



District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council declares February as “Teen Dating Violence Awareness and Prevention Month” in the District of Columbia (ACR 21-7)
- D.C. Council schedules a public roundtable on the Metropolitan Police Department's Body-Worn Camera Program
- District Department of the Environment announces funding availability for the 2015 Green Resident Engagement for the Housing Sector Grant
- Public Service Commission approves Washington Gas Light Company's application to revise late payment charges for residential customers
- The Zoning Commission creates the C-2-B-1 Zone District
- The Zoning Commission revises height and density restrictions in the Yards West portion of the SEFC/CR District to encourage residential development

DISTRICT OF COLUMBIA REGISTER

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A RESOLUTION

21-76

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 14, 2015

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$22 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist Euphemia L. Haynes Public Charter School, Inc., in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Euphemia L. Haynes Public Charter School, Inc. Revenue Bonds Project Approval Resolution of 2015”.

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) “Authorized Delegate” means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor’s functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) “Bond Counsel” means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) “Borrower” means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be Euphemia L. Haynes Public Charter School, Inc., a nonprofit corporation organized under the laws of the District of Columbia, which is exempt from federal income taxes under 26 U.S.C § 501(a) as an organization described in 26 U.S.C. § 501(c)(3) and organized under the laws of the District and which is liable for the repayment of the Bonds.

(5) “Chairman” means the Chairman of the Council of the District of Columbia.

(6) “Closing Documents” means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) “District” means the District of Columbia.

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(8) “Financing Documents” means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) “Home Rule Act” means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) “Issuance Costs” means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), and compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) “Loan” means the District’s lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) “Mayor” means the Mayor of the District of Columbia.

(13) “Project” means the financing, refinancing, or reimbursing of all or a portion of the Borrower’s costs of:

(A) The acquisition, development, construction, and renovation of an approximately 45,484 square foot public charter school campus located at 3600 Georgia Avenue, N.W., Washington, D.C. 20010 (Square 2897, Lot 0150);

(B) The construction, furnishing, and equipping of an approximately 68,574 square foot building and an approximately 39,437 square foot building at the public charter school campus located at 4501 Kansas Avenue, N.W., Washington, D.C. 20011 (Square 3138, Lot 0067);

(C) Funding any credit enhancement costs, liquidity costs, or debt service reserve fund; and

(D) Paying costs of issuance and other related costs to the extent permissible.

Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may, by resolution, authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing of, the costs of undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the

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purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series pursuant to a plan of finance, in an aggregate principal amount not to exceed \$22 million, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of elementary, secondary and college and university facilities, within the meaning of section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the Project.

Sec. 4. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$22 million; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction, and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 5. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

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- (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the Bonds, and the maturity date or dates of the Bonds;
- (5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;
- (6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;
- (7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;
- (8) The time and place of payment of the Bonds;
- (9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;
- (10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and
- (11) The terms and types of credit enhancement under which the Bonds may be secured.
- (b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.
- (c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.
- (d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.
- (e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.
- (f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 6. Sale of the Bonds.

- (a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.
- (b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations

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governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale,

ENROLLED ORIGINAL

and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

Sec. 10. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of, or involve the faith and credit or the taxing power of, the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale, or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

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(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 12. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall not rely upon the District with respect to these matters

Sec. 15. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the date of this resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 16. Severability.

If any particular provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or

ENROLLED ORIGINAL

inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

Sec. 17. Compliance with public approval requirement.

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f)), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

Sec. 18. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 19. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the Home Rule Act.

Sec. 20. Effective date.

This resolution shall take effect immediately.

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A RESOLUTION

21-77

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 14, 2015

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$70 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist Friendship Public Charter School, Inc. in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Friendship Public Charter School, Inc. Revenue Bonds Project Approval Resolution of 2015".

Sec. 2. Definitions.

For the purpose of this resolution, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) "Borrower" means the owner, operator, manager, and user of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be Friendship Public Charter School, Inc., a corporation organized under the laws of the District of Columbia, and exempt from federal income taxes under 26 U.S.C § 501(a) as an organization described in 26 U.S.C. § 501(c)(3).

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "District" means the District of Columbia.

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(8) “Financing Documents” means the documents other than Closing Documents that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) “Home Rule Act” means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) “Issuance Costs” means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan contemplated thereby, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) “Loan” means the District’s lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) “Project” means the financing, refinancing, or reimbursing of all or a portion of the Borrower's costs of:

(A) Acquiring and constructing improvements at an existing elementary school facility, including a parking lot and playground, located at 645 Milwaukee Place S.E., Washington, D.C. 20032 (Lot 0815, Square 5982) (“Southeast Elementary”);

(B) Certain capital improvements at the following locations of the Borrower:

(i) Tech Prep Academy Campus, a middle school located at 620 Milwaukee Place, S.E., Washington, D.C. 20032 (Lot 0045, Square 5982) and an adjacent high school located at 2705 Martin Luther King Avenue, S.E., Washington, D.C. 20032 (Lot 0049, Square 5982) (collectively, “Tech Prep”);

(ii) Chamberlain Elementary Campus and Middle Campus, an approximately 80,660 square foot primary and secondary school located at 1345 Potomac Avenue, S.E., Washington, D.C. 20003 (Lot 0847, Square 1046) (“Chamberlain”);

(iii) Woodbridge Elementary Campus and Junior Academy Campus, an approximately 115,000 square foot primary school located at 2959 Carlton Avenue, N.E., Washington, D.C. 20018 (Lot 812, Square 4339) (“Woodbridge”);

(iv) Blow-Pierce Elementary Campus and Junior Academy Campus, an approximately 62,994 square foot primary school located at 725 19th Street, N.E., Washington, D.C. 20002 (Lots 833, 834, Square 4515) (“Blow-Pierce”); and

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(v) Carter G. Woodson Collegiate Academy, an approximately 151,558 square foot high school located at 4095 Minnesota Avenue, N.E., Washington, D.C. 20019 (“Collegiate”);

(C) Refunding the District's Revenue Bonds (Friendship Public Charter School, Inc. Issue) Series 2003, in the original principal amount of \$44,880,000, the proceeds of which were used to:

(i) Finance or refinance all or a portion of the costs of acquisition or leasing, construction, renovation, furnishing, and equipping of the Borrower’s Blow-Pierce, Chamberlain, Woodbridge, and Collegiate campuses;

(ii) Fund working capital costs;

(iii) Fund a required debt service reserve fund;

(iv) Pay costs of issuance; and

(v) Pay the cost of credit enhancement;

(D) Refunding the District's Revenue Bonds (Friendship Public Charter School, Inc. Issue) Series 2006, in the original principal amount of \$15,000,000, the proceeds of which were used to:

(i) Finance, refinance or reimburse the Borrower for costs of construction of a building addition and equipment at the Southeast Elementary campus;

(ii) Fund a required debt service reserve fund;

(iii) Pay costs of issuance; and

(iv) Pay the cost of credit enhancement;

(E) Funding a debt service reserve fund with respect to the Bonds, if deemed necessary in connection with the sale of the Bonds;

(F) Paying interest on the Bonds during the renovation period, if deemed necessary in connection with the sale of the Bonds; and

(G) Paying allowable Issuance Costs.

Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may by resolution authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse and to assist in the financing, refinancing, or reimbursing of undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$70 million, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

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(4) The Project is an undertaking in the area of elementary, secondary and college and university facilities within the meaning of section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the Project.

Sec. 4. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$70 million; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 5. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

ENROLLED ORIGINAL

(8) The time and place of payment of the Bonds;
(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;
(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and

(11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 6. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to

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be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

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Sec. 10. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale, or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 12. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

ENROLLED ORIGINAL**Sec. 13. Information reporting.**

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 15. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the date of this resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 16. Severability.

If any particular provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing the Bonds, and the validity of the Bonds shall not be adversely affected.

Sec. 17. Compliance with public approval requirement.

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f)),

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and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

Sec. 18. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 19. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the Home Rule Act.

Sec. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-1

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2015

To recognize AARP and its Network of Age-Friendly Cities and Communities throughout the United States of America.

WHEREAS, since 1990, roughly 90% of older Americans have stayed in the same county where they have been living, if not the very same home;

WHEREAS, in the 1990s, all but 11 of the nation’s 318 metropolitan areas saw an increase in their 65+ population, and soon the 65+ population will grow faster than the general population in all 50 states and the District of Columbia;

WHEREAS, in 2011, the so-called “Baby Boomers,” those born between 1946 and 1964, began turning 65, and the number of older people will increase dramatically during the 2010-2030 period;

WHEREAS, the older population in 2030 is projected to be twice that in 2000, growing from 5.3 million to 71.5 million and representing nearly 20% of the total U.S. population;

WHEREAS, the U.S. Census Bureau projects that the population age 85 years and over could grow from 5.3 million in 2006 to nearly 21 million by 2050;

WHEREAS, some researchers predict that death rates at older ages will decline more rapidly than is reflected in the U.S. Census Bureau’s projections, which could lead to greater growth of this population;

WHEREAS, there have been reports, specifically AARP’s Beyond 50.05: A Report to the Nation on Livable Communities, illustrating that nearly 90% of the 50+ population surveyed would prefer to remain in their own homes as they age;

WHEREAS, according to a recent AARP survey of 1,000 transportation planners, it was revealed that two-thirds of planners have not yet begun considering the needs of older users in their multi-modal planning;

ENROLLED ORIGINAL

WHEREAS, because active aging is a life-long process, an age-friendly city is not just “elder-friendly,” an age-friendly city is friendly for people of all ages and abilities, and promotes active aging by optimizing opportunities for health, participation, and security in order to enhance quality of life as people age;

WHEREAS, an “age-friendly” community promotes anticipating and responding flexibly to the aging-related needs and preferences of its citizens;

WHEREAS, on October 3, 2012, the District joined other aspirant-jurisdictions to become an Age-Friendly City as part of the pilot AARP Network of Age-Friendly Communities through the World Health Organization Global Network of Age-Friendly Cities and Communities; and

WHEREAS, in partnership with AARP the District has engaged hundreds of residents and stakeholders in the development of the goals and objectives, the underpinning of the strategic plan, gathered details on 104 of 296 Single Member Districts, and piloted an initiative identifying age-friendly businesses in D.C.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia acknowledges and applauds the Age Friendly D.C. Strategic Plan 2014-2017 and urges the Mayor to implement the strategies outlined in the Age Friendly D.C. Strategic Plan.

Sec. 2. This resolution may be cited as the “AARP Network Age-Friendly Cities and Communities Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2015

To celebrate the ceremony of the District of Columbia's famous groundhog weatherman, Potomac Phil, as he delivers his unprecedented forecast on February 2, 2015, and to declare February 2, 2015, as "D.C. Groundhog Day" in the District of Columbia.

WHEREAS, District of Columbia residents and visitors will be enlightened with the knowledge of Potomac Phil's internal power of weather prediction;

WHEREAS, on February 2, 2015, citizens of the District of Columbia will be educated on the American folklore tradition of Groundhog Day by Dupont Festival; and

WHEREAS, hundreds of individuals in and around Dupont Circle during the morning of February 2, 2015, will be elucidated by Potomac Phil.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia hereby declares February 2, 2015, as "D.C. Groundhog Day" in the nation's capital.

Sec. 2. This resolution may be cited as the "D.C. Groundhog Day Recognition Resolution of 2015".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-3

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2015

To declare January 24, 2015, as “Geoff Lewis Day” in the District of Columbia.

WHEREAS, Geoff Lewis provided the original impetus for Capitol Hill Village, looking to Beacon Hill Village in Boston as a way for him and his wife Terry to stay as long as possible in their Capitol Hill home;

WHEREAS, Geoff, with the help of community activists Steve and Nicky Cymrot, brought together a group of like-minded neighbors to form such an organization, called Capitol Hill Village;

WHEREAS, Geoff convened the first official meeting of Capitol Hill Village on May 3, 2006, where he was named President of the Board of Directors and helped develop a mission statement for the organization;

WHEREAS, under Geoff’s leadership, the Capitol Hill Village Board of Directors, 12 like-minded individuals representing a wide range of Capitol Hill residents, became an active, working board and through Geoff’s efforts with a local lawyer, successfully incorporated and obtained 501(c)(3) nonprofit status in record time;

WHEREAS, Geoff launched an advisory board of neighborhood leaders in December 2006 who developed a very successful fundraising appeal for Charter Members and Founding Donors, concepts that raised more than \$170,000 for the group by mid-April 2007;

WHEREAS, Geoff, through a neighborhood colleague, arranged for centrally located, free office space for Capitol Hill Village on 7th Street, S.E., in February 2007, a financial boon for the nascent organization;

WHEREAS, flying to attend a Beacon Hill Village conference in Boston in late April 2007, Geoff serendipitously met Gail Kohn, a woman with 25 years of experience in aging services, and suggested her to his Board of Directors as the perfect candidate for the Capitol Hill Village’s first Executive Director, a role in which she began serving on May 21, 2007;

ENROLLED ORIGINAL

WHEREAS, dating from his attendance at the national conference in Boston in April 2007, Geoff became an energetic regional and national spokesperson and advocate for the growing Village movement, placing Capitol Hill Village in the vanguard of “aging in place” villages;

WHEREAS, in a step most unusual among nonprofit founders, Geoff stepped aside as Board President in February 2008, leaving Executive Director Kohn and worthy successors to define the future of the Capitol Hill Village, though continuing to be a resource as an active President Emeritus; and

WHEREAS, with his vision and practical groundwork, Geoff Lewis has led an entity that has since thrived, which currently boasts more than 400 individual members and more than 300 volunteers, and that is regarded as a touchstone in the Village movement nationwide.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council declares January 24, 2015, as “Geoff Lewis Day” in the District of Columbia.

Sec. 2. This resolution may be cited as the “Geoff Lewis Day Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-4

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2015

To recognize and honor HEXAGON for the unique, charitable, and entertaining place it has in Washington D.C.'s history and future.

WHEREAS, HEXAGON was formed in 1955 as an all-volunteer nonprofit organization whose purpose was to put on a quality, entertaining show and donate all of the proceeds to local charities;

WHEREAS, HEXAGON has performed for tens of thousands of Washington, D.C. area residents for 60 years;

WHEREAS, HEXAGON has provided for decades a plethora of original, fun, satirical, and comedic entertainment;

WHEREAS, HEXAGON has donated more than \$4 million to more than 40 area charities over its 60-year history;

WHEREAS, HEXAGON has consistently put on professional-quality shows, though being an all-volunteer organization; and

WHEREAS, HEXAGON has received formal recognition for its contributions to the Washington, D.C. area community, including being the first organization honored by *Washingtonian Magazine* as "Washingtonian of the Year" and also being selected by President Ronald Reagan as a recipient of the President's Volunteer Action Award for Service.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors HEXAGON for its charitable contributions to many worthy organizations in the Washington, D.C. area community.

Sec. 2. This resolution may be cited as the "HEXAGON Recognition Resolution of 2015".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-5

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2015

To declare February 6, 2015, as “National Wear Red Day” in the District of Columbia and to urge all citizens to show their support for women and their fight against heart disease by commemorating this day by wearing the color red in hopes of increasing awareness, knowledge, and discussions of heart disease, and empowering women to reduce their risk for cardiovascular disease, so that we may save thousands of lives each year.

WHEREAS, heart disease is the number one killer of women, yet 80% of cardiac events can be prevented;

WHEREAS, cardiovascular diseases cause one in 3 women’s deaths each year, killing approximately one woman every minute;

WHEREAS, an estimated 44 million women in the U.S. are affected by cardiovascular diseases;

WHEREAS, African-Americans have the highest rate of heart disease in the District, with the highest prevalence rates in Wards 6, 7, and 8, and the highest death rates in Wards 5 and 7;

WHEREAS, 1,300 District residents die from heart disease each year, more than half of which are women;

WHEREAS, 90% of women have one or more risk factors for developing heart disease, yet only one in 5 American women believe that heart disease is her greatest health threat;

WHEREAS, since 1984, more women than men have died each year from heart disease;

WHEREAS, women comprise only 24% of participants in all heart-related studies;

WHEREAS, women are less likely to call 911 for themselves when experiencing symptoms of a heart attack than they are if someone else were having a heart attack;

WHEREAS, only 43% of African American women and 44% of Hispanic women know that heart disease is their greatest health risk, compared with 60% of Caucasian women;

ENROLLED ORIGINAL

WHEREAS, women involved with the American Heart Association's Go Red For Women[®] movement live healthier lives, and nearly 90% have made at least one healthy behavior change;

WHEREAS, Go Red For Women is asking all Americans to Go Red by wearing red and speaking red:

- *Get Your Numbers*: Ask your doctor to check your blood pressure and cholesterol.
- *Own Your Lifestyle*: Stop smoking, lose weight, exercise and eat healthy.
- *Raise Your Voice*: Advocate for more women-related research and education.
- *Educate Your Family*: Make healthy food choices for you and your family. Teach your kids the importance of staying active.
- *Don't be silent*: Tell every woman you know that heart disease is their No. 1 killer. Raise your voice at GoRedForWomen.org; and

WHEREAS, the Council recognizes and supports the American Heart Association's Go Red for Women movement and urges citizens to show their support for women and the fight against heart disease and stroke during the month of February through the wearing and presentation of the color red.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council declares February 6, 2015, as the "National Wear Red Day" in the District of Columbia.

Sec. 2. This resolution may be cited as the "National Wear Red Day Recognition Resolution of 2015".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-6

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2015

To recognize the 15-year anniversary of the Teen Alliance for Prepared Parenting program in the District of Columbia.

WHEREAS, Washington Hospital Center's Teen Alliance for Prepared Parenting ("TAPP") program was developed in August 1999 to prevent subsequent pregnancies for teen parents;

WHEREAS, over the past 15 years, TAPP has offered a competency-based approach grounded in positive youth development to young parents;

WHEREAS, participants in the TAPP program include pregnant and parenting youth 21 years of age and younger;

WHEREAS, they receive services until their child is 2 years of age or the teen parent is at least 18 years of age;

WHEREAS, program outreach targets Wards 1, 5, 7, and 8 but reaches participants throughout the District of Columbia;

WHEREAS, both teen mothers and fathers are eligible for services;

WHEREAS, TAPP's philosophy is that high-quality medical services, combined with intensive youth development services and increased social supports, builds development competencies that increase teen parents' motivation and ability to prevent subsequent pregnancies and move forward to live healthy, productive lives with their children;

WHEREAS, TAPP has been successful in preventing teen pregnancies and supporting contraceptive utilization among participants (Patchen, Berggren, LeTourneau 2013);

WHEREAS, 5.2% of program participants experienced subsequent births, which compares favorably to the 16% subsequent birth rate for the District of Columbia (Child Trends, 2011);

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WHEREAS, 94% of TAPP participants continued or completed a high school or GED program within one year of delivery, while only 40% of teen parents graduate nationally; and

WHEREAS, TAPP attributes its success, in part, to its ability to initiate services early, during the prenatal period, and provide follow-up services until the child is 2 years of age or the mother is at least 18 years of age.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes the importance of eliminating teen pregnancy and calls upon the residents of this great city to support the work of the Teen Alliance for Prepared Parenting program.

Sec. 2. This resolution may be cited as the “15-Year Anniversary of the Teen Alliance for Prepared Parenting Program Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-7

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2015

To declare February as “Teen Dating Violence Awareness and Prevention Month” in the District of Columbia.

WHEREAS, teens between the ages of 16 and 24 years are more vulnerable to intimate partner violence, experiencing abuse at a rate almost triple the national average;

WHEREAS, one in 3 teen girls in the United States is a victim of physical, emotional, or verbal abuse from a dating partner, a figure that far exceeds victimization rates for other types of violence affecting youth;

WHEREAS, high school students who experience physical violence in a dating relationship are more likely to use drugs and alcohol, are at greater risk of suicide, and are much more likely to carry patterns of abuse into future relationships;

WHEREAS, young people victimized by a dating partner are more likely to engage in risky sexual behavior and unhealthy dieting behaviors, and the experience may disrupt the normal development of self-esteem and positive body image;

WHEREAS, nearly half of teens who experience dating violence report that incidents of abuse took place in a school building or on school grounds;

WHEREAS, only 33% of teens who are in an abusive relationship tell anyone about the abuse, and 81% of parents surveyed either believe teen dating violence is not an issue or admit they do not know if it is one;

WHEREAS, lesbian, gay, bisexual, and transgender teens are just as likely to experience dating violence as teens in opposite-sex relationships;

WHEREAS, by providing young people with education about healthy relationships and relationship skills and by changing attitudes that support violence, the Council recognizes that dating violence is preventable;

ENROLLED ORIGINAL

WHEREAS, it is essential to raise community awareness and to provide training for teachers, counselors, and school staff so that they may recognize when youth are exhibiting signs of dating violence;

WHEREAS, the establishment of Teen Dating Violence Awareness and Prevention Month will benefit young people, their families, schools, and communities, regardless of socioeconomic status, gender, sexual orientation, or ethnicity; and

WHEREAS, all residents of the District of Columbia have the right to a safe and healthy relationship and to be free from abuse.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council declares February as “Teen Dating Violence Awareness and Prevention Month” in the District of Columbia.

Sec. 2. This resolution may be cited as the “Teen Dating Violence Awareness and Prevention Month Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-8

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2015

To recognize and honor Frank Braxton on the occasion of his 100th birthday.

WHEREAS, Frank Braxton was born in Washington, D.C. on January 30, 1915;

WHEREAS, Frank Braxton is a proud Ward 5 resident;

WHEREAS, Frank Braxton graduated from Armstrong Technical School;

WHEREAS, Frank Braxton thereafter held several noble jobs, including shoemaking, watchmaking, and working as an employee for the Government Printing Office and later the United States Postal Service;

WHEREAS, Frank Braxton proudly served in the United States Army;

WHEREAS, Frank Braxton served as the Vice President and Financial Secretary of the National Alliance of Postal and Federal Employees Union and later as the appointed Chair of the Retirees Division;

WHEREAS, Frank Braxton served on the first District Citizen’s Advisory Council and worked with the D.C. Police force to ensure community public safety;

WHEREAS, Frank Braxton continued his commitment to public safety by serving as an appointee to the Civilian Complaint Review Board;

WHEREAS, Frank Braxton was elected to the Democratic State Committee;

WHEREAS, Frank Braxton honorably served the Edgewood community since 1958 and served as the Chair of 5th District Citizens’ Advisory Council; and

WHEREAS, Frank Braxton married Geneva Braxton and had 2 children – Frank Jr. and Yvonne.

ENROLLED ORIGINAL

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Frank Braxton on the occasion of his 100th birthday.

Sec. 2. This resolution may be cited as the “Frank Braxton Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-9

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize the Chinese community in the District of Columbia for its generous and valued contributions to the social, cultural, and political life of the city, to honor the Chinese Consolidated Benevolent Association for its sponsorship of the parade to celebrate the Year of the Sheep, and to declare February 22, 2015, as “Chinese Lunar New Year 4713, Year of the Sheep Day” in the District of Columbia. .

WHEREAS, Chinese people have lived in the District of Columbia as a community since 1884, when nearly 100 immigrants settled near 3rd Street and Pennsylvania Avenue, N.W., and remained until 1935, when the settlement area moved to its current location along H Street, N.W., which is commonly known as “Chinatown”;

WHEREAS, today there are more than 40 Chinese businesses and some 1,000 Chinese residents in Chinatown, which serves as the center of health care, dining, and shopping for the 40,000 Chinese residents in the Washington, D.C. metropolitan area;

WHEREAS, Chinatown is a unique cultural and social center for the District, providing visitors with a taste of Chinese culture;

WHEREAS, the District of Columbia’s commitment to the Chinese community continues as the government strives to improve services for the Chinese community through the establishment of the Office on Asian and Pacific Islander Affairs, the Metropolitan Police Department’s Asian Liaison Unit in Chinatown, and the Chinatown Community Cultural Center, which we salute;

WHEREAS, thousands of District of Columbia residents will gather along H and 7th Streets, N.W., on Sunday, February 22, 2015, to enjoy the dragon-led parade and celebrate the Chinese Lunar New Year;

WHEREAS, the annual anniversary celebration and parade for the Chinese Lunar New Year, sponsored by the Chinese Consolidated Benevolent Association, is nationally known as one of the finest celebrations of color, art, and pageantry; and

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WHEREAS, the Chinese community welcomes our neighbors, the Verizon Center, Convention Center, Gallery Place, and many others whose partnerships promote and enhance the economic, social, and cultural opportunities for the residents of Washington, D.C., to achieve the vision and objectives set forth in the Downtown Comprehensive Plan for a living downtown.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia salutes the Chinese community of the District of Columbia and the Chinese Consolidated Benevolent Association for its many contributions to the social, economic, cultural, and political life of the city, honors the Chinese Consolidated Benevolent Association for its sponsorship of the parade to celebrate the Chinese New Year, and declares February 22, 2015, as “Chinese Lunar New Year 4713, Year of the Sheep Day” in the District of Columbia.

Sec. 2. This resolution may be cited as the "Chinese Lunar New Year 4713, Year of the Sheep Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-10

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To posthumously recognize and celebrate the exceptional achievements and long-time dedicated service of District resident and distinguished firefighter Charles Chamberlin on the 50th anniversary of his passing in the line of duty.

WHEREAS, Private Charles M. Chamberlin, Jr., was a lifelong resident of the District of Columbia, born on April 14, 1912;

WHEREAS, Private Chamberlin, served as a firefighter in the District from 1937-1965; in 1943, 1946, and 1953 he was commended for various meritorious services, including rescuing a distressed civilian, and in 1954 was named firefighter of the year;

WHEREAS, Private Chamberlin served in multiple fire houses and held many positions in the District, including Chief's Aid for Battalion 5, where his job was to work between those inside a fire and the Battalion Chief stationed outside, before the implementation of cellphones and radios;

WHEREAS, Private Chamberlin, was always eager to give his service to those sick or wounded, earning him the nickname "Doc," and was responsible for the founding and smooth operation of the DC Fireman's Blood Bank;

WHEREAS, "Doc," for those who knew him, donated 52 pints of blood through the American Red Cross for the use of the Armed Forces or for other purposes for which there was a need;

WHEREAS, on February 28, 1965, Private Chamberlin responded to a fire at Uptown Restaurant and Lounge, located at 3433 Connective Avenue, N.W., and subsequently fell victim to a massive heart attack and passed away at the age of 54; and

WHEREAS, Private Chamberlin was a devoted family man to his wife and son; he was an active member of his church, a Mason, served as a den father to a Cub Scout pack, and on the executive committee of the Boy Scouts of America; he was known by his contemporaries as one always ready to help for a good cause.

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IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the District of Columbia is grateful for Private Chamberlin’s commitment to our city and recognizes his outstanding citizenship on the anniversary of his passing; he is a model for all to emulate.

Sec. 2. This resolution may be cited as the “Private Charles M. Chamberlin, Jr. Posthumous Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-11

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize the Abraham Lincoln Institute for its dedication to promoting the life and legacy of the 16th President of the United States, President Abraham Lincoln.

WHEREAS, the Abraham Lincoln Institute ("ALI") was founded in 1997 and has its headquarters in Washington, D.C.;

WHEREAS, ALI provides free, ongoing education on the life, career, and legacy of President Abraham Lincoln to educators, governmental and community leaders, and the general public;

WHEREAS, ALI sponsors a free symposium on "The Latest in Lincoln Scholarship," presented each year in late March in Washington, D.C.;

WHEREAS, ALI's symposia have been held at the Library of Congress, the National Archives in Washington, and the National Archives II in College Park, Maryland;

WHEREAS, ALI also presents an annual book award and (in conjunction with the Abraham Lincoln Association of Springfield, Illinois) a prize for the best Ph.D. dissertation on Lincoln;

WHEREAS, the speakers at the symposia have included some of today's most eminent historians and biographers, including Doris Kearns Goodwin, Amanda Foreman, James McPherson, Eric Foner, James Swanson, Mark Neely, James Oakes, David Blight, and William Lee Miller;

WHEREAS, the ALI board of directors includes some of the most honored Lincoln scholars of our time, including 4 winners of the coveted Gilder-Lehrman Lincoln Prize, Allen C. Guelzo, Douglas L. Wilson, William C. Harris, and Michael Burlingame, and our own local scholar, Edna Medford Green, Professor and Chairman of the Department of History, Howard University;

WHEREAS, the officers of the ALI are President Joan Cashin, Associate Professor of

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History, Ohio State University; Vice President Paul Pascal; Treasurer Don Kennon, U.S. Capitol Historical Society; and General Secretary Clark Evans, retired, Library of Congress;

WHEREAS, the ALI has received generous support from the Illinois State Society of Washington, D.C., the Foundation for the National Archives, the Lincoln Institute, and the University of Illinois Springfield; and

WHEREAS, the ALI cooperates with other Lincoln organizations, including the Lincoln Group of Washington D.C., Abraham Lincoln Association of Springfield, Illinois, and the Gilder-Lehrman Institute of American History.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia acknowledges and applauds the Abraham Lincoln Institute for its dedication to promoting the life and legacy of President Abraham Lincoln.

Sec. 2. This resolution may be cited as the “Abraham Lincoln Institute Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-12

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize the management team of the Marriot Marquis Washington D.C. for their exemplary efforts to train and hire District of Columbia residents.

WHEREAS, the Marriot Marquis Washington, D.C. opened on May 1, 2014 under the leadership of General Manager Dan Nadeau and his management team;

WHEREAS, Dan Nadeau, a 30-year Marriott veteran and most recently general manager at the Washington Marriott Wardman Park, has held numerous sales and marketing positions and senior leadership positions across the country;

WHEREAS, Mr. Nadeau is an active member of the District of Columbia community and serves on the boards of the Capital Area Food Bank, the Washington, D.C. Hotel Association, Destination DC, the Board of Trade, and the American Hotel Lodging Association;

WHEREAS, Marriot Marquis Washington D.C. partnered with the Davis Memorial Goodwill Industries to provide workforce intermediary services for training in life skills, customer service, and a Marriott-specific curriculum;

WHEREAS, the hotel employs a diverse group of hosts, who represent many countries and collectively speak over 30 languages;

WHEREAS, under the management of Mr. Nadeau, 60% of the hotel’s hired associates are District of Columbia residents, many of whom had not previously worked in the hospitality industry, were chronically unemployed, or homeless;

WHEREAS, under the management of Mr. Nadeau, the Marriot Marquis Washington, D.C. has trained, hired, and mentored District of Columbia residents to keep them employed and earning a living wage;

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WHEREAS, the Marriot Marquis Washington, D.C. project spent 146% of the project goal on Certified Small Businesses totaling \$122.6 million with an overall 30.7% District of Columbia workforce participation; and

WHEREAS, since its opening, the Marriot Marquis Washington, D.C. is strengthening the city’s tourism industry and attracting more visitors, while simultaneously having a strong economic impact and continuing to create jobs for District of Columbia residents.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes the management team of the Marriot Marquis for their exemplary efforts to train and hire District of Columbia residents

Sec. 2. This resolution may be cited as the “Marriot Marquis Washington D.C. Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-13

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize and honor the work of House of Help City of Hope on the occasion of its 20th annual graduation ceremony.

WHEREAS, House of Help City of Hope is led by its founder and Executive Director, Bishop Dr. Shirley Holloway;

WHEREAS, House of Help City of Hope has served over 40,000 individuals since its founding;

WHEREAS, House of Help City of Hope offers a variety of programs, such as career counseling, addiction treatment, resume writing, GED classes, parenting classes, and life skills training;

WHEREAS, House of Help City of Hope has achieved an 80% success rate of participants who remain sober after completing the initial phases of the program; and

WHEREAS, House of Help City of Hope will celebrate its 20th annual graduation ceremony on April 11, 2015, to honor the many men and women who have participated in the programs and remained clean and sober for 90 days or more.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors the work at the House of Help City of Hope and its positive impact on the residents of the District of Columbia, and congratulates this year's graduates on their victorious achievements.

Sec. 2. This resolution may be cited as the "House of Help City of Hope Graduation Recognition Resolution of 2015".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-14

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To posthumously honor the life of Mary Lucy Ewell Young.

WHEREAS, Mary Lucy Ewell Young was a lifelong District of Columbia resident born May 20, 1923, in Garfield Memorial Hospital in Washington, D.C. as the only child to the late John D. Ewell and Carrie Jones Ewell;

WHEREAS, Mary Lucy Ewell Young was raised in her teenage years by her godmother, Mabel Shaw, after the passing of her mother, Carrie Jones Ewell;

WHEREAS, Mary Lucy Ewell Young obtained her education in Divisions 10-13 of District of Columbia public schools, attending Douglas Elementary School, Shaw Junior High School, and Francis L. Cardozo Senior High School, formerly referred to as Cardozo Business High School, located at Ninth Street and Rhode Island Avenue, N.W., which was the first commercial high school for Blacks in the United States;

WHEREAS, Mary Lucy Ewell Young actively participated in the Cardozo High School Class of 1941 Alumni Reunion Group and its social activities committee and newsletter staff;

WHEREAS, Mary Lucy Ewell Young provided a quote for her high school yearbook, stating: "If we walk and act foolishly no amount of fine clothing can make others think we are wise and sensible.";

WHEREAS, Mary Lucy Ewell Young married her childhood sweetheart, Milton Augustus Young, on January 25, 1944, and was the mother of 2 daughters, Constance Antoinette and Carolyn Anita;

WHEREAS, Mary Lucy Ewell Young became a member of Saint Benedict the Moor Catholic Church in the early 1950s when Father Thomas Burke served as pastor, and regularly volunteered in the rectory during the pastorates of Fathers Rawlin Enette, Richard Albarano, William L. Norvel, Patrick Healy, and Charles Coughlin;

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WHEREAS, Mary Lucy Ewell Young was confirmed on June 27, 1998 by Father Roderick Coates;

WHEREAS, Mary Lucy Ewell Young believed in the importance of caring for the community, and her love for community led her to be involved with Club Demain, Inc., a social club of women with a mission to help less-fortunate families, and the 34th Place Flower Fund in River Terrace, serving many times as block captain;

WHEREAS, Mary Lucy Ewell Young worked for 38 years as an offset press operator at the Government Printing Office and received many superior performance awards, commendations, and monetary bonuses of appreciation for exemplary service;

WHEREAS, Mary Lucy Ewell Young worked for 15 years as an operator for the Yellow Cap Company until she resigned in 2008;

WHEREAS, Mary Lucy Ewell Young was known for speaking her mind and being a loving, caring and giving friend, mentor, neighbor, caregiver, sister, and mother, willing to help anyone who was in need; and

WHEREAS, Mary Lucy Ewell Young transitioned December 30, 2014.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and celebrates the life of Mary Lucy Ewell Young.

Sec. 2. This resolution may be cited as the “Mary Lucy Ewell Young Posthumous Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-15

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize and celebrate Kia Jones-Mitchell on the occasion of her retirement.

WHEREAS, Kia Jones-Mitchell graduated from the Metropolitan Police Academy in 1985;

WHEREAS, Kia Jones-Mitchell was assigned to the Emergency Response Team (“ERT”) as a Hostage Negotiator from 1996-2009, where her passion and training allowed her to respond to more than 500 incidents in which ERT’s services were requested;

WHEREAS, Kia Jones-Mitchell served in several roles within the negotiation section of ERT, including the roles of primary, coach, intelligence, and chronologist;

WHEREAS, Kia Jones-Mitchell was elevated to the position of Senior Negotiator as a result of her demonstrated leadership skills, and was selected by the Chief of Police to sit on the review board as well as train 25 new negotiators who were detailed to ERT as part-time negotiators;

WHEREAS, Kia Jones-Mitchell was assigned to leadership roles at various times throughout her tenure, including serving as Training Officer at the Fifth District Police Station, being detailed to the Morals Division (Undercover Officer), serving as a Fifth District Administrative Operations Officer, and becoming a Member of the Metropolitan Area Crisis Negotiation Association;

WHEREAS, Kia Jones-Mitchell was ultimately assigned to the School and Safety Division, an assignment that has allowed her to empower and inspire young people to be more responsible as they mature and give back to their local community and the District of Columbia;

WHEREAS, Kia Jones-Mitchell received several commendations for her work on crime reduction and for the confiscation of millions of dollars of firearms and narcotics, removing them from our communities;

ENROLLED ORIGINAL

WHEREAS, Kia Jones-Mitchell amassed several additional accomplishments in her career, including achieving certifications in special weapons and participating in 9 Presidential Inaugurations;

WHEREAS, Kia Jones-Mitchell pursued and completed noteworthy training over the course of her career, including Emergency Response Training School, Federal Bureau of Investigations Hostage Negotiations School, Prince George’s County Police Hostage Negotiation Training, S.A.F.E. Advanced Hostage Negotiation Training at the Northern Virginia Criminal Justice Institute, and Advanced Negotiations Level I, II and II at the Institute of Police Technology and Management at the University of North Florida;

WHEREAS, Kia Jones-Mitchell’s ability to communicate across all racial, economic and social lines has led to her success;

WHEREAS, Kia Jones-Mitchell is a 29-year veteran of the Metropolitan Police Department; and

WHEREAS, Kia Jones-Mitchell deservedly celebrates her retirement in the company of family, friends, and colleagues at an event in her honor on March 20, 2015.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia commends, celebrates, and thanks Kia Jones-Mitchell for her 29 years of service in the Metropolitan Police Department and to the District of Columbia.

Sec. 2. This resolution may be cited as the “Kia Jones-Mitchell Retirement Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-16

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize the contributions of V. David Zvenyach to the District of Columbia, his years of distinguished service to the Council of the District of Columbia, and his pioneering efforts in the field of public-sector open data.

WHEREAS, Vladlen David Zvenyach graduated from the University of Wisconsin-Madison in 2003 with a bachelor of science degree in mechanical engineering;

WHEREAS, Mr. Zvenyach moved from Wisconsin to the District of Columbia to study law;

WHEREAS, Mr. Zvenyach attended the George Washington University Law School, receiving a juris doctor degree in 2006;

WHEREAS, Mr. Zvenyach then served as law clerk to the Honorable Chief Judge Yvette Kane of the United States District Court for the Middle District of Pennsylvania from 2006 to 2008;

WHEREAS, Mr. Zvenyach returned to the District of Columbia to serve as chief of staff for Ward 3 Councilmember Mary M. Cheh from 2008 to 2011;

WHEREAS, in that capacity, Mr. Zvenyach played a pivotal role in the passage of a number of key bills related to open government, elections law, and other subjects;

WHEREAS, Mr. Zvenyach was appointed General Counsel of the Council of the District of Columbia in 2011 and has served with integrity, honor, and distinction in that capacity for 4 years;

WHEREAS, Mr. Zvenyach has worked tirelessly to improve the performance, responsiveness, and reputation of the Council's Office of General Counsel;

WHEREAS, Mr. Zvenyach established the Pro Bono Legal Volunteer Program at the Council, allowing Council attorneys to perform valuable pro bono work in the local community without entering into conflicts of interest, and received the "Exceptional Service Award 2014" from the District of Columbia Bar for that accomplishment;

ENROLLED ORIGINAL

WHEREAS, Mr. Zvenyach has provided zealous advocacy for the Council of the District of Columbia as well as District residents in support of budget autonomy for the District of Columbia;

WHEREAS, Mr. Zvenyach has made numerous contributions to improve the transparency of government, both in the District of Columbia and nationwide, including the opening of the District of Columbia Official Code;

WHEREAS, Mr. Zvenyach taught himself how to code, using that skill to build a number of software applications related to the law, and subsequently authored "Coding for Lawyers", a beginner's guide to programming;

WHEREAS, in recognition of his groundbreaking efforts as a public-sector open data advocate and innovator, Mr. Zvenyach was awarded the 2014 "Le Hackie" award for "Legal Hacker of the Year" by DC Legal Hackers, was selected as a member of the "Fastcase 50" for 2014, and won the "2014 Open Data Pioneer Award" from U.S. Open Data;

WHEREAS, Mr. Zvenyach is a member of the District of Columbia Uniform Law Commission, representing the District before the National Conference of Commissioners on Uniform State Laws;

WHEREAS, Mr. Zvenyach has been a particularly active and engaged member of the District of Columbia Bar, having served as co-chair of the District of Columbia Affairs Section, as well as serving in other leadership positions;

WHEREAS, Mr. Zvenyach serves on the Board of Directors for the Washington Council of Lawyers, an organization devoted to expanding access to justice and ensuring that the justice system serves the poor and marginalized; and

WHEREAS, Mr. Zvenyach has provided zealous advocacy for the Council, has touched on and improved hundreds of bills affecting the daily lives of District residents and visitors, and is a role model for public service and dedication to his craft.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors V. David Zvenyach for his commitment, dedication, and service to the District of Columbia.

Sec. 2. This resolution may be cited as the "V. David Zvenyach Distinguished Public Service Recognition Resolution of 2015".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-17

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize and honor Michele V. Hagans as president of Fort Lincoln New Town Corporation, Inc. for her dedication and business acumen in redeveloping and revitalizing several neighborhoods throughout all 4 quadrants of the District of Columbia.

WHEREAS, Michele V. Hagans earned 4 degrees from Howard University, with a Bachelor of Science in 1973, a Master of Engineering in 1976, a Master of Divinity in 2006, and a Doctorate of Ministry in 2013;

WHEREAS, Michele V. Hagans also earned a Master of Business Administration from George Washington University in 1994;

WHEREAS, Michele V. Hagans is a Certified Property Manager and a licensed real estate broker in the District of Columbia and the State of Maryland;

WHEREAS, Michele V. Hagans started her career at General Electric as a Manufacturing Engineer, staying with General Electric until 1979;

WHEREAS, Michele V. Hagans later served as General Manager of the Public Parking Facilities at Washington National Airport, managing over 5,000 spaces and generating over \$10 million in annual income;

WHEREAS, Michele V. Hagans has a lengthy record of community service;

WHEREAS, Michele V. Hagans presently serves on the boards of directors at the Washington Convention and Sports Authority and is Chair of the Board at Venture Philanthropy Partners, Inc., HEROES, Inc., and Living Classrooms of the National Capital Region;

WHEREAS, Michele V. Hagans also serves on the board of trustees of the Federal City Council and the Virginia Theological Seminary;

ENROLLED ORIGINAL

WHEREAS, Michele V. Hagans is a standing member of the Economic Club of Washington, World Presidents' Organization, Commercial Real Estate Women, and the International Women's Forum of Washington;

WHEREAS, Michele V. Hagans has received numerous awards and accolades for her work over the year, including being named Business Person of the Year 3 times and the Greater Washington Board of Trade's Leader of the Year in 2006;

WHEREAS, Michele V. Hagans has been President of the Fort Lincoln New Town Corporation for over 30 years and celebrates its 40th anniversary on May 6, 2015; and

WHEREAS, Michele V. Hagans, through her business and real estate dealings, has been responsible for the creation and maintenance of numerous affordable housing and senior citizen housing units throughout the District of Columbia.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes, honors, and congratulates Michele V. Hagans for her many decades of business in the District of Columbia, especially the past 30 years as President of the Fort Lincoln New Town Corporation, and for her community service.

Sec. 2.. This resolution may be cited as the "Michele V. Hagans Recognition Resolution of 2015".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-18

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize and thank Paul A. Quander, Jr. for his many years of dedicated service to the citizens of the District of Columbia.

WHEREAS, Paul A. Quander, Jr. is a native Washingtonian;

WHEREAS, Paul A. Quander, Jr. graduated from Virginia State University and the Howard University School of Law;

WHEREAS, Paul A. Quander, Jr. has served District residents admirably in a number of different roles in the criminal justice system, including: as a staff attorney for the Neighborhood Legal Services Program; Assistant Attorney General for the District of Columbia; Deputy Director of the District Department of Corrections; Director of the Court Services and Offender Supervision Agency; Executive Director of the District of Columbia Criminal Justice Coordinating Council; and, most recently, as Deputy Mayor for Public Safety and Justice;

WHEREAS, Paul A. Quander, Jr. has been honored for his accomplishments, most recently by the Sigma Delta Tau Legal Fraternity as a 2014 recipient of the Outstanding Service Award for Career Accomplishments Promoting Excellence in the Study, Practice and Judicial Processes of the Law; and

WHEREAS, Paul A. Quander, Jr. has made a significant impact on the District of Columbia with his dedication to justice and public safety.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes, thanks, and honors Paul A. Quander, Jr. for his devotion and contributions to public safety for the residents of the District of Columbia.

Sec. 2. This resolution may be cited as the “Paul A. Quander, Jr. Recognition Resolution of 2015”.

ENROLLED ORIGINAL

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-19

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize and honor the Potomac River Power Squadron on the occasion of its 100th anniversary and to declare March 7, 2015 as “Potomac River Power Squadron Day” in the District of Columbia.

WHEREAS, Potomac River Power Squadron was chartered on May 25, 1915 as a unit of United States Power Squadrons on the principles of Self Education, Civic Service, and Fraternal Boating in and for the District of Columbia;

WHEREAS, Potomac River Power Squadron and United States Power Squadrons are dedicated to the purpose of providing boating education on safety, navigation, weather, and cruise planning for recreational boaters on the waters of the District of Columbia and surrounding areas;

WHEREAS, Potomac River Power Squadron registered Articles of Incorporation as a District of Columbia corporation on January 12, 1958;

WHEREAS, District of Columbia resident members of the Potomac River Power Squadron served in defense of the City of Washington and the Nation by patrolling the Potomac River as officers of the United States Naval Reserve Forces during the Great War, from 1917 to 1918; and

WHEREAS, Potomac River Power Squadron endeavors to carry into its second century its education programs and civic service through the approach of boaters teaching boaters.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors the Potomac River Power Squadron for its significant impact on the boating community and its appreciation of the District’s waterways over the past 100 years and declares Saturday, March 7, 2015, as “Potomac River Power Squadron Day” in the District of Columbia.

ENROLLED ORIGINAL

Sec. 2. This resolution may be cited as the “Potomac River Power Squadron Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-20

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize and honor Melissa Hook for her dedicated service helping and assisting victims of crime in the District of Columbia.

WHEREAS, Melissa Hook was born in Waynesburg, graduated with a degree in Urban Planning with a minor in Psychology from Hampshire College in Amherst, Massachusetts in 1974, and attended graduate school at the Architectural Society of England;

WHEREAS, Melissa Hook has devoted her professional life to the subject of assisting victims of crime and helping them recover from their ordeals, basing her career on service to victims;

WHEREAS, Melissa Hook was the Executive Director of Victims Assistance Legal Organization, Inc., an organization dedicated to providing training and technical assistance to victims of crime;

WHEREAS, Melissa Hook has been published several times on the topic of victim services, including authoring *Ethics in Victim Services* in 2005 and contributing her expertise on victim services in regard to Buddhists in *Spiritually Sensitive Caregiving* in 2008;

WHEREAS, Melissa Hook helped develop the practice of “vertical advocacy” for victims of sexual assault, whereby a case officer is assigned to a victim from the very beginning of her or his journey, and this practice has been recognized as a national best-practice by victim services organizations and advocates;

WHEREAS, Melissa Hook has served on the board of the National Association of VOCA (Victims of Crime Act) Assistance Administrators, an organization dedicated to advancing education, research, and public service to deliver quality services for crime victims nationwide, to strengthen communication among its members, and to provide members with technical training and assistance to effectively respond to victims issues;

WHEREAS, Melissa Hook has been recognized as a trainer at the National Victims Assistance Academy, a program with the federal Office of Victims of Crime Training and

ENROLLED ORIGINAL

Technical Assistance Center, helping others develop their skills and knowledge necessary to become successful victim advocates;

WHEREAS, Melissa Hook joined the District government in 2006 when she was appointed the Director of the Office of Victim Services to serve the citizens of the District by coordinating and supporting victim services by working with different District government agencies and community organizations to develop and improve services to victims of violent crime; and

WHEREAS, Melissa Hook, while serving as Director of the Office of Victim Services, was also appointed concurrently as Director of the Justice Grants Administration in 2011 to secure and manage federal grant funds regarding juvenile and criminal justice in the District of Columbia, administering grants to nonprofit and government agencies to improve programs, policies, and coordination of the District’s criminal justice systems, where she served until January 2015 with the recent change in administration.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes, thanks, and honors Melissa Hook for her contributions to victim services and justice in the District and to the residents of the District of Columbia.

Sec. 2. This resolution may be cited as the “Melissa Hook Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-21

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize and honor the Washington Metropolitan Chapter Community Associations Institute’s observation of the vital role of residential community associations in the Nation’s Capital, and to declare Saturday, March 7, 2015 as “Community Association Day” in the District of Columbia.

WHEREAS, the residential community of homeowner associations, housing cooperatives, and condominiums in the Nation’s Capital has thrived in the new millennium;

WHEREAS, strong residential communities are the heart of city life and are essential for fostering civic responsibility and pride in the city;

WHEREAS, the prospects for the ongoing revitalization of the District of Columbia greatly depend on the flourishing of its residential core;

WHEREAS, the Community Associations Institute is dedicated to fostering vibrant, responsive, competent residential community associations that promote harmony, community, and responsible leadership, enhancing the lives of their residents; and

WHEREAS, on Saturday, March 7, 2015, the Washington Metropolitan Chapter Community Associations Institute is celebrating the value added to the area’s quality of life by community associations in the Nation’s Capital.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia finds this an appropriate time to recognize and honor the Community Associations Institute, Washington Metropolitan Chapter’s observation of Community Association Day in the Nation’s Capital, and declares March 7, 2015, as “Community Association Day” in the District of Columbia.

Sec. 2. This resolution may be cited as the “Community Association Day Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-22

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To recognize and honor Mrs. Lillian Huff for her charitable and civic contributions to the District of Columbia.

WHEREAS, Lillian Huff is a Ward 5 resident, mother, civic leader, civil rights advocate, women's rights leader, Democratic activist, and graduate of West Virginia State University;

WHEREAS, Lillian Huff served as President of the Friends of Lamond-Riggs Neighborhood Library, as Vice-President of the D.C. Federation of the Friends of the Library, as President of the Lamond-Riggs Civic Association, and has remained a committed community and political leader in the Lamond-Riggs community and throughout the District;

WHEREAS, Lillian Huff chaired the first and only D.C. Statehood Constitutional Convention on January 30, 1981, the first formal step toward establishing the state of New Columbia;

WHEREAS, Lillian Huff was honored by Mayor Marion Barry for her contribution to self-determination because of her work with the Self-Determination for D.C. Coalition (1971 – 1985);

WHEREAS, Lillian Huff served on the Democratic National Committee (“DNC”) as National Committeewoman for the District of Columbia;

WHEREAS, Lillian Huff was instrumental in the formation of the National Federation of Democratic Women (“NFDW”), was responsible for the motion that designated 3 seats on the DNC for the NFDW, played a pivotal leadership role in organizing a chapter in Washington, D.C., and became the charter President of the D.C. Federation of Democratic Women;

ENROLLED ORIGINAL

WHEREAS, Lillian Huff was an African American Female Delegate to the 1972 and 1980 Democratic National Conventions; and

WHEREAS, Lillian Huff continues to use her extensive knowledge of the Democratic Party, the DNC, the NFDW, the District of Columbia Democratic State Committee, and the political process to provide advice and counsel to political candidates and leaders from every quadrant of the District of Columbia.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes Mrs. Lillian Huff and her contributions to the District as a community and political leader.

Sec. 2. This resolution may be cited as the “Lillian Huff Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first day of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-23

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2015

To honor the Fort Lincoln New Town Corporation on the occasion of its 40th anniversary, and to recognize its longstanding commitment to the District through community development.

WHEREAS, the Fort Lincoln New Town Corporation is the exclusive developer of Fort Lincoln New Town;

WHEREAS, Fort Lincoln New Town Corporation was incorporated by Theodore R. Hagans Jr., on March 17, 1975;

WHEREAS, Fort Lincoln New Town Corporation became a registered business in the District of Columbia on May 6, 1975;

WHEREAS, Fort Lincoln New Town is located in Ward 5 on 360 acres of high, rolling land on the upper northeast border of the District of Columbia;

WHEREAS, the development of Fort Lincoln New Town is a public-private partnership and is guided by an Urban Renewal Plan;

WHEREAS, the 36th President of the United States, Lyndon B. Johnson, desired Fort Lincoln to be a “new town in town;”

WHEREAS, the Fort Lincoln New Town Urban Renewal Plan was adopted by the National Capitol Planning Commission in 1972;

WHEREAS, Michele V. Hagans, daughter of Theodore Hagans, became the President and Treasurer of Fort Lincoln New Town Corporation in April 1984;

WHEREAS, Fort Lincoln New Town includes the revitalization and development of roads, parks, playgrounds, utilities, schools, recreation centers and 2,016 apartments and homes;

WHEREAS, Fort Lincoln New Town also includes a 145,000 square foot distribution facility which employs in excess of 150 individuals;

ENROLLED ORIGINAL

WHEREAS, Fort Lincoln New Town is also comprised of the Shops at Dakota Crossing and the Villages at Dakota Crossing;

WHEREAS, the Shops at Dakota Crossing is being constructed on a 44-acre site and is a federally designated Primary Enterprise Zone;

WHEREAS, the Shops at Dakota Crossing is a 430,000 square-foot retail center positioned along Route 50, the gateway into Washington, D.C.;

WHEREAS, the Shops at Dakota Crossing is anchored by national retailer Costco, the first to open in the District, in November 2012;

WHEREAS, the Villages at Dakota Crossing is being constructed in 3 phases, and at the end of 2014, more than 75% of the units were closed; and

WHEREAS, the Villages at Dakota Crossing is being built in accordance with federal “Energy Star” standards, including stormwater runoff filtration and other low-impact development measures.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes the Fort Lincoln New Town Corporation for its dedication to community development in the District.

Sec. 2. This resolution may be cited as the “Fort Lincoln New Town Corporation 40th Anniversary Recognition Resolution of 2015”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE OF INTENT TO ACT ON NEW LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at www.dccouncil.us.

COUNCIL OF THE DISTRICT OF COLUMBIA**PROPOSED LEGISLATION****BILLS**

- | | |
|---------|--|
| B21-166 | Save the Children Job Creation Tax Incentive Act of 2015

Intro. 4-13-15 by Councilmember Evans and referred to the Committee on Finance and Revenue |
| B21-167 | Child Victims of Intimate Partner Violence Consent to Supportive Services Amendment Act of 2015

Intro. 4-13-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary |
| B21-168 | LGBTQ Cultural Competency Continuing Education Amendment Act of 2015

Intro. 4-14-15 by Councilmembers Grosso and Alexander and referred to the Committee on Health and Human Services |
| B21-169 | Small Business Property Tax Deferral Act of 2015

Intro. 4-14-15 by Councilmember Grosso and referred to the Committee on Finance and Revenue |
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B21-170	Reporting of Healthcare-Acquired Infections Amendment Act of 2015 Intro. 4-14-15 by Councilmember Cheh and referred to the Committee on Health and Human Services
B21-171	Health Care Decisions Act of 2015 Intro. 4-14-15 by Councilmembers Cheh and Alexander and referred to the Committee on Health and Human Services
B21-172	Academic Credential Fraud Amendment Act of 2015 Intro. 4-14-15 by Councilmember Cheh and referred to the Committee on Judiciary
B21-173	Elderly and Tenants with Disabilities Protection Amendment Act of 2015 Intro. 4-14-15 by Councilmembers Bonds and Nadeau and referred to the Committee on Housing and Community Development
B21-174	Margaret Peters and Roumania Peters Walker Tennis Courts Designation Act of 2015 Intro. 4-14-15 by Councilmember Evans and referred to the Committee of the Whole
B21-175	Accessible Parking Amendment Act of 2015 Intro. 4-14-15 by Councilmember Evans and referred to the Committee on Transportation and the Environment
B21-176	Commission on Musical Arts and Events Establishment Act of 2015 Intro. 4-14-15 by Councilmember Orange and referred to the Committee on Finance and Revenue
B21-177	Prohibition on Single Family Dwelling Conversion Amendment Act of 2015 Intro. 4-14-15 by Councilmember Orange and referred to the Committee of the Whole

B21-178 New Bethany Baptist Church Real Property Tax Exemption Act of 2015
Intro. 4-13-15 by Councilmember Evans and referred to the Committee on Finance and Revenue

B21-179 Closing of a Public Alley in Square 70, S.O. 15-23283, Act of 2015
Intro. 4-17-15 by Councilmember Evans and referred to the Committee of the Whole

RESOLUTIONS

PR21-136 State Superintendent of Education Hanseul Kang Confirmation Resolution of 2015
Intro. 4-13-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PR21-137 Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015
Intro. 4-14-15 by Councilmembers Silverman, Orange, Nadeau, Alexander, Bonds, Grosso, Allen, Cheh, and Evans, and Chairman Mendelson and referred to the Committee of the Whole

PR21-138 Sense of the Council in Support of a DC Big 6 Tournament Resolution of 2015
Intro. 4-21-15 by Councilmember Evans and referred to the Committee of the Whole

PR21-139 Collective Bargaining Agreement between the District of Columbia and Compensation Unit 34 Approval Resolution of 2015
Intro. 4-13-15 by Chairman Mendelson at the request of the Public Services Commission and referred to the Committee of the Whole

**COUNCIL OF THE DISTRICT OF COLUMBIA
 NOTICE OF PUBLIC HEARINGS
 FISCAL YEAR 2016 PROPOSED BUDGET AND FINANCIAL PLAN,
 FISCAL YEAR 2016 BUDGET SUPPORT ACT OF 2015,
 FISCAL YEAR 2016 BUDGET REQUEST ACT OF 2015, AND
 COMMITTEE MARK-UP SCHEDULE
 4/21/2015**

<u>SUMMARY</u>	
April 2, 2015	Mayor Transmits the Fiscal Year 2016 Proposed Budget and Financial Plan
April 13, 2015	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2016 Proposed Budget and Financial Plan
April 15, 2015 to May 7, 2015	Committee Public Hearings on the "Fiscal Year 2016 Budget Request Act of 2015." (The Committees may also simultaneously receive testimony on the sections of the Fiscal Year 2016 Budget Support Acts that affect the agencies under each Committee's purview)
May 8, 2015	Committee of the Whole Public Hearing on the "Fiscal Year 2016 Budget Request Act of 2015" and the "Fiscal Year 2016 Budget Support Act of 2015"
May 12, 13, and May 14, 2015	Committee Mark-ups and Reporting on Agency Budgets for Fiscal Year 2016
May 27, 2015	Committee of the Whole and Council consideration of the "Fiscal Year 2016 Budget Request Act of 2015", and the "Fiscal Year 2016 Budget Support Act of 2015"
June 16, 2015	Council consideration of the "Fiscal Year 2016 Budget Support Act of 2015"
<p>The Council of the District of Columbia hereby gives notice of its intention to hold public hearings on the FY 2016 Proposed Budget and Financial Plan, the "Fiscal Year 2016 Budget Request Act of 2015", and the "Fiscal Year 2016 Budget Support Act of 2015". The hearings will begin Monday, April 13, 2015 and conclude on Friday, May 8, 2015 and will take place in the Council Chamber (Room 500), Room 412, Room 120, or Room 123 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.</p> <p>The Committee mark-ups will begin Tuesday, May 12, 2015 and conclude on Thursday, May 14, 2015 and will take place in the Council Chamber (Room 500) of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.</p> <p>Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to Nyasha Smith, Secretary to the Council of the District of Columbia; Suite 5; John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004. If a written statement cannot be provided prior to the day of the hearing, please have at least 15 copies of your written statement available on the day of the hearing for immediate distribution to the Council. The hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's budget oversight hearing and mark-up schedule please contact the Council's Office of the Budget Director at (202) 724-8544.</p>	

ADDENDUM OF CHANGES TO THE PUBLIC HEARING SCHEDULE

<u>New Date</u>	<u>Original Date</u>	<u>Hearing</u>
4/15/2015 (COW-new insert)		Office of Contracting & Procurement Contract Appeals Board Executive Office of the Mayor Office of the City Administrator Office of the Senior Advisor
4/15/2015	4/20/2015	Housing Finance Agency (Housing)
4/15/2015	4/23/2015	DC Housing Authority (Housing)
4/17/2015	4/30/2015	DC Board of Elections (Judiciary)
4/17/2015	4/30/2015	Office of Campaign Finance (Judiciary)
4/17/2015	4/20/2015	District of Columbia Auditor (COW)
4/21/2015	4/24/2015	District Department of Transportation
4/22/2015 - Room 412	4/22/2015	Committee on Health and Human Services
4/22/2015 - Room 120	4/22/2015	Committee on Education
4/23/2015	4/15/2015	Office of Aging (Housing)
4/23/2015	5/6/2015	Office of Women's Policy and Initiatives (Housing)
4/29/2015 (F&R-new insert)		Washington Metropolitan Area Transit Authority (Finance)
4/30/2015 (BCRA-new insert)		Office of the Deputy Mayor of Greater Economic Opportunity
5/6/2015	4/23/2015	Office of Veteran Affairs (Housing)
Cancelled	4/29/2015	Access to Justice Initiative (Judiciary)

PUBLIC HEARING SCHEDULE

COMMITTEE OF THE WHOLE		Chairman Phil Mendelson
MONDAY, APRIL 13, 2015; COUNCIL CHAMBER (Room 500)		
Time	Subject	
10:00 a.m. - End	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2016 Proposed Budget and Financial Plan	

COMMITTEE ON THE JUDICIARY		Chairperson Kenyan McDuffie
WEDNESDAY, APRIL 15, 2015; COUNCIL CHAMBER (Room 500)		
Time	Agency	
10:00 a.m. - End	Office of Police Complaints	
	Criminal Justice Coordinating Council	
	Sentencing and Criminal Code Revision Commission	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Katherine Mitchell, kmitchell@dccouncil.us or by calling 202-727-8275.

COMMITTEE OF THE WHOLE		Chairman Phil Mendelson
WEDNESDAY, APRIL 15, 2015; Room 412		
Time	Agency	
2:30 p.m. - 6:00 p.m.	Office of Contracting and Procurement	
	Contract Appeals Board	
	Executive Office of the Mayor	
	Office of the City Administrator	
	Office of the Senior Advisor	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Evan Cash, ecash@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT		Chairperson Anita Bonds
WEDNESDAY, APRIL 15, 2015; Room 123		
Time	Agency	
10:00 a.m. - End	Housing Finance Agency	
	DC Housing Authority	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Barry Weise, bweise@dccouncil.us or by calling 202-724-8171.

COMMITTEE ON HEALTH & HUMAN SERVICES		Chairperson Yvette Alexander
WEDNESDAY, APRIL 15, 2015; Room 120		
Time	Agency	
10:00 a.m. - End	Department of Behavioral Health	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Rayna Smith, rsmith@dccouncil.us or by calling 202-741-2111.

COMMITTEE ON HEALTH & HUMAN SERVICES		Chairperson Yvette Alexander
FRIDAY, APRIL 17, 2015; COUNCIL CHAMBER (Room 500)		
Time	Agency	
10:00 a.m. - End	Department of Healthcare Finance	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Rayna Smith, rsmith@dccouncil.us or by calling 202-741-2111.

