently do not
25 establish a setback requirement for an accessory building, other

1 | than the seven-and-a-half-foot setback from the center line of
2 | an alley. An accessory building can be placed directly on a side
3 | or rear lot line in most zones. This generated some expressions
4 | of concerns, as part of recent BZA case hearings for accessory
5 | buildings, including issues of maintenance, privacy, and general
6 | lack of just separation between buildings on properties. In
7 | response, OP considered this issue and recommended the
8 | establishment of small setbacks for new accessory buildings to
9 | help maintain privacy and light for the unit on the accessory
10 | building and adjacent lots and to provide space for building
11 | maintenance. This setback would only apply along a common side
12 | or rear lot line shared with another property. A setback from
13 | an alley would not be required, other than, as I said, the
14 | existing setback from the center line of the alley, which would
15 | be retained. The setback would be required for any accessory
16 | building, whether it contained a dwelling unit or not.

17 | Next slide. Originally, OP had proposed side and rear
18 | setbacks in both the R and RF zones. ANC members at the first
19 | set of OP open houses for this case expressed concerns about
20 | applying them to the narrower -- the more narrow RF zone lots.
21 | OP agreed and has removed the RF zones from this proposal. As a
22 | result of subsequent discussions, the proposal was again amended,
23 | this time in the R zones, to reduce the proposed required rear
24 | yard -- the originally proposed required rear yard from five feet
25 | to three feet.

1 So the current proposal would apply to the R zones
2 only, and it would be three feet from a side or rear lot line
3 that is directly adjacent to another property. We acknowledge
4 that this could result in the potential for some impediment to
5 the provision of housing in some instances and a new potential
6 form of relief for some residents and some property owners. Our
7 report notes that we believe that these potential negative policy
8 level impacts could be outweighed by positive ones, including a
9 potentially better living environment, where occupants of any
10 resident in the accessory building and a greater overall
11 acceptance of using an accessory building for a dwelling unit.

12 Next slide. So this diagram shows the most recent
13 proposal; as I said, three feet from both side and rear lot lines.
14 This would make some existing accessory buildings nonconforming
15 to these provisions. This, actually, is not unusual and typically
16 happens when the regulations are changed, and it would not impact
17 the ability of the owners of those buildings to retain those
18 buildings or to renovate them. But, again, the current
19 regulations require no setback at all, so this could make the
20 placement of a new accessory building on a very narrow or shallow
21 lot or additions to an existing accessory building a bit more
22 difficult.

23 To help address this, OP is also proposing to make
24 clear that special exception relief, pursuant to the regular
25 special exception standards, would be permitted from these

1 setback requirements for either a new or an expanded existing
2 accessory building, but this still would be a process the owner
3 might not currently have to go through. Again, this proposal was
4 brought forward in response to concerns raised by members of the
5 public and the BZA. OP does not believe it to be a critical
6 change needed to address District policy.

7 The comments in the record to date on this proposal are
8 virtually universally in opposition. One resident is opposed
9 because they feel that the required setback should be larger.
10 This sentiment is shared by the Committee of 100, who recommends
11 that an accessory building comply with principal building side-
12 yard requirement, which in most zones would be eight feet. OP
13 would not support that proposal. The current regulations to not
14 require any side yard for an accessory building, and this proposal
15 would make the provision of any accessory building without BZA
16 relief on all but very large lots very difficult.

17 However, most comments, including from ANC 5E and 5F,
18 DC YIMBY, and others are that the proposed new setbacks should
19 not be adopted, as they would make some buildings nonconforming
20 and could disincentivize accessory dwelling units and accessory
21 buildings in the R zones, especially on smaller lots. In general,
22 OP noted in our reports that the three-foot side yard could make
23 accessory buildings, including ones with dwelling units, more
24 restrictive, but could also make them easier to maintain, sited
25 to allow additional light, and more acceptable to a broader range

1 of residents. But, as I said earlier, if the Commission shares
2 these concerns, then OP feels we could withdraw this proposal
3 without significantly negatively impacting Comprehensive Plan
4 policy direction.

5 I should also note that we realize that the proposed
6 text in the report does not yet reflect amendments made to
7 accessory buildings in rear yards as part of Zoning Commission
8 Case 24-20, which was recently adopted and recently published.
9 OP will be asking for flexibility from the Commission to continue
10 to work with OZLD staff to make sure that any proposed amendment
11 is adjusted to reflect current approved language in the zoning
12 regulations, and we'd request that prior to any final action by
13 the Commission.

14 Next slide please. The next item is with regards to
15 accessory apartments in the -- in the multifamily zones. The
16 accessory apartment provisions, as they currently exist, were
17 proposed by OP and adopted into the zoning regulations by the
18 Zoning Commission at the time of the new ZR-16 regulations. The
19 intent was to provide flexibility to owners of properties in the
20 low-density residential zones to be R-1 through R-3, where only
21 one principal unit is permitted on a lot by right. This is to
22 allow homeowners to have a second accessory dwelling unit on
23 their property. This was to increase housing options in DC, but
24 also to support aging in place, provide mortgage helper
25 opportunities for homeowners, and just provide additional

1 flexibility to homeowners. An accessory apartment is permitted
2 in either the principal building or an accessory building by
3 right in most of the R zones, but the owner of the property must
4 live on the property, either in the principal unit or the
5 accessory dwelling unit. It cannot be separately sold. It must
6 be rented out by the owner/occupant of the lot, which also
7 provides alternative housing options in what are often
8 predominantly owner-occupied neighborhoods.

9 Conversely, in the RF, RA, and MU zones, a flat with
10 units or an apartment building with three or more units is
11 permitted by right. Each unit can be separately owned, and one
12 or all of the units can be rented. The zoning does not require
13 that the owner live onsite -- on the property. As part of ZR-
14 16, it was determined that, for clarity, an accessory apartment,
15 as a defined term and use, would not then be permitted -- be a
16 permitted use in these flat and multifamily zones. I remember
17 some concerns expressed at the time of the ZR-16 hearings about
18 the possibility, for example, of an accessory apartment being
19 added to units within a flat or an apartment building and how
20 that would be addressed and administered.

21 Next slide please. So OP obviously remains strongly
22 supportive of accessory apartments in the low-density residential
23 zones and has proposed changes as part of this text amendment to
24 facilitate them in those R zones. However, the regulations need
25 to be clarified, because the RF, RA, and MU zones allow two units

1 or more. This is already included in the wording for the RF
2 zones, which state, and I quote, "Accessory apartments shall not
3 be permitted in any RF zone." That's in the current regulations.
4 This has been in the regulations since they were first adopted
5 and has not prevented homeowners in the RF zones from adding a
6 second unit, including one that is rented out, similar to an
7 accessory apartment.

8 However, lack of clarity on this in the regulations
9 throughout the RF zones and in the RA and MU zones has also led
10 to administrative uncertainty and confusion from some property
11 owners. It's actually resulted in a few property owners filing
12 a BZA case to add a unit on their property, where such relief is
13 not needed and, if approved, would actually limit the potential
14 size and use of the unit in ways beyond what would be anticipated
15 in those multifamily zones.

16 Next slide. Again, as such, the proposal is to add
17 this clarification language, consistent with language that
18 already exists in the RF zones and consistent with the intent of
19 both the low-density R zones and the flat multifamily residential
20 RF, RA, and MU zones. OP has confirmed with DoB staff that there
21 is essentially no building permit or occupancy differences
22 between a second principal unit, which is permitted in the higher-
23 density zones, or an accessory unit permitted in the lower-
24 density zones on a property. Other than that, an accessory
25 apartment in the R zones cannot be sold separately.

1 Next slide. The Committee of 100 indicates support,
2 but suggests that the provision would be better in the development
3 standards under density. Actually, the provision currently is
4 within the development standards for density section in the RF
5 zones, and, as part of this proposal, OP is proposing it be added
6 to the development standards for density sections in the RA and
7 MU zones. However, other comments to date on this proposal are
8 pretty much universally in opposition, which, in some respects,
9 is little bit confusing. The opposition is mainly from very
10 supporters of accessory apartments, which we agree with,
11 obviously, but this recommendation to remove this language would
12 be counterproductive to this.

13 Not adopting changes like this, as proposed by OP,
14 would continue the existing confusion regarding the intent of the
15 provisions respecting accessory apartments as a defined use and
16 potentially subjecting some owners in a flat or multifamily zone
17 to accessory apartment restrictions that are not intended to
18 apply to them.

19 The current regulations allow a homeowner in these
20 zones to have a second unit now. That unit could be rented out
21 like an accessory apartment, but would not be subject to the
22 accessory apartment restrictions; or that unit could be sold,
23 which is something that would not be permitted for an accessory
24 apartment. Having said that, I'm pretty sure that it is not the
25 intent of those in opposition to continue a bad situation. Zoning

1 can be a blunt tool, and we strive for consistency when we can,
2 so we chose language that is very clear and is also consistent
3 with the existing language found in the RF zone. However, OP
4 could work with the Zoning Administrator and OZLD staff to see
5 if there is language that could be added to make it more clear
6 that, although a unit defined as an accessory apartment is not
7 permitted in these zones, there's no restriction on the provision
8 of one or, in some zones, more additional units within a principal
9 building or unit within an accessory building.

10 Next slide. And now the final -- we may have skipped
11 a slide. Sorry. Okay. And now the final text amendment proposal
12 for the evening, and it's an important one in addressing housing
13 policy. The RF zones permit two or sometimes more units by right
14 on the property, and the regulations allow one of those units to
15 be located in an accessory building on the property. However,
16 due to concerns raised by some members of the community at the
17 time, restrictive provisions were added to the RF regulation
18 related to a unit within an accessory building, allowing this
19 only if the accessory building was in existence prior to January
20 1st, 2013.

21 A second provision requires special exception review
22 of any expansion of any accessory building for the addition of a
23 second unit, even it conforms to all other requirements. An
24 expansion of an accessory building not including a second
25 dwelling unit would not trigger this requirement. So these

1 provisions are specifically targeted as limiting housing options
2 and opportunities in our lower-density zones. These limitations
3 restrict the impact of the provision and hamstring homeowners
4 wishing to provide a second unit on their property within an
5 accessory building. This can often be a preferable location
6 where there is space -- where there are space or practical
7 limitations on converting space within the principal building
8 itself.

9 This is directly inconsistent with housing policy and
10 inconsistent with the intent of the zone. As such, OP's proposing
11 to remove these two provisions, so that an otherwise permitted
12 dwelling unit could be located in an accessory building by right,
13 and the building could be altered to accommodate a unit by right,
14 assuming it also conforms to other zoning provisions, such as lot
15 occupancy and building height. This does not alter the number
16 of units on the property permitted, just the process of placing
17 that unit in an accessory building.

18 As related -- also related to this, the current
19 provisions include a requirement that accessibility to be
20 provided either through the subject lot or from an alley which
21 the lot abuts. As part of this amendment, OP's also proposing
22 to amend the alley access requirement for a unit within an
23 accessory building in the RF zones to be consistent with the
24 proposed amendments through the requirements for access to an
25 alley lot building within -- with a dwelling unit. Right now,

1 in the existing regulations, the alley access provisions are the
2 same for both of these kinds of buildings. But OP, in Zoning
3 Case 25-06, proposed that the access requirements be amended for
4 alley lots. This was set down by the Commission for a public
5 hearing, and that hearing is to be held in January of 2026.
6 Should -- and the proposal, once again, that we're bringing
7 forward, would be consistent with what the Zoning Commission set
8 down for that other case. Should the Commission not adopt the
9 alley access changes for alley lots, OP would also withdraw it
10 from this case. The intent is that the access requirements would
11 be the same, to provide additional consistency and clarity in the
12 regulations.

