

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council schedules a public hearing on Bill 22-92, Short Term Rental Regulation and Affordable Housing Protection Act of 2017
- D.C. Council schedules a public hearing on Bill 22-0041, Force of 4,200 – Police Officer Recruitment and Retention Act of 2017
- Department of Behavioral Health announces funding availability for the DC Social, Emotional and Early Development (DC SEED) Providers Grant
- D.C. Board of Elections defines the qualifications of electors who are no longer incarcerated and clarifies the types of documents permitted for valid proof of residence for same-day registrants
- Department of Energy and Environment announces funding availability for the Low Income Energy Efficiency and Conservation Programs
- Department of Health Care Finance and Department on Disability Services propose revisions to the Statewide Transition Plan for the District of Columbia Medicaid program’s Home and Community-Based Services Waivers
- Office of the Secretary adjusts the fees for notarial acts from \$2.00 to \$5.00

# DISTRICT OF COLUMBIA REGISTER

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MURIEL E. BOWSER  
MAYOR

VICTOR L. REID, ESQ.  
ADMINISTRATOR

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**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](http://www.dccouncil.us).

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

- |         |  |
|---------|--|
| B22-144 | Martha Tabor Alley Designation Act of 2017<br><br>Intro. 3-1-17 by Councilmember Nadeau and referred to the Committee of the Whole   |
| B22-147 | Africare Real Property Tax Relief Act of 2017<br><br>Intro. 3-2-17 by Councilmembers Evans and Allen and referred to the Committee on Finance and Revenue  |
| B22-148 | Jackson School Lease Renewal Authorization Act of 2017<br><br>Intro. 3-2-17 by Councilmember Evans and referred to the Committee on Business and Economic Development                              |
| B22-150 | St. Mary's Way Designation Act of 2017<br><br>Intro. 3-3-17 by Councilmembers Evans and Todd and referred to the Committee of the Whole  |
| B22-153 | Hardy School Disposition and Lease Agreement Act of 2017<br><br>Intro. 3-3-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development |
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- B22-154      Citizens with Intellectual Disabilities Civil Rights Restoration Act of 2017  
Intro. 3-3-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Human Services
- 
- B22-158      Nurse Safe Staffing Act of 2017  
Intro. 2-21-17 by Councilmember Cheh and referred to the Committee on Health
- 
- B22-159      Adult Learners Transit Subsidy Amendment Act of 2017  
Intro. 2-21-17 by Councilmembers Silverman, Todd, Evans, Grosso, R. White, Nadeau, and Bonds and referred to the Committee on Transportation and the Environment with comments from the Committee on Education
- 
- B22-160      Digital Literacy Council Establishment Act of 2017  
Intro. 2-21-17 by Councilmember Todd and referred to the Committee on Government Operations with comments from the Committee on Education
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- B22-161      Medical Marijuana Certified Business Enterprise Preference Amendment Act of 2017  
Intro. 2-21-17 by Councilmembers R. White, Nadeau, Grosso, Bonds, and Todd and referred to the Committee on Business and Economic Development
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- B22-165      The Grant Administration Amendment Act of 2017  
Intro. 3-7-17 by Councilmembers Evans, Bonds, R. White, McDuffie, and Silverman and referred to the Committee on Government Operations
- 
- B22-166      False Claims Amendment Act of 2017  
Intro. 3-7-17 by Councilmember Cheh and referred to the Committee of the Whole
- 
- B22-167      Academic Credential Fraud Amendment Act of 2017  
Intro. 3-7-17 by Councilmember Cheh and referred to the Committee on Judiciary and Public Safety with comments from the Committee on Education
-

B22-168	Public Housing Credit Building Pilot Program Act of 2017  Intro. 3-7-17 by Councilmembers Bonds, Silverman, Todd, R. White, Gray, and Chairman Mendelson and referred to the Committee on Housing and Neighborhood Revitalization
B22-169	Electronic Signature Authorization Act of 2017  Intro. 3-7-17 by Councilmember Bonds and referred to the Committee on Judiciary and Public Safety
B22-170	At-Risk Tenant Protection Clarifying Amendment Act of 2017  Intro. 3-7-17 by Councilmembers Bonds, Nadeau, Cheh, Silverman, R. White, McDuffie, and Chairman Mendelson and referred to the Committee on Judiciary and Public Safety
B22-171	Senior Dental Services Program Act of 2017  Intro. 3-7-17 by Councilmember Todd and referred to the Committee on Health with comments from the Committee on Housing and Neighborhood Revitalization
B22-172	Maternal Mental Health Task Force Act of 2017  Intro. 3-7-17 by Councilmembers Todd, R. White, Silverman, Nadeau, Bonds, and Cheh and referred to the Committee on Health
B22-173	District of Columbia Statehood Advocacy Act of 2017  Intro. 3-7-17 by Councilmembers Todd, R. White, and Nadeau and referred to the Committee of the Whole
B22-174	Health Insurance Coverage for Autism and Other Special Needs Amendment Act of 2017  Intro. 3-7-17 by Councilmember Allen and referred to the Committee on Business and Economic Development with comments from the Committee on Health

- B22-175      Transportation Benefits Equity Amendment Act of 2017  
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- B22-176      Health Care Revolving Fund Act of 2017  
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- B22-177      Interstate Medical Licensure Compact Approval Act of 2017  
Intro. 3-7-17 by Councilmember Gray and referred sequentially to the  
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- B22-178      Commission on Poverty in the District of Columbia Establishment Act of 2017  
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- B22-179      D.C. Public Schools Alternatives to Suspension Amendment Act of 2017  
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- B22-181      The Proper Planning for Future Growth Amendment Act of 2017  
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B22-182 Vacant and Abandoned Residential Property Foreclosure Amendment Act of 2017

Intro. 3-7-17 by Chairman Mendelson and Councilmembers Gray, Bonds, and Todd and referred sequentially to the Committee on Housing and Neighborhood Revitalization and Committee of the Whole

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### **PROPOSED RESOLUTIONS**

PR22-151 Director of the Department of Corrections Quincy Booth Confirmation Resolution of 2017

Intro. 3-1-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety

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PR22-153 Board of Physical Therapy Joel Hemphill Confirmation Resolution of 2017

Intro. 3-1-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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PR22-157 Board of Nursing Nancy Umland Confirmation Resolution of 2017

Intro. 3-2-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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PR22-165 Sense of the Council in Support of a Metropolitan Police Department Religious Minorities Liaison Unit Resolution of 2017

Intro. 3-7-17 by Councilmembers Cheh, Nadeau, Bonds, Allen, McDuffie, and Silverman and referred to the Committee on Judiciary and Public Safety

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 22-15, "Closing of a Public Alley in Square 653, S.O. 15-26384, Act of 2017"**

**Bill 22-57, "Closing of a Public Alley in Square 2960, S.O. 15-53893, Act of 2017"**

on

**Thursday, March 30, 2017**

**12:00 p.m., Room 123, John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 22-15, the "Closing of a Public Alley in Square 653, S.O. 15-26384, Act of 2017" and Bill 22-57, the "Closing of a Public Alley in Square 653, S.O. 15-53893, Act of 2017." The hearing will be held at 12:00 p.m. on Thursday, March 30, 2017 in room 123 of the John A. Wilson Building.

The stated purpose of **Bill 22-15** is to order the closing of a portion of the public alley system in Square 653, bounded by N Street S.W., Half Street, S.W., O Street S.W., and South Capitol Street, S.W. in Ward 6. The closing would support a mixed-use development project. The stated purpose of **Bill 22-57** is to order the closing of a portion of the public alley system in Square 2960, bounded by Eastern Avenue, Georgia Avenue, Alaska Avenue, Kalmia Road, and 12<sup>th</sup> Street in the Northwest quadrant, in Ward 4. The closing would support a mixed-use development with a parking lot and ground floor retail that includes a grocery store.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or email Randi Powell, Legislative Policy Advisor, at [cow@dccouncil.us](mailto:cw@dccouncil.us), and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, March 28, 2017. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on March 28, 2017 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. A copy of the legislation 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 Thursday April 13, 2017.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 22-92, "Short Term Rental Regulation and Affordable Housing Protection Act of 2017"**

on

**Wednesday, April 26, 2017  
10:00 a.m., Room 500, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 22-92, the "Short Term Rental Regulation and Affordable Housing Protection Act of 2017." The hearing will be held at 10:00 a.m. on Wednesday, April 26, 2017 in room 500 of the John A. Wilson Building.

The stated purpose of Bill 22-92 is to create a new license category for short-term rentals fewer than 30 consecutive days, to establish requirements governing the use of short-term rentals, to permit limited vacation rentals 15 nights cumulatively. The bill would require short-term rental hosts to obtain a basic business license. The bill would require short-term rental hosts and hosting platforms to maintain records. Further, the bill would require the Department of Consumer and Regulatory Affairs to inspect short-term rentals for violations of health and safety, as well as to establish duties and enforcement powers for the Department.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or email Randi Powell, Legislative Policy Advisor, at [cow@dccouncil.us](mailto:cow@dccouncil.us), and to provide your name, address, telephone number, organizational affiliation and title (if any) by noon on Monday, April 24, 2017. 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, 2017 the testimony will be distributed to Councilmembers before the hearing. **Witnesses must limit their testimony to three minutes; more time will be allowed by prior arrangement with the Committee staff.** A copy of the legislation 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 Wednesday May 10, 2017.



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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED/CANCELLED

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING

on

**Bill 22-98, the “Digital Sign Display Limitation Regulation Amendment Act of 2017”**

on

**Tuesday, March 28, 2017  
12:30 p.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 22-98**, the “Digital Sign Display Limitation Regulation Amendment Act of 2017.” The hearing will be held at 12:30 p.m. on Tuesday, March 28, 2017 in room 412 of the John A. Wilson Building. **This notice has been revised to reflect that the hearing has been cancelled.**

The stated purpose of **Bill 22-98** was to amend Appendix N of Title 12A of the District of Columbia Municipal Regulations to establish guidelines for the use of full motion video and digital displays in exterior digital signage. Bill 22-98 would prohibit the use of full motion video on signs in the District except at the Verizon Center, Nats Stadium, and Ballpark Designated Entertainment Area (“DEA”). The bill also would limit the use of full motion video on signs at the Verizon Center to one hour before, during, and 30 minutes after an event; and limit the duration of digital displays across the District to no less than eight seconds and transition time between messages to no greater than two seconds. These restrictions would effectively hold Verizon Center digital signs to the same standard as Nats Stadium and the DEA digital signs.

On March 7, 2017, Councilmember Cheh requested that Bill 22-98 be withdrawn so the measure is no longer before the Committee of the Whole. Thus, the hearing is cancelled.

