

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: :
 :
 Office of Planning, : Case No.
 Text Amendment to : 19-31
 Subtitles B, H, K and U. :
 Community Based :
 Residential Uses. :
 -----:

THURSDAY

JULY 7, 2022

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The Public Hearing of Case No. 19-31 by the District of Columbia Zoning Commission convened via videoconference at 4:00 p.m. EDT, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
JOSEPH IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
MAXINE BROWN-ROBERTS

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, ESQUIRE

The transcript constitutes the minutes from the Public
Hearing held on July 7, 2022

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

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PRESENTATION:
 Case Number: 19-31 - Office of Planning -
 Text Amendment to Subtitles B, H, K and U,
 Community Based Residential Uses 7

COMMENTS AND QUESTIONS:
 Commissioners 11

VOTE:
 Commissioners 18

ADJOURN:
 Anthony Hood 19

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

(4:00 p.m.)

CHAIRPERSON 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 and Commissioner Imamura. We're also joined by the Office of Zoning Staff, Ms. Sharon Schellin, as well as Mr. Paul Young, who will be handling all of our virtual operation, as well as Ms. Lovick, who is our Office of Zoning Legal Division counsel.

We will ask all others to introduce themselves at the appropriate time. Copies of today's virtual public hearing notice is available on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live, Webex and YouTube Live. The video will be available on the Office of Zoning's website after the hearing.

Accordingly, all those listening on Webex or by phone will be muted during the hearing and those who have signed up to participate or testify will be unmuted at the appropriate time. Please state your name and home address before providing oral testimony or your presentation -- on your presentation.

When you are finished speaking, please mute your audios so that your microphone is no longer picking up sound or background noise. If you experience difficulty accessing Webex

1 or with your telephone call-in, then please call our OZ hotline
2 number at 202-727-0789 to sign up or to receive Webex login or
3 call-in instructions.

4 All persons planning to testify either in favor or in
5 opposition, we encourage you to sign up in advance and we will
6 call your name at the appropriate time. If you wish to file
7 written testimony or additional supporting documents during the
8 hearing, then please be prepared to describe and discuss it at
9 the time of your testimony.

10 The hearing will be conducted in accordance with
11 provisions of 11 Z DCMR, Chapter 5 as follows: preliminary
12 matters; presentation by the petitioner, in this case the Office
13 of Planning. The Office of Planning has up to 60 minutes but I
14 believe we don't need that much time. Then we will have the
15 reports of the ANC and, I believe, in this case is Citywide.
16 Testimony of organizations and individuals each have five and
17 three minutes, respectively; and we will hear in the order from
18 those in support, opposition and undeclared. Let me clarify.
19 Organizations will have five minutes; individuals will have three
20 minutes.

21 While the Commission reserves the right to change the
22 time limits for presentations if necessary, it intends to adhere
23 to the time limit as strictly as possible and notes that no time
24 shall be ceded. Again, any issues, please call our OZ hotline
25 number at 727-0789.

1 At this time, the Commission will consider any
2 preliminary matters. First, let me also retract. The subject
3 of this hearing is Zoning Commission Case No. 19-31. This is
4 the Office of Planning Text Amendment to Subtitles B, H, K and
5 U, Community Based Residential Uses. Again, today's date is July
6 the 7th, 2022.

7 And I would now ask Ms. Schellin, do we have any
8 preliminary matters?

9 MS. SCHELLIN: I just want to say a couple of things.
10 Commissioner May is not with us right now. He is still in the
11 NCPC hearings. He may or may not make it to this hearing, but
12 if maybe he could always review the record and participate if
13 necessary.

14 Jennifer Steingasser and Maxine Brown-Roberts will be
15 representing the Office of Planning. The Office of Planning
16 filed their report 10 days, less than 10 days before the hearing,
17 so they have requested a waiver. So I would ask the Commission
18 to approve that waiver request. And other than that, that's the
19 only preliminary matters I have.

20 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin.

21 Any objections to the request that Ms. Schellin
22 mentioned to approve the Office of Planning's late request?

23 (No audible response.)

24 Okay. No objections. I'm sure they're working right
25 up to the -- especially with this topic, working right up to the

1 last minute.

2 Okay. So Ms. Schellin, I guess we can bring everybody
3 up. Okay. So, I guess, we will go Ms. Brown-Roberts and Ms.
4 Steingasser. Ms. Brown-Roberts, I believe, is going to be
5 presenting.