COMMITTEE OF THE WHOLE		Chairman Phil Mendelson
FRIDAY, APRIL 17, 2015; Room 412		
Time	Agency	
12:00 p.m. - 6:00 p.m.	Council of the District of Columbia	
	District of Columbia Auditor	
	Metropolitan Washington Council of Governments	
	Office of the Chief Technology Officer	
	Department of Human Resources	
	District of Columbia Retirement Board/Funds	
	Retiree Health Contribution (Other Post-Employment Benefits)	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Greg Matlesky, gmatlesky@dccouncil.us or Evan Cash, ecash@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT		Chairperson Mary Cheh
FRIDAY, APRIL 17, 2015; Room 123		
Time	Agency	
11:00 a.m. - End	Department of Motor Vehicles	
	Department of Public Works	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin, abenjamin@dccouncil.us or by calling or by calling 202-724-8062.

COMMITTEE ON THE JUDICIARY

Chairperson Kenyan McDuffie

FRIDAY, APRIL 17, 2015; Room 120	
Time	Agency
10:00 a.m. - End	Commission on Fathers, Men, and Boys
	Department of Youth Rehabilitation Services
	DC Board of Elections
	Office of Campaign Finance

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Katherine Mitchell, kmitchell@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT

Chairperson Anita Bonds

MONDAY, APRIL 20, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Housing and Community Development
	Rental Housing Commission
	Housing Production Trust Fund

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Irene Kang, ikang@dccouncil.us or by calling 202-724-8198.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

MONDAY, APRIL 20, 2015; Room 412	
Time	Agency
2:00 p.m. - 6:00 p.m.	University of the District of Columbia
	Office of Labor Relations and Collective Bargaining
	Office of Employee Appeals
	Public Employee Relations Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Taneka Miller, tmiller@dccouncil.us or by calling 202-724-4865.

COMMITTEE ON EDUCATION

Chairperson David Grosso

TUESDAY, APRIL 21, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
1:00 p.m. - End	Office of the Deputy Mayor for Education
	District of Columbia Public Library System

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Christina Henderson, chenderson@dccouncil.us or by calling 202-724-8061.

COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT

Chairperson Mary Cheh

TUESDAY, APRIL 21, 2015; Room 412	
Time	Agency
1:00 p.m. - End	District Department of Transportation

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin, abenjamin@dccouncil.us or by calling 202-724-8062.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

WEDNESDAY, APRIL 22, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Washington Convention & Sports Authority (EventsDC)
	Destination DC
	Real Property Tax Appeals Commission
	DC Lottery
	Office of the Chief Financial Officer

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy, sloy@dccouncil.us or by calling 202-724-8058.

COMMITTEE ON HEALTH & HUMAN SERVICES

Chairperson Yvette Alexander

WEDNESDAY, APRIL 22, 2015; Room 412	
Time	Agency
10:00 a.m. - End	Department on Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Rayna Smith, rsmith@dccouncil.us or by calling 202-741-2111.

COMMITTEE ON EDUCATION

Chairperson David Grosso

WEDNESDAY, APRIL 22, 2015; Room 120	
Time	Agency
10:00 a.m. - End	Public Charter School Board
	Bullying Prevention Taskforce
	Healthy Youth and Schools Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Christina Henderson, chenderson@dccouncil.us or by calling 202-724-8061.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

THURSDAY, APRIL 23, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - 6:00 p.m.	Office of Budget and Planning
	Deputy Mayor for Planning & Economic Development
	Office of Zoning
	Office of Planning

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Cynthia LeFevre, clefevre@dccouncil.us or Evan Cash, ecash@dccouncil.us or by calling 202-724-8092.

COMMITTEE ON EDUCATION

Chairperson David Grosso

THURSDAY, APRIL 23, 2015; Room 412	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Christina Henderson, chenderson@dccouncil.us or by calling 724-8061.

COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT

Chairperson Anita Bonds

THURSDAY, APRIL 23, 2015; Room 120	
Time	Agency
11:00 a.m. - End	Office of Religious Affairs/Interfaith Council
	Office of Aging
	Advisory Neighborhood Commission
	Office of Women's Policy and Initiatives

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Nishant Keerikatte, nkeerikatte@dccouncil.us or by calling 202-724-8025.

COMMITTEE ON HEALTH & HUMAN SERVICES

Chairperson Yvette Alexander

FRIDAY, APRIL 24, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Human Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Rayna Smith, rsmith@dccouncil.us or by calling 202-741-2111.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

FRIDAY, APRIL 24, 2015; Room 412	
Time	Agency
10:00 a.m. - End	DC Taxicab Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin, abenjamin@dccouncil.us or by calling 202-724-8062.

COMMITTEE ON BUSINESS, CONSUMER & REGULATORY AFFAIRS

Chairperson Vincent Orange

MONDAY, APRIL 27, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Alcoholic Beverage Regulation Administration
	Department of Consumer and Regulatory Affairs
	Department of Employment Services
	Department of Small and Local Business Development
	Office of Risk Management
	Office of Tenant Advocate
	Workforce Investment Council

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Peter Johnson, pjohnson@dccouncil.us or by calling 202-727-6683.

COMMITTEE ON THE JUDICIARY

Chairperson Kenyan McDuffie

MONDAY, APRIL 27, 2015; Room 412	
Time	Agency
10:00 a.m. - End	Fire and Emergency Medical Services
	Office of Unified Communications
	Office of Human Rights
	Department of Corrections
	Office of Returning Citizen Affairs
	Corrections Information Council

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Katherine Mitchell, kmitchell@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

TUESDAY, APRIL 28, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of General Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin, abenjamin@dccouncil.us or by calling 202-724-8062.

COMMITTEE ON EDUCATION

Chairperson David Grosso

TUESDAY, APRIL 28, 2015; Room 412	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Government Witnesses only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Christina Henderson, chenderson@dccouncil.us or by calling 202-724-8061.

COMMITTEE ON HEALTH & HUMAN SERVICES

Chairperson Yvette Alexander

TUESDAY, APRIL 28, 2015; Room 120	
Time	Agency
10:00 a.m. - End	Health Benefit Exchange Authority Child and Family Services Administration

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Rayna Smith, rsmith@dccouncil.us or by calling 202-741-2111.

COMMITTEE OF HEALTH & HUMAN SERVICES

Chairperson Yvette Alexander

WEDNESDAY, APRIL 29, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Disability Services Office of Disability Rights

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Rayna Smith, rsmith@dccouncil.us or by calling 202-741-2111.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

WEDNESDAY, APRIL 29, 2015; Room 412	
Time	Agency
10:00 a.m. - End	Commission on the Arts and Humanities Office of Inspector General Office of Partnerships and Grant Services Washington Metropolitan Area Transit Authority

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy, sloy@dccouncil.us or by calling 202-724-8058.

COMMITTEE ON THE JUDICIARY

Chairperson Kenyan McDuffie

WEDNESDAY, APRIL 29, 2015; Room 120	
Time	Agency
9:00 a.m. - End	Office of the Attorney General Mayor's Office of Legal Counsel Office of Administrative Hearings Judicial Nomination Commission Commission on Judicial Disabilities and Tenure

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Katherine Mitchell, kmitchell@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON EDUCATION

Chairperson David Grosso

THURSDAY, APRIL 30, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Office of State Superintendent of Education State Board of Education

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Christina Henderson, chenderson@dccouncil.us or by calling 202-724-8061.

COMMITTEE ON BUSINESS, CONSUMER & REGULATORY AFFAIRS

Chairperson Vincent Orange

THURSDAY, APRIL 30, 2015; Room 412	
Time	Agency
10:00 a.m. - End	Department of Insurance, Securities, and Banking Office of Cable Television Office of Motion Picture and Television Development Office of the Deputy Mayor for Greater Economic Opportunity Office of People's Counsel Public Access Corporation Public Service Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Peter Johnson, pjohnson@dccouncil.us or by calling 202-727-6683.

COMMITTEE ON THE JUDICIARY

Chairperson Kenyan McDuffie

THURSDAY, APRIL 30, 2015; Room 120	
Time	Agency
10:00 a.m. - End	Board of Ethics and Government Accountability
	Office of Victim Services
	Justice Grants Administration

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Katherine Mitchell, kmitchell@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

FRIDAY, MAY 1, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	District Department of the Environment
	Department of Parks and Recreation

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin, abenjamin@dccouncil.us or by calling 202-724-8062.

COMMITTEE ON HEALTH & HUMAN SERVICES

Chairperson Yvette Alexander

FRIDAY, MAY 1, 2015; Room 412	
Time	Agency
10:00 a.m. - End	Children and Youth Investment Trust Corporation
	United Medical Center
	Deputy Mayor of Health and Human Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Rayna Smith, rsmith@dccouncil.us or by calling 202-741-2111.

COMMITTEE ON THE JUDICIARY

Chairperson Kenyan McDuffie

MONDAY, MAY 4, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Department of Forensic Sciences
	Metropolitan Police Department
	Office of the Chief Medical Examiner
	Homeland Security and Emergency Management Agency
	District of Columbia National Guard

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Katherine Mitchell, kmitchell@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT

Chairperson Anita Bonds

WEDNESDAY, MAY 6, 2015; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Advisory Commission on Caribbean Community Affairs
	Office of Gay, Lesbian, Bisexual, and Transgender Affairs
	Office on Asian and Pacific Islander Affairs
	Office of Veteran Affairs
	Office of African Affairs
	Office of African American Affairs
	Office of Latino Affairs
	DC Youth Advisory Council

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Joseph Trimboli, jtrimboli@dccouncil.us or by calling 202-724-8198.

COMMITTEE OF THE WHOLE

FRIDAY, MAY 8, 2015; COUNCIL CHAMBER (Room 500)	
Chairman Phil Mendelson	
Time	Agency
10:00 a.m.	Committee of the Whole Hearing on the "Fiscal Year 2016 Budget Request Act of 2015", and the "Fiscal Year 2016 Budget Support Act of 2015"

COMMITTEE MARK-UP SCHEDULE

TUESDAY, MAY 12, 2015; COUNCIL CHAMBER (Room 500)

Time	Committee
12:00 p.m. - 2:00 p.m.	Open
2:00 p.m. - 4:00 p.m.	Committee on Health and Human Services

WEDNESDAY, MAY 13, 2015; COUNCIL CHAMBER (Room 500)

Time	Committee
10:00 a.m. - 12:00 p.m.	Open
12:00 p.m. - 2:00 p.m.	Committee on Finance and Revenue
2:00 p.m. - 4:00 p.m.	Committee on Housing and Community Development
4:00 p.m. - 6:00 p.m.	Committee on Business, Consumer and Regulatory Affairs

THURSDAY, MAY 14, 2015; COUNCIL CHAMBER (Room 500)

Time	Committee
10:00 a.m. - 12:00 p.m.	Committee on the Judiciary
12:00 p.m. - 2:00 p.m.	Committee on Education
2:00 p.m. - 4:00 p.m.	Committee on Transportation and the Environment
4:00 p.m. - 6:00 p.m.	Committee of the Whole

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC ROUNDTABLE**

on

**PR 21-137, Sense of the Council in Support of
Improving Inclusionary Zoning Resolution of 2015**

on

**Tuesday, April 28, 2015
2:00 p.m., Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public roundtable of the Committee of the Whole on Proposed Resolution 21-137, the "Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015." The roundtable will be held at 2:00 p.m. on Tuesday, April 28, 2015 in Hearing Room 123 of the John A. Wilson Building.

The stated purpose of PR 21-137 is to express the Council's support for amendments by the Zoning Commission to the inclusionary zoning regulations, Chapter 26 of Title 11 of the District of Columbia Municipal Regulations, a program that requires new and rehabilitated residential developments to include housing units permanently affordable to low and moderate-income residents in exchange for permitting housing developers to obtain additional zoning density as a matter of right. Inclusionary zoning is generally regarded as a tool to increase the supply of affordable housing.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Cynthia LeFevre, Legislative Counsel, at clefevre@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, April 24, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on April 24, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of PR 21-137 can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, May 3, 2015.

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY**

NOTICE OF PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON THE JUDICIARY**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

**THE METROPOLITAN POLICE DEPARTMENT'S
BODY-WORN CAMERA PROGRAM**

**Thursday, May 7, 2015, 2:00 p.m.
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Thursday, May 7, 2015, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will hold a public oversight roundtable on the Metropolitan Police Department's (MPD) Body-Worn Camera Program, including policy and budgetary proposals for its expansion. The roundtable will take place in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C., at 2:00 p.m.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the roundtable should contact Kate Mitchell, Committee Director, at (202) 727-8275, or via e-mail at kmitchell@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) by close of business Tuesday, May 5, 2015. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring ten copies of their written testimony and, if possible, also submit a copy of their testimony electronically to kmitchell@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on Wednesday, May 13, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B21-136, Workforce Job Development Grant-Making Reauthorization Temporary Act of 2015, **B21-155**, Soccer Stadium Development Technical Clarification Temporary Act of 2015, **B21-160**, Medical Marijuana Supply Shortage Temporary Amendment Act of 2015, and **B21-162**, Jubilee Maycroft TOPA Exemption Amendment Temporary Act of 2015 were adopted on first reading on April 14, 2015. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on May 5, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 5 Washington, D.C. 20004. Copies of reprogramming requests are available in Legislative Services, Room 10.
Telephone: 724-8050

Reprog. 21-36: Request to reprogram \$500,000 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-as-you-go (Paygo) Capital project and subsequently to the Local funds budget of the Department of Parks and Recreation (DPR) was filed in the Office of the Secretary on April 17, 2015. This reprogramming will support the Local budget to enable DPR to make a grant to the Capitol Riverfront BID, the organization that manages the programming and maintenance of Yards Park, a District-owned facility located at 355 Water Street, SE.

RECEIVED: 14 day review begins April 20, 2015

Reprog. 21-37: Request to reprogram \$1,056,659 of Capital funds budget authority and allotment from the District of Columbia Public Schools (DCPS) to the Reverse Pay-as-you-go (Paygo) Capital project and subsequently to the Local funds budget of (DGS) was filed in the Office of the Secretary on April 17, 2015. This reprogramming will enable DCPS to purchase fixtures, furniture and equipment (FF&E), books, AV equipment, art supplies, music supplies, gym supplies and computers/computer accessories for various DCPS modernization.

RECEIVED: 14 day review begins April 20, 2015

Reprog. 21-38: Request to reprogram \$130,381 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-as-you-go (Paygo) Capital project and subsequently to the Local funds budget of (DGS) was filed in the Office of the Secretary on April 17, 2015. This reprogramming is necessary to fund the cost of covered walkways for demountable classrooms at Murch Elementary School.

RECEIVED: 14 day review begins April 20, 2015

Reprog. 21-39: Request to reprogram \$135,000 of Capital funds budget authority and allotment within the Department of General Services (DGS) was filed in the Office of Secretary on April 17, 2015. This reprogramming is needed to construct an infield at Takoma Education Campus outdoor field space.

RECEIVED: 14 day review begins April 20, 2015

Reprog. 21-40: Request to reprogram \$1,464,016 of Fiscal Year 2015 Local funds budget authority within the Department of Human Services (DHS) was filed in the Office of the Secretary on April 17, 2015. This reprogramming ensures that DHS is able to support the Parent and Adolescent Support Services program (PASS).

RECEIVED: 14 day review begins April 20, 2015

Reprog. 21-41: Request to reprogram \$3,277,828 of Fiscal Year 2015 Special Purpose Revenue funds budget authority within the Department of Employment Services (DOES) was filed in the Office of the Secretary on April 17, 2015. This reprogramming ensures that DOES will be able to fund the addition of 29 positions and associated operational costs needed in the Unemployment Insurance program and to fully fund existing positions in the Workforce Development program.

RECEIVED: 14 day review begins April 20, 2015

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**NOTICE OF PUBLIC HEARING******CORRECTION**

Posting Date: April 10, 2015
Petition Date: May 26, 2015
Hearing Date: June 08, 2015
Protest Hearing: August 05, 2015

License No.: ABRA-098287
Licensee: Ethio-American Flavors, LLC
Trade Name: Askale Cafe
License Class: Retail Class "D" Restaurant
Address: 3629 12th Street, N.E.
Contact: Asratie Teferra: 202-758-0077**

WARD 5

ANC 5B

SMD 5B02

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on August 05, 2015 at 1:30 pm.

NATURE OF OPERATION

New Restaurant serving Fusion and Ethiopian food. Occupancy load is 45. Summer Garden.

HOURS OF OPERATON

Sunday 12 pm – 4pm, Monday through Thursday 7 am-9 pm, Friday 7am – 10 pm and Saturday 10 am –8 pm

HOURS OF SALES/SERVICE/CONSUMPTION**

Sunday 12 pm – 4pm, Monday through Thursday 1pm**-9 pm, Friday 1 pm** – 10pm and Saturday 12 pm –8 pm

HOURS OF OPERATON FOR SUMMER GARDEN

Sunday 12 pm – 4 pm, Monday through Thursday 10 am-9 pm, Friday 10 am – 10 pm and Saturday 10 pm –8pm

HOURS OF SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN

Sunday 12 pm – 4pm, Monday through Thursday 1 pm- 8 pm, Friday 1 pm – 9 pm and Saturday 1 pm –6 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Posting Date: April 17, 2015
Petition Date: June 1, 2015
Hearing Date: June 15, 2015

License No.: ABRA-077109
Licensee: 1615 LLL, LLC
Trade Name: Beacon Hotel & Corporate Quarters
License Class: Retailer’s Class “C” Hotel
Address: 1615 Rhode Island Ave, N.W.
Contact: William Lipnick: 202-787-1785

WARD 2 ANC 2B** SMD 2B05

Notice is hereby given that this licensee has applied for a Substantial Change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Summer Garden endorsement for the penthouse/rooftop bar.

CURRENT HOURS OF OPERATION

Sunday 7:30 am – 11 pm, Monday through Friday 6:30 am – 1 am and Saturday 7:30 am – 1 am

HOURS OF SUMMER GARDEN OPERATION

Sunday 7:30 am – 11 pm, Monday through Friday 7 am – 12 am and Saturday 7:30 am – 12 am

HOURS OF SUMMER GARDEN SALES/SERVICE/CONSUMPTION

Sunday 10:30 am – 11 pm and Monday through Saturday 11 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: April 24, 2015
Petition Date: June 8, 2015
Roll Call Hearing Date: June 22, 2015
Protest Hearing Date: August 12, 2015

License No.: ABRA-098368
Licensee: Southeast Restaurant Group, LLC
Trade Name: DCity Smokehouse
License Class: Retailer's Class "C" Tavern
Address: 1700 2nd Street, N.W.
Contact: M. Hines: 202-733-1919

WARD 5 ANC 5E SMD 5E06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on August 12, 2015 at 1:30 pm.

NATURE OF OPERATION

Tavern with eat-in dining and alcohol. Total occupancy load of 83. Sidewalk Café with seating for 48. Entertainment Endorsement.

HOURS OF OPERATION

Sunday through Thursday 10am-1am, Friday and Saturday 10am-2am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 11am-12am, Friday and Saturday 11am-1am

HOURS OF LIVE ENTERTAINMENT

Friday through Sunday 5pm-9pm, Monday through Thursday 5pm-8pm

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE

Sunday through Thursday 11am-10pm, Friday and Saturday 11am-12pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

4/17/2015**

****Correction**

Notice is hereby given that:

License Number: ABRA-075977 License Class/Type: A Retail - Liquor Store

Applicant: First Vine, LLC Trade Name: First Vine ANC: 1C07

Has applied for the renewal of an alcoholic beverage license at the premises:

1701 FLORIDA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

6/1/2015**

A HEARING WILL BE HELD ON:

6/15/2015**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	-	-
Monday:	Online only -	9 am - 9 pm
Tuesday:	Online only -	9 am - 9 pm
Wednesday:	Online only -	9 am - 9 pm
Thursday:	Online only -	9 am - 9 pm
Friday:	Online only -	9 am - 9 pm
Saturday:	Online only -	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

4/3/2015**

****Rescind**

Notice is hereby given that:

License Number: ABRA-075977

License Class/Type: A Retail - Liquor Store

Applicant: First Vine, LLC

Trade Name: First Vine

ANC: 1C07

Has applied for the renewal of an alcoholic beverage license at the premises:

1701 FLORIDA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

5/18/2015**

A HEARING WILL BE HELD ON:

6/1/2015**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	-	-
Monday:	Online only -	9 am - 9 pm
Tuesday:	Online only -	9 am - 9 pm
Wednesday:	Online only -	9 am - 9 pm
Thursday:	Online only -	9 am - 9 pm
Friday:	Online only -	9 am - 9 pm
Saturday:	Online only -	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: April 24, 2015
Petition Date: June 8, 2015
Hearing Date: June 22, 2015
Protest Hearing: August 12, 2015

License No.: ABRA-098740
Licensee: MomoCCDC, LLC
Trade Name: Momofuku/Milk Bar City Center DC
License Class: Retail Class "C" Restaurant
Address: 1090 I Street, N.W.
Contact: Stephen O'Brien 202 625-7700

WARD 2 ANC 2C SMD 2C01

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on August 12, 2015 at 1:30 pm.

NATURE OF OPERATION

New Restaurant serving Asian-style cuisine. Total occupancy load is 300. Sidewalk Café with 70 seats.

HOURS OF OPERATON

Sunday through Thursday 6 am-2 am, Friday and Saturday 6 am -3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 8 am-2 am, Friday and Saturday 8 am -3 am

HOURS OF OPERATON AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ

Sunday through Saturday 8 am -11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: April 24, 2015
Petition Date: June 8, 2015
Roll Call Hearing Date: June 22, 2015
Protest Hearing Date: August 12, 2015
License No.: ABRA-098700
Licensee: Elaine's One, LLC
Trade Name: To Be Determined
License Class: Retailer's Class "C" Restaurant
Address: 715 8th Street, S.E.
Contact: Kevin Lively: 202-589-1834

WARD 6 ANC 6B SMD 6B03

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for August 12, 2015 at 1:30pm.

NATURE OF OPERATION

New restaurant serving light breakfast, lunch and coffee during the day and full-service dinner in the evening. Seating capacity is 65. Total occupancy load is 90. Sidewalk Café with seating for 14.

HOURS OF OPERATION

Sunday through Thursday 7am-2am, Friday & Saturday 8am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 8am-2am, Friday & Saturday 8am-3am

HOURS OF OPERATION FOR SIDEWALK CAFÉ

Sunday through Thursday 7am-12am, Friday & Saturday 7am-1am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ

Sunday through Thursday 8am-12am, Friday & Saturday 8am-1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: April 24, 2015
 Petition Date: June 8, 2015
 Roll Call Hearing Date: June 22, 2015
 Protest Hearing Date: August 12, 2015

License No.: ABRA-098204
 Licensee: Union Kitchen LLC
 Trade Name: Union Kitchen
 License Class: Retailer’s Class “B” Grocery Store
 Address: 538 3rd Street, N.E.
 Contact: Jonas Singer: 301-461-0402

WARD 6

ANC 6C

SMD 6C04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for August 12, 2015 at 4:30pm.

NATURE OF OPERATION

New Full Service Grocery Store with Tasting Permit.

HOURS OF OPERATION

24 Hours

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday 9am-10pm, Monday through Saturday 7am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: April 24, 2015
Petition Date: June 8, 2015
Roll Call Hearing Date: June 22, 2015
Protest Hearing Date: August 12, 2015

License No.: ABRA-098746
Licensee: Union Kitchen LLC
Trade Name: Union Kitchen
License Class: Retailer's Class "D" Restaurant
Address: 538 3rd Street, N.E.
Contact: Jonas Singer: 301-461-0402

WARD 6

ANC 6C

SMD 6C04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for August 12, 2015 at 4:30pm.

NATURE OF OPERATION

New restaurant serving deli prepared foods which will be located within a full service grocery. Seating capacity is 10. Total occupancy load is 60. Sidewalk Café with seating for 20.

HOURS OF OPERATION FOR INSIDE PREMISES AND SIDEWALK CAFE

Sunday 7am-10pm, Monday through Saturday 7am-12am

HOURS OF ALCOHOLIC BEVERAGE SALE/SERVICE/CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFE

Sunday 8am-10am, Monday through Saturday 8am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

4/17/2015**

****Correction**

Notice is hereby given that:

License Number: ABRA-013855 License Class/Type: A Retail - Liquor Store

Applicant: Union Wine & Liquor, Inc. Trade Name: Union Wine & Liquor

ANC: 6C04

Has applied for the renewal of an alcoholic beverage license at the premises:

50 MASSACHUSETTS AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

6/1/2015**

A HEARING WILL BE HELD ON:

6/15/2015**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	12 pm - 8 pm	12 pm -8 pm
Monday:	9 am - 9 pm	9 am - 9 pm
Tuesday:	9 am - 9 pm	9 am - 9 pm
Wednesday:	9 am - 9 pm	9 am - 9 pm
Thursday:	9 am - 9 pm	9 am - 9 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	10 am - 9 pm	10 am - 9 pm

ENDORSEMENTS: Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

4/3/2015**

****Rescind**

Notice is hereby given that:

License Number: ABRA-013855 License Class/Type: A Retail - Liquor Store
Applicant: Union Wine & Liquor, Inc. Trade Name: Union Wine & Liquor
ANC: 6C04

Has applied for the renewal of an alcoholic beverage license at the premises:

50 MASSACHUSETTS AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

5/18/2015**

A HEARING WILL BE HELD ON:

6/1/2015**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	12 pm - 8 pm	12 pm -8 pm
Monday:	9 am - 9 pm	9 am - 9 pm
Tuesday:	9 am - 9 pm	9 am - 9 pm
Wednesday:	9 am - 9 pm	9 am - 9 pm
Thursday:	9 am - 9 pm	9 am - 9 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	10 am - 9 pm	10 am - 9 pm

ENDORSEMENTS: Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

4/17/2015**

****Correction**

Notice is hereby given that:

License Number: ABRA-080559 License Class/Type: A Retail - Liquor Store

Applicant: Brentwood Road Beverages, LLC

Trade Name: Woodridge Vet's Liquors ANC: 5B03

Has applied for the renewal of an alcoholic beverage license at the premises:

1358 BRENTWOOD RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

6/1/2015**

A HEARING WILL BE HELD ON:

6/15/2015**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7am - 12 am	7am -12 am
Monday:	7 am - 12 am	7 am - 12 am
Tuesday:	7 am - 12 am	7 am - 12 am
Wednesday:	7 am - 12 am	7 am - 12 am
Thursday:	7 am - 12 am	7 am - 12 am
Friday:	7 am - 12 am	7 am - 12 am
Saturday:	7 am - 12 am	7 am - 12 am

ENDORSEMENTS: Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

4/3/2015**

****Rescind**

Notice is hereby given that:

License Number: ABRA-080559

License Class/Type: A Retail - Liquor Store

Applicant: Brentwood Road Beverages, LLC

ANC: 5B03

Trade Name: Woodridge Vet's Liquors

Has applied for the renewal of an alcoholic beverage license at the premises:

1358 BRENTWOOD RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

5/18/2015**

A HEARING WILL BE HELD ON:

6/1/2015**

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7am - 12 am	7am -12 am
Monday:	7 am - 12 am	7 am - 12 am
Tuesday:	7 am - 12 am	7 am - 12 am
Wednesday:	7 am - 12 am	7 am - 12 am
Thursday:	7 am - 12 am	7 am - 12 am
Friday:	7 am - 12 am	7 am - 12 am
Saturday:	7 am - 12 am	7 am - 12 am

ENDORSEMENTS: Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF PUBLIC HEARING

10:30–11:00 A.M., WEDNESDAY, APRIL 29, 2015

**FRANK D. REEVES MUNICIPAL CENTER
ALCOHOLIC BEVERAGE CONTROL BOARD HEARING ROOM
2000 14TH STREET, N.W., SUITE 400 SOUTH, 4TH FLOOR
WASHINGTON, D.C. 20009**

The Alcoholic Beverage Control Board (Board) will hold a hearing to receive public comment on its proposal to permanently amend Section 718.2 of Title 23 of the D.C. Municipal Regulations regarding the Metropolitan Police Department (MPD) Reimbursable Detail Subsidy Program. Proposed amendments include:

- Increasing the number of days covered by the program from two night a week to seven nights a week;
- Increasing subsidies paid to MPD by the Alcoholic Beverage Regulation Administration (ABRA) from 50 percent to 70 percent for MPD officers working reimbursable details under the program.
- Allowing for reimbursable detail coverage for certain outdoor special events where alcohol is to be sold and served.

The Board will adopt these rules on a permanent basis following 30 days of publication in the D.C. Register. Review complete details of the proposal in the Notice of Emergency and Proposed Rulemaking.

HEARING INFORMATION

WHEN: 10:30 a.m. on Wednesday, April 29, 2015

WHERE: Alcoholic Beverage Control Board Hearing Room, 2000 14th Street, N.W., Suite 400 South, 4th Floor, Washington, D.C. 20009

Individuals and representatives of organizations that want to testify should contact ABRA General Counsel Martha Jenkins by **Friday, April 24, 2015:**

- Call - (202) 442-4456
- Email - abralegal@dc.gov
(include full name, title, and organization, if applicable, of the person(s) testifying in the email)

Witnesses should bring nine copies of their written testimony to the Board. Testimony may be limited to five minutes in order to permit each person an opportunity to be heard.

Members of the public that are unable to testify in person are encouraged to provide written comments, which will be made a part of the Board's official record. Copies of written statements should be submitted to ABRA General Counsel Martha Jenkins no later than **4 p.m. on Friday, May 8, 2015**.

- Mail - 2000 14th Street, N.W., Suite 400 South, Washington, D.C. 20009
- Email - abralegal@dc.gov
(include full name, title, and organization, if applicable, of the person(s) providing comment)

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF PUBLIC HEARING

11:00 A.M. - 12:00 NOON, WEDNESDAY, APRIL 29, 2015

**FRANK D. REEVES MUNICIPAL CENTER
ALCOHOLIC BEVERAGE CONTROL BOARD HEARING ROOM
2000 14TH STREET, N.W., SUITE 400 SOUTH, 4TH FLOOR
WASHINGTON, D.C. 20009**

The Alcoholic Beverage Control Board (Board) will hold a hearing to receive public comment on a second proposed rulemaking that would make changes to Title 23 (Alcoholic Beverages), Chapters 2, 7, 8, 10, 12 and 17 of the DC Municipal Regulations. Review complete details of the proposal in the Notice of Second Proposed Rulemaking posted on the Alcoholic Beverage Regulation Administration's Website at www.abra.dc.gov. Copies of the proposed rulemaking may also be requested from General Counsel Martha Jenkins at Martha.Jenkins@dc.gov.

HEARING INFORMATION

WHEN: 11:00 a.m. on Wednesday, April 29, 2015

WHERE: Alcoholic Beverage Control Board Hearing Room, 2000 14th Street, N.W., Suite 400 South, 4th Floor, Washington, D.C. 20009

Individuals and representatives of organizations that want to testify should contact Alcoholic Beverage Regulation Administration General Counsel Martha Jenkins by Friday, April 24, 2015. Include the full name, title, and organization, if applicable, of the person(s) testifying in your correspondence.

- Email: Martha.Jenkins@dc.gov
- Call: (202) 442-4456

Witnesses should bring nine copies of their written testimony to the hearing. Testimony may be limited to five minutes in order to permit each person an opportunity to be heard.

If you are unable to testify in person and want to comment, you may provide written statements, which will be made a part of the Board's official record. Copies of written statements must be submitted no later than **4 p.m. on Friday, May 22, 2015**. Include the full name, title, and organization, if applicable, of the person(s) testifying in your correspondence.

- Email: Martha.Jenkins@dc.gov
- Mail: Alcoholic Beverage Regulation Administration, Office of the General Counsel, 2000 14th Street, NW, Suite 400 South, Washington, D.C. 20009

**MAYOR'S AGENT
FOR THE HISTORIC LANDMARK AND HISTORIC DISTRICT PROTECTION ACT**

NOTICE OF PUBLIC HEARING

Public notice is hereby given that the Mayor's Agent will hold public hearings on applications affecting properties subject to the Historic Landmark and Historic District Protection Act of 1978. Interested parties may appear and testify on behalf of, or in opposition to, the applications. The hearings will be held at **1100 4th Street SW, Room 4302**.

Hearing Date: **Wednesday, June 3, 2015 at 9:30 a.m.**
Case Number: HPA 15-307
Address: 6100 Georgia Avenue NW
Square/Lot: Square 2940, Lot 17
Applicant: Emory United Methodist Church
Type of Work: Raze

Affected Historic Property: Emory United Methodist Church
Affected ANC: 4A

The Applicant's claim is that the demolition is consistent with the purposes of the Act and that issuance of the permit is necessary for the construction of a project of special merit and that the failure to issue the raze permit will result in unreasonable economic hardship to the owner.

Hearing Date: **Thursday, June 11, 2015 at 9:30 a.m.**
Case Number: HPA 14-152
Address: 616 I Street NW rear
Square/Lot: Square 453, Lot 819
Applicant: Davis Lee Revocable Trust with MR Eye Street LLC (Monument Realty)
Type of Work: Raze

Affected Historic Property: Downtown Historic District
Affected ANC: 2C

The Applicant's claim is that the demolition is consistent with the purposes of the Act and that issuance of the permit is necessary for the construction of a project of special merit and that the failure to issue the raze permit will result in unreasonable economic hardship to the owner.

The hearings will be conducted in accordance with the Rules of Procedure pursuant to the Historic Landmark and Historic District Protection Act (Title 10C DCMR Chapters 4 and 30), which are on file with the D.C. Historic Preservation Office and posted on the Office website under "Regulations."

Interested persons or parties are invited to participate in and offer testimony at these hearings. Any person wishing to testify in support of or opposition to the application may appear at the hearing

and give evidence without filing in advance. However, any affected person who wishes to be recognized as a party to the case is required to file a request with the Mayor's Agent at least fifteen days prior to the hearing. This request shall include the following information: 1) his or her name and address; 2) whether he or she will appear as a proponent or opponent of the application; 3) if he or she will appear through legal counsel, and if so, the name and address of legal counsel; and 4) a written statement setting forth the manner in which he or she may be affected or aggrieved by action upon the application and the grounds upon which he or she supports or opposes the application. Any requests for party status should be sent to the Mayor's Agent at 1100 4th Street SW, Suite E650, Washington, D.C. 20024. For further information, contact the Historic Preservation Office, at (202) 442-8800.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, JUNE 16, 2015
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

TIME: 9:30 A.M.

WARD SIX

19014 **Application of Paul Hersh**, pursuant to 11 DCMR § 3103.2, for a variance
ANC-6C from the alley width requirements under § 2507.3, to allow the alteration and
conversion of an existing non-residential building into a one-family dwelling on
an alley lot where the alley is less than 30 feet in width in the CAP/R-5-B District
at premises (rear) 318 3rd Street N.E. (Square 756, Lot 41).

WARD FOUR

19009 **Appeal of ANC 4C**, pursuant to 11 DCMR §§ 3100 and 3101, from a February
ANC-4C 6, 2015 decision by the Zoning Administrator, Department of Consumer and
Regulatory Affairs, to issue Building Permit No. B1409828, to renovate a one-
family dwelling into a three unit apartment house in the R-4 District at premises
1117 Allison Street N.W. (Square 2918, Lot 59).

WARD EIGHT

19017 **Application of The Department of General Services of the District of**
ANC-8C **Columbia**, pursuant to 11 DCMR § 3104.1, for a special exception from the
access, maintenance, and operation of loading berth requirements under § 2204.8,
to allow a new school facility in the R-4 and R-5-A Districts at premises 3401
4th Street S.E. (Square PAR0243, Lot 59).

WARD FIVE

19018 **Application of North Capitol #2 Land Trust**, pursuant to 11 DCMR §
ANC-5E 3103.2, for a variance from the non-conforming structure requirements under §
2001.3, to allow the enlargement of an existing second-story deck and construct a
third-story deck in the R-4 District at premises 2026 North Capitol Street N.W.
(Square 3117, Lot 834).

**THIS APPLICATION WAS MOVED FROM THE PUBLIC HEARING OF MAY
19, 2015 AT THE APPLICANT'S REQUEST:**

BZA PUBLIC HEARING NOTICE

JUNE 16, 2015

PAGE NO. 2

WARD THREE

18998 **Application of Saint Sophia Greek Orthodox Cathedral**, pursuant to 11
ANC-3C DCMR § 3104.1, for a special exception from the private school requirements
 under § 206.1, to establish a private school with a maximum of 16 students in the
 first year, and a maximum of 36 students within five years, in the R-1-B District
 at premises 2815 36th Street N.W. (Square 1942, Lot 33).

PLEASE NOTE:

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

LLOYD J. JORDAN, CHAIRMAN, MARNIQUE Y. HEATH, VICE CHAIRPERSON, JEFFREY L. HINKLE, ONE BOARD SEAT VACANT, AND A MEMBER OF THE ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, JUNE 23, 2015
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

TIME: 9:30 A.M.

WARD FIVE

19019 **Application of Better Living Development, LLC**, pursuant to 11 DCMR §
ANC-5E 3104.1 for a special exception under § 223, not meeting the lot occupancy
 requirements under § 403.2, and the non-conforming structure requirements
 under § 2001.3, to construct a third-story addition to an existing two-story flat in
 the R-4 District at premises 1551 3rd Street N.W. (Square 552, Lot 60).

WARD TWO

19020 **Application of Jemal's Bulldog L.L.C.**, pursuant to 11 DCMR §§ 3103.2
ANC-2C and 3104.1, for variances from the court requirements under § 776, the off-street
 parking requirements under § 2101.1, and the loading requirements under §
 2201.1, and a special exception from the rear yard requirements under § 774, to
 construct a new 13-story hotel building with cellar in the DD/C-3-C District at
 premises 1011 K Street N.W. (Square 342, Lots 4, 5, 53, and 809).

WARD SIX

19021 **Application of Amazing Love Health Services**, pursuant to 11 DCMR §
ANC-6A 3104.1, for a special exception from the off-street parking space reduction
 requirements under § 2108, to allow a medical office in the HS-A/C-2-A District
 at premises 702 15th Street N.E. (Square 1050, Lot 33).

WARD FIVE

19022 **Application of Lerone and Sarabeth Reid**, pursuant to 11 DCMR § 3104.1,
ANC-5C for a special exception from the accessory apartment requirements under §
 202.10, to allow an accessory apartment that occupies greater than 25% of the
 gross floor area of the dwelling in the R-1-B District at premises 2901 King Place
 N.E. (Square 4217, Lot 801).

BZA PUBLIC HEARING NOTICE

JUNE 23, 2015

PAGE NO. 2

WARD ONE

19024 **Application of 1012 Harvard Street LLC**, pursuant to 11 DCMR § 3103.2,
ANC-1B for a variance from the off-street parking requirements under § 2101.1, to allow
 the expansion and conversion of an existing four-unit apartment building into a
 ten-unit apartment building in the C-2-A District at premises 1012 Harvard Street
 N.W. (Square 2857, Lot 814).

**THIS APPLICATION WAS POSTPONED FROM THE PUBLIC HEARING OF
APRIL 21, 2015 AT THE APPLICANT'S REQUEST:**

WARD ONE

18979 **Application of Tiblez Adal**, pursuant to 11 DCMR § 3103.2, for a variance
ANC-1A from the nonconforming structure requirements under § 2001.3, to allow a
 substantially-completed two-story carriage house to be adaptively restored as an
 artist studio in the R-4 District at premises 400 K Street N.E. (Square 806, Lot
 44).

PLEASE NOTE:

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

BZA PUBLIC HEARING NOTICE

JUNE 23, 2015

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FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202)
727-6311.

**LLOYD J. JORDAN, CHAIRMAN, MARNIQUE Y. HEATH, VICE CHAIRPERSON,
JEFFREY L. HINKLE, ONE BOARD SEAT VACANT, AND A MEMBER OF THE
ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A.
BARDIN, DIRECTOR, OFFICE OF ZONING.**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, June 4, 2015, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Z.C. Case No. 15-01 (Level 2 Development – Consolidated PUD and Related Map Amendment @ Square 3587, Lot 4)

THIS CASE IS OF INTEREST TO ANC 5D and 6C¹

On January 28, 2015, the Office of Zoning received an application from Level 2 Development (the "Applicant") requesting approval of a consolidated planned unit development ("PUD") and related zoning map amendment from the C-M-1 District to the C-3-C District for property located at 320 Florida Avenue, N.E. (Square 3587, Lot 4) (the "Property"). The Office of Planning submitted a report to the Zoning Commission, dated February 27, 2015. At its March 9, 2015 public meeting, the Zoning Commission voted to set down the application for a public hearing. The Applicant provided its prehearing statement on April 3, 2015.

The Property that is the subject of this application is bounded by New York Avenue, N.E. to the north, private property and 4th Street, N.E. to the east, Florida Avenue, N.E. to the southwest, and the Amtrak and WMATA rail lines to the west. The Property has a land area of approximately 28,394 square feet. The Property is located in Ward 5 and is within the boundaries of Advisory Neighborhood Commission ("ANC") 5D and across Florida Avenue, N.E. from ANC 6C.

The proposed project is a mixed-use building composed of retail and residential uses, to be known as The Highline at Union Market. The building will have a density of 8.0 floor area ratio ("FAR") and will include a total of approximately 227,089 square feet of gross floor area. Approximately 218,617 square feet of gross floor area will be devoted to residential use, and approximately 8,472 square feet of gross floor area will be devoted to ground floor retail use. The building will include 315 residential units (plus or minus 10%) and a total of 143 off-street parking spaces located in a below-grade parking garage. The building will be constructed to a maximum height of 120 feet at its highest point.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR § 3022.

¹ ANC 6C must be given great weight because it is physically located directly across the street from the proposed from the proposed PUD. *Georgetown Residents Alliance v. D.C. Bd. of Zoning Adjustment*, 816 A.2d 41, 51 (D.C. 2003). However, ANC 6C is not automatically a party because it is not the ANC "for the area within which the property that is the subject of the contested case is located." 11 DCMR 3099..1, definition of "Party."

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Z.C. CASE NO. 15-01
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How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3022.3.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |

Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 15-01
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- 3. Organizations 5 minutes each
- 4. Individuals 3 minutes each

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Monday, June 1, 2015, @ 6:30 p.m.**
 Jerrily R. Kress Memorial Hearing Room
 441 4th Street, N.W. Suite 220-S
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 15-08 (Office of Zoning – Text Amendment to § 3180.1(c))

THIS CASE IS OF INTEREST TO ALL ANCs

On March 26, 2015, the Office of Zoning (“OZ”) filed a memorandum that served as a petition requesting the Zoning Commission to establish a fee for a Board of Zoning Adjustment application to expand a chancery use when there is no associated expansion of the existing gross floor area. OZ also requested the Commission to waive §§ 3011.1 and 3011.2 of the Zoning Regulations, which would have required the Office of Zoning to first refer the petition to the Office of Planning for review and recommendation. Finally, OZ requested expeditious advertisement of the public hearing and that the Commission adopt the amendment on an emergency basis. The OZ memorandum served as the supplemental filing described in § 3013.1.

At a public meeting held on March 30, 2015, the Zoning Commission voted to grant the waivers, set down the petition for a hearing, and give notice of the hearing 30 days prior to hearing date, rather than the 40 day period stated in § 3014.1. The Commission also adopted the amendment on an emergency basis and authorized the immediate publication of a Notice of Proposed Rulemaking, which will also give formal notice of the emergency action.

The following amendment to the Board of Zoning Adjustment Rules of Practice and Procedure is proposed. New text is shown in underlined, **bold** type:

Title 11 of the District of Columbia Municipal Regulations, ZONING, Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3180.1(c) is amended as follows:

- (c) For an application for permission to locate, replace, or expand a chancery in an R-5-D, R-5-E, or SP District or in the Diplomatic (D) Overlay District, or to reconstruct an existing chancery that is destroyed in an R-1, R-2, R-3, R-4, R-5-A, R-5-B, or R-5-C District, either:
 - (1) Sixty-five dollars (\$65) for each one hundred square feet (100 sq. ft.) or part thereof of gross floor area; or

Z.C. NOTICE OF PUBLIC HEARING
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- (2) Five hundred dollars (\$500) when the expansion does not result in an increase to gross floor area, such as the erection or enlargement of a fence.

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 *et seq.*).

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. The Commission will impose time limits on any testimony presented at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210-S, 441 4th Street, N.W., Washington, D.C. 20001. Please include the number of the particular case and your daytime telephone number.

FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FINAL RULEMAKING****AND****Z.C. ORDER NO. 14-05****Z.C. Case No. 14-05****(Text Amendments to § 1803)****March 30, 2015**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of adoption of the following text amendment to the Zoning Regulations of the District of Columbia, at Chapter 18 (Southeast Federal Center Overlay District), Title 11 (Zoning), of the District of Columbia Municipal Regulations (DCMR). A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 27, 2015, at 62 DCR 2578. The amendment shall become effective upon the publication of this notice in the *D.C. Register*.

Description of the Amendments

The text amendments allow for additional height, density, and flexibility intended to encourage residential development in the western portion of the Southeast Federal Center (SEFC) Overlay District/CR Zone District. The amendments also require that buildings utilizing additional height and density devote a minimum of eight percent (8%) of the additional density gained to three (3)-bedroom units, based on issues raised by Advisory Neighborhood Commission (ANC) 6D. In addition, the amendments require the petitioner, as part of the Commission's review of each proposed building on Parcel A, to demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) to accommodate the design of a public entrance to the Navy Yard Metrorail Station on that parcel.

Procedures Leading to Adoption of the Amendments

On March 27, 2014, Forest City Washington (Forest City) submitted a petition requesting amendments to the regulations. Forest City owns the parcels to which the amendments apply, that constitute the western portion of The Yards development in Southeast, D.C. Referred to as the "Yards West," these parcels generally sit south of M Street, north of Tingey Street/N Place, east of First Street, and west of New Jersey Avenue. The petition proposed the following amendments:

- (1) Amend § 1803.3¹ to authorize deviations from the ground floor preferred use requirements for the SEFC/CR Zone District subject to Commission approval;
- (2) Amend § 1803.5 to allow a height permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §§ 6-601.1 *et seq.* (2012 Repl.));

¹ Unless otherwise stated, citations refer to provisions of Title 11 of the DCMR.

- (3) Amend § 1803.7 to permit an additional 1.0 of Floor Area Ratio (FAR) for residential use in the SEFC/CR Zone District; and
- (4) Amend § 1803.8 to require Commission design review for any property utilizing additional height and density for residential use.

In its petition, Forest City stated that the proposed amendments would align the height and density of any residential development in the Yards West with similar residential density to the west of the Capitol Gateway (CG)/CR Overlay and the south in the D.C. Water Sites PUD, while also providing the Commission with design review authority. Forest City also stated that, to achieve the policies and goals of the District of Columbia Comprehensive Plan, it had committed to set aside twenty percent (20%) of any density gained through the amendments as affordable housing.

On May 30, 2014, the Office of Planning (OP) submitted a prehearing report, expressing support for the general intent of the proposed amendments while also noting the need to clarify the amendments and proposing additional conditions to bonus density and height. OP proposed having the amendments specifically permit bonus FAR for Parcels A, F, G, H, and I within the SEFC/CR Overlay, as well as additional height for Parcels F, G, and H. OP noted that Parcel A is already permitted a height of one-hundred thirty (130) feet. Further, OP did not recommend allowing bonus height for Parcel I because of its proximity to the historic Main Sewerage Pumping Station and other lower scale developments.

OP also proposed ensuring that development in the Yards West would preserve circulation connections between Parcels F and G and between Parcels H and I. Additionally, OP requested that the amendments ensure that provisions granting the Commission design review of developments include parameters related to connectivity through sites and consideration for transit accessibility. Specifically, OP wanted to ensure that the connections provided by 1½ Street and N Street be included in any proposed developments. Lastly, OP proposed that the Commission's review provide that any development of Parcel A accommodate a new metrorail entrance due to the congestion along the Navy Yard Metrorail Station that currently exists during rush hour, baseball games at nearby Nationals Park, and other event days.

In its Prehearing Report, OP also provided analysis concluding that the proposed amendments would be consistent with the Comprehensive Plan, including policies in the Land Use, Housing, Economic Development, Urban Design, Historic Preservation, and Lower Anacostia Waterfront Elements.

At its regular public meeting on June 9, 2014, the Commission voted to set down the proposed text amendments for a hearing.

In response to notice given pursuant to § 13 of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10), the Commission received a written report from ANC 6D. In the report, dated September 22, 2014,

ANC 6D indicated that, at a properly noticed meeting with a quorum present, it voted 6-0 to support the text amendment. The ANC also stated that it “strongly encourages the Zoning Commission to require units with more than two (2) bedrooms as a condition of this added height and density.”

On September 26, 2014, Forest City filed a supplemental prehearing submission, which included an excerpt from its Payment in Lieu of Taxes Development Agreement with the District Government. The excerpt provides that Forest City commits to set aside twenty percent (20%) of all residential units in rental housing as affordable units for households earning up to 50% of the Area Median Income. In its submission, Forest City also noted that the text amendments would permit a total of up to approximately three-hundred (300) additional dwelling units on Parcels F, G, H, and I, assuming those parcels are developed with residential uses utilizing bonus density. As a result, the amendments would permit up to sixty (60) additional affordable dwelling units.

On October 3, 2014, OP submitted a report and recommendation to the Commission reiterating its support for the amendments, which OP stated would address issues of affordable housing and ground floor retail connectivity, as well as maintaining existing street connections between developments and ensuring accommodation of a possible new entrance to the Navy Yard Metrorail Station.

On October 7, 2014, the District Department of Transportation (DDOT) submitted its report on the proposed amendments. DDOT concluded that the amendments may lead to a slight increase in vehicular, transit, pedestrian, and bicycle trips in the area. DDOT raised no objections to the amendments, with the condition that future projects complete a Comprehensive Transportation Review as part of the Commission’s design review, which would address and mitigate any impacts of development on the surrounding transportation network.

On October 16, 2014, the Commission held a public hearing in which it heard testimony from representatives of Forest City, OP, and ANC 6D.

On November 3, 2014, Forest City submitted post-hearing filings in which it proposed changes to the amendments in order to address concerns raised by the Commission at the October 16, 2014, hearing. Specifically, Forest City proposed changing the language OP had requested be added to § 1803.8 in order to ensure that development on Parcel A would not prevent the possibility of a new entrance to the Navy Yard Metrorail Station. OP had proposed a provision that required an applicant for bonus density to prove that the site plan “[f]acilitate the provision of a public entrance to the Navy Yard Metrorail Station.” The Petitioner proposed to replace the phrase, “facilitate the provision,” with, “accommodate the design.”

Additionally, Forest City responded in its post-hearing filing to concerns raised by ANC 6D and the Commission regarding the need for larger units to accommodate families. Forest City contended that the area impacted by the amendment is not likely to attract families because of its location in a high-density, entertainment-focused corridor. Further, Forest City stated that the Near Southeast neighborhood has already seen a significant increase in housing opportunities for

families, which has kept pace with the overall growth of housing in the District. Notwithstanding its objections to the need for more units to accommodate larger families, Forest City proposed new language in the amendment requiring that five percent (5%) of any additional density be devoted to three (3)-bedroom units. The new language would also allow for the reduction or elimination of this requirement with Commission approval in accordance with the standards and procedures provided in §§ 1808 and 1809, respectively.

On November 17, 2014, ANC 6D filed a report responding to the new language proposed by Forest City. The ANC contended that five percent (5%) was too low a commitment for larger units and also objected to the inclusion of what the ANC referred to as an “escape clause” for the requirement.

On November 18, 2014, OP filed a supplemental report.² In its report, OP noted that the new language Forest City proposed for the amendment with respect to facilitation of the Navy Yard Metrorail Station mirrors the language used for the planned unit development granted to George Washington University for its construction of a new campus building (Z.C. Case No. 06-11B/06-12B). OP also stated that, contrary to Forest City’s claim that the area impacted by the amendment would likely not appeal to families, a population forecast conducted by the State Data Center predicts that the population of children aged under one (1) to eighteen (18) years is anticipated to grow approximately eighty-three percent (83%) from 2010 to 2022 in the Near Southeast and Navy Yard neighborhoods. Thus, OP stated, this study suggests that the SEFC neighborhood is appealing to families, and there will be a need for larger units to accommodate them. Accordingly, OP supported the proposed language requiring that a minimum of five percent (5%) of any additional density gained by the amendments be devoted to three (3)-bedroom units, as well as the language allowing relief from that requirement subject to Commission approval.

On November 24, 2014, the Commission held a public meeting to consider proposed action at which it decided to postpone action pending Forest City’s filing further submissions to address issues raised concerning the metrorail entrance and the provision of larger housing units.

On January 5, 2014, Forest City made such a submission. With respect to the metrorail entrance, Forest City stated that WMATA’s interest in a third entrance to the Navy Yard Metrorail Station was speculative at best. Further, Forest City contended, accommodation of an entrance would entail significant costs, which would only be increased were Forest City to be required to set aside the property for an entrance not yet planned to be built. With respect to larger housing units, Forest City stated that committing more than five percent (5%) of additional density to three (3)-bedroom units would not be prudent in light of its concern that the market demand for such units would be low.

² OP’s supplemental report was submitted after the November 17, 2014, deadline established for the report. OP requested that the Commission waive the deadline and accept the report into the record, which the Commission granted at its public meeting on January 12, 2015.

On January 12, 2015, the Commission held a public meeting at which it again deferred proposed action on the amendments in order to allow the Petitioner to submit additional information concerning the Navy Yard Metrorail Station entrance and the provision of three (3)-bedroom units, as well as to allow time for OP and ANC 6D to file responses to this information.

On January 26, 2015, Forest City submitted a second supplemental filing. In its filing, Forest City included a revised proposal which would increase the proposed set-aside for three (3)-bedroom units to eight percent (8%) of the additional density gained through the amendment. Further, with respect to the metrorail entrance, Forest City's revised proposal included an additional requirement that an "applicant shall demonstrate proactive engagement with [WMATA] in planning and design of Parcel A."

On February 9, 2015, the Commission held a public meeting at which it considered proposed action on Forest City's revised text amendments. At the meeting, the Commission accepted the language proposed for § 1803.8(d) allowing reduction or elimination of the larger housing unit requirement provided that such modification "be permitted upon a showing that exceptional circumstances affecting the property make compliance with this requirement difficult or impossible." The Commission also accepted further refinements to § 1803.8(a) agreed to by the Petitioner following discussions with the Office of the Attorney General. With these alterations, the Commission voted to approve proposed action on the case.

On February 12, 2015, the Commission referred the proposed amendment to the National Capital Planning Commission (NCPC).

On February 18, 2015, ANC 6D filed a report stating that, at its regularly scheduled and properly noticed public meeting on February 9, 2015, the ANC voted, with a quorum present, 6-0-0 in favor of reiterating its prior resolution regarding the proposed amendments. The ANC restated its request that the amendment not include any exceptions to the requirement regarding three (3)-bedroom units.

On February 27, 2015, the *D.C. Register* published a notice of proposed rulemaking for the amendments. No additional comments were received in response to the notice of proposed rulemaking.

In a letter dated March 10, 2015, the Executive Director of NCPC informed the Commission that, through a delegated action dated February 27, 2015, he found that the proposed text amendments are not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

On March 30, 2015, the Commission held a public meeting at which it considered final action on the proposed amendment. The Commission addressed the concern ANC 6D had reiterated regarding the exception to the three (3)-bedroom unit requirement. The Commission found that, considering the Petitioner's concerns with respect to the lack of market demand for larger units, some flexibility to permit deviation from this requirement was necessary. The Commission notes that the test for reducing or eliminating the requirement essentially tracks the first two (2)

elements for obtaining a variance. The only difference is that the Applicant need not prove that granting the relief will not impair the zone plan or the public good. For these reasons the Commission does not find the ANC's advice on this issue to be persuasive. Accordingly, the Commission voted to adopt the proposed amendments.

Title 11 of the District of Columbia Municipal Regulations, ZONING, is amended as follows:

Chapter 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT, § 1803, SEFC/CR ZONING DISTRICT, is amended as follows:

Subsection 1803.3 is amended by adding a new paragraph (i) so that the entire subsection reads as follows:

1803.3 Within the SEFC/CR District, "preferred uses" listed in § 1807.2 of this title shall be permitted in accordance with the following:

- (a) Any building or structure with frontage on M Street, S.E. or N Street, S.E. shall provide preferred uses comprising a minimum of seventy-five percent (75%) of the frontage on M Street, S.E. or N Street, S.E. and a minimum of seventy-five percent (75%) of that portion of the gross floor area of the ground floor within a depth of fifty feet (50 ft.) from the exterior façade of the front of building, not including parking, parking access, mechanical and fire control rooms, and other non-public spaces. This requirement shall not apply to (i) buildings directly south of the historic wall along M Street, S.E. between 4th Street, S.E. and the Washington Navy Yard, for so long as the wall remains or (ii) any addition to a building with frontage on M Street, S.E. or N Street, S.E. if the addition to such building has no frontage on such streets but, as allowed pursuant to § 1803.3(b) below, preferred uses may be provided on the ground floor level of such buildings;
- (b) In addition to the locations in which preferred uses are required pursuant to §1803.3(a), preferred uses may be provided on the ground floor level of buildings in other areas within the SEFC/CR District, but are not required. If provided, such preferred use area shall not be required to conform to the requirements of §§ 1803.3(a), (e), (f), and (g);
- (c) In addition to the preferred uses listed in § 1807.2, the preferred use space requirement of § 1803.3(a) may also be met by any use listed in § 1803.2, other than those listed in § 1803.2(b), (g), or (o), if reviewed and approved by the Zoning Commission in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this title;

- (d) For good cause shown, the Commission may authorize interim occupancy of the preferred use space required under § 1803.3(a) by other uses permitted in the SEFC Overlay District for up to a five (5) year period; provided that the ground-floor space is suitably designed for future occupancy by preferred uses;
- (e) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages described in § 1803.3(a), shall be devoted to doors or display windows having clear or low emissivity glass;
- (f) Preferred uses shall provide direct, exterior access to the ground level;
- (g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.);
- (h) Ground floor area required for preferred uses may not be transferred to any other lot through combined lot development; and
- (i) Changes to the type, amount, and location of preferred uses required under § 1803.3(a) shall be permitted if reviewed and approved by the Commission in accordance with the standards specified in § 1808 and procedures specified in § 1809.

Subsection 1803.5 is amended by including within a new paragraph (a) the existing exception to the SEFC/CR District height limit and establishing a second exception within a new paragraph (b), so that the entire subsection reads as follows:

- 1803.5 The maximum building height in the SEFC/CR District shall not exceed one hundred ten feet (110 ft.), except as set forth below:
- (a) For sites with frontage on any portion of New Jersey Avenue, S.E. that is south of and within three hundred twenty-two feet (322 ft.) of M Street, S.E., a maximum height of one hundred thirty feet (130 ft.) is permitted; and
 - (b) For sites within Parcels A, F, G, or H utilizing the bonus density permitted pursuant to § 1803.7(b), the maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910.

Subsection 1803.7 is amended to allow a 1.0 FAR bonus for residential uses on certain parcels within the SEFC/CR District and § 1803.8 is amended to require Zoning Commission design review for any property utilizing bonus height and density for

residential use, and to specify certain additional standards for such review, so that both subsections will read as follows:

- 1803.7 In the SEFC/CR District, the maximum permitted density shall be 6.0 FAR overall, not more than 3.0 FAR of which may be used for other than residential purposes, except as set forth below:
- (a) A site that is permitted a height of one hundred thirty feet (130 ft.) pursuant to § 1803.5(a) is permitted a maximum non-residential density of 6.5 FAR through combined lot development, in accordance with the provisions outlined in § 1810; and
 - (b) A building within Parcels A, F, G, H, and I shall be permitted a maximum density of 7.0 FAR, provided that the additional 1.0 FAR is devoted solely to residential uses, which for purposes of this subsection does not include a hotel.
- 1803.8 Any proposed building that has frontage along M Street, S.E. or utilizes additional height and density pursuant to §§ 1803.5(b) and 1803.7(b) shall be subject to review and approval by the Commission. An applicant requesting approval under this section must prove that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building:
- (a) Accommodates the design of a public entrance to the Navy Yard Metrorail Station on Parcel A. The applicant shall demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) in the planning and design of Parcel A as a part of the above design review as set forth below:
 - (i) If the applicant moves forward with the design of Parcel A before WMATA is ready to construct the third entrance, the applicant shall demonstrate that it has coordinated with WMATA to determine how to ensure that the design of Parcel A accommodates the planned entrance; and
 - (ii) If WMATA moves forward with the construction of the third entrance before the applicant is ready to develop Parcel A, the applicant shall demonstrate that it has coordinated with WMATA to integrate the entrance into the design of Parcel A;
 - (b) Ensures the provision of 1½ Street, S.E. and N Street, S.E. as open and uncovered multimodal circulation routes;
 - (c) Are of superior quality, pursuant to the standards set forth in § 1808 and procedures set forth in § 1809; and

- (d) Devotes a minimum of eight percent (8%) of the additional density gained pursuant to § 1803.7(b) to three (3)-bedroom units, provided that such units may be located anywhere within the residential building. The reduction or elimination of this requirement may be permitted by the Commission upon a showing by the applicant that exceptional circumstances affecting the property make compliance with this requirement difficult or impossible.

On February 9, 2015, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the petition at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On March 30, 2014, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on April 24, 2015.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FINAL RULEMAKING****AND****Z.C. ORDER NO. 14-16****Z.C. Case No. 14-16****(Text and Map Amendments – 11 DCMR)****(To Create and Implement the C-2-B-1 Zone District)****March 30, 2015**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of adoption of the following amendments to the Zoning Map and to the text of the Zoning Regulations of the District of Columbia at Chapters 1 (Zoning Regulations), 7 (Commercial Districts), 20 (Nonconforming Uses And Structures), 21 (Off-Street Parking Requirements), 22 (Off-Street Loading Facility Requirements), 24 (Planned Unit Development Procedures), 25 (Miscellaneous Zoning Requirements), 26 (Inclusionary Zoning), and 34 (Green Area Ratio) of Title 11 (Zoning) of the District of Columbia Municipal Regulations (DCMR). The text and map amendments implement a new C-2-B-1 Zone District. A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 27, 2015 at 62 DCR 2582. The amendment shall become effective upon the publication of this notice in the *D.C. Register*.

Description of Amendment

The amendments create and implement the C-2-B-1 Zone District, which is identical to the existing C-2-B Zone District but with an allowable matter-of-right height of seventy-five (75) feet instead of sixty-five (65). The C-2-B-1 Zone District is being initially mapped generally within the triangle formed by New York Avenue, Montana Avenue, and Bladensburg Road, on the specific lots and parcels noted below.

Procedures Leading to Adoption of Amendment

On September 19, 2014, the Office of Planning (OP) submitted a memorandum that served as a petition requesting amendments to the regulations and map. OP proposed to amend the regulations to create a new C-2-B-1 Zone District, which would be identical to the C-2-B Zone District but would allow a height of seventy-five (75) feet as a matter of right instead of the sixty-five (65) feet allowed in the C-2-B Zone District. OP's reason for proposing creation of a new zone district was to accommodate a recent change in the Building Code (Title 12 DCMR). The Building Code had previously limited buildings to a one (1)-story concrete base with four (4) stories of wood frame construction on top — colloquially referred to as “1+4.” As a result of revisions to the Building Code in 2009, the Code now permits “1+5” — a one (1)-story concrete base with five (5) stories of wood frame construction above. Thus, OP requested a new zone to account for this development.

OP also proposed to map the new C-2-B-1 Zone District on a parcel of land roughly bound by the triangle of New York Avenue, Montana Avenue, and Bladensburg Road. The purpose of mapping the new zone in this location was to facilitate development on this site, which OP stated has long been an underutilized gateway into the city and has been the subject of past failed development proposals.

