

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :

:

TEXT AMENDMENT TO PERMIT PET :

GROOMING, PET SHOPS, VETERINARY : Case No. 05-21A

HOSPITALS, AND ANIMAL SHELTERS :

AS SPECIAL EXCEPTION USES WITHIN :

THE C-2, C-3, C-4, C-M AND M :

ZONE DISTRICTS :

-----:

Thursday
June 29, 2006

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 05-21A by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

| | |
|---------------------|--------------------|
| CAROL J. MITTEN | Chairperson |
| ANTHONY J. HOOD | Vice-Chairperson |
| JOHN PARSONS | Commissioner (NPS) |
| MICHAEL G. TURNBULL | Commissioner (AOC) |

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
JENNIFER STEINGASSER

D.C. OFFICE OF THE ATTORNEY GENERAL:

JACOB RITTING, ESQ.

The transcript constitutes the minutes
from the Public Hearing held on June 29, 2006.

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

6:30 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, June 29, 2006. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood, and Commissioners Mike Turnbull and John Parsons.

The subject of this evening's hearing is Zoning Commission Case No. 05-21A. It's a request by the Office of Planning for a text amendment to Title 11 of the District of Columbia Municipal Regulations to define and permit pet grooming, pet shops, veterinary hospitals, and animal shelters as special exception uses within the C-2, C-3, C-4, C-M and M Zone Districts.

Notice of today's hearing was published in the D.C. Register on May 5, 2006, and copies of that hearing announcement are available to you, they are on the table by the door.

This hearing will be conducted in accordance with the provisions of 11 DCMR, Section 3021, and the order of procedure will be as follows. We'll take up any preliminary matters, then we'll have the presentation by the Office of Planning, we'll hear

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1 from any other government agencies, we'll have the
2 report of affected ANCs, organizations and persons in
3 support, and organizations and persons in opposition.

4 We'll maintain the following time
5 constraints in the hearing, organizations will have
6 five minutes and individuals will have three minutes.
7 The Commission intends to adhere to these time limits
8 as strictly as possible in order to hear the case in
9 a reasonable period of time.

10 We reserve the right to change the time
11 limits for presentations as necessary, and note that
12 no time shall be ceded.

13 All persons appearing before the
14 Commission are to fill out two witness cards. They
15 look like this. These cards are also on the table by
16 the door, and upon coming forward to speak to the
17 Commission please give both cards to the reporter who
18 is sitting to our right.

19 Please be advised that this proceeding is
20 being recorded by the court reporter, and is also
21 being webcast live. Accordingly, we ask you to
22 refrain from making any disruptive noises in the
23 hearing room.

24 When presenting information to the
25 Commission, we ask you to come forward, take a seat at

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1 the table, and then turn on the microphone. There's
2 a button in the base, and then state your name and
3 address when you begin.

4 When you are finished speaking, please
5 turn off the microphone, because they tend to pick up
6 background noises.

7 The decision of the Commission in this
8 case must be based on the public record. To avoid any
9 appearance to the contrary, the Commission requests
10 that persons present not engage the members of the
11 Commission in conversation during a recess or at any
12 other time, and Ms. Schellin will answer any
13 procedural questions that you might have during the
14 hearing, so feel free to come forward if you have any.

15 I'd ask that you turn off all beepers and
16 cell phones, so as not to disrupt the proceeding.
17 I've always got to remember that one.

18 All right. Now, we'll take up any
19 preliminary matters.

20 Ms. Schellin, anything?

21 SECRETARY SCHELLIN: Staff has nothing.

22 CHAIRPERSON MITTEN: Okay, then we are
23 ready to turn to the Office of Planning.

24 Good evening, Mr. Mordfin.

25 MR. MORDFIN: Good evening, Chair and

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1 Members of the Commission, I'm Stephen Mordfin with
2 the Office of Planning.

3 Since the filing of the final report in
4 December of 2005, the Office of Planning made the
5 following revisions to the recommendations contained
6 within that report, pertaining to pet shops, pet
7 grooming, veterinary hospitals and animal shelters.

8 First is to create a separate criterion
9 for the controlling of waste and odor, and this will
10 further ensure effective control of odor.

11 The second is to permit outdoor runs
12 associated with animal shelters, provided the outdoor
13 runs are located a minimum of 200 feet from any
14 residential zone district, used only between the hours
15 of 8:00 a.m., and 8:00 p.m., and are for exercise
16 only, and the dogs shall sleep and eat inside. This
17 will allow for outdoor runs for animals that must be
18 kept at the shelter, while minimizing the impact to
19 residential uses.

20 The provisions also include to permit
21 animal shelters as a matter of right use within the
22 industrial zone districts, provided outdoor runs are
23 located a minimum of 200 feet from residential uses
24 and residential zone districts. And, the Office of
25 Planning makes this recommendation because the

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1 establishment of new residential uses is not permitted
2 within the industrial zone districts.

3 Next, permit veterinary hospitals as a
4 matter of right use within the C-2, C-3, C-4, and
5 industrial zone districts, similar to as they are
6 permitted today. Veterinary hospitals are different
7 from other animal-related uses, in that they only
8 board sick animals and not the healthy ones that are
9 most likely to make noise. Also, OP is unaware of any
10 problems currently resulting from this use currently
11 being permitted as a matter of right use.

12 And lastly, permit veterinary hospitals to
13 board non-canine pets as an accessory, provided the
14 boarding occupies less than 50 percent of the floor
15 area of the veterinary hospital. Non-canine pets are
16 smaller and have a lesser impact than do dogs,
17 therefore, the boarding of these animals will have a
18 lesser impact on the surrounding community. A special
19 exception will still be required for the boarding of
20 dogs, or for non-canine boarding occupying 50 percent
21 or more of a veterinary hospital.

22 Thank you.

23 CHAIRPERSON MITTEN: Thank you, Mr.
24 Mordfin.

25 Questions for Mr. Mordfin?

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1 COMMISSIONER PARSONS: No questions.