6 MS. BROWN-ROBERTS: Okay. Good evening, Mr. Chairman
7 and members of the Commission. Maxine Brown-Roberts from the
8 Office of Planning on Zoning Commission Case 19-31. If I could
9 have the first slide.

10 Okay. OP proposes text amendment to Subtitles B, H, K
11 and U of the Zoning Regulations related to community based
12 residential facilities. In ZR16, a new category, a Community
13 Based Institutional Facility was created, which it did not
14 include all the uses -- categories in the '58 Regulations. This
15 has resulted in problems with DCRA, not being able to issue
16 permits for some facilities as they were nonexistent in the
17 Regulations, or in some cases, were not clearly defined or were
18 missing from the use permissions.

19 The proposed amendment fall within five categories.
20 The first proposal is to amend the definition section of Subtitle
21 B to include a definition of Adult Rehabilitation Home, Community
22 Residence Facility, Substance Abusers' Home, Youth Rehabilitation
23 Home. Again, these are the same definitions which were in the
24 1958 regulations.

25 The second amendment is the Subtitle B, Chapter 2, the

1 Use Permissions to note that mental health treatment is included
2 as a Medical Care and update the references. In this situation,
3 there was a category of Medical Care. There was some confusion
4 as to whether a mental health facility or treatment facility was
5 also included in the medical care facility, and so this is just
6 to clarify that.

7 The third amendment to Subtitle H and Subtitle K is to
8 replace the term "community based residential facilities" to
9 specify that the uses being referred to are Youth Rehabilitation
10 Home and Adult Rehabilitation Home. These facilities accommodate
11 residents were under court order. The Community Based
12 Residential Facility category housed a number of other things.
13 So again, there was some confusion. So this was just to specify
14 that when we -- that -- to specify the uses as Youth
15 Rehabilitation Home and Adult Rehabilitation Home.

16 The fourth set of amendment is to amend Subtitle U,
17 which is the Use Permissions to reinstate Community Residence
18 Facility, Youth Residential Care Home, Youth Rehabilitation Home,
19 Adult Rehabilitation Home, and Home Health Care Facility as a
20 matter of right or special exception of the Use Permissions lists.
21 Use of these uses were missing or were not clear within Subtitle
22 U. Again, these were just to -- within each of the use
23 permissions outlined in -- on the Subtitle U was to make sure
24 that each of these facilities were called out in each category.

25 And then the last set of amendments were general

1 technical amendments which were updated references, numbering,
2 and grammar, et cetera.

3 Next slide. The proposed amendments will further the
4 Comprehensive Plan policies that encourages the integration of
5 vulnerable populations into the general population and encourages
6 steps to be taken to reduce stigma associated with housing.
7 Further, the Plan states that a history of racist policies has
8 led to black and Hispanic residents disproportionately
9 experiencing homelessness, being part of the foster care system,
10 interacting with juvenile justice system, living with HIV AIDS,
11 serving time in correctional facilities and experience behavioral
12 health issues.

13 The Citywide Housing Element has policies and
14 objectives, particularly with respect to policies within the
15 Housing Element as follows: to integrate residents with
16 disabilities or vulnerable population through housing that
17 includes wraparound services throughout Washington, D.C.; to
18 emphasize permanent housing (indiscernible) for persons with
19 disabilities or vulnerable populations rather than building more
20 temporary short-term housing facilities. Permanent housing is
21 more conducive to the stability of its occupants; and generally,
22 they have a greater support for communities than transient
23 housing; coordinate with the siting of housing within location
24 of the key services that support population being housed such as
25 locations with easy access to public transportation; and also

1 create adequate housing plans for those in the existing
2 correctional facilities so that they do not experience
3 homelessness including the removal of barriers to returning
4 citizens living in affordable housing. Returning citizens should
5 be allowed to find housing throughout Washington, D.C.; and
6 support the production of housing for people with behavioral
7 issues throughout Washington, D.C.

8 Next slide. When assessed through the racial equity
9 lens, the proposed amendments would result in improving housing
10 opportunities for residents who suffer discrimination and would
11 help to fulfill the resident -- the District's commitment to
12 community based housing options and services that encourage
13 independent living across all planning areas.