**Council of the District of Columbia  
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY  
NOTICE OF PUBLIC HEARING  
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

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**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON  
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

**ANNOUNCES A PUBLIC HEARING ON**

**THE BOARD OF ELECTIONS' NOVEMBER 8, 2016, GENERAL ELECTION  
AFTER-ACTION REPORT**

**BILL 22-0037, THE "VOTER ADDRESS CONFIDENTIALITY  
AMENDMENT ACT OF 2017"**

**AND**

**BILL 22-0087, THE "ELECTIONS MODERNIZATION  
AMENDMENT ACT OF 2017"**

**Thursday, April 6, 2017, 12 p.m.  
Room 120, John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004**

On Thursday, April 6, 2017, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will hold a public hearing on the Board of Elections' November 8, 2016, General Election After-Action Report; Bill 22-0037, the "Voter Address Confidentiality Amendment Act of 2017"; and Bill 22-0087, the "Elections Modernization Amendment Act of 2017". The hearing will take place in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 12 p.m.

The hearing will review the Board of Elections' November 8, 2016, General Election After-Action Report in addition to the two bills below. The After-Action Report can be accessed here: [https://www.dcboee.org/popup.asp?url=/pdf\\_files/2016GeneralElectioAfterActionReport.pdf](https://www.dcboee.org/popup.asp?url=/pdf_files/2016GeneralElectioAfterActionReport.pdf).

The stated purpose of Bill 22-0037, the "Voter Address Confidentiality Amendment Act of 2017", is to amend the District of Columbia Election Code of 1955 to establish a procedure by which survivors of domestic violence, sexual assault, stalking, and human trafficking can maintain the confidentiality of their addresses with the Board of Elections.

The stated purpose of Bill 22-0087, the “Elections Modernization Amendment Act of 2017”, is to amend the District of Columbia Election Code of 1955 to increase the frequency with which the Board of Elections determines appropriately-sized voting precincts, and to permit duly registered voters to elect to receive a voter guide by electronic means.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee via email at [judiciary@dccouncil.us](mailto:judiciary@dccouncil.us) or at (202) 727-8275, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Friday, March 31**. 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 are encouraged to bring **twenty single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to [judiciary@dccouncil.us](mailto:judiciary@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 at [judiciary@dccouncil.us](mailto:judiciary@dccouncil.us) 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 April 19.**

**Council of the District of Columbia  
 COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY AND  
 COMMITTEE ON HOUSING & NEIGHBORHOOD  
 REVITALIZATION  
 NOTICE OF JOINT PUBLIC HEARING  
 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

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**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON  
 COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

**AND**

**COUNCILMEMBER ANITA BONDS, CHAIRPERSON  
 COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION**

**ANNOUNCE A JOINT PUBLIC HEARING ON**

**THE RECRUITMENT AND RETENTION OF FIRST RESPONDERS**

**BILL 22-0041, THE “FORCE OF 4,200 – POLICE OFFICER RECRUITMENT AND  
 RETENTION ACT OF 2017”**

**AND**

**BILL 22-0105, THE “FIRST RESPONDERS HOUSING INCENTIVE PROGRAM  
 AMENDMENT ACT OF 2017”**

**Wednesday, April 5, 2017, 11 a.m.  
 Room 412, John A. Wilson Building  
 1350 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20004**

On Wednesday, April 5, 2017, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, and Councilmember Anita Bonds, Chairperson of the Committee on Housing and Neighborhood Revitalization, will hold a joint public hearing on the Recruitment and Retention of First Responders; Bill 22-0041, the “Force of 4,200 – Police Officer Recruitment and Retention Act of 2017”; and Bill 22-0105, the “First Responders Housing Incentive Program Amendment Act of 2017”. The hearing will take place in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 11 a.m.

The hearing will explore the topic of the recruitment and retention of first responders with a focus on the two proposals described below.

The stated purpose of Bill 22-0041, the “Force of 4,200 – Police Officer Recruitment and Retention Act of 2017”, is to provide funding for salary increases and retention incentives for the Fraternal Order of Police MPD Labor Committee (Compensation Unit 3) that will allow the District of Columbia to stabilize its police force; rebuild its force to 4,000 sworn officers; and then increase the number of sworn officers to 4,200; and to transfer \$5 million from the Commodities Cost Reserve Fund to begin retaining Metropolitan Police Department officers eligible for retirement.

The stated purpose of Bill 22-0105, the “First Responders Housing Incentive Program Amendment Act of 2017”, is to amend the Government Employer-Assisted Housing Amendment Act of 1999 to establish the First Responders Housing Incentive Program to recruit and retain police officers, firefighters, and emergency medical technicians.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee on the Judiciary and Public Safety via email at [judiciary@dccouncil.us](mailto:judiciary@dccouncil.us) or at (202) 727-8275, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Friday, March 31**. 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 are encouraged to bring **twenty single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to [judiciary@dccouncil.us](mailto:judiciary@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 on the Judiciary and Public Safety at [judiciary@dccouncil.us](mailto:judiciary@dccouncil.us) 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 April 19.**

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**CONSIDERATION OF TEMPORARY LEGISLATION**

**B22-142**, Land Disposition Transparency Temporary Amendment Act of 2017, **B22-152**, Business License Technology Fee Reauthorization Temporary Amendment Act of 2017, **B22-164**, Interior Design Approval Temporary Amendment Act of 2017 was adopted on first reading on March 7, 2017. This temporary measure was considered in accordance with Council Rule 413. A final reading on this measure will occur on April 4, 2017.

**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 reprogrammings are available in Legislative Services, Room 10.  
Telephone: 724-8050

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**Reprog. 22-22:** Request to reprogram \$200,000 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Washington Metropolitan Area Transit Authority (WMATA) to the Local funds budget of the District of Columbia Office of Zoning (DCOZ) was filed in the Office of the Secretary on March 3, 2017. This reprogramming is needed to make critical upgrades to the Office of Zoning Hearing Room at One Judiciary Square.

RECEIVED: 14 day review begins March 6, 2017

**Reprog. 22-23:** Request to reprogram \$485,000 of Capital funds budget authority and allotment from various agencies to the Office of Unified Communication (OUC) was filed in the Office of the Secretary on March 3, 2017. This reprogramming is necessary for OUC to support structural improvements to a public safety telecommunications tower.

RECEIVED: 14 day review begins March 6, 2017

**Reprog. 22-24:** Request to reprogram \$77,000 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on March 3, 2017. This reprogramming is needed to purchase fitness equipment, security equipment, and furniture for the Fort Kenilworth-Parkside Recreation Center.

RECEIVED: 14 day review begins March 6, 2017

**Reprog. 22-25:** Request to reprogram \$965,856 of Local Capital funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of the Secretary on March 3, 2017. This reprogramming is needed to perform citywide alley condition assessments.

RECEIVED: 14 day review begins March 6, 2017

**Reprog. 22-26:** Request to reprogram \$2,591,608 of Capital funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of the Secretary on March 3, 2017. This reprogramming is needed to consolidate the Urban Forestry Division's local capital portfolio.

RECEIVED: 14 day review begins March 6, 2017

**Reprog. 22-27:** Request to reprogram \$94,111,227 of Federal Capital Funds, \$21,900,000 of Highway Trust Funds, and \$36,627,920 from Highway Trust Funds to Non-Participating Funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of the Secretary on March 3, 2017. This reprogramming is required because DDOT's obligation plan for federal-aid projects has evolved.

RECEIVED: 14 day review begins March 6, 2017



## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: March 10, 2017  
Protest Petition Deadline: April 24, 2017  
Roll Call Hearing Date: May 8, 2017  
Protest Hearing Date: June 28, 2017

License No.: ABRA-105482  
Licensee: Dio, LLC  
Trade Name: Dio Wine Bar  
License Class: Retailer's Class "C" Tavern  
Address: 904 H Street, N.E.  
Contact: Stacey Khoury-Diaz: (707) 291-7223

WARD 6

ANC 6A

SMD 6A01

Notice is hereby given that this licensee 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 on May 8, 2017 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., 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 **June 28, 2017 at 4:30 p.m.**

**NATURE OF OPERATION**

A wine bar that will serve food and alcoholic beverages. Total Occupancy Load of 24 seats.

**HOURS OF OPERATION**

Sunday 3:00 pm – 10:00 pm, Monday 5:00 pm- 12:00 am, Tuesday through Thursday 5:00 pm- 1:00 am, Friday 5:00 pm – 2:00 am, Saturday 4:00 pm – 2:00 am

**HOURS OF ALCOHOLIC BEVERAGE CONSUMPTION/SALES/SERVICE**

Sunday 3:00 pm – 9:00 pm, Monday 5:00 pm- 11:00 pm, Tuesday through Thursday 5:00 pm- 12:00 am, Friday 5:00 pm – 1:00 am, Saturday 4:00 pm – 1:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 10, 2017
Protest Petition Deadline: April 24, 2017
Roll Call Hearing Date: May 8, 2017

License No.: ABRA-100438
Licensee: Callister Technology & Entertainment, LLC
Trade Name: Duffy's Irish Restaurant
License Class: Retailer's Class "C" Tavern
Address: 2106 Vermont Avenue, N.W.
Contact: Casey Callister: (202) 277-9317

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a Substantial Change to their 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 on May 8, 2017 at 10 a.m., 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 OPERATION

Applicant has requested a Change of Hours to the Sidewalk Café.

HOURS OF OPERATION FOR PREMISES

Sunday through Thursday 9 am – 2am, Friday and Saturday 9 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/COMSUMPTION FOR PREMISES

Sunday through Thursday 10 am – 2am, Friday and Saturday 10 am – 3 am

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

Sunday through Thursday 9 am – 11 pm, Friday and Saturday 9 am – 12 am

PROPOSED HOURS OF OPERATION FOR SIDEWALK CAFÉ

Sunday through Thursday 8 am – 1 am, Friday and Saturday 8 am – 2 am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE

Sunday through Thursday 9 am – 1 am, Friday and Saturday 9 am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 10, 2017
Protest Petition Deadline: April 24, 2017
Roll Call Hearing Date: May 8, 2017

License No.: ABRA-060244
Licensee: RTI, Inc.
Trade Name: Il Tesoro
License Class: Retailer's Class "C" Restaurant
Address: 4400 Connecticut Avenue, N.W.
Contact: Ignazio Bonanni: (202) 363-6766

WARD 3

ANC 3F

SMD 3F06

Notice is hereby given that this licensee has requested a Substantial Change to their 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 on May 8, 2017 at 10 a.m., 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 Change of Hours of Operation and Alcoholic Beverage Sales/Service.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISE

Sunday through Thursday 11 am- 2 am, Friday and Saturday 11 am – 2 am

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

Sunday through Thursday 11:30 am- 12 am, Friday and Saturday 11:30 am – 2 am

PROPOSED HOURS OF OPERATION FOR INSIDE PREMISE

Sunday through Saturday 7 am – 2 am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISE

Sunday through Saturday 8 am – 2 am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Placard Posting Date: March 10, 2017  
Protest Petition Deadline: April 24, 2017  
Roll Call Hearing Date: May 8, 2017

License No.: ABRA-101302  
Licensee: Harvest Eats DC, LLC  
Trade Name: Jinya Ramen Bar  
License Class: Retailer’s Class “C” Restaurant  
Address: 1336 14<sup>th</sup> Street, N.W.  
Contact: Stephen O’Brien, Esq.: (202) 625-7700

WARD 2                      ANC 2F                      SMD 2F03

Notice is hereby given that this licensee has requested a Substantial Change to their 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 on May 8, 2017 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> 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.