13 To date, all comments in the record are in support of
14 this change, including from ANCs 5E and 5F, DC YIMBY, and the
15 Coalition for Smarter Growth, and there are no comments in
16 opposition. The Committee of 100 indicated that they are not in
17 opposition, but requested clarification on whether any of the
18 proposed amendments conflict with the previously suggested change
19 regarding accessory apartments in the RF, RA, and MU zones. The
20 response is that they do not. In the RF zones, a second unit
21 would be permitted by right within an accessory building. That
22 unit could be owned and rented by the owner of a lot or it could
23 be sold as a second unit on the lot, consistent with the intent
24 of the RF zones, but it would continue to be not defined with an
25 accessory apartment.

1 Next slide. All right. So just a final reminder of
2 the four topics before the Zoning Commission tonight. In summary,
3 OP recommends these amendments as being consistent with and
4 furthering District policies outlined above and in more detail
5 in our OP reports, and we are available for questions. Thank
6 you.

7 CHAIRMAN HOOD: Thank you, Mr. Lawson and Office of
8 Planning. I am going to see -- I'm going to start with Vice
9 Chair Miller, if he doesn't mind, tonight. And I'm hoping he --
10 well, I have a few questions, but I'll wait until -- we'll go
11 around first to see what we have. Vice Chair Miller.

12 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
13 you, Mr. Lawson, for once again a very comprehensive report for
14 the amendments and the omnibus text amendment, these dealing with
15 accessory buildings and accessory dwelling units, and your
16 summary of comments received thus far and your response thus
17 far. So that's very helpful to both us and, I think, the public.

18 On the accessory building area in R and RF zones, you're
19 proposing to increase the permitted size for an accessory
20 building footprint from 450 square feet to 600 square feet, and
21 in the -- well, yeah, and then -- and then in the RF zone from
22 450 to 550. And you've cited -- I don't know. There were 33
23 case or 25 cases where OP supported, once again with -- and the
24 ANC supported, and there was no opposition from the -- from
25 neighbors to the requested relief by these homeowners, and the

1 BZA approved them. That's 33 cases that didn't really -- it
2 shows, as experience, that maybe they aren't necessary. And so
3 you're -- so you're proposing to go to -- from 450 to 600 square
4 feet in the R-1 and R-2, but you stayed at the average footprint
5 on those cases that were all approved with everybody's
6 neighborhood support was 708 square feet, and you're only going
7 to 600, so -- in the R-1 and R-2. So I'm wondering why -- you
8 said you wouldn't be opposed necessarily if the Zoning Commission
9 were inclined to go with 650, but I certainly am inclined to go
10 with 650, especially since that would allow the universally
11 accessible design standards, although that isn't necessarily
12 required as part of this proposal or what I'm -- what I'm
13 suggesting, but I'm wondering why would you -- you said you could
14 go to 650, and since the average square footage was over 700 in
15 those 33 cases -- was that 33 that included RF or 33 that was
16 just the R-1 and R-2? Well, there were a lot of cases and the
17 average square footage was 708 square feet, so you said you -- I
18 think you said you didn't have opposition if the Zoning Commission
19 were inclined to go with 650 instead of 600, increasing from the
20 450 currently.

21 MR. LAWSON: That's correct, you know, and the reason
22 is exactly what you just stated. We did find that generally
23 accessory buildings and accessory units of this size were
24 acceptable. We took a relatively conservative approach. We also
25 looked at the layouts of the units and we found that generally

1 600 square feet was enough -- was sufficient to provide a
2 reasonable, you know, accessory dwelling unit or second dwelling
3 unit in the RF zones. And so that was basically the gist of
4 our -- you know, of our analysis. You know, we also looked at,
5 like, the median size and all the different kinds of permutations
6 that you can look at, but we also -- but we certainly don't
7 disagree with you that 650 square feet should not unduly cause
8 impacts on things like the ability to address lot occupancy,
9 pervious surface, which is being raised by some people in some
10 of the cases. We think that it would be acceptable. We do think
11 that allowing, as I said, the total square footage on one floor,
12 while that would be even more universally accessible, that would
13 require a lot more study. We'd really need to look at what that
14 would do in terms of lot occupancy, what that would do in terms
15 of pervious surface, and some of the other regulations. So the
16 other proposal that was proposed we would be less comfortable
17 with, but we're pretty comfortable if the Commission feels that
18 650 square feet is acceptable.

19 VICE CHAIR MILLER: Well, we'll see what my colleagues
20 have to see on that subject. And I agree with you, I think the
21 building footprint as the measurement is the -- is an appropriate
22 measurement, because we're -- because you don't want to impact
23 what the concerns were from those who opposed to any increase was
24 that you're impacting lot occupancy and open space and pervious
25 surface and all of that, so footprint kind of captures that, and

1 | if there is relief necessary, they'd have to still go through a
2 | BZA review process, whether it's 450, 600, 650, whatever we come
3 | up with. So on the -- so on the RF, you're going from -- remind
4 | me what -- you're going from -- you're going from --

5 | MR. LAWSON: 450 to 550.

6 | VICE CHAIR MILLER: Right. And the average square
7 | footage of the cases reviewed by BZA, approved by BZA, with OP's
8 | recommendation and ANC approval and no neighborhood opposition,
9 | the average square footage was 603 square feet. So, again, I'm
10 | wondering why you didn't just go to 600 in each -- so, similarly,
11 | I'm just asking why you didn't go the extra 50 to maybe capture
12 | more of these maybe unnecessarily burdensome BZA case for
13 | homeowners and unnecessarily burdensome cases for the BZA and
14 | staff -- all the staff time that's put into every case. It's
15 | not just the half-hour or hour or whatever we spend on one case.
16 | There's a lot of staff reports and the six-month delay for a
17 | homeowner to try to do something. So I'm just wondering why you
18 | didn't go to the average -- closer to the average square footage
19 | on the RF.

20 | MR. LAWSON: Yeah. Again, we felt that because the RF
21 | zones tend to -- and the R-3 tend to have smaller lots, narrower
22 | lots, that it would just be more difficult to provide that
23 | additional square footage. The other thing I didn't mention is,
24 | you know, we did look at, you know, how -- would most of the BZA
25 | cases be alleviated by the ruling, and even if the average is,

1 | you know, 603 square feet, you know, in the RF zones, most of
2 | the -- most of the accessory buildings would -- that we reviewed
3 | through BZA cases were less than 550. So it did capture most,
4 | but, certainly, 600 square feet instead of 650 would capture
5 | more, you know, and make more of those units by right, rather
6 | than having to go to the BZA. So just to explain, like, you
7 | know, we did -- we did kind of look at the numbers to see what
8 | we thought made sense. I don't have any problem -- I'm speaking
9 | for OP right now -- I don't have any problem with 650 square feet
10 | in the higher-density zones. I think that 650 square feet in
11 | the RF zones would be -- would be comfortable as well.

12 | VICE CHAIR MILLER: 650 square feet in the lower density
13 | zones, which has the larger lots.

14 | MR. LAWSON: Yeah.

15 | VICE CHAIR MILLER: Yeah, and I think that's more of
16 | my concern than the RF, because the RF -- I do realize that those
17 | houses are close to each other by design -- by the zone design,
18 | so -- but I -- so I'll see what my colleagues have to say and
19 | then the public on that as well. So the side and rear setbacks,
20 | that's the next issue. - I don't remember what my question was
21 | about that. Oh, so I think -- I think Goulston and Storrs'
22 | comments which were saying that the -- if the accessory --
23 | existing accessory building that already are up against the
24 | rear -- I think the rear -- the rear property line or the side
25 | property line should not be nonconforming -- existing ones. I'm

1 not sure if that's clear in what you're proposing. It seems to
2 be the intent that they could expand or -- and continue, but are
3 they -- are they going to become nonconforming? We're going to
4 create this whole nonconforming use category of things that are
5 all around the city? I know you -- I know we do that all the
6 time when we change a zoning regulation, but do we really have
7 to in this case?

8 MR. LAWSON: Well, that would result from the proposal
9 that we brought forward. And existing building -- an existing
10 building directly on a property line, if it is, you know, directly
11 adjacent to a neighbor's property, would be made legally
12 nonconforming to that provision. So that means it can maintained;
13 it can be updated'; it can be worked on; it can be expanded, as
14 long as the expansion is conforming to the setback, and -- but
15 it cannot be completely replaced. If it was completely torn
16 down, it would have to conform to the requirement, and, as I
17 said, any significant kind of an alteration to the building, like
18 the addition of another floor or the addition of, you know,
19 something on the back of it would have to provide the required
20 setback.

21 VICE CHAIR MILLER: Well, that makes sense. And I
22 think one of the ANCs, 5E or 5F, had similar comments. I can't
23 remember which one; maybe they both said that it should be --
24 language should be added that takes into account the privacy and
25 light and air. I don't know how that would be workable. That's

1 | what the special exception process is designed to look at in each
2 | individual case. It didn't -- I mean, it seemed like a --
3 | conceptually, a good idea, but I don't know how you would word
4 | that without -- and that would be easier for anybody to
5 | administer. So I -- did you have a reaction to that suggestion
6 | by --

7 | MR. LAWSON: I think would -- my reaction would be that
8 | I very much agree with you. One of our -- we worked very closely
9 | with the Department of Building staff, including the Zoning
10 | Administrator's office particularly. And, once again, I really
11 | have to thank them for the incredible amount of time that they
12 | gave us to help with this, to identify areas where we're just
13 | creating another impediment or another problem with being able
14 | to provide permits in a timely way to people. So, generally,
15 | when saw proposals that would be very difficult to administer,
16 | sometimes some of the proposals were kind of impossible to
17 | administer, we did not bring those forward as part of our
18 | recommendation.

19 | VICE CHAIR MILLER: Well, I think that's appropriate,
20 | since the whole point of this is to make for easier understanding
21 | by the public, BZA, ZA, everyone, as to what's permitted and what
22 | requires relief from the BZA. So I think that's all I had on
23 | that one right now.

24 | The third one was accessory apartments in RF, RA, and
25 | MU zones. You, I think, offered to clarify what the rationale

1 is and somehow put it into the text, which isn't there in your
2 text right now, that that additional unit is permitted under the
3 current regulations with less restrictive parameters. I don't
4 know if there's a way to draft that, but just to avoid confusion
5 by property owners and the public and ANCs. Is there something
6 you -- I think you -- it would be helpful if you -- if it's easy
7 to -- if it's able -- if it's -- if it's not so difficult to do,
8 to come up with some language that makes it clear what the
9 rationale is here, which is that it's already permitted, an
10 additional unit or more, in RA and they wouldn't be subject to
11 the restrictive accessory apartment provisions in the lower
12 density zones. So I would personally take you up on your offer,
13 if there -- if that's an easy -- if that's something that's no
14 too difficult to craft with the Zoning Administrator, so that
15 everybody knows that it is permitted and that's not the point of
16 saying it's -- by saying accessory apartments are prohibited in
17 those RF and higher residential zones, we're not saying you can't
18 have these units; they have them now. So you seem to think you
19 might be able to work with the Zoning Administrator and come up
20 with maybe something there?

21 MR. LAWSON: To be honest, I don't know. I'm certainly
22 happy to discuss this with the Zoning Administrator's staff.
23 It's kind of unusual for -- you know, the zoning regulations have
24 a very set kind of a pattern. I'm not saying that's a good
25 pattern or a bad pattern, but it's a pattern, you know. And so

1 we're all -- we always get just a little bit nervous when we kind
2 of deviate from that pattern too much. I'm happy to work with
3 them to see if some kind of -- some kind of a because statement
4 might be possible. It's not something we typically do in the
5 regulations, but, you know, maybe this is the exception that
6 proves the rule of, you know, why that's the case.

7 VICE CHAIR MILLER: And I'm going to agree at you, as
8 someone who's drafted a lot of provisions in the Comp Plan. I
9 think we're making it clear what the rationale is here in this
10 public hearing record and you have in your presentation. So,
11 yeah, I think deviating from the clarity and the consistency of
12 how the zoning regulations are constructed does maybe create more
13 problems than it's worth solving, as long as everyone understands
14 the rationale. And the last one I --

15 MR. LAWSON: The problem is, in this case, there were
16 so many comments that were provided to the record, you know, from
17 so many people. Like, you know, we also can't --

18 VICE CHAIR MILLER: People were confused. People were
19 confused and if we -- yeah, so how -- so how do we get around
20 that?