On September 29, 2014, the Commission voted in favor of setting down the proposed amendments as a rulemaking case. A Notice of Public Hearing was published in the November 21, 2014, edition of the *D.C. Register* at 61 DCR 12026.

In response to notice given pursuant to § 13 of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10), the Commission received a written report from Advisory Neighborhood Commission (ANC) 5C dated January 28, 2015. ANC 5C indicated that, at a properly noticed meeting with a quorum present, it voted 7-0 in favor of the text and map amendments. The ANC noted that it was pleased that the amendment would encourage development of the area to be remapped, which it stated had been laying fallow for far too long. The ANC also noted that the property had not been posted with notice until twenty-one (21) days before the Commission's scheduled hearing for the amendments. The ANC requested that the hearing proceed forward as scheduled despite the requirement that notice be posted at least forty (40) days prior, explaining that the ANC had been provided two (2) presentations concerning the proposed amendments.

In a memorandum dated January 30, 2015, OP also requested that the Commission waive the forty (40) day posting requirement, stating that twenty-one (21) days was sufficient notice in this case for interested citizens to view the posted notice. OP further stated that the neighborhood was well-informed of the proposal as the contract purchaser for the property being remapped had presented a vision for the site to the ANC and the community at public meetings.

On February 2, 2015, OP filed its final report. In the report, OP explains that the Comprehensive Plan's policies suggest a moderate-to-medium density development that is not easily accommodated by the existing Zoning Regulations. Specifically, OP states that some existing mixed-use zones allow sixty-five (65) feet as a matter-of-right and others allow ninety (90) feet as a matter-of-right. The C-3-B Zone District is the only zone that allows matter-of-right height within that range — at seventy (70) feet — but that district also permits a medium-high density of 5.0 floor area ratio (FAR). The proposed C-2-B-1 Zone District would, as OP explains, fill this “gap” in the Regulations by maintaining the relatively lower density of the C-2-B district while allowing ten (10) more feet of height.

A properly noticed public hearing was held on February 12, 2015. At the meeting, the Commission heard testimony from OP and from a representative of ANC 5C, who reiterated support for the proposed amendments. At the conclusion of the meeting, the Commission voted to take proposed action to refer the proposed amendment to the National Capital Planning Commission (NCPC) and to authorize the publication of a Notice of Proposed Rulemaking.

On February 27, 2015, the *D.C. Register* published a Notice of Proposed Rulemaking for the amendments at 62 DCR 2582. No comments were received in response to the Notice of Proposed Rulemaking.

In a letter dated March 10, 2015, the Executive Director of NCPC informed the Commission that, through a delegated action dated February 27, 2015, he found that the proposed text amendments were not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

At a properly noticed public meeting on March 30, 2015, the Commission voted to take final action on the proposed text and map amendments.

The Zoning Map is proposed to be amended as follows:

Rezone from C-M-1 to C-2-B-1 the following lots and parcels:

- Square 4268, Lots 2, 5, 6, 8, 10, 11, 12, 14, 800, 801, 804, 811, and 815; and
- Parcels 153/26, 153/83, 153/105, 153/113, 153/123, 153/150, 153/152, and 153/153.

The following amendments to Title 11 DCMR, ZONING, are proposed, all of which add references to the C-2-B-1 Zone District to existing provisions:

Chapter 1, THE ZONING REGULATIONS, § 105, ZONE DISTRICTS, § 105.1(d)(2) is amended to add the phrase “C-2-B-1 medium-high density; and” so that the entire subsection reads as follows:

105 ZONE DISTRICTS

105.1 For the purpose of this title, the District of Columbia shall be divided into the following zone districts:

- (a) RESIDENCE DISTRICTS, as follows:
 - (1) R-1 one-family detached dwellings, subdivided as follows:
 - (A) R-1-A low density; and
 - (B) R-1-B high density;
 - (2) R-2 one-family, semi-detached dwellings;
 - (3) R-3 row dwellings;
 - (4) R-4 row dwellings, conversions, and apartments; and

- (5) R-5 general residence, subdivided as follows:
 - (A) R-5-A low density;
 - (B) R-5-B moderate density;
 - (C) R-5-C medium density;
 - (D) R-5-D medium-high density; and
 - (E) R-5-E high density;
- (b) SPECIAL PURPOSE DISTRICTS, as follows:
 - (1) SP limited offices and apartments, subdivided as follows:
 - (A) SP-1 medium density; and
 - (B) SP-2 medium-high density;
 - (c) MIXED USE (COMMERCIAL-RESIDENTIAL) DISTRICTS, as follows:
 - (1) CR mixed uses (retail, residential, office, and light industry);
 - (d) COMMERCIAL DISTRICTS, as follows:
 - (1) C-1 neighborhood shopping;
 - (2) C-2 community business center, subdivided as follows:
 - (A) C-2-A medium density;
 - (B) C-2-B medium-high density;
 - (C) C-2-B-1 medium-high density; and
 - (D) C-2-C high density;
 - (3) C-3 major business and employment center, subdivided as follows:
 - (A) C-3-A medium bulk;
 - (B) C-3-B medium bulk; and
 - (C) C-3-C high bulk;

- (4) C-4 central business district; and
- (5) C-5 (PAD) Pennsylvania Avenue development;
- (e) INDUSTRIAL DISTRICTS, as follows:
 - (1) C-M commercial-light manufacturing, subdivided as follows:
 - (A) C-M-1 low bulk;
 - (B) C-M-2 medium bulk; and
 - (C) C-M-3 high bulk; and
 - (2) M general industry;
- (f) LANGDON OVERLY (LO) DISTRICT;
- (g) WATERFRONT DISTRICTS, as follows:
 - (1) W mixed uses, subdivided as follows:
 - (A) W-0 waterfront open space and recreation, low density;
 - (B) W-1 moderate density;
 - (C) W-2 medium density; and
 - (D) W-3 high density;
- (h) MIXED USE DIPLOMATIC OVERLAY DISTRICT, as follows:
 - (1) D low and medium density;
- (i) HOTEL-RESIDENTIAL INCENTIVE OVERLAY DISTRICT, as follows:
 - (1) HR high density;
- (j) CAPITOL INTEREST OVERLAY DISTRICT, as follows:
 - (1) CAP low to medium density;
- (k) NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICTS, as follows:

- (1) Cleveland Park Neighborhood Commercial (CP) Overlay District;
 - (2) Woodley Park Neighborhood Commercial (WP) Overlay District;
 - (3) Macomb-Wisconsin Neighborhood Commercial (MW) Overlay District;
 - (4) Eighth Street Southeast Neighborhood Commercial (ES) Overlay District;
 - (5) Takoma Neighborhood Commercial (TK) Overlay District;
 - (6) H Street Northeast Neighborhood Commercial (HS) Overlay District; and
 - (7) Georgia Avenue Commercial ((GA) Overlay District;
- (l) REED - COOKE (RC) OVERLAY DISTRICT;
- (m) MISCELLANEOUS OVERLAY DISTRICTS, as follows:
- (1) Dupont Circle (DC) Overlay District;
 - (2) Tree and Slope Protection (TSP) Overlay District;
 - (3) Foggy Bottom (FB) Overlay District;
 - (4) Naval Observatory Precinct (NO) Overlay District;
 - (5) Wesley Heights (WH) Overlay District;
 - (6) Sixteenth Street Heights (SSH) Overlay District;
 - (7) Fort Totten (FT) Overlay District;
 - (8) Chain Bridge Road/University Terrace (CB/UT) Overlay District; and
 - (9) Capitol Hill Commercial (CHC) Overlay District;
- (n) DOWNTOWN DEVELOPMENT (DD) OVERLAY DISTRICT;
- (o) UPTOWN ARTS - MIXED USE (ARTS) OVERLAY DISTRICT;
- (p) CAPITOL GATEWAY (CG) OVERLAY DISTRICT;

- (q) SOUTHEAST FEDERAL CENTER (SEFC) OVERLAY DISTRICT;
- (r) HILL EAST (HE) DISTRICT; and
- (s) UNION STATION NORTH (USN) DISTRICT.

Chapter 7, COMMERCIAL DISTRICTS, is amended as follows:

Section 720, COMMUNITY BUSINESS CENTER DISTRICTS (C-2), is amended by adding references to the C-2-B-1 Zone District in § 720.1 and §§ 720.6 through 720.8 so that the entire section reads as follows:

720 COMMUNITY BUSINESS CENTER DISTRICTS (C-2)

- 720.1 The Community Business Center (C-2) District is divided into C-2-A, C-2-B, C-2-B-1, and C-2-C Districts.
- 720.2 The C-2-A District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core.
- 720.3 The C-2-A Districts shall be located in low and medium density residential areas with access to main highways or rapid transit stops, and shall include office employment centers, shopping centers, and medium-bulk mixed use centers.
- 720.4 The C-2-A District shall permit development to medium proportions.
- 720.5 The C-2-A District shall accommodate a major portion of existing commercial strip developments.
- 720.6 The C-2-B and C-2-B-1 Districts are designated to serve commercial and residential functions similar to the C-2-A District, but with high-density residential and mixed uses.
- 720.7 The C-2-B and C-2-B-1 Districts shall be compact and located on arterial streets, in uptown centers, and at rapid transit stops.
- 720.8 In the C-2-B and C-2-B-1 Districts, building use may be entirely residential or a mixture of commercial and residential uses.
- 720.9 The C-2-C District is designed to serve commercial and residential functions similar to the C-2-A District, but with higher density residential and mixed uses.
- 720.10 The C-2-C District is also designated for those areas previously zoned C-2-B, where the Zoning Commission had permitted a maximum floor area ratio of six (6.0).

- 720.11 The C-2-C Districts shall be compact and located in or near the Central Employment Area.
- 720.12 In the C-2-C District, buildings may be entirely residential, or may be a mixture of commercial and residential uses.
- 720.13 Except as provided in Chapters 20 through 25 of this title, in a C-2 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 721, 722, and 726 through 734.

Section 721, USES AS A MATTER OF RIGHT (C-2), § 721.3(j), is amended to add a reference to the C-2-B-1 Zone District so that the entire subsection reads as follows:

- 721.3 In addition to the uses permitted in C-1 Districts by § 701.4, the following retail establishments shall be permitted in a C-2 District as a matter of right:
- (a) Antique store or shop;
 - (b) Auction house;
 - (c) Automobile accessories sales, including installations;
 - (d) Automobile and truck sales;
 - (e) Boat or other marine sales;
 - (f) Department store;
 - (g) Display stand or store for mail order sales;
 - (h) Drive-in type restaurant;
 - (i) Dry goods store;
 - (j) Fast food establishment or food delivery service, only in a C-2-B, C-2-B-1, or C-2-C District; provided:
 - (1) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District, unless separated therefrom by a street or alley;
 - (2) If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be

- constructed and maintained on the lot along the length of that lot line;
- (3) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District; and
 - (4) The use shall not include a drive-through. Subparagraphs (1) and (2) shall not apply to a fast food establishment located in Square 5912;
- (k) Firearms retail sales establishments, provided that no portion of the establishment, other than a single establishment operated at the Metropolitan Police Department at 300 Indiana Avenue, N.W., shall be located within three hundred feet (300 ft.) of:
- (1) A Residence (R) or Special Purpose (SP) District; or
 - (2) A church or other place of worship, public or private school, public library, or playground;
- (l) Furniture store;
 - (m) Home furnishings sales;
 - (n) Ice sales;
 - (o) Leather goods store;
 - (p) Musical instruments and accessories sales;
 - (q) Office supplies and equipment sales;
 - (r) Optical goods store;
 - (s) Precision instrument sales; and
 - (t) Prepared food shop, except that in a C-2-A District, a prepared food shop with greater than eighteen (18) seats for patrons shall only be permitted by special exception pursuant to 11 DCMR § 712.

Section 770, HEIGHT OF BUILDINGS OR STRUCTURES (C), § 770.1 is amended to read as follows:

770.1 Except as provided in this section and in Chapters 17 and 20 through 25 of this title, the height of a building or structure in a Commercial District shall not exceed that set forth in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)	MAXIMUM HEIGHT (Stories)
C-1	40	3
C-2-A	50	No Limit
C-2-B,C-3-A	65	No Limit
C-3-B	70	6
C-2-B-1	75	No Limit
C-2-C,C-3-C	90	No Limit
C-4	110	No Limit
C-5(PAD)	130	No Limit

Section 771, FLOOR AREA RATIO (C), § 771.2 is amended to read as follows:

771.2 For a building or structure for which an application for a building permit was filed on or after November 17, 1978, the maximum permitted floor area ratio shall be as set forth in the following table:

ZONE DISTRICT	APARTMENT HOUSE OR OTHER RESIDENTIAL USE OR PUBLIC SCHOOL	OTHER PERMITTED USE	MAXIMUM PERMITTED (FAR)
C-1	1.0	1.0	1.0
C-2-A	2.5	1.5	2.5
C-2-B, C-2-B-1	3.5	1.5	3.5
C-2-C	6.0	2.0	6.0
C-3-A	4.0	2.5	4.0
C-3-B	5.0	4.0	5.0
C-3-C	6.5	6.5	6.5
C-4	8.5	8.5	8.5
C-5 (PAD)	10.0	10.0	10.0

Section 772, PERCENTAGE OF LOT OCCUPANCY (C), § 772.1 is amended to read as follows:

772.1 In a Commercial District, no building or portion of a building devoted to a residential use, including accessory buildings but excluding hotels, shall occupy

the lot upon which it is located in excess of the percentage of lot occupancy in the following table:

ZONE DISTRICT	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
C-1	60%
C-2-A	60%
C-3-A	75%
C-2-B, C-2-B-1, C-2-C	80%
C-3-B, C-3-C, C-4, C-5 (PAD)	100%

Section 774, REAR YARD (C), § 774.1 is amended to read as follows:

774.1 Except as provided in this section, a rear yard shall be provided for each structure located in a Commercial District, the minimum depth of which shall be as prescribed in the following table:

ZONE DISTRICT AND STRUCTURE	MINIMUM DEPTH OF REAR YARD
C-1 All structures	20 feet
C-2-A, C-2-B, <u>C-2-B-1</u> , C-2-C All structures	15 feet
C-3-A, C-3-B, C-3-C, C-4, C-5 (PAD) All structures	2-1/2 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet

Chapter 20, NONCONFORMING USES AND STRUCTURES, § 2003, CHANGING USES WITHIN STRUCTURES, § 2003.6 is amended to read as follows:

2003.6 For the purpose of this section, the districts established by this title are listed in the following order of decreased use restriction:

- (a) W-0, R-1-A, R-1-B, R-2, R-3, R-5-A, R-4, R-5-B, R-5-C, R-5-D, and R-5-E;
- (b) SP-1 and SP-2;
- (c) C-1, C-2-A, C-2-B, C-2-B-1, C-2-C, C-3-A, C-3-B, C-3-C, C-4, and (PAD);

- (d) W-1, W-2, and W-3;
- (e) CR; and
- (f) C-M-1, C-M-2, C-M-3, and M.

CHAPTER 21, OFF-STREET PARKING REQUIREMENTS, § 2101, SCHEDULE OF REQUIREMENTS FOR PARKING SPACES, § 2101.1 is amended as follows:

The portion of the schedule applicable to general office uses is amended to read as follows:

<u>Office - General, including television and radio broadcast studio:</u>	
C-1, C-2-A, C-3-A	In excess of 2,000 sq. ft., 1 for each additional 600 sq. ft. of gross floor area and cellar floor area
W, C-2-B, C-2-B-1, C-2-C, C-3-B, C-3-C, SP, CR	In excess of 2,000 sq. ft., 1 for each additional 1,800 sq. ft. of gross floor area
C-4	
For a building or structure built on a lot having an area of 10,000 sq. ft. or less	No requirement
For a building or structure built on a lot having an area of more than 10,000 sq. ft.	In excess of 2,000 sq. ft., 1 for each additional 1,800 sq. ft. of gross floor area
C-5 (PAD)	No requirement
C-M, M	In excess of 2,000 sq. ft., 1 for each additional 800 sq. ft. of gross floor area and cellar floor area devoted to that use

The portion of the schedule applicable to retail or service establishments except gasoline service station and repair garage uses is amended to read as follows:

<u>Retail or service establishment except gasoline service station and repair garage:</u>	
C-1, C-2-A, C-3-A, C-M-1, M	In excess of 3,000 sq. ft., 1 for each additional 300 sq. ft. of gross floor area and cellar floor area
W, CR, C-2-B, C-2-B-1, C-2-C, C-3-B, C-3-C, C-M-2, C-M-3	In excess of 3,000 sq. ft., 1 for each additional 750 sq. ft. of gross floor area

C-4	In excess of 30,000 sq. ft., 1 for each additional 3,000 sq. ft. of gross floor area
C-5 (PAD)	No requirement

CHAPTER 22, OFF-STREET LOADING FACILITY REQUIREMENTS, § 2201, SCHEDULE OF REQUIREMENTS FOR LOADING BERTHS, LOADING PLATFORMS, AND SERVICE/DELIVERY LOADING SPACES, § 2201.1 is amended as follows:

The portion of the schedule applicable to office buildings in the W, CR, C-2-B, C-2-C, and C-M-1 Zone Districts is amended to read as follows:

Office Building in W, CR, C-2-B, C-2-B-1, C-2-C, and C-M-1 Districts:			
With 20,000 to 50,000 sq. ft. of gross floor area	1 @ 30 feet deep	1 @ 100 sq. ft.	1 @ 20 feet deep
With more than 50,000 to 200,000 sq. ft. of gross floor area	2 @ 30 feet deep	2 @ 100 sq. ft.	1 @ 20 feet deep
With more than 200,000 sq. ft. of gross floor area	3 @ 30 feet deep	3 @ 100 sq. ft.	1 @ 20 feet deep

The portion of the schedule applicable to grocery stores or drug stores in W, CR, C-2-B, C-2-C, C-M-1, and C-M-2 Zone Districts is amended to read as follows:

Grocery Store or Drug Store in W, CR, C-2-B, C-2-B-1, C-2-C, C-M-1, and C-M-2 Districts:			
With 5,000 to 20,000 sq. ft. of gross floor area	1 @ 30 feet deep	1 @ 100 sq. ft.	None
With more than 20,000 to 100,000 sq. ft. of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 sq. ft. 1 @ 200 sq. ft.	1 @ 20 feet deep
With more than 100,000 sq. ft. of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 sq. ft. 2 @ 200 sq. ft.	1 @ 20 feet deep

Chapter 24, PLANNED UNIT DEVELOPMENT PROCEDURES, § 2405, PUD STANDARDS, §§ 2405.1 and 2405.2 are amended to read as follows:

2405.1 No building or structure shall exceed the maximum height permitted in the least restrictive zone district within the project area as indicated in the following table; provided, that the Zoning Commission may authorize minor deviations for good cause pursuant to § 2405.3:

ZONE DISTRICT	MAXIMUM HEIGHT (feet)
R-1-A, R-1-B, R-2, R-3, C-1, W-0	40
R-4, R-5-A, R-5-B, W-1, W-2, C-M-1	60
C-2-A	65
R-5-C, SP-1	75
R-5-D, R-5-E, SP-2, C-2-B, C-2-B-1	90
C-2-C, C-3-A, C-3-B, W-3, C-M-2, C-M-3, M	
CR	110
C-3-C, C4, C-5 (PAD)	130
C-5 (PAD) (Where permitted by the Building Height Act of 1910, D.C. Official Code § 6-601.05(b) (formerly codified at D.C. Code § 5-405(b) (1994 Repl.)), along the north side of Pennsylvania Avenue)	160

2405.2 The floor area ratio of all buildings shall not exceed the aggregate of the floor area ratios as permitted in the several zone districts included within the project area; provided, that the Zoning Commission may authorize minor deviations for good cause pursuant to § 2405.3:

FLOOR AREA RATIO (FAR)			
ZONE DISTRICT	RESIDENCE	COMMERCIAL, INCLUDING HOTELS AND MOTELS	TOTAL
R-1-A, R-1-B, R-2	0.4		0.4
R-3	0.6		0.6
R-4, R-5-A	1.0		1.0
R-5-B	3.0		3.0

R-5-C	4.0		4.0
R-5-D	4.5		4.5
R-5-E	6.0		6.0
SP-1	4.5	3.5	4.5
SP-2	6.5	4.5	6.5
CR	8.0	4.0	8.0
C-1	1.0	1.0	1.0
C-2-A	3.0	2.0	3.0
C-2-B, C-2-B-1	6.0	2.0	6.0
C-2-C	6.0	2.5	6.0
C-3-A	4.5	3.0	4.5
C-3-B	5.5	4.5	5.5
C-3-C	8.0	8.0	8.0
C-4	10.5	10.5	10.5
C-4 (facing a street at least 110 ft. wide)	11.0	11.0	11.0
C-5 (PAD)	12.0	12.0	12.0
W-1	3.0	1.0	3.0
W-2	4.0	2.0	4.0
W-3	6.0	5.0	6.0
C-M-1		3.0	3.0
C-M-2		4.0	4.0
C-M-3, M		6.0	6.0
W-0		0.5	0.5

Chapter 25, MISCELLANEOUS ZONING REQUIREMENTS, § 2514, ZONE DISTRICT BOUNDARY LINE CROSSING A LOT, § 2514.3 is amended to read as follows:

2514.3 For the purpose of interpreting this section, the zone districts established in this title are listed in the following groups of decreasing use restrictions:

- (a) W-0, R-1-A, R-1-B, R-2, and R-3 Districts;
- (b) R-4, R-5-A, R-5-B, R-5-C, R-5-D, R-5-E, and SP Districts;

- (c) C-1, C-2-A, C-2-B, C-2-B-1, C-2-C, C-3-A, C-3-B, C-3-C, C-4, and C-5 (PAD) Districts;
- (d) W-1, W-2, W-3, and CR Districts; and
- (e) C-M-1, C-M-2, C-M-3, and M Districts.

Chapter 26, INCLUSIONARY ZONING, § 2602, SET-ASIDE REQUIREMENTS, § 2602.2 is amended to read as follows:

2603.2 An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-B-1, C-2-C, C-3, CR, R-5-C, R-5-D, SP, USN, W-2, or W-3 Zone District shall devote the greater of eight percent (8%) of the gross floor area being devoted to residential use or fifty percent (50%) of the bonus density utilized for inclusionary units.

Chapter 34, GREEN AREA RATIO, § 3401, APPLICABILITY OF GREEN AREA RATIO STANDARDS, § 3401.2 is amended to read as follows:

3401.2 Except as provided in § 3401.3 and pursuant to the conditions and requirements of this chapter, properties in zones listed in the following table shall provide a GAR as specified in the following table:

ZONE DISTRICT	GREEN AREA RATIO
R-5-A and R-5-B	0.40
R-5-C, R-5-D and R-5-E C-1, C-2-A, C-2-B, C-2-B-1, and C-2-C W-1, W-2, W-3 SP-1, SP-2	0.30
C-3-A, C-3-B	0.25
C-3-C, C-4, C-5, CR and any property within the DDD overlay	0.20
CM-1, CM-2, CM-3, and M, <ul style="list-style-type: none"> • all structures except one story warehouses • one story warehouses 	<ul style="list-style-type: none"> • 0.30 • 0.10

On February 12, 2015, upon the motion of Vice Chairperson Cohen, as seconded by Chairman Hood, the Zoning Commission **APPROVED** the petition at the conclusion of its public hearing

by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On March 30, 2015, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on April 24, 2015.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1335 (2012 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; Pub. L. 109-356; D.C. Official Code § 1-204.24d (2014 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The proposed amendment to Section 340 (Conflict of Interest) amends the meaning of the term “family member” to be more consistent with other federal and District conflict of interest laws.

OTR gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 340.2 of Section 340, CONFLICT OF INTEREST, is amended to read as follows:

340.2 For purposes of this section, the phrase “family member” means parents, spouses or domestic partners, siblings and children.

Comments on this proposed rulemaking should be submitted to Robert McKeon, Deputy Chief Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Robert McKeon may be contacted by: mail at DC Office of Tax and Revenue, 1101 4th Street, SW, Suite 750, Washington, DC 20024; telephone at (202) 442-6513; or, email at robert.mckeon@dc.gov. Copies of this rule and related information may be obtained by contacting Robert McKeon as stated herein.

THE OFFICE OF CONTRACTING AND PROCUREMENT
NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chief Procurement Officer (CPO) of the District of Columbia, pursuant to the authority set forth in Section 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-361.06 (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 3205 of Chapter 32 (Contract Financing and Funding) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

This amendment adds a new paragraph (s) to Subsection 3205.1, which permits the Chief Procurement Officer to authorize advance payments to a provider of goods or services for the Emancipation Day Parade and activities associated with the celebration and commemoration of District of Columbia Emancipation Day.

An emergency rule for the above purpose is needed to preserve and promote the health, welfare, and safety of the District residents and visitors during the scheduled Emancipation Day Parade and related events. Without this rule taking immediate effect, the necessary goods and services required for the performance of Emancipation Day activities may not be in place in time to assure the safety and welfare of the participants in those activities.

The emergency rules will remain in effect for up to one hundred twenty (120) days from April 13, 2015, the date of their adoption, and will expire on August 11, 2015 or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The CPO also gives notice of intent to take final rulemaking action to adopt this amendment in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Section 3205, ADVANCE PAYMENTS, of Chapter 32, CONTRACT FINANCING AND FUNDING, of Title 27 DCMR, CONTRACTS AND PROCUREMENTS, is amended as follows:

Subsection 3205.1 is amended by adding a new paragraph (s) to read as follows:

- (s) Notwithstanding paragraphs (a) through (g) above, the contracting officer may authorize advance payments to a provider of goods or services for the Emancipation Day Parade and activities associated with the celebration and commemoration of District of Columbia Emancipation Day if the contracting officer determines that the advance payment is in the best interest of the District.

All persons who desire to comment on these proposed rules should submit comments in writing to the Chief Procurement Officer, 441 4th Street, 700 South, Washington, D.C. 20001, or by email to OCPRulemaking@dc.gov. All comments must be received no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be requested at the same address and e-mail as above, or by calling (202) 727-0252

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of Section 1930, entitled “Respite Services”, of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement of respite services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Emergency Amendment Act of 2014, signed July 14, 2014 (D.C. Act 20-377; 61 DCR 007598 (August 1, 2014)). The amendment must also be approved by CMS, which will affect the effective date for the emergency rulemaking.

Respite care provides relief to the family or primary caregiver to meet planned or emergency situations. Respite care gives the caregiver a period of relief for scheduled time away from the individual, including vacations. It may also be used in case of emergencies. Respite is only provided to those individuals who live in their own home, or their family home. Respite care will ensure that individuals have access to community activities as delineated in the individual’s ISP/Plan of Care. A Notice of Final Rulemaking for 29 DCMR § 1930 (Respite Services) was published in the *D.C. Register* on February 7, 2014, at 61 DCR 000993. These rules amend the previously published final rules by (1) clarifying that quarterly reports are not required for respite daily services; (2) requiring that respite daily providers comply with Section 1938 (Home and Community-Based Settings Requirements) of Chapter 19 of Title 29 of the DCMR; (3) removing the exception that a provider already receiving reimbursement for the general care of the person may not receive Medicaid reimbursement for providing respite services; and (4) modifying the hourly and daily rates to reflect the approved methodology in accordance with the ID/DD Waiver.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of ID/DD Waiver services. The ID/DD Waiver serves some of the District’s most vulnerable residents. As discussed above, these amendments

clarify certain requirements that assist in preserving the health, safety and welfare of ID/DD Waiver participants.

The emergency rulemaking was adopted on April 10, 2015, but these rules shall become effective for services rendered on or after June 1, 2015, if the corresponding amendment to the ID/DD Waiver has been approved by CMS with an effective date of June 1, 2015, or on the effective date established by CMS in its approval of the corresponding ID/DD Waiver amendment. The emergency rules shall remain in effect for one hundred and twenty (120) days until August 8, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. If approved, DHCF shall publish the effective date of these emergency rules with the Notice of Final Rulemaking. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication on this notice in the *D.C. Register*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsections 1930.8, 1930.9, 1930.11, 1930.14, and 1930.18, of Section 1930, RESPITE SERVICES, of are amended, and a new Subsection 1930.21 is added, to read as follows:

- 1930.8 Each provider of Medicaid reimbursable respite services shall comply with the requirements under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR, except that no quarterly report is required for respite hourly services.
- 1930.9 Each provider of Medicaid reimbursable respite services shall comply with the requirements under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR, except that no quarterly report is required for respite hourly services.
- 1930.11 Medicaid reimbursement shall not be available if respite services are provided by the following individuals or provider:
- (a) The person's primary caregiver; or
 - (b) A spouse, parent of a minor child, or legal guardian of the person receiving respite services.
- 1930.14 Medicaid reimbursement for hourly respite services shall be twenty dollars and seventy-six cents (\$20.76) per hour and shall be limited to seven hundred twenty (720) hours per calendar year.
- 1930.18 Medicaid reimbursement for daily respite services shall be four hundred dollars (\$400.00) per day and shall be limited to thirty (30) days per calendar year.

1930.21 Each provider of Medicaid reimbursable respite daily services shall comply with the requirements under Section 1938 (Home and Community-Based Settings Requirements) of Chapter 19 of Title 29 DCMR.

Comments on the emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of a new Chapter 97, entitled “Adult Day Health Program”, of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These rules establish standards for adult day program services that govern eligibility criteria for beneficiaries, conditions of participation for providers, and provider reimbursement.

The adult day health program is a new service under the Medicaid State Plan Home and Community-Based Services benefit. These services are designed to encourage older adults to live in the community by offering non-residential medical supports; provide supervised therapeutic activities in an integrated community setting that foster opportunities for community inclusion; and deter more costly facility-based care. These rules: (1) establish eligibility criteria for the receipt of Adult Day Health Program (ADHP) services; (2) establish a process for the development of the participant’s person centered service plan in accordance with 42 C.F.R. § 441.725; (3) establish provider guidelines for the delivery of § 1915(i) State Plan Option services in accordance with 42 C.F.R. § 441.700 through § 441.745, including implementation, development and on-going review of each ADHP participant’s person-centered plan of care; (4) specify provider monitoring and sanction guidelines; and (5) establish reimbursement rates for providers of ADHP services.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of beneficiaries who are in need of ADHP services. The ADHP will provide older beneficiaries with a safe and nurturing environment during the daytime with access to an array of therapeutic activities and non-residential medical services. These services will be essential in ensuring that older beneficiaries who live in the community are deterred from the need for costly facility-based care. DHCF previously provided adult day treatment services through a model that did not qualify for Medicaid reimbursement. These rules will allow DHCF to implement the § 1915(i) State Plan Option, which qualifies for Medicaid reimbursement. Therefore, to ensure that the ADHP participants’ health, safety and welfare are not threatened by the lapse in access to therapeutic and non-residential medical services provided by qualified providers, it is necessary that these rules be published on an emergency basis.

DHCF is also amending the District of Columbia State Plan for Medical Assistance (State Plan) to reflect these changes. The corresponding amendment to the State Plan Amendment was deemed approved by the Council of the District of Columbia (Council) on, August 14th, 2014 (PR 20-0944), and is awaiting approval from the U.S. Department of Health and Human Services,

Centers for Medicare and Medicaid Services (CMS). These rules are contingent upon approval of the corresponding Medicaid § 1915(i) State Plan Option.

The emergency rulemaking was adopted on April 15, 2015, and will become effective for services rendered on or after April 1, 2015, contingent upon approval by CMS of the § 1915(i) State Plan Option. The emergency rules shall remain in effect for one hundred and twenty (120) days, until August 13, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

A new Chapter 97, ADULT DAY HEALTH PROGRAM SERVICES, is added to Title 29 DCMR, PUBLIC WELFARE, to read as follows:

9700 GENERAL PROVISIONS

9700.1 The purpose of this chapter is to establish the Department of Health Care Finance (DHCF) standards governing Medicaid eligibility for individuals receiving Adult Day Health Program (ADHP) services, to establish conditions of participation for providers of ADHP services, and to set provider reimbursement for ADHP services.

9700.2 ADHP services are designed to:

- (a) Encourage older adults to live in the community by offering non-residential medical supports and supervised, therapeutic activities in an integrated community setting;
- (b) Foster opportunities for community inclusion; and
- (c) Deter more costly facility-based care.

9701 ELIGIBILITY REQUIREMENTS

9701.1 To qualify for ADHP services under these rules, the Medicaid beneficiary shall meet the following criteria:

- (a) Be age fifty-five (55) and older;
- (b) Be an adult with a chronic medical condition diagnosed by a physician;
- (c) Have income up to 150% of the federal poverty level (FPL); and

- (d) Be in receipt of an assessment determination authorizing, and specifying the level of need for ADHP services in accordance with Section 9709 of this chapter.

9702 PROVIDER QUALIFICATIONS

9702.1 To be eligible to receive reimbursement for ADHP services, a Provider shall:

- (a) Submit a Medicaid Provider Enrollment Application to DHCF, and comply with all requirements set forth under Chapter 94 (Medicaid Provider and Supplier Screening, Enrollment, and Termination) of Title 29 DCMR;
- (b) Comply with all programmatic, staffing and reporting requirements as set forth in this chapter; and
- (c) Have a valid Certificate of Need (CON) determined in accordance with the District of Columbia Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code §§ 44-401 *et seq.*), and implementing regulations.

9702.2 In addition to the requirements described under Subsection 9702.1, DHCF shall verify that a Provider has developed the following programmatic requirements as part of its Provider Readiness Review:

- (a) A service delivery plan to render the services described under Section 9705;
- (b) Policies and procedures as described in Section 9703.4;
- (c) A staffing and personnel training plan that meets the requirements described under Section 9704; and
- (d) A plan which demonstrates compliance with all State Plan Home and Community-Based Setting requirements pursuant to 42 C.F.R. § 441.710 (a)(1)(2).

9702.3 DHCF shall conduct an on-site Provider Readiness Review to ensure that all Providers meet the requirements described under Section 9702.

9702.4 DHCF shall also conduct subsequent visits at least annually to ensure providers continue to maintain the requirements described under this chapter.

9702.4 For out-of-state ADHP providers who are serving District of Columbia residents on the effective date of these rules, DHCF may accept the licensure and/or

certification for adult day programs issued by another state if the provider also meets the Provider Readiness Review requirements described under Section 9702.

9703 PROGRAM ADMINISTRATION

- 9703.1 Each Provider shall have a current organizational chart that clearly identifies the organizational structure, lines of authority, staffing levels, and the use of contracted staff.
- 9703.2 Each Provider shall have a governing body with oversight responsibility for administrative and programmatic policy development, monitoring and implementation.
- 9703.3 A Provider shall be prohibited from waiving liability for the delivery of services when they assign contract authority to any other entity for services provided under a participant's ADHP plan of care.
- 9703.4 Each Provider shall develop and implement written policies and procedures to comport to the following program requirements:
- (a) A description of the program's mission statement and goals;
 - (b) The roles and responsibilities of its governing body;
 - (c) A fee schedule including a description of the services to be provided and that are included in the Medicaid per diem rates established in accordance with Section 9723;
 - (d) Participant admission and discharge procedures;
 - (e) A description of the ADHP's approach for implementing the participant's person-centered plan of care;
 - (f) Nutritional standards including guidelines for meal preparation, menu planning and meeting the individualized nutritional needs of each participant;
 - (g) Participant rights and responsibilities procedures consistent with the requirements set forth in Section 9712;
 - (h) Hours and days of operation;
 - (i) Personnel standards for hiring, requirements for professional licensure and certification, performance assessments, grievances, and staff training for all staff who deliver services;

- (j) ADHP site environmental standards;
- (k) Health and wellness standards;
- (l) Safety and emergency preparedness procedures;
- (m) Medication administration, storage, and record keeping requirements to conform with requirements described under Section 9707;
- (n) Quality assurance procedures identifying performance measures to evaluate the ADHP program's effectiveness, and weaknesses;
- (o) Processes for reporting, investigating and addressing ADHP participants' incidents, and complaints;
- (p) Financial, administrative and participant record keeping requirements;
- (q) A compliance plan in accordance with guidance from Department of Health and Human Services, Office of Civil Rights, available at: <http://www.hhs.gov/ocr/privacy/hipaa/administrative/combined/hipaa-simplification-201303.pdf> to incorporate appropriate administrative, physical, and technical safeguards to protect the privacy of ADHP participants and ensure compliance with the Health Insurance, Portability, and Accountability Act of 1996, approved August 21, 1996 (Pub. L. No. 104-191, 110 Stat. 1936)(HIPAA); and
- (r) A community outreach and education plan which demonstrates how the ADHP will: (1) develop and maintain linkages with other community-based organizations that serve adults with chronic medical conditions; and (2) provide annual outreach for hard to reach populations.

9703.5 Each ADHP shall notify the DHCF within twenty-four (24) hours in writing, in the following situations:

- (a) Fire, serious accident, serious injury, neglect, abuse or other incidents that impact the health or safety of a participant;
- (b) Evidence of serious communicable disease contracted by staff or participants;
- (c) The death of a participant at, en route to, or en route from, the program site; and
- (d) Changes in professional staff or a reduction of work force that may result in a disruption of service delivery.

- 9703.6 If a provider intends to relocate to a new program site, each ADHP provider shall obtain DHCF's approval of the new site by undergoing a new Provider Readiness review and notifying the DHCF at least sixty (60) days in advance of the actual move.
- 9703.7 If a provider intends to withdraw from the Medicaid program, each ADHP provider shall notify DHCF at least ninety (90) days in advance of the provider's intention to withdraw.
- 9703.8 Each ADHP shall maintain minimum insurance coverage as follows:
- (a) Blanket malpractice insurance for all employees in the amount of at least one million dollars (\$1,000,000) per incident;
 - (b) General liability insurance covering personal property damages, bodily injury, libel and slander of at least one million dollars (\$1,000,000) per occurrence; and
 - (c) Product liability insurance, where applicable.

9704 STAFFING REQUIREMENTS: GENERAL

- 9704.1 Each ADHP shall develop and maintain a staffing and personnel training plan that ensures adequate personnel in number and skill to meet minimum required staffing levels in accordance with this Section and to deliver required services to each participant in accordance with the ADHP plan of care.
- 9704.2 Each ADHP program shall maintain the following staffing requirements:
- (a) For acuity level 1 (minimum acuity level), each ADHP program shall maintain a minimum staff to participant ratio of at least one (1) Direct Support Professional staff member for every ten (10) participants (1:10 ratio);
 - (b) For acuity level 2 (maximum acuity level), each ADHP program shall maintain a minimum staff to participant ratio of at least one (1) Direct Support Professional staff member for every four (4) participants (1:4 ratio);
 - (c) Only Direct Support Professional staff shall be included in calculating the staffing ratios; and
 - (d) Volunteers shall not be used to fulfill the required staffing ratios nor be counted in calculating the staffing ratios.
- 9704.3 Each ADHP program shall conduct staff orientation for new employees and in-service training sessions at least quarterly and as needed, in accordance with its

staffing and personnel training plan, which shall include, at a minimum, the following topics:

- (a) Infection control;
- (b) Developing an ADHP plan of care to implement a participant's person-centered service plan;
- (c) Procedures to identify, and report abuse, neglect, and exploitation;
- (d) Body Mechanics (including physically assisting in escorting, lifting and transferring participants);
- (e) Emergency procedures for evacuation of the building in the case of fire and/or other disaster or emergency; and
- (f) Specialized needs of older adults.

9704.4

Each Provider of ADHP services shall employ a full time professional staff member as the Program Director who shall be responsible for the overall management, administration and fiscal operations of the ADHP program including, but not limited to:

- (a) Supervising and directing the general administration of the program;
- (b) Developing and implementing appropriate programmatic policies pursuant to the requirements under Subsection 9703.4;
- (c) Preparing budgets and required financial reports, ensuring sound fiscal administration including billing and payment;
- (d) Ensuring that an ADHP plan of care is developed for each participant;
- (e) Developing and implementing a community outreach plan to publicize the ADHP's goals, mission, and target population served;
- (f) Developing and implementing effective strategies to recruit, employ, supervise, and retain qualified staff, including staff orientation and on-going in-service training;
- (g) Developing and implementing an effective quality assurance program;
- (h) Overseeing regulatory and reporting requirements in accordance with this chapter; and

- (i) Appointing one (1) professional staff member to ensure that there is an Acting Program Director in the absence of the Program Director.

9704.5 An ADHP program director employed pursuant to Subsection 9704.4 shall meet the following qualifications:

- (a) Have a bachelor's degree in a human services field from an accredited college or university and a minimum of two (2) years of experience working with older adults in a social services or health care program; or
- (b) Have a master's degree in a human services field and a minimum of one (1) year of experience working with older adults in a social service or health care program; or
- (c) Is a licensed registered nurse with at least two (2) years working with older adults in a social service or health care program.

9704.6 Each Provider of ADHP services shall employ a full time registered nurse who shall be responsible for, but not limited to:

- (a) Coordinating the implementation and on-going review of each participant's ADHP plan of care;
- (b) Monitoring the health care needs of each participant and providing or supervising nursing services, including medication administration, for each participant in accordance with the orders of the participant's physician and the participant's ADHP plan of care;
- (c) Supervising other nursing personnel;
- (d) Providing teaching and instruction about a participant's ADHP plan of care;
- (e) Providing guidance and counseling that focus on improving the health, safety and psycho-social needs of each participant;
- (f) Assisting, as necessary, in the delivery of other required program services;
- (g) Updating each participant's record with progress notes at least monthly or more often if indicated (this activity may be delegated to other nursing personnel); and
- (h) Notifying the beneficiary's physician of any significant change in the beneficiary's condition.

- 9704.8 A registered nurse employed pursuant to Subsection 9704.6 shall meet the following qualifications:
- (a) Be licensed pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2011 Supp.)); and
 - (b) Have at least two (2) years of experience working with older adults in a social services or health care program.
- 9704.9 Each Provider of ADHP services shall employ a full time activities coordinator who shall be responsible for developing and implementing a program of therapeutic activities including, but not limited to:
- (a) Developing and scheduling educational, recreational and community integration activities and events;
 - (b) Supervising activity program assistants;
 - (c) Assisting personnel who are responsible for providing direct care support to the program participants;
 - (d) Participating in reviews of each participant's ADHP plan of care;
 - (e) Ensuring that a comfortable, safe and therapeutic environment for daily program implementation is maintained;
 - (f) Fostering a participant's freedom of choice, decision making and active participation in daily activities; and
 - (g) Developing monthly progress notes regarding status updates relative to the participant's engagement and participation in therapeutic activities.
- 9704.10 An activities coordinator employed pursuant to Subsection 9704.9 shall have a minimum of one (1) year of experience working at a social service, health care, or therapeutic recreational program that serves older adults.
- 9704.11 Each ADHP shall employ a full time social service professional who shall be responsible for, but not be limited to the following:
- (a) Assisting in developing activities designed to improve a participant's self-awareness, level of functioning and psycho-social needs;
 - (b) Incorporating the interest and therapeutic needs of participants in the development of the activity programs;

- (c) Coordinating and conducting individual, group and family counseling services;
- (d) Entering monthly notes in each participant's record;
- (e) Referring the participant and the participant's family to appropriate community services and resources, as needed;
- (f) Assisting staff with ongoing program services;
- (g) Offering guidance through counseling and teaching to the participant and the participant's family on matters related to a participant's health, safety and general welfare;
- (h) Assisting in the coordination of non-ADHP services, including but not limited to case management services, medical, personal care assistance services, skilled therapies, waiver services, transportation services, home-delivered meals; and
- (i) Assisting participants to access and maintain public benefits.

9704.12 A social service professional(s) employed in accordance with Subsection 9704.11 shall:

- (a) Have a master's degree in social work, psychology, counseling, gerontology, sociology, therapeutic recreation or a related field and at least one (1) year of experience working with older adults in social service, health care or therapeutic recreational settings; or
- (b) Have a four (4) year degree from an accredited university or college in social work, counseling, psychology, gerontology or therapeutic recreation or a related field and at least two (2) years of experience working with older adults and/or adults with disabilities in a social, health or recreational setting; and
- (c) Obtain the requisite licensure under the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.01), if required.

9704.13 Each ADHP shall have a medical director who shall be responsible for:

- (a) Providing guidance, leadership, oversight and quality assurance for the development and implementation of policies and practices to promote the appropriate medical management and care of participants, including in emergency situations;

- (b) Consulting with the participant's physician, when necessary;
- (c) Taking professional responsibility for each participant's medical care in emergency situations or when the participant's personal physician is unavailable;
- (d) Overseeing the delivery of all required medical services to ensure that needed services are provided in a timely manner by the appropriate personnel, consistent with each participant's ADHP plan of care; and
- (e) Participating in support team conferences, care planning and case reviews.

9704.14 A medical director employed by or under contract to an ADHP shall be licensed as a physician in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2011 Supp.));

9704.15 Each ADHP shall have a dietician or nutritionist who shall be responsible for, including but not limited to, the following:

- (a) Developing and designing menus for meals and snacks to accommodate daily nutrient requirements of each ADHP participant.
- (b) Collaborating with the participant's support team members as described in Subsection 9711.4, to ensure that a participant's nutritional needs are addressed;
- (c) Providing nutritional education, training and counseling to each participant, the participant's family and ADHP staff;
- (d) Conducting and recording periodic inspections of the food service program and the food service area; and
- (e) Ensuring that special or modified diets are developed and offered in accordance with the participant's ADHP plan of care.

9704.16 A dietician or nutritionist employed or under contract to an ADHP shall be licensed in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2011 Supp.)).

9704.17 If required, other health and social service professionals employed or under contract to an ADHP shall be licensed in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2011 Supp.)).

9704.18 Each ADHP shall employ a direct support professional who shall be responsible for, but not be limited to, the following:

- (a) Assisting participants with personal care tasks and other activities of daily living;
- (b) Providing guidance to participants during group activities;
- (c) Supporting and encouraging a participant's participation in scheduled activities;
- (d) Monitoring and reporting any change in a participant's health status as appropriate;
- (e) Assisting in the implementation of each participant's ADHP plan of care as a member of the participant's support team;
- (f) Documenting daily attendance and participation for each participant; and
- (g) Assisting participants with maintaining their optimal physical and mental health.

9704.19 A direct support professional employed by an ADHP shall:

- (a) Be at least eighteen (18) years of age;
- (b) Be a citizen of the United States or a non-citizen who is lawfully authorized to work in the United States;
- (c) Be mentally, physically and emotionally competent to provide services;
- (d) Be free of tuberculosis and other communicable diseases as certified in writing by a physician on an annual basis;
- (e) Be able to read and write the English language at least at the fifth (5th) grade level and carry out instructions and directions in English;
- (f) Be certified in cardiopulmonary resuscitation (CPR), and first aid certification and maintain current certifications;
- (g) Complete three (3) hours of continuing education at quarterly intervals, in addition to annual CPR re-certification;
- (h) Be trained on the participant's ADHP plan of care prior to assisting any participant;

- (i) Be able to recognize an emergency and be knowledgeable about emergency procedures;
- (j) Pass a reference check and criminal background check pursuant to the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1988, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code, §§ 44-441 *et seq.* (2005 Repl. & 2012 Supp.)); and
- (k) Have at least a high school diploma or General Educational Development certificate.

9705 PROGRAM REQUIREMENTS

9705.1 An Adult Day Health Program shall provide, at minimum, all of the following services:

- (a) Nursing services, as described under Subsection 9704.6, including monitoring the participants' health care-needs, providing health counseling, and the coordinating and implementing the ADHP plans of care for each participant;
- (b) Individual and group therapeutic activities, including social, recreational and education activities, that:
 - (1) Are based upon each participant's assessed needs and personal preferences,
 - (2) Are consistent with the participant's person-centered service plan, and
 - (3) Are designed to improve each participant's self-awareness, cognitive and physical functional abilities and personal safety;
- (c) Individual and group counseling for participants and their families;
- (d) Personal care assistance services, including training and assistance in activities of daily living, accident prevention, and the use of special aides provided under the overall supervision of a registered nurse;
- (e) Medication administration, assistance and counseling, including education and counseling of participants and family members regarding medication safety, efficacy and adherence, that are provided in accordance with the requirements set forth in Section 9707;

- (f) Nutrition services that are provided in accordance with the requirements set forth in Section 9706; and
- (g) Coordination of transportation services for therapeutic activities that are scheduled off-site.

9705.2 Transportation for non-emergency medical services including therapeutic activities shall be provided under the DHCF non-emergency medical transportation contract. Each transportation provider shall comply with all applicable business licensing and certification requirements set forth under the District of Columbia Non-Emergency Medical Transportation contract.

9705.3 Each ADHP provider shall develop a safety and emergency preparedness plan which includes procedures for evacuation in the event of an emergency and ensuring staff is trained in CPR and First Aid.

9705.4 An ADHP program may provide or arrange for additional services including but not limited to non-emergency medical transportation services to and from the program site, and other activities not outlined under the participant's ADHP plan of care, psychiatric services and occupational, physical and speech therapies. These services are not included in the reimbursement rates set forth in Section 9723.

9706 NUTRITION SERVICES

9706.1 Nutrition services shall be provided in accordance with the requirements set forth in this Section.

9706.2 All meals and snacks shall be prepared under the direction of a dietician or nutritionist and shall be provided in accordance with the requirements set forth in Subsection 9706.7.

9706.3 All meals shall include hot foods and shall be equivalent to at least one-fourth (1/4) of the recommended daily dietary allowance established by the Food and Nutrition Board of the National Research Council.

9706.4 The ADHP shall furnish special diets, if required by the participant and prescribed by his or her physician.

9706.5 The ADHP shall ensure that all participants are properly hydrated and that drinking water is provided in a safe and hygienic manner and is accessible to the participants at all times.

9706.6 Program staff members, under the supervision of the dietician, nutritionist, or registered nurse, shall provide nutrition counseling and consumer shopping advice to participants and, if necessary, to their families or guardians.

- 9706.7 The ADHP shall adhere to the following requirements to determine the number of meals and snacks to be provided to each participant:
- (a) Participants who are in attendance for less than three (3) hours shall be provided with a minimum of one (1) meal or one (1) snack which shall constitute one-fourth (1/4) of the participant's daily nutritional allowance;
 - (b) Participants who are in attendance for a total of three (3) to four (4) hours per day shall be provided with a minimum of one (1) meal and one (1) snack which shall constitute one-third (1/3) of the participant's daily nutritional allowance; and
 - (c) Participants who are in attendance for a total of five (5) to eight (8) hours per day shall be provided with a minimum of two (2) meals and two (2) snacks, or one (1) meal and two (2) snacks, which shall constitute one-half (1/2) of the participant's daily nutritional allowance.
- 9706.8 Each ADHP shall ensure that all meals are prepared and served in accordance with the food safety requirements set forth in Title 25 DCMR.

9707 MEDICATION ADMINISTRATION, ASSISTANCE AND COUNSELING

- 9707.1 The ADHP shall provide medication administration, assistance and counseling in accordance with the requirements of this Section.
- 9707.2 Medication administration and counseling services shall be supervised by a registered nurse.
- 9707.3 Medications, including over the counter medications, shall not be administered without a written order signed by a physician or an advance practice registered nurse, acting within the scope of his or her license.
- 9707.4 Medications, including injectable medications, shall only be administered as ordered by the physician or advance practice registered nurse and may only be administered by a physician, registered nurse, or licensed practical nurse.
- 9707.5 An individual authorized under Subsection 9707.4 to administer medications to a participant under these rules shall personally prepare the dosage, observe the act of swallowing oral medicines, and record each dosage given in each participant's medication administration record (MAR). The MAR shall clearly identify each individual who administers each dose.

- 9707.6 A registered nurse or a direct support professional working directly with the participant and employed by the ADHP shall provide assistance to participants who are able to self-administer medications.
- 9707.7 The ADHP shall provide counseling to participants and their families regarding medication safety, efficacy, and adherence, and shall assist participants to order medications or obtain a prescription or prescription refill.
- 9707.8 All medications, including those for participants who are able to self-administer, shall be stored in a safe, secure, locked storage area.
- 9707.9 The ADHP shall develop and implement internal quality controls to ensure that medications are stored properly and administered in accordance with the physician's orders.
- 9707.10 No controlled substances shall be administered or stored on the premises in violation of the Controlled Substances Act, approved October 27, 1970 (Pub. L. No. 113-234, 84 Stat. 1242; 21 U.S.C. §§ 801 *et seq.*), and its implementing federal regulations.
- 9707.11 The ADHP shall adhere to any applicable Federal or District of Columbia law, rules and/or regulations related to medication administration.

9708 SAFETY AND ENVIRONMENTAL REQUIREMENTS

- 9708.1 Each provider rendering ADHP services shall ensure that the physical site where services are rendered is in compliance with safety and accessibility standards for disabled persons in accordance with the Americans with Disabilities Act of 1990 (ADA), approved July 26, 1990 (Pub. L. No. 101-336, 104 Stat. 327), as amended and supplemented by the American Disabilities Amendments Act of 2008, approved September 25, 2008 (Pub.L. No. 110-325, 122 Stat. 3554; 42 U.S.C. §§ 12101 *et seq.*), and its implementing federal regulations, ADA standards for accessible design, 28 C.F.R. Ch. I, parts 35 and 36.
- 9708.2 Each provider rendering ADHP services shall maintain a Certificate of Occupancy from the Department of Consumer and Regulatory Affairs (DCRA) to ensure that the site is in compliance with the applicable zoning regulations and construction codes including electrical, plumbing, mechanical, and fire prevention requirements in accordance with the Construction Codes Supplement of 2013 under Title 12 DCMR.

- 9708.3 Each ADHP program site shall have:
- (a) At least one (1) large room where all participants can gather for activities, socialization and meals;
 - (b) Separate areas for small group activities including a quiet area that permits participants to rest; and
 - (c) A room with a bed or medical examination table with adequate provision for privacy for medical examination, treatment in the event of illness or accident, or individualized programming or instruction.
- 9708.4 Each ADHP program site shall have sufficient toilet facilities at each site to accommodate participants with physical disabilities that comply with ADA standards for accessible design, 28 C.F.R. Ch. I, parts 35 and 36, also available at www.ada.gov.
- 9708.5 Each ADHP provider shall ensure adequate heating and cooling systems to ensure that room temperatures are maintained at comfortable levels.
- 9708.6 Each provider shall ensure that there are operating fire extinguishers and smoke and carbon monoxide detectors available on each building level.
- 9708.7 Each provider shall properly maintain walkways, ramps, steps and outdoor landscaping, and display clearly identifiable evacuation routes for safe means of exit in the event of an emergency.
- 9708.8 Each provider shall ensure that the program site is free of rodents, pests and insects.
- 9708.9 Each provider shall ensure that there is a first aid kit on site.
- 9708.10 Each provider shall have procedures for emergency care, infection control and reporting of accidents and incidents.
- 9708.11 Each provider shall ensure that participants have access to the private use of a telephone, on-site and at no charge, and that is easily and readily accessible.
- 9708.12 The minimum space requirements for each ADHP program site, exclusive of office space, bathrooms, storage space, examination rooms, food preparation areas and dining areas (unless also used for activities) shall be as follows:
- (a) One hundred (100) square feet for each of the first five (5) participants;
 - (b) Eighty (80) square feet for each of the next ten (10) participants; and

(c) Thereafter, sixty (60) square feet for each ten (10) participants.

9709 SERVICE AUTHORIZATION REQUEST REQUIREMENTS

9709.1 ADHP services shall not be initiated or provided on a continuing basis by a provider without an approved assessment determination and an authorization for the receipt of ADHP services from DHCF or DHCF's designated agent to authorize the receipt of ADHP services.

9709.2 A Medicaid beneficiary who is seeking ADHP services for the first time shall submit his or her request for an assessment and a certification from the beneficiary's physician or advance practice registered nurse that he or she has a chronic medical condition in accordance with Subsection 9710.2 to DHCF or its designated agent in writing.

9709.3 DHCF or its designated agent shall be responsible for conducting a face-to-face assessment of each beneficiary using a standardized needs-based assessment tool to determine each beneficiary's need for ADHP services. The assessment shall:

- (a) Confirm and document the beneficiary's functional limitations, behavioral and medical support needs and personal goals with respect to long-term care services and supports;
- (b) Be conducted in consultation with the beneficiary and/or the beneficiary's representative and/or support team;
- (c) Document the beneficiary's unmet need for services taking into account the contribution of informal supports and other resources in meeting the beneficiary's needs for assistance; and
- (d) Document the amount, frequency, duration, and scope of long-term care services and support services needed.

9709.4 DHCF or its designated agent shall conduct the initial face-to-face assessment following the receipt of a request for an assessment and shall conduct a reassessment at least every twelve (12) months or upon significant change in the participant's condition. A request for a reassessment or a change in acuity level may be made by a Medicaid beneficiary, the beneficiary's representative, or a provider.

9709.5 Based upon the results of the face-to-face assessment conducted in accordance with Subsection 9709.3, DHCF or its authorized agent shall issue an assessment determination that specifies the beneficiary's acuity level.

9709.6 If the beneficiary meets the acuity level for ADHP services and chooses to participate in an ADHP program, DHCF or its authorized agent shall refer the beneficiary to the Aging and Disability Resource Center (ADRC) which shall be

responsible for developing the person-centered service plan in accordance with federal regulations under 42 C.F.R. § 441.725.

- 9709.7 Consistent with 42 C.F.R. § 441.725(c), the person-centered service plan must be reviewed, and revised upon reassessment of functional need as required in § 441.720, at least every twelve (12) months, and/or when the beneficiary's circumstances or needs change significantly in accordance with Subsection 9709.4.
- 9709.8 The ADRC shall assist the beneficiary to select an ADHP provider, and shall refer the beneficiary to other available services of his or her choice.
- 9709.9 If, based upon the assessment or reassessment conducted pursuant to this section, a beneficiary is found to be ineligible for ADHP services, DHCF or its agent shall issue a letter informing the beneficiary of his or her ineligibility, or change in acuity for ADHP services, including information about his or her right to appeal the denial, reduction or termination of services in accordance with federal and District of Columbia law and regulations. The notice shall also contain information regarding the beneficiary's right to request DHCF to reconsider its decision and the timeframes for making a request for reconsideration.

9710 ADMISSION REQUIREMENTS

- 9710.1 With respect to each new admission, an ADHP provider shall:
- (a) Obtain the ADHP assessment determination that authorizes the need for ADHP services, as described in Section 9709, establishing that the participant meets the level of care for admission to an ADHP;
 - (b) Obtain a medical release form, signed by the participant's physician or advanced practice registered nurse, that addresses the participant's general medical condition, restrictions on activity, diet modifications, any instructions relative to health care, absence of infectious diseases, a list of current medications and treatment documenting the participant's medical history;
 - (c) Conduct a pre-admission interview with the participant and his or her family, and support team, to gather information on the participant's health characteristics, psycho-social condition, nutritional habits, and other relevant data pertaining to the participant's home or community support system;
 - (d) Develop and execute an agreement between the ADHP provider and the participant which shall include, but not be limited to, the following information:

- (1) The program's operating business hours and schedule of holidays;
 - (2) The announcement procedures for unexpected closing of the program due to disaster or inclement weather;
 - (3) Participant rights and responsibilities;
 - (4) The Provider's HIPAA compliance policy;
 - (5) The Provider's safety and emergency preparedness policy and plan which outlines who the provider should contact in case of an emergency;
 - (6) The financial obligations of the participant, if any; and
 - (7) Other pertinent information; and
- (e) Implement the participant's ADHP plan of care in accordance with Section 9711.

9710.2 The signed medical release form referenced in Subsection 9710.1(b) shall be accompanied by a report from the beneficiary's physician or advance practice nurse indicating that the physician or advance practice nurse has physically examined the applicant and certified that the beneficiary has a chronic medical condition within the past ninety (90) days and the results of that physical examination;

9711 ADHP PLAN OF CARE

9711.1 An ADHP plan of care shall:

- (a) Be completed within fourteen (14) business days of the participant's admission to the ADHP;
- (b) Be developed in consultation with the participant, or the participant's representative and the participant's Support Team;
- (c) Incorporate the participant's person-centered service plan and take into account the assessment conducted in accordance with Subsection 9709.3, as well as any other information relevant to a comprehensive understanding of the participant's clinical and support needs;
- (d) Specify how the ADHP will provide the services and supports that will assist the participant to achieve his or her identified goals as identified in the person-centered service plan;

- (e) Reflect the participant's preferences as to the types and scheduling of ADHP services to be provided as identified in the participant's person-centered service plan ; and
- (f) Indicate any other supportive services that the participant is receiving away from the ADHP such as homemaker services, other therapies and services.

9711.2 The ADHP plan of care shall be reviewed by the support team and the participant or the participant's representative at least once every ninety (90) days, and whenever there has been a significant change in the participant's conditions, and shall be updated or modified as needed.

9711.3 The initial ADHP plan of care, as well as any updates or changes made, shall be approved and signed by the participant and/or the participant's representative, the registered nurse in charge of the participant's care and all support team members who participate in its development.

9711.4 A support team includes the clinical and non-clinical staff who shall be responsible for providing or arranging for services and supports for the participant. At minimum, for purposes of developing an ADHP plan of care for each participant, the Support Team shall include:

- (a) The Registered Nurse;
- (b) The Social Worker;
- (c) The Dietician/Nutritionist;
- (d) The Activities Coordinator;
- (e) The direct support professional(s) who worked directly with the participant; and
- (f) Any other person chosen by the participant

9712 PARTICIPANT RIGHTS AND RESPONSIBILITIES

9712.1 Each ADHP provider shall develop a written statement of the participant's rights and responsibilities consistent with the requirements of this section, which shall be given to each participant in advance of receiving services.

9712.2 The written statement of the participant's rights and responsibilities shall be prominently displayed at the provider's business location and available at no cost upon request by the general public.

- 9712.3 Each participant shall have the following rights:
- (a) To be treated with courtesy, dignity and respect;
 - (b) To participate in the planning of his or her care and treatment;
 - (c) To receive treatment, care, and services consistent with the person-centered service plan and to have the ADHP plan of care modified for achievement of outcomes;
 - (d) To receive services by competent provider personnel who can communicate with the participant in accordance with the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code §§ 2-1931 *et seq.*);
 - (e) To refuse all or part of any treatment, care, or service and be informed of the consequences;
 - (f) To be free from mental and physical abuse, neglect and exploitation from persons providing services;
 - (g) To be assured of the privacy of protected health and financial information in accordance with all the provisions of applicable District and federal laws;
 - (h) To voice a complaint or grievance about treatment, care, or lack of respect for personal property by persons providing services without fear of reprisal;
 - (i) To have access to his or her records; and
 - (j) To be informed orally and in writing of the following:
 - (1) Services to be provided, including any limits;
 - (2) Amount charged for each service, the amount of payment required from the participant and the billing procedures, if applicable;
 - (3) Whether services are covered by health insurance, Medicare, Medicaid, or any other third party sources;
 - (4) Acceptance, denial, reduction or termination of services;
 - (5) Complaint and appeal procedures;
 - (6) Name, address and telephone number of the Provider;

- (7) Telephone number of the District of Columbia Medicaid fraud hotline;
- (8) Participant's freedom from being forced to sign for services that were not provided or were unnecessary; and
- (9) A statement, provided by DHCF, defining health care fraud and ways to report suspected fraud.