**CURRENT HOURS OF OPERATION, AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE**

Sunday through Thursday 11 am – 11 pm, and Friday through Saturday 11 am – 2 am

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN**

Sunday through Saturday 11 am – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 10, 2017
Protest Petition Deadline: April 24, 2017
Roll Call Hearing Date: May 8, 2017
Protest Hearing Date: June 28, 2017

License No.: ABRA-105464
Licensee: Sal & Moi, Inc.
Trade Name: Sal's Cafe
License Class: Retailer's Class "D" Restaurant
Address: 400 C Street, S.W.
Contact: Syed Wahid: (202) 484-0707

WARD 6

ANC 6D

SMD 6D01

Notice is hereby given that this licensee 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 on May 8, 2017 at 10 a.m., 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. The Protest Hearing date is scheduled on June 28, 2017 at 1:30 p.m.

NATURE OF OPERATION

A café serving sandwiches with a Total Occupancy Load of 6 seats.

HOURS OF OPERATION

Sunday through Saturday 8:00 am – 9:00 pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 11:00 am – 9:00 pm

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

Placard Posting Date: March 10, 2017  
Protest Petition Deadline: April 24, 2017  
Roll Call Hearing Date: May 8, 2017  
Protest Hearing Date: June 28, 2017

License No.: ABRA-105123  
Licensee: S & H 4, Inc.  
Trade Name: Streets Market  
License Class: Retailer's Class "B" Full-Service Grocery  
Address: 1221 Massachusetts Avenue, N.W.  
Contact: Campbell Burns: (917) 940-5166

WARD 2

ANC 2F

SMD 2F08

Notice is hereby given that this licensee 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 on May 8, 2017 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., 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 **June 28, 2017 at 4:30 p.m.**

**NATURE OF OPERATION**

A market that will serve hot and cold meals which includes salads, sandwiches, pizza, sushi, baked goods, and non-alcoholic beverages. The market is requesting a Tasting Permit.

**HOURS OF OPERATION**

Sunday through Saturday 7:00 am – 10:00 pm

**HOURS OF ALCOHOLIC BEVERAGE SALES**

Sunday through Saturday 8:00 am – 10:00 pm

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
WEDNESDAY, APRIL 26, 2017  
441 4<sup>TH</sup> 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**

**THIS APPLICATION WAS POSTPONED FROM THE PUBLIC HEARINGS OF  
DECEMBER 7, 2016 AND FEBRUARY 22, 2017 AT THE APPLICANT’S REQUEST:**

19377            **Application of The Boundary Companies and The Missionary Society  
ANC-5E            of St Paul the Apostle**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the theoretical lot subdivision requirements of Subtitle C § 305.1, and the RA-new residential use requirements of Subtitle U § 421, and a variance from the vehicular access requirements of Subtitle C § 305.3, to construct 12 new buildings with approximately 78 one-family dwelling units in the RA-1 Zone at premises 3015 4th Street N.E. (Square 3648, Lot 915).

**WARD FIVE**

19466            **Application of Beresford Davis**, pursuant to 11 DCMR Subtitle X, Chapters 9  
ANC 5D            and 10, for special exceptions under the parking requirements of Subtitle C § 703.2 and the RF-use requirements of Subtitle U § 320.2, and a variance from the minimum of nine hundred square feet of land area per dwelling unit requirement of Subtitle U § 320.2(d), to convert a two-story flat into a four-unit apartment house in the RF-1 Zone at premises 1215 Holbrook Terrace, N.E. (Square 4057, Lot 195).

**WARD THREE**

19468            **Application of Five Guys Operations, LLC**, pursuant to 11 DCMR Subtitle  
ANC 3E            X, Chapters 9 and 10, for a special exception under the MU-use requirements of Subtitle U § 513.1(c), and variances from the proximity to a residential zone requirement of Subtitle U § 513.1(c)(1), and the refuse dumpster requirement of Subtitle U § 513.1(c)(3), to establish a fast food use in the MU-4 Zone at premises 4200 Wisconsin Avenue, N.W. (Square 1786, Lot 821).

## BZA PUBLIC HEARING NOTICE

APRIL 26, 2017

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**WARD THREE**

18715A      **Application of Maret School**, pursuant to 11 DCMR Subtitle X, Chapter 9,  
ANC 3C      for a special exception under the private school requirements of Subtitle X § 104,  
to continue a private school use in the R-1-B and R-3 Districts at premises 3000  
Cathedral Avenue, N.W. (Square 2113, Lot 843).

**WARD FOUR**

19476      **Application of DC International School**, pursuant to 11 DCMR Subtitle X,  
ANC 4A      Chapter 9, for a special exception under Subtitle C §1504.1 from the single  
enclosure requirement of Subtitle C §1500.6, to screen rooftop mechanical  
equipment in multiple enclosures on an addition to an existing building in the  
WR-7 Zone at premises 6900 Georgia Avenue, N.W. (Parcel 0319, Lot 801).

**WARD SEVEN**

19482      **Application of Mary's House for Older Adults, Inc.**, pursuant to 11 DCMR  
ANC 7F      Subtitle X, Chapters 9 and 10, for special exceptions from the lot occupancy  
requirement of Subtitle D § 304.2, the side yard requirement of Subtitle D § 307.4  
and the R-use requirements of Subtitle U § 203.1(f), and a variance from the  
driveway width requirement of Subtitle C § 711.6, to replace an existing one-  
family dwelling with a continuing care retirement community for 15 individuals  
in the R-3 Zone at premises 401 Anacostia Road, S.E. (Parcel 0203, Lot 9).

**WARD ONE**

19483      **Application of Uproar Lounge & Restaurant**, pursuant to 11 DCMR Subtitle  
ANC 1B      X, Chapter 9, for a special exception under the penthouse use requirements of  
Subtitle C § 1500.3(c), to expand a penthouse bar and restaurant use in the PDR-3  
Zone at premises 639 and 641 Florida Avenue, N.W. (Square 3078, Lots 19 and  
807).

**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 Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the



BZA PUBLIC HEARING NOTICE

APRIL 26, 2017

PAGE NO. 3

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](http://www.dcoz.dc.gov). All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4<sup>th</sup> Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

*\*Note that party status is not permitted in Foreign Missions cases.*

**Do you need assistance to participate?**

Amharic

ለመነተፍ ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም)

ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-

0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

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[Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov)。这些是免费提供的服务。

French

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Korean

참여하시는데 도움이 필요하세요?

특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면,

회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 로

이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish

¿Necesita ayuda para participar?

## BZA PUBLIC HEARING NOTICE

APRIL 26, 2017

PAGE NO. 4

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*Vietnamese*

Quý vị có cần trợ giúp gì để tham gia không?

Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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

**FREDERICK L. HILL, CHAIRPERSON**  
**LESYLLEÉ M. WHITE, MEMBER**  
**CARLTON HART, NATIONAL CAPITAL PLANNING COMMISSION**  
**A PARTICIPATING 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 RESCHEDULED<sup>1</sup> PUBLIC HEARING**

**TIME AND PLACE:**                      **Thursday, June 15, 2017 @ 6:30 p.m.  
Jerrily R. Kress Memorial Hearing Room  
441 4<sup>th</sup> Street, N.W., Suite 220-South  
Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 16-05 (Fifth and Morse L/Cal LLC and Sixth and Morse L/Cal LLC – Consolidated Review and Approval of a Planned Unit Development)**

**THIS CASE IS OF INTEREST TO ANC 5D**

On March 11, 2016, the Office of Zoning received an application from Fifth and Morse L/Cal LLC and Sixth and Morse L/Cal LLC (collectively, the “Applicant”) requesting approval of a consolidated Planned Unit Development (“PUD”) and zoning map amendment to facilitate the development of Square 3591, Lot 2, Parcel 129/104, and a portion of Parcel 129/106 for residential and commercial use. The Office of Planning submitted its report in support of setting the application down for a public hearing on June 3, 2016. On June 13, 2016, the Commission voted to set down the application for a public hearing. The Applicant provided its prehearing statement and related submission on January 3, 2017.

The property that is the subject of this application consists of approximately 33,565 square feet of land area. The property is located on the north side of Morse Street, N.E. between 5<sup>th</sup> and 6<sup>th</sup> Streets, N.E. The property is located in the C-M-1 Zone District and the zoning map amendment would amend such zoning to the C-3-C Zone District. The property is located in the High Density Residential, High Density Commercial, and Production, Distribution, and Repair land use categories on the Future Land Use Map of the District of Columbia Comprehensive Plan.

The Applicant proposes to develop the property with a mixed-use project including approximately 280 residential units and up to approximately 20,290 square feet of retail and commercial use. The project will have a floor area ratio of up to 8.0 and a lot occupancy of 79% on the upper floors. The maximum height of the proposed building will be 120 feet, with 160-245 parking spaces and loading facilities on the property.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Commission’s Rules of Practice and Procedure, 11 DCMR Subtitle Z, Chapter 4.

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<sup>1</sup> This case was previously scheduled for hearing on March 20, 2017.

**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 Subtitle Z § 404.1.

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](mailto:dcoz@dc.gov) or at (202) 727-6311.

Except for an 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, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning’s website at: <https://app.dcoz.dc.gov/Help/Forms.html>.** This form may also be obtained from the Office of Zoning at the address stated below.

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

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](mailto: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 |

- 3. Organizations 5 minutes each
- 4. Individuals 3 minutes each

Pursuant to Subtitle Z § 408.4, 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 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto: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, ROBERT E. MILLER, PETER A. SHAPIRO, 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.**

**Do you need assistance to participate?** If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) five days in advance of the meeting. These services will be provided free of charge.

**¿Necesita ayuda para participar?** Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

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**Quý vị có cần trợ giúp gì để tham gia không?** Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

**ለጠቅላይ ዕርዳታ ያስፈልግዎታል?** የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓሚ) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚጠቅሙ በነጻ ነው።

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

**TIME AND PLACE:** **Thursday, April 20, 2017, @ 6:30 p.m.**  
**Jerrily R. Kress Memorial Hearing Room**  
**441 4<sup>th</sup> Street, N.W., Suite 220**  
**Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 16-21 (North Capitol Hospitality, LLC - Map Amendment @ Square 617, Lots 152-156, 236, 801 and 802)**

**THIS CASE IS OF INTEREST TO ANC 5E**

On October 4, 2016, the Office of Zoning received an application from North Capitol Hospitality, LLC (the "Applicant") to rezone the property consisting of Lots 152-156, 236, 801, and 802 in Square 617 (the "Subject Property") pursuant to Subtitle X, Chapter 5 of the 2016 District of Columbia Zoning Regulations (ZR16). On December 29, 2016, the Office of Planning submitted a report in support of setting the application down for a public hearing, and the Commission voted to set down the application for a public hearing on January 9, 2017. The Applicant submitted its prehearing statement on February 3, 2017.

The Subject Property, which is currently vacant, is bounded by North Capitol Street, NW on the east, Hanover Place, N.W. on south, a 12-foot wide public alley on the west, and an adjacent property on the north, and contains of an overall land area of approximately 9,401 square feet. The Subject Property is located in Ward 5 within the boundaries of Advisory Neighborhood Commission 5E05.