2 CHAIRPERSON MITTEN: Anyone have any
3 questions? Okay.

4 Are there any other government agencies
5 represented here tonight? Okay.

6 Then we will move to the reports of
7 affected ANCs. I see Mr. Jarboe here, are there any
8 other ANCs being represented here tonight? Okay.

9 Then you are flying solo tonight, Mr.
10 Jarboe.

11 MR. JARBOE: Do I need to be sworn in?

12 No, not for this type of hearing. We have
13 two kinds of hearings, we have contested cases, and we
14 have rulemaking cases, and we don't swear witnesses in
15 before rulemaking cases.

16 MR. JARBOE: Good evening, Madam Chairman,
17 and Members of the Commission. My name is Ken Jarboe.
18 I am ANC Commissioner for ANC 6B, testifying on behalf
19 of ANC 6B.

20 We, at our June meeting -- they are
21 passing out the testimony, so I'll just skim it over
22 really quickly -- voted to oppose this text amendment
23 on a very simple ground, that we are concerned that
24 the use of the word "abut a residential zone" for pet
25 grooming, pet shops, veterinary hospitals, and animal

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1 shelters, especially the first three, not so much
2 animal shelters because of their size, will
3 effectively eliminate or prohibit any those activities
4 on any of the commercial strips on Capitol Hill.

5 All of our commercial strips back up
6 against residential zones. And so, part of this, I
7 think, is the definition of "abut," whether or not
8 abut means -- I know what abutting a building means,
9 that they have to, essentially, touch, but I'm not
10 sure I know what abutting a zone means, and whether
11 it's the building that has to actually touch the zone,
12 or whether it's the lot that the building, that the
13 use is on, backs up against a residential lot.

14 If that's the case, then 90 percent of the
15 commercial strips that are C-2 on Capitol Hill, this
16 would not be an allowed use. Not that you would need
17 a special exception, but from the wording in this it
18 would be outright prohibited. They can always get a
19 variance, but we know getting a variance is timely,
20 costly and uncertain, especially in a case like this.

21 Our recommendation is that you take out,
22 especially for pet shops, pet grooming and veterinary
23 hospitals, although we are using the old definition of
24 veterinary hospital, not the new one here, I think,
25 take out the part that absolutely prohibits them in

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1 areas abutting residential zones.

2 I think you have the protection in there
3 that they have to go through special exception anyway.
4 If there are some problems, that's the time to raise
5 it. But, the absolute prohibition just worries us.

6 Now, personally, I think you could change
7 it so that if they abut a residential zone, then you
8 require a special exception, because we know the issue
9 here is the impact on the residential area. So, if
10 they don't abut a residential area, there's no
11 problem.

12 So, I think the wording could be played
13 with a little bit there, but it's the position of ANC
14 6B that we would like to see that absolute prohibition
15 on especially the three uses, animal shelters again
16 being larger, the three uses of grooming, pet shops
17 and veterinary clinics. I mean, what we are really
18 concerned about are the small veterinary clinics.

19 And again, we have a couple of those on
20 Capitol Hill. Under my reading of this, those would
21 not be allowed, and so that's the nature of our
22 concern.

23 CHAIRPERSON MITTEN: Very good, thank you.

24 Questions for Mr. Jarboe?

25 I appreciate you bringing this to our

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1 attention, because it's the kind of thing that, you
2 know, gets sometimes lost in the details.

3 So, thank you.

4 Okay, I have my witness list, and I will
5 call forward first folks who have signed up as in
6 support, and we'll take the folks in opposition
7 second. So first in support I have Howard Nelson, for
8 the Washington Human Society, Pat Yates, Al Collins,
9 Joan Ferraris, and we actually have enough chairs for
10 everybody so I'll call everyone up together, and
11 Andrea Doughty.

12 I recognize some of you people from our
13 other hearing.

14 Okay, Mr. Nelson, why don't you go first,
15 and you'll have five minutes, and then everyone else
16 will have three minutes.

17 MR. NELSON: And, can I ask a procedural
18 question?

19 CHAIRPERSON MITTEN: Sure.

20 MR. NELSON: We are in support, we are not
21 in support of the current text amendment, but we are
22 in support of the proposed changes by the Office of
23 Planning, so I'm not sure if I'm a proponent or
24 opponent.

25 CHAIRPERSON MITTEN: We are not like super

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1 strict about these things.

2 MR. NELSON: Okay. All right, this is my
3 first hearing.

4 CHAIRPERSON MITTEN: No, it's good to ask.

5 MR. NELSON: My name is Howard Nelson, I'm
6 the Executive Director of the Washington Humane
7 Society, and like I just mentioned we are here in
8 support of the proposed changes as presented by Steve
9 from the Office of Planning.

10 I'm with the Washington Humane Society,
11 which was chartered by Congress in 1870, to protect
12 animals in the District of Columbia. We provide care
13 for 95 percent of the homeless, lost and abused
14 animals in the District. We operate two shelters in
15 the District. We run animal control under a contract
16 with the City, and we also run a low-cost spay and
17 neuter clinic.

18 In our animal shelters, which is the
19 portion of the text amendment that I'm addressing this
20 evening, we provide the following important functions
21 to D.C. residents. We care for stray, abandoned and
22 homeless animals. We provide a lost and found
23 function which reunites lost and stray animals with
24 the D.C. residents. We provide adoptions, which
25 provide the second chance for homeless animals in the

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1 District. We provide low-cost spay and neuter
2 services, low-cost vaccination services in our
3 shelter, behavioral training for D.C. residents, and
4 we also help residents with wildlife issues and with
5 any other animal-related issues that they may have.
6 So, we provide an important service for D.C.
7 residents, and because animals are not allowed on
8 Metro, proximity to the neighborhoods and location is
9 extremely important to provide services for animal
10 shelters in the District.