21 MR. LAWSON: Yeah, I understand why people were
22 confused by the current regulations; I understand why people
23 might be made confused by the proposed change that we're making.
24 In a different way people might, so I do think it's worth us
25 taking a look at it, if the Commission would allow us that

1 opportunity. I'm not -- I don't know what that -- what that
2 wording might be, but we can take a crack at it.

3 VICE CHAIR MILLER: Yeah, I wish I knew what that
4 wording would be, so take a crack, but -- and I don't have any
5 comments -- I think there wasn't a lot of opposition to the --
6 to the last -- the fourth one, I think, so I don't think I'm
7 going to take up any more time from my colleagues and you. So
8 thank you, Mr. Chairman; thank you, Mr. Lawson.

9 MR. LAWSON: Thank you.

10 CHAIRMAN HOOD: Okay. Thank you. Commissioner Wright.

11 COMMISSIONER WRIGHT: Thank you. So on the first one,
12 I also don't have a big problem with 650 square feet. You know,
13 I've looked at what other jurisdictions in the Washington area
14 do. Montgomery County has 600 feet. I believe Arlington is,
15 like, 750. I think that Alexandria is around 500. So, you know,
16 I think 650 sounds pretty reasonable. What some of the other
17 jurisdictions do though that I wanted to get your opinion on is
18 they mention that it is either a certain percentage of the
19 existing -- in some cases, it's the Gross Floor Area; in some
20 situations, it's the floor -- you know, just the floor plan of
21 the existing main structure is, like, 30 percent or 35 percent
22 of the main structure or X number of square feet, whichever is
23 greater, you know, something along those lines. I know in
24 Washington we talk about the percentage of the rear-yard setback,
25 but it could be a percentage of the rear-yard setback or whatever

1 the number we end up coming to. I mean, have you thought about
2 that part of the language, you know, not just listing a number,
3 per se, but tying that number to the size of the main house?

4 MR. LAWSON: That's a great question, and I wish I had
5 the regulations open in front of me right now. We actually do
6 have a provision like that in our regulations now for an accessory
7 apartment within the principal building. There is a maximum that
8 the -- of the principal building that an accessory unit can
9 occupy. I don't believe that -- and I believe it's 30 percent
10 or one-third, somewhere in there. It's been a while since I've
11 looked at it. Sorry. I don't believe that that percentage
12 applies to an accessory unit in the accessory building, but that's
13 something that I could certainly check, just to see if maybe we
14 already have that limitation already.

15 COMMISSIONER WRIGHT: Yeah, because I think that,
16 really, a lot of the concerns -- and I think they are
17 appropriate -- is making sure that the accessory building is
18 compatible and doesn't overwhelm the primary dwelling unit. And
19 there are not many, but there are some small single-family houses
20 which probably, you know, aren't that much bigger than 1,200
21 square feet, in and of themselves. And having an accessory
22 dwelling unit exactly the same size, you know, violates my -- I
23 had mentioned at a previous hearing, my pet peeve about flag lots
24 and, you know, the idea of houses behind houses.

25 You know, I think that the goal -- again, I'm looking

1 at this architecturally, from a design standpoint -- is that the
2 accessory dwelling unit definitely needs to be smaller than the
3 main house, and that was why I was wondering if, like in some
4 other jurisdictions, you know, you pick a number, but then you
5 also say it's either a certain percentage of the Gross Floor Area
6 of the main house or 600, 650, whatever the number is we pick,
7 whichever is greater. So, anyway, I just think that might be
8 worth looking at or thinking about a little bit. And, you know,
9 again, maybe looking at what some other nearby jurisdictions use
10 in their language for this as well.

11 In terms of the setbacks, moving on to the second thing,
12 I'm going to own some responsibility for that particular ask,
13 because I remember a BZA case that I participated in that I
14 thought was very problematic when I discovered there was no
15 setback, because the adjacent property owners talked about how
16 the -- their neighbors had to literally set up ladders and
17 construction equipment on their property in order to -- I think,
18 in that case, it was they were adding a second story to an
19 existing building, and they were very, very unhappy that this
20 person who wanted to build a bigger building, which is great, but
21 that they couldn't do it unless they literally went on their
22 neighbor's property, and that that would be a constant issue.
23 Every time, you know, you needed to paint that wall of the
24 building, every time you needed to, you know, fix a window or
25 replace a window, every time you needed to do any work on that

1 facade, you're literally forced to go on your neighbor's property
2 to -- with ladders or scaffolding or whatever equipment. And if
3 that -- if that person says, "No, we won't give you access", then
4 what happens; you aren't allowed to paint your building? I mean,
5 it's a little strange.

6 So I really strongly support the three feet. I think
7 three feet is enough to -- you know, again, this is for new --
8 newly constructed accessory buildings. As I think you stated,
9 Mr. Lawson, if it's an existing accessory building that you're
10 not changing, it is nonconforming, but, you know, it's -- I know
11 "grandfathered" isn't a term we like to use, but it essentially
12 grandfathered; it's going to just continue to exist.

13 If you wanted to do something significant to it, like
14 tear it down and build a new accessory building, then you would
15 have to abide by the three-foot setback. I just think the three-
16 foot setback has lots of practical reasons that it's a good idea,
17 because every building is going to require maintenance. I mean,
18 it gives you a little more privacy, but, honestly, three feet
19 isn't that much, in terms of additional privacy. I'm really
20 thinking about truly in practical terms about maintenance of the
21 building. So that's my thought on that.

22 I think the clarification you're -- both the third and
23 fourth are really sort of trying to get to clarification. And I
24 think on the third one, it is important clarification and maybe
25 there could be a sentence that somehow says, you know -- you

1 know, not that -- I think being so definitive and saying
2 "Accessory units are prohibited" sort of says the wrong thing.
3 Maybe the language would be something like, "Accessory units are
4 incorporated in or covered by the provision of this code that
5 allows two-plus dwelling units on a site," you know, sort of
6 stating it in the positive, rather than stating it in the
7 negative. And that might be a way to address it without trying
8 to keep -- I agree it's not a good idea to write in a detailed
9 explanation of this legislative history that we're going through
10 right now. I'm not trying to put all of that into the code, but
11 I think it's really a question of, do you state something in the
12 positive or state it in the negative, and maybe you state it in
13 the positive, and that would be a way to approach it. And I
14 think those are all of my comments at the moment.

15 MR. LAWSON: Thank you.

16 CHAIRMAN HOOD: Okay. Thank you. Mr. Lawson, I just
17 wanted to walk through a few things, and I'm trying to encompass
18 all the -- as you've done an excellent job presenting, but I'm
19 going to kind of repeat some things back to you. One of the
20 things I didn't hear -- you may have mentioned it, and I'm on
21 accessory building areas in the R and RF zones, Subtitle D-17 is
22 the number that we used -- I noticed that, in your discussion
23 with at least Vice Chair Miller, he took the angle -- or either
24 his angle or the angle that I see that Smarter Growth mentioned
25 about 650 square feet, but I also noticed that some of the ANCs

1 in a different area, 5F and I want to say 5E too and some of the
2 others, mentioned about increase to 1,200 -- and you may have
3 commented on this; it's been a minute -- 1,200 to be consistent
4 with other state laws; the proposed amendment is not inconsistent
5 with the Comp Plan.

6 What was the rationale of why we didn't go all --
7 basically, what they're asking for is maximum flexibility to
8 design ADUs by approving this change. That's what a number of
9 people -- and I'm -- let me back up. As I'm looking at this, it
10 seems as though it depends on what area of the city you live in.
11 So I'm seeing that 5E and 5F are looking for maximum flexibility.
12 Did you talk about the 1,200, which they've recommended? You may
13 have.

14 MR. LAWSON: A little bit. My reading of their proposal
15 was to allow a 1,200-square-foot building that could all be on
16 one story. So it could be, you know, 1,200 square feet, but only
17 one story. The proposal that we're bringing forward would, of
18 course, allow the 1,200 square feet of building, but it would be
19 on two stories. Now, part of that was just because the existing
20 provision is done by footprint, you know, and so we kept that,
21 rather than kind of reinventing it.

22 I don't disagree with the ANC that a square footage
23 limit would provide some additional flexibility. I just worry
24 that it would have a larger impact on things like other zoning
25 provisions, on pervious surface, you know, on issues like that,

1 | because you'd have the potential to cover twice as much of your
2 | property with accessory building as you would under our proposal,
3 | because we're talking, you know, a 600-square-foot footprint or
4 | 650, whatever it ends being. So that's where it came from. So
5 | I understand their -- I understand their proposal, and I think
6 | probably maybe it makes sense in some communities. I think for
7 | a built-out community like DC, the footprint limitation, which
8 | is what exists right now, is probably more appropriate.

9 | CHAIRMAN HOOD: Okay. Thank you. I just wanted to
10 | have that conversation with you, so I could make sure I
11 | understand. Now, the setback -- and I heard my colleague,
12 | Commissioner Wright, mention about the setbacks and the
13 | additional buildings. So one of the things that I do know in
14 | the District, where there is no lot line and if your neighbor
15 | does not allow you -- and I know this firsthand -- does not allow
16 | you to come on their property, there are ways to get on that
17 | property to do whatever, because there are a lot of places in
18 | the city that do not have setbacks. So I'm leaning towards -- I
19 | agree with the setback, but my question is -- and I know it's
20 | taken away -- but is three feet -- a three-foot setback -- and
21 | I'm looking at the data of the BZA cases -- is that enough -- is
22 | that enough to do some of the things that Commissioner Wright
23 | mentioned to be make -- change a window out or whatever the issue
24 | is, is that enough to be able to stay off of your neighbor's
25 | property? Even with a three-foot setback, you still may have to

1 | lean over and something on your neighbor's property. Is that
2 | enough, I guess is my question. Through your analyzing this and
3 | the BZA cases, is three feet enough? I know I'm rambling, but
4 | is three feet enough?

5 | MR. LAWSON: No, I totally get your question. It's a
6 | good one. We think it is. There' been kind of a longstanding
7 | kind of a minimum that we would normally accept, for example,
8 | with BZA cases requesting side-yard relief. Typically we are
9 | supportive of anything three feet or more. If you're proposing
10 | less than that, we start to have some concerns. Three feet allows
11 | for easy passage, so it doesn't become dead space. Three feet
12 | does allow for a ladder, particularly on a building that's as
13 | short as an accessory building. We only allow 20 feet, so a
14 | ladder should be able to easily accommodate that, and it allows
15 | for regular maintenance. It's not an expansive amount of space
16 | and, in some ways, it's not particularly usable space; it's not
17 | like you can, you know, put a -- you know, put something in that
18 | space. It can, you know, be used for sitting or it can be used
19 | for gardening or something, if it gets enough light, but it's
20 | not, you know, active play space or something, but it's -- we've
21 | definitely found that it's enough to allow for maintenance of the
22 | building.

23 | CHAIRMAN HOOD: Okay. And, 19, accessory apartments --
24 | I forgot who -- let me see if I can figure out who it was that
25 | said that this whole proposal should be deleted. I'm not sure

1 | if it should be deleted. I think it was AN 5F. Can you -- can
2 | you -- if you can remember, can you help me understand why 5F
3 | thinks that it should be deleted, other than they feel like maybe
4 | it's unclear and not solving the problem?

5 | MR. LAWSON: Well, I'd pretty much bet that 5F is here
6 | or somebody is here, so I'll let them speak, but I think it was --
7 | again, I understand their concern. I think that the language is
8 | fairly strict and it reads as if we're trying to prevent people
9 | from doing something in these zones. Whereas, really what we're
10 | trying to do with this language is to make it clear that they
11 | don't need to go through that accessory unit -- accessory
12 | apartment kind of a process; they've already got the permission
13 | to do it in a way that's more permissive than an accessory
14 | apartment. So we're just trying to, you know, ease that confusion
15 | we've had from some owners. I -- so I know that the ANC, from
16 | their other comments, is a strong supporter of the ability to
17 | provide accessory dwelling units, and I think they felt that this
18 | wording was counterproductive to that.