9712.4 Each participant shall be responsible for the following:

- (a) Treating all ADHP personnel with respect and dignity;
- (b) Providing accurate information when requested;
- (c) Informing provider personnel when instructions are not understood or cannot be followed;
- (d) Cooperating in making a safe environment for care within the ADHP site; and
- (e) Reporting suspected fraud, waste and abuse.

9712.5 Each provider shall take appropriate steps to ensure that each participant, including participants who cannot read or those who have a language or a communication barrier, has received the information required pursuant to this section.

9712.6 Each Provider shall document in the participant's records, described under Section 9713, the steps taken to ensure that each participant has received the information.

9713 RECORDKEEPING

9713.1 Each ADHP provider shall maintain complete and accurate participant records for each participant that documents the specific ADHP services provided to each participant for a period of ten (10) years or until all audits are completed, whichever is longer.

9713.2 Each participant's record shall include, but not be limited to, the following information:

- (a) General information including the participant's name, Medicaid identification number, address, telephone number, age, sex, name and telephone of emergency contact person, authorized representative (if

applicable), and primary care physician's or advanced practice registered nurse's name, address, and telephone number;

- (b) The approved ADHP assessment determination, certification of chronic medical condition, and the Medical Release Form;
- (c) Notes from the participant's pre-admission interview;
- (d) An emergency care form to include the name and contact information for at least three people to be notified in case of emergency;
- (e) ADHP HIPAA Privacy Act Statement and signed acknowledgement in accordance with the HIPAA Privacy Act of 1996, approved August 21, 1996 (Pub. L. 104-191, 110 Stat. 1936);
- (f) The participant's person-centered service plan, the ADHP plan of care, and all monthly updates;
- (g) The results of the participant's initial and any revised needs-based assessment;
- (h) A copy of the written agreement between the ADHP provider and the participant;
- (i) All physician orders including all orders for medications;
- (j) Other assessments and consultations;
- (k) Documentation of services received, how often and by whom;
- (l) Progress notes and quarterly updates;
- (m) Incident and accident reports;
- (n) Copies of any written notices given to the participant; and
- (o) Discharge summary, if applicable.

9713.3 Each provider shall maintain the following fiscal records:

- (a) Daily attendance roster;
- (b) The program inspection reports (health, fire, safety, food), if applicable;
- (c) An annual ADHP program evaluation report including program enrollment and discharge data;

- (d) Current copies of all fully executed contracts pertaining to the delivery of ADHP services;
- (e) Current and projected budgets, including specific cost allocations;
- (f) General ledger and books of original entry showing receipts and expenditures with supporting documentation;
- (g) The fee schedule and fee charges;
- (h) The daily schedule of activities;
- (i) The daily menus for meals and snacks for each thirty (30) day period;
- (j) Any audits by Centers for Medicare and Medicaid Services (CMS) and/or DHCF;
- (f) The discharge planning form/report;
- (k) The number of individuals waiting for admission to the program, if any;
- (l) The community outreach materials that shall include:
 - (1) A program brochure;
 - (2) Letters to physicians, health facilities, senior centers, and social service agencies informing them of the services provided by the program;
 - (3) Strategies for participation and involvement with community service agencies and community leaders to develop referral mechanisms;
 - (4) Notices posted in community facilities; and
 - (5) Schedule of events held for the general public and various community groups.

9713.4 Individual personnel records shall be maintained on all program staff and consultants.

9713.5 Individual personnel records shall include the following:

- (a) Name, address, telephone number, age and sex;

- (b) Educational background;
- (c) Employment history and notes on references;
- (d) Evaluation of performance and attendance;
- (e) Certification that the staff member is free of tuberculosis and other communicable diseases;
- (f) CPR certification(s);
- (g) Results of reference and criminal background checks including proof of compliance with the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code §§ 44-551 *et seq.*); as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code §§ 44-551 *et seq.*) for the following employees or contract workers:
 - (1) Individuals who assist licensed health professionals in providing direct patient care or common nursing tasks, but are not licensed under Chapter 12, Health Occupations Board, of Title 3 of the D.C. Official Code;
 - (2) Nurse aides, orderlies, assistant technicians, attendants, home health aides, personal care aides, medication aides, geriatric aides, or other health aides; and
 - (3) Housekeeping, maintenance, and administrative staff who may have direct contact with participants.
- (h) Evidence of participation in continuing education; and
- (i) Copies of all professional licenses held by employees or any contractor utilized by the Provider for the delivery of ADHP services.

9713.6 All ADHP participant, personnel and program administrative and fiscal records shall be maintained so that they are accessible and readily retrievable for inspection and review by DHCF, CMS, and other authorized government officials or their agents, as requested.

9714 TERMINATION AND ALTERNATIVE SANCTIONS FOR ADHP NONCOMPLIANCE

- 9714.1 In order to qualify for Medicaid reimbursement, ADHP providers shall comply with programmatic requirements as part of its Provider Readiness Review. The programmatic requirements include adherence to acceptable standards in the following areas:
- (a) Service delivery;
 - (b) Program administration as governed under mandated policies and procedures;
 - (c) Staffing and training; and
 - (d) Home and Community Based Services (HCBS) setting requirements.
- 9714.2 An ADHP that fails to maintain compliance with the programmatic requirements and any requirements set forth in this chapter may be subject to alternative sanctions and/or termination of its participation in the Medicaid program.
- 9714.3 If DHCF initiates an action to terminate, DHCF shall follow the procedures set forth in Chapter 13 of Title 29 DCMR governing termination of the Medicaid provider agreement.
- 9714.4 If DHCF initiates an action to impose an alternative sanction, a written notice shall be issued to each ADHP provider notifying the provider of the imposition of an alternative sanction.
- 9714.5 The written notice shall inform the provider that DHCF intends to impose an alternative sanction.
- 9714.6 The written notice shall also include the following:
- (a) The basis for the proposed action;
 - (b) The specific alternative sanction that DHCF intends to take;
 - (c) The provider's right to dispute the allegations and to submit evidence to support his or her position; and
 - (d) Specific reference to the particular sections of the statutes, rules, provider's manual, and/or provider's agreement involved.
- 9714.7 Within thirty (30) days of the date of the notice, an ADHP provider may submit documentary evidence to DHCF's Long Term Care Administration, 441 4th St., NW, Ste. 1000, Washington, DC 20001 to refute DHCF's argument for imposition of the alternative sanction.
- 9714.8 On a case-by-case basis, DHCF may extend the thirty (30) day period prescribed in Subsection 9714.7.

- 9714.9 If DHCF determines to impose an alternative sanction against the ADHP provider after the provider has issued a response under Subsection 9714.7, DHCF will send a written notice at least fifteen (15) days before the imposition of the alternative sanction. The notice shall include the following:
- (a) The reason for the decision;
 - (b) The effective date of the sanction; and
 - (c) The provider's right to request a hearing by filing a notice of appeals with the District of Columbia Office of Administrative Hearings.
- 9714.10 If the ADHP provider files a notice of appeal within fifteen (15) days of the date of the notice of the alternative sanction under Subsection 9714.9, then the effective date of the proposed sanction shall be stayed until the District of Columbia Office of Administrative Hearings has rendered a final decision.
- 9714.11 The Director of DHCF shall consider modifying the alternative sanction upon the occurrence of one of the following:
- (a) Circumstances have changes and resulted in alterations of the programmatic requirement violation(s) in such a manner as to immediately jeopardize a participant's health, and safety; or
 - (b) The ADHP makes significant progress in achieving compliance with the programmatic requirements through good faith efforts.
- 9714.12 When a participant's health or safety is in immediate jeopardy, the provider must implement the safety and emergency preparedness plan. Once the participant is safe and is no longer in immediate jeopardy, the ADHP shall submit a corrective action plan to DHCF within one (1) business day with specific timelines for implementation.
- 9714.13 The Director of DHCF may also modify the denial of payment sanction in accordance with Section 9716.

9715 ALTERNATIVE SANCTIONS FOR ADHPs

- 9715.1 DHCF may impose alternative sanctions against an ADHP when that provider fails to meet the programmatic requirements or any requirements set forth in this Chapter, but the violation does not place an ADHP participant's health or safety in immediate jeopardy.
- 9715.2 In lieu of terminating the Medicaid provider agreement, DHCF may impose one (1) or more alternative sanctions against ADHPs as set forth below:
- (a) Denial of payments related to new admissions, as described in § 9716;

- (b) Directed Plan of Correction (DPoC), as described in § 9717;
- (c) Directed In-Service Training (DIST), as described in § 9718; or
- (d) State Monitoring, as described in § 9719.

9715.3 DHCF shall make a determination to terminate a provider from the Medicaid program, or to impose an alternative sanction based on the following factors:

- (a) Seriousness of the violation(s);
- (b) Number and nature of the violation(s);
- (c) Potential for immediate and serious threat(s) to ADHP participants;
- (d) Potential for serious harm to ADHP participants;
- (e) Any history of prior violation(s) and/or sanction(s);
- (f) Mitigating circumstances; and
- (g) Other relevant factors, including failing to achieve satisfactory scores during the annual Provider Readiness Review process.

9715.4 DHCF shall issue a written notice to each ADHP notifying the provider of the imposition of an alternative sanction. The written notice shall comply with the requirements outlined in Section 9714.

9715.5 All costs associated with the imposition of an alternative sanction against an ADHP pursuant to these rules shall be borne by the provider.

9716 DENIAL OF PAYMENT RELATING TO NEW ADMISSIONS

9716.1 In lieu of termination in situations where participants are not in immediate jeopardy, DHCF may initiate a one-time denial of payment for claims associated with new admissions at the ADHP site that fail to comply with one (1) or more of the programmatic requirements for Medicaid enrollment.

9716.2 The denial of payment term shall be eleven (11) months in duration, beginning on the first day of the month after DHCF imposes the denial of payments.

9716.3 DHCF shall notify the ADHP that it is subject to denial of payment in accordance with the notice requirements described under Section 9714.

- 9716.4 DHCF shall monitor the provider's progress in improving cited violation(s) throughout the eleven (11) month period.
- 9716.5 The Director of DHCF shall consider modifying or rescinding the denial of payment, for reasons stated under Subsection 9715.1, or if the ADHP achieves full compliance with the programmatic requirements in fewer than eleven (11) months.
- 9716.6 DHCF shall terminate the Medicaid provider agreement of an ADHP that has been unable to achieve compliance with the programmatic requirements during the full eleven (11) month period of denial of payment.
- 9716.7 An ADHP Medicaid provider agreement that is subject to denial of payment shall be automatically extended for the eleven (11) month period if the provider agreement does not lapse on or before the effective date of denial of payments.
- 9716.8 ADHP Medicaid provider agreements that are subject to denial of payment may only be renewed when the denial period expires or is rescinded.

9717 DIRECTED PLAN OF CORRECTION (DPoC)

- 9717.1 In lieu of termination in situations where the ADHP is not in compliance with the programmatic requirements, and ADHP participants are not in immediate jeopardy, DHCF may require an ADHP to take prompt, or immediate action specified by DHCF to achieve and maintain compliance with programmatic requirements and other District of Columbia Medicaid requirements. These actions specified by DHCF shall constitute a Directed Plan of Correction (DPoC).
- 9717.2 The DPoC shall be developed by DHCF's Long Term Care Administration in coordination with the quality team of DHCF's Health Care Delivery Management Administration (HCDMA) and approved by, DHCF, incorporating findings from the provider's annual Providers Readiness Review.
- 9717.3 The DPoC shall specify:
- (a) How corrective action shall be accomplished for participants found to have been affected by the deficient practice and include remedies that shall be implemented;
 - (b) How the provider shall identify other participants who may have been affected by the same deficient practice but not previously identified, and how the provider shall act to remedy the effect of the deficient practices for these participants;

- (c) What measures and actions shall be put into place to ensure that the deficient practice(s) is/are being corrected and future noncompliance prevented;
- (d) Timelines, including major milestones for completion of all corrective action in the DPoC;
- (e) How compliance shall be determined; and
- (f) How the DPoC relates to other alternative sanctions.

9717.4 A monitor from DHCF's HCDMA shall oversee implementation of the DPoC and evaluate compliance with the plan.

9717.5 DHCF may terminate the Medicaid provider agreement of an ADHP that is unable to meet the timeline for completion of all corrective actions in the DPoC.

9718 DIRECTED IN-SERVICE TRAINING (DIST)

9718.1 In lieu of termination in situations where the ADHP is not in compliance with programmatic requirements, but participants are not in immediate jeopardy, DHCF may require an ADHP to implement Directed In-Service Training (DIST) for deficiencies determined by the District to be correctable through education. This alternative sanction shall require the staff and relevant employees of the ADHP to attend in-service trainings and demonstrate competency in the knowledge and skills presented during the trainings.

9718.2 DHCF shall develop the areas for ADHP staff and employee training by incorporating the findings from the annual Provider Readiness Review.

9718.3 Providers shall use training programs developed by well-established organizations with prior experience and expertise in training adult day providers, services. All programs and personnel used to deliver the training shall be approved by DHCF prior to their use.

9718.4 The ADHP shall bear the expense of the DIST.

9718.5 A monitor from DHCF's HCDMA shall oversee implementation of DIST, and shall ensure compliance with the requirements.

9718.6 DHCF may terminate the provider agreement of an ADHP that is unable to meet the timeline for full and successful completion of the DIST.

9719 PROGRAM COMPLIANCE MONITORING

9719.1 Program compliance monitoring shall be the District of Columbia's oversight of efforts made by the ADHP to correct cited deficiencies. State monitoring shall be a safeguard against the ADHP provider's further noncompliance.

9719.2 The following entities may serve as the District of Columbia's Monitor:

- (a) DHCF; or
- (b) A District of Columbia contractor that meets the following requirements:
 - (1) Is not a designee or current contractor of the monitored provider;
 - (2) Does not have an immediate family member who is a participant of the provider;
 - (3) Is not a person who has been terminated for cause by the provider; and
 - (4) Is not a former contractor who has had a contract canceled, for cause, by the provider.

9719.3 Program compliance monitoring shall be discontinued under the following circumstances:

- (a) The provider's Medicaid provider agreement is terminated;
- (b) The provider has demonstrated to the satisfaction of the District of Columbia that it substantially complies with the DPoC as described in § 9717; or
- (c) The provider has demonstrated to the satisfaction of the District of Columbia that it has substantially implemented the DIST as described in § 9718.

9720 DISCHARGE AND REFERRAL

9720.1 A participant shall be discharged from the ADHP program under one (1) of the following conditions:

- (a) If the participant is found upon reassessment that his/her acuity is below the level of need described under Section 9709;
- (b) If the participant requires long term placement in an institutional setting; or
- (c) If the participant wishes to discontinue participation in the program.

- 9720.2 Upon discharge, the ADHP shall develop and maintain a participant discharge plan that shall include the following:
- (a) The reasons for discharge;
 - (b) The post-discharge goals for the participant; and
 - (c) The list of community resources including service agencies to promote continuity of care; and if follow-up services are desired.
- 9720.3 The provider shall submit the discharge plan to DHCF within one (1) week of the person's discharge from the ADHP program.
- 9720.4 If the discharge is related to a failure to meet the level of need, a beneficiary denial or change of services letter will be issued, consistent with Federal and District of Columbia law.

9721 SERVICE LIMITATIONS

- 9721.1 A person shall not receive ADHP services if they reside in an institutional setting or any setting that is not in compliance with the HCBS setting requirements consistent with 42 C.F.R. § 441.301 and 42 C.F.R. § 441.710.
- 9721.2 A provider shall not be reimbursed for ADHP services under these rules if the participant is concurrently receiving the following services:
- (a) Day Habilitation and Individualized Day Supports under the Section 1915 (c) Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD);
 - (b) Intensive day treatment or day treatment mental health rehabilitative services (MHRS);
 - (c) Personal Care Aid (PCA) services (State Plan and 1915 (c) waivers); or
 - (d) Services funded by the Older Americans Act of 1965, approved July 14, 1965 (Pub. L. No. 89-73, 79 Stat. 218), as amended by the Older Americans Act Amendments of 2000, approved November 13, 2000 (Pub. L. No. 106-501, 114 Stat. 2226), as amended by the Older Americans Act Amendments of 2006, approved October 17, 2006 (Pub. L. No. 109-365, 120 Stat. 2522).
- 9721.3 A provider shall not be reimbursed for ADHP services if the participant is receiving intensive day treatment mental health rehabilitation services during a twenty-four (24) period that immediately precedes or follows the receipt of

ADHP services, to ensure that the participant is receiving services in the setting most appropriate to his/her clinical needs.

9721.4 If a person is also receiving PCA services under the State Plan for Medical Assistance on the same day that ADHP services are delivered, the combination of both PCA and ADHP services shall not exceed a total of twelve (12) hours per day.

9721.5 ADHP services shall not be provided for more than five (5) days per week and for more than eight (8) hours per day.

9722 COST REPORTING

9722.1 Each ADHP site shall report direct services, treatment, and plant and capital costs on an annual basis to DHCF no later than ninety (90) business days after the end of the provider's cost reporting period, which shall correspond to the fiscal year used by the provider for all other financial reporting purposes, unless DHCF has approved an exception in writing.

9722.2 All costs reports shall cover a twelve (12) month cost reporting period unless the provider obtains advance written permission from DHCF to allow an alternative reporting period, for good cause.

9722.3 The costs described in Subsection 9722.1 shall be reported on a cost report template designed by DHCF.

9722.4 The cost report instructions shall include, but not be limited to, guidelines and standards for determining and reporting allowable costs.

9722.5 DHCF shall issue a delinquency notice to any provider who fails to submit a cost report within the required ninety (90) business day timeframe or who submits an incomplete cost report.

9722.6 The delinquency notice shall be issued within thirty (30) business days of the last day of the required timeframe, and shall urge the provider to submit, or amend the submitted cost report or face the risk of a withholding of provider payments

9722.7 Issuance of a delinquency notice shall result in the withholding of an amount equal to seventy-five percent (75%) of the provider's total payment for the month that the cost report was due, and the same amount shall be withheld each month until the cost report is received.

9722.8 The amounts withheld pursuant to Subsection 9722.7 shall be refunded upon submission of complete cost reports that address all delinquencies.

9722.9 All cost reports are subject to audit and adjustment.

9722.10 All providers shall retain all accounting records for a period of not less than ten (10) years after the filing of a cost report.

9723 REIMBURSEMENT POLICY

9723.1 Reimbursement rates shall be based on a uniform per diem rate that is differentiated based on the participant's acuity level as established by the standardized need- based assessment tool and process described under Section 9709, as follows:

- (a) Acuity Level One (1) represents the health and support needs of a beneficiary whose needs based assessment reflects a minimum score of four (4) or five (5); and
- (b) Acuity Level Two (2) represents the health and support needs of a beneficiary whose needs based assessment reflects a score of six (6) or higher.

9723.2 Beginning on the effective date of these rules, the reimbursement rate for ADHP services shall be as follows:

- (a) Acuity Level One (1): The daily rate for a program serving participants with minimum acuity levels with at least one staff member during all hours shall be ninety eight dollars and seventy cents (\$98.70) per day; and
- (b) Acuity Level Two (2): The daily rate for a program serving participants with a maximum acuity level with at least one staff member shall be one hundred and twenty five dollars and seventy eight cents (\$125.78) per day.

9723.3 Effective October 1, 2015 (fiscal year 2016) and thereafter, the uniform per-diem rates, shall be inflated by the corresponding CMS Market Basket Index for Nursing Facilities for that period.

9799 DEFINITIONS

When used in this section, the following terms and phrases shall have the meanings ascribed:

Acuity level - A participant's level of health and support needs determined by the assessment tool.

ADHP plan of care - A written plan developed by the provider to implement ADHP services in accordance with the individual's person-centered service plan.

Aging and Disability Resource Center (ADRC) - The D.C. ADRC is housed at the D.C. Office on Aging, and provides a single, coordinated system of information and access for individuals seeking long-term services and supports. This is accomplished through the provision of unbiased, reliable information, counseling, and service access to older adults (60 years and older), individuals with disabilities (18 to 59 years old), and their caregivers. The ADRC facilitates the acquisition of services individualized to the unique needs and desires expressed by each person.

Body Mechanics - The field of physiology that studies muscular actions and the function of muscles in maintaining body posture.

Chronic Medical Condition - A medical condition that lasts a year or more and requires ongoing medical attention and/or limit activities of daily living.

Person-centered Service Plan – A plan of care developed by the Aging and Disability Resource Center (ADRC) that meets the requirements of 42 C.F.R. § 441.725.

Provider - the individual, organization, or corporation, public or private, that provides adult day health program services and seeks reimbursement for providing those services under the Medicaid program.

Support Team - A group of people providing support to a person receiving ADHP services, who have the responsibility of performing a comprehensive person-centered evaluation to support the development, implementation and monitoring of the person's person-centered plan of care.

Site - The location of the adult day health program. If an adult day health provider operates a program in two (2) or more separate locations, each location is considered to be a separate site.

Comments on these rules should be submitted in writing to Claudia Schlosberg, J.D., Medicaid Director, Department of Health Care Finance, Government of the District of Columbia, 441 4th Street, NW, Suite 900, Washington, DC 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these rules are available from the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING****Z.C. Case No. 15-08****(Text Amendment – 11 DCMR)****(Text Amendment to § 3108.1(c))**

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2012 Repl.)), and the authority set forth in § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to § 3180.1 of the Board of Zoning Adjustment Rules of Practice and Procedure (Chapter 31 of Title 11 DCMR (Zoning)). The amendment establishes a fee for a Board of Zoning Adjustment application to expand a chancery when there is no associated expansion of the existing gross floor area.

The current fee schedule for an application to expand a chancery is based upon the amount of gross floor area being added. Recently, the Office of Zoning was unable to apply this schedule to several such applications because the proposed expansion would not increase the existing gross floor area, but rather involved the erection or expansion of a fence or similar structure. The inability of the Office of Zoning to obtain payment for the filing of these types of applications could adversely impact the finances of the District of Columbia. The Zoning Commission, therefore, finds that the emergency adoption of this amendment is necessary for the “immediate preservation of the public ... welfare.” D.C. Official Code § 2-505(c) (2012 Repl.).

The Commission also gives notice of its intent to take proposed action to adopt the following amendment to the Zoning Regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* or thirty (30) days following referral of this amendment to the National Capital Planning Commission, whichever occurs last.

The emergency rule will expire July 28, 2015, which is the one hundred-twentieth (120th) day after the adoption of this rule, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, of Title 11 DCMR, ZONING, is amended as follows:

§ 3180, SCHEDULE OF FEES, § 3180.1 is amended by adding a new subparagraph (c)(2) so that the entire subsection reads as follows:

3180.1 Except as provided in §§ 3180.1(e) and 3180.3, at the time of filing an appeal or application with the Board, the appellant or applicant shall pay a filing fee in accordance with the following schedule:

- (a) For an application for a variance, one thousand forty dollars (\$1,040) for each provision of the Zoning Regulations from which a variance is requested;
- (b) For an application for a special exception:
 - (1) For a parking lot, parking garage, or accessory parking, one hundred four dollars (\$104) for each parking space;
 - (2) For a child development center or private school, thirty-three dollars (\$33) for each full-time or part-time student based on the maximum capacity requested, with a maximum of three thousand two hundred fifty dollars (\$3,250);
 - (3) For a college or university use, six thousand five hundred dollars (\$6,500) for the processing of a new or revised campus plan, and three thousand two hundred fifty dollars (\$3,250) for review of a specific building or use within an approved plan;
 - (4) For a residential use in the R-5-A District under § 353, five hundred twenty dollars (\$520) for each dwelling unit;
 - (5) For a community-based residential facility, one hundred four dollars (\$104) for each person housed based on the maximum capacity requested (not including resident supervisors and their families), with a maximum of five thousand two hundred dollars (\$5,200);
 - (6) For an office use in the SP District, fifty-two dollars (\$52) for each one hundred square feet (100 ft.²) or part thereof of gross floor area;
 - (7) For roof structures under § 411, two thousand six hundred dollars (\$2,600);
 - (8) For a hotel or inn in the SP District, one hundred four dollars (\$104) for each sleeping room or suite;
 - (9) For a gasoline service station, five thousand two hundred dollars (\$5,200);
 - (10) For a repair garage, one thousand five hundred sixty dollars (\$1,560);
 - (11) For a home occupation under § 203, one thousand five hundred sixty dollars (\$1,560);

- (12) For an accessory apartment under § 202, three hundred twenty-five dollars (\$325);
 - (13) For a theoretical lot under § 2516, one thousand five hundred sixty dollars (\$1,560) for the first lot and five hundred twenty dollars (\$520) for each lot thereafter;
 - (14) For an intermediate materials recycling facility under § 802, five thousand two hundred dollars (\$5,200);
 - (15) For an antenna under § 211, two thousand six hundred dollars (\$2,600); and
 - (16) For any other special exception not listed in this section, one thousand five hundred sixty dollars (\$1,560);
- (c) For an application for permission to locate, replace, or expand a chancery in an R-5-D, R-5-E, or SP District or in the Diplomatic (D) Overlay District, or to reconstruct an existing chancery that is destroyed in an R-1, R-2, R-3, R-4, R-5-A, R-5-B, or R-5-C District, either:
- (1) Sixty-five dollars (\$65) for each one hundred square feet (100 sq. ft.) or part thereof of gross floor area; or
 - (2) Five hundred dollars (\$500) when the expansion does not result in an increase to gross floor area, such as the erection or enlargement of a fence.
- (d) For an application involving one owner-occupied, one-family dwelling or flat, regardless of the number of variances, special exceptions, or alternatives requested, three hundred twenty-five dollars (\$325);
- (e) For an appeal of any decision of the Zoning Administrator or other administrative officer, one thousand forty dollars (\$1,040), except that the following appellants shall not be required to pay a filing fee:
- (1) A department, office, or agency of the Government of the District of Columbia, including an Advisory Neighborhood Commission;
 - (2) The National Capital Planning Commission; and
 - (3) A citizens' association or association created for civic purposes that is not for profit; and

- (f) For a time extension, a minor modification of plans or a modification of conditions of an order of the Board for an owner-occupied one-family dwelling or flat, one hundred thirty dollars (\$130); for all other applicants, twenty-six percent (26%) of the original filing fee.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001, or signed electronic submissions may be submitted in PDF format to zcsubmissions@dc.gov. Ms. Schellin may also be contacted by telephone at (202) 727-6311 or by email: at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, APRIL 29, 2015
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members: Nick Alberti, Donald Brooks, Herman Jones
Mike Silverstein, Hector Rodriguez, James Short

Show Cause Hearing (Status) Case # 14-CC-00189 and # 14-251-00258; Acott Ventures, t/a Shadow Room 2131 K Street NW, License #75871, Retailer CR, ANC 2A Sale to Minor Violation (two counts), Failed to Take Steps Necessary to Ascertain Legal Drinking Age (two counts)	9:30 AM
Fact Finding Hearing* Bardo, LLC, t/a Bardo Riverfront; 25 Potomac Ave SE, License #98547, Retailer CT, ANC 6D Application for a New License	9:30 AM
Fact Finding Hearing* CSBT, Inc., t/a Town House Tavern Restaurant, 1637 R Street NW, License #24682, Retailer CR, ANC 2B Ownership Discrepancy	9:30 AM
Public Hearing* Emergency MPD Reimbursable Detail Rulemaking	10:30 AM
Public Hearing* Technical Amendment Rulemaking	11:00 AM
BOARD RECESS AT 12:00 PM ADMINISTRATIVE AGENDA 1:00 PM	
Protest Hearing* Case # 13-PRO-00176; Hak, LLC, t/a Midtown, 1219 Connecticut Ave NW License #72087, Retailer CN, ANC 2B Application to Renew the License	1:30 PM

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, APRIL 29, 2015
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On April 29, 2015 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#15-AUD-00041 Johnny's Half Shell, 400 NORTH CAPITOL ST NW Retailer C Restaurant, License#:ABRA-074573

2. Case#15-AUD-00040 Jackey Cafe, 611 H ST NW Retailer C Restaurant, License#: ABRA-074004

3. Case#15-AUD-00044 Cafe Soleil, 839 17TH ST NW Retailer C Restaurant, License#: ABRA-024748

4. Case#15-AUD-00042 Birch & Barley/Churchkey, 1337 14TH ST NW Retailer C Restaurant, License#: ABRA-080839

5. Case#15-AUD-00046 Bistro Bohem, 1840 6th ST NW Retailer C Restaurant, License#: ABRA-086825

6. Case#15-CMP-00160 Barcelona Wine Bar, 1622 14TH ST NW Retailer C Restaurant, License#: ABRA-089785

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, APRIL 29, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Settlement Agreement between ANC 6D and Patriot II, dated March 9, 2015. *Patriot II*, 1300 Maine Avenue, S.W., Retailer CX, License No.: 098137.*
-

* In accordance with D.C. Official Code §2-574(b) Open Meetings Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, APRIL 29, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Summer Garden Endorsement. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *The Embassy Row Hotel*, 2015 Massachusetts Avenue NW, Retailer CH, License No. 093645.
-

2. Review Letter requesting termination of Entertainment Endorsement. ANC 2A. SMD 2A02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Marcel's*, 2401 Pennsylvania Avenue NW, Retailer CR, License No. 060004.
-

3. Review Application for Manager's License. *Sergey A. Vakhrushev*-ABRA 098706.
-

4. Review Application for Manager's License. *Paul A. McIntyre*-ABRA 098717.
-

5. Review Application for Manager's License. *Antonio D. Gilkey*-ABRA 098744.
-

***In accordance with D.C. Official Code §2-574(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

CHILD AND FAMILY SERVICES AGENCY

Mayor's Advisory Committee on Child Abuse and Neglect (MACCAN)

Tuesday – April 28, 2015

10:30 a.m. – 12:00 p.m.

Child and Family Services Agency

200 I Street SE, Conference Room 1001-A

Washington, DC 20003

Agenda

1. Call to Order
2. Ascertainment of Quorum
3. Acknowledgement of Adoption of the Minutes of the February 24, 2014, meeting
4. Report by the Chair and Co-Chair of MACCAN
 - a. Update on Child Abuse Prevention Month
 1. Presentation of Proclamation
 2. Outcome of April Activities
 - b. Update on membership
 1. Applications for Membership
 2. Procedures
 - ii. Vacancies
 1. Department of Health- *OPEN recommendation needed*
 2. Community Based Child Welfare Provider (*Recommended- Jo Patterson/Child Watch*)
 3. Department of Youth Rehabilitation Services (*Recommended- Maria Martins-Evora*)
 - iii. Resignations (new vacancies)
 1. Michele Rosenberg- CFSA-effective date 2.27.15
 2. Captain Lewis Douglas- MPD- effective date 4.10.15
 3. Toni Florence- USAO-effective date: 2.25.15 (*Recommended - Dr. Lorraine Chase*)
 - c. May is Mental Health Month
 - d. Presentations
 - i. Andrea Allen, DCPS: Homelessness and Student Truancy (Invited) 11:10-11:30
 - ii. Andrea Guy & Jennifer Corbett, CFSA, Annual Progress and Services Report 11:30-11:55

5. Opportunity for Public Comment
6. Adjournment
7. Next Meeting June 30, 2015, 10:30-12:00 pm @ CFSA

If any questions/comments, please contact Roni Seabrook at (202) 724-7076 or roni.seabrook@dc.gov.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**DC Board of Accountancy
1100 4th Street SW, Room E300
Washington, DC 20024**

AGENDA

May 21st, 2015, 9:00 A.M.

- 1) Meeting Call to Order
- 2) Attendees
- 3) Executive Session - Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session to receive advice from counsel, review application(s) for licensure and discuss disciplinary matters.
- 4) Comments from the Public
- 5) Minutes: Review draft
- 6) Old Business
- 7) New Business
- 8) Action on matters discussed in executive session
- 9) Correspondence
- 10) Adjournment

Next Scheduled Meeting – Friday, June 5th, 2015
Location: 1100 4th Street SW, Conference Room E300

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Architecture & Interior Design
1100 4th Street, SW, Room 300B, Washington, DC. 20024**

AGENDA

May 22nd, 2015

1. Call to Order - 9:30 a.m.
2. Attendees
3. Comments from the Public
4. Executive Session (Closed to the Public) – Roll Call of Board Members
 - A. Review of Applications
 - B. Review of Complaints
 - C. Legal Counsel Report
 - D. Review – Draft Legislation
5. Minutes – Draft, April 10th, 2015
6. Vote - Applications
7. Vote - Complaints
8. Review of Interior Design Continuing Education Provider Submissions
9. Old Business
10. New Business
11. Review of Correspondence
12. Adjourn

Next Scheduled Regular Meeting, June 5th, 2015
1100 4th Street, SW, Room 300B, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Barber and Cosmetology
1100 4th Street SW, Room E300
Washington, DC 20024**

**Meeting Agenda
May 4, 2015
10:00 a.m.**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Applications for Licensure
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn

Next Scheduled Board Meeting – June 1, 2015

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Funeral Directors
1100 4th Street SW, Room E300
Washington, DC 20024**

Meeting Agenda

**May 7, 2015
11:00 A.M.**

1. Call to Order – 11:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Executive Session (Closed to the Public)
 Applications
 Complaints
6. Review of Correspondence
7. Draft Minutes, April 2, 2015
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – June 4, 2015 at 11:00 a.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Board of Industrial Trades
1100 4th Street, S.W., Room 300
Washington, D.C. 20024**

**AGENDA
May 19, 2015**

1. Call to Order – 1:00 p.m.
2. Executive Session (Closed to the Public) – 1:00 p.m. -1:30 p.m.
3. Attendance (Start of Public Session) – 1:30 p.m.
4. Comments from the Public
5. Minutes Draft
6. Old Business
7. New Business
8. Adjourn

Next Scheduled Regular Meeting, June 16, 2015
1100 4th Street, SW, Room 300B, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**Board of Professional Engineering
1100 4th Street SW, Room E300
Washington, DC 20024**

Agenda

**May 28, 2015
9:30 A.M.**

- 1) Meeting Call to Order
- 2) Attendees
- 3) Comments from the Public
- 4) Minutes: Review draft of 23 April 2015
- 5) Old Business
- 6) New Business
- 7) Executive Session
 - a) Pursuant to § 2-575(13) the Board will enter executive session to review application(s) for licensure
 - b) Pursuant to § 2-575(9) the Board will enter executive session to discuss a possible disciplinary action
- 8) Application Committee Report
- 9) Adjournment

Next Scheduled Meeting – Thursday, June 25, 2015
Location: 1100 4th Street SW, Conference Room E300

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
D.C. BOXING AND WRESTLING COMMISSION**

**1100 4th Street SW-Suite E500, SW
Washington, DC. 20024**

MAY 12, 2015

7:00 P.M.

Website: http://www.pearsonvue.com/dc/boxing_wrestling/

AGENDA

CALL TO ORDER & ROLL CALL

COMMENTS FROM THE PUBLIC & GUEST INTRODUCTIONS

REVIEW OF MINUTES

- Approval of Minutes

UPCOMING EVENT

- June 29, 2015 Pro-Wrestling: Promoter WWE at the Verizon Center

OLD BUSINESS

1. U.S. Junior Olympic Boxing
2. Dr. Arnold W. McKnight Amateur Event
- 3.

NEW BUSINESS

1. Upcoming Amateur Events
- 2.

ADJORNMENT

NEXT REGULAR SCHEDULED MEETING IS JUNE 9, 2015

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

May 2015

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Jason Sockwell	Board of Accountancy	3	8:30 am-12:00pm
Patrice Richardson	Board of Appraisers	15	8:30 am-4:00 pm
Jason Sockwell	Board Architects and Interior Designers	10	8:30 am-1:00 pm
Cynthia Briggs	Board of Barber and Cosmetology	13	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	14	7:00 pm-8:30 pm
Kevin Cyrus	Board of Funeral Directors	2	9:30am-2:00 pm
Lori Fowler	Board of Professional Engineering	23	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	14	8:00 pm-4:00 pm
Pamela Hall	Board of Industrial Trades	21	1:00 pm-4:00 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 1100 4th St., SW, Suite E-300 A-B Washington, DC 20024. For further information on this schedule, please contact the front desk at 202-442-4320.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Real Estate Appraisers
1100 4th Street SW, Room 300 B
Washington, DC 20024**

AGENDA

**May 20, 2015
10:00 A.M.**

1. Call to Order – 10:00 a.m.
2. Attendance (Start of Public Session) – 10:30 a.m.
3. Executive Session (Closed to the Public) – 10:00 – 10:30 a.m.
 - A. Legal Recommendations
 - B. Legal Report
 - C. Application Review
4. Comments from the Public
5. Minutes - Draft
6. Recommendations
 - A. Review - Applications for Licensure
 - B. Legal Report
 - C. Education Report
 - D. Budget Report
 - E. 2015 Calendar
 - F. Correspondence
7. Old Business
8. New Business
9. Adjourn

Next Scheduled Regular Meeting, June 17, 2015
1100 4th Street, SW, Room 300B, Washington, DC 20024

DISTRICT OF COLUMBIA
BOARD OF ELECTIONS

**Certification of Filling a Vacancy
In Advisory Neighborhood Commission**

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), If there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Zaneta S. Tyler
Single-Member District 8B06

**DISTRICT DEPARTMENT OF THE ENVIRONMENT
NOTICE OF FUNDING AVAILABILITY**

GRANTS FOR THE

2015 Green Resident Engagement for the Housing Sector

The District Department of the Environment (“DDOE”) is seeking eligible entities, as defined below, to meet the ambitious goals for recycling and utility consumption reduction set out in the District’s Sustainable DC Plan. The amount available for the project in this RFA is approximately \$100,000.00. This amount is subject to continuing availability of funding and approval by the appropriate agencies.

Beginning 4/24/2015, the full text of the Request for Applications (“RFA”) will be available online at DDOE’s website. It will also be available for pickup. A person may obtain a copy of this RFA by any of the following means:

Download from DDOE’s website, www.ddoe.dc.gov. Select “Resources” tab. Cursor over the pull-down list; select “Grants and Funding;” then, on the new page, cursor down to the announcement for this RFA. Click on “Read More,” then download and related information from the “attachments” section.

Email a request to greenbuildingrfa.grants@dc.gov with “Request copy of RFA 2015-1512-USA” in the subject line;

Pick up a copy in person from the DDOE reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. Call Molly Simpson at (202) 834-0557 to make an appointment and mention this RFA by name; or

Write DDOE at 1200 First Street NE, 5th Floor, Washington, DC 20002, “Attn: Molly Simpson RE:2015-1512-USA” on the outside of the letter.

An Informational Conference Call and opportunity for Questions and Answers will be held on 5/5/2015, at 3:00 p.m. The call in number is 877-784-3995; and the Conference Code is: 3127831.

The deadline for application submissions is 5/29/2015, at 4:30 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to greenbuildingrfa.grants@dc.gov.

Eligibility: All the checked institutions below may apply for these grants:

-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;

-Government agencies

-Universities/educational institutions; and

-Private Enterprises.

For additional information regarding this RFA, please contact DDOE as instructed in the RFA document, at greenbuildingrfa.grants@dc.gov.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR § 210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue an air quality permit (#6991) to Georgetown University to construct and operate a 505 kWe emergency generator set with a 755 hp diesel fired engine at the Thompson Athletic Center, Georgetown University, located at 3700 O Street NW, Washington, DC 20057. The contact person for facility is Gregory Simmons, Associate Vice President, Facilities Operations, Design and Construction, at 202-594-6523. The applicant's mailing address is 3700 O Street NW, Washington, DC 20057.

Emissions:

Maximum emissions from the 505 kW emergency generator, operating five hundred (500) hours per year, is expected to be as follows:

	Maximum Annual Emissions
Pollutant	(tons/yr)
Total Particulate Matter (PM Total)	0.01
Sulfur Dioxide (SO ₂)	< 0.01
Nitrogen Oxides (NO _x)	1.74
Volatile Organic Compounds (VOC)	0.04
Carbon Monoxide (CO)	0.19

The proposed overall emission limits for the equipment are as follows:

- a. Emissions from the unit shall not exceed those in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO _x	CO	PM
6.4	3.5	0.20

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

- c. In addition to Condition (b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
1. 20 percent during the acceleration mode;
 2. 15 percent during the lugging mode;
 3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*
- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after May 25, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2015

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue air quality permit #7001 to GNAREI 1 FARRAGUT LLC to operate one (1) 200 kWe emergency generator set with a 380 hp diesel fired engine at 900 17th Street NW, Washington DC. The contact person for the facility is Selene Argueta, Senior Property Manager, at (202) 955-1043 ext. 1.

The proposed emission limits are as follows:

- a. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the emergency generator set, assuming 500 hours of operation per year, are as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.635
Oxides of Nitrogen (NO _x)	2.945
Total Particulate Matter (PM Total)	0.209
Sulfur Dioxide (SO _x)	0.195
Volatile Organic Compounds (VOCs)	0.235

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining

the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after May 25, 2015 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY**DISTRICT OF COLUMBIA HOMELAND SECURITY COMMISSION****NOTICE OF CLOSED MEETING**

Pursuant to DC Code § 2-575(b)(8), § 7-2271.04(a)(2), and § 7-2271.05, the Homeland Security Commission hereby provides notice that it will hold a **CLOSED MEETING** on the date, time and place noted below for the purposes of discussing its Annual Report to the Mayor.

April 29, 2015
1850 K Street, N.W.
Washington DC 20006
3:00 pm to 5:00 pm

For more information, please contact: Nicole Chapple, Assistant Director, External Affairs and Policy, District of Columbia Homeland Security and Emergency Management Agency, 2720 Martin Luther King Jr. Avenue, SE, Washington, DC. Telephone: (202) 481-3049. Email: Nicole.Chapple@dc.gov.

**DISTRICT OF COLUMBIA GOVERNMENT
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

HOUSING PRODUCTION TRUST FUND ADVISORY BOARD

NOTICE OF MAY REGULAR MEETING

The Housing Production Trust Fund (HPTF) Advisory Board announces its next Meeting on **Monday, May 4, 2015, from 10:00 A.M. to 12:00 Noon,,** at the D.C. Department of Housing and Community Development, Housing Resource Center, 1800 Martin Luther King Jr., Avenue, SE, Washington, DC 20020. See below the Draft Agenda for the May meeting.

For additional information, please contact Oke Anyaegbunam, HPTF Manager, via e-mail at Oke.Anyaegbunam@dc.gov or by telephone at 202-442-7200.

DRAFT MEETING AGENDA (as of 4.14.15):

1. Call to Order & Establish Quorum: David Bowers, Chairman.
2. Consider and Approval of the April 6, 2015 Meeting Highlights.
3. Discussion with: Brian T. Kenner, Deputy Mayor for Planning and Economic Development.
4. DHCD: Update on the Development Finance Project Pipeline.
5. Update on Partnership with Prince George's County and Montgomery County to Address Homelessness.
6. Update on Needs Assessment Report and Potential Impact of Housing Investment Report.
7. Old Business.
 - a. DHCD: Update on 2015 NOFA.
 - b. DHCD: Update on Acquisition Loan Program
8. New Business.
9. Public Comments.
10. Announcements.
11. Adjournment.

DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

**Judicial Tenure Commission Begins Reappointment Evaluation Of
Judge John Ramsey Johnson**

This is to notify members of the bar and the general public that the Commission has begun inquiries into the qualifications of Judge John Ramsey Johnson of the Superior Court of the District of Columbia, who is a declared candidate for reappointment as an Associate Judge upon the expiration of his term on November 16, 2015.

Under the provisions of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, 87 Stat. 796 (1973), §443(c) as amended by the District of Columbia Judicial Efficiency and Improvement Act, P.L. 99-573, 100 Stat. 3233, §12(1) provides in part as follows:

"...If a declaration (of candidacy) is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate's term of office, prepare and submit to the President a written statement of the declaring candidate's performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the nomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court."

The Commission hereby requests members of the bar, litigants, interested organizations, and members of the public to submit any information bearing on the qualifications of Judge Johnson which it is believed will aid the Commission. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting materials shall be kept confidential unless expressly authorized by the person submitting the information.

All communications should be received by the Commission no later than **June 30, 2015**, and addressed to:

District of Columbia Commission on Judicial Disabilities and Tenure
Building A, Room 246
515 Fifth Street, N.W.
Washington, D.C. 20001
Telephone: (202) 727-1363
Fax: (202) 727-9718

The members of the Commission are:

Hon. Gladys Kessler, Chairperson
Jeannine C. Sanford, Esq., Vice Chairperson
Michael K. Fauntroy, Ph.D.
Hon. Joan L. Goldfrank
William P. Lightfoot, Esq.
David P. Milzman, M.D.
Anthony T. Pierce, Esq.

BY: /s/ Gladys Kessler
Chairperson

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Deadline Extension for General Contracting Services**

KIPP DC is soliciting proposals from qualified general contracting firms for a 6,000 sf school interior renovation project. The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. The deadline has been extended and proposals should be uploaded to the website no later than 5:00 P.M., EST, on May 8, 2015. Questions can be addressed to lindsay.snow@kippdc.org.

NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACTS**Curriculum**

KIPP DC intends to enter into sole source contracts with McGraw Hill for My Math student materials and Amplify for CKLA student materials. The decision to sole source is due to the fact that McGraw Hill and Amplify are the exclusive providers of these curricula upon which the instructional model is built. The cost of the contracts will be approximately \$58,000 for McGraw Hill and \$103,500 for Amplify.

MAYA ANGELOU PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Food Service Management Services**

Maya Angelou Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2015-2016 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Request for Proposals (RFP) such as; student data, days of service, meal quality, etc. may be obtained beginning on April 24, 2015 from Justin Samples at 202-379-4335 or JSamples@seeforever.org

Proposals will be accepted at 5600 East Capitol Street, NE, Washington, DC 20019 on May 25, 2015 not later than 4:00 PM

All bids not addressing all areas as outlined in the RFP will not be considered.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

GAS TARIFF 2014-02, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S APPLICATION TO AMEND RATE SCHEDULE NOS. 1 AND 1A

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to section 34-802 of the District of Columbia Official Code ("D.C. Official Code") and in accordance with section 2-505 of the D.C. Official Code,¹ of its final tariff action to approve the Application² of Washington Gas Light Company ("WGL" or "Company") to clarify late payment charges for residential customers. The Commission issued a Notice of Proposed Tariff ("NOPT"), which was published in the *D.C. Register* on January 16, 2015,³ giving notice of the Commission's intent to act on WGL's proposed tariff amendments. No comments were filed in response to the NOPT.

2. WGL proposes to amend the following two (2) tariff pages:

**NATURAL GAS TARIFF, P.S.C. of D.C. No. 3
Fifth Revised Page No. 3
Superseding Fourth Page No. 3**

**P.S.C. of D.C. No. 3
Fifth Revised Page No. 9A
Superseding Fourth Page No. 9A**

3. WGL's proposed tariff amendment requests authority to revise Rate Schedule Nos. 1 and 1A to clarify the late payment charge applicable to the Company's Residential customer classes and to remove other obsolete language. WGL notes that the Consumer Bill of Rights was amended and no longer provides the level of late payment charges. Therefore, WGL seeks to incorporate the late payment charge previously adopted and incorporated in Commission regulations.⁴ More specifically, WGL's clarifying tariff language provides that:

¹ D.C. Official Code § 2-505 (2006); D.C. Official Code § 34-802 (2010).

² *Gas Tariff 2014-02, In the Matter of Washington Gas Light Company's Application to Amend Rate Schedule Nos. 1 and 1A* ("Gas Tariff 2014-02"), Application of Washington Gas Light Company's Application to Amend Rate Schedule Nos. 1 and 1A ("WGL Application"), filed December 18, 2014.

³ 62 D.C. Reg. 0845-0846 (2015).

⁴ *Formal Case No. 610, In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates, Tolls, Charges and Schedules for Gas Service*, Order No. 5686, issued January 31, 1975.

No late payment charge shall be levied on any amounts, including deferred payment installments, paid by the due date, or on amounts in dispute before the Commission. Amounts paid within the first month after the due date shall bear a late payment charge of no more than one percent (1%), and an additional late payment charge at the rate of no more than one and one half percent (1-1/2%) on the remaining unpaid balance per billing month thereafter, unless another rate has been specified by the Commission.⁵

4. The Commission, at its regularly scheduled open meeting held on April 8, 2015, took final action approving WGL's proposed tariff amendment that updates and clarifies the late payment charge applicable to WGL's Residential customer classes and removes obsolete language. This amendment will become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

⁵ *Gas Tariff 2014-02*, Revised Application of Washington Gas Light Company for Authority to Amend Rate Schedule Nos. 1 and 1A, at Attachment 1.

WASHINGTON YU YING PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Executive Consulting Services****RFP for Executive Consulting Services**

Washington Yu Ying PCS is seeking competitive bids from qualified vendors to provide high quality consulting services. Duties would include: Assist senior leaders with mission-critical projects including financials, strategic plan projects, and facilities; Provide onboarding and transition support for new leaders including Chief Operating Officer, Head of School, and other business leaders; Help teams create effective and efficient business operations including policy and procedures and operation effectiveness and efficiency.

Candidates should include past experiences, especially in working with charter schools.

Deadline for submissions is close of business May 4, 2015. Please e-mail proposals and supporting documents to rfp@washingtoneyu.org.

WILLIAM E. DOAR, JR. PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

William E. Doar Jr. is seeking a vendor to provide procurement services to the school.

If interested please contact bids@wedjschool.us

Proposals will be due May 8, 2015.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18787 of 143 Rear W Street LLC, pursuant to 11 DCMR § 3103.2, for a use variance from § 2507.2 to allow construction of five single-family row dwellings on alley lots where the alleys are less than 30 feet in width in the R-4 District at premises 143 Rear W Street, N.W. (Square 3121, Lots 73 and 74).

HEARING DATE: July 29, 2014
LIMITED HEARING DATE: September 9, 2014
DECISION DATE: October 7, 2014

DECISION AND ORDER

The owner of the subject property, 143 Rear W Street LLC (“Applicant”), submitted a self-certified application on April 17, 2014, seeking use variances from §§ 2507.1 and 2507.2 of the Zoning Regulations to allow the construction of four flats on alley lots in the R-4 District at 143 Rear W Street, N.W. (Square 3121, Lots 73 and 74) (the “Site”). On June 11, 2014, the Applicant submitted an amended application that reduced the number of proposed units from four flats (eight dwellings) to five single family row dwellings, and withdrew its request for a variance from § 2507.1. Following a public hearing, the Board of Zoning Adjustment (“Board” or “BZA”) granted the Applicant’s remaining request for a variance from § 2507.2 of the Zoning Regulations.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing: By memoranda dated April 18, 2014, the Office of Zoning provided notice of the original application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 5; Advisory Neighborhood Commission (“ANC”) 5E, the ANC in which the subject property is located; and Single Member District/ANC 5E08. Pursuant to 11 DCMR § 3112.14, on April 23, 2014, the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 5E, and the owners of all property within 200 feet of the subject property. Notice was published in the *D.C. Register* on May 2, 2014 (61 DCR 004387).

Request for Party Status. In addition to the Applicant, ANC 5E was automatically a party in this proceeding. The Board granted requests for party status in opposition to the application submitted by Alicia Hunt and Joe Gersen (Exhibit 25), Victoria Leonard (Exhibit 27), Pia Brown (Exhibit 28), and Jonathan Carron (Exhibit 29). The Board combined the individual requests into a single party (the “Party in Opposition”). Each of the persons within the Party in Opposition owns property on the 2200 block of Flagler Place, N.W., and three of those four properties are located directly across the alley from the Site.

BZA APPLICATION NO. 18787
PAGE NO. 2

Board of Zoning Adjustment Hearing. The Board convened a hearing on the application on July 29, 2014. At the close of the hearing the Board asked the Applicant to submit additional information, with a response by the Party in Opposition, to be reviewed at a limited further hearing. The Applicant filed its post-hearing submission on August 12, 2014 (Exhibits 71-74) and the Party in Opposition submitted a response thereto on August 25, 2014. (Exhibit 76.) The limited further hearing was held on September 9, 2014. The Board scheduled the application for deliberation on October 7, 2014, and voted 3-1-1 to approve the application.

Applicant's Case. Christopher Collins of Holland & Knight LLP represented the Applicant. The Applicant presented four witnesses in support of the application at the July 29, 2014 hearing: Robert Miller of 143 Rear W Street LLC; Ralph Cunningham of Cunningham Quill Architects, recognized as an expert in architecture; Eric Smart of Bolan Smart Associates, recognized as an expert in real estate economics; and Steven E. Sher of Holland & Knight LLP, recognized as an expert in land use and zoning. The witnesses described the plans to construct the five row-dwellings at the Site and presented evidence and testimony to demonstrate that the application met all requirements for approval under the Zoning Regulations.

In further support of its application, on August 12, 2014, the Applicant submitted supplemental information requested by the Board (Exhibits 71-74). This submission presented (i) empirical data on the construction costs and financing for the proposed project, and alternative uses permitted on the Site, and (ii) a response to the ANC's position on part three of the variance test ("no substantial detriment"). This submission included a more detailed study prepared by Bolan Smart Associates, which demonstrated that none of the alternative matter-of-right and special exception uses of the Site were economically viable, nor was a four-unit residential development economically viable. (Exhibit 72.)

The Applicant submitted corresponding architectural drawings that illustrate the various proposed alternative development scenarios (Exhibit 74). In addition, the Applicant submitted a letter from Jones Lang LaSalle, which provided information on debt and equity financing possibilities in the marketplace applicable to the various proposed alternative development scenarios. (Exhibit 73.)

At the limited further hearing on September 9, 2014, the Applicant presented testimony of Robert Miller, Eric Smart, and Daniel Karchem of Karchem Properties, Inc., recognized as an expert in real estate economics and development. Robert Miller explained the Applicant's process of re-reviewing the alternate development scenarios after the first hearing, developing detailed architectural drawings for each scenario, and determining the overall construction costs and project revenues for each scenario. Eric Smart summarized his financial feasibility analysis, concluding that there is a lack of market demand at the Site sufficient to cover development and operating costs of any use permitted as a matter of right or special exception, and that none of these alternatives generate sufficient economic return to be viable in the real estate development marketplace. Daniel Karchem's testimony summarized his expert opinion that none of the alternative matter-of-right or special exception uses for the Site were economically viable, nor was a four-unit residential development economically viable.

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Government Reports. By memorandum dated July 22, 2014, OP recommended approval of the application. (Exhibit 49.) OP set forth the requirements of §§ 2507.2 and 3103.2 and opined that the application met the standards for use variance relief. OP found that the Site is exceptional because it is the only large, vacant alley lot in the vicinity. OP found that the exceptional situation created an undue hardship for the Applicant because the “property is not economically feasible to own in the long term in its present condition, or even with the permitted potential uses.” (Exhibit 49, pg. 3.) Finally, OP found that relief could be granted without substantial detriment to the public good or zone plan because the buildings would be adequately set back so as to not unduly impact light available to nearby properties. OP concluded that shadow studies submitted by the Applicant (Exhibit 46) “show that the new construction would not unduly impact light available to nearby properties.” In addition, the Applicant would provide lighting and landscaping to increase safety and visual appeal, and because the Applicant would provide all the necessary water, sewer, and parking facilities for the Site.

By memorandum dated July 3, 2014, DDOT also filed a report with the Board, stating that it had no objection to the requested relief (Exhibit 40). The District Fire and Emergency Medical Services (“FEMS”) Fire Prevention Division sent a letter dated July 15, 2014, to the Applicant indicating that it had no concerns with the project as proposed and explained that 2nd Street, W Street, and Adams Street met the fire apparatus access road requirement for the project. (Exhibit 48.)

ANC Report. ANC 5E submitted a report to the Board dated July 21, 2014, stating its opinion that the originally-proposed four flat (eight unit) development did not meet the three-pronged test to obtain a variance and recommending that the Board deny the Applicant’s request (Exhibit 50).

Party in Opposition. The Party in Opposition asserted that the project would negatively increase population density in the neighborhood, reduce available on-street parking, negatively impact light, air, open space, and views from the surrounding properties on the 2200 block of Flagler Place, and impede access to the rear of the Flagler Place properties.

The Party in Opposition argued that the application does not meet the three-prong test for a use variance for the following reasons:

1. The Site is not affected by an exceptional situation or condition. They asserted that “other blocks in Bloomingdale include alley lots of similar size and shape” and “are adjacent to narrow alleys,” including a large alley lot in Square 3117 that is owned by the non-profit Crispus Attucks Development Corporation that is used as a public park; an alley lot in Square 3119 that is improved with several buildings that appear to be used for parking and storage; and an alley lot in Square 3116 that is improved with several two-story buildings;
2. The Applicant would not encounter practical difficulties or undue hardship if the Zoning Regulations were strictly applied. They asserted that there are viable uses for the Site other than single family row dwellings, such as operating the Site as a parking lot, or

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using it for car-sharing or bike-sharing services, or offering the lot for valet parking by restaurants located several blocks to the south. The Party in Opposition claimed that the Applicant could “make a reasonable return on investment by leasing [the Site] to ... neighborhood residents interested in leasing off-street parking,” or building four dwelling units with two-stories and 1,500 square feet instead of the proposed five-dwelling plan; and

3. The project will cause substantial detriment to the public good. They asserted that the project will “block sunlight and existing views” and is “too large and will seriously detract from the openness of [the] block, and it will create spaces that are too small given the large size of the development.” (Exhibit 66.)

At the public hearing and in its written testimony, the Party in Opposition also requested that the Board require the Applicant to make the following modifications to its application:

1. Set back the row dwellings ten feet from the alley along the 2200 block of Flagler Place and do not expand the row houses farther east beyond the existing building line at 143 W Street;
2. Limit the row dwellings to two stories;
3. Construct four row dwellings instead of five; and
4. Limit the size of the row dwellings to 1,500 square feet. (Exhibits 66 and 76.)

FINDINGS OF FACT**The Subject Property and the Surrounding Neighborhood**

1. The Site is located at 143 Rear W Street, N.W. (Square 3121, Lots 73 and 74) and is zoned R-4.
2. The Site is unimproved and currently used for surface parking.
3. Square 3121 is bounded by Adams Street to the north, Flagler Place to the east, W Street to the south, and 2nd Street to the west. The entirety of Square 3121 is zoned R-4, and the predominant use is one-family and two-family dwellings (flats). Along the south side of the square, fronting on W Street, are three four-story apartment buildings, also zoned R-4.
4. A convenience store is located at the southeast corner of the square. The R-4 District extends one block to the north of Square 3121 to Bryant Street; two blocks to the east; and seven to eight blocks to the south, with an R-5-B enclave two blocks south of the Site. The north side of Bryant Street and the west side of 2nd Street, from V Street to the

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McMillan Reservoir, are zoned R-5-B.

5. This area includes maintenance and storage facilities for the District Department of Public Works and the pumping station building for the McMillan Reservoir. The McMillan Reservoir property is located farther to the north.

The Applicant's Project

6. The Applicant seeks to construct five one-family row dwellings at the Site. Each dwelling has a 20-foot rear yard and a 16.1-foot front yard and will be made of wood and/or steel framing with masonry exteriors. Each dwelling includes a parking garage for one vehicle and entrances on the north and south sides of each dwelling. The main pedestrian entrance to the development will be from the south via a 26-foot wide landscaped and lighted perpetual easement from W Street. The pedestrian path will lead directly into the entrance courtyard for the units.

The Need for Zoning Relief

7. Subsection 2507.2 of the Zoning Regulations allows the construction of a one-family dwelling on an alley lot if the lot abuts an alley 30 feet or more in width and has access to a street through an alley not less than 30 feet in width. Square 3121 does not have any alleys that are 30 feet in width, which precludes any residential use of the Site without relief from this Board. It is not possible to widen any of the alleys leading from the surrounding streets to the Site in order to achieve the 30-foot width requirement because each of the alleys is bordered on both sides by buildings or open space that is part of adjacent lots.

Facts Relevant to the Variance Test

8. The Site is an unusually large unimproved alley lot, measuring 90 feet by 101.3 feet and containing approximately 9118.5 square feet of land area. The Site is located in the center of Square 3121 and surrounded on all sides by public alleys, which measure 15 feet in width on the north, east, and west sides, and ten feet in width on the south side.
9. The Site is accessed through the following right-of-ways: (i) 15 foot wide public alleys from W Street to the south and from 2nd Street to the west; (ii) a ten foot wide public alley from Adams Street to the north; (iii) a ten foot wide alley easement for pedestrian and vehicular access, extending from 2nd Street and across the rearmost ten feet of the apartment building property at 2201 2nd Street, N.W.; and (iv) a 26-foot wide perpetual pedestrian and utility easement leading from W Street, between the two apartment buildings at 143 and 149 W Street, N.W. that was specifically created to facilitate the development of this alley parcel.
10. None of the squares within several blocks of the Site have other large unimproved alley

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lots that are surrounded on all four sides by alleys and directly connected to a street through a perpetual pedestrian easement.

11. The large alley lot in Square 3117 that is owned by Crispus Attucks Development Corporation is specifically devoted to use as a public park.
12. The alley lots in Squares 3119 and 3116 are both improved: the center of Square 3116 is improved with several two-story buildings and the center of Square 3119 is improved with several buildings that appear to be used for parking or storage, surrounding an open courtyard.
13. None of these alley lots is accessed by, or abuts, alleys of 30 feet in width, and none has a dedicated 26-foot wide easement leading to a street for pedestrian access.
14. The only uses permitted as a matter of right on an alley lot in the R-4 District where the alleys are less than 30 feet wide are an artist studio (11 DCMR § 2507.5) and a private garage (11 DCMR § 201.1(o)).
15. For an artist studio, the minimum lot area is 4,000 square feet and the minimum lot width is 40 feet. Thus, the Applicant could provide two equally-sized record lots on the 9,118 square foot Site for development of two matter-of-right, three-story, 40-foot tall artist studio buildings. Each artist studio could accommodate up to four artists and apprentices per floor, or 12 occupants per building (total of 24 occupants for both buildings).
16. For a private garage on an alley lot under § 201.1(o), the garage structure is limited to a maximum of 900 square feet in size and can only be located on an alley lot that was recorded prior to November 1, 1957 (11 DCMR § 2300.5). Current Lots 73 and 74 existed as of November 1, 1957.
17. Storage of wares and goods, parking lot, parking garage, and public storage garage uses are permitted by special exception in the R-4 District where surrounding alleys are less than 30 feet wide and the alley lots were recorded prior to November 1, 1957. (11 DCMR § 333). Therefore, only two such buildings could theoretically be constructed on the Site.
18. Accessory Parking Spaces could also be provided on the Site pursuant to § 214, so long as they are located on a lot with a minimum area of 4,000 square feet and a minimum width of 40 feet. Accessory Parking Spaces must also be within 200 feet of the area to which they are accessory, in this case limiting the use of the spaces only to the residents within Square 3121.
19. Based upon the testimony and financial analysis offered by the Applicant's expert witnesses, the Board finds that none of the available matter-of-right or special exception uses would be economically viable. Even assuming that there would be a market for any

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of these alternative uses, there would be a financial loss on the development of the Site with an artist studio, private garage, parking garage, storage facility, or surface parking facility.