The Subject Property is currently zoned MU-4. The Applicant seeks a map amendment to rezone the Subject Property MU-5-A. The purpose of MU Zone Districts is, among other things, to provide for mixed-use developments that permit a broad range of uses at varying densities consisting of housing, shopping, and business needs, including residential, office, service, and employment centers. Specifically, the MU-5-A zone is intended to facilitate compact, mixed-use development located along arterial streets and at rapid transit stops. As a matter-of-right, the MU-5-A zone permits a maximum building height of 65 feet; a maximum density of 3.5 FAR, of which no more than 1.5 FAR can be devoted to non-residential uses; and a lot occupancy of 80% for residential uses. The Subject Property is located within the Near Northwest Planning Area of the Comprehensive Plan, and is also included in the Mid-City East Small Area Plan that was adopted by the Council of the District of Columbia on November 18, 2014.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Commission's Rules of Practice and Procedure, 11-Z DCMR Chapter 4.

**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.**

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Quí vị có cần trợ giúp gì để tham gia không? Nếu quí vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለመከተሉ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓሚ) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዜ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚጠቅሙበት ሰዓት ነው።

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF RESCHEDULED<sup>1</sup> PUBLIC HEARING**

**TIME AND PLACE:** Monday, October 23, 2017, @ 6:30 p.m.  
Jerrily R. Kress Memorial Hearing Room  
441 4<sup>th</sup> Street, N.W., Suite 220  
Washington, D.C. 20001

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 16-23 (Valor Development, LLC – Voluntary Design Review @ Square 1499, Lots 802, 803, and 807)**

**THIS CASE IS OF INTEREST TO ANCs 3E and 3D**

On October 27, 2017, the Office of Zoning received an application from Valor Development, LLC (the "Applicant"), on behalf of FW DC-Spring Valley Shopping Center, LLC and Apex Real Estate Company. The Applicant is requesting design review and approval of a new mixed-use (residential and retail) development project for Lots 802, 803, and 807 in Square 1499 (the "Project Site"), pursuant to Subtitle X, Chapter 6 of Title 11 DCMR and specifically pursuant to 11-X DCMR § 601.2, which permits property owners to voluntarily apply for design review of a proposed development. As part of this design review, the Applicant seeks relief from the rear yard requirements of the MU-4 zone. The Commission can grant such flexibility as part of the design review process pursuant to 11-X DCMR § 603.1, which permits it to grant relief from certain development standards including the standards for "setbacks."<sup>2</sup>

The Project Site consists of approximately 119,138 square feet of land area and is generally bounded by Yuma Street on the north; Massachusetts Avenue, the former American University Law School building, and a PNC Bank on the south; 48<sup>th</sup> Street on the east; and the Spring Valley Exxon station on the west. The Project Site is currently improved with the Spring Valley Shopping Center ("SVSC") (Lots 802 and 803), and a vacant grocery store building, retail uses (restaurant and salon), and substantial surface and below-grade parking (Lot 807). The Project Site is zoned MU-4, a district in which residential and retail uses are permitted as a matter of right.

The proposed mixed-use development retains the existing SVSC and consists of two new buildings on Lot 807. The main building proposed on Lot 807 ("Building 1") will have a maximum height of approximately 50 feet, plus a penthouse that will have a maximum height of 15 feet above the roof level. The lower-level of Building 1 will contain a residential lobby, a new full-service grocery store and potential additional retail/amenity space, and access to loading and

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<sup>1</sup> This case was previously scheduled for May 4, 2017.

<sup>2</sup> When the current versions of Subtitles G and X were first proposed, the applicable minimum rear yard requirement was referred to as a "rear setback." This terminology was later replaced with the traditional reference to a "minimum rear yard" in current Subtitle G, but the reference to "setbacks" in 11-X DCMR § 603.1 was not similarly revised.

below-grade parking. The remainder of Building 1, including a portion of the penthouse, will contain residential dwelling units and amenity space. The second building proposed on Lot 807 (“Building 2”) will have a maximum height of approximately 48 feet, and will also contain a penthouse with a maximum height of 15 feet above the roof level. Building 2 will contain residential dwelling units and amenity space.

Collectively, the two buildings proposed on Lot 807 will contain approximately 285,829 square feet of gross floor area (“GFA”), consisting of approximately 254,782 GFA of residential use, and approximately 31,047 GFA of grocery store and other potential retail/amenity uses. Including penthouse habitable space, below-grade/cellar areas, and permitted projections into public space, the two proposed buildings will result in approximately 230 dwelling units and approximately 60,000 total square feet of grocery store and other potential retail/amenity uses.

Other significant aspects of the proposed mixed-use development include streetscape improvements; paving, landscape, and other improvements to surrounding alleys; a new linear park/landscaped pedestrian extension of Windom Place through the Project Site; affordable housing in excess of the minimum required by 11-C DCMR § 1003; below-grade parking; and LEED-Gold designed buildings.

This public hearing will be conducted in accordance with the contested case provisions of Chapter 4 of Title 11-Z DCMR.

**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-Z DCMR § 404.1.

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 DCMR Title 11-Z. 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](mailto:dcoz@dc.gov) or at (202) 727-6311.

Except for an 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, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning’s website at: <https://app.dcoz.dc.gov/help/forms.html>. This form may also be obtained from the Office of Zoning at the address stated below.

11-Z DCMR § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

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](mailto: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 |
| 3. | Organizations                    | 5 minutes each          |
| 4. | Individuals                      | 3 minutes each          |

Pursuant to 11-Z DCMR § 408.4, 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 <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto: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, ROBERT E. MILLER, PETER A. SHAPIRO, 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.**

**Do you need assistance to participate?** If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) five days in advance of the meeting. These services will be provided free of charge.

**¿Necesita ayuda para participar?** Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

**Avez-vous besoin d'assistance pour pouvoir participer?** Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

**참여하시는데 도움이 필요하세요?** 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화 하시거나 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

**您需要有人帮助参加活动吗?**如果您需要特殊便利设施或语言协助服务(翻译或口译),请在见面之前提前五天与 Zee Hill 联系。电话号码 (202) 727-0312, 电子邮件 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 这些是免费提供的服务。

**Quý vị có cần trợ giúp gì để tham gia không?** Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

**ለሚተፍ ዕርዳታ ያስፈልግዎታል?** የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አጭነት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚጠኑ በነጻ ነው።

## DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections, pursuant to the authority set forth in the District of Columbia Election Code of 1955, approved August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.05(a)(14) (2016 Repl.)), hereby gives notice of the adoption of amendments to Chapter 5 (Voter Registration) in Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments to Section 500 is to codify the Board's current interpretation of existing law concerning the qualifications of electors who are no longer incarcerated. The proposed amendments define who the Board considers to be incarcerated and therefore ineligible to be a qualified elector. The new definition also makes an explicit exclusion of individuals who have completed a court-ordered sentence of confinement and subsequently reside in a community supervision center.

The purpose of the amendments to Section 513 is to (1) codify the Board's current practice of permitting same-day registrants to provide proof of residence documents in either paper or electronic form on voter-owned devices that are independently supplied with a wireless connection; and (2) clarify the types of documents that are permissible as valid proof of residence. The amendments provide a limited date of issuance for validity and/or require additional information, such as an employer's name and contact information.

A Notice of Proposed Rulemaking with respect to these amendments was published in the *D.C. Register* on January 20, 2017, at 64 DCR 539. No written comments on the proposed rules were received during the public comment period, and no substantive changes have been made to the regulations as proposed. The Board adopted these amendments as final at a regular meeting on Wednesday, March 1, 2017.

These final rules will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 5, VOTER REGISTRATION, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Section 500, GENERAL REQUIREMENTS AND QUALIFICATIONS, is amended as follows:**

**Subsection 500.2 is amended to read as follows:**

500.2 A person is a "qualified elector" if he or she:

- (a) For a primary election, is at least seventeen (17) years of age and will be eighteen (18) on or before the next general election, or for a general or special election, is at least eighteen (18) years of age on or before the date of the general or special election;

- (b) Is a citizen of the United States;
- (c) Is not incarcerated, as defined in § 500.15, for the conviction of a crime that is a felony in the District;
- (d) Has maintained a residence in the District for at least thirty (30) days preceding the next election and does not claim voting residence or the right to vote in any state or territory; and
- (e) Has not been adjudged legally incompetent to vote by a court of competent jurisdiction.

**Subsection 500.15 is newly adopted to read as follows:**

500.15 For the purpose of determining whether an individual is a qualified elector, a person is considered incarcerated if he or she is confined to prison, jail or penitentiary. A person is not considered incarcerated if he or she has completed the court-ordered sentence of confinement and subsequently resides in a halfway house or other community supervision center as terms of probation or parole.

**Section 513, VOTER REGISTRATION APPLICATION PROCESSING: AT THE POLLS, EARLY VOTING CENTERS, AND DURING IN-PERSON ABSENTEE VOTING, is amended as follows:**

**Subsection 513.2 is amended to read as follows:**

513.2 Valid proof of residence is any official document showing the voter's name and a District of Columbia home address. Proof of residence shall either be presented in paper or electronic form. A proof of residence document in electronic form shall be presented on a voter-owned device. The Board shall not be responsible for providing an independent wireless connection for voters to access documents in electronic form. Acceptable forms of proof of residence include:

- (a) A copy of a current and valid government-issued photo identification;
- (b) A utility bill for water, gas, electricity, cable, internet, telephone, or cellular phone service issued within the last ninety (90) days;
- (c) A savings, checking, credit, or money market account statement from a bank or credit union issued within the last ninety (90) days;
- (d) A paycheck, stub, or earning statement that includes the employer's name, address, and telephone number and was issued within the last ninety (90) days;

- (e) A government-issued document or check from a federal or District agency, other than the Board of Elections, issued within the last ninety (90) days; or
- (f) A current residential lease or rental agreement;
- (g) An occupancy statement from a District homeless shelter issued within the last ninety (90) days;
- (h) A tuition or housing bill from a District of Columbia college or university issued for the current academic or housing term.



## OFFICE OF THE SECRETARY

NOTICE OF FINAL RULEMAKING

The Secretary of the District of Columbia (Secretary), pursuant to the authority set forth in Section 558 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1189, ch. 854, § 558; D.C. Official Code §§ 1-1201 *et seq.* (2016 Repl.)), as amended by An Act to authorize the Commissioners of the District of Columbia to appoint notaries public, approved December 16, 1944 (58 Stat. 810, ch. 597, § 1); Regulation No. 73-13, approved May 24, 1973 (19 DCR 1147 (June 11, 1973)); the Notaries Public Fees Increase Act of 1983, effective June 22, 1983 (D.C. Law 5-14; 30 DCR 2632 (June 3, 1983)); the Notaries Public Fee Act of 1983, effective March 8, 1984 (D.C. Law 5-52; 30 DCR 5931 (November 18, 1983)); the Notaries Public Authentications and License Fee Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-223; 57 DCR 6242 (July 23, 2010)); the Notary Public Fee Enhancement Amendment Act of 2016, effective July 1, 2016 (D.C. Law 21-037; 63 DCR 7148 (May 13, 2016)); Section 3(k) of Mayor's Order 97-177, dated October 9, 1997; and Mayor's Order 2016-031, dated March 1, 2016; hereby gives notice of the adoption of the following amendments to Chapter 24 (Notaries Public) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to adjust the fees for notarial acts from \$2.00 to \$5.00, to conform with the Notary Public Fee Enhancement Amendment Act of 2016.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on October 14, 2016 at 63 DCR 12831. No comments were received and no substantive changes have been made.