11 We've been working with the Office of
12 Planning on this text amendment, and we thank them for
13 their efforts.

14 We support the adoption of the language in
15 the amendment to control the odor and animal waste,
16 the location of animal shelters as a by right use in
17 industrial zones, as the use is no more intensive than
18 many other currently allowed by right, the requirement
19 to locate any new shelter no less than 200 feet from
20 the residential zone we support, the current text
21 amendment in its form, the restriction is 1,000 feet,
22 which is a three-foot ball field, and based upon our
23 review of the planning map we could not find any
24 industrial zones that were in excess of 1,000 feet
25 from residential zones, so, basically, we read the

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1 current form of the text amendment as no animal
2 shelters, no new animal shelters in the District. We
3 could not find any that did not abut a residential
4 area by less -- by more than 1,000 feet, I should say.

5 But, we also understand that we would like
6 to have the text amended for 200 feet proximity, and
7 we would allow, with the understanding that dogs would
8 only be outside from 8:00 a.m., to 8:00 p.m., and that
9 they would be inside during evening hours and, of
10 course, we would comply with current noise
11 restrictions and requirements.

12 There's just one other thing I'd like to
13 say. It's very important to understand how outdoor
14 dog runs are extremely important in a shelter, and
15 that we can manage the noise and the waste. Dogs in
16 a shelter need a few weeks to be adopted. If they are
17 not allowed outside, they don't shelter well, they
18 don't handle well in the shelter, and then they are
19 less likely to get adopted. So, what that means is, if
20 they are less likely to get adopted more animals will
21 be euthamized and more animals could die if they are
22 not allowed to be outside some portion of the day,
23 just like humans, everybody needs some natural light
24 and some access to the outside environment, and can't
25 be expected for two weeks to a month to be restricted

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1 to inside use.

2 Then in closing, on behalf of the lost,
3 homeless, abused and abandoned animals of the District
4 of Columbia, I thank you for considering the proposed
5 text amendment from the Office of Planning, and we
6 appreciate your support.

7 CHAIRPERSON MITTEN: Thank you. We'll do
8 the whole panel and then we'll ask questions.

9 Ms. Yates?

10 MS. YATES: Thank you.

11 CHAIRPERSON MITTEN: You need to turn that
12 microphone on for me. Thank you.

13 MS. YATES: My name is Pat Yates. I'm a
14 resident of the District of Columbia. I have been
15 almost continuously since 1948, but more importantly
16 I've been a volunteer at the Washington Human Society
17 Shelter on New York Avenue for about 15 years now, and
18 I support any reasonable regulations that will allow
19 the Humane Society to continue to operate a decent and
20 humane shelter in the City.

21 I'll tell you why it's so important to
22 have it in the City, and not have it move out to the
23 suburbs somewhere where there's more space. Several
24 big reasons, the biggest is probably this, something
25 that I've witnessed in the two days a week I spend at

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1 the shelter, have been doing that for quite a few
2 years now, I watched distressed, sad, unhappy,
3 miserable, distraught residents of the District of
4 Columbia come into the shelter, either looking for a
5 lost animal or trying to find relief for an animal who
6 is sick, or injured, or in need. It's extremely
7 critical to keep a centrally-located shelter where
8 this service can be available to my fellow residents
9 of the District of Columbia. I witness this two days
10 a week, you wouldn't believe the sadness and
11 heartache, and then sometimes the eventual happiness
12 that goes in and out of the doors of that shelter.
13 Extremely important for that to stay in the City.

14 And, I think that these proposed changes,
15 recommendations, will allow the shelters to continue
16 to operate in the City.

17 The second reason is that it's very
18 important to have a good and strong adoption program
19 operating in the shelter, to get as many of the
20 animals placed in good homes as is possible, that is,
21 those that can't be reunited with family.

22 Right now, we are over, the biggest of our
23 two shelters is over on New York Avenue, in a
24 commercial zone. It's centrally located for people,
25 not only in the District of Columbia, but also for the

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1 whole Metropolitan area, and we expand our adoption
2 services to the entire Metropolitan Area. As a matter
3 of fact, we've gone as far north as York,
4 Pennsylvania, and as far south as Norfolk, Virginia,
5 whenever we can do a good adoption, and have the
6 wherewithal, the staff to do it.

7 It's important to keep a centrally-located
8 shelter for that reason also. The bulk of our
9 adoptions are to people in the District of Columbia.
10 It's important to keep the shelter in the District,
11 but it's also important to keep it in the center of
12 this big Metropolitan Area, to attract people. We get
13 something like 15,000 animals each year coming in for
14 our services, and we've got to continue to place as
15 many of them as we can in good adoptive homes.

16 So, that's why I'm here in support of
17 these changes to the existing zoning regulations.

18 CHAIRPERSON MITTEN: Thank you very much.

19 Mr. Collins?

20 MR. COLLINS: Thank you, I'm Al Collins.
21 I live at 1450 Q Street, N.W.

22 I strongly support the Commission's
23 passing the new zoning regulations to govern grooming
24 facilities, vets, pet shops and shelters. I actually
25 think it's great that you guys are addressing these

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1 uses in the zoning regs for the first time. It's
2 overdue, and I really appreciate it.

3 I believe the guiding principles in
4 developing these regs are the impacts that these
5 businesses have on the neighbors and the businesses
6 that surround them, and I think the Commission's
7 proposal achieves a good balance of making these uses,
8 the special exemptions and the setting out of the
9 conditions, which I understand is a difficult job.

10 I strongly believe that anything that
11 could be stated explicitly in the regs themselves to
12 add clarity to what these uses are permitted to do,
13 and what they are permitted not to do, i.e., dog
14 boarding should be done, and I support the specific
15 drafting suggestions that the Q Street Association
16 made in the letter that they sent to you guys.

17 The clear and more comprehensive the regs
18 are, the easier they are going to be to enforce, and
19 I can personally testify to the difficulty that I've
20 had and my neighbors have had in the past, about
21 trying to get ambiguous regulations enforced that just
22 can't be done. So, if we're not going to write them
23 really clear, then there's not a real reason to write
24 them.