19 | CHAIRMAN HOOD: Thank you. And I'm not going to ask
20 | about the new dwelling. I think that's pretty straightforward
21 | as all of them, to me. And I know -- and I've mentioned this in
22 | other hearings; I think that there's a lot of work that's went
23 | into this, a lot of data and a lot of tracking, and that's how
24 | we've some of these conclusions. So I'm hoping -- we can always
25 | start here and make it further and better. We might not get it

1 all right this time, but I think it's important, because what I'm
2 starting to see it line up, it depends on what side -- Cleveland
3 Park or whether you're over in Ward 5, I'm starting to see it
4 line up by neighborhoods. And I know we can't do regulations
5 like that, but I'm starting to see that way as being, whether
6 you're in support or opposition, about people's life and living
7 experiences. So that's all I have on that. Thank you, Mr.
8 Lawson. Commissioner Wright.

9 COMMISSIONER WRIGHT: Yeah, I had -- did have one other
10 question, which I forgot to ask. I'm just confused because there
11 is a little bit of language -- in the R zones, you would still
12 have the homeownership requirement; is that correct?

13 MR. LAWSON: We're not proposing to remove that
14 requirement; that's correct. That would be a much bigger policy
15 level decision.

16 COMMISSIONER WRIGHT: Right. So in the R zones, the
17 home ownership requirement still exists. In the RF and the other
18 zones, again, it's not that you're removing anything; it's that
19 those zones allow for -- again, you'll have to remind me if it's
20 two or three units -- in any case, whether there's a homeownership
21 or not a homeownership, and whether you call one an accessory or
22 whether you don't call it an accessory. They already allow for
23 multiple units without homeownership. Am I stating that
24 correctly?

25 MR. LAWSON: You are, yes.

1 COMMISSIONER WRIGHT: So, again, I just suggest, as you
2 go back to look at the language, I think it's a matter of stating
3 things in the positive, rather than in the negative. That's sort
4 of the way I would approach it. Okay. Thank you. I just wanted
5 that clarification.

6 MR. LAWSON: Thank you.

7 CHAIRMAN HOOD: And I know that we -- it seems like
8 every time we try to clarify, we muddy the waters, and I know --
9 I think -- and I think that we're always trying to make it easy,
10 and I know that's what the Office of Planning -- in the years
11 I've been around, that's what the Office of Planning has always
12 done, and that's what we've tried to done -- tried to do. I
13 don't know if we can message it differently. I know the
14 regulations have to read a certain way, but maybe Mr. Lawson and
15 the Office of Planning can work on some messaging to achieve --
16 that may be a little more not regulatory written -- I know that
17 sounds -- I'm thinking off the top of my head, but I -- let's
18 just think about that. How can we do it to make it so the layman
19 person can understand exactly what's going on. I don't know if
20 that's ever been done, but it's always this and that and if you're
21 eight feet -- so I get it, but we want to try to message it to
22 the point where people know that we're actually clarifying, not
23 adding more roadblocks. So, anyway --

24 MR. LAWSON: Sure. Just one clarification to that one.
25 If we do look at this language, there is existing language already

1 | in the RF zones exactly like what we are proposing for the other
2 | zones. So if we do come up with other zones, we would want the
3 | flexibility to change that existing language in the RF zones as
4 | well. You know, again, one of the reasons we chose the language
5 | we did is it already existed in the zoning regulations, so we
6 | would want to change that one as well, just for the record.

7 | CHAIRMAN HOOD: Thank you, Mr. Lawson. I appreciate
8 | that, because I've heard over the years that regulations are not
9 | necessarily written for the resident; they're written for those
10 | who do development. As we want to make sure -- I always try to
11 | gear stuff -- even for me, try to gear it and make sure that the
12 | resident, including myself, understand it as well. So let's see
13 | what we can do. I mean, we're not going to fix it all in one
14 | night. This is going to be probably here long after we're all
15 | gone, but, still, let's see what we can do, at least while we're
16 | hear. So thank you, Mr. Lawson. All right. Any other questions
17 | of Mr. Lawson?

18 | VICE CHAIR MILLER: (Shakes head negatively.)

19 | COMMISSIONER WRIGHT: (Shakes head negatively.)

20 | CHAIRMAN HOOD: All right. Let's keep it moving. Let's
21 | hear from the public. Ms. Schellin, do we have anyone here from
22 | OAG? Ms. Wurst -- is Ms. Wurst here tonight?

23 | MS. SCHELLIN: She is.

24 | CHAIRMAN HOOD: Okay. Let's go to OAG.

25 | MS. WURST: Hello. Good evening.

1 CHAIRMAN HOOD: Good evening, Ms. Wurst. You may begin,
2 whenever you're ready.

3 MS. WURST: All right. Mr. Young, our slides are
4 Exhibit 115.

5 (Whereupon, OAG PowerPoint was shared on screen.)

6 MS. WURST: Perfect. All right. Good evening,
7 Commissioners and members of the public. My name is Noelle Wurst,
8 and I'm speaking on behalf of the Office of the Attorney General
9 tonight. Our more detailed written comments can be found at
10 Exhibit 17, and this set of slides can be found at Exhibit 115.
11 This is the fifth and last time during the case -- during the
12 course of this hearing in which I'll, you know, reiterate once
13 again the dual Comp Plan priorities that OAG, you know, believes
14 are fulfilled by the amendments that we're speaking in support
15 of, the first one being those that support housing production and
16 especially affordable housing in the District, as, you know, we
17 contend with this complex housing crisis; and then the second one
18 being the goal to reduce burdensome and unnecessary regulations
19 that do impede those housing production goals.

20 Next please. So tonight I'll just be speaking of two
21 amendments, and I would like to note that the numbering system
22 here was based on the original OP filings, so some of the numbers
23 may have changed since then, but tonight I will be commenting on
24 the amendment pertaining to increasing accessory building area
25 in the R and RF zones and the one which essentially removes BZA

1 review for a new dwelling in an accessory building in RF zones,
2 among a few other related changes.

3 Next please. All right. As for the amendment that
4 seeks to increase the accessory building area in R and RF zones
5 from the current 400 square feet to the greater 30 percent of
6 the rear-yard area, or 550 or 600 square feet, depending on the
7 zone, we would like to note that, of course, accessory buildings
8 would remain subject to other zoning limits, including the
9 maximum lot occupancy and required yards.

10 Here in this diagram, we try to visually represent what
11 some of those additional restrictions would be, you know,
12 whatever the setback requirements would be, whatever the
13 applicable height limits would be. And, as is, the proposal
14 would definitely allow for a larger area that could accommodate
15 perhaps an accessory apartment or up to about the size of a
16 standard two-car garage or some other uses, though we would like
17 to note that we do -- we do concur with ANC 5F, and, likewise,
18 recommend that OP uses a single 600-square-foot footprint
19 standard adopted for all applicable zones. What this was -- what
20 this would result in is, ultimately, a 1,200-square-foot
21 accessory apartment, and that is broken off into two floors. The
22 diagram shows off one in which a 600-square-feet maximum
23 footprint is on the bottom floor, and then a floor above it that
24 matches it, and this is, of course, consistent with the maximum
25 size allowed in Montgomery County, Maryland. What we think this

1 would do would ultimately enable larger dwelling units in
2 accessory buildings to meet the housing needs of different
3 households and within the limits of other zoning requirements,
4 so this could be, you know, perhaps an additional bedroom; this
5 could be additional space for those who needs some accessibility
6 accommodations or, otherwise, a more comfortable space.

7 And in low-density and high-cost areas, especially the
8 R and RF zones, this will facilitate some additional context-
9 sensitive density to meet the Comp Plan's housing and affordable
10 housing goals. Of course, this would ultimately retain scale or
11 proportionality to the existing building, you know, whereas other
12 jurisdictions might base that proportionality on the size of the
13 primary or principal dwelling. Here in DC, it's, of course, tied
14 to lot width, but we would note that, you know, if the lot is
15 larger, ultimately, the visual impacts or the effects of massing
16 are going to be diminished on a larger lot. On a smaller lot,
17 you likely wouldn't get to a 600-square-foot footprint, because
18 the lot, itself, is small and, of course, the size is tied to
19 that.

20 And let's move on to the next slide please. All right.
21 And here we're going to speak in support of two particular aspects
22 of this amendment. The first part, you know, we'd like to comment
23 on is that which ultimately removes the required BZA review for
24 an accessory building to become a house's accessory apartment if
25 this building was built in the prior five years -- was built over

1 five years ago, but expanded to house a dwelling unit, and then
2 later on we'll discuss a little bit about the alley requirement.

3 So we support the elimination of this requirement for
4 BZA review to permit an accessory building less than five years
5 old or to expand that accessory building over five years old to
6 house a dwelling unit in RF zones. We see this weight as
7 ultimately something that's counterproductive to housing goals
8 and doesn't have a clear purpose, as it stands. Additionally,
9 we also support the streamlining of the current bifurcated alley
10 access requirement, you know, that is involving two separate
11 standards to a single requirement for a 15-minute (sic) --
12 sorry -- 15-foot minimum width throughout -- through access route
13 to the public street. What this does is, ultimately, retains the
14 essence of the current requirement and removes an impediment to
15 creating housing on alley lots. We'd also like to note that this
16 15-foot minimum is aligned with current FEMS guidelines, so this
17 is, you know, a size that they're already accustomed to navigating
18 in and know how to navigate it well. Ultimately, we see all of
19 these changes together as something that will create more gentle
20 density that's modest in scale in especially lower-density
21 neighborhoods, where housing costs often exceed the District
22 average. And that does conclude my testimony both for tonight
23 and OAG's comments on all of the amendments in this case, in
24 general, so I would like to open it up to the Commissioners, if
25 they have any questions for me. Thank you.

1 CHAIRMAN HOOD: Thank you. Thank you, Ms. Wurst, and
2 thank you for the Office of Attorney General's input into this
3 whole omnibus bill which the Zoning Commission is working on. We
4 appreciate you all taking the time to analyze and be able to
5 provide comments, so thank you.

6 MS. WURST: Thank you.

7 CHAIRMAN HOOD: Let's see if we have any additional
8 comments or questions. Vice Chair Miller.

9 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah, I
10 would echo the Chairman's comments appreciating the Office of
11 Attorney General's involvement in this case and on all of our
12 cases, but especially the focus on the goals of changes that not
13 only provide clarity, but support housing and affordable housing
14 especially. So that's an important focus that we all should
15 always keep in mind as a specific priority in the Comprehensive
16 Plan.

17 On the 600-square-foot building area for the accessory
18 building, I can see the -- I mean, 600 is what the -- I think
19 the -- is what OP is proposing for the -- no, I got it wrong.
20 Anyway, I can see that a single footprint would be clearer, but
21 we do have some testimony in the record both not to increase it
22 all and also to increase it to 650. Would you have a concern
23 with increasing it to 650, recognizing what you, yourself, and
24 OP has stated, that all of the other development standards on lot
25 occupancy and setbacks and height all apply and would need relief

1 | if they -- if the 650 was encroaching on any of those; did you
2 | have a concern about that? Were you -- were you going for the
3 | simplicity of a 600-square-foot building area for all the R zones,
4 | which I can see some attractiveness to that?

5 | MS. WURST: Of course. As it stands right now, we do,
6 | you know, prefer the simplicity that the 600 square foot standard
7 | provides, but, ultimately, you know, taking a look at the case
8 | that's been made for the 600-square-foot -- or 650-square-foot
9 | standard, we would likely be supportive of that, ultimately,
10 | because, as you mentioned, you know, this would be bound by other,
11 | you know, zoning-related limits on the lot, and we think that the
12 | core idea here is to capture that proportionality between, you
13 | know, the lot size, the primary residence, and then also this
14 | accessory building.