The rules were adopted as final on December 20, 2016, and will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 24, NOTARIES PUBLIC, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Subsection 2406.2 of Section 2406, NOTARY PUBLIC PROCEDURES AND FEES, is amended to read as follows:**

2406.2 Fees. Notary publics may not charge more than \$5.00 per notarial act.

**BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

**NOTICE OF PROPOSED RULEMAKING**

The Board of Ethics and Government Accountability (“Board”), pursuant to the authority set forth in Sections 209 and 221(a)(3) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.09 and 1162.21(a)(3) (2016 Repl.)), hereby gives notice of the intent to adopt amendments to Chapter 57 (Financial Disclosures and Honoraria), of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking will clarify that late fees may be imposed on a confidential filer who fails to timely file a true, accurate and fully completed financial disclosure statement.

The Board authorized the publication of this proposed rulemaking at its meeting on February 9, 2017. The Board hereby gives notice of its intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

**Chapter 57, FINANCIAL DISCLOSURES AND HONORARIA, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Section 5704, CONFIDENTIAL FINANCIAL DISCLOSURE FILINGS BY EMPLOYEES, is amended by adding new Subsection 5704.5 to read as follows:**

**5704 CONFIDENTIAL FINANCIAL DISCLOSURE FILINGS BY EMPLOYEES**

...

5704.5 In addition to any sanctions that may be available for a violation of the Code of Conduct, the Director of Government Ethics may also impose a late fee at the rate of ten dollars (\$10.00) per day (excluding Saturdays, Sundays, and holidays), up to a maximum of three hundred dollars (\$300.00), on any filer who fails to timely file a true, accurate and fully completed report.

All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to [bega@dc.gov](mailto:bega@dc.gov) or by mail to the Board of Ethics and Government Accountability, 441-4<sup>th</sup> Street N.W., Washington, D.C. 20001, Attn: Brian K. Flowers, General Counsel, no later than thirty (30) days after the publication of this notice in the *D.C Register*. Copies of the proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting the Board of Ethics and Government Accountability at the address below.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA****NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD****RM01-2017-01, IN THE MATTER OF THE COMMISSION'S REVISION OF RULES GOVERNING ITS PAPER FILING REQUIREMENTS,**

1. By this Public Notice, the Public Service Commission of the District of Columbia ("Commission") informs interested persons of an extension of time to file comments and reply comments in response to a Notice of Proposed Rulemaking ("NOPR") published February 3, 2017 in the *D.C. Register*.<sup>1</sup> The proposed amendments in the NOPR revise Chapter 1 (Public Service Commission Rules of Practice and Procedure) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations ("DCMR") to reduce paper filing requirements and update electronic filing requirements.

2. Through this Public Notice, the Commission extends the comment period from March 6, 2017 to April 4, 2017, and the reply comment period from March 20, 2017, to April 19, 2017.

1. All persons interested in filing comments and reply comments on the subject matter of the NOPR shall file these comments and reply comments with Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, Suite 800, Washington D.C. 20005, or at the Commission's website at <http://edocket.dcpssc.org/comments/submitpubliccomments.asp>. Persons with questions on this Notice should call 202-626-5150. Copies of the NOPR may be obtained by visiting the Commission's website at [www.dcpssc.org](http://www.dcpssc.org) or at cost, by contacting the Commission Secretary at the above address. After the comment period expires, the Commission will take final rulemaking action.

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<sup>1</sup> 64 *D.C. Reg.* 1216-1219 (February 3, 2017).

**DEPARTMENT OF MOTOR VEHICLES  
DISTRICT DEPARTMENT OF TRANSPORTATION**

**NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD**

The Directors of the Department of Motor Vehicles and the District Department of Transportation are extending the public comment period on the proposed rulemaking to adopt amendments to Chapter 3 (Cancellation, Suspension, or Revocation of Licenses), Chapter 7 (Motor Vehicle Equipment), Chapter 22 (Moving Violations), Chapter 26 (Civil Fines for Moving and Non-Moving Infractions), and Chapter 99 (Definitions) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR) to help achieve the goal by the year 2024 of zero fatalities and serious injuries to travelers of the District's transportation system. The original forty-five (45) day public comment period, scheduled to end on March 6, 2017, is being extended until April 10, 2017.

The proposed rules were published in the *D.C. Register* at 64 DCR 550 on January 20, 2017. All comments received by Monday, April 10, 2017 will be considered.

A copy of the proposed rulemaking is available at either of the following links: <http://dcregs.dc.gov/Notice/Download.aspx?NoticeID=6369134>.

**Comment Submission:**

All persons interested in submitting comments on the subject matter of this proposed rulemaking may do so in writing to Alice Kelly, Manager, Policy and Legislative Affairs Division, Office of the Director, District Department of Transportation, 55 M Street, S.E., 7<sup>th</sup> Floor, Washington, D.C. 20003. An interested person may also send comments electronically to [policy.ddot@dc.gov](mailto:policy.ddot@dc.gov). Copies of this proposed rulemaking are available at cost by writing to the above address and may be obtained at no cost at the website listed above.

Electronic submission is preferred.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2017-016  
January 18, 2017

**SUBJECT:** Appointment — Police and Firefighters Retirement and Relief Board


**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) and (11) (2016 Repl.), and in accordance with section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974, Pub. L. 93-407, D.C. Official Code § 5-722 (2012 Repl. and 2016 Supp.), it is hereby **ORDERED** that:

1. **JUSTIN ZIMMERMAN**, is appointed as a member of the Police and Firefighters Retirement and Relief Board ("**Board**"), representing the District of Columbia Department of Human Resources, replacing Margaret Radabaugh, and shall serve in that capacity at the pleasure of the Mayor.
2. **JUSTIN ZIMMERMAN**, is appointed as Chairperson of the Board, replacing Pamela Brown, and shall serve in that capacity at the pleasure of the Mayor.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
MURIEL BOWSER  
MAYOR

ATTEST:

  
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor’s Order 2017-053  
March 2, 2017

**SUBJECT:** Delegation — Authority to the Deputy Mayor for Health and Human Services to Issue a Grant Consistent with the Mayor’s Authority Under the Children and Youth Initiative Establishment Act of 1999.

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6), and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.), and pursuant to section 2403(a) of the Children and Youth Initiative Establishment Act of 1999, effective October 20, 1999, D.C. Law 13-38, D.C. Official Code § 2-1553(a) (2016 Repl.) (the “Act”), it is hereby **ORDERED** that:

1. The Deputy Mayor for Health and Human Services is delegated the authority to issue a grant to a single non-service provider, nonprofit organization to make sub-grants for the purpose of providing services to District children, youth, and their families, consistent with the provisions of the Act.
2. The Deputy Mayor for Health and Human Services may not further delegate this authority to subordinates under his or her authority.
3. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to January 2, 2015.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

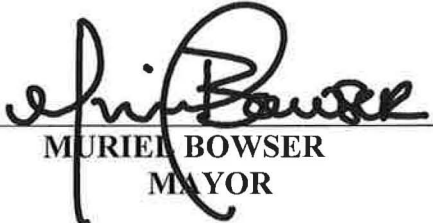
Mayor's Order 2017-054  
March 2, 2017

**SUBJECT:** Delegation — Authority to the Deputy Mayor for Education to Issue a Grant Consistent with the Mayor's Authority Under the Children and Youth Initiative Establishment Act of 1999


**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6), and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.), and pursuant to section 2403(a) of the Children and Youth Initiative Establishment Act of 1999, effective October 20, 1999, D.C. Law 13-38, D.C. Official Code § 2-1553(a) (2016 Repl.) (the "Act"), it is hereby **ORDERED** that:

1. The Deputy Mayor for Education is delegated the authority to issue a grant to a single non-service provider, nonprofit organization to make sub-grants for the purpose of providing services to District children, youth, and their families, consistent with the provisions the Act.
2. The Deputy Mayor for Education may not further delegate this authority to subordinates under his or her authority.
3. This Order shall supersede Mayor's Order 2017-053, dated March 2, 2017.
4. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to January 4, 2017.

  
MURIEL BOWSER  
MAYOR

ATTEST:

  
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2017-055  
March 3, 2017

**SUBJECT:** Amendment — District of Columbia Commission on the Martin Luther King, Jr. Holiday

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2016 Repl.), it is hereby **ORDERED** that:

1. Section IV.A of Mayor's Order 2013-243, dated December 23, 2013, is amended to read as follows:

“A. The Commission shall have a maximum of sixteen (16) public voting members.”

2. Section IV.B of Mayor's Order 2013-243, dated December 23, 2013, is amended to read as follows:


“B. The Commission shall include the following ten (10) non-voting government members:

1. One (1) representative from each of the following agencies:
  - a. District of Columbia Public Schools;
  - b. Marion Barry Youth Leadership Institute;
  - c. ServeDC;
  - d. District of Columbia Public Library;
  - e. Commission on the Arts and Humanities;
  - f. Office of Human Rights;
  - g. Mayor's Office on Community Affairs; and



- h. Office of Cable Television, Film, Music, and Entertainment;
- 2. The Secretary of the District of Columbia; and
- 3. The Chairman of the Council of the District of Columbia.”.
- 3. Section IV.C of Mayor’s Order 2013-243, dated December 23, 2013, is amended to read as follows:
  - “C. The Mayor shall appoint sixteen (16) public members, comprised of two (2) residents from each of the eight (8) wards in the District of Columbia.”.
- 4. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
 \_\_\_\_\_  
 MURIEL BOWSER  
 MAYOR

ATTEST:   
 \_\_\_\_\_  
 LAUREN C. VAUGHAN  
 SECRETARY OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2017-056  
March 3, 2017

**SUBJECT:** Reappointments and Appointments — District of Columbia Commission on the Martin Luther King, Jr. Holiday


**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 2013-243, dated December 23, 2013, as amended by Mayor's Order 2017-055, dated March 3, 2017, it is hereby **ORDERED** that:

1. The following individuals are reappointed as public voting members of the District of Columbia Commission on the Martin Luther King, Jr. Holiday ("**Commission**"), for terms to end January 16, 2019:
  - a. **LEE BRIAN REBA**
  - b. **DENISE BARNES**
  - c. **ROBERT VINSON BRANNUM**
  - d. **CHARLES R. HICKS**
  
2. The following individual is reappointed as a government member of the Commission, to serve in that capacity at the pleasure of the Mayor:
  - a. **MONICA PALACIO** as the representative of the Office of Human Rights.
  