25 We want the new regs, again, to avoid any

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1 ambiguity, make it perfectly clear that these uses do
2 not allow boarding dogs, and we want it done in a way
3 that the Zoning Administrator can enforce that if a
4 business decides that they are going to read between
5 the lines, or find a loophole, or decide that they
6 want to be a rogue dog boarder. I just really hope
7 you guys don't allow that.

8 In particular, I believe it's very
9 important that grooming facilities be treated as a
10 special exception use, I like that. Grooming
11 facilities are not otherwise regulated under D.C. law,
12 and there have already been cases of grooming
13 establishments turning into dog boarders right before
14 our eyes, because somebody doesn't come to pick up
15 their pet on time, they can't turn the pet out to the
16 street, or their pet gets dropped off at 7:00 a.m.,
17 and the don't come back for two days, you know, over
18 a weekend of whatever. So, I think these new regs
19 just must, must, must prevent that from happening, and
20 I really hope you guys will do that.

21 Thank you again for the opportunity to
22 speak here.

23 CHAIRPERSON MITTEN: Thank you.

24 Ms. Ferraris?

25 MS. FERRARIS: Good evening, Joan Ferraris,

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1 1440 Q Street, N.W.

2 First, I'd like to say that we are
3 speaking in support of the proposal to regulate pet
4 grooming establishments, vet hospitals, pet shops and
5 animal shelters. You have letters from Q Street
6 detailing the proposals, and I would just like to note
7 four points.

8 We strongly support the Commission passing
9 new zoning regulations to govern grooming facilities,
10 vets, pet shops and shelters. It is extremely
11 important for D.C.'s commercial districts that all of
12 these animal-related uses, like animal boarding, be
13 treated equally and comprehensively by the
14 regulations.

15 We strongly support the Commission's
16 proposal that pet shops, shelters and grooming
17 establishments become special exception uses in the
18 commercial zones. All of these businesses can have
19 numbers of dogs, large numbers of dogs, on the
20 premises that can create potential impacts on
21 neighboring property owners. This special exception
22 process means that the BZA can allow for these impacts
23 to be mitigated, through modification of a building,
24 but it also takes into account and allows for special
25 circumstances regarding the property.

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1 We support the idea of vet hospitals
2 remaining as a matter of right use in the commercial
3 zones, largely these facilities only have sick dogs on
4 the premises, and thus have much lesser impact in
5 terms of noise. However, the regulation still needs
6 to spell out the restrictions on vet hospitals, such
7 as sound proofing, fully enclosed buildings, no impact
8 on neighbors, relative to waste, odor and noise.

9 Twenty-four hour emergency care vet
10 hospitals, however, should be a special exception,
11 instead of a matter of right use, because of their
12 potential for noise, traffic, parking. Their impact is
13 a 24-hour a day impact.

14 And finally, we strongly oppose the idea
15 of new animal shelters, with exterior dog runs being
16 able to open up within 200 feet of an existing
17 residential use or zone. We think the latest
18 supplementary proposal is a very large step backwards
19 in this particular respect.

20 The issues surrounding exterior dog runs
21 and their inappropriateness in dense urban settings
22 were comprehensively debated and examined by the
23 Zoning Commission last year, in the context of new
24 animal boarding regulations, ZC-0521, which I'm sure
25 you have.

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1 CHAIRPERSON MITTEN: I need you to wrap up.

2 MS. FERRARIS: Okay.

3 New non-profit kennels should not be
4 permitted to have outdoor runs.

5 CHAIRPERSON MITTEN: Thank you.

6 Ms. Doughty?

7 MS. DOUGHTY: Andrea Doughty --

8 CHAIRPERSON MITTEN: I'm sorry.

9 MS. DOUGHTY: -- that's okay, Andrea
10 Doughty, 1417 Q Street.

11 I just want to -- I adopt the comments of
12 Al Collins and Joan Ferraris, and I just want to
13 comment briefly on some of the comments made by the
14 gentlemen from the Washington Humane Society and also
15 from ANC 6B.

16 Specifically, with ANC 6B, I can see the
17 problem there on Capitol Hill with this abutting, the
18 wording of the abutting. I guess our preferred way of
19 dealing with that would be to grandfather facilities
20 that are affected on Capitol Hill, and retain the
21 abutting language so that we don't end up with a whole
22 lot of new situations where we have animal-related
23 uses moving into locations with existing residential
24 uses right next door, or a residence right next door.
25 So, I'd like to see the Commission deal with the

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1 Capitol Hill program via grandfathering.

2 Regarding the animal shelters, we really
3 support and appreciate the work the animal shelters do
4 in D.C. I'm a dog owner myself, and I really do
5 appreciate it.

6 Again, what we would really like to see
7 happen here is, we would like to see the existing
8 shelters with their outdoor dog runs grandfathered,
9 and we really don't want to see new shelters moving
10 into the C-2, C-3 zones and being permitted to
11 establish outdoor dog runs.

12 Now, I think you could maybe -- that would
13 be workable, where you had some existing dog runs
14 that, you know, dogs that are up for adoption can use,
15 whereas you have other facilities that, you know, you
16 could potentially have other facilities that wouldn't
17 necessarily have to have -- not every shelter has to
18 have a dog run.

19 I'd just like to make the point that
20 enforcement, as the gentleman indicated, that the dogs
21 would try to remain within the noise regulations and
22 adapt to dog runs, it's extremely difficult, if not
23 impossible, to enforce the noise regulations against
24 dogs in an outdoor dog run by, say, a neighboring
25 property owner calling DCRA to try and get somebody to

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1 come around, because by the time somebody arrives the
2 dog has stopped barking. So, the enforcement issues
3 with intermittent noises, like dogs barking, are much
4 more difficult to deal with than, say, nightclubs
5 where the noise is constant and, you know, it's not
6 going to just disappear.