15 | One of the facts that struck me, going through OP's
16 | setdown report, was the fact that the, you know, average
17 | footprint, ultimately, was closer to 700 or 708 feet, I believe.
18 | So I thought, well, that's interesting that, you know, buildings
19 | up to, you know, a size that exceeds the proposed standard, you
20 | know, ultimately, had no issues with it. So we would like to,
21 | you know, take a second look, if, in the future, you know, perhaps
22 | OP returns to the 650-square-foot standard, but, at the moment,
23 | we have no immediate concerns about that.

24 | VICE CHAIR MILLER: Okay. Well, thank you. Yeah, that
25 | is what struck me too and led to my question to Mr. Lawson, that

1 the average square footage of the dozens of cases approved by BZA
2 with OP recommendation for approval and ANC recommendation for
3 approval and no neighborhood -- adjacent neighborhood opposition
4 was at the 700 square foot, so it just seemed reasonable to try
5 to go a little closer to that to avoid the burden placed on
6 homeowners, who have gone through this process, the delay and on
7 the government with the BZA process, so -- but thank you again
8 for your participation here this evening. We appreciate it.

9 MS. WURST: Thanks, Commissioner Miller.

10 CHAIRMAN HOOD: Okay. Commissioner Wright, you have
11 any questions?

12 COMMISSIONER WRIGHT: No, I don't have any questions.
13 I will just agree with Vice Chair Miller. I think your
14 participation throughout the process has been really, really
15 helpful and you do a great job of making your arguments very
16 clear. I like your use of the illustrations, and thank you. I
17 don't have any questions.

18 MS. WURST: I appreciate it.

19 CHAIRMAN HOOD: All right. Thanks again, Ms. Wurst.
20 We will see you next time. Thank you.

21 MS. WURST: Yes, of course. Thank you, everyone.

22 CHAIRMAN HOOD: All right. Ms. Schellin, do we have
23 any other government agencies? I don't think so. Is DDOT here?

24 MS. SCHELLIN: I do not show any, no, sir.

25 CHAIRMAN HOOD: Is DDOT here tonight?

1 MS. SCHELLIN: I don't see anyone from DDOT registered,
2 no, sir.

3 CHAIRMAN HOOD: All right. What about our ANCs? Let's
4 go to our ANCs.

5 MS. SCHELLIN: We have Mark Eckenwiler.

6 CHAIRMAN HOOD: Okay.

7 MS. SCHELLIN: And, also, there's one from -- I take
8 that back. That's it. He is the only ANC.

9 CHAIRMAN HOOD: Okay. All right. Good evening,
10 Commissioner Eckenwiler. You may begin.

11 COMMISSIONER ECKENWILER: Good evening, Chairman Hood
12 and members of the Commission. Mark Eckenwiler, Vice Chair, ANC
13 6E, appearing on behalf of the ANC. For once, I will be brief.
14 I'm here to testify in support -- unconditional support of two
15 of the proposed changes. First, on the increase for the area of
16 accessory buildings in the RF zone from 450 to 550 square feet,
17 we support that. Just to anticipate one of the possible
18 questions, we did not deliberate on whether or not that number
19 should be higher. We simply chose to support OP's proposal, as
20 put forward.

21 Second, pretty much everything OAG said about
22 eliminating the restrictions on the use of an accessory building,
23 including the expansion of an accessory building for use as a
24 dwelling unit, whatever justification there may have been at the
25 time of ZR-16 for those limitations no longer really seems

1 applicable, and so we support that as well.

2 And we note on the alley-width reduction, we saw that
3 and we've already voted on 25-06. We are in full-throated support
4 on that. I'll talk about that more when January rolls around,
5 but, clearly, those two things should be aligned, and so that's
6 one of many reasons why we support this proposal. That concludes
7 my testimony. I am happy to answer any questions.

8 CHAIRMAN HOOD: Thank you, Vice Chair Eckenwiler.
9 Let's see if we have any questions. Vice Chair Miller.

10 VICE CHAIR MILLER: From one Vice Chair to another,
11 thank you, Commissioner Eckenwiler, for your participation
12 tonight and throughout this case and all the other cases that
13 you've been involved with. It's good to see support. And you
14 said that the initial hearings just happened to be opposition or
15 concerns, and you said that they would be balanced out by support
16 on other issues -- would be based on the facts and the
17 regulations, so -- that are being proposed. So I have no
18 questions. I appreciate you being here. Thank you.

19 CHAIRMAN HOOD: Thank you. Commissioner Wright.

20 COMMISSIONER WRIGHT: I really don't have any
21 questions. I do want to just confirm with Mr. Lawson that -- we
22 had a whole conversation about should it be 600 or 650 and I
23 think we were leaning towards 650, but that was not to change
24 the recommendation of 550 in the RF zone. Is that correct? Is
25 that your understanding as well?

1 (No response.)

2 COMMISSIONER WRIGHT: Well, I'll get -- if he's not
3 able to respond, I'll get back to him later. I just want to --
4 I just want to confirm that we aren't sending an incorrect message
5 at all, that we're -- that the 600 was in the R zones. We're
6 now talking 650 in the R zones and we're talking 550 in the RF
7 zones. Is that everyone's understanding?

8 VICE CHAIR MILLER: Yeah, I mean, I may have led to
9 that confusion, because I asked could it -- should it go in the
10 RF zones to 600, because of the -- again, the experience with the
11 BZA cases that were average -- the BZA cases that were approved
12 with, again, ANC support and neighborhood -- no neighborhood
13 opposition were average at a little over 600. So I did ask about
14 should it go to 600, but I can -- I mean, I understand the
15 rationale for the RF zones being a smaller footprint, so -- and
16 I welcome testimony from ANCs like Commissioner Eckenwiler's that
17 have a lot of RF zones, if he has any further thoughts on going
18 from 550 to 600, but I really wasn't pushing for that. I just
19 asked zoning -- Mr. Lawson at OP about that, so I may have -- I
20 didn't mean to muddy that water with the other lower-density R
21 zones going to 650.

22 COMMISSIONER WRIGHT: Okay. Well, we can clarify that
23 later and make sure, but, you know, I'm happy for 650 in the R
24 zones and 550 in the RF zones, but let's clarify that later.

25 CHAIRMAN HOOD: Okay. And I also -- thank you. And I

1 | also want to make sure that we give -- I mean, I know what Mr.
2 | Eckenwiler said that they did, and I appreciate the respect he
3 | has for his colleagues, because I'm sure he could have opined
4 | today on his own, but he didn't. But I want to leave room -- if
5 | you all want to opine, Vice Chair Eckenwiler, then I want you --
6 | I want to hear you all's comment on what -- once we get it
7 | resolved, you all's comment on what Vice Chair Miller mentioned,
8 | because you said you all did not deliberate upon that. If you
9 | all want to, I want to allow opportunity for you all to be able
10 | to do that.

11 | COMMISSIONER ECKENWILER: Mr. Chairman, I think once
12 | the proposed regulation is published, we may cogitate on that,
13 | but I'm not ready to, you know, offer anything this evening.

14 | CHAIRMAN HOOD: Okay. Well, I know you wanted to see
15 | it. I was giving more time -- giving you some homework, but --
16 | because I would like to kind of have as close to what we want
17 | final when we publish it, but, you're right, you have another
18 | bite of the apple. I just wanted you all's input before we got
19 | to the next bite of the apple. Anyway, we can wait on that at
20 | that time. All right. Again, Vice Chair Eckenwiler, we
21 | appreciate all the work that you all do on all cases, whether
22 | it's -- whether you're a proponent or in opposition, all that
23 | helps us out as we continue to move forward, so thank you.

24 | COMMISSIONER ECKENWILER: Thank you, Mr. Chairman. And
25 | tonight is my last appearance on this case as well, so I look

1 forward to submitting our comprehensive written comments by the
2 deadline, and have a good evening.

3 CHAIRMAN HOOD: All right. You too, and thank you all
4 for -- you and your ANC for all the hard work you all always do.
5 Thank you. All right. Ms. Schellin, we don't have any more ANCS
6 I don't believe, right?

7 MS. SCHELLIN: No, sir. They were the only ANCs that
8 signed up.

9 CHAIRMAN HOOD: Okay. All right. Let's go to persons
10 in support.

11 MS. SCHELLIN: Okay.

12 CHAIRMAN HOOD: Organizations or persons in support.

13 MS. SCHELLIN: Okay. I have a couple. I think we can
14 get them all up at once. I have Bob Ward with Cleveland Park
15 Smart Growth; Ben Field; Dennis Sendros, Samantha Gupta, and
16 Hannah Olsen.

17 CHAIRMAN HOOD: Okay. Thank you. I'm going to try to
18 go in the same way that Ms. Schellin pronounced your names --
19 I mean, pronounce your -- go in that order. Mr. Ward, if you
20 can go first please.

21 MR. WARD: Thank you, Chairman Hood and members of the
22 Commission. My name is Bob Ward. I'm a resident of Cleveland
23 Park and Chairman of Cleveland Park Smart Growth, speaking in
24 support of the Office of Planning's amendments that were
25 previously called, 16, 18, and 24, related to accessory

1 buildings, and I think these amendments should be approved.

2 When accessory building rules were changed during the
3 2016 zoning rewrite, DC was on the leading edge of adding gentle
4 density to our neighborhoods. Making ADUs matter of right in R
5 zones was to lead to expanding housing options in our
6 neighborhoods. I was very hopeful at the time; however, I think
7 the results of this change have been somewhat underwhelming, as
8 there are roadblocks that deter property owners from adding ADUs.

9 So the first amendment, which addresses the footprint
10 of the accessory building, 450 square feet does not allow enough
11 clearance for the types of uses ADUs have been hailed as solving
12 for; people aging in place, often with accessibility challenges,
13 homes for family caregivers and perhaps their families, or small
14 families. Back in April of 2023, ANC 3C, which is where I live,
15 passed a resolution, which I've included in my written testimony,
16 supporting increasing the accessory building footprint to 650
17 feet, saying it would, quote, "provide flexibility to provide a
18 one-bedroom unit that could accommodate conditions such as an
19 aging-in-place couple or a parent and child with a disability,
20 and could incentivize accessible, universally-designed units,"
21 end quote. OP's proposal for an increase in footprint size to
22 600 square feet, I support that, but I also think 650 square feet
23 would be better. We want to create places for people to live
24 with dignity and encourage homeowners to create these homes. The
25 goal is to create more housing and more options and reducing

1 barriers.

2 I'll mention that I also support, in the amendment 18,
3 which was clarifying where an accessory apartment is permitted,
4 and amendment 24, removing the burdensome requirements that an
5 accessory building must be in existence for five years before a
6 dwelling unit is permitted within it, and changes to the alley
7 access, so both of those I support. But I'll point out in the --
8 I'm disappointed that the Office of Planning didn't present a
9 revision of the owner-occupancy requirement in that ANC 3C
10 resolution from 2023. They asked OP to remove that.

11 It is -- AARP, the advocacy group for older Americans,
12 says that owner-occupancy requirements limit production of
13 accessory apartments, they make the financing of ADUs more
14 difficult, and limit the appraised value of properties. I don't
15 know why we need occupancy requirements for ADUs. As a homeowner,
16 I can rent out my principal dwelling unit and move to Alaska.
17 I'm bothered by the idea that an ADU renter needs a minder. It
18 treats renters as second-class citizens. I mean, short-term
19 rentals have their own set of regulations set out by the Council.
20 I would urge the Zoning Commission to get rid of this requirement,
21 free up the market to produce more ADUs. You know, DC was on
22 the cutting edge on these issues and they have been surpassed.
23 If the entire state of California can allow ADUs statewide with
24 no owner-occupancy requirements, DC can too. If we're serious
25 about adding housing through ADUs, this should be addressed by

1 the Zoning Commission as an unnecessary barrier. But I do support
2 those amendments that I mentioned, and I appreciate your work on
3 this. Thank you.

4 CHAIRMAN HOOD: Thank you. I think next was Hannah
5 Olsen. Mr. Ward, if you can stick around, we may have some
6 questions for you. Hannah Olsen.