20. Although the site is currently used for surface parking, there is insufficient demand in the area to reasonably continue the parking use in the long-term.
21. Based upon the financial analysis and the expert testimony presented, the Board finds that the proposed five-unit development contains the minimum number of residential uses that would permit an economically viable project. Neither of the four unit alternatives analyzed by Mr. Smart, including the development suggested by the Party in Opposition, would be financially viable.
22. The Site is zoned R-4. The R-4 District is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families. Very little vacant land is included within the R-4 District, since its primary purpose is the stabilization of remaining one-family dwellings. The row dwellings each satisfy all of the applicable height, bulk, set back, and other area requirements and limitations for row dwellings in the R-4 District.
23. The proposed one-family dwellings are similar to the row dwellings in the neighborhood in terms of massing and size, and the project creates a condition seen throughout the District where row dwellings back up to the backs and sides of other row dwellings.
24. The dwellings will be set back more than 30 feet from the opposite side of the alleys bordering the Site to the north and south. To the north is the 15-foot wide existing alley plus a setback (front yard) of 16.1 feet. To the south is the 10-foot alley plus a setback (rear yard) of 20 feet.
25. The lots to the east of the Site have a depth of 80 feet and the footprint of the houses on those lots extends 40 feet. Even assuming a ten foot differential, there is a 30-foot distance between the rear of the homes and the rear property line. Adding the 15 feet of open space provided by the alley results in a total separation of 45 feet in a zone that requires a 20 foot rear yard.
26. There will be a 26 foot wide landscaped and lighted perpetual easement for pedestrian use leading directly to W Street.
27. Neither the Metropolitan Police Department, nor D.C. Water expressed any opposition or concern about the proposed development.
28. D.C. FEMS also indicated that it had no concerns about the project. (Exhibit 48.)

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Ordinarily fire apparatus access roads must be within 150 feet of the project and all such roads must have a minimum width of 20 feet. The public alleys located within the 150-foot limit are less than the required width. However the DC FEMS indicated that the fire code official in this case could expand the 150-foot limit because fire sprinklers would be installed in each residence. This expansion permitted 2nd Street, W Street, and Adams Street to be considered the fire apparatus access roads for this project. DC FEMS concluded that each street met the fire apparatus access roads requirements.

29. The DDOT report also indicated it had no objections to the requested variance, noting that pedestrians “would have safe access to the Site through an easement created for pedestrian and utility access.” (Exhibit 40.)
30. The OP report concluded that “relief would not impair the integrity of the Regulations” and noted that there will be adequate water and sewer to the Site, to be installed by the Applicant. Further the report concluded that the public interest would not be impaired a grant of the variance and specifically noted that that the shadow studies submitted by the Applicant show that the project would not unduly impact light available to nearby properties.

CONCLUSIONS OF LAW

The Board is authorized under § 8 of the Zoning Act to grant variances from the strict application of the Zoning Regulations to relieve difficulties or hardship where "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property . . . or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition" of the property, the strict application of the Zoning Regulations would "result in particular and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property" D.C. Official Code § 6-641.07(g)(3) (2012 Repl.), 11 DCMR § 3103.2.

A showing of “practical difficulties” must be made for an area variance, while the more difficult showing of “undue hardship,” must be made for a use variance. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). The Applicant in this case requests a use variance from § 2507.2 of the Zoning Regulations to permit the construction of five one-family row dwellings on alley lots in the R-4 District where the alleys are less than 30 feet in width. Therefore, the Applicant must demonstrate an exceptional situation or condition of the property and that such exceptional condition results in an “undue hardship” to the Applicant.

The purpose of the variance procedure is to “prevent usable land from remaining idle.” *Palmer v. Dist. of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). The use variance inquiry focuses on whether “the property can be put into any conforming use with a fair and reasonable return to the owner.” *Id.* at 542. The court has also recognized in a use variance application that approval is justified when the relief requested is minor relative to the nature of

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the surrounding community. *The Oakland Condominium v. Dist. of Columbia Bd. of Zoning*, 22 A.3d 748, 750 (D.C. 2011).

Lastly, the Applicant had to show that the granting of the variance will not impair the public good or the intent or integrity of the Zone Plan and Regulations.

Based on the above findings of fact, the Board finds that the Applicant has satisfied the burden of proof and that the application should be granted.

Exceptional Condition

The Board concludes that the subject property is affected by an exceptional situation or condition. The Site is an unusually large vacant alley lot, containing almost a quarter acre of land area, and is surrounded by public alleys on all four sides. The Site is also directly connected to W Street via a 26-foot wide perpetual easement created specifically for pedestrian and utility access from W Street to the Site.

None of the squares within several blocks of the Site have other large unimproved alley lots that are surrounded on all four sides by alleys and directly connected to a street through a perpetual pedestrian easement. The large alley lot in Square 3117 that is owned by Crispus Attucks Development Corporation is specifically devoted to use as a public park. The alley lots in Squares 3119 and 3116 are both improved: the center of Square 3116 is improved with several two-story buildings and the center of Square 3119 is improved with several buildings that appear to be used for parking or storage, surrounding an open courtyard.

Undue Hardship

The Board concludes that the property cannot be put into any conforming use with a fair and reasonable return to the owner and therefore the strict application of the Zoning Regulations would result in undue hardship to the Applicant as the owner of the Site. Uses permitted as a matter of right on an alley lot in an R-4 District where the alleys are less than 30 feet wide are artist studio and private garage, and uses permitted as a special exception are storage of wares and goods, parking lot, parking garage, and public storage garage. Based upon the expert testimony presented by the Applicant, the Board finds that none of these uses would be economically viable. The Board further concludes that although the site is currently used for surface parking, there is insufficient demand in the area to reasonably continue the parking use in the long-term.

Further, the five residential units proposed by the Applicant represent the minimum number of units required for an economically viable residential project on this site. The financial analysis prepared by the Applicant's expert witness (Exhibits 71 and 72) indicates that under conservative conditions, neither of the four-unit alternatives considered, including one proposed by the Party in Opposition, would generate sufficient economic return to be viable in the real estate

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development marketplace. The alternative with four dwellings at the same size and dimension as the dwellings proposed by the Applicant results in a post-financing loss, as does the Party in Opposition's proposal with four two-story dwellings at 1,500 square feet each.

The Party in Opposition claimed that the Applicant's estimated costs, both to construct the row dwellings as proposed and to construct and operate a surface parking lot in the alternative, are too high, and that the Applicant's estimated revenues for the same are too low. In support of its position, the Party in Opposition submitted construction estimates from several websites for a three-story luxury dwelling, an asphalt driveway, and a block retaining wall. The Party in Opposition also submitted financial feasibility analyses, based upon the construction estimates contained in the websites (Exhibit 76). They also claimed that the Applicant's revenues were underestimated when compared to other new or renovated dwellings in the surrounding area.

The Board was not persuaded by the non-expert economic analysis proffered by the Party in Opposition. The website construction estimates were based upon assumptions, generalizations, and industry norms that are not specific to the D.C. market. Further, the Party in Opposition's comparison of the projected sales prices for the project as proposed was based upon recent sales of condominium units in the neighborhood. The Project's row dwellings will be sold to buyers in fee simple. The Board agrees with the Applicant that sales prices for condominium units cannot realistically be equated to sales price for fee-simple row dwellings.

The Public Good and Integrity of the Zone Plan and Regulations

The Board concludes that the requested variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.

As to the zone plan, the Board finds that the project fits well within the character of the neighborhood and the square. The proposed one-family dwellings are similar to the row dwellings in the neighborhood in terms of massing and size, and the project creates a condition seen throughout the District where row dwellings back up to the backs and sides of other row dwellings. The Board further concludes that the proposed development plan substantially complies with the 30-foot alley requirement in § 2507.2, because the setbacks on the north and south sides of the dwellings create a 30-foot open space consisting of a public alley and private property, and there is a 26-foot wide perpetual pedestrian easement leading directly from W Street to the Site.

The project is consistent with the District of Columbia's Comprehensive Plan, which encourages infill development of vacant land within the city, particularly in areas where there are unimproved lots that create gaps in the urban fabric. The proposed development compliments the established character of the area while turning an eyesore into a productive housing use, which is desperately needed in the city.

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The project will not impair the public good. The Site has direct access to a public street via a perpetual 26-foot wide pedestrian easement. The Site has public alleys on all sides and setbacks that create more than 30 feet of open space to the north and south. The Board concludes that the public good will be well-served by the proposed high-quality, infill residential development in this area of the city, which the District is seeking to revitalize through public and private investment.

The Board finds that the project will not impermissibly impact the homes at 2216, 2218, and 2220 Flagler Place by blocking sunlight and existing views. The Board notes that there will be a 45 foot separation between the rear of these dwellings and the Site. In addition, the Office of Planning concluded, and this Board agrees, that the shadow studies submitted by the Applicant show that the project would not unduly impact light available to nearby properties.

In any event, this Board has found on a number of occasions that “it is well settled in the District of Columbia that a property owner is not entitled to a view across another person’s property without an express easement. *See* BZA Order No 18330 (*quoting Hefazi v. Stiglitz*, 862 A.2d 901, 911 (D.C. 2004)); *see also* Z.C. Order No. 12-02 (stating that “a property owner is not entitled to a view, light, or air across another person’s property without an express easement, and a property owner has no right to a view across another person’s property... The Commission finds that the view sheds and property values of [the opponents] are not protected by any restrictive covenants or by the Zoning Regulations”).

The Applicant requested and received feedback from D.C. FEMS Fire Prevention Division, the Department of Public Works, the Metropolitan Police Department, and D.C. Water, none of which expressed any opposition or concern about the proposed development. The Board notes specifically that the letter from D.C. FEMS (Exhibit 48) stated that 2nd Street, W Street, and Adams Street all meet the fire apparatus access road requirements for this project. Furthermore, the OP report concluded that “relief would not impair the integrity of the Regulations” (Exhibit 49) and the DDOT report indicated no objections and noted that pedestrians “would have safe access to the Site through an easement created for pedestrian and utility access” (Exhibit 40).

Great Weight

The Board is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC, which in this case is ANC 5E. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. Similarly, the Board is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990, (D.C. Law 8-163; D.C. Official Code § 6-623.04) to give great weight to OP recommendations.

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In this case, the Board concurs with OP's conclusion that the application met the three elements of the test for a use variance and therefore agrees with its recommendation that the application should be approved.

As to ANC 5E, that Commission submitted a report indicating that it voted not to support the application for four flats (eight units) based on its opinion that the development did not meet the three-pronged test to obtain a variance. Although the project was later revised to reduce the number of units to five, the Board will respond to the ANC's concern that the project has not satisfied the test for a use variance.¹

The ANC believed the site was not exceptional, pointing to other properties of a similar size. As explained, it was not just the exceptional size of the site that created the exceptional condition, but that it was also unimproved, bounded by public alleys, and subject to a perpetual easement. With respect to undue hardship, the ANC based its conclusion upon the ability of the owner to continue to offer parking on the site. As noted, the Board has concluded that surface parking is not a viable long term use for the site.

As to impairment of the zone plan and the public good, the ANC asserted that other property owners might seek the same relief, that there was insufficient access for emergency vehicles, and that the homes at 2216, 2218, and 2220 Flagler Place would be negatively affected as a result of blocked sunlight and the loss of existing views. With respect to the potential for future application, the ANC's concern is speculative at best. In any event, even if the grant of this application might invite others, such a possibility would not impair the zone plan. The Board decides variances on the merits of each case and each property must be shown to have an exceptional condition. Finally, as explained above, the project will not tend to adversely impact the homes at 2216, 2218, and 2220 Flagler Place by blocking sunlight and existing views, which, as the referenced case law indicate, are not guaranteed.

For these reasons and the other substantive findings and conclusions made in this order, the Board finds the ANC's recommendation of denial unpersuasive.

Based on the findings of fact and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for a use variance to permit the construction of five single family row dwellings on alley lots in the R-4 District where the alleys are less than 30 feet in width at 143 Rear W Street, N.W. (Square 3121, Lots 73 and 74). Accordingly, it is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO**

¹ On October 6, 2014, the day before the Board's deliberations and well after the record in this case was closed; the Office of Zoning received an email from Mr. Mark Mueller who identified himself as a former ANC Commissioner. Subsection 3121.9 of the Board's Rules of Practice and Procedure provides that any material received after the close of the record that bears upon the substance of the application shall not be received into the files of the Board unless accompanied by a request to re-open the record. No such request was made and therefore the email was not entered into the record of this case.

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EXHIBIT 47C – UPDATED PLANS, DRAWINGS AND RENDERINGS, AND THE FOLLOWING CONDITIONS:

1. Landscaping shall be substantially in accordance with that shown on Exhibit 47C.
2. Lighting for the project shall be designed to minimize spillover light onto nearby properties.

VOTE: 3-1-1 (Jeffrey L. Hinkle, Robert E. Miller, and Marnique Y. Heath to approve; Lloyd J. Jordan opposed to the motion; S. Kathryn Allen not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: April 14, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18963 of Alexandra Freidberg, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the minimum court width requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, to allow the enlargement of existing attic space into a full third story in the R-4 District at premises 72 Seaton Place N.W. (Square 3106, Lot 96).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: April 7, 2015 (Expedited Review Calendar).

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board of Zoning Adjustment (“Board”) expedited review calendar for decision without hearing as a result of the applicant’s waiver of its right to a hearing.

The Board provided proper and timely notice of this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 5E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on March 17, 2015, at which a quorum was in attendance, ANC 5E voted 9-0-0 to support the application. (Exhibit 28.) The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the application. (Exhibit 27.) The District Department of Transportation (“DDOT”) submitted a report expressing no objection to the approval of the application. (Exhibit 25.)

One neighbor filed a letter in support of the application. (Exhibit 22.) The adjacent property owner filed a letter indicating that she supports the application, provided that the Board notes for the record her concerns regarding potential damage to her property during construction and water runoff from the elevated common wall. (Exhibit 23.) The Board discussed the concerns raised in the letter during its deliberations and conditioned its approval of the application on the Applicant’s commitment to work with neighbors to mitigate these concerns.

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Web Site: www.dcoz.dc.gov

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During the Board's deliberations, Zoning Commissioner Turnbull raised an additional concern regarding how the Applicant's proposal to raise her roof may cause adjacent structures' chimneys and vents to become noncompliant with building code. Though building code issues are outside of the Board's jurisdiction, Mr. Turnbull noted that the Applicant's proposal could more generally impact adjacent neighbors by requiring them to incur costs to come into compliance or risk being cited by the Department of Consumer and Regulatory Affairs ("DCRA"). Mr. Turnbull indicated that he was unsure whether neighbors were aware of this potential impact and raised the possibility of removing the application from the expedited review calendar to hold a public hearing.

In order to address this question, the Board invited the Applicant and the Applicant's counsel to give testimony on these issues. On the issue of timing, the Applicant testified that scheduling the application for a public hearing would cause hardship. She indicated that the proposed construction is a result of a fire that damaged the property and that her family is only able to secure temporary housing until July of 2015. Next, the Applicant's counsel addressed Mr. Turnbull's question regarding the impact of raising the Applicant's roof on adjacent properties. The Applicant's counsel testified that DCRA's practice in this case would not be to require neighbors to comply with the building code after the Applicant has raised the roof height. He indicated that DCRA would seek the consent of adjacent neighbors in advance, and that if neighbors do not agree to make changes that become necessary in light of the addition, DCRA would not permit the Applicant to go forward with the project. The Applicant also testified that, to the best of her knowledge, the chimneys on adjacent properties are not functional.

Based on the testimony of the Applicant and the Applicant's counsel, Mr. Turnbull was satisfied that the proposed addition would not place a burden on adjacent property owners with regard to building code compliance. Further, Mr. Turnbull proposed two conditions to ensure that any potential impacts are mitigated: first, that the Applicant shall work with neighbors on the issues raised during deliberations; and second, that any lighting shall be designed to cast downward on the deck, based on a recommendation from OP. The Board adopted both proposed conditions. Accordingly, Mr. Turnbull withdrew his concern, and the Board determined that a public hearing for this application was not necessary.

No objections to expedited calendar consideration were made by any person or entity entitled to do so by §§ 2118.6 and 2118.7. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223, 403.2, 406.1, and 2001.3. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

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Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, 406.1, and 2001.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS IN THE RECORD AT EXHIBIT 8 AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall work with neighbors to address issues raised on the record.
2. Any lighting on the rear deck shall be designed to cast light downward on the deck only, in order to minimize light spill onto adjacent properties.

VOTE: 4-0-1 (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: April 9, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18966 of RAP, Inc., as amended¹, pursuant to 11 DCMR § 3104.1, for special exceptions from the roof structure setback requirements under §§ 411.3, 411.5, 411.11 and 400.7(b), to extend stairs to allow access to the roof in the R-4 District at premises 1959 4th Street N.E. (Square 3615, Lot 51).

HEARING DATE: March 31, 2015

DECISION DATE: March 31, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (original – Exhibit 11, revised – Exhibit 23.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 5E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. The ANC did not submit a report or appear at the hearing to testify.

The Office of Planning (“OP”) submitted a timely report recommending approval of the application. (Exhibit 24.) The District Department of Transportation submitted a timely report of no objection. (Exhibit 25.) The Applicant filed into the record a petition containing 16 signatures in support of the application. (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under §§ 411.3, 411.5, 411.11 and 400.7(b). The only parties to the application were the Applicant and the ANC. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 411.3, 411.5, 411.11, and 400.7(b), that the requested relief can be granted, being in

¹ The Applicant amended the application to eliminate the request for variance relief from the building height limitations of § 400.1. The Applicant also added special exception relief under § 411.3, 411.5, and 411.11, and retained the request for relief under § 400.7(b). (Exhibit 23.)

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harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS, AS SHOWN ON EXHIBITS 4A-4H** in the record.

VOTE: 4-0-1 (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath and Anthony J. Hood to Approve; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: April 9, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

**BZA APPLICATION NO. 18966
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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18975 of scratch LLC, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structures requirements under § 411, to allow no screening of proposed rooftop mechanical equipment for a proposed food manufacturing use in the C-M-1 District at premises 2619 Evarts Street, N.E. (Square 4348, Lot 4).

HEARING DATE: April 7, 2015

DECISION DATE: April 7, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

This application was accompanied by a memorandum, dated January 13, 2015, from the Zoning Administrator certifying the required relief. (Exhibit 3.)

The Board of Zoning Adjustment (the “ Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 5C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C. The ANC did not file a report or testify regarding this application. Nonetheless, the ANC commissioner representing Single Member District (“SMD”), ANC 5C02, in which the Applicant’s property and business are located, testified in support of the application. The SMD, in response to the Board’s questions, testified that the Applicant had not made a presentation to the full ANC, as the ANC’s regularly scheduled meeting was past when the ANC received notice of the application and there was no time in which to schedule a presentation by the Applicant. However, the SMD did meet with the Applicant, he testified that he could not see the roof structures from his two-story home and therefore had no objection to removing the screening requirement.

The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the relief requested. (Exhibit 25.) The District Department of Transportation

¹ The Applicant initially requested a special exception from the rooftop enclosure requirements of § 411.3, to allow him to change the nature of the enclosure or screening for the rooftop equipment the Applicant had installed from that which had been approved under building permit B1502808 to an in-kind model that would be less expensive. (Exhibits 1 and 9.) Subsequently, the Applicant revised the request for relief to ask for permission not to install screening, since at the present time, without screening, the rooftop equipment is not visible at all, but if the Applicant were required to install screening, the screening would be visible. (Exhibit 23.) The caption has been changed accordingly.

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PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 03-12Q/03-13Q
Z.C. Case No. 03-12Q/03-13Q**

**Capper/Carrollsbury Venture, LLC and the D.C. Housing Authority
(Modifications to 1st-Stage PUD Squares 739, 767, and 768)
March 30, 2015**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on January 8, 2015, to consider an application from Capper Carrollsbury Venture, LLC and the District of Columbia Housing Authority ("DCHA") (collectively, the "Applicant") for modifications to an approved planned unit development ("PUD") in Squares 739, 767, and 768. The Zoning Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

FINDINGS OF FACT

Background and Prior Capper Carrollsbury Approvals

1. Pursuant to Z.C. Order No. 03-12/03-13, effective October 8, 2004, the Zoning Commission granted preliminary approval of the PUD for the following properties: Square 737, those portions of Lot 814 and Reservation 17A that lie south of the southern right-of-way line of I Street extended; Square 799, Lots 20, 27, 28, 29, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 803, 805, 807, 808, 809, 816, 818, 819, 825, 826, and 827; Square 800, Lots 25, 26, 27, and 28; Square 824, Lots 37, 38, and 39; Square N853, Lot 809; Square 880, Lot 24; Square W881, that part of Lot 800 within 132 feet of 5th Street; Square 882, Lot 76; and all of Squares 739, 767, 768, 769, 797, 798, 825, and S825.
2. A total of 712 Public Housing Units were to be provided through the PUD, with 695 units being provided on-site and 12 units to be located at Kentucky Courts, 274 Kentucky Avenue, S.E., Square 1039, Lot 81.¹
3. The Commission also granted consolidated approval of the PUD for the following properties: Square 824, Lots 37, 38, and 39; Square S825, Lots 31, 32, and 33; Square 880, Lot 24; and all of Squares 797, 798, and 825. The Commission also granted a PUD-related map amendment to rezone the following properties from the R-5-B Zone District to the CR Zone District upon completion of the second-stage approval of the PUD: Square 769, that portion lying more than 145 feet from the northern right-of-way line of M Street (including a portion of Reservation 17D); Square 882, that portion lying south of the midpoint of the Square; and all of Squares 767 and 768 (including Reservations 17B and 17C).

¹ The Order's conditions did not specify that 12 public housing units were to be located at the Kentucky Court location. This Order remedies that omission.

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4. The Commission has approved a number of applications since issuing Z.C. Order No. 03-12/03-13 in order to implement the overall Capper/Carrollsborg redevelopment, including:
 - a. Z.C. Order No. 03-12A/03-13A granting second-stage approval for Lots 44, 45, 46, 47, 48, 49, 50 in Square 799; Lots 20, 25, 26, 27, 28, 816, 818, 819, 820 in Square 800; and Square 881W, and modifying portions of the parking requirements for the consolidated PUD approval;
 - b. Z.C. Order No. 03-12B/03-13B approving a minor modification to allow for construction of the multi-family building in Square 825S to a height of 48 feet, 3.75 inches;
 - c. Z.C. Order No. 03-12C/03-13C, correcting Condition No. 2 of Z.C. Order No. 03-12/03-13 to add Lot 30 to Square 825S;
 - d. Z.C. Order No. 03-12C2/03-13C2, granting second-stage approval for the office building at 250 M Street, S.E. (Square 769);
 - e. Z.C. Order No. 03-12D/03-13D, approving a minor modification to change the designation of the multi-family building in Square 825S such that it is not required to be exclusively senior housing, and requiring off-site parking;
 - f. Z.C. Order No. 03-12E/03-13E, approving a minor modification to allow for Squares 767, 768, and 882 to be used as temporary surface parking lot accessory to the new Nationals ballpark for a period of no more than five years;
 - g. Z.C. Order No. 03-12F/03-13F, approving a modification to the second-stage approval for 250 M Street to increase the building height and gross floor area;
 - h. Z.C. Order No. 03-12G/03-13G, granting second-stage approval and modifications to the first-stage approval for property in Squares 769 and 882;
 - i. Z.C. Order No. 03-12H/03-13H, granting modifications to the approved PUD in Squares 739, 767, 768, and S825;
 - j. Z.C. Order No. 03-12I/03-13I, granting an extension of time for the first-stage PUD and an extension of time for the Community Center approved for Square 881W;

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- k. Z.C. Order No. 03-12J/03-13J, approving a two-year time extension for the Community Center in Square 881W;
 - l. Z.C. Order No. 03-12K/03-13K, approving a time extension for the office building at 250 M Street, S.E. (Square 769);
 - m. Z.C. Order No. 03-12L/03-13L, granting a two-year time extension for the office building at 250 M Street, S.E. (Square 769), and a two-year time extension for the residential building in the northern portion of Square 882;
 - n. Z.C. Order No. 03-12M/03-13M, granting a two-year time extension for the Community Center in Square 881W;
 - o. Z.C. Order No. 03-12N/03-13N, granting a time extension for the office building at 250 M Street, S.E. (Square 769);
 - p. Z.C. Order No. 03-12O/03-13O, granting a minor modification to the PUD to permit Squares 767, 768, and 882 to continue to be used as a temporary parking lot accessory to the Nationals Park for five years; and
 - q. Z.C. Order No. 03-12P/03-13P, granting a two-year time extension for the residential building in Square 769, and a two-year time extension for the office building in Square 882;
5. In Z.C. Order No. 03-12H/03-13H, dated August 14, 2009, and effective on August 6, 2009, the Commission granted (i) an increase in the overall maximum number of residential units for the PUD to 1,747 units; (ii) an increase in the overall maximum office gross floor area for the PUD to 708,302 square feet (thereby increasing the overall commercial gross floor area to 759,302 square feet); (iii) an increase in the overall maximum residential density for the PUD to 2.36 floor area ratio (“FAR”); (iv) an increase in the overall maximum permitted office and retail density for the PUD to 0.87 FAR; and (v) a decrease in the overall number of parking spaces for the PUD to 1,780 off-street parking spaces.
6. Finding of Fact No. 23 of Z.C. Order No. 03-12H/03-13H stated that the “new proposed distribution of uses and densities is shown on the ‘Capper/Carrollsborg Overall Plan’ and ‘Capper/Carrollsborg Overall Analysis’ sheets included in the Prehearing Statement. (Exhibit [“Ex.”] 4.)
7. Sheet 1.2 of that submission included a table with site development data dated December 12, 2008. The table indicates that a building on Square 739 would include 322 residential units with 98 public housing rental units. For Square 767, the table indicated that the

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building would include 147 residential units with 66 public housing rental units. For Square 768, the table indicated that the building would include 295 residential units with 73 public housing rental units. The sheet described the units as Annual Contributions Contract ("ACC") units.² All told, the three buildings would account for 230 of the 695 public housing units required to be provided within the PUD site.

The Current Application, Parties, and Hearing

8. On December 31, 2013, the Applicant filed an application seeking approval to modify the conditions of the first-stage approval related to the overall PUD to be developed in Squares 739, 767, and 768. (Ex. 1-2.) Specifically, the Applicant requested modifications to reduce the total number of ACC units required to be constructed on Squares 739, 767, and 768 from 237 to 207 units and to reallocate the location and distribution of the required public housing ACC units to provide 99 ACC units in Square 739; 48 ACC units in Square 767; and 59 ACC units in Square 768. The 30 units being eliminated from the three squares would be accounted for off-site on Lot 77 in Square 737. Although not part of the approved PUD, the owner of Lot 77 in Square 737 (Square 737, LLC, hereinafter "Square 737 Owner") agreed to the placement of the 30 ACC units on its property. The 30 ACC units resulted from a purchase and sales agreement dated July 26, 2011 between DCHA and the Square 737 Owner concerning two DCHA properties within the PUD site. Among the terms of the agreement was that 30 ACC units would be located on the Square 737 property.
9. The requested modification maintains the approved total number of 707 public housing units for the overall development. However, instead of providing 695 ACC units on the PUD site and 12 ACC units off-site, as approved, the Applicant's modified application requested approval to provide 665 public housing units on the PUD Site and 42 ACC units off-site.
10. On December 31, 2013, the Applicant also filed a separate submission in support of its request for a five-year extension of the first-stage approval for Squares 739, 767, and 768, which were preliminarily approved in Z.C. Order No. 03-12/03-13, and extended in Z.C. Order No. 03-12I/03-13I. (Exhibits 1-2 in Z.C. Case No. 03-12R/03-13R.) The Commission granted the request at the same time it took final action to approve this

² The regulations of the United States Department of Housing and Urban Development describe an ACC as:

a written contract between HUD and a [public housing authority (PHA)]. Under the ACC, HUD agrees to make payments to the PHA, over a specified term, for housing assistance payments to owners and for the PHA administrative fee. The ACC specifies the maximum payment over the ACC term. The PHA agrees to administer the program in accordance with HUD regulations and requirements.

(24 C.F.R. § 982.151.)

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application. As a result, the first-stage approval for Squares 739, 767, and 768 would be extended until December 31, 2018, by which time all applications for second-stage approvals for those properties would have to be filed.

11. On January 31, 2014, the Office of Planning (“OP”) submitted a report, recommending that the Commission schedule a public hearing on the application. (Ex.11.)
12. At its public meeting on February 10, 2014, the Commission voted to schedule a public hearing on the application. The Commission also deferred consideration of the companion time extension request until its consideration of final action in the present case.
13. On April 29, 2014, the Applicant submitted a prehearing statement and development data information for Z.C. Case No. 03-12Q/03-13Q. (Ex. 14.) The prehearing statement provided additional information regarding the ACC units proposed to be located in Square 737 and further explanation regarding the need to reallocate the distribution of the ACC units. As part of the prehearing statement, the Applicant revised its requested flexibility to reallocate the distribution and location of the 206 ACC units within the undeveloped Capper Carrollsburg project boundaries, without having to identify the number of units per square until the second-stage applications for each development.
14. On June 2, 2014, the Applicant submitted a letter from DCHA requesting a waiver of the normal hearing fee pursuant to § 3042.2 of the Zoning Regulations, to permit the construction of a low or moderate income subsidized housing development. (Ex. 15.) The Commission granted the request at its public meeting held June 9, 2014.
15. Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which the property is located, submitted two letters regarding the application prior to the hearing.
16. By letter dated February 8, 2014, ANC 6D expressed its concern regarding the requested modification application, particularly the Applicant’s lack of appropriate community engagement and notice. (Ex. 12.) ANC 6D attached a copy of a letter addressed to Adrienne Todman Executive Director of DCHA and dated December 10, 2013, stating that at its regularly scheduled and properly noticed public meeting on December 8, 2013, ANC 6D voted 5-0-1 to disapprove the planned sale of a portion of Square 767 as part of the Capper Carrollsburg project.
17. By letter dated August 15, 2014, ANC 6D submitted a second letter stating that at its regularly scheduled and properly noticed public meeting on June 9, 2014, with a quorum present, ANC 6D voted 6-0 on each of the following: (i) supporting a two-year (rather than the requested five year) extension of the first-stage PUD to December 31, 2015 for Squares 739, 767, and 768; (ii) supporting the Applicant’s request to move 30 of the

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- required ACC units to Square 737; and (iii) opposing the Applicant's request for flexibility to move the required 206 ACC units from Squares 739, 767, and 768. (Ex. 26.)
18. On September 8, 2014, the Applicant submitted a letter requesting a postponement of the Commission's public hearing to consider the application. (Ex. 28.) The Commission granted the Applicant's request to postpone the hearing.
 19. On December 19, 2014, the Applicant submitted a supplemental letter from DCHA Executive Director, Adrienne Todman, requesting the Commission's support of the modification application. (Ex. 38.) Ms. Todman's letter reiterated DCHA's commitment to delivering the 707 public housing units, and described the numerous factors that have led to the difficulties in financing mixed income housing projects. The letter stated that development of 30 public housing units on Square 737 would enable faster delivery of those units since Square 737 is much further along in the development process than the other squares within the PUD.
 20. Ms. Todman's letter further clarified that the 206 ACC units would still be located on Squares 739, 767, and 768. As to these squares, DCHA was requesting that the first-stage approval be modified so as not to designate the number of public housing units to be constructed on each square with the proviso that at least 15% of the residential units on each square would be public housing units. Ms. Todman stated that this flexibility would allow the Applicant to negotiate with other partners and with financial institutions without a prescribed number of affordable units to be constructed on each square.
 21. On December 29, 2014, OP submitted a supplemental report expressing its support for the project subject to a number of conditions. (Ex. 39.) With respect to locating 30 public housing units on Square 737, OP stated that, consistent with the objectives of the PUD, the 30 off-site units would be fully integrated into the market rate development and tenants would not be subject to additional costs of amenities fees. With respect to the location of the 206 public housing units, OP stated that it is "satisfied that permitting the Applicant some flexibility on ACC unit location is necessary to get the units built, and that imposing a base and upper percentage of affordable units in each of the squares is an acceptable compromise for ensuring housing is built and income segregation is kept to a minimum."
 22. After proper notice, the Commission held a public hearing on the application on January 8, 2015. The parties to the case were the Applicant and ANC 6D.
 23. David Cortiella, on behalf of DCHA, testified for the Applicant at the January 8, 2015, public hearing. OP testified at the public hearing in support of the project.
 24. Six individuals testified in opposition to the Applicant's request for flexibility for the proposed location and distribution of the 206 ACC units on Squares 739, 767, and 768.

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These individuals stated that the Applicant did not adequately provide the community with a plan for how it intends to distribute and integrate the ACC and market-rate units amongst the three squares, and asserted that the flexibility would allow the Applicant to concentrate the majority of the ACC units on a single square, and create buildings containing solely ACC units.

25. On January 16, 2015, the Applicant submitted a list of revised conditions to approval of the application, based on further discussions with OP staff. (Ex. 52.) To address concerns about the over concentration of public housing units on any single square, the second proposed condition included the requirement that the percentage of public housing units on any square may not exceed 50% of the total number of residential units on the square.
26. Through a letter dated January 22, 2015, the Chair of ANC 6D indicated that at a regularly scheduled and properly noticed public meeting on January 12, 2015, with a quorum being present, the ANC voted 6-0-0 in favor of requesting that ANC 6D be allowed to submit written testimony prior to final action regarding DCHA's requested modification. (Ex. 53.)
27. At its public meeting on January 26, 2015, the Commission indicated that notwithstanding the ANC's reference to final action, the Commission preferred to hear the ANC's views prior to proposed action and therefore deferred proposed action until February 23rd. The Commission established deadlines for the ANC to submit a further report and for the Applicant to respond.
28. By letter dated February 5, 2015, the Chair of ANC 6D indicated that at a regularly scheduled and properly noticed public meeting on February 9, 2015, with a quorum being present, the ANC voted 6-0-0 in opposition to the modification. (Ex. 54.) The ANC indicated that it continued to adamantly oppose a plan to construct "income-segregated buildings on these Squares as it would circumvent the theme of HOPE VI revitalization and the goal of the PUD." The ANC explained that the boundary of the minimum and maximum percentages of affordable units for each of the squares would not minimize income segregation.
29. The letter also objected to the fact that these percentages do not address the percentage of affordable units on a per building basis and contended that basing percentages on the total number of residential units per square rather than the total number of required replacement ACC units also could result in a higher concentration of ACC units on a single square. An attached spread sheet indicated that if the relief were granted Square 739 could have as many as 140 public housing units, while Squares 767 and 768 could respectively have as few as 22 and 44 such units.

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30. The Applicant responded in a letter dated February 19, 2015. (Ex. 55.) The Applicant restated its commitment to creating a vibrant mixed-income community including public housing and workforce and market-rate housing (both rental and homeownership). The Applicant pointed to the mix of housing already provided and asserted that a true mixed-income community is not defined by a particular square but rather by the overall mix of uses throughout the project. The letter stressed that the flexibility requested was essential to the Applicant's ability to negotiate the financing needed to deliver the remaining 206 units and that the Commission will have an opportunity at each subsequent second-stage proceeding to determine whether the design and unit distribution of each building is consistent with the purposes of the PUD.
31. The Commission took proposed action to approve the application on February 23, 2015.
32. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. Through delegated action dated March 10, 2015, the NCPC Executive Director found that the proposed modification to the PUD would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 58.)
33. The Commission took final action to approve the application on March 30, 2015.

The Requested Modifications

Modification to Locate 30 ACC Units in Square 737, Lot 77.

34. The Applicant is seeking a modification to the first stage approval to locate an additional 30 public housing units off-site. The units would be located on Square 737, Lot 77. As noted, although this property is not part of or subject to the approved PUD; the Square 737 Owner agreed that the 30 ACC units it is separately required to construct on its property may be included among the PUD's public housing requirement. The ACC units were required as part of a purchase sale agreement involving a portion of the PUD site, and therefore the ACC units are properly viewed as being a product of this PUD.
35. Square 737 is a multi-phased, matter-of-right development designed with three separate residential buildings, all under the control of the Square 737 Owner. Square 737 is adjacent to the western portion of the PUD site. Phase 1 is currently under construction. Phase 2 is a 336 unit residential building with a grocery store located on the ground floor. Phase 3 is designed as a 396 unit residential building over ground-floor retail.
36. The Square 737 Owner has agreed to locate the 30 ACC units in the second and third phases of development. As part of its prior agreement with DCHA, the Square 737 Owner has further agreed that rents will be calculated for income-eligible households

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consistent with applicable public housing regulations for the appropriate household size. All 30 units will be indistinguishable from the market-rate units and will be distributed throughout the buildings. Occupants of the 30 ACC units will have access to all building amenity spaces, and the 30 ACC units will include a mix of efficiency, one-bedroom, and two-bedroom units. In addition, the ACC units will include two units constructed in accordance with the Uniform Federal Accessibility Standards. DCHA will have the right to reasonably approve the design and development plans for the 30 ACC units. The Square 737 Owner will also have the flexibility to adjust the unit mix without requiring Commission approval in order to accommodate the needs of DCHA's current and future residents, so long as a total of 30 units are located in the building(s) being developed in Square 737.

37. As set forth in the Declaration of Affordability Covenants, the Square 737 Owner covenanted to develop, construct, operate, and maintain the 30 ACC units in accordance with all applicable public housing requirements. (Ex. 14A.) The Square 737 Owner agreed to sign with DCHA the Annual Contributions Contract and amendments thereto for the 30 units, abide by any HUD declarations, if required, and administer the 30 units consistent with all pertinent federal statutory, executive order, and regulatory requirements, as those may be amended from time to time.
38. The Commission finds that reallocating the 30 ACC units on Square 737 is consistent with the District's goals of expanding the supply of public housing, and will provide a legitimate public off-site benefit for the PUD, especially since Square 737 is in the Capitol South TDR Receiving Zone and therefore has no affordable housing requirements under the Inclusionary Zoning requirements of the Zoning Regulations. Moreover, the Commission finds that delivery of the 30 ACC units by the Square 737 Owner will be enforced consistent with the provisions in the recorded Declaration of Affordability Covenants.

Modification of the Location and Distribution of 206 ACC Public Housing Units

39. As a result of the relocation of the 30 ACC units off-site, the number of ACC units to be provided on within Squares 739, 767, and 768 has been reduced to 206. The Applicant is seeking flexibility to reallocate the distribution of these 206 ACC units within Squares 739, 767, and 768 without having to identify the number of units per square at this time. The Applicant testified that it is committed to the one-for-one replacement of the ACC units that were previously located at the former Capper/Carrollsborg public housing family and elderly communities. To date, DCHA has constructed 398 of the 707 ACC units that DCHA is required to replace. DCHA also has under construction an additional 39 ACC units on Square 882N. The units currently under construction on Squares 882N, together with those that have already been constructed, total 437 of the total 707 ACC units.

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40. The residential units delivered to date provide a variety of unit/product types on various squares, including, for example, two affordable housing buildings, mixed-income rental units, and mixed-income for-sale and rental units. Of the ACC units delivered to date, 162 units are located in buildings devoted entirely to public housing for seniors. This mix of unit types and income ranges has resulted in the creation of a true mixed-income community that is not defined by an individual square, but rather by the overall mix of uses across the project.
41. The Commission finds that the requested flexibility will allow the Applicant to explore multiple financing options for the delivery of the required 206 ACC units within Squares 739, 767, and 768 without having to file a modification of this first-stage approval should a second-stage application call for a different allocation of the ACC units. This Order also includes the Applicant's agreed to condition that ACC units will comprise at least 15%, but no more than 50% of residential units on each square, thereby establishing firm parameters. The Commission also finds that granting this flexibility will allow the Applicant to negotiate with other partners and with financial institutions without a prescribed number of affordable units to be constructed on each square, which will help the Applicant deliver the 206 ACC units as quickly as possible given current market conditions. The precise number of ACC units per building will of course be identified in each second-stage PUD application.

Contested Issues

42. ANC 6D and eight individuals raised concerns at the public hearing and/or in written testimony. (Ex. 34, 41-49.) Specifically, these witnesses expressed concern that not requiring the Applicant to identify the precise allocation of the 206 ACC units within Squares 739, 767, and 768 until the second-stage applications would allow the Applicant to: (i) concentrate the majority of the ACC units on a single square, and (ii) construct buildings containing solely ACC public housing units. The individuals testified that either of these options would go against the intent of the PUD of providing a vibrant, mixed-use, and mixed-income community, and would further isolate and segregate low- and moderate-income families within the District.
43. In response to these concerns, the Applicant has proffered a condition limiting public housing units to not more than 50% of the total housing units on each of Squares 739, 767, and 768 to ACC units. Further, the Applicant has agreed to demonstrate during each second-stage application that the overall project and distribution of uses is consistent with the PUD's overall goal of providing a vibrant, mixed-use and mixed-income community. The Commission is adding this requirement as a condition to the first-stage approval.

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The Commission concludes that the two conditions will ensure that there will not be an over concentration of ACC units within any of the three squares. Further, as will be explained in the Commission's specific response to the issues and concerns raised by ANC 6D, the goal of the PUD is to create a vibrant mixed-use and mixed-income project within the entire site and this goal has been achieved. The fact that public housing units may be concentrated on one or more squares will not necessarily affect this dynamic. To the extent that such a possibility exists, the Applicant will be required in each second stage application to specify the precise number of ACC units to be constructed and demonstrate that the overall project and distribution of uses is consistent with the PUD's overall goal of providing a vibrant, mixed-use and mixed-income community. *See* revised condition 6 (a) (ii)(B).

Office of Planning Report

44. On January 31, 2014, OP submitted a report, recommending that the Commission schedule a public hearing on the application. (Ex. 11.)
45. On December 29, 2014, OP submitted a supplemental report expressing its support for both requested modifications, subject to a number of conditions. (Ex. 39.) In its report, OP stated that, consistent with the objectives of the PUD, the 30 off-site units would be fully integrated into the market-rate development and tenants would not be subject to additional costs of amenities fees. OP also stated that it is "satisfied that permitting the Applicant some flexibility on ACC unit location is necessary to get the units built, and that imposing a base and upper percentage of affordable units in each of the squares is an acceptable compromise for ensuring housing is built and income segregation is kept to a minimum."

DDOT Report

46. By report dated December 16, 2014, DDOT stated its determination that the proposed modifications will have no adverse effects on the travel conditions of the District's transportation network. (Ex. 37.) Specifically, DDOT stated that "the reallocation of the 30 ACC units to the separate entity will not adversely impact the transportation network because there is no change to the total number of units and parking at each site, including Square 737, Lot 77."

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission concludes that the Applicant's proposed modifications are consistent with the intent of Z.C. Order No. 03-12/03-13. The Commission concludes that the proposed modifications are in the best interests of the District of Columbia, and not inconsistent with the intent and purpose of the Zoning Regulations

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and Zoning Act. The approval of the modifications is not inconsistent with the Comprehensive Plan. Further, the requested modifications will not affect any of the other conditions of the approved PUD.

The Commission is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and conditions expressed in the written report of an affected ANC.

As noted, ANC 6D submitted three reports regarding the application. By letter dated February 8, 2014, ANC 6D expressed its concern regarding the requested modification application, particularly the Applicant's lack of appropriate community engagement and notice and attached a letter concerning an unrelated matter. (Ex. 12.) By letter dated August 15, 2014, ANC 6D stated its support for the Applicant's request to move 30 of the required ACC units to Square 737; and its opposition to the Applicant's request for flexibility to move the required 206 ACC units from Squares 739, 767, and 768. (Ex. 26.) By letter dated February 5, 2015, the Chair of ANC 6D reiterated the ANC's opposition to the first-stage PUD no longer specifying the precise allocation of ACC units, stating that the proposed condition imposing per square minimum and maximum affordable unit requirements would not prevent the over concentration of public housing units on a particular square. (Ex. 56.)

As to the ANC's initial concerns, the Commission finds that the Applicant has engaged in the extent of community outreach expected of an applicant and that the Applicant has clarified that the remaining 206 public housing units would continue to be located on the same square. With respect to the ANC's concern that an over concentration of affordable housing units will result, the Commission agrees with the Applicant that the goal of the PUD of creating a vibrant mixed-use and mixed-income community is not defined on a square-by-square basis. Rather the impact of any given project on this goal is to be judged on the basis of the entire PUD site.

In fact, the Applicant's efforts have resulted in the creation of a vibrant mixed-use and mixed-income development and its proper focus should be on the construction of the remaining public housing units. The state of the current financing market requires the Commission to grant the type of flexibility requested by the Applicant. At each second-stage application for these squares, the Applicant will be required to specify the precise number of ACC units to be constructed. To ensure that the proposed unit mix will not diminish the vibrancy of the existing development, the Applicant will be required to demonstrate that the overall project and distribution of uses is consistent with the PUD's overall goal of providing a vibrant, mixed-use and mixed-income community. (See revised condition 6 (a)(ii)(B).) For these reasons, the Commission does not find ANC 6D's advice to deny the requested flexibility to be persuasive.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great

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weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for a modification to a first-stage planned unit development in Squares 739, 767, and 768.

Condition No. 6 of Z.C. Order No. 03-12/03-13, as modified by Z.C. Order No. 03-12D/03-13D and Z.C. Order No. 03-12H/03-13H, is amended to read as follows with new text shown in bold and underlined font:

6. A minimum of ~~695~~ **707** of the residential units shall be devoted to public housing **as follows:**

(a) 665 of the public units shall be located within the PUD Site including:

(i) 162 units in Senior Building 1 devoted exclusively to senior public housing units and the building constructed in the northern portion of Square 825S devoted to both senior housing, and workforce public housing units for households earning between 30% and 60% of the Area Median Income. A minimum of 50 units shall be home-ownership Section 8 units under the HUD program; and

(ii) 206 public housing units located in Squares 739, 767, and 768, provided:

(A) The percentage of public housing units within each square shall be no less than 15% of the total number of residential units on the square and no more than 50% of the total number of residential units on the square; and

(B) The Applicant shall demonstrate during each second-stage application that the overall project and distribution of uses is consistent with the PUD's overall goal of providing a vibrant, mixed-use and mixed-income community;

(b) 30 of the public housing units shall be located in Square 737, Lot 77 and shall be delivered by January 31, 2021. As part of each second-stage application filed, the Applicant shall update the Zoning Commission on the progress being made in the delivery of the units; and

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(c) 12 of the public housing units shall be located at Kentucky Courts, 274 Kentucky Avenue, S.E., Square 1039, Lot 81.

On February 23, 2015, upon motion of Commissioner Turnbull, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On March 30, 2015, upon motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Miller, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on April 24, 2015.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 03-12R/03-13R
Z.C. CASE NO. 03-12R/03-13R
Capper Carrollsburg Venture, LLC and D.C. Housing Authority
(Time Extension to First-Stage PUD @ Squares 739, 767, and 768)
March 30, 2015

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on March 30, 2015. At the meeting, the Commission approved a request on behalf of Capper Carrollsburg Venture, LLC and the District of Columbia Housing Authority ("DCHA") (collectively the "Applicant") for a five-year extension of the first-stage planned unit development ("PUD") approval for Squares 739, 767, and 768, which was preliminarily approved in Z.C. Order No. 03-12/03-13, and extended in Z.C. Order No. 03-12I/03-13I, pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the extension request.

FINDINGS OF FACT

1. On March 21, 2003, the Applicant filed applications seeking preliminary and consolidated approval of a PUD for property located in the southeast quadrant of Washington, D.C. and generally bounded by 2nd Street on the west, 7th on the east, Virginia Avenue on the north, and M Street on the south. The property consists of approximately 927,000 square feet of land area. The approved overall project includes a maximum of 1,747 residential units, 708,302 square feet of office space, 51,000 square feet of retail space, 1,780 off-street parking spaces, and a community center building.
2. Pursuant to Z.C. Order No. 03-12/03-13, the Commission granted preliminary and consolidated approval for the overall development, including Squares 739, 767, 768, and those portions of Square 737 that include Lot 814 and Reservation 17A. In its initial application to the Commission, the Applicant proposed to develop (i) Square 739 with a six to 13 story residential apartment building, having a height of 65 to 130 feet and providing 322 residential units and 6,000 square feet of office and/or retail uses; (ii) Square 767 with a six story residential apartment building, having a height of 65 feet and providing 147 residential units and 6,000 square feet of office and/or retail uses; and (iii) Square 768 with an 11-story residential apartment building, having a height of 110 feet and providing 295 residential units and 6,000 square feet of office/retail uses. Pursuant to Z.C. Order No. 03-12A/03-13A, the Commission granted modifications to the preliminary and consolidated PUD subject to Condition 7, which required that applications for final approval of the high-rise apartments in Squares 739, 767, and 768 must be filed by October 31, 2008. The programs for Squares 739, 767, and 768 did not change at that time.
3. The Commission approved the last order affecting Squares 739, 767, and 768 in Z.C. Order No. 03-12I/03-13I, which became effective upon publication in the *D.C. Register*

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on June 26, 2009. This Order required the Applicant to file an application for second-stage approval for the remaining portions of the project in Squares 739, 767, and 768 by December 31, 2013.

4. By letter dated December 31, 2013, the Applicant filed a request for a five year extension for the first-stage approval for Squares 739, 767, and 768, such that second-stage approvals for Squares 739, 767, and 768 must be filed no later than December 31, 2018.
5. Other than the Applicant, the only parties to the case were Advisory Neighborhood Commissions ("ANC") 6B and 6D. On December 31, 2013, the Applicant submitted a Proof of Service, indicating that the extension request was served on ANCs 6B and 6D.
6. Subsection 2407.10 of the Zoning Regulations authorizes the Commission to extend the time period of a first-stage PUD. Subsection 2407.11 requires that any request to extend that time period must be "accordance with the standard and process for second-stage PUD extensions set forth in §§ 2408.10 through 2408.12."
7. Section 2408.11(a) authorizes the Commission to grant an extension of PUD validity for projects confronting difficulties with financing based upon changes in economic and market conditions beyond an applicant's control. The Applicant submitted evidence that the project has experienced delay beyond its control. The Applicant has taken many steps to move forward with the overall project, including:
 - Built 623 residential units, of which 386 are replacement public housing units. The completed units are comprised of a 162-unit elderly-only building, a 138-unit apartment building and 323 units of mixed-income townhomes. The townhomes include 86 public housing units;
 - Obtained a building permit for a 195-unit apartment building (which includes 39 replacement public housing units), for which financing is being finalized for the northern portion of Square 882;
 - Secured approval for the design of the new Community Center on Square 881W;
 - Subdivided a number of the prior existing lots into new, consolidated single lots of record;
 - Created assessment and taxation lots for a number of the properties included in the overall development;
 - Applied for and obtained raze permits to demolish a number of structures within the overall project boundaries;

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- Gone through the Commission's process and received second-stage approvals and modifications for large portions of the development, as outlined above;
 - Invested approximately \$12,827,146.14 in infrastructure improvements to enable the overall development to move forward. Over half of the public infrastructure improvements that are associated with the development have been completed; and
 - Invested a significant amount in preparing construction drawings and filing a building permit application for the residential building in Square 882.
8. Since the PUD received final approval, the Applicant has diligently pursued financing, marketing, and development of the approved project components. For example, the Applicant has invested over \$250 million to date in securing entitlements, infrastructure, improvements, permitting, construction, and other efforts to implement the overall approved Capper/Carrollburg PUD. Market conditions, limitations of HUD regulations, and difficulties of financing mixed income properties have slowed down the pace at which public housing units have been able to be constructed at the site.
9. The Applicant has pursued numerous financing methods for the residential buildings in Squares 739, 767, and 768, but has yet to come up with a viable solution given market conditions for construction financing. The Applicant submitted a letter from EagleBank (Exhibit 2D) indicating that it is interested in financing construction for the residential buildings in Squares 739, 767, and 768, but requires more leasing data in the area before it can be comfortable underwriting a mixed income transaction. Based on this and similar responses from other banks, the Applicant has been unable to identify a lending partner that can successfully underwrite the residential projects on Squares 739, 767, and 768.
10. The Applicant also indicated, and the Commission finds, that the real estate market has been subject to, and continues to suffer from, severe financing, construction, sales and other impediments. This major change in the real estate market has rendered it practically impossible for the Applicant to obtain project financing, despite the Applicant's good faith efforts. The Applicant submitted a letter from Jones Lang LaSalle ("JLL") (Exhibit ["Ex."] 8), indicating that the multi-family development sector has been sluggish and uncertain due to a number of factors, including more-stringent lending requirements, but that the residential real estate recovery is expected to continue. The letter indicated JLL's opinion that it is necessary to extend the validity of the PUD order for five years to provide additional time for the market to absorb the existing and proposed new residential stock, and to enable the Applicant to continue searching for a conventional or creative financing solution for the remaining residential portions of the project.

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11. Based upon the record, the Commission finds that the Applicant has been unable to obtain project financing for the approved PUD from the numerous lending institutions it contacted. Thus, the project cannot move forward at this time, despite the Applicant's diligent, good faith efforts, because of changes in the economic and market conditions beyond the Applicant's control. Therefore, the Commission finds that this extension request satisfies the sole criterion for good cause shown as set forth in § 2408.11(a) of the Zoning Regulations.
12. In connection with this time extension request, the Applicant submitted an application to the Commission seeking a modification of Z.C. Order No. 03-12H/03-13H, to reduce the total number of public housing units on Squares 739, 767, and 768 from 236 to 206, to permit the 30 public housing units eliminated from the three squares to be located outside of the approved PUD Site on adjacent Square 737, Lot 77. As to the remaining 206 public housing units, the Commission granted the Applicant the flexibility to allocate the units among the three squares, subject to certain minimum and maximum percentages per square, with the actual allocations to be specified in each second-stage application. On March 30, 2015, the Commission approved this request pursuant to Z.C. Order No. 03-12Q/03-13Q.
13. The Office of Planning ("OP") submitted a report dated January 31, 2014, indicating that the Applicant meets the standards of §§ 2408.10 and 2408.11(a) of the Zoning Regulations. (Ex. 5.) In this report, OP recommended that the Commission approve a two-year extension rather than the requested five-year extension because of the significant need for lower income rental housing in the District and because former residents of the now demolished Capper-Carrollsborg public housing project have been waiting for a decade to return to their former neighborhoods. (Ex. 5, p. 3.)
14. By letter dated August 15, 2014, ANC 6D noted its support for a two-year extension request. (Ex. 7.)

CONCLUSIONS OF LAW

1. The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond; (b) there is no substantial change in any material fact upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates with substantial evidence that there is good cause for such extension as provided in Section 2408.11. 11 DCMR § 2408.10. Section 2408.11 provides the following criteria for good cause shown: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control; (b) an inability to secure all

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- required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the PUD order.
2. The Commission concludes that the Applicant complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the application and allowing them 30 days to respond.
 3. The Commission concludes there has been no substantial change in any material fact that would undermine the Commission's justification for approving the original PUD. The Commission notes that pursuant to Z.C. Order No. 03-12Q/03-13Q, the Commission approved a reallocation of the required public housing units to provide (i) 206 public housing units within the approved PUD in Squares 739, 767, and 768, and (ii) 30 public housing units outside of the approved PUD in adjacent Square 737, Lot 77.
 4. The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) to give great weight to the affected ANC's recommendations. The Commission is also required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC and the Office of Planning do or do not offer persuasive advice under the circumstances. Both ANC 6D and the Office of Planning recommended approval of the request, but only for a two year term.
 5. Although the Zoning Commission agrees with the ANC's and OP's recommendation of approval, it does not find their recommendation of a two-year term to be persuasive. The Commission finds that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DCMR § 2408.11(a). Specifically, the Applicant has been unable to obtain sufficient project financing for the approved residential buildings, following the Applicant's diligent good faith efforts, because of changes in economic and market conditions beyond the Applicant's reasonable control. Furthermore, the last order affecting Squares 739, 767, and 768 (Z.C. Order No. 03-12I/03-13I) expired on December 31, 2013. Granting a two year extension of Z.C. Order No. 03-12I/03-13I would expire on December 31, 2015, thus providing insufficient time for the Applicant to obtain project financing. The Commission therefore concludes that granting a five year extension (i.e., until December 18, 2018) is appropriate in this case and necessary to allow the Applicant to move forward with the development.
 6. Section 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the

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determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in § 2408.11.

7. The Commission concludes that a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in § 2408.11 of the Zoning Regulations.
9. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of Z.C. Case No. 03-12R/03-13R, such that the first-stage PUD in Squares 739, 767, and 768 shall be valid until December 18, 2018, within which time applications for second-stage approval for Squares 739, 767, and 768 must be filed.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On March 30, 2015, upon the motion made by Chairman Hood as seconded by Commissioner Turnbull, the Zoning Commission approved this application by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR §3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on April 24, 2015.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-12**

Z.C. Case No. 13-12

1333 M Street, SE, LLC

(First-Stage PUD and Related Map Amendment and Consolidated PUD for Phase 1)

February 23, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on December 1, 2014, in order to consider an application from 1333 M Street, SE, LLC ("Applicant"), the owner of Square 1025-E, Lot 82, Square 1048-S, Lots 1, 801 and 802, RES 129, and RES 299 for (1) a first-stage planned unit development ("PUD") approval for 2.9 acres that will be developed in four phases, (2) a related map amendment from M to C-3-C for the subject property, and (3) consolidated approval for Phase 1 of the PUD (the "Application"). The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

A. The Application, Parties, and Hearing

1. On October 30, 2013, the Applicant filed an application with the Commission for (1) first-stage PUD approval for 2.9 acres that will be developed in four phases, (2) related map amendment from M to C-3-C for the subject property, and (3) consolidated approval for Phase 1 of the PUD on Square 1025-E, Lot 82, Square 1048-S, Lots 1, 801, and 802, RES 129, and RES 299 (the "Property") (the "Application"). (Exhibits ["Ex."] 1-5.)
2. The Property has a land area of approximately 2.9 acres. It is a triangular shaped parcel bounded by M Street, theoretical Virginia Avenue, and Water Street, S.E., and is currently improved with fuel pump storage facilities. The Property is designated Mixed-Use Medium Density Commercial/Institutional on the District of Columbia Comprehensive Plan Future Land Use Map (the "Land Use Map") and is presently zoned M (General Industrial District).
3. At its meeting on March 10, 2014, the Commission voted unanimously to set down the Application for public hearing. In its discussion on the Application, the Commission had questions or comments about the (i) site plan; (ii) architecture; (iii) sustainability and landscape architecture; (iv) amount of retail; (v) amount of parking; and (vi) phasing of development.
4. In its setdown report dated February 28, 2014, the Office of Planning ("OP") requested the Applicant clarify the flexibility required for the project and provide additional information on the design of Building 1-Tower A, the timing and design of the public and open space improvements, and other details of the benefits/amenities proffers. (Ex. 7.)

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5. On February 27, 2014, the Applicant filed a supplement to the Application, which included a description of the sustainable landscape elements for the project, architectural drawings and images related to the proposed wall and weirs along the eastern edge of the property, and drawings of the roof for Building 1-Tower A. (Ex. 6.)
6. On August 14, 2014, the Applicant submitted a Prehearing Statement, which addressed the issues and comments raised by the Commission and OP. (Ex. 9, 10.)
7. On November 11, 2014, the Applicant submitted a Supplemental Filing, marked as Exhibits 16 and 17 of the record, which included (i) revised sheets (Sheets 7, 30, and 43) for the plans for the first-stage PUD, (ii) revised sheets (Sheets 7 and 41) for the consolidated PUD, and (iii) a discussion on the sustainable design features of the project.
8. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on September 12, 2014. The notice of public hearing was mailed to all property owners within 200 feet of the Property, as well as to Advisory Neighborhood Commission ("ANC") 6B. On December 1, 2014, the Commission held the public hearing on the Application.
9. The parties to the case were the Applicant and ANC 6B.
10. At the December 1st public hearing, the Applicant submitted the following items into the public record: (i) the Outline of Testimony for Steven E. Sher (Ex. 24); (ii) a list of the PUD benefits and amenities (Ex. 25); (iii) a copy of a solar study for the project prepared by GTM Architects (Ex. 26); (iv) a memo dated December 1, 2014, regarding proffers of Certified Business Enterprises ("CBE") Agreements for PUDs (Ex. 27); and (v) a partial list of the proposed conditions (Ex. 28). A copy of the Applicant's PowerPoint presentation was also provided to the Commission. (Ex. 29.)
11. Four witnesses testified at the public hearing on behalf of the Applicant: Eric Siegel of Cohen Siegel Investors, Colline Hernandez-Ayala of GTM Architects, Craig McLure of Parker Rodriguez landscape architects, and Jami Milanovich of Wells + Associates. Based upon their professional experience and qualifications, Mr. McLure was accepted by the Commission as an expert in landscape architecture and Ms. Milanovich was accepted as an expert in traffic engineering and transportation planning.
12. OP testified at the hearing in support of the Application on the basis that the project is consistent with the Comprehensive Plan Future Land Use Map, the

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Comprehensive Plan Generalized Policy Map, and the Anacostia Waterfront Initiative Plan, and the project includes a significant number of public benefits. OP recommended that the Applicant maintain provisions for alternative transportation modes and noted that the Applicant did not proffer a CBE Agreement as a project benefit. Finally, OP noted that the project includes private space that is accessible to the public and public areas that will be developed by the Applicant. Because the private and public areas may be indistinguishable, OP recommended that the Applicant address issues related to access of these areas through signage, restrictions on the hours of access, and insurance provisions.

13. At the hearing, the District Department of Transportation (“DDOT”) testified that the Applicant will continue to work with DDOT on the final design of the improvements in public space, and requested additional transportation demand measures (“TDM”) to address possible impacts from the project.
14. Commissioner Nichole Opkins, the ANC Single Member District Representative for ANC 6B06, testified on behalf of ANC 6B in support of the project at the public hearing.
15. Robert Ford, who is a member of Boathouse Row, testified in support of the project at the public hearing.
16. Karen Harris, who resides on the 1300 block of L Street, S.E., testified in opposition to the Application. She raised several concerns about the project’s impact on the residents of the 1300 block of L Street.
17. At the end of the public hearing, the Commission requested the following post-hearing submissions:
 - a. Written testimony of Karen Harris expressing her concerns about the proposed development;
 - b. Supplemental reports from OP and DDOT responding to the submissions and discussion at the public hearing;
 - c. Applicant to submit floor area ratio (“FAR”) calculations for the project that include and exclude the area for the private road extending between M Street and Virginia Avenue;
 - d. Applicant to submit the floor area calculations for the accessory use in the penthouse;

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- e. Applicant to provide additional drawings and details for the "Boathouse Row" marker at the top of Building 1-Tower A;
 - f. Applicant to explain the proposed phasing for the development of the project;
 - g. Applicant to consider expanding its proffer of bike and car share membership services for residents of the project, in light of the DDOT report;
 - h. Applicant to provide a roof plan showing the additional setback for the penthouse on Building 1-Tower A and the type of lighting proposed for the penthouse area;
 - i. Applicant to provide a plan showing the rooftop mechanical equipment;
 - j. Applicant to provide a table listing the conditions proposed by DDOT and acceptable to the Applicant;
 - k. Applicant to give further consideration to LEED certification for the project;
 - l. Applicant to provide an updated solar study that includes the rooftop penthouse;
 - m. Applicant to provide details of the construction management plan for the project;
 - n. Clarification from DDOT on the availability of the Residential Permit Parking ("RPP") related to the project;
 - o. Explanation by the Applicant on the improvements that are being proffered as a public benefit versus those required as mitigation for the project and the estimated value of the proposed improvements; and
 - p. Applicant to provide a written response to the District Department of Environment ("DDOE") memorandum dated October 27, 2014.
18. The Commission took proposed action on the Application on January 12, 2015.
19. In connection with its proposed action, the Commission requested that the Applicant submit a revised lighting plan for the roof and penthouse for the Phase 1 building; revised renderings for the "Boathouse Row" marker proposed at the

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top of the Phase 1 building; and reach an agreement with DDOT regarding the Capital Bike Share/Car Share membership offered to residents of the project.

20. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on January 12, 2015. Pursuant to the memorandum dated February 11, 2015, NCPC found that the proposed PUD "is not inconsistent with the Comprehensive Plan for the National Capital." (Ex. 46.)
21. The Commission took final action to approve the Application on February 23, 2015.

B. The PUD Project

22. The proposed PUD will be constructed on three theoretical lots in four phases. Overall, the Property will be re-developed with three residential buildings housing approximately 673 dwelling units (plus or minus 10%), approximately 10,370 square feet ("s.f.") of retail, approximately 214 residential parking spaces, and seven retail parking spaces. The overall density for the PUD, including the area of the proposed private road, will be 4.14 FAR, and 4.49 FAR excluding the area of the private road, where an FAR of 8.0 is permitted and the overall lot occupancy for the project will be 45% where 100% is permitted.
23. Theoretical Lot 1 has approximately 80,128 s.f. of land area. It will be improved with a single building ("Building 1") that has two towers that connect at the ground level. Between the two levels, Building 1 will consist of 267,216 s.f. of residential floor area, generating approximately 351 dwelling units, and 7,200 s.f. of ground-floor retail. Building 1-Tower A, which will be constructed during Phase 1 of the PUD, will have 10 stories and a height of 100 feet, as measured from Virginia Avenue. Building 1-Tower B will be constructed during Phase 2 of the PUD. It will have nine stories and a height of 90 feet, as measured from Virginia Avenue. Theoretical Lot 1 will be developed with an overall density of 3.4 FAR. This parcel will include 106 underground residential parking spaces, six retail parking spaces, and loading for the residential use only as follows: one 30-foot loading berth, one 100 s.f. loading platform, and one 20-foot service space.
24. Theoretical Lot 2 has approximately 38,297 s.f. of land area and will be developed as Phase 3 of the project. Building 2 will be constructed on this parcel and will consist of 181,209 s.f. of residential floor area, generating 234 dwelling units, and 3,170 s.f. of ground-floor retail. Building 2 will have 11 stories and a building height of 110 feet as measured from Virginia Avenue. Theoretical Lot 2 will be developed with an overall density of 4.73 FAR. This parcel will include 108 underground residential parking spaces and one underground retail parking

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space and loading for the residential use only as follows: one 30-foot loading berth, one 100 s.f. loading platform, and one 20-foot service space.

25. Theoretical Lot 3 has approximately 9,074 s.f. of land area and will be developed as Phase 4 of the Project. Building 3 will be constructed on this parcel and will consist of 69,066 s.f. of residential floor area, generating 88 dwelling units. There will not be any retail uses in this building. Building 3 will be nine stories and have a building height of 91 feet as measured from M Street. Theoretical Lot 3 will be developed with an overall density of 7.6 FAR. This parcel will not have any parking or loading but will rely on on-street loading for servicing the building from M Street.

C. Phase 1/Building 1-Tower A

26. Phase 1 includes the construction of Building 1-Tower A, which will contain approximately 218 units and an underground parking garage with 51 spaces on Theoretical Lot 1 and 44 surface parking spaces on Theoretical Lot 2. Additional building amenities will be located at grade level on the south side of the building fronting an exterior terrace area for gatherings and communal events. The primary pedestrian entry and access to below-grade parking for the building are located along M Street. A new private street will bisect Theoretical Lot 2 to connect Virginia Avenue and M Street across the site. Loading and service functions for Building 1 as well as vehicular entry to the surface parking lot will be accessed from this area.
27. The following public space and open space improvements will be constructed during Phase 1 of the project:
 - a. On the south side of M Street, the developer shall install permeable paver parking spaces and low impact development basins with plantings and street trees for stormwater management;
 - b. The developer shall install a wildflower meadow along the Water Street right-of-way. The wildflower meadow provides an opportunity to increase plant biodiversity, create wildlife habitat, slow stormwater runoff, and stabilize slopes. The meadow also preserves some of the open space quality of the existing site while reactivating it with the new proposed design and clears out the overgrown and visually impairing vegetation currently along Water Street;
 - c. The developer shall construct a public dog park where 14th Street terminates at the project;

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- d. The developer shall improve M Street and construct an extension of Virginia Avenue south of M Street as well as construct an internal north-south private street. The roadway improvements will generate new on-street public parking; and
- e. The developer shall construct a sidewalk on the south side of M Street that extends the length of the Property.

D. Development Under Existing M Zoning

- 28. The General Industry (M) Zone Districts are designed to provide areas suitable for development as a heavy industrial site, but at the same time protect those industrial developments from the intrusion of non-industrial uses that impede the full utilization of property located in industrial sites. (11 DCMR § 820.1.) Except as provided in § 821.2, no new residential building shall be permitted in M Zone Districts. (11 DCMR § 820.2.)
- 29. The M Zone District includes the following development requirements: a maximum matter-of-right height of 90 feet with no limit on the number of stories (11 DCMR § 840.1.); a maximum matter-of right density of 6.0 FAR (11 DCMR § 841.1); a minimum rear yard depth of two and one-half inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet (11 DCMR § 842.4); a side yard is not required except where a side lot line abuts a Residence District (11 DCMR § 843.1); where an open court is provided, the width of the court shall be a minimum of two and one-half inches per foot of height of court, but not less than six feet wide (11 DCMR § 844.2); where a closed court is provided, it shall be a minimum of two and one-half inches per foot of height of court but not less than 12 feet wide (11 DCMR § 844.3); and a closed court shall have an area at least twice the square of the width of court dimension based upon the height of court, but not less than 250 s.f. (11 DCMR § 844.4).

E. Development Under Proposed C-3-C Zoning

- 30. The C-3-C Zone District permits medium-high-density development including office, retail, housing, and mixed-use development. They shall be compact in area.
- 31. The C-3-C Zone District includes the following development requirements:

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- A maximum matter-of-right height of 90 feet with no limit on the number of stories; (§ 770.1.)
- A maximum matter-of-right density of 6.5 FAR which may be devoted entirely to a residential or non-residential use or a mix of uses; (§ 771.2.)
- A maximum lot occupancy of 100%; (§ 772.1.)
- A minimum rear yard depth of two and one-half inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet; (§ 774.1.)
- If provided, a side yard at least two inches wide per foot of building height, but not less than six feet; (§ 775.5.)
- Where a court is provided for a building or a portion of a building devoted to non-residential uses, at any elevation in the court, the width of the court shall be a minimum of three inches per foot of height, measured from the lowest level of the court to that elevation; provided that in no case shall the width of the court be less than 12 feet; (§ 776.1.)
- In the case of a closed court for a building on portion of building devoted to non-residential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 250 square feet; (§ 776.2.)
- Where a court is provided for a building or portion of building devoted to residential uses, at any elevation in the court, the width of court must be a minimum of four inches per foot of height, measured from the lowest level of the court to that elevation, but not less than 15 feet; (§ 776.3.)
- In the case of a closed court for a building or portion of a building devoted to residential uses, the minimum area must be at least twice the square of the width of court based upon the height of court, but not less than 350 square feet; (§ 776.4.)
- For an apartment house or multiple dwelling, parking is required at a ratio of one space for each four dwelling units; (§ 2101.1.)
- For a retail or service establishment (except gasoline service station and repair garage), parking is required at a ratio of one space for each 750 s.f. of gross floor area, in excess of 3,000 s.f.; (§2101.1)

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- For loading, an apartment house or multiple dwelling with 50 or more units is required to have one berth at 55 feet deep, one loading platform at 200 s.f., and one service delivery space at 20 feet deep; (§ 2201.1.)
- For loading, a retail or service establishment (other than a grocery store or drug store) with 5,000 to 20,000 s.f. of gross floor area is required to have one berth at 30 feet deep and one loading platform at 100 s.f.; and (§ 2201.1)
- A PUD in the C-3-C Zone District shall be subject to the following provisions, in addition to those of Chapter 24 of the Zoning Regulations:
 - The permitted maximum building height increases from 90 feet to 130 feet; (§ 2405.1); and
 - The maximum FAR increases from 6.0 to 8.0. (§ 2405.1)

F. Development Flexibility

32. *Roof Structure Requirements.* The project requires flexibility to permit multiple roof structures of unequal height on all three buildings. Additionally, flexibility is required to have rooftop structures on Building 1–Tower B and Building 2 that do not meet the required 1:1 setback.
33. *Loading Requirements.* The project requires flexibility from § 2201 of the Zoning Regulations, which requires each building to have one 55-foot berth, one 200 s.f. platform, and one service/delivery loading space. Under the PUD plans, Building 1 will have one 30-foot loading berth, one 100-square-foot platform and one service/delivery loading space; Building 2 will have one 30-foot loading berth, one 100-square-foot platform, and one service/delivery loading space; and Building 3 will not have any loading facilities.
34. *Rear yard for Building 3.* The Applicant proposes that Building 3 have a rear yard of 12'-3" where a minimum rear yard of 23' is required.
35. *Open court for Buildings 2 and 3.* The Applicant proposes that Building 2 have an open court that is 30'-1" where a minimum width of 36'-8" is required, and Building 3 have an open court that is 19'-5" where a minimum open court of 23' is required.
36. In addition, the Applicant seeks flexibility for the PUD as follows:

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- Flexibility to provide a range in the number of residential units, from 606 to 740;
- Flexibility to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
- Flexibility to vary the number, location and arrangement of parking spaces for the residential use, provided that the total parking is not reduced below the minimum level required under the Zoning Regulations; and
- Flexibility to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.

G. Length of First-Stage Approval

37. The Zoning Regulations provide that a first-stage PUD shall be valid for one year, unless a longer period is specified by the Commission. (11 DCMR § 2407.10.) The Applicant requested a 10-year time period of validity for the first stage. The Commission finds this acceptable.

H. Public Benefits and Amenities

38. The PUD will have the following benefits and amenities in the areas of urban design, architecture, landscaping, and the creation or preservation of open spaces (§ 2403.9(a)):
- a. On the south side of M Street, the Applicant will install permeable paver parking spaces and low impact development basins with plantings and street trees for stormwater management. This will be done during Phase 1 of the project;
 - b. The Applicant will construct a public dog park where 14th Street terminates at the project. This will be done during Phase 1 of the project. The estimated value of this improvement is \$25,000;

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- c. The Applicant will construct a public plaza at the termination of Virginia Avenue, and a monumental staircase leading to a lower plaza area that extends to Water Street across from the District Yacht Club. The public plaza is designed as an active gathering space and a connection to the waterfront. This will be done during Phase 2 of the project. The estimated value of this improvement is \$1,400,000; and
 - d. During the phased development, the project will include large green space for public use. Specifically, during Phase 1 of the project, there will be a lawn area at the termination of the pedestrian promenade along Virginia Avenue. Also, during Phase 1 of the project, there will be a large triangular green space on the west side of the project where Building 2 is proposed.
39. The PUD will have the following benefits and amenities in the areas of effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts (§ 2403.9(c)):
- a. The Applicant will improve M Street and construct an extension of Virginia Avenue south of M Street as well as construct an internal north-south private street. The roadway improvements will generate new on-street public parking. This will be done during Phase 1 of the project;
 - b. The Applicant will construct a sidewalk on the south side of M Street that extends the length of the Property. This will be done during Phase 1 of the project. The estimated value of this improvement is \$250,000;
 - c. The Applicant will construct an uninterrupted eight-foot-wide, paved Anacostia Riverwalk Trail segment along the north side of M Street that connects to the traffic circle near 13th Street, S.E. and the existing trail at 14th Street, S.E. This will be done during Phase 2 of the project. The estimated value of this improvement is \$250,000;
 - d. For that portion of M Street along the frontage of the Property, the Applicant will pave the entire width of the street. This will be done during Phase 2 of the project. Along with the installation of the permeable paver parking spaces and plantings, the estimated value of this improvement is \$1,000,000; and
 - e. The Applicant will construct a sidewalk along the north side of Water Street, extending from M Street to the lower plaza. This will be done

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during Phase 2 of the project. The estimated value of this improvement is \$250,000.

40. In response to community concerns and ANC 6B's request for better lighting on M and Water Streets, during Phase 1 of the project, and in subsequent phases, the Applicant will install lighting around the perimeter of the Property.
41. The PUD will have the following benefit in the area of employment and training opportunities (§ 2403.9(e)): the Applicant will enter into a First Source Employment Agreement with the Department of Employment Services.
42. The PUD has the following benefits and amenities in the areas of housing and affordable housing (§ 2403.9(f)):
 - a. The PUD will bring approximately 673 new residential units on a site where none is required through a matter-of-right development under the existing zoning. The addition of such a substantial amount of market rate and affordable housing will contribute to establishing the residential character of this area of Southeast; and
 - b. In response to ANC 6B's request for larger affordable units suitable for families, the developer will set aside in the Phase 1 building four two-bedroom units for households whose income does not exceed 60% of the area median income ("AMI"). The remaining affordable units -- a mix of studio and one-bedroom units -- will be for households with incomes not exceeding 80% AMI in accordance with the Inclusionary Zoning requirements. This affordable housing component will exist for the life of the project.

The subsidy required to provide two bedroom affordable dwelling units at 80% AMI as required under the Zoning Regulations amounts to \$326,000. The subsidy required to support the two bedroom units at 60% AMI as proffered by the Applicant amounts to \$131,000 additional per unit. Therefore, reserving all of the two-bedroom units in Phase 1 of the PUD at 60% AMI results in additional subsidy of \$524,000 for the project. This additional affordable housing subsidy is a benefit of the PUD, as described under Section 2403.9 of the Zoning Regulations.

43. The PUD will have the following environmental benefits and amenities (§ 2403.9(f)):
 - a. The plans for the project provide for the installation of a wildflower meadow along the Water Street right-of-way. The wildflower meadow

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provides an opportunity to increase plant biodiversity, create wildlife habitat, slow stormwater runoff, and stabilize slopes. The meadow also preserves some of the open space quality of the existing site while reactivating it with the new proposed design and clears out the overgrown and visually impairing vegetation currently along Water Street. This will be done during Phase 1 of the project;

- b. The project will include a rain garden framed by masonry walls with weirs cut to allow the water to pool and cascade into the next basin facilitating slow infiltration. Excess water during large rain events will terminate in the arroyo that will consist of stone or textured precast concrete plinths. These stacked plinths create a visually intriguing basin area for a small amount of water catchment before it then drains into an overflow cistern/tank below. This cistern could be potentially used for irrigation reuse or connect back into the overall stormwater conveyance system. The plants will be typical rain garden plants, specific to the region, that can withstand drought and wet conditions, as seen on Sheet 29 of the PUD Plans. These plants will have striking seasonal variation, minimal maintenance, and strong plant structure to prevent an unkempt appearance;
- c. The project will feature a water wall that uses the parking garage structure as a canvas. This wall will feature a patterned veneer showcasing an abstracted natural motif similar to the image on Sheet 27 of the PUD plans. This will create strong imagery visible from the river, but also maintain interest at the pedestrian level. In addition to the patterned veneer, a portion of the wall will be layered with a vegetated trellis system that then will progress into an evergreen planting zone to soften the edge of the wall. The estimated value of this feature is \$750,000;
- d. The Applicant commits that the project will fulfill or exceed LEED-Silver certification;
- e. The Applicant will provide at least one 240-volt electric car charging station in the Building 1 parking garage and at least one 240-volt electric car station in the Building 2 parking garage;
- f. The Applicant shall donate \$2,500 to the Anacostia Watershed Society to support the organization's efforts/events to clean up the Anacostia River; and
- g. The Applicant agrees that soil removed from the subject property will not be returned as landfill for the SE/SW Boulevard project.

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I. Mitigation of Traffic Impacts

44. The Applicant shall implement the following in order to mitigate any potential adverse traffic impacts:
- a. The Applicant will run a shuttle service either individually or as a collective with other stakeholders in the Capitol Riverfront BID between the Property and Navy Yard – Ball Park Metro Station. The shuttle service shall remain in operation until the Applicant and DDOT determine that there is sufficient pedestrian infrastructure and/or public transportation options such that the shuttle service is no longer warranted. The estimated value of this improvement is \$30,000 for the purchase of the shuttle vehicle and approximately \$150,000 per year to operate the shuttle service; and
 - b. The Applicant will implement the following transportation demand management measures in conjunction with the PUD:
 - A member of the property management team will be designated as the Transportation Management Coordinator (“TMC”). The TMC will be responsible for ensuring that information is disseminated to tenants of the building. The position may be part of other duties assigned to the individual;
 - Information on and/or links to transportation programs and services will be provided on the property management website. Such programs and services may include:
 - Capital Bikeshare;
 - Car-sharing services;
 - Uber;
 - Ridescout;
 - Commuter Connections Rideshare Program, which provides complimentary information on a variety of commuter programs to assist in determining which commuting options work best for commuters;

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- Commuter Connections Guaranteed Ride Home, which provides commuters who regularly (twice a week) carpool, vanpool, bike, walk, or take transit to work with a free and reliable ride home in an emergency;
 - Commuter Connections Pools Program, which incentivizes commuters who currently drive alone to carpool. Participants can earn money for carpooling to work and must complete surveys and log information about their experience;
 - DDOT's DC Bicycle Map;
 - goDCgo.com; and
 - WMATA;
- Make available at least two vehicle parking spaces for a carshare service if there is interest from a carshare service;
 - An electronic display will be provided in a common, shared space in the building and will provide public transit information such as nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital BikeShare locations indicating the number of bicycles available at each location;
 - Convenient and covered secure bike parking facilities will be provided with each phase of the development with storage for a minimum of 224 bicycles for the entire development. Bike stands will also be provided for public use along the extended Virginia Avenue, S.E. and M Street, S.E.;
 - At initial occupancy, the Applicant will provide each residential unit either a one-year Capital BikeShare membership or one-year car share membership. This amenity will be provided each time a residential unit turns over for a period of five years from the date the certificate of occupancy is issued for the Phase 1 building;
 - The Applicant shall submit to DDOT a study determining whether a five-year extension of the Capital BikeShare or car share

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membership for the Phase 1 building is warranted. The Applicant shall meet with DDOT prior to the issuance of the certificate of occupancy for the Phase 2 building to discuss the findings and assess whether the aforementioned benefit must be extended up to a period of an additional five years, but not exceeding five years. The study shall include and determination will be based on an evaluation as to whether additional pedestrian connectivity has been provided via the Southeast Boulevard project and whether additional transit service, such as streetcar or extension of Circulator or Metrobus routes, or the like has occurred. Additional transit service must provide stops within a quarter mile of the Property and provide minimum 15 minute headways during the AM and PM peak periods; and

- A minimum of 10 bicycle helmets will be made available for use by the residents;
- c. The Applicant commits to fund the installation of a Capital BikeShare Station adjacent to the PUD site plus one year of operating expenses for said station. The estimated value of this benefit is \$75,000; and
- d. The Applicant agrees to unbundle the parking costs for residents from the lease or purchase of the units.

J. Compliance with Guiding Principles of the Comprehensive Plan Amendment Act of 2006 (D.C. Law 16-300, effective March 8, 2007)

- 45 The Property is included in the Mixed Use Medium Density Commercial/Institutional land use category. The Medium Density Commercial land use designation is used to define shopping and service areas that are somewhat more intense in scale and character than the moderate-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation generally draw from a citywide market area. Buildings are generally larger and/or taller than those in moderate-density commercial areas but generally do not exceed eight stories of height. The corresponding zone districts are generally C-2-B, C-2-C, C-3-A, and C-3-B, although other districts may apply. (10 DCMR § 225.10.)
46. In this case, the PUD-related map amendment to the C-3-C Zone District is acceptable because the FAR for the proposed PUD is less than the FAR for a PUD in the previously listed zone districts. The C-3-C/PUD approval is necessary only to achieve a building height above 90 feet. The additional height

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allows for a decrease in the lot occupancy, which is less than half of that permitted in the previously listed zone districts.

47. The Property is located in the Near Southeast Land Use Change Area on the District of Columbia Comprehensive Plan Generalized Land Use Policy Map. The guiding philosophy in the Land Use Change Areas is to encourage and facilitate new development and to promote the adaptive reuse of existing structures. Many of the land use change areas have the capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks, and civic facilities. As land use change areas are redeveloped, the District aspires to create high quality environments that include exemplary site and architectural design and that are compatible with and do not negatively impact nearby neighborhoods.
48. The proposed rezoning and PUD redevelopment of the Property is consistent with the policies indicated in the Land Use Change Area. The proposed PUD is almost entirely residential and will have a maximum density of 4.14 FAR. This project will enliven this section of the Anacostia Waterfront, in a forgotten and underutilized area of the city. In contrast, the existing M zoning is inconsistent with the Policy Map's designation of the Property because M Zone Districts provide sites for heavy commercial and light manufacturing activities and requiring heavy machinery, with heavy truck traffic, and loading and unloading operations.
49. The PUD is consistent with the following policies of the Land Use Element of the Comprehensive Plan:
 - a. *Policy H-1.1.3: Balanced Growth.* Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low and moderate density single family homes as well as the need for higher density housing; and
 - b. *Policy H-1.1.4: Mixed Use Development.* Promote mixed-use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail stations.
50. The PUD is consistent with the following policies of the Urban Design Element of the Comprehensive Plan:

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- a. *Policy UD-1.3.1: DC as a Waterfront City.* Strengthen Washington's civic identity as a waterfront city by promoting investment along the Anacostia River, creating new water-related parks, improving public access to and along the shoreline, and improving the physical and visual connections between the waterfront and adjacent neighborhoods; (10 DCMR § 905.5.)
 - b. *Policy UD-1.3.2: Waterfront Public Space and Access.* Develop public gathering spaces along the waterfronts, including promenades, viewpoints, boating and swimming facilities, and parks. Such space should be designed to promote continuous public access along the rivers, and to take full advantage of site topography and waterfront views. Design treatments should vary from “hardscape” plazas in urban settings to softer, more passive open spaces that are more natural in character; (10 DCMR § 905.6.)
 - c. *Policy UD-1.3.3: Excellence in Waterfront Design.* Require a high standard of design for all waterfront projects, with an emphasis on shoreline access, integration of historic features and structures, an orientation toward the water, and the creation of new water-oriented public amenities; (10 DCMR § 905.7.)
 - d. *Policy UD-1.3.6: “Activating” Waterfront Spaces.* Encourage design approaches, densities, and mixes of land uses that enliven waterfront sites. Architectural and public space design should be conducive to pedestrian activity, provide a sense of safety, create visual interest, and draw people to the water; and (10 DCMR § 905.11.)
 - e. *Policy UD-1.3.7: Neighborhood Connectivity.* Improve the physical connections between neighborhoods and nearby waterfronts. Where feasible, extend the existing city grid into large waterfront sites to better connect nearby developed areas to the shoreline. (10 DCMR § 905.12.)
51. The PUD is consistent with the following policies of the Lower Anacostia Waterfront/Near Southwest Area Element of the Comprehensive Plan:
- a. *Policy AW-2.3.1: Restoring the Urban Pattern of the Near Southeast.* Encourage high-density mixed use development an open space on newly configured parcels, with new buildings designed and oriented to make the most of their waterfront or near-waterfront settings; (10 DCMR § 1913.7.)

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- b. *Policy AW-2.3.2: Near Southeast Shoreline Access.* Improve shoreline access and movement to and through the Near Southeast by eliminating real and perceived barriers, improving public space and street corridors, reducing the amount of land occupied by surface parking and industrial uses, and encouraging new land uses that maximize public activity near the waterfront; (10 DCMR § 1913.8.)
- c. *Policy AW-2.3.3: Near Southeast Housing Opportunities.* Significantly increase residential land uses in the Near Southeast, particularly in the Southeast Federal Center, Capper Carrollsburg, Canal Blocks, and South Capitol Gateway areas. Consistent with the existing zoning for these areas, mixed use development that includes housing as well as commercial uses should be strongly encouraged. The mix of housing should accommodate residents of all incomes and household types; (10 DCMR § 1913.9.)
- d. *Policy AW-2.3.4: M Street Southeast.* Transform M Street into an attractive pedestrian-oriented thoroughfare, lined with retail shops and services, with upper story office, hotels and residential uses. The street itself should be designed as a multi-modal boulevard, accommodating pedestrians, bicycles and transit vehicles as well as cars. It should strengthen connections between the Near Southeast, Southwest, and Capitol Hill; and (10 DCMR § 1913.10.)
- e. *Policy AW-2.3.6: Near Southeast Urban Amenities.* Leverage new development in the Near Southeast to create amenities such as parks, trails, child care facilities, civic uses, and retail space that serve the area's residents and workforce. (10 DCMR § 1913.12.)

K. OP Reports

- 52. By report dated February 28, 2014, OP recommended that the Commission set down the Application for a public hearing. (Ex. 7.)
- 53. By report dated November 21, 2014, OP recommended the approval of the Application with two conditions: (a) the Applicant provide a one-year membership for a bike or car share service to one resident in each unit each time the lease or ownership of the unit changes hand, which is an expansion of the Applicant's original proffer; and (b) the Applicant enter into a CBE Agreement. (Ex. 19.)

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54. OP issued a supplemental post-hearing report dated January 5, 2015, addressing comments issued by the Commission at the public hearing. The report affirmed OP's report of the Application. (Ex. 37.)

L. DDOT Report

55. DDOT issued a report dated November 24, 2014. The report included a review of the Applicant's proposed mitigation measures and DDOT's recommended conditions for inclusion into the PUD. (Ex. 22.)
56. DDOT issued a supplemental report, dated January 5, 2015, responding to the Applicant's revised TDM proposal and responses to DDOT's conditions included in the Post-Hearing Submission dated December 22, 2014. (Ex. 38.)

M. DDOE Report

57. DDOE issued a report dated October 27, 2014. The report includes guidance on regulations, DDOE areas of interest and recommendations for areas where the Applicant could exceed guidelines as a public amenity or benefit. (Ex. 18.)

N. ANC Reports

58. On November 20, 2014, ANC 6B submitted a report stating that, at a properly noticed meeting with a quorum present, the ANC voted unanimously to support the Application and approve a memorandum of understanding between the Applicant and ANC. Attached to the report was a copy of the memorandum of understanding. (Ex. 20.)
59. On December 22, 2014, ANC 6B submitted a second report stating that, at a properly noticed meeting with a quorum present, the ANC voted unanimously to re-affirm its support for the Application. The report stated that the draft findings of fact and conclusions of law submitted by the Applicant incorporated the relevant provisions of the memorandum of understanding between the Applicant and the ANC. (Ex. 36.)

O. Post-Hearing Submissions

60. On December 10, 2014, Ms. Karen Harris filed a letter and petition in opposition to the project on behalf of the homeowners and residents of the 1300 block of L Street, S.E. (Ex. 32.) The letter expressed concerns about the following aspects of the project: building heights, impact on light and air, the transient environment created with a rental project versus condominium project, transportation impacts, retail uses, length of time for construction and the construction times, proposed

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density, community benefits, the pedestrian bridge and Southeast Boulevard project, flooding, and noise from trains on the nearby CSX railroad tracks. Twenty-three persons residing on the 1300 block of L Street, S.E. signed a petition attached to Ms. Harris' letter.

- 61 On December 22, 2014, the Applicant filed a post-hearing submission, which included the following (Ex. 34):
- a. FAR calculations for the project that include and exclude the area of the private road extending between M Street and Virginia Avenue;
 - b. Floor area calculations for the accessory use in the penthouse for each building;
 - c. Additional drawings and details for the "Boathouse Row" marker at the top of Building 1-Tower A;
 - d. Details on the proposed phasing of the development of the project;
 - e. A revised proffer related to the Transportation Demand Measures;
 - f. A roof plan showing the additional setback for the penthouse on Building 1-Tower A and the type of lighting proposed for the penthouse area;
 - g. A plan for the rooftop mechanical equipment;
 - h. A table with a list of the conditions proposed by DDOT and acceptable to the Applicant;
 - i. Response to the Commission's comments regarding LEED certification for the project;
 - j. An updated solar study that includes the rooftop penthouse;
 - k. Details of the construction management plan agreed upon by ANC 6B;
 - l. Written response to the comments in the DDOE memorandum dated October 27, 2014; and
 - m. An explanation of the improvements that are being proffered as a public benefit versus required mitigation for the project and the estimated value of the proposed improvements.

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62. On December 22, 2014, the Applicant filed a response to the letter and petition filed by Ms. Karen Harris on behalf of the residents of the 1300 block of L Street. (Ex. 33.) In its response, the Applicant proffered the following to address the concerns raised by Ms. Harris:
- a. Prohibit fast food national chain restaurants in the retail space for the project;
 - b. Applicant will use best efforts to attract a small grocer to the retail space for the project;
 - c. Applicant agrees to contribute \$500¹ on an annual basis to the Anacostia Watershed Society to support the organization's effort for the "Anacostia River Clean Up Days"; and
 - d. The Applicant agrees that soil removed from the subject property will not be returned as landfill for the SE/SW Boulevard project.
63. On December 22, 2014, the Applicant submitted draft findings of fact and conclusions of law. (Ex. 35.)
64. On January 29, 2015, the Applicant submitted its list of proffers and draft conditions. (Ex. 39, 40.)
65. On February 2, 2015, the Applicant filed a second post-hearing submission, which included the following (Ex. 41):
- a. A revised lighting plan for the Phase 1 building;
 - b. Revised renderings of the "Boathouse Row" marker proposed at the top of the Phase 1 building;
 - c. Clarification of the Applicant's proffer of a contribution to the Anacostia Watershed Society;
 - d. The agreement reached between the Applicant and DDOT related to the proffer of the Capital BikeShare/CarShare membership for residents of the project; and
 - e. A summary of the Applicant's recent discussions with Karen Harris.

¹ This proffer was changed to a single payment of \$2,500 to be made prior to the certificate of occupancy, along with proof that the contribution was or is being used for the intended purpose in order to meet the requirements of § 2403.6.

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66. On February 2, 2015, Ms. Harris filed a letter with the Commission, summarizing the Applicant's response to the comments and concerns raised by the residents on the 1300 block of L Street. (Ex. 42.)
67. On February 9, the Applicant submitted its final list of proffers and conditions and its draft findings of fact and conclusions of law. (Ex. 43A, 43B.)
68. On February 11, 2015, the Applicant submitted a request for a rule waiver to allow it to submit its final list of proffers and conditions after the deadline established by the Zoning Regulations, and also enclosing a revised version of its draft findings of fact and conclusions of law. (Ex. 45.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. A comprehensive public review by the Commission of the specific development proposal is required in order to evaluate the public benefits offered in proportion to the flexibility or incentives requested, and in order to establish a basis for long-term public control over the specific use and development of the Property. (11 DCMR § 2400.3.)
3. The Commission may approve a PUD application, with or without modifications. In carrying out the purposes of the Zoning Regulations, the Commission may establish general standards and, in individual cases, set standards and conditions for height and bulk lesser or greater than the standards established for the affected districts under the Zoning Regulations or elsewhere in the Zoning Regulations. (11 DCMR § 2400.5.)
4. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations, which is to encourage the development of well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The uses for this project are appropriate for the Property. The impact of the project on the surrounding area and the operation of city services are acceptable given the quality of the public benefits in the project.

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6. The Commission finds that the Applicant's request for a PUD-related map amendment from the M Zone District to the C-3-C Zone District and to construct a mixed-use development on the Property is not inconsistent with the Comprehensive Plan.
7. The Applicant's request for flexibility from the Zoning Regulations is not inconsistent with the Comprehensive Plan. Moreover, the project benefits and amenities are in proportion to the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and conditions expressed in the written report of an affected ANC. In this case, ANC 6B voted unanimously to support the Application and recommended that the Commission approve the application. (Ex. 20.) In its second report, the ANC stated that the draft order submitted by the Applicant incorporated the relevant provisions of the memorandum of agreement between the Applicant and the ANC. (Ex. 36.) The Commission has adopted the portions of the Applicant's draft order that incorporate the relevant terms of the memorandum of agreement as conditions of this Order. The Commission has given ANC 6B's recommendation great weight in approving the modification application.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
11. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the first-stage application for the planned unit development for the property located at 1333 M Street, S.E., and more particularly described as Square 1025-E, Lot 82; Square 1048-S, Lots 1, 801 and 802; RES 129; and RES 299, a related map amendment to rezone the Property, from the M to C-3-C Zone

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District, and the consolidated planned unit development for Phase 1 of the project, subject to the following guidelines, conditions and standards.

A. Project Development

1. ***First-Stage PUD Plans.*** The overall project shall be developed in accordance with the plans titled “Planned Unit Development in Four Phases” dated July 25, 2014, and prepared by GTM Architects, Inc., and marked as Exhibits 10A1–10A4 of the record, as modified by Sheets 7, 30 and 43, dated 11-11-14 and marked as Exhibit 17A of the record (the “First-Stage PUD Plans”).
2. ***Phase 1 Plans.*** Phase 1 of the project shall be developed in accordance with the plans entitled “Consolidated PUD Portion for Phase 1 Only | Bldg 1, Tower A” dated July 25, 2014, and prepared by GTM Architects, Inc., and marked as Exhibits 10B1–10B7 of the record, as modified by Sheets 7 and 41 dated 11-11-14 and marked as Exhibit 17B of the record; the Phase 1 Typical Floor Plan and Roof Plan dated 12-22-14 and marked as Exhibit 34B of the record; the Mechanical Roof Plan dated 1-10-14 and marked as Exhibit 34D of the record; the Lighting Plan dated 02-02-15 and marked as Exhibit 41A of the record; and Option 1 of the “Boathouse Row Marker” as depicted on Sheet 1 of the architectural drawings dated 02-02-2015 and marked as Exhibit 41B of the record (the “Phase 1 Plans”). The “Boathouse Row Marker” shall not be illuminated.
3. ***Overall Height & Density.*** The overall project shall be developed in four phases and include three residential buildings that shall house approximately 673 residential units. The project shall also have approximately 10,370 square feet of retail uses. The project shall have a minimum of 221 parking spaces. The building heights shall range from 90 to 110 feet; the maximum FAR for the project shall be 4.14; and the overall lot occupancy shall be 45%.
4. ***Phase 1 Height & Density.*** Phase 1 of the project includes the construction of a 10-story residential tower containing approximately 181,911 square feet generating approximately 218 dwelling units. The building shall have an underground parking garage with approximately 67 spaces, and 44 surface parking spaces shall be provided on what is depicted as “Theoretical Lot 2” on the Phase 1 Plans. For Phase 1 of the project, the building height shall be 100 feet; the FAR shall be 2.27; and the lot occupancy shall be 20.6%.
5. ***Construction Management Plan.*** The Applicant shall have a Construction Management Plan for the project that includes the following restrictions:
 - a. **Hours.** Applicant, its tenants, and contractors shall not engage in any construction activities, other than emergency repairs, before 7:00 a.m. and

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after 7:00 p.m. Monday - Friday, or before 8:00 a.m. and after 7:00 p.m. on Saturday. Developer and its contractors shall not engage in any construction work on Sunday;

- b. Construction Worker Parking. Applicant, its tenants, and contractors shall provide adequate on-site parking for construction workers during all phases of this project;
 - c. Trash Removal. Applicant, or its tenants, shall promptly remove all trash and construction debris from the public space located between the property line and the adjacent curb; and
 - d. Community Liaison. Applicant, or its tenants, shall establish a Point of Contact (“POC”) who shall serve as the Community Liaison. The POC’s duties shall include, but are not limited to, answering community questions regarding the project and solving issues arising from construction. The POC’s contact information shall be widely available throughout the community.
6. ***Loading Management Plan***. The Applicant shall have a loading management plan for the project that includes the following restrictions:
- a. Designate a member of the on-site management team as a loading coordinator;
 - b. Require all tenants to use the on-site loading facilities for move-in/move-out activities;
 - c. Restrict all tenants from using trucks longer than 30 feet;
 - d. Require all tenants to notify the loading coordinator ahead of planned loading activities;
 - e. In the event that trucks longer than 30 feet are required, emergency no parking signs from DDOT are available, if necessary;
 - f. Secure DDOT permits for oversize and overweight vehicles;
 - g. Prohibit truck idling; and
 - h. A flagger shall be present whenever a vehicle is entering/exiting the loading dock. The flagger shall alert pedestrian/bicyclists/other vehicles to trucks that may be entering or exiting the loading facilities.

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7. ***Flexibility for Roof Structures.*** The Applicant has flexibility from §§ 411 and 770.6 of the Zoning Regulations to have roof structures that are not enclosed within walls of equal height, to the extent depicted in the plans for the project.
8. ***Flexibility for Loading.*** The Applicant has flexibility from § 2201 of the Zoning Regulations to provide for Buildings 1 and 2, respectively, one 30-foot loading berth, one 100-square-foot loading platform, and one service/delivery loading space where the Zoning Regulations require one 55-foot loading berth, one 200-square-foot loading platform, and one service/delivery loading space. Additionally, the Applicant has flexibility to construct Building 3 without any loading facilities where one 55-foot loading berth, one 200-square-foot loading platform, and one service/delivery loading space are required.
9. ***Flexibility for Rear Yard, Building 3.*** The Applicant has flexibility to provide for Building 3 a rear yard of 12'-3" where a rear yard of 23' is required.
10. ***Flexibility for Open Court, Building 2.*** The Applicant has flexibility to provide for Building 2 an open court of 30'-1" where an open court of 36'-8" is required.
11. ***Flexibility for Open Court, Building 3.*** The Applicant has flexibility to provide for Building 3 an open court of 19'-5" where 23' is required.
12. ***Range in Number of Units.*** The Applicant has flexibility to have a range in the number of residential units from 606 to 740.
13. ***Flexibility for Interior Components.*** The Applicant has flexibility to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building.
14. ***Flexibility for Garage.*** The Applicant has flexibility to make refinements to the garage configurations, including layout, number of parking spaces, and/or other elements, as long as the project provides a minimum of 221 parking spaces.
15. ***Flexibility for Exterior Materials.*** The Applicant has flexibility to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtain wall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.

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16. The following uses, even though permitted within the C-3-C Zone District as a matter of right or with special exception approval by the BZA, shall not be permitted as part of the PUD: the sale of any pornographic material; a check-cashing establishment; a pawnbroker; a night club; or national fast food chain restaurants.
17. The Applicant commits to using best efforts to attract a small grocery store in the retail space of the project.

B. Public Benefits and Project Amenities

Public Space/Open Space Improvements

1. **Prior to the issuance of a certificate of occupancy for Building 1-Tower A (Phase 1)**, Applicant shall install permeable paver parking spaces and low-impact development basins with plantings and street trees for stormwater management on the south side of M Street. The final design of these improvements shall comply with DDOT standards and shall be subject to review and approval by DDOT through the public space permitting process.
2. **Prior to the issuance of a certificate of occupancy for Building 1-Tower A (Phase 1)**, Applicant shall install a wildflower meadow along the Water Street right-of-way.
3. **Prior to the issuance of a certificate of occupancy for Building 1-Tower A (Phase 1)**, Applicant shall construct a public dog park where 14th Street terminates at the project, as shown in the Phase 1 Plans.
4. **Prior to the issuance of a certificate of occupancy for Building 1-Tower A (Phase 1)**, Applicant shall improve M Street and construct an extension of Virginia Avenue south of M Street as well as construct an internal north-south private street. The final design of these improvements shall comply with DDOT standards and shall be subject to review and approval by DDOT.
5. **Prior to the issuance of a certificate of occupancy for Building 1-Tower A (Phase 1)**, Applicant shall construct a sidewalk on the south side of M Street that extends the length of the Property. The final design of the sidewalk shall comply with DDOT standards and shall be subject to review and approval by DDOT.
6. **Prior to the issuance of a certificate of occupancy for Building 1-Tower B (Phase 2)**, Applicant shall construct an uninterrupted eight-foot-wide, paved Anacostia Riverwalk Trail segment along the north side of M Street that connects to the traffic circle near 13th Street, S.E. and the existing trail at 14th Street, S.E..

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The final design of the trail shall comply with DDOT standards and shall be subject to review and approval by DDOT.

7. **Prior to the issuance of a certificate of occupancy for Building 1-Tower B (Phase 2)**, for that portion of M Street along the frontage of the Property, the Applicant shall pave the entire width of the street. This improvement shall comply with DDOT standards and shall be subject to review and approval by DDOT.
8. **Prior to the issuance of a certificate of occupancy for Building 1-Tower B (Phase 2)**, Applicant shall construct a public plaza at the termination of Virginia Avenue, and a monumental staircase leading to lower plaza area that extends to Water Street across from the District Yacht Club, as shown in the First-Stage PUD Plans. The public plaza is designed as an active gathering space and a connection to the waterfront. The final design of the plaza and staircase shall comply with DDOT standards and shall be subject to review and approval by DDOT.
9. **Prior to the issuance of a certificate of occupancy for Building 1-Tower B (Phase 2)**, Applicant shall construct a sidewalk along the north side of Water Street, extending from M Street to the lower plaza. The final design of the sidewalk shall comply with DDOT standards and shall be subject to review and approval by DDOT.
10. **For the life of the project**, Applicant shall bear maintenance responsibility for those improvements extending from the property down to the public space at Water Street providing a connection to the Anacostia Waterfront that are outside of the property line and within the public space, including but not limited to the portion of the lower plaza and promenade paving pattern at the base of the monumental stair that are outside of the property line and within the public space.

Affordable Housing

11. As required under Chapter 26 of the Zoning Regulations, at least eight percent of the residential gross floor area in the Phase 1 building shall be reserved as inclusionary zoning units. Applicant shall set aside in the Phase 1 building four two-bedroom units for households whose income does not exceed 60% AMI. The remaining affordable units -- a mix of studio and one-bedroom units -- shall be for households with incomes not exceeding 80% AMI in accordance with the Inclusionary Zoning requirements. **This affordable housing component shall be maintained for the life of the project.**

Sustainable Design Elements/Environmental

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12. **Prior to the issuance of a certificate of occupancy for Phase 2 of the PUD**, the Applicant shall construct a bioretention rain garden along the Water Street boundary of the Property, as seen on Sheet 29 of the PUD Plans, and a water wall that uses the parking garage structure as a canvas. This wall shall feature a patterned veneer showcasing an abstracted natural motif similar to the image on Sheet 27 of the PUD Plans.
13. **Prior to the issuance of a certificate of occupancy for each building phase of the PUD**, the Applicant shall furnish a copy of its LEED certification application to the Green Building Certification Institute. The PUD shall fulfill or exceed LEED- Silver certification.
14. The Applicant shall provide at least one 240-volt electric car charging station in the Building 1 parking garage and at least one 240-volt electric car charging station in the Building 2 parking garage. **The car charging stations shall be installed prior to the issuance of the certificate of occupancy for the respective buildings.**
15. **Prior to the issuance of a certificate of occupancy for the Phase 1 building**, the Applicant shall donate \$2500 to the Anacostia Watershed Society to support the organization's efforts/events to clean up the Anacostia River, and submit a letter to the Zoning Administrator from the Anacostia Watershed Society stating that the funds were used, or are being used, to support the organization's efforts/events to clean up the Anacostia River.
16. The Applicant agrees that soil removed from the subject property shall not be returned as landfill for the SE/SW Boulevard project. The Applicant shall provide evidence of compliance with this condition prior to the certificate of occupancy for each building phase.

Perimeter Lighting and Lighting Plan

17. **During Phase 1 of the project, and in subsequent phases**, Applicant shall install lighting around the perimeter of the Subject Property, in response to community concerns and ANC 6B's request for better lighting on M and Water Streets. The lighting shall be installed prior to the issuance of the certificate of occupancy for the building programmed for the respective phases of development for the project. The Applicant shall provide a lighting plan with each of its second stage applications.

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Employment

18. **Prior to the issuance of a building permit for Building 1-Tower A (Phase 1)**, the Applicant shall enter into a First Source Employment Agreement with the District Department of Employment Services.

C. **Traffic Mitigation**

Shuttle Service

1. **Starting at the issuance of a certificate of occupancy for the Phase 1 building and during the operation of the project**, for as long as warranted, the Applicant shall run a shuttle service either individually or as a collective with other stakeholders in the BID between the Subject Property and Navy Yard – Ball Park Metro Station. The shuttle service may be terminated when the Applicant and DDOT determine that there is sufficient pedestrian infrastructure and/or public transportation options such that the shuttle service is no longer warranted.
2. At the outset of operation, the shuttle shall have a minimum capacity of 18 seats (which meets the projected demand for Phase 1 and Phase 2). Prior to Phase 2, and each subsequent phase, the Applicant shall reassess the capacity to ensure that capacity can accommodate the demand.
3. At a minimum, headways shall be between 10-15 minutes for the peak period; and at a minimum the hours of operation should be over three hours during the AM and PM peak periods, generally 7:00 a.m. to 10:00 a.m. and 4:00 p.m. to 7:00 p.m. The shuttle pick-up/drop-off areas in public space shall be coordinated with DDOT.

Transportation Demand Management Measures

4. Applicant shall implement the following transportation demand management measures in conjunction with the PUD:
 - A member of the property management team shall be designated as the Transportation Management Coordinator (“TMC”). The TMC shall be responsible for ensuring that information is disseminated to tenants of the building. The position may be part of other duties assigned to the individual.
 - Information on and/or links to transportation programs and services shall be provided on the property management website. Such programs and services may include:

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- Capital Bikeshare;
 - Car-sharing services;
 - Uber;
 - Ridescout;
 - Commuter Connections Rideshare Program, which provides complimentary information on a variety of commuter programs to assist in determining which commuting options work best for commuters;
 - Commuter Connections Guaranteed Ride Home, which provides commuters who regularly (twice a week) carpool, vanpool, bike, walk, or take transit to work with a free and reliable ride home in an emergency;
 - Commuter Connections Pools Program, which incentivizes commuters who currently drive alone to carpool. Participants can earn money for carpooling to work and must complete surveys and log information about their experience;
 - DDOT's DC Bicycle Map;
 - goDCgo.com; and
 - WMATA;
- An electronic display shall be provided in a common, shared space in the building and shall provide public transit information such as nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital BikeShare locations indicating the number of bicycles available at each location;
 - Starting with the occupancy of the Phase 1 building and for the life of the project, a minimum of 10 bicycle helmets shall be made available for use by the residents of the project;
 - Coordinate with local businesses and service providers to promote delivery services for residents; and
 - Unbundle parking costs from the price of lease or purchase of the units.

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Bicycle Parking

5. Convenient and covered secure bike parking facilities shall be provided with each phase of the development with storage for a minimum of 224 bicycles for the entire development. Bike stands shall also be provided for public use along the extended Virginia Avenue, S.E. and M Street, S.E. The facilities and stands shall be available for the life of the project.

Bike/Car Share Memberships

6. At initial occupancy of each unit, the Applicant shall provide each residential unit either a one year Capital BikeShare membership or one year car share membership. This amenity shall be provided each time a residential unit turns over for a period of five years from the date the certificate of occupancy is issued for the Phase 1 building. **Prior to the issuance of a certificate of occupancy for the Phase 1 building**, the Applicant shall provide the Zoning Administrator a copy of the form lease agreement or similar evidence of said amenity being offered to residents.
7. This amenity shall be extended for additional five years from the date of the certificate of occupancy is issued for the Phase 1 building, if DDOT requires to the extension in writing. DDOT shall base its extension decision on the results of a study submitted by the Applicant, assessing whether additional pedestrian connectivity has been provided via the Southeast Boulevard project and whether additional transit service, such as streetcar or extension of Circulator or Metrobus routes, or the like has occurred. Additional transit service must provide stops within a quarter mile of the Property and provide minimum 15 minute headways during the AM and PM peak periods.

Car Sharing Spaces

8. Make available at least two vehicle parking spaces for a carshare service if there is interest from a carshare service. The spaces shall be reserved until the issuance of a certificate of occupancy for the Phase 2 building. At that time, if the spaces are not utilized by a carshare service, they can be released for general use by residents and guests of the project.

Capital BikeShare Station

9. **Prior to the issuance of a building permit for the Phase 2 building**, the Applicant shall fund the installation of a Capital BikeShare Station adjacent to the PUD site plus one year of operating expenses for said station.

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D. Miscellaneous

1. No building permit shall be issued for Phase 1 of the project until the Applicant has recorded a PUD covenant in the land records of the District of Columbia, between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General. Such covenant shall bind the Applicant and all successors in title to construct on and use the Property in accordance with this Order or amendment thereof by the Commission.
2. The approval of the consolidated PUD for Phase 1 of the project shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit for Phase 1 as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order. Failure to take these actions shall result in the expiration of the consolidated PUD approval for Phase 1 as of the applicable date.
3. The first-stage approval of the PUD shall be valid for a period of 10 years. Within such time, the Applicant shall have filed second-stage applications for Phases 2, 3, and 4 of the project.
4. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 *et seq.* (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On January 12, 2015, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the Application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On February 23, 2015, upon the motion of Commissioner Miller, as seconded by Vice Chairperson Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on April 24, 2015.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION CORRECTED¹ ORDER NO. 13-14(1)**

Z.C. Case No. 13-14

**Vision McMillan Partners, LLC and
Office of the Deputy Mayor for Planning and Economic Development
(First-Stage PUD, Consolidated PUD, and Related Map Amendment
@ Square 3128, Lot 800 - McMillan Reservoir Slow Sand Filtration Site)
November 10, 2014**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held public hearings on May 1, May 5, May 8, May 13, and May 27, 2014, to consider an application for a first-stage and consolidated planned unit developments ("PUD") and related map amendment ("Application") filed by Vision McMillan Partners, LLC and the District of Columbia, the current owner of the property, through the Office of the Deputy Mayor for Planning and Economic Development ("DMPED"), (together the "Applicant"). The Application is for a major redevelopment project at the McMillan Reservoir Slow Sand Filtration Site, located at 2501 First Street, N.W., Washington, D.C. (Square 3128, Lot 800) in Washington, D.C. (the "PUD Site"). The PUD Site is bounded by North Capitol Street to the east, Michigan Avenue to the north, First Street to the west, and Channing Street to the south, all in the northwest quadrant of Washington, D.C.

FINDINGS OF FACT

The Application, Parties, and Hearings

1. On November 22, 2013, the Applicant filed an application with the Commission for first-stage and consolidated review of PUDs and a related map amendment to zone the northern portion of the PUD Site to the C-3-C Zone District for a depth of 277 feet, as measured from the center of the curb at Michigan Avenue, N.W., and the remainder of the PUD Site to the CR Zone District. The first-stage PUD seeks approval of the master plan for the PUD Site, while the consolidated PUD requests approval of five of the seven development parcels. The PUD Site contains approximately 1,075,356 square feet (24.69 acres) of land area and is presently unzoned. On December 2, 2013, notice of the filing was published in the *D.C. Register* and was mailed to Advisory Neighborhood Commissions ("ANC") 5E, 5A, and 1B.
2. The PUD Site is divided into seven distinct Parcels. Parcel 1 is located at the north portion of the PUD Site, and will be improved with a healthcare facility with ground-floor retail (the "Healthcare Facility") and a park above a preserved water filtration cell ("Cell 14"). Parcel 4, fronting on North Capitol Street at the center of the PUD Site will

¹This is a corrected version of the Zoning Commission Order (the "Order") previously published in the April 17, 2015 edition of the *D.C. Register*. The Order was corrected to make the following changes: (1) revise Finding of Fact ("FF") No. 94(a) to reflect changes to the proffers made by the Applicant through its filing dated August 25, 2014 (Exhibits 849, 849C); (2) revise references in FF Nos. 94(c) and 94(d) from the "project association" to the "Partnership, as defined by Finding of Fact No. 75"; (3) indicate that the Partnership, as defined by Finding of Fact No. 75, is the recipient of the Funds in FF No. 94(e); and (3) amend FF No. 94(f) to reflect changes to the proffers made by the Applicant in response to a comment from the Office of the Attorney General.

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- be developed with a mixed-use, multi-family residential building with a ground floor-grocery store ("Multi-Family/Grocery Building"). Approximately 146 individual row dwellings are proposed for Parcel 5 (the "Rowhouses"). The south one-third of the PUD Site, known as Parcel 6, will be developed as an eight acre park ("Park") including a 6.2 acre green space, a community center building, and the South Service Court comprised of historic structures to be retained and restored. Lastly, the North Service Court, also known as Parcel 7 and located immediately south of Parcel 1, will be comprised of retained and restored historic resources. Future second-stage applications will include a mixed-use, multi-unit residential building on Parcel 2 with ground-floor retail, and a mixed-use commercial building on Parcel 3 with healthcare uses and ground-floor retail.
3. The PUD Site is part of the larger McMillan Reservoir and Filtration complex, a 92-acre facility comprised of a reservoir, the slow sand filtration facility, and a pumping station, all of which were constructed at the turn of the twentieth century by the U.S. Army Corps of Engineers. The entire complex is listed as an individual landmark in the D.C. Inventory of Historic Sites and as a Historic District in the National Register of Historic Places.
 4. The Applicant's development team is comprised of Trammell Crow Company, EYA, and JAIR LYNCH Development Partners (collectively "Vision McMillan Partners" or "VMP"). In 2007, the Applicant was selected among five bidders by the National Capital Revitalization Corporation, which was later dissolved and the city, acting through DMPED, assumed control and awarded the right to develop and implement a master plan for the adaptive re-use of the PUD Site in partnership with the District. A Development Management Agreement ("DMA") was signed between DMPED and VMP, with VMP agreeing to perform and provide the following services: General Master Development Planning; Lead Design Process; Lead Community Engagement Process; Lead Regulatory Approval Preparation Process; and to create a Fiscal Impact Analysis and Public Finance Plan. Additionally, under an Exclusive Rights Agreement ("ERA") with the city, the Applicant has the exclusive right to negotiate for the acquisition and development of the vertical components of the PUD Site designated for Developer Uses. As such, the Applicant is required to construct a mix of uses on the PUD Site, including housing, affordable housing, home ownership opportunities, new neighborhood serving retail, and open spaces and parks that respect the historic property.
 5. VMP and the District of Columbia will enter into a Land Disposition Agreement ("LDA") setting forth the terms for the transfer of ownership of the development pads for the Healthcare Facility, the Multi-Family/Grocery Building, and the Rowhouses to VMP, and the terms for management and operation of the PUD Site. The LDA process will conclude after final review by the Commission and the Mayor's Agent for Historic Preservation ("Mayor's Agent").

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6. By report dated January 17, 2014, the Office of Planning ("OP") recommended that the Application be set down for a hearing. At its public meeting held on January 27, 2014, the Commission voted to schedule a public hearing on the Application. At that same time, the Commission determined to hear the case over multiple sessions given the breadth and scope of the project. On February 10, 2014, the Commission approved the following hearing schedule, with the caveat that transportation would be discussed at every hearing night:

<u>Hearing Date</u>	<u>Topic</u>
May 1, 2014	Stage 1 Master Plan, Open Spaces and Parks, and Community Center (Parcels 6 and 7)
May 5, 2014	Multi-Family/Retail Building (Parcel 4) and Rowhouses (Parcel 5)
May 8, 2014	Healthcare Facility (Parcel 1)
May 13, 2014	Continuation Hearing (if needed)

The Commission established separate deadlines for requests for party status for each segment of the hearing. A fifth and final hearing night was added for May 27, 2014, to receive additional testimony due to a lack of time on previous hearing nights, and to allow for the Applicant to present rebuttal testimony and closing statements.

7. On February 18, 2014, the Applicant submitted a prehearing statement for the first-stage and consolidated PUD and related map amendment, along with updated zoning calculations and site plans. (Exhibits ["Ex."] 17-17H). The Applicant also filed a supplemental statement with additional architectural drawings and information on April 11, 2014. (Ex. 32-32G.)
8. A description of the proposed development and notice of the hearing was published in the *D.C. Register* on March 7, 2014. The public hearing notice was mailed to all property owners within 200 feet of the PUD Site as well as to ANCs 5E, 5A, and 1B.
9. The parties to each segment of the hearing were the Applicant, ANC 5E, the ANC in which the PUD Site is located, and Friends of McMillan Park ("FOMP"). FOMP is a nonprofit organization dedicated to preserving, restoring, and adaptively reusing the PUD Site. On April 17, 21, and 24, 2014, FOMP filed individual requests for party status to appear in opposition to the each of the development parcels scheduled to be reviewed on separate hearing nights. At each of the three hearing nights on May 1, 5, and 8, 2014, the Commission granted party status for FOMP.

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10. On April 22, 2014, and May 1 and 5, 2014, the McMillan Coalition for Sustainable Agriculture filed individual requests for party status to appear in opposition to the each of the development parcels scheduled to be reviewed on separate hearing nights. At each of the three hearing nights on May 1, 5, and 8, 2014, the Commission denied the party status request for not meeting the requirements under the Commission's rules. At the May 8th hearing night, the Commission re-deliberated at length about whether to grant party status to the McMillan Coalition for Sustainable Agriculture. However, no representative from the Coalition was present at the hearing to answer questions from the Commission, and therefore the Commission denied the party status request.
11. By letter dated May 6, 2014, ANC 5E stated its intent to continue to negotiate with the Applicant to reach an equitable and appropriate Community Benefits Agreement ("CBA") that reflects a compilation of input from the ANC 5E and various civic associations. (Ex. 492.) In its May 6, 2014 letter, ANC 5E requested that the Commission keep the record open until May 21, 2014, to allow the ANC and the Applicant to continue working toward reaching an equitable agreement.
12. At its regularly scheduled, publically noticed meeting on June 17, 2014, with a quorum of 7 of 11 present, ANC 5E voted 4-0-3 to approve the Applicant's proffered community benefits and reaffirmed its continuing support for the PUD before the Commission, the Mayor's Agent, and proceedings before the D.C. Council on LDA.
13. The PUD Site also borders ANC 1B and ANC 5A, and thus their views are also entitled to great weight.² At its regularly scheduled, publicly noticed meeting on May 1, 2014, ANC 1B, with a quorum of 9 of 11 present, voted 8-0-1 to defer to and participate in the process established by ANC 5E, the ANC of primary jurisdiction. At the May 13, 2014, hearing night, ANC 1B Commissioner Anderson-Holness testified that the decision to defer to ANC 5E was based on the fact that the PUD Site is within ANC 5E boundaries and that ANC 1B wanted to support its fellow ANC as it supports its community. ANC 5A did not participate in the hearing; however, at its regularly scheduled, duly noticed meeting on January 29, 2014, at which a quorum was present, ANC 5A voted 7-0-0 to support the Application. (Ex. 41.)

The May 1st Hearing Night

14. At the May 1, 2014, hearing night, the Commission initially considered a motion filed by FOMP to dismiss or postpone the hearing. (Ex. 149.) FOMP asserted that the Commission's proceeding to approve the PUD was premature because the PUD had not yet been reviewed by the Mayor's Agent or the Historic Preservation Review Board ("HPRB"), and because the PUD was not yet subject to the LDA between the District and the Applicant authorizing development of the PUD Site. At the hearing, the Commission

² See *Neighbors United for a Safer Community v. District of Columbia Bd. of Zoning Adjustment*, 647 A.2d 793 (D.C. 1994).

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rejected FOMP's motion based on the finding that decisions made by the Mayor's Agent and HPRB are not germane to Commission proceedings, and that the transfer of ownership through the LDA would have no bearing on the Commission's proceeding or decision.

15. At the May 1, 2014, hearing night, the Applicant presented eight witnesses in support of the first-stage master plan, open spaces and parks, and community center (Parcels 6 and 7): Adam Weers, Trammell Crow Company, and Anne Corbett, Project Director for VMP, on behalf of the Applicant; Matthew Bell, Perkins Eastman Architects; Robert Schiesel and Dan VanPelt, Gorove/Slade Associates; Emily Eig, EHT Traceries; Rebecca Manning, George Sexton Associates; Kirk Mettam, Robert Silman Associates; and Steven Sher, Director of Zoning and Land Use Services, Holland & Knight LLP. Based upon their professional experience and qualifications, the Commission recognized Matthew Bell as an expert in architecture; Robert Schiesel and Dan VanPelt as experts in transportation engineering and planning; Emily Eig as an expert in historic preservation; Rebecca Manning as an expert in lighting design; Kirk Mettam as an expert in structural engineering; and Steven Sher as an expert in land use, zoning, and planning. Shiv Newaldass, Project Manager for DMPED, also testified in support of the Application on behalf of DMPED.
16. Maxine Brown-Roberts from OP testified in support of the first-stage master plan, open spaces and parks, and community center, with certain comments and conditions. Jennifer Steingasser and Joel Lawson were also present on behalf of OP. Jonathan Rogers, Anna Chamberlin, and Jamie Henson of the District's Department of Transportation ("DDOT") also testified in support of the first-stage master plan, open spaces and parks, and community center, with certain comments and conditions.
17. At the May 1, 2014, hearing night, the Commission determined that due to lack of time, persons and parties in support of or opposition to the master plan, open spaces and parks, and community center, would be heard at the May 13, 2014, hearing night.

The May 5th Hearing Night

18. At the May 5, 2014, hearing night, the Applicant presented six witnesses in support of the Multi-Family Grocery Building (Parcel 4) and the Rowhouses (Parcel 5): Aakash Thakkar, EYA, and Jair Lynch, JAIR LYNCH Development Companies, on behalf of the Applicant; Jack McLaurin, Lessard Design; David Jameson, David Jameson Architect; and Jim Voelzke, MV+A. Based upon their professional experience and qualifications, the Commission recognized Jack McLaurin, David Jameson, and Jim Voelzke as experts in architecture. Robert Schiesel from Gorove/Slave also testified in support of the Application with respect to transportation.

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19. Maxine Brown-Roberts from OP and Sam Zimbabwe from DDOT testified in support of the Multi-Family Grocery Building on Parcel 4 and the Rowhouses on Parcel 5, with certain comments and conditions. Jennifer Steingasser and Joel Lawson were also present on behalf of OP. C. Dianne Barnes, ANC Commissioner 5E09, testified on behalf of ANC 5E in support of the Application. Several persons also testified in support of the Application.
20. FOMP presented two witnesses to testify in opposition to the Application regarding the Multi-Family Grocery Building and Rowhouses: Anne Sellin and Tony Norman. Based upon her professional experience and qualifications, the Commission recognized Anne Sellin as an expert in historic preservation. Several persons testified in opposition to the Application.

The May 8th Hearing Night

21. At the May 8, 2014, hearing night, the Applicant presented three witnesses in support of the Healthcare Facility (Parcel 1): Adam Weers, Trammell Crow Company, on behalf of the Applicant; Shalom Baranes, Shalom Baranes Architects; and Jeffrey Aten, Nelson Byrd Woltz Landscape Architects. Based upon their professional experience and qualifications, the Commission recognized Shalom Baranes as an expert in architecture and Jeff Aten as an expert in landscape architecture. Janice Posey, on behalf of the Higher Education and Healthcare Sector within DMPED testified in support of the Healthcare Facility.
22. Maxine Brown-Roberts and Jennifer Steingasser from OP and Anna Chamberlin from DDOT testified in support of the Healthcare Facility, with certain comments and conditions. Joel Lawson was also present on behalf of OP. Several persons also testified in support of and opposition to the Healthcare Facility.