7 Finally, you know, we really don't have a
8 problem with the industrial zone, you know, really,
9 our concerns here are the C-2 and C-3 zones, and I
10 can't emphasize that enough, you know, I think there's
11 a lot more scope in the M zone for, you know meeting
12 animal shelters' needs.

13 On the --

14 CHAIRPERSON MITTEN: Just give me your last
15 thought, because you are almost out of time.

16 MS. DOUGHTY: -- yes, my last thought is
17 on the 24-hour emergency care veterinary hospitals.
18 When we were doing our research on this, and I should
19 actually -- I should just say that when we did our
20 research we did not find any cases of major cities
21 like San Francisco and New York that allow new
22 exterior dog runs to be established in downtown, you
23 know, densely packed zones. We just didn't find any.
24 But, on the 24-hour emergency veterinary hospitals,
25 when we did our research we were told that there were

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1 distinct and different impacts from the one existing
2 facility in D.C. on the neighboring property owners,
3 then, you know, we didn't get that feedback about
4 other veterinary clinics, we did get it about that
5 one.

6 So, thank you very much.

7 CHAIRPERSON MITTEN: Thank you.

8 Questions from the Commission for the
9 panel? Any questions?

10 Mr. -- did you have a question? I'm
11 sorry.

12 COMMISSIONER TURNBULL: I just wanted to
13 ask Mr. Nelson, when the Humane Society submitted
14 their proposed changes, I'm looking at the animal
15 shelter language, it says may not abut -- we are
16 getting back into this language about the word "abut,"
17 and you had mentioned residential zone, but the
18 language that came up by OP says "a residential use or
19 a residential zone." And, I don't know if that's
20 where Mr. Jarboe was having difficulty with -- and
21 maybe he's thinking -- I guess he's worried, more
22 concerned about a natural physical building abutting,
23 rather than being in an area. And, I wondered if that
24 was your concern also?

25 MR. NELSON: No, our concern was, we are

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1 okay with the 200 feet abutting an industrial zone.
2 We are not talking about, you know, the commercial
3 zones, we are just talking industrial zones for
4 outdoor dog runs at 200 feet, and we are okay with the
5 abutting a residential zone.

6 COMMISSIONER TURNBULL: Okay, thank you.

7 CHAIRPERSON MITTEN: I wanted to ask Mr.
8 Nelson, where's the other location that -- you said,
9 I believe, that you have two shelters, and one is --

10 MR. NELSON: We have -- oh, I'm sorry,
11 Carol.

12 CHAIRPERSON MITTEN: -- no, the one I know
13 about is 1201 New York, and what's the other?

14 MR. NELSON: Yes, the 1201 New York Avenue,
15 and we have a small shelter at 7319 Georgia Avenue,
16 N.W., and that does have indoor dog runs, and what
17 that causes us to do, because the animals need to be
18 walked, the animals need to be outside, it's actually
19 safer if we had runs because what we do is, we walk
20 those dogs through the neighborhoods. If we could
21 keep them contained in dog runs at a respectable time
22 frame, and enforce the noise ordinance through
23 building requirements, such as sound proofing walls
24 and barriers, outdoor dog runs are actually better for
25 the residents than walking the animals around the

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1 neighborhoods to get their exercise and light, because
2 I don't think anybody would recommend not providing
3 exercise and light for the animals so that they need
4 to be euthanized.

5 CHAIRPERSON MITTEN: One of the things, I
6 mean we got a great education from some of the folks
7 that are at the table and some of the folks that are
8 in the audience, when we had the dog -- or the animal
9 boarding case, and that gave rise to this case, and
10 you mentioned something that I don't think we learned
11 about before, which is, sound proofing for the outdoor
12 dog runs. Did I just understand you to say that? Did
13 you make reference to sound proofing for outdoor dog
14 runs?

15 MR. NELSON: Yes, there's new materials
16 that you can -- you know, in our case we are looking
17 at new materials to build the new shelter in an
18 industrial zone, and there's materials that you can
19 use that are much more sound absorbent than the
20 traditional concrete and, you know, chain link fence.
21 But then, there's also, you know, similar to the
22 barriers that they put along freeways, and some of the
23 other by right uses in industrial zones, to keep the
24 sound within the shelter area, and only during normal
25 hours. And, during the evening hours, obviously,

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1 those animals will be, just like a doggy door is
2 closed and locked, they will be, you know, inside the
3 shelter, and the outdoor dog runs are only used for
4 exercise and light, and to keep the animals from being
5 brought around the neighborhoods.

6 CHAIRPERSON MITTEN: Well, if you wouldn't
7 mind, if you could just submit something to just
8 educate us a little bit more about the sound proofing
9 materials that are available to use outside, that
10 might help us shape some middle ground here --

11 MR. NELSON: That would be great.

12 CHAIRPERSON MITTEN: -- to accommodate
13 everybody's concerns.

14 MR. NELSON: We'd be happy to do that.

15 CHAIRPERSON MITTEN: Okay, that would be
16 great.

17 Mr. Turnbull?

18 COMMISSIONER TURNBULL: I just had one more
19 question, now for Ms. Doughty.

20 The current language that OP has for in a
21 commercial zone for an animal shelter, it talks about
22 it being a minimum of 1,000 feet from all residential
23 zones. Do you still have an issue with that?

24 MS. DOUGHTY: No, we thought the original
25 proposal was the 1,000 feet in a commercial zone, we

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1 supported that, because it, in effect, rules out the
2 possibility of new exterior runs in the commercial
3 zones. It was only when the revised proposal came out
4 allowing exterior runs within 200 feet, both in the
5 industrial zone and --

6 COMMISSIONER TURNBULL: Okay, thank you.

7 CHAIRPERSON MITTEN: Mr. Hood?

8 VICE-CHAIRPERSON HOOD: Thank you.

9 Mr. Nelson, let's talk about your 1201,
10 what is it, New York Avenue. First of all, what zone
11 are you in over there? Is it industrial?