3. The following individuals are appointed as public voting members of the Commission, for terms to end January 16, 2019:
  - a. **NIKKI BARNES** replacing Wendell Moore.
  - b. **AUDRA GRANT** replacing Mark Hardon Long.
  - c. **MAURICE DORSEY** replacing Judith F. Terra.
  - d. **PENNY PAGANO** replacing Earl Fowlkes, Jr.
  - e. **ETHEL DELANEY LEE** replacing Kendrick Brown-Selassie.
  - f. **WILLIE HASSON** replacing Douglass Sloan.
  - g. **CARLOS D. DAVIS** replacing Aaron LaMarr Elwood Jones.
  - h. **KATELYND MAHONEY ANDERSON** replacing Aaron Dorsey.
  - i. **MUSHIN BOE LUTHER UMAR** filling a vacant seat.

- j. **JESSE JOHNSON** filling a vacant seat.
4. The following individuals are appointed as government members of the Commission, to serve in that capacity at the pleasure of the Mayor:
- a. **BRANDON BEST** as the representative of the District of Columbia Public Schools, replacing Burnell Holland.
  - b. **THENNIE FREEMAN**, as the representative of the Marion Barry Youth Leadership Institute.
  - c. **DELANO HUNTER** as the representative of ServeDC, replacing Clarence Fluker.
  - d. **LAUREN VAUGHAN** as the Secretary of the District of Columbia, replacing Sharon D. Anderson.
  - e. **ARTHUR ESPINOZA** as the representative of the Commission on the Arts and Humanities, replacing Lionel Thomas.
  - f. **CHARON HINES** as the representative of the Mayor's Office on Community Affairs, replacing Marcus Allen.
  - g. **ANGIE GATES** as the representative of the Office of Cable Television, Film, Music, and Entertainment.
5. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
 \_\_\_\_\_  
**MURIEL BOWSER**  
**MAYOR**

**ATTEST:**   
 \_\_\_\_\_  
**LAUREN C. VAUGHAN**  
**SECRETARY OF THE DISTRICT OF COLUMBIA**

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2017-057  
March 3, 2017

**SUBJECT:** Reappointments – Developmental Disabilities State Planning Council

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 2009-165, dated September 25, 2009, it is hereby **ORDERED** that:

1. The following individuals are reappointed to the Developmental Disabilities State Planning Council, for terms to end March 18, 2020:
  - a. **CHERI MALLORY**, as a consumer member, as a parent, guardian, or immediate relative of a person with a developmental disability.
  - b. **AMBER KEOHANE**, as a consumer member with a developmental disability.
  - c. **JANE BROWN**, as a general member, as a representative of the District's protection and advocacy organization.
  
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2017-058  
March 3, 2017

**SUBJECT:** Reappointment — Board of Audiology and Speech-Language Pathology

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 218 of the District of Columbia Health Occupations Revision Act of 1985, effective March 6, 2007, D.C. Law 16-219, D.C. Official Code § 3-1202.18 (2016 Repl.), it is hereby **ORDERED** that:

1. **STEPHANIE MARSHALL** is reappointed as a practicing audiologist member of the Board of Audiology and Speech-Language Pathology, for a term to end April 15, 2021.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2017-059  
March 3, 2017

**SUBJECT:** Appointment— District of Columbia Retirement Board

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 121 of the District of Columbia Retirement Reform Act, approved November 17, 1979, 93 Stat. 866, Pub. L. 96-122; D.C. Official Code § 1-711 (2016 Repl.), it is hereby **ORDERED** that:

1. **JAN ADAMS** is appointed as a member of the District of Columbia Retirement Board, replacing Barbara Blum, for a term to end January 27, 2020.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2017-060  
March 3, 2017

**SUBJECT:** Appointments — State Advisory Panel on Special Education for the District of Columbia

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 2012-48, dated April 5, 2012, it is hereby **ORDERED** that:

1. **MATTHEW MCCALL**, is appointed as a parent member of the State Advisory Panel on Special Education for the District of Columbia (the "**Panel**"), replacing Betsy Centofanti, for a term to end September 17, 2018.
2. **KATHRYN HOLLORAN**, is appointed as an administrator of programs for children with disabilities member of the Panel, replacing Zalika Brown, for a term to end September 17, 2019.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST:   
 LAUREN C. VAUGHAN  
 SECRETARY OF THE DISTRICT OF COLUMBIA

**ACHIEVEMENT PREP PUBLIC CHARTER SCHOOL  
REQUEST FOR PROPOSALS**

Achievement Prep PCS is seeking competitive bids for Strategic Planning.

Please find RFP specifications at [www.achievementprep.org](http://www.achievementprep.org) under News on March 10, 2017. Proposals must be received by 5:00PM on Friday, March 20, 2017. Please send proposals to [bids@achievementprep.org](mailto:bids@achievementprep.org) and include "RFP STRATEGIC PLANNING" in heading.



**DISTRICT OF COLUMBIA ADVISORY COMMITTEE TO THE  
OFFICE OF ADMINISTRATIVE HEARINGS**

**PUBLIC NOTICE OF MEETING**

In accordance with D.C. Code § 2-576(1), the Advisory Committee to the Office of Administrative Hearings hereby gives notice that it will meet on Monday, March 20, 2017 at 4:00pm. The meeting will be held at the following location:

Office of Administrative Hearings  
441 Fourth Street NW, Suite 450 North  
Washington, DC 20001

For further information, please contact Shauntinique Steele at [nikki.steele@dc.gov](mailto:nikki.steele@dc.gov) or 202-741-5303.

**AGENDA**

- I. **Call to Order**
- II. **Welcome and Introductions**
- III. **Legislative Proposals**
- IV. **OAH Public Portal Update**
- V. **General Matters/Discussions**
- VI. **Adjournment**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, MARCH 15, 2017  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson  
Members: Nick Alberti, Mike Silverstein,  
James Short, Mafara Hobson, Jake Perry

**Protest Hearing (Status)** **9:30 AM**  
**Case # 16-PRO-00130;** Kovaler, LLC, t/a The Commodore, 1100 P Street NW  
License #73443, Retailer CT, ANC 2F  
**Application to Renew the License**

**Protest Hearing (Status)** **9:30 AM**  
**Case # 17-PRO-00004;** Kiss, LLC, t/a Kiss Tavern, 637 T Street NW, License  
#104710, Retailer CT, ANC 1B  
**Application for a New License**

**Protest Hearing (Status)** **9:30 AM**  
**Case # 17-PRO-00006;** Appioo, LLC, t/a Appioo, 1924 9th Street NW, License  
#94795, Retailer CR, ANC 1B  
**Application to Renew the License**

**Protest Hearing (Status)** **9:30 AM**  
**Case # 17-PRO-00010;** 600 H Apollo Tenant, LLC, t/a WeWork, 600 H Street  
NE, License #104726, Retailer CT, ANC 6C  
**Application for a New License**

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 16-CMP-00486;** Schawarmji, LLC, t/a Michos, 500 H Street NE  
License #94784, Retailer CR, ANC 6C  
**No ABC Manager on Duty**

Board's Calendar

March 15, 2017

**Show Cause Hearing\***

**10:00 AM**

**Case # 16-CMP-00503;** HRH Services, LLC, t/a The Alibi, 237 2nd Street NW

License #97969, Retailer CR, ANC 6C

**Failed to Comply with Board Order**

**Show Cause Hearing\***

**11:00 AM**

**Case # 16-CMP00600;** HRH Services, LLC, t/a The Alibi, 237 2nd Street NW

License #97969, Retailer CR, ANC 6C

**Failed to Comply with Board Order**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA**

**1:00 PM**

**Show Cause Hearing\***

**1:30 PM**

**Case # 16-251-00125;** 1215 CT, LLC, t/a Rosebar Lounge, 1215 Connecticut

Ave NW, License #77883, Retailer CT, ANC 2B

**Failed to Follow Security Plan**

**\*The Board will hold a closed meeting for purposes of deliberating these hearings pursuant to D.C. Official Code §2-574(b)(13).**

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

**NOTICE OF MEETING  
INVESTIGATIVE AGENDA**

**WEDNESDAY, MARCH 15, 2017  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On Wednesday, March 15, 2017 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# 17-CC-00029, Safeway, 1601 Maryland Avenue N.E., Retailer B, License # ABRA-075686

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2. Case# 17-CC-00032, 4 Corner, 440 Kennedy Street N.W., Retailer B, License # ABRA-094175

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3. Case# 17-CMP-00110(M), Bayush Ayalew, ABC Manager, License # ABRA-104696

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4. Case# 17-CC-00033, Guilford Liquor, 446 Rhode Island Avenue N.W., Retailer A, License # ABRA-076393

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5. Case# 17-CC-00026, JJ Liquors, 1211 Brentwood Road N.E., Retailer A, License # ABRA-100541

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6. Case# 17-CC-00027, Capitol Market, 2501 North Capitol Street N.E., Retailer B, License # ABRA-091021

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7. Case# 17-CC-00021, S.E. Market, 1500 Independence Avenue S.E., Retailer A, License # ABRA-089011

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8. Case# 17-CC-00018, Malcolm Liquors, 3845 Minnesota Avenue N.E., Retailer A, License # ABRA-094779

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9. Case# 17-CMP-00061(M), Desale Okabazai, ABC Manager, License # ABRA-103807

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, MARCH 15, 2017 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 3D. SMD 3D05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Et Voila*, 5120 MacArthur Boulevard NW, Retailer CR, License No. 078332.
- 
2. Review Request to Extend Safekeeping of License – Second Request. Original Safekeeping Date: 6/8/2016. ANC 2E. SMD 2E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *TBD (Thor 3000 M Street LLC)*, 3000 M Street NW, Retailer CH, License No. 102572.
- 

**\*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.**

**DEPARTMENT OF BEHAVIORAL HEALTH****NOTICE OF FUNDING AVAILABILITY****RFA # RM0 DC SEED 031017****DC Social, Emotional and Early Development (DC SEED) Providers Grant****Purpose/Description of Project**

The Government of the District of Columbia seeks to sub-grant funding to support the 4-year implementation of the System of Care Expansion and Sustainability Cooperative Agreement titled DC Social, Emotional and Early Development (DC SEED) Project. The DC SEED Project will address the highly specific, largely unmet needs of infants and young children (birth – 6 years old) residing in the District who are at high imminent risk for or diagnosed with serious emotional disturbance (SED).

DBH will allocate funding to develop and further expand the early childhood System of Care within the children's provider network, implement early childhood specific interventions, such as Child Parent Psychotherapy for Family Violence (CPP-FV) and Parent Child Interaction Therapy (PCIT) and establish a centralized referral hub. Selected providers will participate in the overall evaluation of the DC SEED Project in partnership with Georgetown University Center for Child and Human Development.

**Eligibility**

Applicant must:

1. Be a Certified Mental Health Rehabilitation Services Provider (MHRS) of children's services, and;
2. Be either a Child Choice Provider or a Federally Qualified Health Center, and;
3. Have at least one service location physically within the District of Columbia.

*\*Please see Request for Application for implementation requirements.*

**Length of Award**

The grant award will be made for a period of one (1) year from the date of award. The grant may be continued for up to three (3) additional years based on documented project success and availability of funding for a total of four (4) years. The grant recipient will be expected to begin activities in April of 2017.

**Available Funding**

Approximately three hundred-ten thousand, three hundred seventy dollars (\$310,370.00) is available to fund a maximum of three (3) grant awards. The grant will be awarded by DBH utilizing funds provided by the Department of Health and Human Services, Substance Abuse and

Mental Health Services Administration, Center for Mental Health Services. No mini-grants or sub-grants are permitted for any entity awarded funding. The grant award is contingent upon available funding.