7 MS. OLSEN: Hi, everyone. Sorry, I apologize that my
8 video is so dark. The time change is getting to my apartment.
9 Thank you all for your time today. I'm really excited to be
10 here. My name is Hannah, and I'm calling in support of the DC
11 YIMBY's changes to make the development of ADUs more accessible.
12 After undergrad, I chose to join the AmeriCorps, and I was only
13 able to commit to my year of service due to the ability to rent
14 an ADU for \$300 a month. When you're in the AmeriCorps, you are
15 making if not minimum wage, less than minimum wage, and so I was
16 making around a thousand dollars a month, and so that was the
17 only way that I could commit to doing this. I lived in Jupiter,
18 Florida, which, if you're not aware of the area, that's where
19 Tiger Woods lives, that's where a lot of the PGA golfers live,
20 and so I was really fortunate to be able to find a place that
21 was affordable so I could spend my year there. I'm really
22 thankful for my experience in the AmeriCorps, and I'm even more
23 grateful for the ability of the ADU that allowed it to be not
24 really a financial disaster for myself. Had living arrangements
25 like that been available when I moved to DC, I could have taken

1 out fewer student loans; instead, I'll be paying less over the
2 next ten years because of that. So I appreciate your time and
3 your consideration towards these.

4 CHAIRMAN HOOD: Okay. Thank you. Hold tight. We may
5 have some questions for you. Dennis Sendros, DC -- I like this --
6 Yes In My Back Yard.

7 MR. SENDROS: Thank you, Chairman Hood and other
8 members of the Commission. Happy Birthday to Ms. Schellin.
9 That's very exciting. Thank you for your time. DC YIMBY is a
10 pro-homes organization dedicated to solving the housing shortage
11 in DC by building more homes.

12 We note that ADUs have been used as a tool in other
13 states, like New Jersey and California, to really increase home
14 production and lower the cost of housing in those states, and
15 they allow for, you know, promoting caregiving opportunities,
16 creating intergenerational options. That is part of the reason,
17 by the way, that AARP wrote in to support some of the changes
18 here today. And they add, you know, modest, relatively affordable
19 homes across high-opportunity neighborhoods. They benefit
20 owners, they benefit renters, the old and the young, and the
21 workers who serve our communities, like first responders,
22 teachers, and nurses.

23 So I'm going to speak specifically -- we have some
24 written comments, but I'm going to speak specifically about the
25 first two items on the agenda today. The first about accessory

1 building size in R and RF zones, we support going a little further
2 than the OP proposal. I know what's been discussed today is in
3 the R zones bumping up to 650 square feet. We would, at the end
4 of the day, support that, but we encourage you to go even further
5 than that and simply modify the regulation to allow -- to not go
6 by building footprint, but just to allow 1,200-square-foot Gross
7 Floor Area. That's what Montgomery County does. It allows more
8 flexibility for people who are actually constructing the units
9 to decide how exactly that floor area will be laid out on their
10 own property.

11 OP notes that the 600-square-foot limit would
12 functionally be up to 1,200-square-foot Gross Area, because you
13 could make it two stories, but, of course, constructing a second
14 story is a lot more expensive and may not be reasonable for some
15 folks. So allowing them to decide how their own property would
16 be used would just be a little more flexible and allow more actual
17 ADU construction.

18 I also want to note, OP said most RF ADUs were under
19 500 square feet -- 550 square feet, but the average was over 600,
20 which does mean there's a sort of fat tail there of approved
21 larger ADUs -- potentially much larger ADUs. I haven't see the
22 exact sizing there, but it would be interesting to see just how
23 large the ADUs in the RF zones got. And I know there's some
24 concern about keeping those ADUs, in particular, smaller, but
25 given that they seem to have been approved, it seems that maybe

1 we do want to allow that flexibility.

2 The other thing I'll mention on this one is, as Bob
3 Ward said, we would also support deleting the owner-occupancy
4 requirement here. It's unnecessary. It doesn't really make a
5 lot of sense to have an owner-occupancy requirement. We don't
6 require it in the RF zones. It's something unique to the R zones,
7 and it's unclear why it exists. It does create financing issues
8 for individuals who want to actually build an ADU. A bank has
9 to figure out, well, you know, is somebody going to live there;
10 are you going to continue living there; suddenly, if somebody has
11 to move for family reasons, for work reasons, whatever, they have
12 to kick the tenant out of their ADU, that -- it's not a great
13 situation, and we would support removing that requirement. It
14 really inhibits ADU production, as we've seen in other
15 jurisdictions.

16 And then on the second agenda item about the side and
17 rear setbacks, we oppose this proposal. It should be -- OP states
18 that they're requiring side and rear setbacks for privacy or
19 light considerations. They don't enumerate them, but they note,
20 themselves, in this hearing, that those privacy and light
21 considerations don't always apply, so it does seem like we could
22 enumerate some of those privacy and light considerations and
23 impose the setback there, if necessary. A lot of what this --
24 what we've talked about today has actually been not about privacy
25 and light at all; it's been about building maintenance for the

1 owner of the building to be able to, you know, paint or do other
2 things to their own structure, and it's been mentioned there are
3 some workarounds around that.

4 I would say that to the extent that that is a concern,
5 it's a cost that would ultimately be borne by the owner, if their
6 neighbor didn't want to allow the hem on their property. And so
7 the decision of whether or not to bear that cost should be made
8 by the owner. I don't know that it's the appropriate role of
9 zoning to prohibit you from building in an area where it might
10 be -- you know, you feel like you're going to make a mistake
11 later on. OP acknowledges, in their own report, that the proposal
12 would disincentivize the provision or conversion of an accessory
13 building. They also note that they have -- I'm quoting here --
14 "weighed this against the benefits to both adjacent neighbors
15 and, if the building contains a dwelling unit, the resident of
16 that unit" --

17 MS. SCHELLIN: Time.

18 MR. SENDROS: -- end quote. And I will wrap up with
19 this. We just urge the Zoning Commission to consider that
20 adoption of this provision will mean, in some cases, that there
21 no longer is a resident of that unit and the benefit to that
22 person of a home outweighs any poorly-defined light and privacy
23 considerations. Thank you so much for your time.

24 CHAIRMAN HOOD: Okay. Thank you. Hold tight. We may
25 have some questions. Ben Field. There you go.

1 MR. FIELD: Sorry. I'm just trying to turn on the
2 right camera. Thank you to the Commission for allowing me to
3 speak this evening. I've -- my name is Ben Field. I'm a
4 homeowner in Columbia Heights in Ward 1, and, overall, I just
5 want to comment in support of the changes, and, if anything, they
6 should be going further, and so my overall comments are in support
7 of -- I agree wholeheartedly with what Mr. Ward said and what
8 DC YIMBY's proposals to further liberalize the ADU system.

9 You know, as someone who's in my 30's, I have lots of
10 contemporaries who, you know, are starting families and feel the
11 need to move out of the city, because it's just not affordable,
12 and, if they had more options to build ADUs on their property,
13 that would make that more viable for them. And, of course, also,
14 people I know and potentially myself in the, you know, next five
15 or ten years are having to deal with caring for parents and other
16 older loved ones, and having great opportunities for ADUs would
17 make that much more possible without having to leave the District.

18 At the same time, I work in Arlington, and many of my
19 younger colleagues there live out in northern Virginia. They
20 would live to be able to live in the District, but it's, again,
21 just not possible for many of them who are at the start of their
22 career, haven't yet reached the earning potential to be able to
23 do that, and I think having opportunities like ADUs, like Ms.
24 Olsen was talking about would really make that more possible for
25 them. So, overall, I would just urge the Commission to take what

1 OP is doing and, if anything, push it further to make it easier
2 for people to build ADUs that would make DC more affordable and
3 provide more options for people to live the way they want to
4 live.

5 And I'll just comment on two specific points. First,
6 on OP's proposal with -- regarding accessory apartments in the
7 RF zone, you know, I'm a lawyer; you know, I have -- do cases
8 that sometimes touch on land use regulations, and I know that
9 ambiguity is really the enemy of being able to predict what you
10 can do with your property, and so I applaud OP for -- it seems
11 like their intention is to liberalize in a good direction, but
12 if people can't tell whether it's a liberalizing regulation or a
13 restricting regulation, I think that's a sign that the language
14 needs to be clarified to make very clear that it's liberalizing.
15 And I took from OP's comments or testimony today that the goal
16 is to both insure that the existing liberal regulations for
17 apartments are kept in place and that ADUs are allowed, and
18 it seems like we just need to make sure that the language actually
19 accomplishes that goal, and I would support that.

20 And then the final thing I'd say is I would, you know,
21 just triple down on what Mr. Ward and Mr. Sendros has said, with
22 respect to considering ending the owner-occupancy requirements
23 altogether. It seems like a pretty extreme prophylactic, when
24 there are already plenty of regulations in place to directly
25 regulate whatever the regulation is meant to serve. Making

1 | somebody be a professional babysitter does not seem like it's the
2 | best use of the city's regulatory resources, rather than just
3 | making as many housing units available as possible. You know,
4 | as they've said, if you can rent out your own home, it doesn't
5 | really make a lot of sense not to be able to rent out two homes
6 | and give twice as many families an opportunity to live in the
7 | District. Thank you for your time.

8 | CHAIRMAN HOOD: Thank you. I think we have gotten
9 | everyone I see, so thank you all for your testimony and your
10 | comments. Let's see if we have any follow-up questions or
11 | comments. Vice Chair Miller.

12 | VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
13 | you, Bob Ward, Hannah Olsen, Dennis Sendros, Ben Field, for all
14 | your testimony. Appreciate it, and understand where you're
15 | coming from. So I really don't have any questions at this time.
16 | I would just make the other -- well, I talked -- Mr. Sendros, you
17 | might have heard me have a dialogue with OP about -- I was asking
18 | him for his reaction to the testimony that you could have an
19 | individualized -- and on the setback issue for the accessory
20 | building, yours and other's testimony that you could somehow
21 | write in and clarify that when privacy and light is at issue,
22 | which it could go through a special exception when it isn't --
23 | I'm not sure how to write that. I'm not the one writing the
24 | regulations. It's OP's proposal, but as someone who's written a
25 | lot of regulations and legislation, I don't know how you would

1 write -- that's what the special exception individual case-by-
2 case process is to determine, if there is a privacy and light
3 issue or air issue. I think I -- I don't think I sat on the same
4 case -- BZA case, because we don't have two Commissioners sitting
5 on the same case, that Commissioner Wright sat on, but I think I
6 watched it. I think I might have sat on a similar case, and the
7 special exception process allowed us to explore with what could
8 be done to mitigate whatever the concern was from the adjacent
9 neighbor in that particular case. I don't remember the facts
10 right now. It's a couple years ago. But, anyway, I would just
11 make that comment, that if you have language you want to offer,
12 that we would certainly consider it and look at it.

13 MR. SENDROS: We could take a look at that, but I
14 actually want to jump in to just mention, Cheryl Cort is telling
15 me that she's on the line and would also like to testify. I
16 suppose she meant to, and I don't know if she just didn't make
17 the list, but I just wanted to jump in with that. I'm sorry.

18 VICE CHAIR MILLER: Oh, no. Thank you for letting
19 us -- thank you for letting us know.

20 CHAIRMAN HOOD: Let me just say this, and I appreciate
21 it, but I've already been notified that Ms. Cort is here. We're
22 going to bring her right up as soon as we finish with this panel.
23 Our staff is definitely on their game, so game recognizes game.
24 We're good, so thank you. All right. Commissioner -- Vice Chair
25 Miller, you can go ahead and finish.