12 MR. NELSON: 1201 New York Avenue, and just
13 to be clear, we run that shelter under a contract with
14 the City, so that property is actually owned by the --
15 it's actually, some of the land is owned by the
16 National Park Service, and the building is actually
17 owned by the D.C. Government.

18 VICE-CHAIRPERSON HOOD: So, it's unzoned,
19 zoned by the Federal Government, so it's unzoned.

20 CHAIRPERSON MITTEN: It's in an area,
21 though, I know I can tell you, I'm familiar with it,
22 it's in an area that's otherwise zoned CM something.

23 MR. NELSON: CM-1, I believe the properties
24 that abut the shelter are CM-1.

25 VICE-CHAIRPERSON HOOD: So, opening an

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1 outdoor -- what is it called, outdoor run, where is
2 it, in the back, where is the outdoor run?

3 MR. NELSON: Yes, they are -- it's
4 typically, the public areas are in the front, so the
5 offices, the reception, the parking areas are all in
6 the front. The outdoor dog runs are in the back and
7 along the side.

8 VICE-CHAIRPERSON HOOD: In the back behind
9 the building.

10 MR. NELSON: Behind the building, and then
11 in between -- there's the -- the inside of the shelter
12 has, you know, our reception, our medical clinics, and
13 rooms for meet and greets of animals, and then,
14 obviously, the cat rooms are all inside. The dog runs
15 are in the back, but there's also a large field and
16 like a little training area that buffers the property
17 in the back, which are also CM-1.

18 So, I would say they are in the middle of
19 the property.

20 VICE-CHAIRPERSON HOOD: There's probably of
21 lot of warehouses back behind there, right?

22 MR. NELSON: Yes, there's a warehouse and
23 an old BFI waste treatment plant, or transfer station.

24 VICE-CHAIRPERSON HOOD: Oh, okay, are they
25 still open?

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1 MR. NELSON: No, one is used as a parking
2 lot for -- the BFI plant is still there, but it's now
3 used as a -- somebody purchased it and it's used as a
4 parking lot.

5 VICE-CHAIRPERSON HOOD: Okay.

6 And, you talk about sound proofing, in an
7 area like that you wouldn't necessarily need sound
8 proofing, because with the traffic, I would think, on
9 New York Avenue, and the warehouse, you know, would
10 that be a typical area where you might want to look at
11 sound proofing or not?

12 MR. NELSON: Yes, and we've done a lot, as
13 far as fencing, and the fencing and landscaping has
14 done a lot of sound proofing, and you could even go,
15 if we were looking at a new shelter, you could even go
16 a little further with the different materials to
17 build, instead of concrete, there's sound absorbent
18 materials that you can use when you pour the concrete.
19 And, you can have more barriers within each kennel
20 run, instead they are all open chain link fences,
21 essentially, you can have some barriers which will
22 keep some of the sound in the runs as well.

23 VICE-CHAIRPERSON HOOD: When do the dogs,
24 in that particular area, when do the dogs go out and
25 do -- get their exercise?

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1 MR. NELSON: Intermittently throughout the
2 day, and what happens is, typically, the most activity
3 is when we are open for adoptions and people are
4 walking around, they come out to meet and greet. So,
5 they are back and forth. The majority of the animals
6 sleep inside the shelter, even during the day, they
7 are fed inside the shelter, and most of the meet and
8 greets happen inside the shelter. So, they come out
9 probably at most an hour a day, intermittently, until
10 the evening hours, and then they are kept inside.

11 And, they also kept outside for 20 minutes
12 while the inside of the shelter is cleaned and
13 sanitized, and then they are brought inside, and then
14 the outside is cleaned. So, it also helps with
15 cleaning, and cleanliness, and health of the animals,
16 to have outdoor dog runs.

17 VICE-CHAIRPERSON HOOD: This is very
18 interesting. I ride up there all the time, and I've
19 never seen them out there, maybe because of the
20 traffic, and I don't want to stop and look and run
21 into anything either.

22 MR. NELSON: What's amazing about, you
23 know, to add some additional information, with the
24 number of animals, if they have proper exercise, and
25 they have proper light, they are calmer. So, when you

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1 walk into the New York Avenue shelter it's not
2 uncommon to see, you know, dogs just laying around
3 sleeping, not barking. In other shelters, where they
4 don't have as much access to outside light and
5 exercise, they are much more agitated, they are much
6 more aggressive, they are less likely to be adopted,
7 more likely to be euthanized, and they are agitated.

8 So, when dogs are agitated, they get
9 excited and they bark louder. And so, you know, having
10 a nice environment where they can go inside and
11 outside, just like people, they are calmer and they'll
12 sleep more, and they'll rest more, and they'll move in
13 and out of their shelter much more quickly.

14 VICE-CHAIRPERSON HOOD: Okay. All right,
15 thank you.

16 CHAIRPERSON MITTEN: Anyone else?

17 Okay, thank you very much.

18 Anyone else who would like to testify in
19 support?

20 Okay, then we are ready to move to folks
21 who would like to testify in opposition. I have Dr.
22 Bruce Herwald. I know I might have mispronounced Dr.
23 Herwald's name, I'm going to probably mispronounce Dr.
24 Dan Teich.

25 DR. TEICH: Teich.

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1 CHAIRPERSON MITTEN: Teich, and Bonnie
2 Buntain.

3 Dr. Herwald, why don't you go ahead?

4 DR. HERWALD: Okay.

5 My name is Bruce Herwald, and I am a
6 licensed and federally-accredited veterinarian in the
7 District of Columbia, and we have clinics on Capitol
8 Hill, Dupont Circle area, and on MacArthur Boulevard.

9 I am a graduate of the University of
10 Pennsylvania, School of Veterinary Medicine. I've
11 been practicing in the District of Columbia for over
12 20 years.

13 I appear before you today in opposition to
14 these portions -- those portions of the text
15 amendments that affect veterinarians. The Commission
16 will understand that as people come into the District,
17 as it is being rehabilitated in certain neighborhoods,
18 we must provide certain services to keep them here,
19 including veterinary hospitals and veterinary
20 services.