The May 13th Hearing Night

23. At the May 13, 2014, hearing night, Councilmember Kenyan McDuffie from Ward 5 testified in support of the Application. C. Dianne Barnes, ANC 5E, also testified in support of the Application and requested that the Commission keep the record open to allow completion of negotiations between ANC 5E and the Applicant regarding the Applicant's proffered community benefits which, at the time of the hearing, had not yet been finalized. Also testifying in support of the Application were Sylvia M. Pinkey, Chairperson of ANC 5E, and E. Gail Anderson-Holness, Commissioner for ANC 1B. Numerous persons testified in support of and in opposition to the Application.
24. FOMP presented three experts to testify in opposition to the Application: Joe Mehra, MCV Associates, Inc.; Miriam Gusevich, Miriam Gusevich-Miles Studio; and George

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Oberlander, Gannett Fleming. Based upon their professional experience and qualifications, the Commission recognized Joe Mehra as an expert in transportation engineering, Miriam Gusevich as an expert in architecture, and George Oberlander as an expert in land use and zoning. FOMP also presented John Salatti as a lay-witness testifying in opposition to the Application.

The May 27th Hearing Night

25. At the May 27, 2014, hearing night, the Commission received further testimony in support of and in opposition to the Application. The Applicant also presented rebuttal testimony. The Commission concluded the hearing and closed the record, except for certain limited information. In addition to the testimony presented at the public hearings, the Commission received numerous letters in support of and opposition to the Application.

Post Hearing Submissions and Actions

26. The Applicant submitted its post-hearing materials on June 23, 2014. (Ex. 832-832O.) The parties filed responses on July 7, 2014. (Ex. 835.) The Applicant and FOMP submitted proposed findings of fact and conclusions of law also on July 7, 2014. (Ex. 834, 836.)
27. On July 11, 2014, Daniel Wolkoff submitted his testimony. (Ex. 839.)
28. On July 17, 2014, the Stronghold Civic Association submitted comments on the draft CBA. (Ex. 841.) On July 21, the McMillan Advisory Group submitted its comments on the draft CBA. (Ex. 843.) On July 22, 2014, the Bloomingdale Civic Association submitted its comments on the CBA. (Ex. 845.)
29. On July 25, 2014, Chris Niosi and Victoria Langford submitted their testimony. (Ex. 847.)
30. At its regular meeting on September 29, 2014, the Commission took proposed action to approve the first-stage and consolidated PUD and related map amendment with conditions. At its regular public meeting on October 6, 2014, the Commission clarified that it intended to approve both the first-stage, and the consolidated PUD applications. The Commission felt this clarification was necessary because the motion it approved at the September 29, 2014 meeting did not mention the consolidated portion of the PUD.
31. The first-stage and consolidated PUD and related map amendment were referred to the National Capital Planning Commission ("NCPC") on October 7, 2014 for review of any impacts on the federal interest under the Comprehensive Plan.

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32. On August 25, 2014, the Applicant responded to the issues raised by the Commission when it took proposed action. (Ex. 848, 849-849G.)
33. On August 25, 2014, NCPC submitted its staff comments to the Commission. (Ex. 850.)
34. On September 15, 2014, the Applicant submitted revised plans in response to NCPC staff's comments. (Ex. 856A1-856A4.) The Applicant also submitted a letter that responded to the comments in the August 25, 2014 NCPC staff's letter. (Ex. 857.)
35. On September 15, 2014, FOMP submitted a response to the Applicant's post-hearing submission dated August 25, 2014. (Ex. 858.)
36. On October 6, 2014, the Applicant submitted its list of proffers and draft conditions pursuant to 11 DCMR § 2403.16. (Ex. 860.)
37. On October 20, 2014, the Applicant submitted its revised final list of proffers and draft conditions pursuant to 11 DCMR § 2403.20. (Ex. 864.) The Applicant also submitted additional viewshed and modeling images and an update on the Applicant's transit commitments. (Ex. 862, 863.)
38. The Commission took final action to approve the Application on November 10, 2014.

The PUD Site and Surrounding Area

39. The PUD Site is being redeveloped through a public-private partnership between the District of Columbia, as owner of the property, and VMP, as the master planner and developer selected by the District to implement the project. The PUD Site is bounded by North Capitol Street to the east, Michigan Avenue to the north, First Street to the west, and Channing Street to the south, all in the northwest quadrant of Washington, D.C.
40. Historically, the PUD Site was used as a slow sand water filtration plant. It consists of 20 underground cells of sand filter beds on a level platform or "plinth," which is inserted into the rising slope of North Capitol Street. The south end of the PUD Site is situated approximately 16 feet above the north end of the PUD Site; however, as North Capitol Street rises, the plinth remains level so that it sits approximately 10 feet below Michigan Avenue at its northern end.
41. The surface of the PUD Site is generally flat, rectangular in shape, and is made up of a shallow dirt-bed covered with grass and weeds. This plane is punctuated by 2,100 manholes to the filter bed chambers below. Two recessed service corridors containing 20 chimney-like structures, known as the sand storage bins, traverse the PUD Site laterally

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with pathways that lead to the underground cells. These lateral corridors, referred to as the "North Service Court" and the "South Service Court," are lined with other elements of the water filtration process, including regulator houses, stationary sand washers, and portals and ramps to the underground chambers of sand filter beds. Overall, the PUD Site is approximately three city blocks long along North Capitol Street and First Street, and one block wide along Channing Street and Michigan Avenue.

42. The PUD Site is situated adjacent to the residential neighborhoods of Bloomingdale to the south and Stronghold to the east, which are characterized by a variety of large Victorian rowhouses and more modest rowhouses, many with front porches. The Glenwood Cemetery and Trinity College are also located to the east across North Capitol Street, adjacent to the residential communities. The Veterans Affairs Medical Center, Washington Hospital Center, and Children's National Medical Center are located across Michigan Avenue to the north and have building heights ranging from 90 to 127.5 feet. To the west across First Street is the functioning reservoir of the McMillan Reservoir and Filtration Complex operated by the U.S. Army Corps of Engineers. Further to the west is Howard University.

The PUD Project

43. The existing PUD Site has approximately 1,075,356 square feet (24.69 acres) of land area and is presently unzoned. In conjunction with its PUD application, the Applicant will amend the Zoning Map to rezone the PUD Site to the C-3-C and CR Zone Districts. The C-3-C Zone District will be located along the northern portion of the PUD Site and will encompass the Healthcare Facility in Parcel 1. The CR Zone District will encompass the remainder of the PUD Site, including Parcels 2 and 3, which will be developed as future second-stage applications; the Multi-Family Grocery Building in Parcel 4; the Rowhouses in Parcel 5; the Park, including the community center and South Service Court in Parcel 6, and the North Service Court as Parcel 7.
44. The overall PUD will include approximately 2,070,753 square feet of gross floor area, or an aggregate floor area ratio ("FAR") of approximately 1.92. Uses on the PUD Site will include (i) the Healthcare Facility with approximately 860,000 square feet of gross floor area devoted to medical office uses and approximately 15,000 square feet of gross floor area devoted to ground floor retail; (ii) the Multi-Family Grocery Building on Parcel 4 comprised of approximately 305,847 square feet of gross floor area, divided into 258,235 square feet of gross floor area devoted to residential units (inclusive of loading areas) and approximately 55,567 square feet of gross floor area devoted to a ground floor grocery store (inclusive of loading areas); (iii) 146 individual Rowhouses, comprised of approximately 350,000 square feet of residential uses; and (iv) the 17,500 square foot community center. In addition, approximately almost 500,000 square feet of land area on the PUD Site is devoted to parks, landscaping, and open areas. This consists of the

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healing gardens, the park, the North and South Service Courts, Cell 14, and the Olmsted Walk.

45. Building heights on the PUD Site will range from 26 feet to 115 feet. The project will be an architecturally distinct, vibrant, mixed-use development that provides housing, employment, retail, cultural, and recreation opportunities for District residents. The PUD Site will retain many significant elements of the historic McMillan Slow Sand Filtration Plant and incorporate these elements into the overall design and concept plan. The PUD Site will be open to the public at all times, and will integrate necessary retail amenities, parking, and pedestrian-oriented infrastructure into the existing community.

The Master Plan

46. The first-stage PUD Application includes the master plan for the PUD Site. The master plan orients construction on the PUD Site around a new, two-way internal street grid, which will disperse traffic and provide cross-site connectivity. Evarts Street will run laterally across the PUD Site from First Street to North Capitol Street. Quarter Street and Three-Quarters Street will run north-south, in between the North Service Court and the South Service Court. Half Street will be located at the mid-point of the PUD Site, connecting Michigan Avenue down to the South Service Court. The North and South Service Courts will be divided into two-way streets and will similarly be integrated into the proposed grid system. The Service Courts will preserve the historic regulator houses, silos (sand bins), and access bays to the underground sand filtration cells associated with the landmark. The overall development is set back from all edges of the PUD Site, retaining the existing topography of the PUD Site and recreating the elevated hawthorn-lined perimeter walkway originally designed by Frederick Law Olmsted, Jr. This perimeter walkway will be a publicly accessible recreational path set inside and parallel to the public sidewalk.
47. The North and South Service Courts divide the PUD Site into three distinct development blocks. The northern block is comprised solely of Parcel 1, and is bounded by First Street to the west, Michigan Avenue to the north, North Capitol Street to the east, and the historic North Service Court to the south. This northern block will be developed with the Healthcare Facility with ground-floor retail uses, as described in detail below. The Applicant will preserve a substantial amount of open space on the northern block, preserving important sightlines across the PUD Site. The development will retain Cell 14, a 41,414-square-foot filtration cell, and will incorporate a "healing garden" along Michigan Avenue. The reconstruction of the Olmsted Walk along the perimeter of the PUD Site will provide a pedestrian link between the Healthcare Facility to the north and the primary open space at the southern end of the PUD Site. This northern block will be rezoned to the C-3-C Zone District.

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48. South of the North Service Court is the central block of the PUD Site, which the Applicant will develop with the Multi-Family Grocery Building containing approximately 281 residential units and a ground-floor grocery store (Parcel 4), and the 146 moderate density Rowhouses (Parcel 5). A future phase of development will also include an approximately 173,000 square foot healthcare facility with retail on the ground floor (Parcel 3) and an approximately 334,950 square foot mixed-use building with retail on the ground floor and residential units above (Parcel 2). This central portion of the PUD Site has a land area of approximately 447,565 square feet and will be bisected by the newly created Evarts Street, N.W., which will run laterally in between the Service Courts, and will be further divided by Three-Quarters Street, Half Street, and Quarter Street, which will run longitudinally between the North and South Service Courts. The proposed zoning for this component of the project is the CR Zone District.
49. The southern block of the PUD Site (Parcel 6), located between Parcel 5 and Channing Street, is the Park and will include the 6.2-acre green space, the community center, and the South Service Court. The southern block will also accommodate a construction and staging area for D.C. Water, as described below.

The Park, Community Center, and South Service Court (Parcel 6)

50. The Park comprises the entire southern portion of the PUD Site (Parcel 6), encompassing the 6.2 acre green space, the 17,500 square foot community center, and the South Service Court. The Park's program includes convenient pedestrian, bicycle, and vehicular access, large informal play areas, the Olmsted Walk, terraced seating, an outdoor "sprayground" and playgrounds, natural amphitheater, a stormwater pond that will reference the PUD Site's subterranean natural hydrology, and a "walking museum" that will tell the history of the PUD Site. The Park will also accommodate informal sports and events for District residents. The western portion of the Park will include the reconstructed elevated plinth, which will be preserved with views to the reservoir and city landmarks beyond. A portion of Filtration Cell 28, an underground filter bed, will also be preserved for future use. Hawthorn trees will line both sides of the Olmsted Walk, and a tree grove in a quincunx pattern will be located in the center of the Park, referencing the historic pattern of manholes in the plinth.
51. The community center will house circulation and gallery spaces with exhibits on the history of the PUD Site, a 25-meter swimming pool, a multipurpose community meeting room with a catering kitchen, outdoor gathering spaces, fitness studio, and locker and shower facilities. The building will have a glass façade made of high-performance glazing that will welcome ample daylight into the pool and other public spaces. The building will incorporate a lightweight metal exterior trellis shading system to condition the exterior spaces and shade the building. Reinforced concrete groin vaults will recreate

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the experience of the historic below-grade filter beds, while wood boards, likely reclaimed wood from the PUD Site, will envelop the building's entrance vestibule.

52. Parcel 6 will also accommodate a construction and staging area for D.C. Water during their construction of a "Long Term Control Project," a major infrastructure project by D.C. Water to improve stormwater management in the area. As a result, the timing of the District's construction on the Park and community center will be coordinated with D.C. Water. In addition, 21 parking spaces along the South Service Court will be provided for public visitors to the community center.

Multi-Family Grocery Building (Parcel 4)

53. The Multi-Family Grocery Building is located in the central portion of the PUD Site along North Capitol Street. Designed by MV+A Architects and David Jameson Architect, Inc., and developed by JAIR LYNCH Development Partners, the mixed-use building will accommodate a grocery store on the ground level and approximately 258,235 square feet of gross floor area devoted to residential uses, comprised of approximately 196 market-rate units and 85 senior-affordable units for seniors earning between 50% and 60% of the area medium income ("AMI") for the Washington Metropolitan Area. The proposed building will be constructed to a maximum height of 77 feet.
54. The residential area of the building is articulated as three simple bars along North Capitol Street, recalling the rhythm of the sand bins and providing open courtyards in the building's interior. This open-ended massing strategy reduces the building's scale as it relates to and is viewed by the existing rowhouses across North Capitol Street. The façade responds to the rhythm of the placement of the historic sand bins and regulator houses with large corresponding frames containing balconies for the residences. Three portals reflect the placement of the three sand bins located in front of the building, while a fourth balcony wraps the building corner, acknowledging the sand bin at the intersection of the North Service Court and Quarter Street. An abstracted plinth containing the retail/grocery program features a canted wall facing the North Service Court, embodying the original Service Court walls on the PUD Site.
55. As described in more detail in the Circulation, Parking, and Loading section below, the Multi-Family Grocery Building will contain an on-site parking garage containing approximately 329 parking spaces for residents and retail patrons. Loading will be accessed from Evarts Street and will include one berth at 40 feet, two berths at 70 feet, three loading platforms at 200 square feet, and two service/delivery spaces at 20 feet.

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Rowhouse Development (Parcel 5)

56. Parcel 5 is located in the central portion of the PUD Site and spans its full width. Designed by Lessard Design and developed by EYA, Parcel 5 will be developed with 146 row dwellings, with approximately 350,000 square feet of gross floor area. The dwellings will be constructed in groups of six to eight houses, with one group of 16 back-to-back units, and with maximum building heights of 48 feet (three and four stories). Except for the 16 back-to-back units, the row dwellings will have rear yards and rear garage access from new private alleys, and will have widths of 14 feet, 16 feet, 18 feet, or 20 feet, with gross floor areas of approximately 1,600 to 3,200 square feet. The back-to-back units share a common party wall with two and a half stories of living space and a common parking garage below. The back-to-back units are approximately 22 feet wide and range in size from 2,000 to 2,700 square feet.
57. The Applicant will seek to exempt the rowhouse development from the inclusionary zoning ("IZ") requirements of Chapter 26 of the Zoning Regulations. If the exemption is granted, the Applicant will still have to set aside the minimum amount of gross floor area for affordable units. In the CR Zone District, new housing developments with 10 or more units must set aside eight percent of the gross floor area devoted to residential uses to households earning no more than 80% of the AMI. As initially presented, the Applicant increased the proffered amount of affordable units to 10% of the gross floor area of the Rowhouse development (approximately 35,000 square feet), which equated to 18 units. At the May 5th hearing night, the Applicant further increased its proposal by committing to offer nine units to households earning no more than 50% of the AMI. Finally, through negotiations with ANC 5E, the Applicant increased the number of affordable units from 18 to 22 units, or approximately 12.3% of the gross floor area of the Rowhouse development. Nine of the affordable units will continue to be offered to households earning no more than 50% of AMI, with the remaining 13 affordable units offered to households earning no more than 80% of AMI. All of the 16 back-to-back units will be market-rate.
58. The Rowhouse development makes up the single-family residential fabric of the PUD Site and corresponds to the existing residential community of Bloomingdale to the south and Stronghold to the east. The massing of the Rowhouse units provides a transition from the low-rise surrounding community to the larger buildings on the PUD Site and across Michigan Avenue, and is designed so that the individual structures form part of a larger compositional block or terrace. The Rowhouses front pedestrian-friendly streets with large outward facing windows, pedestrian-scaled lighting, landscaping, and street trees.

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59. As described in more detail in the Circulation, Parking, and Loading section below, each rowhouse will contain a minimum of one on-site vehicle parking space. No loading is required for the row dwellings, and none is provided.

Healthcare Facility (Parcel 1)

60. The Healthcare Facility is located at the north end of the PUD Site, with frontage on Michigan Avenue, North Capitol Street, and First Street, N.W. Designed by the architectural firm of Shalom Baranes Associates and developed by Trammell Crow Company, with landscape design by Nelson Byrd Woltz Landscape Architects, the Healthcare Facility will be comprised of approximately 860,000 square feet devoted to healthcare uses, and a minimum of 15,000 square feet devoted to ground-floor retail. The Healthcare Facility will rise in two halves and be separated above grade by Half Street. The two halves will be connected at the main floor of the building fronting on the North Service Court. The building will be 115 feet in height, and stepping down to an approximate height of 110 feet at the far east and northeast extensions. The building is set back from North Capitol Street by approximately 150 feet, with the preserved Cell 14 acting as a buffer between the Healthcare Facility and the adjacent residential community. The building will occupy approximately 55% of Parcel 1, with an overall density of 4.08 FAR. The Healthcare Facility will serve the office needs of physicians and medical service providers affiliated with many of the leading healthcare systems in the area including Children's National Medical Center and the Washington Hospital Center.
61. The primary pedestrian entrances to the Healthcare Facility are located from the North Service Court on the southern side of the building at the main floor level. The primary vehicular parking entrance is located at First Street on the east side of the building. Public vehicular access points are also located along Michigan Avenue, oriented toward the adjacent hospitals. A vehicular driveway loop off of Michigan Avenue will provide visitors, particularly patients, with convenient, covered access to the patient lobby spaces, and facilitate the use of high occupancy vehicles, including shuttles to and from nearby Metrorail stations.
62. The Healthcare Facility's main floor will be on its south side, opening onto the historic North Service Court, and will be activated by pedestrian-oriented retail and the primary parking garage entrance for retail patrons. To the north of the building along Michigan Avenue, a terraced medicinal/healing garden will create a welcoming space for patients, visitors, and employees. The Olmsted Walk will connect the Healthcare Facility and its healing gardens with the rest of the PUD Site's public amenities to the south.
63. As described in more detail in the Circulation, Parking, and Loading section below, the Healthcare Facility will contain a four-level underground parking garage containing approximately 1,900 vehicle parking spaces open to the public. Loading facilities will be

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located on both sides of Half Street and will include four berths at 30 feet deep and four service/delivery spaces at 20 feet deep.

Site Circulation, Parking, and Loading

64. The Master Plan introduces several new streets within and access points to the PUD Site. The new street system incorporates new internal blocks that connect the VA/Washington Hospital Center to the north to the Bloomingdale neighborhood to the south, and provide multi-modal connectivity and circulation within and throughout the entire PUD Site.
65. East-west connections are achieved by restoring the historic North and South Service Courts as part of the street system, as well as introducing Evarts Street, which will run laterally across the site from First Street to North Capitol Street. The North and South Service Courts will preserve and incorporate all 20 historic silos (sand storage bins) and all four regulator houses into the new design and development. The North Service Court will provide two-way vehicular access, connecting First Street through to North Capitol Street, with sidewalks that are activated by ground-floor retail uses in the Healthcare Facility to the north and in the Multi-Family Grocery Building to the south. Pedestrian access to the grocery store on Parcel 4 will be from the North Service Court. The South Service Court will only provide external vehicular access from First Street, and is designed to be a shared corridor with pedestrian access, open space, street parking, and vehicle zones for convenient drop-off and pick-up for the Park and community center.
66. The PUD will also provide three new north-south streets: Half Street will be located at the mid-point of the PUD Site and will connect from the South Service Court to Michigan Avenue. Quarter Street and Three Quarters Street will run north-south between the North Service Court and the South Service Court. Sidewalks will be located on all of these streets for easy and safe pedestrian access. Bicycle racks will be provided along the sidewalks, in addition to long-term, secure bicycle storage areas within the individual buildings.
67. The PUD involves the introduction of three new traffic lights: two traffic lights will be located on North Capitol Street where it intersects with the North Service Court and Evarts Street, and one new traffic light will be located at the intersection of Michigan Avenue and Half Street. These new lights will help reduce traffic congestion and help move vehicles around the PUD Site at a steady and consistent rate.
68. The PUD Site will serve as a transit hub that accommodates premium transit options, such as the Metrobus, Circulator Bus, and the future D.C. streetcar, and will provide convenient connections to Capital Bikeshare stations, bicycle storage and changing facilities, privately run shuttles to the Brookland Metrorail station, and vehicle parking. Upon completion, the PUD project will create a new, vibrant destination that will

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complement the adjacent institutional and residential uses and will be easily accessible from all areas of the city and via all modes of travel.

69. On-street parking will be provided on all of the streets internal to the PUD Site, with some spaces reserved for car-sharing. On-site parking and loading will be located on each of the individual parcels, as described below:
- a. Healthcare Facility: A maximum of 1,900 parking spaces will be provided in the Healthcare Facility in four levels of underground parking. The primary vehicular access is on the east side of the building from the vehicular driveway loop along Michigan Avenue. An additional parking entrance is located from First Street, and is intended primarily for the everyday occupants of the building accessing the main floor level. Direct vehicular access points into the garage are also provided from the North Service Court. All four levels of the garage will be available for use by employees, patients, visitors, and retail patrons, and all of the access points can be used for both entrance and exit;
 - b. Loading facilities for the Healthcare Facility will be located on both sides of Half Street in order to keep trucks away from the retail entrances and sidewalks along the North Service Court. Loading facilities include four loading berths at 30 feet deep and four service/delivery spaces at 20 feet deep;
 - c. Multi-Family Grocery Building: The Multi-Family Grocery Building on Parcel 4 will include approximately 329 parking spaces on two levels of below-grade parking, plus approximately 100 bicycle parking spaces. The parking garage will be accessed from Evarts Street, separate from the residential and retail entrances;
 - d. Loading for the Multi-Family Grocery Building will be located on Evarts Street adjacent to the parking garage entrance and will include one loading berth at 40 feet deep, two loading berths at 70 feet deep, three loading platforms at 200 square feet, and two service/delivery spaces at 20 feet deep. The Applicant revised the design and location of the loading facilities since its initial submission, which located the parking garage entrance on Quarter Street in between the market-rate and senior residential lobbies and had extended the loading facilities across the majority of the south-facing façade of the Multi-Family Grocery Building on Evarts Street. The revised design allows for a more safe and convenient design and operation of the building;
 - e. In addition to the relocated loading facilities, the grocery store operator will have a loading management plan, with at minimum the following two elements: (i) an employee of the grocery store will be responsible for scheduling deliveries and working with delivery drivers and companies to ensure that the loading dock is

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not over-scheduled. Trucks will not be permitted to queue in public space, and drivers will be made aware of the proper routing of large vehicles to and from the PUD Site; and (ii) deliveries of large vehicles (defined as those that will require backing maneuvers into the loading dock from Evarts Street) will be prohibited during weekday mornings from 7:00 a.m. to 8:30 a.m. Residential use of the loading facilities will primarily include move-ins and move-outs, trash removal, large residential deliveries, and deliveries to support residential operations; and

- f. Rowhouses: The parking requirement for the Rowhouse development on Parcel 5 is one parking space per dwelling unit, for a total requirement of at least 146 parking spaces. However, Parcel 5 will incorporate between 208 and 292 total parking spaces, with each row dwelling containing a private one- or two-car garage accessed by a network of alleys. The two-car garages in the 14-foot and 16-foot units provide back to back (tandem) parking for two cars, and as an option the Applicant will allow homebuyers to remove one of the tandem spaces in favor of a den/study and only one parking space. The 16 back-to-back row dwellings will have a common underground parking garage accessed from Evarts Street. The Zoning Regulations do not require loading facilities for the Rowhouses and none are provided. On-street parking will be available for visitors;
70. Pedestrians will have access to the PUD Site from all four corners, as well as from First Street at the North and South Service Courts and at Evarts Street; North Capitol Street at the North Service Court and Evarts Street; and at Half Street along Michigan Avenue. Numerous interior walkways and paths will provide active and passive pedestrian circulation and sidewalks will be designed to encourage foot traffic and activity on the street. The historic Olmsted Walk, which runs around the perimeter of the PUD Site parallel to, yet often well above, the public sidewalk, will be refurbished. Three sets of the corner concrete stairs will be reconstructed in place and ADA-accessible ramps will be created to provide a contiguous and safe pedestrian experience.
71. Space for at least three new Capital Bikeshare stations will be provided on the PUD Site.

Sustainable Development

72. The master plan for the overall development for the PUD Site will be evaluated for LEED-Neighborhood Development and will be certified at least LEED-Gold or its equivalent. Individual buildings within the PUD Site will be certified at least LEED-Silver or its equivalent. The PUD is consistent with best practices for storm water management, low-impact development, and sustainable design. The project's storm water management will meet the latest storm water regulations that the District recently implemented and will consist of many different types of low impact design techniques, including pervious pavement in sidewalks, roadways, alleys, and parking spaces; bio-

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swales; bio-tree pits and inlets; cartridge filters; oil/grit separators; rain gardens; green screens; detention vaults; and cisterns.

73. The PUD Site does not presently have any storm water management facilities connected to it. Redevelopment of the PUD Site will significantly improve water quality, reduce the volume of runoff, and control the release and safe conveyance of all on-site storm water drainage.

Responsibilities of the Applicant and the District

74. Under the DMA and the ERA agreements between the District and VMP, the two parties will jointly develop the PUD Site. The District will be responsible for the land development, which includes the provision of ready-to-build pad sites serviced by common infrastructure including streets, utilities, and lighting. The District will also be responsible for the provision of public amenities, such as the complete park system, community center, and the historic preservation of the built resources. The Applicant will execute the vertical development on the PUD Site. The first-stage of vertical development will include the Healthcare Facility on Parcel 1; the Multi-Family Grocery Building on Parcel 4; and the 146 Rowhouses on Parcel 5.
75. The Applicant will create a project association or business improvement district, referred to as the McMillan Public Space Partnership ("Partnership"). The Partnership will provide an operating framework to maintain and program the public space within the McMillan redevelopment, including the private roadways, alleys, bicycle paths, historic walks, sidewalks, parks, open space, historic resources, streetscapes, street furniture and fixtures, and signage within the PUD boundaries. The Partnership will be a not-for-profit corporation governed by a board of directors responsible for strategic and financial planning, management, and reporting to the public. As its primary function, the Partnership will maintain and program most, if not all, of the public assets on the PUD Site via an agreement with the District. The assets include the Park and open space, historic resources, public art, and internal streets and their components (e.g., paving, light fixtures, benches). (Ex. 832M.)

CBE and First Source Employment Opportunities

76. By agreement dated June 23, 2014, the Applicant entered into a First Source Agreement with the D.C. Department of Employment Services ("DOES"). (Ex. 832K.) Among others, the Agreement requires the Applicant to use DOES as the first source to fill all new jobs created as a result of the PUD, and requires that 51% of all new hires on government contracts between \$300,000 and \$5 million shall be District residents. The Applicant is committed to meeting the requirements under the First Source Agreement and to maximize job opportunities for District residents, especially Ward 5 residents.

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77. The Applicant has committed \$700,000 toward the establishment of a workforce fund, which will organize and distribute grants and awards to local workforce development and social service organizations to connect District residents seeking jobs at the PUD Site with the training, job preparation, and workforce readiness skills necessary to maximize their job opportunities. These efforts will be undertaken for both the construction jobs generated by redevelopment of the PUD Site and for the permanent positions within the retail and healthcare arenas generated by the tenants that will locate at the PUD Site. As a part of this process, an advisory board will be established, made up of local community stakeholders, workforce development organizations, and representatives from the Applicant and the tenant community, which will provide input and approve grants awarded by the fund. The Construction Employment Plan, included with Exhibit 832K, specifies the specific ways that the Applicant will meet its goals of hiring District residents.
78. In addition, the following Certified Business Enterprises ("CBE") subcontractors have participated or are currently participating in the Applicant's team: EHT Traceries, Perkins Eastman DC, Gorove/Slade Associates, Shalom Baranes Associates, Silman Associates, ECS Capitol Services, WDG Architecture, Symmetra, Green Door Advisors, LLC, and Answer Title. (Ex. 832O.) The final CBE agreement will be negotiated with the District as part of the LDA and executed prior to issuance of any building permits for the project.

Public Benefits and Project Amenities

The Commission finds that the following public benefits and project amenities will be created as a result of the PUD:

Housing and Affordable Housing

79. The PUD will provide approximately 924,583 square feet of gross floor area devoted to residential uses, or approximately 677 units of new housing in single-family and apartment houses, for both rental and ownership opportunities. The Applicant will set aside a portion of the total square feet of gross floor area devoted to housing on the PUD Site for affordable housing, as follows:
- a. On Parcel 4, a minimum of 67,018 square feet of gross floor area of the total new housing provided, or approximately 85 residential units, will be set aside as senior housing (55 years of age or older) for households earning between 50% and 60% of the AMI. These units will all be located in the southern wing of the building. Due to the financing structure for the development of the senior housing, these units are not subject to the IZ spacing requirements;

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- b. On Parcel 5, 22 of the single-family row dwellings will be set aside as affordable housing. Nine of the affordable units will be set aside for households earning no more than 50% of AMI, with the remaining 13 affordable units set aside for households earning no more than 80% of the AMI. The affordable units will be scattered throughout Parcel 5, and all of the 16 back-to-back units will be market-rate;
- c. On Parcel 2, approximately 25 units, or approximately 21,341 square feet of total gross floor area devoted to housing, will be set aside for households earning up to 80% of the AMI. The affordable units located on Parcel 2 will be sufficient to achieve a 20% split of affordable units across the PUD Site;
- d. The Applicant will be requesting the Zoning Administrator to grant an exemption from the Inclusionary Zoning requirements of Chapter 26 pursuant § 2602.3 (f). The provision exempts to “any development financed, subsidized, or funded in whole or in part by the federal or District government and administered by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority and that meets the requirements set forth in § 2602.7”;
- e. Subsection 2602.7 provides that:
- The development shall set aside, for low- or moderate-income households, affordable dwelling units (“Exempt Affordable Units”) equal to at least the gross square footage that would have been required pursuant to §§ 2603.1 and 2603.2. The terms “low-income household” and “moderate-income household” shall have the same meaning as given them by the federal or District funding source, or financing or subsidizing entity, and shall hereinafter be referred to collectively as “Targeted Households”;
 - The Exempt Affordable Units shall be reserved for the Targeted Households and sold or rented in accordance with the pricing structure established by the federal or District funding source, or financing or subsidizing entity, for so long as the project exists;
 - The requirements set forth in § 2602.7(a) and (b) shall be stated as declarations within a covenant approved by the District; and
 - The approved covenant shall be recorded in the land records of the District of Columbia prior to the date that the first application for a certificate of occupancy is filed for the project; except that for developments that include one-family dwellings, the covenant shall be recorded before the first purchase agreement or lease is executed;
- f. The Applicant has committed to fully comply with these requirements; and

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- g. In addition, the affordable housing units will be constructed prior to or concurrently with the market-rate units, except that if the development is phased, the affordable units will be constructed at a pace that is proportional with the construction of the market-rate units.
80. Urban Design, Architecture, and Site Planning: The PUD will be developed substantially in accordance with the master plan prepared by EEK Perkins Eastman Architects dated April 11, 2014 (Ex. 32A1A1-32A1A26 and 32A2A1-32A2A72 [hereinafter Ex."32A"]) and supplemented by drawings submitted on June 23, 2014 (832A1-832A3 [hereinafter "Ex. 832A"]). The Applicant will provide all necessary public infrastructure to support the development, including all project site work; all streets, alleys, sidewalks, and bike paths; historic and commemorative signage throughout the PUD Site to create a walking museum interpreting the preserved structures and views; and all related utilities.

Parks, Open Space, and Landscaping

81. Parks, Open Space, and Landscaping: The PUD will provide almost 500,000 square feet of land area comprised of the Park, the North and South Service Courts, the healing gardens, preserved Cell 14, and the Olmsted Walk. The Olmsted Walk will be Americans with Disabilities Act ("ADA") accessible and include benches along the walk. The Park will include covered seating areas with at least four durable, high-quality picnic tables or similar tables and chairs, an amphitheater adjacent to the community center, a children's playground, a "spray-ground," an outdoor adult fitness area, a pond, and open lawns for casual sports. The Applicant will provide all related streetscape improvements and street furniture, including lighting, benches, trash receptacles, and bicycle racks.

Design Guidelines; Public Art Guidelines

82. The Applicant will implement and follow the Master Plan Design Guidelines prepared by EEK Perkins Eastman Architects (Ex. 17C); and the Cultural DC Public Art Master Plan. (Ex. 17D10).

Historic Preservation

83. The Applicant will retain and rehabilitate the North and South Service Courts, including all 20 sand storage bins, all four regulator houses, at least one sand washer, certain filter bed portals, and extended portions of the service court walls. Cells 14 and a portion of Cell 28 will also be preserved. The Applicant will re-establish the Olmsted Walk around the perimeter of the PUD Site and reconstruct the concrete stairs at the PUD Site's two southern corners and northeast corner that provided access to the walk. The Applicant will seek permission from the U.S. Army Corps of Engineers or other responsible

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government agency to obtain the historic McMillan Fountain, formerly located on a portion of the McMillan Reservoir west of First Street, in order to install it on the PUD Site. All work will be consistent with the Secretary of the Interior's standards for the Treatment of Historic Properties, including the Treatment for Rehabilitation.

84. In addition, the PUD incorporates major historic preservation elements into the proposed redevelopment, which are consistent with the historic preservation covenants dedicated on the PUD Site when it was transferred from federal ownership to the District. The Applicant retained EHT Tracerics, Inc. as historic preservation consultant to evaluate the PUD Site to ensure an appropriate and sensitive approach to this engineering landmark. EHT Tracerics prepared an Historic Preservation Report that: (i) provides a guide to the extensive documentation on the historic site; (ii) evaluates the historic significance of the PUD Site; (iii) evaluates the historic integrity of the landmark; (iv) provides recommendations for preservation based on the Secretary of the Interior's Guidelines for the Treatment of Historic Properties; and (v) guides the preservation-related approval processes for the PUD redevelopment project. (Ex. 538A-538C.) As indicated in this report, each of the preserved historic elements will be sensitively integrated into the PUD master plan, and will continue to convey their significance in a new setting of buildings that respect the history of the PUD Site. The overall development will retain significant character-defining features of the landmark sufficient to convey its historic character. Among other preservation-minded measures, the establishment of a 6.2-acre open space at the southern third of the PUD Site will retain the PUD Site's visual expanse from North Capitol Street, westerly to and beyond the Reservoir, as well as offer the opportunity for residents and visitors to observe the PUD Site close in, rather than only from the perimeter as originally designed and as it presently sits.
85. As part of the historic preservation component, the Applicant will retain and incorporate the North and South Service Courts and their sand filtration process structures, including all 20 sand storage bins, all four regulator houses, at least one sand washer, plus many of the filter bed portals and much of the service court walls. Retention and rehabilitation of these iconic features will retain the historic identity of the PUD Site and will create unique, place-making settings for the new community. The Applicant will also retain and preserve for adaptive reuse two underground filter beds: Cell 14, located at the northeast corner of the PUD Site, and Cell 28, located off of the South Service Court. Cell 14 will become, on its surface, a new park permitting views to the cylindrical sand bins from the north, while its underground structure will be reserved for future adaptive reuse to compliment the public and retail activities in that area of the PUD Site. In the interim, Cell 14 will be used by D.C. Water as a stormwater storage tank. Part of Cell 28 will be preserved and will be incorporated into the Park as part of the interpretive program. The vision is a "walking museum" that tells the history of the PUD Site and its significance to the city via a self-guided walking tour of the PUD Site's preserved and restored historic

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assets. In total, approximately 1.5 acres of underground cells will be preserved and slated for future use.

86. The unusual topography of the plinth lends itself well to the creation of vast swaths of open space. Pedestrian pathways are positioned throughout the PUD Site, including the elevated perimeter walkway originally designed by Fredrick Law Olmsted, Jr. and three historic corner stairs, which will be reconstructed along the PUD Site's edges. The Applicant will recreate the Olmsted Walk lined with two rows of thornless Hawthorn trees, which are consistent with Olmsted's original design intent. The Applicant will reconstruct three of the original corner stairs, and will construct ADA-compliant ramps to access the pathway. The Hawthorn species is historically accurate, native to America, adapted to urban environments, and has pleasant aesthetic qualities year-around. The path itself will be made of recycled and reclaimed concrete paving to the greatest extent possible, with a steel edge and a sand or DG setting.
87. The PUD has undergone extensive review by the Historic Preservation Office ("HPO") and HPRB through a series of public hearings over 18 months. On April 25, 2013, and September 27, 2013, HPRB reviewed and discussed the master plan and design guidelines for the PUD Site and provided additional recommendations to the Applicant. (Ex. 88, 89.) On October 31, 2013, HPRB found the revised concept designs to "represent an architecturally coordinated and cohesive approach that specifically relates to the character of the PUD Site." HPRB recommended that the project return for final review after approval by the Commission and the Mayor's Agent for Historic Preservation, pursuant to the Historic Preservation Act. (Ex. 91.)

Community Center

88. The District will provide a two-story community center that consists of approximately 17,500 square feet of gross floor area. The community center will include gallery space with exhibits on the history of the PUD Site, a 25-meter swimming pool, a multipurpose community meeting room with a catering kitchen, outdoor gathering space, fitness studio, and locker and shower facilities. This amenity will be open to the public and will provide a user-friendly and convenient space for public gatherings and community events. The multipurpose community meeting room will include moveable partitions to create smaller and larger spaces for flexible gathering and events.

Healthcare Facility

89. The Applicant will devote approximately 860,000 square feet of gross floor area to medical office and related healthcare uses on Parcel 1. A future phase of development will also include an approximately 173,000-square-foot healthcare facility with retail on the ground floor (Parcel 3).

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CBE Participation

90. Prior to the issuance of a building permit, the Applicant will execute a CBE Agreement with the D.C. Department of Small and Local Business Development ("DSLBD") to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD. Business opportunities will be posted on the DSLBD website, and the Applicant will give opportunities to CBE businesses for smaller contracts, such as catering, trash collection, and delivery service. The Applicant will continue to work cooperatively with DSLBD and its contractors and with the Business Development Councils and other local community organizations to maximize opportunities for CBE firms throughout the process. The PUD will also include 20% sponsor equity participation by a CBE developer.

Training and Employment Opportunities

91. During construction of the project, the Applicant will abide by the terms of the executed First Source Employment Agreement with the District Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the PUD. To the extent permitted by law, first preference for employment opportunities will be given to Wards 1 and 5 residents. The Applicant and its contractor, once selected, will coordinate training, job fairs, and apprenticeship opportunities with construction trade organizations or with healthcare facilities and other organizations to maximize participation by District residents in the training and apprenticeship opportunities in the PUD.

Management and Maintenance of Publicly Accessible Areas

92. Prior to the issuance of the first certificate of occupancy for the Application, the Applicant will establish a project association or business improvement district for the PUD ("Partnership") that will be responsible for the maintenance and improvements of the roadways, alleys, bicycle paths, historic walks, sidewalks, parks, historic resources, streetscapes, street furniture and fixtures, and signage within the PUD boundaries. The Partnership will program and stage events within the PUD for the benefit of the public.

Environmental Benefits

93. The master plan for the overall development for the PUD Site will be evaluated for LEED-Neighborhood Development and will be certified at least LEED-Gold or its equivalent. Individual buildings within the PUD Site will be certified at least LEED-Silver or its equivalent.

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Benefits of Special Value to the Community

94. The Applicant will provide the following community benefits:
- a. \$1,000,000 as a workforce development fund to be coordinated by the Community Foundation of National Capital Region ("CFNCR"), of which \$300,000 for scholarships will be for community residents to pursue higher education, training, or job-related certification, encouraging "legacy" career paths such as civil engineering, landscape architecture, or on-site jobs in the medical field, with a preference for Wards 1 and 5 residents, to the extent permitted by law. The remaining \$700,000 directed to organizations whose mission includes workforce development, to create true "career paths" for District residents through readiness, training, and placement in on-site or other employment opportunities, and which have a demonstrated track record for successful job placement and retention of District residents;
 - b. \$125,000 to the D.C. Education Fund to be used to improve Science, Technology, Engineering, and Math ("STEM") teacher professional development and instruction, as well as student learning and achievement, particularly at Dunbar High School, McKinley Technical High School, and Langley Educational Campus³;
 - c. \$500,000 over a 10-year period to the Partnership, as defined by Finding of Fact No. 75⁴, operating budget to hire high-school age residents and senior residents to provide guided tours of the McMillan site highlighting the preserved historic resources;
 - d. \$750,000 over a 10-year period to the Partnership, as defined by Finding of Fact No. 75⁵, operating budget to create a community market, outdoor cafe, and space for art installations between the South Service Court and South Park, and to activate the South Service Court and existing elements, such as regulator houses for small business incubators, silos as hanging gardens, water features and observation points;

³ This finding was corrected to reflect that the Applicant revised its proffer to change the recipient of the contribution to the D.C. Education Fund and to specify the purposes for which the funds are to be used. (Ex. 849C.)

⁴ This finding was corrected to reflect that the donation will be made to the Partnership.

⁵ See footnote 4.

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- e. \$225,000 to the Partnership, as defined by finding of fact 75⁶, to facilitate business start-ups in the project;
- f. \$500,000 to a contractor or otherwise for fabricating, installing, repairing and restoring tree box fence enclosures; planting trees and ground cover plants; and installing certain neighborhood signage in coordination with the Bates, Bloomingdale, Eckington, Edgewood, Hanover Area, and Stronghold Civic Associations⁷;
- g. The Applicant shall use best efforts to provide free WiFi for public use in the community center and park;
- h. \$150,000 to the North Capitol Main Street, Inc., for the storefront improvement program to provide grants for major corridors in ANC 5E boundaries affected by the PUD. The funds shall only be used for storefronts located on North Capitol Street, N.E., and N.W., between Channing Street and New York Avenue; and
- i. The Applicant will provide a total of approximately 97,770 square feet of gross floor area devoted to retail and service uses on the PUD Site. The retail space will include a neighborhood-serving grocery store.

Transportation Mitigation Measures

95. In its review of the project, DDOT identified a number of potential adverse effects of the project related to its transportation impact, and recommended a list of mitigations to minimize the anticipated impacts of the project. (Ex. 38.) DDOT and the Applicant collaborated to develop means to implement DDOT's suggested mitigations. The Applicant submitted a detailed transportation performance plan⁸ that lists the mitigations

⁶ See footnote 4.

⁷ This finding was corrected to reflect that the Applicant changed the recipient of the contributions and refined the purposes to which the contributions are to be used. (Ex. 861.)

⁸ The Transportation Performance Plan includes obligations to (this is a non-exhaustive list):

- Coordinate design of roadway and public space infrastructure;
- Submit to DDOT review of operational and management measures to spread peak hour traffic demand;
- Construct physical improvements to roadway infrastructure (subject to DDOT approval);
- Coordinate with DDOT and other nearby institutions to develop a plan to increase transit capacity to levels sufficient to serve the project ("Transit Implementation Plan");
- Fill any transit demand gaps through private shuttles;
- Comply with a loading management plan for the grocery store;
- Comply with a transportation demand management plan;
- Fund bikesharing docks on the Site; and
- Perform identified traffic monitoring and reporting.

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and the threshold events by which the mitigations must be implemented) (“Transportation Performance Plan”). (Ex. 849B.) DDOT evaluated the mitigations and found that they were adequate. (Ex. 851.) This list of mitigations was further refined and expanded by the Applicant in response to comments from the Commission. (Ex. 862.) DDOT again evaluated this enhanced list of mitigations and concluded that they were adequate. (Ex. 866.) The Commission further expanded the list of mitigations when it took final action to approve the applications, by stating that the private shuttle service provision of the plan should be provided at the levels of service provided in the plan without regard to its cost to the Applicant. The Commission finds that the mitigations provided in Condition D.1 of this Order are adequate to mitigate the potential adverse effects of the project related to its transportation impact.

Development Incentives and Flexibility

96. The Applicant requested the following areas of flexibility from the Zoning Regulations:
- a. To provide a range in the number of residential units on Parcel 4 of plus or minus 10% from the number depicted on the plans dated April 11, 2014, and supplemented by drawings submitted on June 23, 2014 (Ex. 32A, 832A);
 - b. From the roof structure set back requirements, consistent with the roof plans submitted as part of the plans dated April 11, 2014, and supplemented drawings submitted on June 23, 2014 (Ex. 32A, 832A);
 - c. From the loading requirements, consistent with the loading diagrams submitted in Ex. 699B, and as modified by Ex. 832A;
 - d. From the rear yard depth requirements, consistent with the plans dated April 11, 2014, and supplemented by drawings submitted on May 13, 2014 (Ex. 32A, 699A);
 - e. The Applicant seeks flexibility under the PUD guidelines from the rear yard requirements for all of the Rowhouses except Buildings 9 and 19. A rear yard depth of 12 feet is required for each group of buildings, but only nine feet are provided for Buildings 1-8, and Buildings 10, 11, 13, and 17. The Applicant seeks a deviation of three feet for those buildings. No rear yards are provided for Buildings 12, 15, and 18;
 - f. Additionally, the Applicant seeks flexibility from the open court width requirements at Building 9 in order to provide a 9.5-foot-wide court where 10 feet is required;

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- g. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not substantially change the exterior configuration of the buildings;
- h. To vary the location and configuration of the affordable units on Parcels 2 and 4, so long as the proportion of studio, efficiency, and one-bedroom affordable units to all affordable units do not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units with a mixed-income building on Parcel 2. The affordable units shall be of a size equal to the market-rate units, provided that the affordable units may be the smallest size of each market-rate type and have no luxury-scaled unit counterpart;
- i. To vary the garage layout, the number, location, and arrangement of the parking spaces on each of the parcels, provided that the total number of parking spaces is not reduced below the minimum level required by the Commission;
- j. To vary the layout of the loading facilities on Parcel 1, provided that the dimensions and number of loading facilities are not reduced;
- k. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, location and orientation of the fins, or any other changes to comply with the District of Columbia Construction Code, the recommendations of the D.C. Historic Preservation Review Board or the Mayor's Agent for Historic Preservation, or that are otherwise necessary to obtain a final building permit;
- l. To vary the final design of retail frontages, including locations of doors, design of show windows and size of retail units, to accommodate the needs of specific retail tenants;
- m. To vary the location and size of signs on the buildings, as long as they conform to the sign guidelines for the PUD;
- n. To vary the location, attributes and general design of the public spaces and streetscapes incorporated in the PUD to comply with the requirements of the approval by DDOT's Public Space Division; and

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- o. If any retail areas are leased by a restaurant or food service user, flexibility to vary the location and design of the ground-floor components of the building(s) in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any restaurant use.

Phasing

97. The Applicant will undertake construction and delivery of the PUD according to the following timeline, also included as Exhibit 17D2 in the record:
 - Infrastructure construction will start in 2015 and will be delivered throughout 2016 and 2017;
 - Construction of public amenities will start in mid-2016 and will be delivered between mid-2017 and mid-2018;
 - Construction of the Rowhouses will start at the beginning of 2016 and will be delivered throughout 2017 and 2018;
 - Construction of the Healthcare Facility will start at the beginning of 2016 and will be delivered throughout 2017 and 2018;
 - Construction of the Multi-Family/Grocery Building will start in 2016 and will be delivered throughout 2017 and 2018;
 - D.C. Water will control Cell 14 until 2022; and
 - Construction of Parcels 2 and 3 will be part of a future phase of development.

Office of Planning Reports

98. OP submitted separate reports for each segment of the PUD, recommending approval of the project subject to certain conditions. (Ex. 37, 46, 68.) The OP report dated April 21, 2014, affirmed OP's support of the proposed C-3-C and CR Zone Districts for the PUD Site, and stated that the proposed development is consistent with the objectives of the proposed zones. (Ex. 37.) In addition, at the May 8, 2014 hearing night, OP testified to its support of the proposed zone districts. OP stated "the C-3-C zone is appropriate for [Parcel 1] as it allows the [A]pplicant to respond to the adjacency of the hospitals across Michigan Avenue at an appropriate massing and density.... The flexibility to provide for the 130 foot height would also allow the ability to step the building down to a lower height...and to provide an abundance of open space across the site." (Z.C. Transcript ["Tr."], 05/08/2014 at pp. 129-30.) In response to questions from the Commission, OP described how it "did look at the site as a unified project and how the density moved throughout the site and what was required of each of the parcels... We would not be supporting C-3-C across the site or as a matter of right, only as part of this PUD so that that the density could be controlled...." (*Id.*, pp. 135-36.) This analysis was further

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corroborated in testimony and a memorandum submitted by the Applicant's expert witness in zoning and land use. (Ex. 832C.)

99. OP's April 21, 2014 report also provided a detailed analysis of the project's consistency with the Comprehensive Plan Future Land Use Map and Generalized Policy Map, and how the PUD meets or furthers many of the elements and policies of the Comprehensive Plan, including the following:
- a. *LU-1.2.1: Reuse of Large Publicly-Owned Sites* and *LU-1.2.7: Protecting Existing Assets on Large Sites* - The PUD supplies new housing and affordable housing, creates new employment opportunities, and provides new public parks and open space. The PUD also preserves, restores, and reuses historic elements;
 - b. *H-1.2.4: Housing Affordability on Publicly Owned Sites* - The PUD includes a mix of housing types and affordability and includes market and affordable units; rental and homeownership units; and single family and multi-family buildings. Units specifically dedicated for seniors, 55 years and older, is also a feature of the development;
 - c. *PROS-1.3.6: Compatibility with Adjacent Development* and *PROS-3.3.1: North-Central Open Space Network* - The Park and open space will enhance the PUD Site and contribute significantly to an integrated system of permanent open spaces and parks, with areas for both passive and active recreation. The restoration of the Olmsted Walk will be a significant asset to the development and the community, and will be compatible to the historic character of the PUD Site. The proposed buildings will not be in conflict with the residential and commercial uses on the PUD Site;
 - d. *UD-2.2.8: Large Site Development* and *UD-2.3.5: Incorporating Existing Assets in Large Site Design* - The largest parcel and the most intense development will be on the northern portion of the PUD Site adjacent to the intense institutional uses. The development on the PUD Site tapers down towards the residential uses along North Capitol Street and the Park is adjacent to the residential uses to the south. Most of the historic structures, significant natural landscapes, and panoramic vistas will be preserved and integrated into the new development. The master plan includes design guidelines to provide direction on building appearance and streetscape, signage and utilities, parking design, landscaping, buffering, protection of historic resources, integration of the development with the surrounding neighborhood, and design principles that promote environmental sustainability;

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- e. *HP-2.4.3: Compatible Development* - HPRB has concluded that the proposed development would preserve the historic character of the PUD Site and that new buildings are at a scale that respects the historic elements through design and siting; and
 - f. *MC-2.6.1: Open Space on McMillan Reservoir Sand Filtration Site; MC-2.6.2: Historic Preservation at McMillan Reservoir; and MC-2.6.5: Scale and Mix of New Uses* - The open space on the PUD Site will include areas for passive and active recreational uses, including a community center and "healing gardens," which are designed to provide connectivity to the medical complexes across Michigan Avenue and the Armed Forces Retirement Home property. HPRB and HPO review addressed the cultural significance of the PUD Site, which includes the preservation of the underground cells as well as the above-ground structures with proposals for adaptive reuse. The Applicant will work with Cultural DC to promote public art that is compatible to the PUD Site's historic character. The Applicant requested CR and C-3-C Zone Districts on the PUD Site that would allow the requested range of residential and other uses. (Ex. 37.)
100. OP submitted a supplemental report dated September 15, 2014 that responded to the NCPC submission dated August 25, 2014. (Ex. 854.)
101. OP also submitted a response to the Applicant's post-hearing submission dated August 25, 2014. (Ex. 855.)

DDOT Reports

102. On April 21, 2014, DDOT submitted a report indicating that it conditionally supported the project. (Ex. 38.) DDOT's recommendations and conditions fell into the following three categories: (i) improvements to egress to the south of the PUD Site; (ii) alterations to physical improvements; and (iii) additional TDM measures.
103. The Applicant addressed each of these issues in its oral testimony and in the following post-hearing submissions, prepared by Gorove/Slade and dated June 18, 2014:
- a. Response to DDOT Staff Report & Transportation Commitments Memorandum (Ex. 832E);
 - b. Curbside Management Plan Memorandum (Ex. 832F2); and
 - c. Response to MCV Associates Testimony & Reports Memorandum (Ex. 832F1).

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104. DDOT's April 21, 2014 report stated that the Applicant used sound techniques to perform its analysis, and that DDOT agrees with the Applicant's methodology of determining trip distribution and collecting data. (Ex. 38.) At the public hearing, DDOT further expressed support for the PUD. DDOT testified that although FOMP's transportation expert asserted that the PUD would result in additional congestion on North Capitol Street, all of the mitigation measures proposed by DDOT and accepted by the Applicant would fully mitigate the expected traffic impacts. (Z.C. Tr., 05/13/2014 at pp. 196-97.) In addition, DDOT's report stated that much of the potential delay can be mitigated by implementing a coordinated signal system in the vicinity of the PUD Site. (Ex. 38, p. 12.)
105. DDOT's July 8, 2014 report responded to the Applicant's June 18th submission. It commented on the changes and updates to the site design, identified areas of disagreement with the Applicant's proposed mitigations, and highlighted remaining areas not addressed by the Applicant's report. (Ex. 837.)
106. DDOT's September 10, 2014 report stated that it had coordinated efforts with the Applicant to assess and mitigate anticipated transportation impacts of the project, and responded to the changes made to the transportation elements of the proposal put forward by the Applicant in its August 25, 2014 submission. (Ex. 851.) The report stated that the Applicant had addressed all of the outstanding issues identified by the Commission, and that "the Applicant's Transportation Performance Plan [Exhibit 849B] includes the comprehensive list of mitigations, developed in close coordination with DDOT, that are necessary to mitigate the projected transportation impacts of the project."
107. DDOT's October 29, 2014 report stated it was responding to the refinements made to the Applicant's transportation-related elements through the Applicant's October 20, 2014 filing. (Ex. 862.) The report stated that "[t]he Applicant coordinated with the Applicant on the refinements in Exhibit 862, and DDOT concurs with the modifications. Through the [Transit]⁹ Implementation Plan, the Applicant has provided a firm commitment and the level of detail necessary to assure DDOT that adequate transit capacity will be in place prior to the occupancy of the proposed development." (Ex. 866.)

ANC Reports

108. ANC 5E: On November 19, 2013, at a properly noticed public meeting at which a quorum was present, ANC 5E voted 6-2-2 in support of the Applicant's submission to HPRB for the first-stage and consolidated PUD and related map amendment. (Ex. 40.) The resolution asserted ANC 5E's support for the project and its interest in working with

⁹ DDOT's report stated it was the "Transportation" Implementation Plan but the Applicant consistently referred to it as the "Transit" Implementation Plan, and it is referred to it as the "Transit" Implementation Plan in the conditions of this Order.

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the Applicant to address outstanding issues, including the development of a CBA, traffic mitigation measures, and the development of appropriate public transportation facilities.

109. On May 6, 2014, ANC 5E submitted a letter requesting that the Commission keep the record open until May 23, 2014, to allow ANC 5E and the Applicant to continue working toward reaching an equitable CBA, which at the time was still under negotiation. (Ex. 492.)
110. At the public hearings, Commissioner C. Dianne Barnes, on behalf of ANC 5E, testified in support of the PUD. Ms. Barnes stated that the proposed development would create a more walkable community to shop, live, work, and play, and that it would give neighborhood residents an opportunity to actively enjoy the local treasures. Ms. Barnes also expressed ANC 5E's concerns regarding the impacts on neighborhood traffic, particularly on First Street and North Capitol Street.
111. On May 27, 2014, Sylvia Pinkney, on behalf of ANC 5E, submitted a letter stating that on May 24, 2014, ANC 5E voted unanimously to support a draft CBA, which requested the Applicant to commit certain public benefits and amenities as a condition of approval to the Application. (Ex. 816.) The letter attached the terms of the CBA that were acceptable to ANC 5E.
112. On June 17, 2014, at a duly noticed public meeting, at which a quorum was present, ANC 5E voted 4-0-3, with one recusal and two abstentions, to support the PUD Application and to move forward with its final CBA. (Ex. 833.)
113. On September 10, 2014, ANC 5E submitted a letter stating its continued support for the proposal. (Ex. 852.)
114. ANC 1B: At its regularly scheduled, publicly noticed meeting on May 1, 2014, with a quorum of 9 of 11 present, ANC 1B voted 8-0-1 to defer to and participate in the process established by ANC 5E, the ANC of primary jurisdiction. (Ex. 688.)¹⁰ At the May 13, 2014 hearing night, ANC 1B Commissioner Anderson-Holness testified that the decision to defer to ANC 5E was based on the fact that the PUD Site is within ANC 5E boundaries and that ANC 1B wanted to support its fellow ANC as it supports its community.
115. ANC 5A: At its regularly scheduled, publicly noticed meeting on January 29, 2014, at which a quorum was present, ANC 5A voted 7-0-0 to support the PUD Application. (Ex. 41.) In its resolution, ANC 5A applauded the city and the Applicant for the detailed plan that it developed for the PUD Site, including adjustments to accommodate residents'

¹⁰ ANC 1B also submitted a letter dated April 30, 2014, stating that it would be voting on the project at its May 1, 2014 meeting. (Ex.110.)

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concerns and guidelines established by HPRB. ANC5A asserted that it looked forward to continued work with the Applicant in the development of traffic, transit, and stormwater solutions, ongoing zoning and historic preservation concerns, and the development of a community benefits agreement.

Contested Issues

Transportation, Traffic, and Vehicle Congestion

116. FOMP asserted that the traffic conditions created by the PUD would be legally unacceptable under § 2403.3 of the PUD regulations, due to unmitigated impacts on the surrounding area and on the operation of city services. FOMP claimed that the influx of additional cars and congestion created by the PUD would overwhelm the existing transportation infrastructure in and serving the surrounding neighborhoods, which is already congested beyond capacity. (Ex. 34-34D.) With respect to the adequacy of the Applicant's traffic mitigation measures, FOMP argued that the Applicant's proposed transportation measures were vague, non-binding, and inadequate to mitigate transportation impacts caused by the PUD. Many persons in opposition to the Application made similar allegations in their public testimony to the Commission regarding the already overly congested streets surrounding the PUD Site and the inability for the street network to accommodate any new vehicles.
117. Joe Mehra of MCV Associates, supported FOMP's argument in his written and oral testimony. Mr. Mehra stated that the PUD would result in excessive delays and congestion on the roadways surrounding the PUD Site, and that residents and visitors to the PUD Site would not take significant advantage of public transportation to mitigate the anticipated additional traffic congestion. (Ex. 696.)
118. In addition, FOMP stated that the Applicant's analysis was generally incorrect and that the additional number of vehicle trips created as a result of the PUD would be higher than what was proffered by the Applicant. (Ex. 45.) Mr. Mehra also claimed that there were multiple errors in the Applicant's capacity analyses with respect to default values of heavy vehicles in the network, incorrect lane widths, missing details on bus blockages, and conflicting bicycle volumes, among others. Mr. Mehra asserted that there were discrepancies in the traffic counts because the Applicant used existing traffic counts for some intersections and balanced counts for others. He objected to the background traffic assumptions used by Gorove/Slade, particularly the use of the Metropolitan Washington Council of Governments ("MWCOG") regional model as a basis for determining growth outside the study area. As a result, according to Mr. Mehra, the Applicant significantly underestimated the growth of traffic due to the PUD, its impacts on the surrounding area, and the ability to mitigate those impacts. (Ex. 696.)

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119. In its written and oral testimony, DDOT confirmed that Gorove/Slade's analysis was appropriate, correct, and followed DDOT's guidelines. (Ex. 38.) DDOT specifically stated that Gorove/Slade's mode split assumptions were reasonable and even overestimated the percentage of trips occurring by vehicle, particularly for the medical office and grocery components of the PUD.
120. Gorove/Slade also refuted Mr. Mehra's findings in a post-hearing submission. It noted that capacity analysis was based on the Highway Capacity Manual, as required by DDOT, which uses a default value for some to nearly all of the model inputs. While Mr. Mehra might have wanted the Applicant to apply a different capacity analysis, the Commission finds it entirely appropriate and necessary for the Applicant to comport with DDOT guidelines. This ensures that transportation studies across the city are conducted in a consistent and cohesive manner. Similarly, the Commission finds it appropriate to use the MWCOG regional model for traffic from future developments outside the study area. Gorove/Slade followed industry and local DDOT standards in development of the background traffic assumptions and all of these assumptions were discussed and vetted with DDOT. One advantage in using the MWCOG regional model is that it provides specific information on peak traffic hours broken down by roadway direction. Additionally, it results in a study that overestimates traffic volumes because the MWCOG includes developments such as the Armed Forces Retirement Home and the PUD Site as sources of new traffic data. That is, they are double-counted in the Gorove/Slade report and the TDM measures are geared toward these higher traffic assumptions.
121. The Commission agrees with DDOT and the Applicant that approximately half of the projected number of vehicle trips generated by the PUD will arrive or depart in the off-peak direction of travel, where there is generally more capacity available on the existing transportation network. (Ex. 38.) Finally, the Commission finds that the Applicant utilized sound techniques to perform its traffic impact analysis. Consequently, the Commission finds the Gorove/Slade analysis reasonable and credible.
122. The traffic mitigation measures required by this Order will adequately ameliorate traffic on the streets surrounding the PUD Site. The Applicant will construct numerous improvements to the transportation network, and will implement various TDM measures to ameliorate traffic congestion caused by the PUD. The Commission further finds that the new street network will disperse traffic in a way that minimizes the PUD's impact on the external road network and improves connectivity to the adjacent neighborhoods. (Ex. 38, 832F2-832F3, 849B, 862.)
123. In addition, the Commission finds that DDOT and WMATA have completed plans for expanding and upgrading the transit capacity around the PUD Site through additional bus

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service on WMATA's 80 and H routes, as well as an east-west Circulator route. DDOT has funding in place for Circulator expansion and is willing to expend some of these funds to commence the study and planning process for the east-west Circulator line before the end of 2014. The Commission also finds that Councilmember Kenyan R. McDuffie is committed to working with DDOT to ensure that the existing public funding for these transportation improvements stays in place and that the expanded and upgraded transit capacity needed for the project to succeed is in place by the time the Healthcare Facility opens for business. (Ex. 832D.)