1 VICE CHAIR MILLER: Oh, I'm finished. Thank you. I
2 thank each of you for your comments.

3 CHAIRMAN HOOD: Commissioner Wright.

4 COMMISSIONER WRIGHT: Thanks. And I do want to just
5 clarify my position, my concern about the three-foot setback. It
6 is not about light and air; it is about practicality of actually
7 being able to paint and do maintenance to a building without
8 having to go on to your neighbor's property to do it. And this
9 is only in the R zones, which generally have a little more wiggle
10 room and space, so I really, really doubt that shifting a building
11 three feet over is going to somehow mean that there won't then
12 be an accessory dwelling unit. I think that it is really, for
13 the most part -- you know, again, these are not on the tight RF
14 lots. We're talking about, you know, the R lots that have more
15 space, and this is practical. It's not about the light -- for
16 me, at least, it's not about the light and air, and I don't think
17 it will result in many accessory dwelling units not being built.
18 So that's -- I just wanted to make that comment.

19 CHAIRMAN HOOD: So I do have a question for you, Mr.
20 Ward. I want to make sure I paraphrase. So you wanted us --
21 you want us to do the ADU similar to how the short-term rental
22 is in the District of Columbia or you want us to not do it as
23 the short -- like a short-term rental is?

24 MR. WARD: No, I think the point I was making is I
25 understand some of the concerns that I've heard when I've brought

1 up owner-occupancy with people, that it's -- you know, what about
2 short term rentals? And I think DC has a bunch of statutes that
3 govern short-term rentals. That doesn't have to be addressed by
4 the zoning code; that the zoning code requires owner-occupancy
5 for the accessory dwelling unit, I think, just doesn't make sense.
6 It's -- like I said, I live -- I have a single-family home. I
7 can rent it out to whomever I want, and I can leave DC; I can go
8 wherever. No one's minding that house; that we need to have a
9 minder for the other unit on that property seems a bit
10 paternalistic.

11 CHAIRMAN HOOD: So the short-term rental, which it
12 was -- which did come in front of this Commission, which I didn't
13 necessarily agree with, but it kind of goes in line -- so the
14 short-term rental actually has to be owner-occupied, and you
15 can -- the other unit, you can -- you have to be on the property.
16 And I thought we were patterned after Montgomery County. I know
17 that I have an expert here on Montgomery County's way, but I'm
18 not going to get into that now, but I do not agree with the way
19 we ended up, because I know it really slighted a lot of other
20 people in the city, but we ended up where we are and that's what
21 we're dealing with. So I think I -- I guess what I was trying
22 to figure out -- understand what you were saying -- I think, Mr.
23 Ward, you and I are saying the same thing. I think we are. I
24 think we are.

25 MR. WARD: Okay. Thanks.

1 CHAIRMAN HOOD: All right. Well, thank you all. I
2 appreciate it. And, Mr. Sendros, DC Yes In My Back Yard, thank
3 you for letting us know Ms. Cort is here, so thank you all --
4 thank this panel. We appreciate y'all. Let's bring Ms. Cheryl
5 Cort up. And, Ms. Schellin, do we have anyone else who's in
6 support?

7 MS. SCHELLIN: I don't believe Samantha Gupta was here
8 when we called her name. I just want to call it one more time,
9 have Mr. Young look at second time, another set of eyes.

10 MR. YOUNG: I don't see her.

11 MS. SCHELLIN: And I want to thank Mr. Sendros for
12 wishing me a happy birthday. Thank you.

13 CHAIRMAN HOOD: Okay. And we'll see if we can get
14 you out of here by ten o'clock, so you can enjoy your birthday.
15 All right. Ms. Cort, you may begin.

16 MS. CORT: Thank you, Chair Hood. I am speaking on
17 behalf of the Coalition for Smarter Growth, and we -- as you'll
18 remember, we were very much involved in the creation of accessory
19 dwelling units and the ancillary RF policies, and so we're really
20 happy to be here to support these proposals to expand the
21 footprint of -- the maximum footprint for an accessory building.
22 That is something we -- was high on our list to reform, so we
23 support what is proposed, but we actually have suggested that we
24 look at 400 (sic) -- 650 square feet, because that would create
25 more flexibility for minimal clearances for wheelchairs and

1 shared living for, say like, an aging-in-place couple or a parent
2 with a child with a disability. And so that's sort of the logic
3 there.

4 And then we also really appreciate the proposal to
5 remove the five-year waiting period for the RF zone new
6 construction or expansion of an accessory building in RF, and are
7 eager to say that is another impediment that we think is -- really
8 wasn't that great when it was proposed and has definitely outlived
9 its usefulness, so we're very excited about that. And I just
10 want to reiterate with my allies here that we, too, see owner-
11 occupancy as a -- as a -- it's considered that and parking
12 replacement requirements are sort of like the chief impediments
13 to creating accessory units. Thank you.

14 CHAIRMAN HOOD: Okay. Thank you, Ms. Cort. As always,
15 we appreciate you all diving into a lot of our cases, not just
16 this one, but all of them and giving us your testimony and input.
17 Vice Chair Miller, you have any questions of Ms. Cort?

18 VICE CHAIR MILLER: Thank you, Mr. Chairman. No. It's
19 good to see you, Ms. Cort, and we do appreciate your advocacy
20 from the outset on the accessory dwelling units and buildings,
21 and I think you've done educational efforts to try to educate the
22 public as to how you can get -- how you can development an ADU
23 under the existing regulations as well, even with the impediments
24 that currently are there, but I appreciate you -- appreciate you
25 being here.

1 CHAIRMAN HOOD: And Commissioner Wright.

2 COMMISSIONER WRIGHT: No questions. I think, at least
3 from the discussions we've had thus far, we seem to agree with
4 Ms. Cort on a lot of the suggestions that are being made, so
5 thank you.

6 CHAIRMAN HOOD: All right. Thank you again, Ms. Cort.
7 We appreciate all of your testimony. All right. Ms. Schellin,
8 I think we've gotten everyone in support. Let's go to opposition.

9 MS. SCHELLIN: I believe we have, and we just have a
10 couple more. We've got a couple in opposition; Brian Gaffney;
11 Nancy MacWood with the Committee of 100; Brittany Sawyer with
12 Citizens Association of Georgetown; and Andrea Pedolsky,
13 Cleveland Park Historical Society. Those are the four in
14 opposition.

15 CHAIRMAN HOOD: Okay.

16 MS. SCHELLIN: And I will have two undeclared, when
17 you're ready.

18 CHAIRMAN HOOD: Okay. The only one I see up right now
19 is Nancy MacWood.

20 MS. SCHELLIN: Okay. Well, that's who I have on the
21 list, and I guess she's the only one available then or the only
22 one on.

23 CHAIRMAN HOOD: Okay. Well, let's bring up the two
24 undeclared.

25 MS. SCHELLIN: Okay. Kirby Vining and Andrew DeFrank.

1 CHAIRMAN HOOD: Okay. All right. So, with that, thank
2 you, Ms. Schellin. Let's go -- Ms. MacWood, you may begin,
3 whenever you're ready.

4 MS. MACWOOD: Okay. I tried to start -- I can't get
5 the video to work, so I apologize for that. Let me say happy
6 birthday to Sharon, right off the bat. Hope your workday ends
7 soon, so you can leave and go celebrate. I'm Nancy MacWood, and
8 I'll be testifying tonight on behalf of the Committee of 100.

9 With amendment 16, the Office of Planning proposes a
10 series of text amendments affecting the development standards for
11 accessory buildings in residential zones. The historic footprint
12 for an accessory building is 450 square feet. To accommodate the
13 option of using an accessory building as an accessory dwelling
14 unit, the Zoning Commission increased the maximum height to 22
15 feet and two stories. OP proposes to expand the footprint to
16 600 square feet in low-density R-1 and R-2 zones and 550 square
17 feet in R-3 and RF zones.

18 In the setdown report, OP offers no compelling reason
19 for the change and relies, instead, on the number of instances
20 that owners or developers have sought special exceptions. In our
21 view, it is not good policy to conclude that the use of an
22 appropriate relief mechanism is a reason to terminate the relief
23 requirement. That makes no sense. Most accessory buildings are
24 used as garages, but some have been renovated as dwelling units,
25 artist studios, and personal offices. With respect to accessory

1 dwelling units, OP reports 25 BZA cases seeking size relief since
2 2016, which is not an overwhelming number.

3 The current size would allow 900 square feet of living
4 space for up to three people. The average size of a new apartment
5 in DC is 745 square feet. A new two-bedroom apartment averages
6 969 to 982 square feet. Thus, a 900-square-foot accessory
7 dwelling unit is consistent with housing alternatives in DC. The
8 current size maximum is adequate for apartments in multiunit
9 buildings, so why is it not in accessory buildings?

10 In the RF zones, the lot size is typically 800 square
11 feet, with an 18-foot lot width and a 20-foot rear yard. Adding
12 a 550-square-foot accessory building, which could be more than
13 18 feet by 30 feet, on an RF lot would significantly reduce
14 available open space. In my -- in my submitted testimony, I
15 provided an illustration from your Case 24-20, which showed --
16 which was provided by OP, which showed a 450-square-foot
17 accessory building permitted partially in the rear -- required
18 rear yard, which is now -- which is now approved. So you can
19 imagine what an accessory building that is 550 square feet would
20 look like. Committee of 100 finds no reason to increase the size
21 of accessory buildings, and we urge the Zoning Commission to
22 continue to use the special exception process on a case-by-case
23 basis to review the merits of waiving the current regulations.

24 With respect to amendment number 17, OP is proposing
25 to establish a minimum side and rear setback requirement for

1 accessory buildings in R Zones. The proposal, in our view, would
2 not mitigate the potential impact of an increase in the size of
3 an accessory building in an R or RF zone. A larger accessory
4 footprint and the new permission to build in the required rear
5 yard means accessory buildings can be closer to main structures.
6 It makes sense to reference the side-yard setback rules, when the
7 accessory building is in the side yard. R-1, R-2, and R-3 zones
8 have greater side-yard requirements than the three feet OP is
9 proposing. Again, in the illustration I provided, to show the
10 effect of allowing accessory buildings in the required rear yard,
11 OP seems to have provided nearly an eight-foot side yard, which
12 is the side-yard requirement R-1-B. Imagine if the side yard
13 were reduced to three feet, as OP proposes, particularly if the
14 footprint for the accessory building increases. We urge the
15 Zoning Commission to not create a situation where neighbors
16 resent the encroachment of accessory buildings. We recommend
17 requiring compliance with side-yard requirements when accessory
18 buildings are in the required rear yard, and we urge the retention
19 of special exceptions for enlargement of the current 450-square-
20 foot footprint.

21 With respect to amendment 18, OP is proposing to
22 clarify that an accessory apartment is not permitted use in the
23 RF, RA, and MU zones. The Committee of 100 has no objection to
24 the OP proposal to clarify in the zoning regulations that
25 accessory apartments are not permitted in RF, RA, or MU zones.

1 However, we question whether the clarification for RF and RA
2 zones should be in the development standards under density, which
3 is the OP proposal, rather than in the zone purpose and intent
4 section for each. We think that is probably a more appropriate
5 place for the zoning language. We urge the Commission to consider
6 adopting the proposed language as part of Subtitle F-101 and
7 Subtitle G-101.

8 With respect to amendment 24, OP is proposing to remove
9 the existing requirements applicable to RF zones, that before a
10 dwelling unit is permitted within an accessory building that is
11 in the required setbacks, the building must have been in existence
12 prior to January 1, 2013, and expansion of an accessory building
13 for an apartment be permitted only by special exception.

14 The RF zones, as you all have been discussing tonight,
15 permit two principal units by right on the property. As part of
16 ZR-16, this permission was expanded to allow one of the two units
17 to be within an accessory building on the property. However, due
18 to concerns raised at the time, the restrictive provisions set
19 forth above were added. Since the Zoning Commission has already
20 approved the expansion or construction of accessory buildings
21 into the required rear yard, the restrictions on waiting five
22 years to convert such structures to housing seems inconsistent.
23 The Committee of 100 does not oppose eliminating that
24 restriction, but, as Joel mentioned at the very beginning, we
25 would like clarification, with perhaps a language proposal from

1 OP, on whether any of its proposed amendments --

2 MS. SCHELLIN: Time.

3 MS. MACWOOD: -- conflict with number 18, which deals
4 with the same issues. I understand what the Office of Planning's
5 intention is, but the language, I think, needs further
6 clarification. It's still quite confusing. Thank you very much.
7 Appreciate the opportunity to testify.