14 Next slide. The proposal would also further the goals
15 and objectives of the Department of Health System Plan of 2017
16 and the Health Equity Report of 2018, which identifies community
17 health housing and affordable housing as priority areas for
18 improving the health of D.C. residents.

19 Some of the health system's plan recommendations
20 include: promoting health equity for implementing policies and
21 practices across all sectors to address social determination of
22 health, improve health outcomes and reduce disparities; support
23 initiatives that advocate for the production and or preservation
24 of affordable housing; promoting policies and programs that --
25 for transitional housing for special populations; supporting new

1 and existing initiatives that improve and protect existing
2 housing stock; supporting initiatives that expand opportunities
3 for job training; and diversifying employment opportunities.

4 The proposed text amendment should not result in the
5 displacement of any tenants or residents, but will facilitate the
6 opportunity for additional housing for residents with special
7 needs. Although not precisely quantifiable from this text
8 amendment, in some cases, job opportunities and economic spinoff
9 could result from wraparound services that are offered to
10 residents of some of these facilities and/or work opportunities
11 for a resident could result as a part of having housing.

12 The proposal would not result in any changes to the
13 physical environment as the aim is to become a part of the
14 surrounding community in which they are located. The Office of
15 Planning, therefore, recommends approval of the proposed text
16 amendments.

17 Thank you, Mr. Chairman, and I'm available for
18 questions.

19 CHAIRPERSON HOOD: Thank you, Ms. Brown-Roberts for
20 being straight to the point, being succinct, and also, giving me
21 a comfort level of -- I know a lot of this has been exhaustive
22 over the years of having conversations of uses and talking about
23 services and mental health treatments and we're just -- to me,
24 this looks like we're just left (indiscernible).

25 Let me ask you a question, because I always get

1 concerned when -- unless somebody just came in. I get concerned
2 when I don't hear anything from the ANCs and I don't hear -- I
3 don't think any D.C. -- other D.C. government or departments have
4 weighed in. So my question is pretty much what we're doing is
5 updating our new Regulation -- our ZR16 because we left some
6 things out and some things have changed from the years when this
7 was first codified. For example, I think you mentioned the mental
8 health, adding -- including this medical care. So is that a fair
9 assessment?

10 MS. BROWN-ROBERTS: That is a fair assessment, Mr.
11 Chairman.

12 CHAIRPERSON HOOD: Okay. That's -- because this is the
13 first time this subject has come up, but nobody was here.

14 MS. BROWN-ROBERTS: Yes.

15 CHAIRPERSON HOOD: So I don't think -- I did not want
16 us to do anything and no one is here. And then later on down
17 the line, here with the Zoning Commission (indiscernible) this,
18 so I wanted to make this -- I want to make sure that it's already
19 basically in existence with the exception of maybe a simple use
20 permission, which I think is easy, relatively something that was
21 left out that probably could have been added or should have been
22 added in this modern day. So I appreciate your report.

23 I felt better that that -- I feel -- I'm always
24 concerned, but I feel better knowing that we're not making any
25 drastic changes to what already exist and that we're not making

1 anything in this a matter of right. It's still -- I think it's
2 still a special exception pretty much.

3 MS. BROWN-ROBERTS: Yes. Yeah. I'd also like to say
4 that, you know, we do have a few BZA cases that have been waiting
5 on these amendments to go. And those people are aware of -- was
6 aware of the hearing because they've been tracking and we haven't
7 been able to act on those BZA cases, so this will allow them to
8 be processed.

9 CHAIRPERSON HOOD: So thank you for saying that, Ms.
10 Brown-Roberts, because that makes it a little bit more evident
11 that people won't necessarily have a problem in the Zoning
12 Commission's action today. They may have to work on some special
13 exception issues with each individual case, so I'm fine with
14 that. So thank you for bringing that to our attention.

15 So let's see if we have any questions or comments.

16 Commissioner Imamura?

17 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. No
18 questions. Just a comment to Ms. Brown-Roberts. As always,
19 thank you for your report and the work behind it, and your
20 thorough explanation for which are (indiscernible) and commented
21 on. You know, our Zoning Regulations, while imperfect, these are
22 great opportunities to add clarification and specificity that
23 might help (indiscernible) facilitate better outcomes on the BZA
24 or here on the Zoning Commission, so thank you for that. And
25 I'm not really clear how or why these weren't carried over from

1 the '58 Regulations. It does make sense that we really strive
2 to make these improvements. So again, thank you for your work
3 behind it.