21 And, while I agree from a neighbor
22 standpoint that we shouldn't be boarding dogs, and
23 also from a personal standpoint, I don't think it's
24 very humane to board them in cages in townhouses
25 downtown. We never have at any of my hospitals. I

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1 don't think that limitation should apply to what we
2 call "pocket pets," which are the little furry small
3 mammals, cats, ferrets, birds, rabbits, any of these
4 smaller creatures that really don't pose any big
5 problems to neighbors, and never get outside the
6 building, or, hopefully, never get outside the
7 building.

8 And, accordingly, the definition of
9 veterinary hospital we suggest is, as you can see, an
10 establishment used by a licensed veterinarian for the
11 practice of veterinary medicine, as well as the
12 boarding of animals, but not as a primary boarding
13 establishment for dogs, which may also provide
14 overnight care for animals, including dogs, as part of
15 their medical care. The boarding of animals other
16 than dogs must be an accessory use, not in excess of
17 50 percent of the usable square footage of that
18 building.

19 The larger problem I have is with the
20 proposed regulations to remove veterinary hospitals as
21 a matter of right in the C-2 to C-4 zones, and
22 requiring they be permitted only as a special
23 exception in those zones, as well as any industrial
24 zones. This rather harsh measure is a throw back to
25 a long ago time when veterinarians were not really

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1 considered doctors, and it appears really to be
2 related to issues that we've had nothing to do with,
3 with the doggy daycare facilities.

4 The Commission should note that there have
5 not been such occurrences reported for D.C. veterinary
6 facilities to my knowledge in any recent memory. We
7 have three townhouse clinics. We get along with our
8 neighbors, and we directly abut residences, not
9 residential zones, residences, in two of my
10 facilities, one in Capitol Hill on 2nd Street, and the
11 other one on P Street, and we have neighbors in
12 apartment buildings on the other side of the party
13 walls, never had problems, but we do not board dogs.

14 As I mentioned before, veterinary
15 hospitals would not be allowed to board dogs under my
16 proposed definition, unless such "boarding was for
17 hospitalization for a short period related solely to
18 their medical care, and under such circumstances
19 should be allowed as a matter of right in the C-2, C-
20 3, C-4, CM and M zones."

21 The Commission should keep in mind that
22 pets are coming from people's homes, and not office
23 buildings or industrial areas, and that veterinary
24 services, like other medical services, need to be in
25 close proximity to residential neighborhoods.

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1 An unfortunate unintended outcome of the
2 proposed regulations, if passed as currently written,
3 is that there will be no new veterinary hospitals in
4 the District if the special exception is required. I
5 had tremendous difficulties getting commercial real
6 estate that was not only zoned correctly, but in an
7 appropriate location. I can tell you first hand about
8 the trials and tribulations of that.

9 Land owners and landlords will be loathe
10 to tie up their properties for up to a year based on
11 a contingency that the prospective buyer or tenant
12 obtain the special exceptions that condition to
13 closing, so the Commission should view this proposal
14 as one that does not serve the interest of D.C.'s pet-
15 loving population.

16 Finally, I request that the Commission
17 allow specialty and emergency veterinary hospitals to
18 be located in these same zones as a matter of right,
19 with the limitation they do no animal boarding of any
20 kind, other than for medical care. Currently, there
21 is only one such facility in the District in
22 Friendship Heights, and that is not a dedicated
23 facility, that's also a general hospital. There's no
24 true independent facility. I am currently trying, I'm
25 putting together a consortium of veterinarians to put

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1 such a practice in the District, in the downtown area,
2 and if this is required as a special exception I will
3 never get 20,000 square feet that's affordable in any
4 area that you would want to take you pet to in the
5 middle of the night.

6 These types of facilities are utilized for
7 pets in either non-emergency specialties, such as
8 ophthalmology, dermatology, neurology, et cetera, or
9 life-threatening situations such as hit by cars and
10 bowel obstruction.

11 And, I just thank you for letting me speak
12 here tonight.

13 CHAIRPERSON MITTEN: Thank you.

14 Dr. Teich. I need you to turn the
15 microphone on and maybe Dr. Herwald could turn his
16 off. There you go. Thank you.

17 DR. TEICH: Greetings to the Commission.
18 My name is Daniel Teich. I'm a licensed veterinarian
19 here in the District of Columbia, and I'm also a
20 practitioner.

21 I also appear here to discuss several
22 portions of the text that affect veterinarians. I
23 follow most of the statements by Dr. Herwald and Dr.
24 Buntain, sitting next to me, but I also would like to
25 stress the relationship between veterinarians and our

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1 surrounding communities.

2 After discussions with several community
3 members, I very much so understand their concerns
4 towards dog noise and animal waste, and,
5 unfortunately, the current problems that we have seen
6 are focused on the improper actions of a select few
7 facilities, but not veterinarians.

8 And, as we discussed earlier, regulations
9 have been implemented to assure that dog boarding and
10 daycare businesses will fit into our local
11 communities, and get along with the residences in
12 their area.

13 Veterinarians are medical practitioners
14 with the health of animals and human population as our
15 focus. As veterinary medicine has evolved over the
16 past 30 years, the profession has shifted from being
17 a partner with the community and animal owners to
18 ensure the health of animals and humans.

19 The proposed text places a harsh burden on
20 veterinary practices, seeking to open within the
21 District, and may curtail the expansion of these
22 essential services. Currently, veterinarians in the
23 City generally do not board dogs, and I support having
24 to obtain a special exception to board healthy dogs
25 within a veterinary practice. I also support the

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1 enforcement of noise restrictions and waste
2 management, as these are essential to community
3 welfare.

4 Your veterinarian is a member of the
5 community, who wishes to work with community leaders
6 to ensure convenient availability of our services,
7 while serving the interests of our community.