There will be two (2) projects not to exceed \$106,500.00 for providers that do not currently have PCIT Treatment Room(s). One (1) project not to exceed \$97,370.00 for a provider that currently has a PCIT Treatment Room(s). Construction costs are not allowable.

**Anticipated Number of Awards**

DBH will fund three (3) projects.

**Request for Application (RFA) Release**

The RFA will be released March 10, 2017. The RFA will be posted on the DBH website, [www.dbh.gov](http://www.dbh.gov) under Opportunities, and on the website of the Office of Partnerships and Grants, [www.opgs.dc.gov](http://www.opgs.dc.gov) under the District Grants Clearinghouse. A copy of the RFA may be obtained at DBH located at 64 New York Avenue, NE, Washington, DC 20002, 3<sup>rd</sup> Floor, from Carol Zahm, DC Gateway Project Director during the hours of 8:15 a.m. – 4:45 p.m. beginning March 10, 2017.

**Deadline for Application**

The deadline for submission is March 31, 2017 at 4:45 p.m. EST



**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

**SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS**

**March 2017**

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME
Grace Yeboah Ofori	Board of Accountancy	3	8:30am-12:00pm
Patrice Richardson	Board of Appraisers	15	8:30am-4:00pm
Patrice Richardson	Board of Architect and Interior Design	17	8:30am-1:00pm
Andrew Jackson	Board of Barber and Cosmetology	6	10:00am-2:00pm
Sheldon Brown	Boxing and Wrestling Commission	16	7:00pm-8:30pm
Pamela Hall	Board of Funeral Directors	9	1:00pm-4:00pm
Avis Pearson	Board of Professional Engineers	23	9:00am-1:30pm
Leon Lewis	Real Estate Commission	14	8:30am-1:00pm
Jennifer Champagne	Board of Industrial Trades  Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers	21	1:00pm-3:30pm

Dates and Times are subject to change. All meetings are held at 1100 4<sup>th</sup> 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 ADMINISTRATION

D.C. BOXING AND WRESTLING COMMISSION  
NOTICE OF PUBLIC MEETING  
1100 4<sup>th</sup> Street, SW, Suite 200E, Washington, DC 20024

AGENDA  
March 16, 2017  
6:30 P.M.

1. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
2. Call to Order
3. Attendance (Start of Public Session)
4. Comments from the Public
5. Minutes – February 16, 2017
6. Budget
7. Correspondence
8. Old Business
9. New Business
  - A. Upcoming Professional Events
  - B. Upcoming Amateur Events
10. Adjournment

**NEXT MEETING SCHEDULED FOR APRIL 20, 2017**

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**Board of Architecture and Interior Design  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**March 17, 2017  
9:30 AM**

1. Call to Order – 9:30 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, January 27, 2017
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – April 28, 2017 at 9:30 a.m.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION

NOTICE OF PUBLIC MEETING

BOARD OF BARBER AND COSMETOLOGY  
1100 4<sup>th</sup> Street SW, Room E-300, Washington DC 20024  
Monday, March 6, 2017

**AGENDA**

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1. **CALL to ORDER**- 10:00 a.m. (*Public Session*)
2. **ATTENDANCE**
3. **COMMENTS** from the Public
4. **DRAFT MINUTES** – *February 6, 2017 - vote*
5. **CORRESPONDENCE**
6. **OLD BUSINESS**
  - A. School Site Visit Update – The Salon Professional Academy
  - B. School Site Visit Update – Flair Beauty Institute
  - C. Practitioners Forum Updates/Planning – June 19, 2017 (Location Updates)
7. **NEW BUSINESS**
  - A. Mobile Services (Nails) – Bernadette Clark
  - B. Investigations
8. **BOARD COMMITTEES**
  - A. Forum and Education Committee Meeting Planning and Meeting Dates
  - B. Reports and/or Updates
    - i. Body Artists – Micropigmentation – Examination Updates
9. **EXECUTIVE SESSION - (CLOSED TO PUBLIC)**

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.
10. **FINAL RECOMMENDATIONS/ACTIONS**
11. **ADJOURN - vote**

Next Scheduled Regular Meeting is **Monday, April 3, 2017 at 10am.**  
1100 4<sup>th</sup> Street, SW, Room 300B, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**Board of Funeral Directors  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**March 9, 2017  
1:00 PM.**

1. Call to Order – 1:00 p.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, February 2, 2017
7. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – April 6, 2017 at 1:00 p.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**Board of Real Estate Appraisers  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**March 15, 2017  
10:00 AM**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, January 18, 2017
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – March 15, 2017 at 10:00 a.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

**DC Board of Accountancy  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**Friday, March 3, 2017  
9:00 AM**

1. Call to Order – 9:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Accept Meeting Minutes,
7. 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.
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – April 7, 2017 at 9:00 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 4<sup>th</sup> Street, S.W., Room 300  
Washington, D.C. 20024

**AGENDA**  
March 21, 2017

1. Call to Order – 1:00 p.m.
2. Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
3. Start of Public Session – 2:20 p.m.
4. Comments from the Public
5. Minutes
6. Recommendations
7. Old Business
8. New Business
9. Adjourn

Next Scheduled Regular Board Meeting, April 18, 2017  
1100 4<sup>th</sup> Street, SW, Room 300B, Washington, DC 20024



DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION

NOTICE OF PUBLIC MEETING

District of Columbia Professional Engineers  
1100 4<sup>th</sup> Street SW, Room 380  
Washington, DC 20024

AGENDA

March 23, 2017 ~ Room 300  
9:00 A.M. (Application Review by Board Members)

11:00 A.M.

- 1) Call to Order – 11:00 a.m.
- 2) Attendance
- 3) Executive Session - **Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session – Closed to the Public**
  - Deliberation over applications for licensure
  - Review complaints and investigations
- 4) Comments from the Public
- 5) Review of Minutes
- 6) Recommendations
- 7) Old Business
- 8) New Business
- 9) Adjourn

Next Scheduled Meeting – April 20, 2017  
Location: 1100 4<sup>th</sup> Street SW, Conference Room E300

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

**NOTICE OF PUBLIC MEETING**

District of Columbia Real Estate Commission  
1100 4<sup>th</sup> Street, S.W., Room 300  
Washington, D.C. 20024

**AGENDA**  
March 14, 2017

1. Call to Order - 9:30 a.m. (Public Session)
2. Executive Session (Closed to the Public) – 9:30 am-10:00 am
  - A. Legal Committee Recommendations
  - B. Review – Applications for Licensure
3. Attendance (Public Session) – 10:00 a.m.
4. Comments from the Public
5. Minutes - Draft, February 14, 2017
6. Recommendations
  - A. Review - Applications for Licensure
  - B. Legal Committee Report
  - C. Education Committee Report
  - D. Budget Report
  - E. 2017 Calendar
  - F. Correspondence
7. Old Business
8. New Business
9. Adjourn

Next Scheduled Regular Meeting, April 11, 2017  
1100 4<sup>th</sup> Street, SW, Room 300B, Washington, DC 20024

**DC INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Furniture / Furniture Moving Services**

DC International School is seeking proposals for furniture and furniture moving services. For a copy of the RFP, please contact Kate Dydak at [kdydak@programmanagers.com](mailto:kdydak@programmanagers.com). Responses are due no later than March 16<sup>th</sup>.

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:

Bennett Hilley  
Single-Member District 4C06

## DEPARTMENT OF ENERGY AND ENVIRONMENT

## NOTICE OF PUBLIC MEETINGS

## Green Building Advisory Council

The Green Building Advisory Council, which is chaired by the Department of Energy and Environment (DOEE), will hold public meetings from 3:00-5:00 p.m. on the first Wednesday of every other month starting in February 2017. The meetings will be held at DOEE's headquarters, 1200 1<sup>st</sup> St., NE, Washington, DC 20002, Conference Room 718. Attendees must report to the reception area on the 5<sup>th</sup> floor, and ask the receptionist to contact Bill Updike, who will bring attendees to the meeting room. The main topics of discussion for the meetings will focus on green building policies and programs in the District.

**Meeting Dates:** Wednesday, April 5, 2017  
Wednesday, June 7, 2017  
Wednesday, August 2, 2017  
Wednesday, October 4, 2017  
Wednesday, December 6, 2017

**Location:** 1200 First Street, NE  
Fifth Floor  
Washington, DC 20002

**Contact:** Bill Updike  
Department of Energy and Environment  
1200 First Street, NE  
Fifth Floor  
Washington, DC 20002  
[william.updike@dc.gov](mailto:william.updike@dc.gov)  
(202) 535-1337

Persons wishing to participate, but unable to attend may submit a written statement to Bill Updike, Green Building and Climate Branch Chief, no later than the Friday prior to each meeting. Interested attendees should follow the instructions above for all meetings in 2017.

**DEPARTMENT OF ENERGY AND ENVIRONMENT****NOTICE OF FUNDING AVAILABILITY****Low Income Energy Efficiency and Conservation Programs**

The Department of Energy and Environment (the Department) seeks eligible entities to provide high quality, cost-effective weatherization services to income-qualified households. Weatherization services improve the overall comfort, energy efficiency, and safety of homes. These services are provided free of charge to all qualifying households. To deliver services, DOEE provides grants to grantees, which are responsible for performing weatherization. A successful applicant will assist DOEE in achieving this objective by installing approved energy efficiency measures in low-income households and providing energy-related information to occupants. Possible improvements include energy-audit recommended measures, HVAC repair or replacement, health and safety measures, or renewable energy systems. The amount available for the project is approximately \$4,500,000. This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 3/10/2017, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

**Download** from the Department's website, [www.doe.dc.gov](http://www.doe.dc.gov). Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

**Email** a request to [EECP.grants@dc.gov](mailto:EECP.grants@dc.gov) with "Request copy of RFA 2018-1710-EA" in the subject line.

**Pick up a copy in person** from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Kenley Farmer at (202) 535-2600 and mention this RFA by name.

**Write** DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Kenley Farmer RE:2018-1710-EA" on the outside of the envelope.

**An informational conference call** and opportunity for question and answers will be held on 03-17-2017 at 2.00 PM. The call number is 712-451-0200 and conference code is 233373

**The deadline for application submissions is 5/12/2017, 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 [EECP.grants@dc.gov](mailto:EECP.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;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: [EECP.grants@dc.gov](mailto:EECP.grants@dc.gov)

**DEPARTMENT OF HEALTH CARE FINANCE  
& DEPARTMENT ON DISABILITY SERVICES**

**PUBLIC NOTICE OF REVISIONS TO THE STATEWIDE  
TRANSITION PLAN FOR THE DISTRICT  
MEDICAID PROGRAM'S HOME AND  
COMMUNITY-BASED SERVICES WAIVERS**

The Directors of the Department of Health Care Finance (DHCF) and Department on Disability Services (DDS), 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) (2012 Repl. & 2013 Supp.), 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 give notice of their intent to submit revisions to the Statewide Transition Plan (STP) for the District of Columbia Medicaid program's Home and Community-Based Services (HCBS) Waivers to the Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) for review and final approval.