4 And that's all that I have to share, Mr. Chairman.
5 Thank you.

6 MS. BROWN-ROBERTS: Okay.

7 CHAIRPERSON HOOD: Thank you. Vice Chair Miller?

8 VICE CHAIR MILLER: Thank you, Mr. Chairman and thank
9 you, Ms. Brown-Roberts for your report. And I agree with all
10 the comments that my colleagues have made.

11 I guess -- one question Ms. Brown-Roberts, would it be
12 possible at some point, not necessarily before we take proposed
13 action, but would it be possible at some point in the future for
14 the Zoning Commission and the public to see a map that shows
15 where the community based residential facilities are located in
16 the District?

17 MS. BROWN-ROBERTS: That is something -- at the current
18 time, there is nothing in our GIA system that keeps track of
19 every single facility within the District. Usually, what happens
20 is that, you know, an applicant -- because these facilities are
21 usually licensed, so they would go to, you know, whoever the
22 license body is to find out, you know, are there any are there
23 any facilities within, say, 500 feet or a thousand feet in some
24 cases or within a block, or -- those are some of the things that
25 some of the conditions that they have to meet.

1 And so there is nothing -- at this time, we don't have
2 a comprehensive system. I think that maybe that is something
3 that we can work with OGI's people. But again, it's going to,
4 you know, have to come from those different departments or
5 licensing agents. In the past, we have asked that question and
6 some of them have been reluctant to give us the information
7 because some of them are concerned about, you know, having a
8 location of correctional facilities or something like that, so
9 we have run into those issues. But I think that it is something
10 that we can work on and see what best we can come up with.

11 VICE CHAIR MILLER: Okay. Well, I appreciate that. I
12 think it would be useful for the public just not to have --

13 MS. BROWN-ROBERTS: Have some general idea.

14 VICE CHAIR MILLER: -- specific addresses or what type
15 of facility -- what type -- subcategory of facility necessarily
16 even is. But just to get a sense of that they are, you know,
17 one of the goals is to have them fairly --

18 MS. BROWN-ROBERTS: Distribution, yes.

19 VICE CHAIR MILLER: -- distributed throughout the City
20 and not overly concentrated in any one neighborhood. So I think
21 at some point, if there is -- if there was a map that's about
22 that just generally shows where these uses are located generally,
23 I think that would be helpful for everybody involved, so --

24 MS. BROWN-ROBERTS: Yes.

25 VICE CHAIR MILLER: -- I appreciate you working on

1 that. Thank you.

2 MS. BROWN-ROBERTS: Yes.

3 CHAIRPERSON HOOD: I just want to add, and I want to
4 add to that, Vice Chair Miller. I do remember a map, and maybe
5 Ms. Steingasser and Ms. Brown-Roberts can correct me, but it went
6 back to the early 2000s or late '90s, and I'm really going way
7 back. When we first started talking about CBRFs, so community
8 based facilities. So, I guess -- and it would be exactly what
9 you're asking for and I'm sure that has probably been updated.
10 But I think that even though we're talking about just kind of
11 showing where it is, and I think -- I don't know if that violates
12 the Fair Housing. I know a lot of things were tied back to that
13 at that time. I'm not really sure where everything is now, but
14 I'll just mention that. And maybe we can find that older list
15 and maybe that's been updated, but that may have been taken off
16 of the table. I'm not sure. I'm not sure. But I'm just throwing
17 that out there for the conversation, so maybe we could start from
18 there and try to see where we are from at that point.

19 All right. Any other questions or comments? And thank
20 you, Ms. Brown-Roberts for your report, very well done, to the
21 Office of Planning and you, Ms. Brown-Roberts.

22 Ms. Schellin, I don't think -- Ms. Brown-Roberts, if
23 you could just stay up, because I think this may be relatively
24 quick. Other government agencies, I don't think -- no one has
25 responded, to my knowledge, so I mentioned that earlier. And I

1 think our legal counsel advises there is a (indiscernible).

2 Let's go to the reports.

3 Do we have any -- anything from the -- do we have ANC
4 commissioners, Ms. Schellin, who are out there who may want to
5 testify?