8 And, we appreciate the text that was
9 submitted by the Q Street Association with making
10 veterinarians by right, but we'd also like to work
11 with them and work with the board to ensure that
12 veterinarians maintain their status in the community
13 and that we can continue to provide services to the
14 community as new neighborhoods develop.

15 So, I appreciate your time, and thank you
16 very much.

17 CHAIRPERSON MITTEN: Thank you.

18 Dr. Buntain?

19 DR. BUNTAIN: Thank you, and good evening.

20 I'm Dr. Bonnie Buntain. I'm the President of the
21 District of Columbia Veterinary Medical Association.
22 I'm also a resident of the District. I live at 125
23 11th Street, N.E., on Capitol Hill.

24 I would like to make the points that
25 veterinary clinics provide invaluable service to the

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1 citizens to protect the public health, as well as
2 animal health. Veterinary hospitals and humane
3 organizations, hospitals, provide rabies vaccination
4 clinics, spay and neuter, and many, many services at
5 a low cost. Veterinarians provide a lot of pro bono
6 services to the District residents, and so all in all
7 it adds up that we provide an important service to the
8 District of Columbia to ultimately protect animal, as
9 well as human, health and welfare.

10 I would like to express a few of the
11 points that our membership would like you to be aware
12 of. We feel that this special exception would pretty
13 much prohibit any new veterinary hospitals from
14 opening up in the future. It would ultimately
15 negatively impact the citizens of this fine City,
16 because it would put an unfair and undue burden on the
17 practice of veterinary medicine in the District of
18 Columbia.

19 The membership of the District of Columbia
20 Veterinary Medical Association, which is about 100,
21 wishes you to take into consideration that there are
22 continually developing areas in the District that will
23 need these services that will be under served, and it
24 will be important to be able to provide these services
25 without this undue burden that this proposed

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1 regulation would, perhaps, put on veterinary clinics.

2 Veterinarian and animal-related services
3 need to be located near where people reside. People
4 need to be able to have access to bring their pets to
5 our medical facilities.

6 As Dr. Teich has been saying, we do
7 provide an important community service and have good
8 relationships with our neighbors.

9 According to the policy analysts of the
10 American Veterinary Medical Association, which
11 represents about 90,000 veterinarians in this country,
12 the zone restrictions that are proposed here have not
13 been raised in any other city or state in the United
14 States. VMA is not aware of any similar or special
15 exemption zoning restrictions in other jurisdictions
16 in this country. We would like to take time, we'd
17 like to have more time to work with you folks to try
18 to poll our states and see if there's been any other
19 such restrictive regulations against veterinary
20 hospitals, as is being proposed here.

21 Veterinarians are medical practitioners
22 and our main source of income is diagnostics,
23 vaccinations, medical and surgical treatment. It is
24 not boarding.

25 The legislation focuses on animal

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1 boarding, and, presumptively, this would also include
2 the small animals, small pets, which do not propose a
3 noise problem. So, these animals have little
4 possibility of public nuisance and should be excluded
5 from the boarding regulations.

6 There are more appropriate legislative
7 venues to pursue, abuses, noise ordinances, waste
8 removal procedures and et cetera.

9 So, in summary, we implore the Commission
10 to consider the negative impacts of this proposal on
11 the practice of veterinary medicine and surgery in the
12 District of Columbia, and the amazing contributions
13 that the veterinarians make to animal health and
14 welfare, as well as human health and welfare.

15 Thank you.

16 CHAIRPERSON MITTEN: Thank you, very much.

17 Questions from the Commission? Any
18 questions?

19 Mr. Parsons?

20 COMMISSIONER PARSONS: Do you know of any
21 veterinary hospitals that have exterior exercise yards
22 or are they are they all internally focused?

23 MR. HERWALD: There are, in the District
24 there may be one that I can think of off the top of my
25 head, but generally, in the District it's not

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1 relevant.

2 COMMISSIONER PARSONS: So, if we were to
3 define a veterinary hospital as one that didn't have
4 that, would that meet your needs?

5 DR. HERWALD: Oh, yes, that's fine. We've
6 never had a problem with that.

7 COMMISSIONER PARSONS: Thank you.

8 DR. HERWALD: We are only for short-term
9 care.

10 CHAIRPERSON MITTEN: I would like to give
11 you an opportunity to work with the Office of Planning
12 to see if, you know, if there's something more that
13 you can do to inform them and that they can be made
14 comfortable.

15 Would you think, if we closed the record
16 at the end of July, that would be a sufficient amount
17 of time?

18 DR. HERWALD: That deadline would be fine.
19 We'd like to keep the record open. We've already met
20 with Planning, and they've taken our comments, but
21 we'd still like to keep it open.

22 CHAIRPERSON MITTEN: Okay, that would be
23 great. Okay, I just wanted to make sure I gave you an
24 adequate amount of time.

25 Any other questions?

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1 Okay, thank you very much for your
2 testimony.

3 DR. HERWALD: Thank you.

4 CHAIRPERSON MITTEN: Anyone else who would
5 like to testify in opposition to the proposed text?

6 Very good, then I think we're ready, if
7 you could just give me a date, the date and time, Ms.
8 Schellin.

9 SECRETARY SCHELLIN: How about 3:00 p.m.,
10 July 31st?

11 CHAIRPERSON MITTEN: Okay. The record will
12 remain open for any submissions that people would like
13 to provide to the Commission related to this case
14 until July 31st, 3:00 p.m., in the office next door.

15 I'd like to thank you all for your
16 testimony, and I would like to thank the folks from Q
17 Street and elsewhere who brought this to our
18 attention, and, you know, we are trying to learn from
19 you and take this seriously, and that's why we have
20 this text amendment, and we do want to be sensitive to
21 the needs of veterinarians and the animal shelters, so
22 we are just trying to strike the right balance.

23 So, thanks again. We are adjourned.

24 (Whereupon, the above-entitled matter was
25 concluded at 7:22 p.m.)

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