8 CHAIRMAN HOOD: All right. Okay. Thank you. Let's --
9 Ms. MacWood, you can mute now. Let's go to Mr. Vining. You may
10 begin.

11 COMMISSIONER VINING: Kirby Vining, representing ANC
12 5E, On exactly one part of the amendments there, number 17 -- and
13 we submitted oppose, as it would have -- this is the side yard
14 setbacks and the rear yard setbacks -- oppose, as it would have
15 a negative impact on RF-1 and RF -- R-1 -- RF-1 and R-3 -- that's
16 a typo -- R-3 residences, which is the dominant housing type in
17 5E.

18 This document comes out of the Zoning Committee of ANC
19 5E that I've participated in for many years, and almost all the
20 cases that come before our Zoning Committee are someone trying
21 to do something in their backyard that deals with the 60 percent
22 lot occupancy, and that involves a garage, a deck, maybe both,
23 sometimes a garage with a deck on top of it. And these lots,
24 R-1 -- RF-1 and R-3, these are narrow little lots, about 16, 18,
25 20-feet wide and people are trying to make the best considered

1 use of their backyards.

2 And if you walk down most of the alleys in Stronghold
3 and Bloomingdale neighborhoods here, you see most of them have
4 something right up against the alley there, whether it's a garage,
5 an ADU, a workshop, a deck on top, those sorts of things. And
6 the difference would be, we're going to continue to deal with a
7 60 percent lot occupancy, but the side setback would make the
8 difference of having a possible two-car garage, which benefits
9 everybody in the neighborhood, gets those cars off the street,
10 gets the owners a safe way to put them, possibly turning that
11 into a one-car garage. It seems unnecessarily burdensome. The
12 kinds of discussions we've had when people make these proposals,
13 we always insist that they try to find some comment from their
14 immediate neighbors.

15 Earlier we had some comments about access to these
16 things. We haven't heard that. What we have heard is, on
17 occasion, a deck on top of a garage, for example, is depriving
18 the privacy of a neighbor, and they work something out; we'll put
19 up a screen here, take that window down, or what not. And the
20 comment that I would like to make, following up directly on our
21 proposal there -- we had to work through various different
22 wordings here -- we were going to initially mention that this may
23 be very appropriate for R-1, R-2 zones, but in our little
24 backyards with R-3 and RF-1, we all deal with extreme close
25 proximity -- we all have party walls -- wondering if the Office

1 of Planning would consider either exempting the rowhouse
2 neighborhoods, R-3 and RF-1, or -- we didn't do that in our
3 comment there, because we can't comment directly on R-1 and R-2;
4 we don't have any, but perhaps itemizing what would be the
5 appropriate R zones for this consideration. And I've heard a lot
6 of discussion here for the very large R-1 and R-2 yards. There's
7 great concern about -- they may have tennis courts, a swimming
8 pool, whatever you got down there. We don't have that kind of
9 thing. We've got a garage, at most, in there. So wondering if
10 a remedy here might be for OP to consider either specifying which
11 R zones, not including R-3 and RF-1, or an exemption for R-3 and
12 RF-1 because of the concerns that we have raised. Thank you.

13 CHAIRMAN HOOD: Okay. Thank you. Let's see if we have
14 any questions. Vice Chair Miller, you have any questions of this
15 panel?

16 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
17 you, Nancy MacWood and Kirby Vining, for your thoughtful
18 testimony this evening. I have no questions.

19 CHAIRMAN HOOD: Okay. Commissioner Wright, you have
20 any questions of this panel?

21 COMMISSIONER WRIGHT: I am going through to make sure
22 I understand the rules, but my understanding -- and, again, if
23 Office of Planning or our legal staff want to correct me, please
24 do -- that the three-foot setback is only proposed to be in the
25 R zones; it is not proposed to be in the RF zones. So I'm

1 | looking, you know, at our staff report, where it actually has the
2 | underlined of the new language that's being added, and it talks
3 | about the accessory building side and year setbacks in the R
4 | zones, Subtitle D-5004 and 5201 in the Residential House R zones
5 | and in Chapter 11 of the Georgetown Residential House zones. So
6 | I think that Mr. Vining's concern may already be covered in what
7 | is being proposed. I think I'm correct.

8 | CHAIRMAN HOOD: All right. Mr. Lawson, are you
9 | available?

10 | MR. LAWSON: I am. Good evening.

11 | CHAIRMAN HOOD: Could you respond please?

12 | MR. LAWSON: Yeah, just very quickly. Yeah, we had
13 | originally proposed a setback to an accessory building in the RF
14 | zones, due to feedback from various people, including, I believe,
15 | this ANC. We removed that recommendation for a setback in the
16 | RF zones a little while ago.

17 | MR. VINING: But it would still apply to R-3; is that
18 | correct?

19 | MR. LAWSON: I'm sorry. Chair, is it fine for me to
20 | respond to questions from a member of the public?

21 | CHAIRMAN HOOD: Yeah, it's fine. Thank you. Thank
22 | you.

23 | COMMISSIONER WRIGHT: Yeah, I don't know, so please do.

24 | CHAIRMAN HOOD: Yes.

25 | MR. LAWSON: Yes, as proposed currently, it would still

1 | apply in R-3.

2 | CHAIRMAN HOOD: So, Mr. Vining, I think that satisfies
3 | your concerns, correct?

4 | MR. VINING: The statement that we submitted then, you
5 | could take RF-1 out of consideration there, as it would have a
6 | negative impact on RF-1 and R-3 residences, but the R-3 residences
7 | are still concerned. Basically, the same kind of space, very
8 | small backyards, 16, 18 feet in many cases there; very concerned
9 | about the requirement for the side setback in R-3.

10 | CHAIRMAN HOOD: Okay. Well, we'll deliberate. We've
11 | heard you. I think, Commissioner Wright and Vice Chair Miller,
12 | we'll talk about it, as we get ready to deliberate, and we'll
13 | see where we end, and then there will be another rule -- another
14 | rule-making going out, and you'll have a second bite of the apple,
15 | if we don't satisfy your requirements at that time. Any
16 | questions -- other questions from either one -- Vice Chair or --

17 | VICE CHAIR MILLER: (Shakes head negatively.)

18 | COMMISSIONER WRIGHT: (Shake head negatively.)

19 | CHAIRMAN HOOD: Okay. Well, thank you both, Ms. MacWood
20 | and Mr. Vining. We appreciate you all's testimony. Thank you.

21 | MS. SCHELLIN: Chairman Hood, if I --

22 | CHAIRMAN HOOD: Yes.

23 | MS. SCHELLIN: -- if I may, Will Teass was on the
24 | list -- or he was actually left off of my list. However, he did
25 | sign up October 31st for last Monday and this Monday. Would the

1 Commission indulge him?

2 CHAIRMAN HOOD: Yes.

3 MS. SCHELLIN: He was signed up to support -- in
4 support.

5 CHAIRMAN HOOD: Okay. In support. Is he -- okay.
6 We'll bring Mr. Teass up. Is there anyone else?

7 MS. SCHELLIN: No one else.

8 CHAIRMAN HOOD: Okay. All right. Mr. Teass, you have
9 the last word.

10 MR. TEASS: Good evening, Commissioner Hood and members
11 of the Zoning Commission. I will -- I'll keep this brief, as
12 we're generally in strong support of everything that we've heard
13 tonight, specifically the idea that we can create additional
14 space by increasing the building area footprint of accessory
15 dwellings or accessory structures. I think it's a great move
16 forward for the city. I think the idea that we take those
17 structures on the detached lots of the R zone to 650 square feet
18 as a maximum building footprint is a step in the right direction.
19 I think that adding another 50 feet to the proposal so that the
20 building area on the RF zones to 550 square feet makes a lot of
21 sense as well.

22 In terms of the accessory buildings, I think we concur
23 with Commissioner Wright in that there's an expectation in the
24 RF zones where, when you're building lot line to lot line, that
25 you have to sort of work out maintenance issues with your

1 neighbor; however, when you move to the R zones, providing some
2 setback from the property line for accessory structures makes a
3 lot of sense, with regard to building maintenance and other
4 constructability issues.

5 I think in both of these cases, the idea that special
6 exceptions relief is available for going from 60 to 70 percent,
7 for example, in the RF zones sort of makes -- gives you a
8 mechanism by which to control the size and scale of these things,
9 as they relate to the initial structure -- or the principal
10 structure, rather.

11 We don't take any issue with the clarifications
12 proposed to accessory buildings and apartments -- I'm sorry --
13 accessory apartments. We think it's a step in the right
14 direction. And then we would just finally like to applaud the
15 Zoning Commission and the Office of Planning for eliminating the
16 five-year wait. This was an undue hardship for homeowners who
17 made the decision to invest in an accessory structure and then
18 having to wait five years for them to use it as an accessory
19 structure. So, with that, I will conclude my testimony this
20 evening.

21 CHAIRMAN HOOD: Okay. Thank you. Colleagues, any
22 questions of Mr. Teass?

23 COMMISSIONER WRIGHT: (Shakes head negatively.)

24 CHAIRMAN HOOD: Vice Chair Miller.

25 VICE CHAIR MILLER: No, no questions. Thank you, Mr.

1 Teass, for your participation in these hearings.

2 CHAIRMAN HOOD: Okay. Yeah, we, too, want to thank
3 this whole panel. I'm not sure where Ms. MacWood went, but we
4 want to thank you all for your -- providing testimony, so thank
5 you. Have a great evening. All right. Ms. Schellin, I don't
6 think we have anyone else.

7 MS. SCHELLIN: You are correct.

8 CHAIRMAN HOOD: Okay. So our last meeting, I don't
9 know if anybody wants to do this -- you know what? I probably
10 should have called a special public meeting at the very beginning.
11 I can tell you what we're going to do. This coming Thursday, if
12 it's okay with my colleagues, when we come on we'll do an
13 emergency meeting. That way I won't -- I won't be out of
14 compliance with BEGA, so we'll do it -- when I first come on,
15 I'll call the meeting and we'll go -- I'm letting the public
16 know, we're going to go into an emergency meeting. I don't know
17 how long it's going to be. It shouldn't be long. And then we'll
18 come back and do our hearing. Any objections to moving in that
19 fashion?

20 COMMISSIONER WRIGHT: (Indicates thumbs up.)

21 VICE CHAIR MILLER: No objection.

22 MS. SCHELLIN: Chairman Hood --

23 CHAIRMAN HOOD: Yes.

24 MS. SCHELLIN: -- if you vote tonight, then it's not
25 a -- it won't be an emergency; it'll just be a regular closed

1 meeting, if you'd like.

2 CHAIRMAN HOOD: I was -- I was not the best student in
3 school, but BEGA has informed me they want me to do this -- that
4 when I make that announcement, do it at the beginning, and I
5 didn't do it at the beginning.

6 MS. SCHELLIN: Oh, okay. Got you.

7 CHAIRMAN HOOD: I'm going to keep myself in compliance.

8 MS. SCHELLIN: I see. They want to do it when there's
9 lots of people.

10 CHAIRMAN HOOD: Exactly. So I did not do that, so I
11 figured that out, and we'll do it that way. Okay. Ms. Schellin,
12 anything else tonight?

13 MS. SCHELLIN: No, sir. That's it. Four o'clock on
14 Thursday.

15 CHAIRMAN HOOD: We want to wish you a -- you got the
16 rest of the evening. It wasn't ten o'clock, like we were shooting
17 for. You got a long time to enjoy your birthday.

18 MS. SCHELLIN: Thank you. I appreciate it.

19 CHAIRMAN HOOD: So, with that, thanks everyone for
20 their participation, and this hearing is adjourned. See
21 everybody Thursday.

22 (Whereupon, the above-entitled matter was adjourned at
23 6:26 p.m.)

24

25

C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Hearing - Case No. 25-12

Before: DC Zoning Commission

Date: 11-10-25

Place: Webex Videoconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Deborah B. Gauthier