124. In addition, FOMP alleged: (i) the Applicant's commitments to abide by its Transportation Performance Plan, and to develop a final Transit Implementation Plan in coordination with DDOT and other institutions to bolster transit available to the Site, are not sufficiently definite to address future traffic conditions and transit needs for the Site, (ii) that DDOT has not made a sufficiently definite commitment to provide sufficient additional public transit, (iii) the Applicant's traffic monitoring plan is not sufficiently definite, and that nothing in the monitoring plan indicates what happens if the goals are exceeded, (iv) that the additional transit trips provided will be inadequate to meet new demand, and (v) that the Applicant has not sufficiently addressed the likely effects of the proposed additional public transit trips and/or shuttles and traffic on intersections with poor levels of service. (Ex. 858.)
125. The Commission finds that the Applicant has demonstrated a sufficiently definite commitment to ensure adequate future traffic conditions and transit capacity for the Site. The Applicant is required to implement all the mitigation measures established in the Transportation Performance Plan dated August 25, 2015, as enhanced by the commitments in its October 20, 2014, and as further enhanced by the Applicant's commitment to provide shuttle capacity (if needed) without regard to cost. (Ex. 849B, 862.) The Applicant is further required to coordinate with DDOT and other nearby institutions to provide a detailed Transit Implementation Plan prior to building permit issuance that will show how the Applicant will achieve the necessary additional transit capacity to support the project. (Ex. 849B, 862.) DDOT has agreed to review the plan, and coordinate delivery of transit services. If any component of the public transit service enhancements is not possible by the Certificate of Occupancy for each parcel, the Applicant will fill any transit demand gaps through private shuttles. (Ex. 862.) The Commission finds that this level of commitment is sufficient, even though it does not rise to the level requisite for this to count as a public benefit of the PUD, pursuant to 11 DCMR § 2403.6. The Commission has not counted the project's traffic mitigation measures as public benefits of the project. Instead, it has only evaluated the traffic mitigation measures necessary to mitigate the impact of the project on the surrounding area and the operation of city services and facilities, pursuant to 11 DCMR § 2403.3. The Commission finds that the Applicant has made a sufficiently definite commitment to meet that standard.

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126. With regard to FOMP's allegation that DDOT has not made a sufficiently definite commitment to provide additional public transit, the Commission takes DDOT at its word that it is "committed to enhancing public transit capacity to meet the continued growth in transit demand." (Ex. 851.) As DDOT stated in its final report, DDOT is limited in the assurances it can provide because of funding horizon limitations. (Ex. 866.) The project is several years from progressing to the point where the additional transit capacity is needed. The Commission finds that DDOT's commitment is sufficiently definite under the circumstances.
127. Turning to FOMP's assertion that the monitoring plan is not sufficiently definite, and lacks sufficient enforcement provisions, the Commission notes that DDOT actively participated in designing the metrics and has concluded that they are adequate. (Ex. 837, 851). The Commission finds that the monitoring plan is sufficiently detailed and specific.
128. The Commission disagrees with FOMP's assertion that nothing in the transportation monitoring plan indicates what happens if the goals are exceeded. (Ex. 858.) The plan states that the Applicant must suggest additional mitigation measures if the goals are exceeded. (Ex. 849B, p. 4.) The Commission finds that the monitoring plan, when combined with the other mandatory traffic mitigation measures required by the Traffic Performance Plan, are sufficient to mitigate the potential adverse effects of the project related to traffic.
129. The Commission also disagrees with FOMP that the additional transit trips provided were inadequate to meet existing demand and the new demand created by the project. The Commission is persuaded by the analysis conducted by the Applicant and DDOT that the expected sources of additional public transit trips are adequate to meet the new demand created by the project. Furthermore, the Applicant is required to provide private shuttle service if adequate public transit capacity is not achieved.
130. Finally, the Commission also disagrees with FOMP that the additional traffic, public transit trips and/or shuttles generated by the project, combined with existing traffic levels, will overwhelm the traffic infrastructure. The Commission is persuaded by the analysis conducted by the Applicant, and DDOT's conclusion that the Applicant's Traffic Performance Plan, combined with the other mitigation measures proposed by DDOT and incorporated by the Applicant, will be sufficient to adequately mitigate the traffic and transit effects of the project.

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131. Opponents to the project raised other objections to the inadequacy of the on-street bicycle facilities surrounding the PUD Site, and argued that bicycle access to the PUD Site is difficult and unsafe.
132. The Commission finds that the Applicant is improving bicycle facilities by providing a sidewalk along North Capitol Street at a minimum of eight feet wide, which will provide space for cyclists riding on the sidewalk along North Capitol Street. In addition, the Applicant provided concepts for a bicycle lane for First Street, N.W. The Commission finds that the Applicant will also address bicycle infrastructure by providing funding for a minimum of 60 Capital Bikeshare docks on the PUD Site, and an additional 20 docks offsite at a nearby Metrorail station. The funding will include capital costs and one year of operations and maintenance.
133. The Commission therefore finds that the traffic and transit mitigation measures incorporated into this Order are sufficient to sufficiently mitigate the potential adverse effects of the project related to traffic.

Historic Preservation

134. Another major point of contention was the Applicant's proffer of historic preservation as a public benefit. FOMP claimed that the Applicant's proposal destroyed over 80% of the historic resources on the PUD Site, particularly the underground water filtration cells, that the new construction dwarfed the limited number of historic resources being retained in the North and South Service Courts, and that the significant open and green spaces of the landmark would be lost. Ms. Sellin, FOMP's expert in historic preservation, opined that a "park" on the site of the historic McMillan Reservoir Historic District was an essential component of the city's McMillan Park Plan of 1902, that it was a park open for the public's recreational use, and that the Applicant's plan would obliterate it. FOMP argued that the level of demolition and the alteration of the historic landscape is wholly inconsistent with the historic preservation laws and policies in the District, including the policies in the District of Columbia Comprehensive Plan and the requirements of the D.C. Historic Landmarks and Historic Districts Protections Act, D.C. Official Code § 6-1100 *et seq.* (Ex. 34.) According to FOMP, this extensive demolition could not constitute an amenity under § 2403.9(d) of the PUD regulations.
135. FOMP also argued that alternative redevelopment options were possible that would save more of the historic site and allow adaptive re-use of the underground cells. Miriam Gusevich, FOMP's expert in architecture, presented a schematic plan at the hearing, although she did not submit it to the record, dubbed the "People's Plan." That plan would purport to allow some development on the PUD Site while preserving the majority of it as open space and park, including an urban beach with recycled sand from the existing underground vaults. Ms. Gusevich asserted that the Applicant had not investigated

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- retention of the underground cells in more stable condition or their possible reuse as retail "incubator" space. FOMP relied on a 2000 structural report prepared by C.C. Johnson and Malhotra, PC ("CCJM Report"), which claimed that many of the cells could be stabilized and reused, and could support four story structures on top without destroying the historic filtration cells (*see* Chapter 6 of the CCJM Report). (Ex. 93.)
136. Other persons and organizations testified against the historic preservation component of the PUD, as well. The National Trust for Historic Preservation, for example, argued that the preservation of the majority of the above-grade structures did not constitute a PUD project amenity or public benefit because historic preservation deed restrictions on the project required retention of the structures anyway. The National Trust stated that § 2403.4 of the PUD regulations provides that a PUD must benefit the public or surrounding area to a significantly greater extent than would likely result from a project under matter-of-right zoning. According to the National Trust, a matter of right project would also require the same amount of preservation and thus it could not be credited as a public benefit or amenity. (Ex. 34B.)
137. The Applicant's expert witnesses provided a contrary view. Kirk Mettam of Robert Silman Associates, the Applicant's expert in structural engineering, testified that the unreinforced concrete used for the underground cells was extremely unstable. He stated that he studied the CCJM Report and agreed with its assessment that there is "little capacity to resist tension loads in the concrete caused by either unbalance vertical load or horizontal forces caused by possible super structure above the ground...[or] dynamic loads caused by vehicular traffic." (CCJM Report at 6-3; 05/27/2014 Tr., at p. 139.) Mr. Mettam also noted that the CCJM Report was a draft, and that his studies went further in their analysis. The Robert Silman Associates report dated April 10, 2014 ("Silman Report"), concluded that the unreinforced vaults are very susceptible to brittle failure due to settlement, both vertical and lateral movement of the surrounding soils, and that the concept of adding four stories to the existing structure will result in failure of the existing structures. (Ex. 786.) The report further concluded that any hanging remnants of the cell structure from a new slab above would subject the building to movements that will cause great distress and precipitate internal hazards. Mr. Mettam noted that the CCJM Report did not include an analysis of the existing footings, which the Silman Report did analyze. The Silman Report concluded that, based on the allowable bearing pressures presented by CCJM, the existing structure cannot support its own weight, let alone the weight of the massive slabs proposed above, or even the more modest construction proposed by CCJM. While the cells could be reinforced, they would have to be completely encased and numerous new columns introduced throughout the underground cells, leaving little of the historic configuration recognizable. In Mr. Mettam's professional opinion, the Applicant's proposed scheme balances preservation and adaptive reuse of selected cells while permitting the use of the remaining property by the community.

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138. Emily Eig, an expert in historic preservation, testified that it was unrealistic to adaptively reuse the underground cells as a museum, galleries, restaurants, grocery stores, residences, fisheries, or other similar uses. Unlike buildings that are designed to support human occupancy, Ms. Eig stated that this industrial site was not meant to serve those functions. She noted that the friable character of the unreinforced concrete challenges the PUD Site's preservation, because it is simply not stable enough to support activities above or within. (Ex. 783.) She opined that none of the stabilization solutions, as detailed in the Silman Report, allow for good preservation solutions and that anything necessary to make them safe and code-compliant by modern standards would destroy their historic integrity. (Ex. 783; 05/27/14 Tr., at p. 146.)
139. Ms. Eig further testified on the strength of the preservation plan as proposed in the PUD. She stated that the design guidelines and architectural concepts of the plan, as endorsed by HPRB, retain many character-defining features of the historic landmark McMillan Park site. She opined that (i) the site will continue to read as a whole based on its form, organization, topography; (ii) almost all the above-ground historic built features will be retained; and (iii) the historic tripartite organization and horizontal plinth, which is critical to the interpretation of the historic operations of the filtration plant, will be integrated into the site plan. Moreover, she continued, the project will recreate the site-defining Olmsted Walk, re-purpose two underground cells, concentrate the public experience in the southern third of the site where the expanse of the plain across to the reservoir is most distinct and the experience most special.
140. The Commission credits the testimony of Mr. Mettam and Ms. Eig. The Commission finds that the cells are so structurally unstable that they cannot support development above, which is contemplated by the Comprehensive Plan. FOMP urges the Commission to give greater credence to the CCJM Report. Yet, this is not an instance of competing structural reports. The Silman Report builds on the analysis of the CCJM report – issued only as a draft – and provides further study of the existing footings with respect to lateral and horizon soil movement. Based on these additional studies presumably not yet conducted by CCJM, the Silman Report concludes that the less intensive development on the site that the CCJM Report suggested might be possible was, in fact, unsupported. The Commission is persuaded that stabilization of the underground cells would require such reinforcement and introduction of new structural members that the integrity of the cells would be lost. While FOMP's counsel suggested during cross-examination of Ms. Eig that the cells could be re-created under the Secretary of Interior Standards for Rehabilitation, Ms. Eig stated that those standards do not contemplate recreation of entire structures. As she explained, the Secretary of Interior Standards only contemplate reconstruction of missing elements or missing structures, not demolition of an historic resource in order to reconstruct it. (05/27/2014 Tr., at p. 243.) Based on the testimony and evidence of record, the Commission concurs with the findings of HPRB that the proposed redevelopment of the site provides significant preservation benefits. Almost all

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of the above ground historic built features will be retained and rehabilitated to the Secretary of the Interior's standards and guidelines.

141. With respect to any alleged inconsistency with the historic preservation laws and policies in the District, including the policies in the District of Columbia Comprehensive Plan and the requirements of the D.C. Historic Landmarks and Historic Districts Protections Act, D.C. Official Code § 6-1100 *et seq.* (Ex. 34), the Commission notes that the master plan and individual building designs were endorsed by HPRB as well as the State Historic Preservation Officer. HPRB is the District government review board with expertise to determine consistency with the city's preservation laws and policies. Additionally, the project will be forwarded to the Mayor's Agent to consider the proposed demolition. The Commission finds it appropriate to defer to expertise of HPRB and the Mayor's Agent regarding the preservation laws. The Commission addresses consistency with the historic preservation elements of the Comprehensive Plan below.

Views and Viewsheds

142. In its written and oral testimony, FOMP expressed concerns regarding the impact of the development on historic view sheds. FOMP claimed that the proposed development would obscure all views of the National Cathedral, Howard University skyline, Washington Monument, Old Post Office, Capitol Building, Catholic University, Basilica of the National Shrine of the Immaculate Conception, the reservoir, and the sand storage towers on the PUD Site. FOMP asserted that the existing rowhouses in the adjacent communities are only two to three stories high and do not obscure the same views. (Ex. 39, 45.)
143. Evidence submitted to the record suggests otherwise. The views will be maintained in the southern portion of the PUD Site where the park will be located. The northern views have already been compromised by the hospitals located across Michigan Avenue from the PUD Site. In addition, the proposed development will not impact the views and viewsheds from the Armed Forces Retirement Home ("AFRH") located north of the PUD Site beyond the Veteran's Administration Hospital, the Washington Hospital Center and Children's National Medical Center. In 2008, AFRH completed a Master Plan to help direct new development on its site, which NCPC reviewed as part of an environmental assessment and Section 106 review under the National Historic Preservation Act. The plan analyzed views and viewsheds from various vantage points, including a sightline from Scott Statue south to the Capitol. The proposed PUD falls within that sightline; however, existing trees obscure the view of the Capitol for much of the year from Scott Circle, and the proposed Healthcare Facility on the PUD Site does not block the view to the Capitol.

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144. The Commission further finds that views and viewsheds are not protected under the Zoning Regulations, unless specifically provided for through easements or other provisions of law. Here, there are no easements that protect views or viewsheds across the PUD Site, nor are there any provisions in the federal elements of the Comprehensive Plan, developed by NCPC, that protect such views. However, the Mid-City Area Element of the Comprehensive Plan for the PUD Site does provide that historic views and viewsheds across the site should be protected (10A DCMR § 2016.9). The Applicant's proposal satisfies that objective.

Historic Preservation Covenants

145. FOMP and several opponents also disputed whether the PUD complied with the historic preservation covenants on the property designed to enforce the Section 106 process by ensuring that redevelopment on the site complied with the Secretary of the Interior Standards for Rehabilitation. They urged the Commission to defer action until those issues were resolved with the Advisory Council on Historic Preservation. The Commission disagrees. First, the Commission finds that it is not within its jurisdiction to interpret restrictive covenants on a property unrelated to the Zoning Regulations. Second, the Commission notes that those covenants place decision-making on historic preservation matters squarely in the hands of the State Historic Preservation Office ("SHPO") for the District of Columbia. On May 22, 2014, the Historic Preservation Officer, David Maloney, and OP jointly submitted a supplemental report stating that the SHPO does not disagree with the plans for the PUD Site and has no reason to conclude that the project will not be in compliance with the preservation covenants in the deed. The Commission thus finds this issue resolved: the preservation covenants are no impediment to Commission action on this PUD and the SHPO's report, coupled with HPRB's recommendations, demonstrate that the project advances important preservation goals and objectives that constitute public benefits and amenities under the PUD regulations. (Ex. 776.)

Environmental Degradation

146. In its written testimony and at the public hearing, FOMP urged that the proposed development would destroy the majority of open space and landscape features on the PUD Site. FOMP quoted the National Register nomination for McMillan Park, stating that "[t]he landscaped grounds were designed by the nationally acclaimed landscape architect, Frederick Law Olmsted, Jr.," and that "the reservoir as a park opened the waterworks up for public use and contributed to the civic beauty of the city." (Ex. 34.)
147. The Commission finds that the PUD Site retains only a few remnants of the designed landscape conceived by Olmsted. Those that exist include the form of tree and shrubbery stumps, which can be used to ascertain the original patterns of some of the plantings. However, the identified species presently existing on the PUD Site do not represent

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species that were specified by Olmsted. For example, the ivy that grows on many of the structures in the North and South Service Courts has been identified as Boston Ivy, which was not the species recommended by Olmsted. Because few remnants of Olmsted's original landscape plan remain, the PUD Site's designed landscape retains a low degree of integrity of materials, workmanship, feeling, setting, association, and location. (Ex. 538B, at p. 78). The PUD cannot destroy landscape features that no longer exist. Instead, the PUD will re-establish much of the Olmsted plan for the PUD Site, most significantly the Olmsted Walk, with its allee of trees around the entire perimeter of the property.

148. With respect to the open space, any development on the PUD Site will affect this characteristic of the historic use, including the one described by FOMP's expert in architecture, Ms. Gusevich. As noted above, the southern third of the site will remain open, preserving views south, west, and east of the PUD Site. Views to the north have already been compromised and development will take place in those areas. The project is sensitively designed to preserve the salient open space features of the landmark with the 6.2-acre park and the historic east-west views through the North and South Service Courts.
149. FOMP and other opponents also claimed that the proposed development would exacerbate the significant downstream flooding experienced by residents in neighborhoods immediately to the south of the PUD Site. (Ex. 34.) FOMP stated that the Applicant did not address the impact of the new sewer hookups for the proposed development on the already overburdened sewer system. (Ex. 45.)
150. The Commission credits the testimony and reports of the Applicant's expert in civil engineering and finds that the Applicant has adequately addressed storm water management on the PUD Site. The Applicant will meet and exceed the latest storm water management regulations that have been implemented by the District government. The on-site system proposed will consist of many different types of low impact design techniques, including impervious pavement and sidewalks, roadways, alleys, bio swales, bio tree pits and inlets, cartridge filters, oil grid separators, rain gardens, green screens, detention vaults, and cisterns. The large open spaces, the Park, and the Service Corridors allow the Applicant to apply many of these and other cutting edge techniques. Currently, the PUD Site has no storm water management facilities included or connected to prevent water runoff or flooding in the area. The proposed on-site systems will significantly improve water quality, reduce the volume of runoff, and control the release and safe conveyance of all storm water drainage.
151. FOMP also challenged the Applicant's proposed LEED certification for the buildings on the PUD Site as an insufficient public benefit to outweigh environmental impacts of the project. (Ex. 34.) The Commission finds, however, that the Applicant will provide LEED-ND Gold for the overall PUD Site, and will achieve LEED-Silver status in

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individual buildings, given design choices. The Commission finds that the Applicant is proposing sufficient public benefits that outweigh environmental impacts.

Compliance with the PUD Evaluation Standards

152. In its written testimony and at the public hearing, FOMP asserted that the Applicant did not satisfy its burden of proving that the impacts of the PUD on the surrounding area were outweighed by the public benefits and amenities. FOMP stated that the "token" preservation of a few historic structures and landscape elements does not constitute a public benefit or amenity of the PUD that outweighs unmitigated destruction of the historic structures, open spaces, and landscapes on the PUD Site. Based on this belief, FOMP asserted that the proposed project does not afford the public any benefit in terms of "urban design, architecture, site planning, landscaping, and open space." (*see* 11 DCMR §§ 2403.9(a) and (b).) FOMP also claimed that the Applicant's proposed benefits are vague and conclusory, and that the Applicant does not quantify the benefits proposed, measure their impact, or demonstrate any reasonable commitment on the part of public agencies. (*see* 11 DCMR § 2304.6.) For example, FOMP stated that the Applicant's Transportation Impact Study ("TIS") relies on proposed transit improvements, including the new streetcar line, private shuttle buses, and the D.C. Circulator bus, to mitigate traffic impacts, but that the Applicant did not provide any evidence that WMATA has made any commitment to implement the transit improvements stated. FOMP also stated that there is no evidence of a commitment to install three new Capital Bikeshare stations. (Ex. 34.)
153. The Commission is not persuaded by these arguments. As noted above, the proposed PUD provides a full range of tangible public benefits and amenities, including the preservation of almost all of the above-grade historic structures and at least two underground cells; the re-establishment of the Olmsted Walk; the provision of a significant public park with open space, water features, ball fields, playgrounds, and other recreational spaces; construction of new housing, significant affordable housing above the requirements for the requested zone districts, large healthcare facilities with jobs for District residents, and a grocery store; among many other features. These alone are significant public benefits and amenities in and of themselves. The Applicant has gone beyond this to include additional elements specifically requested by the community that have special value to the neighborhood. These include streetscape beautification and storefront improvement funds in the immediate area; scholarships for high school students; contributions to parent-teacher associations or other non-profits serving Science, Technology, Engineering and Math ("STEM") programs; McMillan tour guide programs for high-school students and seniors; business start-up funds; among many others. As a result of the on-site and additional benefits, the Applicant has gained the support of ANC 5E, the ANC in which the PUD Site is located.

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154. Still, FOMP took exception to the projected employment opportunities on the PUD Site and claimed that they do not constitute sufficient "employment and training" opportunities (*see* 11 DCMR § 2403.9(e)) that outweigh the adverse impacts of the project as a whole. FOMP alleged that the Applicant did not explain how the jobs would be measurable or quantifiable, as required by the PUD regulations. (*see* 11 DCMR 3403.7.) (Ex. 34.) FOMP asserted that the Applicant's job estimates are "soft," meaning either of short duration or ill defined. FOMP asserted that the Applicant made unsupported claims of the number of jobs that would be created by the PUD, especially with regard to permanent medical jobs in the healthcare facilities. FOMP also urged that the number of jobs anticipated by the Applicant were "hypothetical" because the Applicant has no knowledge of which healthcare providers, if any, would lease the proposed space. (Ex. 45.) FOMP asserted that the Applicant's anticipated number of jobs created is extravagant, especially in relation to competition from the AFRH project one block north of the PUD Site, which FOMP asserted would break ground and find tenants long before any office space would be built at the PUD Site. (Ex. 45.) FOMP claimed that more than 50% of the anticipated jobs created are construction jobs that will disappear in a few years, and that the Applicant did not adequately explain what the stated "indirect" jobs are, or where they will come from, or who will hold them. (Ex. 45.) FOMP further claimed that the Applicant did not provide any assurance that the jobs that would be provided as a result of the project would provide permanent employment for District residents who are the most in need of jobs, and that the permanent jobs provided as a result of the project will be for skilled and trained healthcare workers when most District residents are not qualified for those positions. (Ex. 858.) Finally, FOMP criticized the Applicant's workforce development fund because it does not definitively state how much of the fund will be used for measurable training and employment opportunities, arguing that therefore it did not qualify as a public benefit under the criteria established by 11 DCMR § 2403.6¹¹ (Ex. 858.)
155. The Commission finds that the Applicant's expected jobs numbers are not hypothetical and that the Applicant will provide significant new jobs to District residents. The Applicant has discussed potential tenancy with several of the healthcare providers in the immediate area, including Medstar, the Washington Hospital Center, and Children's National Medical Center. (Ex. 832I.) Moreover, the Applicant has committed \$1 million as a workforce development fund to be coordinated by the Community Foundation of the

¹¹ "Public benefits are superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from the development of the site under the matter-of-right provisions of this title. All public benefits shall meet the following criteria:

(a) Benefits shall be tangible and quantifiable items; and

(b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a Certificate of Occupancy.

Monetary contributions shall only be permitted if made to a District government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided." (11 DCMR 2403.6.)

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National Capital Region, a substantial portion of which will be directed to organizations whose core mission is workforce development to create true "career path" jobs, and other amounts for community scholarships for residents to pursue careers related to the historic or proposed uses on McMillan, such as civil engineering, landscape architecture, or the medical field. While the use of the workforce development fund is somewhat speculative, as FOMP points out, the Commission finds that it qualifies as a public benefit. The Applicant is required to show evidence to the Zoning Administrator in accordance with § 2403.6 of the Zoning Regulations of annual payments of \$140,000 each over a five-year period (\$700,000 total) to the CFNCR to support workforce development initiatives to improve low-income workers' skills, credentials, career prospects, earnings, and job placement, particularly in key local industries and occupations. The Applicant is also required to show evidence of payment of annual payments of \$60,000 each over a five-year period (\$300,000 total) to CFNCR to support scholarships for higher education, training, or job-related certification encouraging "legacy" career paths such as civil engineering, landscape architecture, or on-site jobs in the medical field, with a preference for Wards 1 and 5 residents to the extent permitted by law. The Commission finds that the workforce development fund qualifies as a public benefit of the project because it meets the criteria established by 11 DCMR § 2403.6. The workforce development fund would not be created under matter-of-right development. The contribution amounts are quantifiable, and will be arranged prior to the issuance of a certificate of occupancy, and as a condition of this order, the Applicant must show that the funds are used for their intended purposes prior to the issuance of a certificate of occupancy.¹² Finally, during construction of the project, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the District Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the PUD project. To the extent permitted by law, first preference for employment opportunities shall be given to Wards 1 and 5 residents. The Applicant and its contractor, once selected, shall coordinate training, job fairs, and apprenticeship opportunities with construction trade organizations or with healthcare facility and other organizations to maximize participation by District residents in the training and apprenticeship opportunities in the PUD.

156. FOMP further claimed that the proposed housing and affordable housing opportunities could be achieved without destroying the below-grade sand filtration cells and open

¹² The Applicant is required to show it has made the scholarship payments and that the funds have been used for the stated purpose prior to the settlement of the first townhouse on Parcel 5. The Commission finds that this is an acceptable alternative to tying proof of performance to a Certificate of Occupancy, because Certificates of Occupancy are not issued for townhouses. (See 11 DCMR § 3203.1.) Settlement on the first townhouse is the most reasonable equivalent event to issuance of a Certificate of Occupancy. Much like a Certificate of Occupancy, which allows the use and occupancy of a particular building or space, settlement is the time by which a homeowner is handed the keys to the residence and can occupy the home. An alternative would be to disregard the payment because it did not comply with the requirement of the regulation requiring performance tied to a Certificate of Occupancy. This seems unduly harsh, and would unnecessarily limit potential contributions in other PUDs proposing one-family dwellings.

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space. FOMP asserted that only a small percentage of the affordable housing provided on the PUD Site goes beyond what would be required under matter-of-right zoning, and thus the housing component does not satisfy the PUD requirements of exceeding what would have been required through matter-of-right development. (*see* 11 DCMR 2403.9(f.)) (Ex. 34.) FOMP also noted that none of the housing offered on the PUD Site is for low-income households, as defined in 11 DCMR § 2601.1, and that instead the Applicant proposes to devote most of the affordable housing units to households earning up to 80% of the AMI. (Ex. 39, 858.)

157. The housing and affordable housing included in this PUD is significant, real, and measurable. The proposed CR zoning only requires the Applicant to produce eight percent of the total gross floor area devoted to residential uses as inclusionary units. Those units would only need to be affordable to households earning up to 80% of AMI. Here, however, the Applicants will devote 20% of the residential GFA on the PUD Site to affordable units, with 85 units in the multi-family building set aside for senior citizens earning 50% to 60% of AMI. The Applicant has increased the number of Rowhouses set aside as inclusionary units to 22 where only 18 would be required. Nine of the affordable Rowhouses will be available to low-income households earning no more than 50% of the AMI. This is a clear benefit to the city that would not otherwise happen through matter-of-right development.
158. In its written testimony and at the public hearings, FOMP asserted that the influx of market-rate housing on Parcels 4 and 5 will accelerate gentrification in the surrounding neighborhoods, increase median sale and rental prices, and result in a net loss of affordable housing units. (Ex. 39.) FOMP stated that the development will therefore not help to meet the city's affordable housing goals. The Commission finds that this claim is conclusory and that FOMP provided no evidence to support it.

Consistency with the Comprehensive Plan

159. FOMP asserted that the Applicant's proposed development is inconsistent with the Comprehensive Plan, specifically the Mid-City Element. In its written testimony, FOMP asserted that the Mid-City Element stated, "reuse plans for the McMillan Reservoir Sand Filtration site [shall] dedicate a substantial contiguous portion of the site for recreational and open space. The open space should provide both active and passive recreational uses, and should adhere to high standards of landscape design, accessibility, and security... connectivity to nearby open spaces such as the Armed Forces Retirement Home, should be achieved through site design." (10A DCMR § 2016.5.) (Ex. 34.)
160. FOMP also urged that the PUD was inconsistent with the Parks, Recreation and Open Space Element (Chapter 8) of the Comprehensive Plan, which describes the network of "major federal facilities, cemeteries, and institutional uses located just north of the city's geographic center, in an area otherwise lacking in public parkland," and states that "as

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detailed plans are developed for these sites, the District must take an active role in conserving the connected open space network as an historic, ecological, aesthetic, and recreational resource." (Ex. 34.)

161. The Commission finds that the PUD will provide a substantial amount of parks and open space and is consistent with the Mid-City Area Element of the Comprehensive Plan. The proposed open space on the PUD Site will include areas for passive and active recreational uses, including a community center and plaza, a pond, an open grass area above the preserved cells, a lawn, an amphitheater, a spray fountain, and portions of the Olmsted Walk. The park will enhance the PUD Site, provide significant new open spaces for public enjoyment, offer a new opportunity for many recreational services, and contribute significantly to an integrated system of permanent open spaces in the city. The proposed open space healing garden at the northern portion of the PUD Site will be a relaxing, serene space for patients, visitors, and employees, and will provide connectivity to the medical complexes across Michigan Avenue and the Armed Forces Retirement Home property. In addition, the preservation of the underground Cell 14 on the eastern portion of the PUD Site will provide a large open space above ground for active and passive recreation, as well as providing clear views of the historic elements in the North Service Court. (Ex. 37, 153.) In addition, although the intervening development of the VA Hospital, Children's Hospital, and Washington Hospital Center, already interrupt the connection from the PUD Site to the AFRH, the PUD nevertheless allows for connectivity through the creation of Half Street. The east-west connections to the reservoir site also reinforce the "emerald necklace" of green space within the city.
162. FOMP argued that the proposed development is inconsistent with the NCPC's approved amendment to the Comprehensive Plan that allows some development on the PUD Site. In its written testimony, FOMP quoted NCPC's analysis leading up to the amendment: "we find that ... any structures to be introduced with the District-owned part of McMillan Park should be widely spaced, [should] not exceed the four-story height of the Veterans Hospital, and preferably have lower transitional heights and picturesque rooflines to blend with the immediate landscape and park environs." FOMP asserted that the proposed height, mass, and scale of the proposed development would overwhelm, obscure, dominate, and distract from the features described by NCPC. (Ex. 34.)
163. FOMP raised specific concerns about the proposed height and bulk of the buildings on the PUD Site, alleging that the buildings as proposed would dominate the landscape, including the sand filtration towers on the PUD Site. (Ex. 34.) Specifically, in its written testimony, FOMP asserted that the size and scale of the Healthcare Facility and Multi-Family Grocery Building on Parcels 1 and 4 would contribute significantly to the additional harms related to open space loss, environmental degradation, and historic structure demolition. (Ex. 39.)

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164. In its written testimony, FOMP claimed that the project is inconsistent with Land Use Policy 1.2.7 - *Protecting Assets on Large Sites*, since it will "demolish a park built by one of the founders of American landscape architecture on a site chosen for majestic views of downtown Washington ..." FOMP also asserted that the Application is inconsistent with *PROS 3.3.1: North-Central Open Space Network* or with *MC 2.6.1: Open Space on McMillan Reservoir Sand Filtration Site*. (Ex. 45.)
165. The Commission finds that the PUD is not inconsistent with the Comprehensive Plan. The PUD Site is one of the 25 areas of the District designated on the Generalized Policy Map as a Land Use Change Area that anticipates that the existing land use will change to a different one. "They include many of the city's large development opportunity sites, and ... represent much of the city's supply of vacant and underutilized land." (10A DCMR § 223.10.)
166. The Commission finds that the Comprehensive Plan Future Land Use Map places the PUD Site in the following three land use categories: (i) Medium Density Residential, (ii) Moderate Density Commercial, and (iii) Parks, Recreation and Open Space. These categories provide suggested corresponding zone districts (although other zone districts may apply), as follows:

	Matter-of-Right Residential FAR	Matter-of-Right Commercial FAR	IZ Bonus	Total FAR Permitted as a Matter-of-Right
Medium-Density Residential				
R-5-B	1.8	n/a	0.36	2.16
R-5-C	3.5	n/a	0.7	4.2
Moderate-Density Commercial				
C-2-A	1.0	1.5	0.5	3.0
C-2-B	2.0	1.5	0.7	4.2
C-3-A	2.5	1.5	0.8	4.8

The density of the total PUD on the net land area is 2.36 FAR, of which 1.29 FAR is office and retail. Those numbers are well within and below the density permitted as a matter-of-right under C-2-A, which is the lowest of the three zones indicated as "corresponding" to Moderate Density Commercial. Thus, the 2.36 FAR proposed under the McMillan PUD is not inconsistent with the Future Land Use Map designation.

167. The Commission finds that based on the flexibility afforded by the PUD process, the proposed density can be appropriately distributed across the PUD Site by concentrating development on the northern parcel while leaving other portions, particularly at the south

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end of the PUD Site, as parks, recreation, and open space, consistent with the Comprehensive Plan designation. The trade-off for providing the substantial amount of open space is the concentration of height and density at the northern portion of the PUD Site. The only building to reach 115 feet is the western-most healthcare facility at the western portion of Parcel 1, between Michigan Avenue, the North Service Court, First Street, and Half Street. This segment of the PUD is the farthest removed from adjacent rowhouse neighborhoods – more than 1,000 feet from the houses on the south side of Channing Street, and more than 500 feet from the houses on the east side of North Capitol Street. This section of the PUD Site also abuts the higher height and density permitted on the Children's Hospital, Washington Hospital Center, and VA Hospital sites. Children's Hospital is built to a height of 127.5 feet.

168. The Commission finds that the proposed cluster development approach to the PUD Site is a critical and essential part of fulfilling the parks, recreation, and open space designation of the Future Land Use Map, while at the same time achieving the other elements of the Comprehensive Plan and the city's strategic economic plan. The Land Use Element of the Comprehensive Plan sets forth policies for protecting and utilizing historic resources as assets on large sites. Large sites are also to be leveraged to provide public benefits such as affordable housing, new parks and open spaces, healthcare and civic facilities, as well as other public facilities. (10A DCMR §§ 305 and 703.13 (*LU-1.2* and *ED-1.1.5*)). The Mid-City Element of the Comprehensive Plan specifically recognizes that development on portions of the PUD Site may be necessary to stabilize the PUD Site, and provides that the desired open space and amenities should consist of moderate to medium density housing, retail, and other compatible uses. (10A DCMR § 2016.9.) The city's strategic economic plan specifically calls for the development of the PUD Site as a medical office hub as a focal point for the city's medical institutions and much-needed expansion space for area hospitals.
169. The Commission finds that the policies, goals, and interpretive guidelines of the Comprehensive Plan all support the conclusion that the proposed zoning for the PUD Site is not inconsistent with the Comprehensive Plan. The policies and goals, which sometimes may be in conflict with one another, must be applied using the interpretive guidelines of the Comprehensive Plan. These guidelines state that the Future Land Use Map is to be "interpreted broadly" and recognize that the densities within any given area on the Future Land Use Map "reflect all contiguous properties on a block – there may be individual buildings that are higher or lower than these ranges within each area." (10A DCMR § 226(c).) The guidelines further advise that "the land use category definitions described the general character of development in each area, citing typical building heights (in stories) as appropriate. It should be noted that the granting of density bonuses (for example, through planned unit developments) may result in heights that exceed the typical ranges cited here." (*Id.*)

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170. The Commission finds that the PUD Site's landmark status and the design constraints imposed through the Historic Preservation Review Board process also affect the spacing of buildings and utilization of existing improvements both above and below grade. In order to afford the necessary protections set forth in the Historic Preservation Element of the Comprehensive Plan, and the specific considerations for the McMillan planning area under the Mid-City Element, it is essential to decrease and limit the footprint of buildings. Buildings must be placed, as proposed, in locations compatible with other adjacent uses and densities on nearby properties. Healthcare is the most proximate institutional use close to the PUD Site across Michigan Avenue, and will provide a strong market to permit the Applicant to leverage the area for sound economic development. Finally, the Commission finds that NCPC's amendment to the Comprehensive Plan is outdated and irrelevant.
171. In its written submission dated September 15, 2014, FOMP raised an additional issue related to the project's consistency with the Comprehensive Plan, namely, that its height was inconsistent with the Future Land Use Map's designation of the site for (i) Medium Density Residential, (ii) Moderate Density Commercial, and (iii) Parks, Recreation and Open Space. FOMP further argued that NCPC's staff report dated August 25, 2014 supported this conclusion insofar as it stated that the project would interfere with the federal interest because it would interfere with views from the Armed Force Retirement Home, in part because of the high-density zoning proposed for the northern portion of the site. (Ex. 850.)
172. Regarding FOMP's argument that the height was inconsistent with the Future Land Use Map's designation, as stated above, the Commission does not believe that the high-density zoning proposed for the northern end of the site is inconsistent with the Comprehensive Plan as a whole. The high-density zoning and corresponding building heights at the northern end of the site are appropriate given that they cluster the high-intensity uses and largest buildings on the portion of the site adjacent to existing intensive uses with similar building heights, and allow the southern end of the site to remain open space and low-density residential uses.
173. The Commission is not persuaded by FOMP's argument based on the staff report because NCPC staff subsequently changed its position in a subsequent letter dated September 15, 2014. (Ex. 856B.) In its September 15th letter, NCPC staff stated that because the Applicant redesigned the healthcare building to reduce its height and shift some of the bulk to the west, it had no objection to the proposed building heights.

Other Contested Issues

174. Opponents to the project testified that the PUD is inconsistent with the 2002 recommendations for the McMillan Sand Filtration Site prepared by OP and the

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Department of Housing and Community Development ("DHCD"). Many of those recommendations were, in fact, included in the present proposal in some form. The Commission further notes, however, that additional studies were conducted since that time, including structural and historic preservation, which helped inform the present plan. Finally, the 2006 Comprehensive Plan provides the legal guidance for the Commission on this project.

175. Persons testified that the Applicant did not adequately investigate the environmental impacts of the proposed redevelopment and that the Applicant failed to put any agency reports, public health studies, or environmental reviews on the record. Persons asserted that the PUD would increase pollution, noise, waste, emissions, carbon footprint, municipal water use, electric and gas use, and sewer needs. Environmental studies are best conducted by the District Department the Environment, however, and will be part of the building permit process. (*See Foggy Bottom Association v. District of Columbia Zoning Comm'n*, 878 A.2d 1160 (D.C. 2009).)
176. Opponents also testified that the construction of the project would cause adverse effects related to construction noise, traffic, and other related effects. Review of construction related effects are not part of the Commission's review of PUDs, which are limited to the zoning related impacts of a project. Mitigation of construction related impacts are covered by the District's building codes and will be part of the building permit process. The Commission nonetheless encourages the Applicant to enter into a construction management agreement or agreements with neighboring community groups to mitigate the effect of construction of the project on neighbors.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

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3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the Zoning Regulations under the proposed C-3-C and CR Zone Districts for the PUD Site. The uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
6. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant's request for flexibility from the Zoning Regulations is not inconsistent with the Comprehensive Plan. Moreover, the project's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the PUD Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1021; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's recommendation. In this case, on June 17, 2014, ANC 5E voted 4-0-3 to support the project, with two members absent and one seat vacant. The PUD Site also borders ANC 1B and ANC 5A, and thus their views are also entitled to great weight. On May 1, 2014, ANC 1B voted 8-0-1 to defer to and participate in the process established by ANC 5E. On January 29, 2014, ANC 5A voted 7-0-0 to support the PUD application.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.

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11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 *et seq.*).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the Application for preliminary review and approval of a first-stage PUD, consolidated PUD, and a related map amendment to zone the north portion of the PUD Site (Parcel 1) to the C-3-C Zone District, for a depth of 277 feet as measured from the middle of the curb at Michigan Avenue, N.W., and the remainder of the PUD Site to the CR Zone District. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below:

A. FIRST-STAGE PUD DEVELOPMENT PARAMETERS

1. *Architectural Plans*: The PUD shall be developed in accordance with the Master Plan (Volume 1) and the PUD and Consolidated Stage Two (Volume 2) prepared by EEK Perkins Eastman Architects, dated April 11, 2014, marked as Exhibits 32A1A1-32A1A26 and 32A2A1-32A2A72 (hereinafter Exhibit 32A), and supplemented by drawings submitted on June 23, 2014, marked as Exhibits 832A1-832A3 (hereinafter “Ex. 832A”) in the record, and the drawings submitted on August 25, 2014, marked as Exhibit 849A1-849A2 (hereinafter “Exhibit 849A”) (the “Plans”); as modified by the guidelines, conditions, and standards herein;
2. *Project Uses and Density*: The PUD shall be a mixed-use development devoted to residential, retail, service, institutional, community, and medical and related office uses, as shown on the approved Master Plan. The PUD shall have a maximum overall density of 1.92 FAR (2.36 FAR excluding the private rights of way), and a combined gross floor area of approximately 2,070,753 square feet;
3. *Building Heights*: The maximum building height of the Healthcare Facility on Parcel 1, to be located in the C-3-C Zone District, shall not exceed 115 feet. The maximum building height on Parcel 2, to be located in the CR Zone District, shall be 110 feet. The maximum building height on Parcel 3, to be located in the CR Zone District, shall be 110 feet. The maximum building height on Parcel 4, to be located in the CR District, shall be 77 feet. The maximum building height on Parcel 5, located in the CR Zone District, shall be 48 feet. The maximum building height on Parcel 6, located in the CR Zone District, shall be 26 feet. Parcel 7 shall be improved with the existing historic silos (sand bins) and regulator houses; and

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4. *Design and Public Art Guidelines:* The Applicant shall implement and follow the Master Plan Design Guidelines prepared by EEK Perkins Eastman Architects marked as Exhibit 17C to the record; and the Cultural DC Public Art Master Plan as marked as Exhibit 17D10 to the record.

B. CONSOLIDATED PUD DEVELOPMENT PARAMETERS

1. *Parcel 1:* Parcel 1 shall be developed as a Healthcare Facility with approximately 835,000 to 860,000 square feet of space devoted to medical offices, related healthcare uses, and retail. The Parcel 1 building shall have a maximum FAR of 4.08 (or approximately 5.52 FAR exclusive of private rights-of-way and Cell 14), and a maximum building height of 115 feet. Parcel 1 shall be developed as a single building for zoning purposes, with the above-grade connection located at the main level of the building along the North Service Court. Approximately 1,900 vehicle parking spaces shall be provided in a below-grade garage. Approximately 200 bike parking or storage spaces shall be provided in the garage. Loading shall be provided as shown on the drawings;
2. *Parcel 4:* Parcel 4 shall be developed as a mixed-use residential/grocery building consisting of approximately 305,847 square of gross floor area, or a maximum density of 3.21 FAR. Approximately 55,567 square feet of gross floor area shall be devoted to a grocery store use (inclusive of loading) and approximately 258,235 square feet of gross floor area shall be devoted to multi-family residential uses (inclusive of loading), which equates to approximately 196 market rate units and 85 affordable units for senior citizens (55 years of age or older) whose household income is between 50% and 60% of the AMI. The condition pertaining to this affordable housing component is set forth in Condition C.6 below. The maximum height of the building shall be 77 feet, as measured from North Capitol Street, N.W. Approximately 329 vehicle parking spaces shall be provided in a below-grade garage, with 154 spaces devoted to the retail uses and 175 spaces devoted to the residential uses. Approximately 100 bike parking or storage spaces shall be provided in the garage. Loading shall be provided as shown on the drawings Submitted August 25, 2014, marked as Exhibit 849A in the record;
3. *Parcel 5:* Parcel 5 shall be developed with 146 row dwellings, consisting of approximately 350,000 square feet of gross floor area, or a maximum density of 1.42 FAR. The row dwellings shall have a maximum height of 48 feet, which equates to four stories. Each row dwelling shall provide a minimum of one parking space. The affordable housing conditions applicable to this parcel are set forth in the Condition C.6 below;

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4. Parcel 6: Parcel 6, which includes the South Service Court, shall be developed as a Park including a 6.2- acre open space with a community center, as shown on the drawings prepared by EEK Perkins Eastman Architects dated April 11, 2014, marked as Exhibit 32A to the record, and as supplemented by drawings submitted on June 23, 2014, marked as Exhibit 832A in the record. The community center shall be constructed to a maximum height of 26 feet and contain approximately 17,500 square feet of gross floor area, or a density of approximately .07 FAR. The community center shall include gallery space with exhibits on the history of the McMillan site, a 25-meter swimming pool, a multipurpose community meeting room with a catering kitchen, outdoor gathering space, fitness studio, and locker and shower facilities. This amenity shall be open to the public and provide a user-friendly and convenient space for public gatherings and community events. The multipurpose community meeting room shall include moveable partitions to create smaller and larger spaces for gathering. Parcel 6 shall have 21 dedicated parking spaces and a dedicated loading area located in the South Service Court;
5. Parcel 7: Parcel 7 shall include the North Service Court with preserved historic silos and regulator houses, two-way circulation for all modes, and pedestrian facilities, as described in Condition C.4;
6. The Applicant shall have the flexibility with the design of the PUD in the following areas:
 - a. To provide a range in the number of residential units on Parcel 4 of plus or minus 10% from the number depicted on the plans dated April 11, 2014, marked as Exhibit 32A, and supplemented by drawings submitted on June 23, 2014, marked as Exhibit 832A in the record;
 - b. From the roof structure set back requirements, consistent with the roof plans submitted as part of the plans dated April 11, 2014, marked as Exhibit 32A, and supplemented by drawings submitted on June 23, 2014, marked as Exhibit 832A in the record, and drawings submitted August 25, 2014, marked as Exhibit 849A of the record;
 - c. From the loading requirements, consistent with the loading diagrams submitted in Exhibit 699B, and as modified by Exhibit 832A, and drawings submitted August 25, 2014, marked as Exhibit 849A of the record;
 - d. From the rear yard depth requirements, consistent with the plans dated April 11, 2014, marked as Exhibit 32A, and supplemented by drawings submitted on May 13, 2014, marked as Exhibit 699A in the record;

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- e. From the rear yard requirements for all of the Rowhouses except Building 9 and 19, consisted with the submitted plans;
- f. From the open court width requirements at Building;
- g. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not substantially change the exterior configuration of the buildings;
- h. To vary the location and configuration of the affordable units on Parcels 2 and 4. Except for the affordable senior units on Parcel 4, the proportion of studio, efficiency, and one-bedroom affordable units to all affordable units shall not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market rate units with a mixed-income building. The affordable units shall be of a size equal to the market-rate units, provided that the affordable units may be the smallest size of each market-rate type and have no luxury-scaled unit counterpart;
- i. To vary the garage layout, the number, location, and arrangement of the parking spaces on each of the Parcels, provided that the total number of parking spaces is not reduced below the minimum level required by the Commission;
- j. To vary the layout of the loading facilities on Parcel 1, provided that the dimensions and number of loading facilities are not reduced;
- k. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, location, orientation, and quantity of the fins, or any other changes to comply with the District of Columbia Building Code, the recommendations of the D.C. Historic Preservation Review Board or the Mayor's Agent for Historic Preservation, or that are otherwise necessary to obtain a final building permit;

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- l. To vary the final design of retail frontages, including locations of doors, design of show windows and size of retail units, to accommodate the needs of specific retail tenants;
 - m. To vary the location and size of signs on the buildings, as long as they conform to the sign guidelines for the PUD;
 - n. To vary the location, attributes and general design of the public spaces and streetscapes incorporated in the PUD to comply with the requirements of the approval by DDOT's Public Space Division;
 - o. To vary the final selection of plantings and beds within the range and types as proposed, based on availability at the time of installation during the appropriate planting season for the material selected, without reducing the quality of plantings or the layout or arrangement; and
 - p. If any retail areas are leased by a restaurant or food service user, flexibility to vary the location and design of the ground floor components of the building(s) in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any restaurant use; and
7. The Applicant shall have the option to construct the project in phases, as shown on the plans, as follows:
- a. Phase I consists of Parcels 1, 4, 5, 6, and 7, which include the Olmstead Walk and the internal roadways; and
 - b. Phase II consists of Parcels 2 and 3.

The deadline for filing applications for building permits and to construct the phases is set forth in Condition E.2.

C. Public Benefits

1. Urban Design, Architecture, and Site Planning: The PUD shall be developed in accordance with the Master Plan prepared by EEK Perkins Eastman Architects dated April 11, 2014, marked as Exhibit 32A, and supplemented by drawings submitted on June 23, 2014, marked as Exhibit 832A in the record, and the drawings submitted on August 25, 2014, marked as Exhibit 849A; as modified by the guidelines, conditions and standards herein. Prior to the issuance of a Certificate of Occupancy for the Healthcare Facility on Parcel 1, the Applicant

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shall obtain a building permit for all the necessary public infrastructure to support the development of Parcels 1, 4, 5, 6, and 7, including all project site work; all streets, alleys, sidewalks, and bike paths; historic and commemorative signage throughout the PUD site to create a walking museum of preserved buildings and views; and all related utilities;

2. Parks, Open Space, and Landscaping: Prior to the issuance of a Certificate of Occupancy for the Healthcare Facility on Parcel 1, the Applicant shall obtain a building permit to construct the Community Center, and approximately 500,000 square feet of public open space comprised of the South Park, the North and South Service Courts, the healing gardens, and preserved Cell 14. The South Park shall include covered seating areas with at least four durable, high quality picnic tables and benches, an amphitheater adjacent to the Community Center, a children's playground, a "spray-ground," an outdoor adult fitness area, a pond and open lawns for casual sports, all as shown on the drawings (pp. 33-35) and marked as Exhibit 32A210-32A2A12. The PUD shall provide all related streetscape improvements and street furniture, including lighting, benches, trash receptacles, and bicycle racks;
3. Design Guidelines; Public Art Guidelines: The Applicant shall implement and follow the Master Plan Design Guidelines prepared by EEK Perkins Eastman Architects marked as Exhibit 17C to the record; and the Cultural DC Public Art Master Plan as marked as Exhibit 17D10 to the record;
4. Historic Preservation: The Applicant shall obtain a building permit within three years of the effective date of this Order to retain and rehabilitate and renovate the North and South Service Courts, including all 20 sand storage bins, all four regulator houses, at least one sand washer, 11 filter bed portals and extended portions of the service court walls, and the preservation of Cells 14 and 28, all in accordance with the plans. The Applicant shall also obtain a building permit within three years of the effective date of this Order to re-establish the Olmsted Walk around the perimeter of the site, as shown on the plans, and this shall be accessible to persons with disabilities and include benches along the walk. The preservation work shall be completed prior to the issuance of the certificate of occupancy for the community center on Parcel 6. The Applicant shall seek permission from the U.S. Army Corps of Engineer or other responsible government agency to obtain the historic McMillan Fountain, formerly located on portion of the McMillan Reservoir west of First Street and, if permission is granted, to install it on the PUD Site;
5. Housing: The PUD shall provide approximately 924,583 square feet of gross floor area devoted to residential uses, or approximately 674 units of new housing

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in single-family and apartment houses, for both rental and ownership opportunities;

6. Affordable Housing: A portion of the total square feet of gross floor area devoted to housing shall be set aside for affordable housing, as follows: On Parcel 4, a minimum of 67,018 square feet of gross floor area of the total new housing provided, or approximately 85 units, shall be set aside as senior housing (55 years of age or older) for households earning 50% to 60% of AMI. An additional 25 units, or approximately 21,341 square feet of total gross floor area devoted to housing, shall be set aside on Parcel 2 for household earning 80% of the AMI. Finally, 22 of the single-family rowhouses on Parcel 5 shall be set as affordable housing. Nine of the affordable rowhouses will be made available to households earning no more than 50% of the AMI and the remaining affordable rowhouses will be made available to households earning no more than 80% of the AMI. The affordable housing units shall be constructed prior to or concurrently with the market-rate units on a given parcel, except that if the development is phased, the affordable units shall be constructed at a pace that is proportional with the construction of the market-rate units. All affordable units will remain subject to the applicable rental or price controls for so long as the project is in existence;¹³
7. CBE Participation: Prior to the issuance of a building permit, the Applicant shall execute a CBE Agreement with the Department of Small and Local Business Development (“DSLBD”) to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD. Business opportunities will be posted on the DSLBD website, and the Applicant shall give opportunities to CBE businesses for smaller contracts, such as catering, trash collection, and delivery service. The Applicant shall continue to work cooperatively with DSLBD, its contractors and with the Business Development Councils and other local community organizations to maximize opportunities for CBE firms throughout the process. The PUD shall also include 20% equity sponsor participation by a CBE;
8. Training and Employment Opportunities: During construction of the project, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the District Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the PUD project. To the extent permitted by law, first preference for employment opportunities shall be given to Wards 1 and 5 residents. The Applicant and its

¹³ As noted the Applicant intends to seek an exemption from the Inclusionary Zoning (“IZ”) regulations set forth in Chapter 26 of this Title. If the exemption is not granted, the Applicant shall nevertheless abide by the requirements of this condition, unless the IZ regulations impose more restrictive standards.

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contractor, once selected, shall coordinate training, job fairs and apprenticeship opportunities with construction trade organizations or with healthcare facility and other organizations to maximize participation by District residents in the training and apprenticeship opportunities in the PUD;

9. Project Association: Prior to the issuance of the first certificate of occupancy for the PUD, the Applicant shall establish a project association or business improvement district for the PUD that will be responsible for the maintenance and improvements of the private roadways, alleys, bicycle paths, historic walks, sidewalks, parks, historic resources, streetscapes, street furniture and fixtures, and signage within the PUD boundaries. Additionally, the project association will contribute to funding for programming and staging events within the PUD for the benefit of the public;
10. Environmental Benefits: The master plan for the overall development for the PUD Site shall be evaluated for LEED-Neighborhood Development and shall be certified at least LEED-Gold or its equivalent. Each project shall be LEED-Silver or Green Communities compliant, depending on its commercial or residential designation. Upon completion, the overall PUD Site shall achieve, at minimum, the applicable provisions of the Green Construction Code of the 2013 Construction Code of the District of Columbia. The Applicant shall put forth its best efforts to achieve a LEED-Silver rating or higher for the buildings on Parcels, 1, 4, 5, and 6, but the Applicant shall not be required to obtain the certification from the U.S. Green Building Council;
11. Uses of Special Benefit to the Community and City: The Applicant shall provide the following community benefits. The certificates of occupancy described in subparagraph (a) and subparagraphs (c) through (h) shall not be issued unless the Applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided:
 - a. Prior to the issuance of the first Certificate of Occupancy for the Healthcare Facility on Parcel 1, the Applicant shall initiate, and show evidence to the Zoning Administrator in accordance with § 2403.6 of the Zoning Regulations of annual payments of \$140,000 each over a five-year period (\$700,000 total) to the Community Foundation of the National Capital Region ("CFNCR") to support workforce development initiatives to improve low-income workers' skills, credentials, career prospects, earnings, and job placement, particularly in key local industries and occupations. Additionally, prior to settlement on the sale of the first townhouse on Parcel 5, the Applicant shall initiate annual payments of \$60,000 each over a five-year period (\$300,000 total) to the CFNCR to

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support scholarships for higher education, training or job-related certification encouraging “legacy” career paths such as civil engineering, landscape architecture, or on-site jobs in the medical field, with a preference for Ward 1 and 5 residents to the extent permitted by law;

- b. Prior to settlement on the sale of the first townhouse on Parcel 5, the Applicant shall initiate, and show evidence to the Zoning Administrator in accordance with § 2403.6 of the Zoning Regulations of annual payments of \$25,000 each over a five-year period (\$125,000 total) to the D.C. Education Fund to be used to improve science, technology, engineering, and math ("STEM") teacher professional development and instruction, as well as student learning and achievement, particularly at Dunbar High School, McKinley Technical High School, and Langley Educational Campus;
- c. Prior to the issuance of the first Certificate of Occupancy for the building on Parcel 4 and prior to the first settlement on the sale of a house on Parcel 5, the Applicant shall initiate, and show evidence to the Zoning Administrator in accordance with § 2403.6 of the Zoning Regulations of annual payments of \$50,000 over a 10-year period (\$500,000 total) to the Partnership, as defined by finding of fact 75, to hire high-school age residents and senior residents to provide guided tours of the McMillan site highlighting the preserved historic resources;
- d. Prior to the issuance of the first Certificate of Occupancy for the building on Parcel 4 and prior to the first settlement on the sale of a house on Parcel 5, the Applicant shall initiate, and show evidence to the Zoning Administrator in accordance with § 2403.6 of the Zoning Regulations of annual payments of \$75,000 over a 10-year period (\$750,000 total) to the Partnership operating budget to create a community market, outdoor cafe, and space for art installations between the South Service Court and South Park, and to activate the South Service Court and existing elements, such as regulator houses for small business incubators, silos as hanging gardens, water features and observation points;
- e. Prior to the issuance of the first Certificate of Occupancy for the building on Parcel 4, the Applicant shall show evidence to the Zoning Administrator in accordance with § 2403.6 of the Zoning Regulations of payment of \$225,000 to the Partnership to facilitate business start-ups by awarding grants or in-kind resources to small, local retail/service businesses looking to locate and operate on site to try out their retail/service concepts. A "local" business is a retailer/service provider

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that is either a CBE or a business headquartered in the District of Columbia; a “small” business is a retailer/service provider owning or operating fewer than eight retail/service outlets in the aggregate at the time such retailer/service provider enters into a lease at the PUD (inclusive of such outlet at the PUD);

- f. Prior to the issuance of the first Certificate of Occupancy for the building on Parcel 4 and prior to the first settlement on the sale of a house on Parcel 5, the Applicant shall provide evidence to the Zoning Administrator in accordance with § 2403.6 of the Zoning Regulations, that it has initiated payments to a contractor or otherwise will incur costs in the amount of \$500,000 over a five-year period for fabricating, installing, repairing and restoring tree box fence enclosures; planting trees and ground cover plants, and installing certain neighborhood signage in coordination with the Bates, Bloomingdale, Eckington, Edgewood, Hanover Area, and Stronghold Civic Associations;
 - g. Prior to the issuance of the Certificate of Occupancy for the Community Center, the Applicant shall use best efforts to provide free WiFi for public use in the community center and park; and
 - h. Prior to the issuance of the first Certificate of Occupancy for the mixed-use building on Parcel 4, the Applicant shall initiate annual payments in the amount of \$30,000 each over a five-year period (\$150,000 total) to North Capitol Main Street, Inc. for storefront improvements located on North Capitol Street, N.E. and N.W., between Channing Street and New York Avenue.
12. The Applicant will provide a total of approximately 97,770 square feet of gross floor area devoted to retail and service uses on the PUD Site. The retail space will include a full service grocery store.

D. Transportation Mitigation Measures

1. Transportation Features: The PUD Site shall be a multi-modal transit hub that accommodates transit services, such as the Metrobus, Circulator Bus, and the future Streetcar, and provides simple connections to Capital Bikeshare stations. The Applicant shall provide 80 Bikeshare docks on the PUD Site. The Applicant shall provide short- and long-term bicycle storage and changing facilities, and on- and off-street parking facilities, as shown on the Plans. The Applicant shall also do the following:

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- a. Prior to the issuance of the building permit for the Healthcare Facility on Parcel 1, the Applicant shall coordinate with DDOT and nearby institutions to provide a detailed final Transit Implementation Plan. The Final Transit Implementation Plan shall include the following:
 - i. Recommended improvements to nearby bus routes to better serve the PUD Site and the neighbors, including instituting rush hour express bus service;
 - ii. Recommended acceleration of planning and development of the planned Brookland-Columbia Heights Streetcar;
 - iii. The provision of an interim shuttle service to the Brookland Metrorail Station prior to the District's implementation of a Circulator Bus route and streetcar line that would serve the PUD Site, without regard to cost; and
 - iv. The Applicant's commitment to incentivize on-site residents and retail tenants to use public transit, such as providing space for a Transit Store, supplementing employee SmarTrip cards, and providing car-sharing and Capital Bikeshare memberships;
- b. For the life of the Project, the Applicant shall implement the loading and curbside management plan, as set forth in Exhibit 832F3 to the record;
- c. For the life of the Project, the Applicant shall abide by the Transportation Performance Plan dated August 25, 2014, submitted to the record as Exhibit 849B, and updated by Exhibit 862. The Applicant shall have the flexibility to modify the Transportation Performance Plan if approved by DDOT in writing;
- d. For the life of the Project, the Applicant shall implement the transportation infrastructure improvements recommended by Gorove/Slade Associates and DDOT; and
- e. For the life of the Project, the Applicant shall provide the electric car charging stations stated in Exhibit 849B. The car charging stations on Parcel 1 shall be completed prior to the issuance of a Certificate of Occupancy for Parcel 1. The car charging station on Parcel 4 shall be completed prior to the Certificate of Occupancy for Parcel 4. The car charging station on Parcel 6 shall be completed prior to the Certificate of Occupancy for Parcel 6.

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E. Miscellaneous

1. The Zoning Regulations Division of Department of Consumer and Regulatory Affairs (“DCRA”) shall not issue any building permits for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning;
2. The Consolidated PUD shall be valid for a period of two (2) years from the effective date of Z.C. Order No. 13-14. Within such time, an application must be filed for a building permit for the construction of Phase I of the project (described in B.7 above) as specified in 11 DCMR § 2409.1. Construction of Phase I of the project must commence within three (3) years of the effective date of this Order. Applicant shall not be required to file an application for a building permit for the park on Parcel 6 or the improvements to Cell 14 on Parcel 1 until six months prior to the date that D.C. Water intends to vacate that particular portion of the Phase I PUD site. Construction of the park on Parcel 6 or the improvements to Cell 14 must commence within one (1) year after the building permit is issued for that portion of the Phase I PUD site;
3. The first-stage PUD shall be valid for a period of two years after the effective date of this Order during which time the Applicant shall file a stage-two PUD application for Phase II of the PUD. The Applicant shall provide the Commission with an update of its implementation of the Transit Implementation Plan, and its compliance with the Community Benefits Chart and Payment Schedule (Ex. 849C), with each second-stage PUD application.
4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also

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prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On September 29, 2014, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Marcie I. Cohen, not having participated, not voting).

On November 10, 2014, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt; Marcie I. Cohen, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Corrected Order became final and effective upon its publication in the *D.C. Register* April 17, 2015.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 14-05
Z.C. Case No. 14-05
(Text Amendments to § 1803)
March 30, 2015**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 14-16
Z.C. Case No. 14-16
(Text Amendment and Map Amendments to 11 DCMR)
(Text & Map Amendments to Create and Implement the C-2-B-1 Zone District)
March 30, 2015**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 15-10
(Deanwood Hills, LLC – Consolidated PUD and Related Map Amendment @
Square 5197, Lot 809)
April 15, 2015**

THIS CASE IS OF INTEREST TO ANC 7C

On April 13, 2015, the Office of Zoning received an application from Deanwood Hills, LLC (the “Applicant”) for approval of a consolidated PUD and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Lot 809 in Square 5197 in Northeast Washington, D.C. (Ward 7), which is located at 5201 Hayes Street, N.E. The property is currently zoned C-M-1. The Applicant proposes a PUD-related map amendment to rezone the property, for the purposes of this project, to R-5-B.

The Applicant proposes to construct a 152,500-square-foot apartment house including approximately 150 dwelling units with a mix of studio, one-bedroom, two-bedroom, three-bedroom, and four-bedroom units. Fifty of the units will be set aside as replacement housing for Lincoln Heights and Richardson Dwellings, and the remainder will be dedicated to households with incomes not exceeding 60% of the area median income (“AMI”). The PUD will have a maximum height of 62’-3,” a density of 1.63 floor area ratio (“FAR”), and it will have 75 off-street parking spaces. The building will meet the Enterprise Green Communities standard for residential buildings.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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