6 MS. SCHELLIN: I'm sorry. There was no one at all who
7 signed up to testify in support, opposition or undeclared.

8 CHAIRPERSON HOOD: Okay. So there's -- and so let the
9 record reflect, no one was here to testify. We have no comments
10 other than the presentation by the Office of Planning and my
11 colleagues' comments. And hopefully, we've grappled all the
12 concerns that people may have had. And I'm sure those --
13 hopefully, those BZA hearings will be able to be mitigated and
14 moved forward. So I don't have anything else.

15 Any other questions for Ms. Brown-Roberts?

16 Okay. Now, I see. Thank you, Ms. Brown-Roberts and
17 Ms. Steingasser and team.

18 All right. So Ms. Schellin, what I would do is --
19 unless my colleagues feel otherwise, I think this is fairly ripe
20 for us to go ahead and move forward. As we've already heard,
21 there are some cases that are before us. I mean, well, not before
22 us, but before the BZA. Those are waiting on this language to
23 be dealt with, so. Unless I hear an objection, I would go ahead
24 and move that we approve Zoning Commission Case No. 19-31 as
25 noted in the caption and ask for a second.

1 COMMISSIONER MAY: Second.

2 VICE CHAIR MILLER: Second.

3 CHAIRPERSON HOOD: Okay. It's been second and -- second
4 twice by the two other members that are here. There's only three
5 of us. So you put us all being in vote, so it is moved from --

6 MS. SCHELLIN: I think I heard -- I'm sorry. Go ahead.

7 CHAIRPERSON HOOD: No. Go ahead. Go ahead, Ms.
8 Schellin.

9 MS. SCHELLIN: I think I heard, Commissioner May first,
10 or I saw his lips move first.

11 CHAIRPERSON HOOD: Commissioner May, because he just
12 popped up.

13 MS. SCHELLIN: Yeah. So Commissioner Hood?

14 CHAIRPERSON HOOD: Yes.

15 MS. SCHELLIN: Commissioner Miller?

16 VICE CHAIRMAN MILLER: Yes.

17 MS. SCHELLIN: Commissioner Imamura?

18 COMMISSIONER IMAMURA: Yes.

19 MS. SCHELLIN: And now, Commissioner May is here. I
20 believe he will abstain. So the vote would be 3-0-2 to approve
21 proposed action in Zoning Commission Case No. 19-31. And the
22 minus two being the third mayoral appointee position being vacant
23 and Commissioner May, who has not participated in the hearing but
24 may in final action.

25 CHAIRPERSON HOOD: Let me ask this question. Okay. I

1 know. But Commissioner May has read the record. It will rescind
2 the vote. And I'm just asking. We may not even want to do all
3 this, but it will rescind the vote. He has read the record.
4 Even though he didn't hear the presentation, which is basically
5 pretty much in the record, other than our questions, maybe I'm
6 going -- you know what, I'm going too far. Let me leave it alone.

7 Okay. All right. Anybody have anything else?

8 And welcome, Commissioner May. I know you did your due
9 diligence where you were, as always.

10 COMMISSIONER MAY: Yeah. Can you hear me now?

11 CHAIRPERSON HOOD: Yeah, we can hear you now. Yeah.

12 COMMISSIONER MAY: Okay. Yeah. I'm still in the NCPC
13 meeting. I got a break for five minutes, so I thought I'd check
14 on you guys. So I'll read the record and then I'll participate
15 at final.

16 CHAIRPERSON HOOD: Okay. Sounds good. Enjoy your
17 meeting.

18 All right. Thank you. Let's go back. Okay. So the
19 Zoning Commission will meet again. Ms. Schellin, I'm sure you'll
20 correct me if I'm wrong. I had July the 14th?

21 MS. SCHELLIN: You're correct.

22 CHAIRPERSON HOOD: Oh. Okay. And that's our regular
23 meeting, and we'll be on these same platforms at 4:00 p.m.

24 So with that, I want to thank everyone for their
25 participation in this hearing tonight. Hope everybody will have

1 a great -- what's today's date? Have a great weekend. And we'll
2 see you on the 14th. Goodnight.

3 (Whereupon, the above-entitled matter went off the
4 record at 4:24 p.m.)

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

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In the matter of: Public Hearing

Before: DCZC

Date: 07-07-2022

Place: Teleconference

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