CMS regulations, effective March 17, 2014, and published in 79 Fed. Reg. 2948-3039 (Jan. 16, 2014), changed the definition of home and community-based services settings for HCBS Waiver services and required that DHCF and DDS develop and submit to CMS a transition plan identifying how the HCBS Waivers will be brought into compliance with the new outcome-oriented definition of HCBS settings. DHCF and DDS submitted a STP to CMS on March 17, 2015. That plan is available online on the DHCF website at: <http://dhcf.dc.gov/release/announcement-submitted-cms-district-columbia-plan-comply-new-federal-home-and-community> and the DDS website at: <http://dds.dc.gov/publication/dc-statewide-transition-plan-3-17-2015>.

In August 2015, DC received a letter from CMS with comments on the March 2015 STP. That letter is on-line at: <http://dds.dc.gov/publication/cms-letter-dc-statewide-transition-plan-8-13-2015> and included items required in any subsequent update to the STP. A June 2016 update was submitted to CMS on July 8, 2016 for review ahead of approval in accordance with CMS guidelines for the STP approval process.

A draft of the June 2016 update was initially noticed for public comment in the D.C. Register and DDS and DHCF websites on February 12, 2016. The entire plan, including all attachments, was posted on the DHCF and DDS websites for public comment on February 19, 2016, with a thirty day public comment period opening on February 20, 2016. Public comments received on



the February draft are included in the latest update of the STP as an attachment, and will be available to the public with the updated documents. The June 2016 STP update responded to the public comments received, as well as continuing guidance from CMS.

In August and October 2016, DC received letters from CMS with comments on the June 2016 STP. The letters will be posted as outlined below on the DHCF and DDS websites.

In response to the letters, and as agreed with CMS, the District intends to file this latest update of the STP with CMS by April 28, 2017, after a public comment period. This resubmission will be for final approval by CMS.

Copies of the proposed revisions to the Statewide Transition Plan and the CMS letters that the revisions respond to may be obtained no later than March 13, 2017 on the DHCF website at <http://dhcf.dc.gov>, the DDS website at <http://dds.dc.gov>, or upon request from Ieisha Gray, Director, Long Term Care Administration, D.C. Department of Healthcare Finance, 441 4th St, NW, 10th Floor, Washington D.C. 20001.

DHCF and DDS will hold two public forums during which written and oral comments on the proposed revisions to the Statewide Transition Plan will be accepted. The first public forum will be held at the R.I.S.E. Demonstration Center at 2730 Martin Luther King, Jr. Ave., SE Washington, D.C. 20032 (St. Elizabeths East Campus) on March 30, 2017 from 10 a.m.- 12 p.m. in the Conference Room. The second public forum will be held at the D.C. Department of Health Care Finance at 441 4th St, NW, Washington D.C., 20001 on April 3, 2017 from 1:30 p.m.-3:30 p.m. in the Old Council Chambers (South Building).

Written comments on this transition plan may be submitted to Claudia Schlosberg, Medicaid Director, D.C. Department of Health Care Finance, 441 4th St, NW, 9th Floor, Washington D.C. 20001, or by e-mail at [dhcfpubliccomments@dc.gov](mailto:dhcfpubliccomments@dc.gov), during the thirty (30) day public comment period closing Tuesday, April 11, 2017, at 5 pm EST.

Copies of this notice will be published on the DHCF website at at <http://dhcf.dc.gov>.

For further information, contact Ieisha Gray, Director, Long Term Care Administration, D.C. Department of Health Care Finance, at (202) 442-5818, [ieisha.gray@dc.gov](mailto:ieisha.gray@dc.gov) or Erin Leveton, Program Manager, DDS State Office of Disability Administration, at (202) 730-1754, [erin.leveton@dc.gov](mailto:erin.leveton@dc.gov).

**DEPARTMENT OF HEALTH  
HEALTH REGULATION LICENSING ADMINISTRATION**

**NOTICE OF MEETING**

Board of Chiropractic  
March 14, 2017

On March 14, 2017 at 1:30 pm, the Board of Chiropractic will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed at 4:30 pm to consult with the attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements pursuant to 2-575(b)(4)(a); Preparation, administration, or grading of scholastic, licensing, or qualifying examinations pursuant to section 2-575(b)(6); To discuss disciplinary matters pursuant section 2-575(b)(9); To plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of the law or regulations, if disclosure to the public would harm the investigation pursuant to section 2-575(b)(14).

The meeting will be open to the public at 1:30 pm to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations at 4:30 pm.

The meeting location is 899 North Capitol Street NE, 2<sup>nd</sup> Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Chiropractic website [www.doh.dc.gov/boc](http://www.doh.dc.gov/boc) and select BOC Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board of Chiropractic – Frank Meyers, JD - (202) 724-8755.

**DISTRICT OF COLUMBIA  
HISTORIC PRESERVATION REVIEW BOARD**

**NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS**

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites. The property is now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

**Designation Case No. 16-20: Perna Brothers Chesapeake Street Houses**  
4112, 4114, 4116 and 4118 Chesapeake Street NW (Square 1732, Lots 40-43)  
Designated February 23, 2017  
Affected Advisory Neighborhood Commission: 3E

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

**IDEA PUBLIC CHARTER SCHOOL**  
**NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACT**  
**STUDENT TRANSPORTATION SERVICES**

IDEA Public Charter School intends to enter into a sole source contract with Deadwyler Transportation for student transportation services.

The cost is not expected to exceed \$50,000. The decision to sole source is due to the fact that we began work with this vendor in 2014. Due to recent events in the Deanwood community, we would like to continue to provide our students with safe passage transportation afterschool for the remainder of the 2016-2017 school year and beyond.

**IDEA PUBLIC CHARTER SCHOOL**  
**REQUEST FOR PROPOSALS**  
**GENERAL CONTRACTOR**

IDEA Public Charter School (IDEA PCS), in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 (“Act”), hereby solicits expressions of interest for General Contractor Services. The scope of work includes renovating approximately 25,000 square feet of an existing 1900s building and a 1970s addition in which the School operates its 9-12 education program for college readiness and should be completed by August 2017.

A walk-through for potential bidders will be held on Thursday, March 16<sup>th</sup> at 1pm.

For directions and additional information, including architectural, structural, and MEP drawings, and statements of work, please email Heather Staab at [hstaab@stoiberandassociates.com](mailto:hstaab@stoiberandassociates.com).

IDEA PCS reserves the right to terminate this RFP and any subsequent contact at any time.

Deadline for submissions, proposals, and supporting documents is 5:00 p.m., on Thursday, April 6th.

Please email proposals to [hstaab@stoiberandassociates.com](mailto:hstaab@stoiberandassociates.com)

**DISTRICT OF COLUMBIA PUBLIC LIBRARY  
BOARD OF LIBRARY TRUSTEES  
Meeting Schedule  
2017**

<b>Month</b>	<b>Meeting</b>	<b>Date</b>	<b>Time</b>	<b>Location</b>
<b>January 2017</b>	Board of Library Trustees Meeting	Wednesday, January 25	6:00 p.m.	Martin Luther King Jr. Memorial Library 901 G Street, NW
<b>March 2017</b>	Board of Library Trustees Meeting	Wednesday, March 22	6:00 p.m.	Anacostia Library 1800 Good Hope Road SE
<b>May 2017</b>	Board of Library Trustees Meeting	Wednesday, May 24	6:00 p.m.	Shaw Library (Watha T. Daniels) 1630 7th St. NW
<b>July 2017</b>	Board of Library Trustees Meeting	Wednesday, July 26	6:00 p.m.	Woodridge Library 1801 Hamlin Street NE
<b>September 2017</b>	Board of Library Trustees Meeting	Wednesday, September 27	6:00 p.m.	Shaw Library (Watha T. Daniels) 1630 7th St. NW
<b>November 2017</b>	Board of Library Trustees Meeting	Wednesday, November 15	6:00 p.m.	West End Library TBD

Note: According to the Bylaws, the Board of Trustees shall hold six (6) regular meetings each year. The schedule of the regular Board meetings shall be proposed by the President of the Board and approved by the Board. Notices of regular meetings (including the Annual Meeting) shall be sent to each member of the Board at least five (5) calendar days before the meeting.

**OFFICE OF THE DEPUTY MAYOR FOR  
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING**

**THE WALTER REED LOCAL REDEVELOPMENT AUTHORITY  
COMMUNITY ADVISORY COMMITTEE  
PURSUANT TO D.C. OFFICIAL CODE § 10-1906**

The District will hold a public meeting for the Walter Reed Local Redevelopment Authority (LRA) Community Advisory Committee (CAC) at the following time and location:

**Date: Monday, March 6, 2017**

**Time: 6:30 p.m. - 8:30 p.m.**

**\*\*\*NEW LOCATION\*\*\*  
Shepherd Elementary School  
7800 14<sup>th</sup> St NW  
Washington, DC 20012**

**PROPOSED AGENDA**

- I. 6:30 pm LRA Opening Remarks
  - a. LRA Project Overview and Update
  - b. CAC Member Update
  - c. DCI Update
  
- II. 6:40 pm Master Development Team overview and update
  - a. Construction Update
  - b. Site Operations Update
  - c. Cultural DC-Kresge OP Project
  - d. Beer and Wine License for Grocer
  - e. Buildings V/U and I/J- Design
  
- III. 8:20 pm Questions/Next Meeting Date
- IV. 8:30 pm Adjourn

For questions, please contact Randall Clarke, Walter Reed Local Redevelopment Authority Director at 202-727-6365 or [randall.clarke@dc.gov](mailto:randall.clarke@dc.gov) or Malaika Abernathy Scriven at 202-545-3123 or [Malaika.abernathy2@dc.gov](mailto:Malaika.abernathy2@dc.gov).



## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF**RM-9-2016-01, IN THE MATTER OF 15 DCMR CHAPTER 9 — NET ENERGY METERING — COMMUNITY RENEWABLE ENERGY CREDIT RATE CLARIFICATION AMENDMENT ACT OF 2016**

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,<sup>1</sup> of its final action to approve the Community Net Metering Rider (“Rider CNM”) of the Potomac Electric Power Company (“Pepco”).<sup>2</sup>

2. The Community Renewable Energy Credit Rate Clarification Act of 2016 (“Act”) became effective on October 8, 2016.<sup>3</sup> On October 12, 2016, Pepco filed initial versions of the Rider CNM and the accompanying Community Renewable Energy Facility (“CREF”) Contract and Pepco’s Procedural Manual (jointly “CREF Documents”).<sup>4</sup> On October 28, 2016, the Commission issued a Notice of Proposed Rulemaking (“NOPR”) updating the CREF Credit Rate pursuant to the Act.<sup>5</sup> On November 28, 2016, Pepco filed comments in support of the NOPR.<sup>6</sup> Subsequently on December 5, 2016, Pepco filed revised versions of the Rider CNM and the CREF Contract that incorporate the CREF Credit Rate definition proposed by the Commission in its NOPR.<sup>7</sup> On December 30, 2016, the Commission published a Notice of Proposed Tariff (“NOPT”) in the *D.C. Register* inviting public comment on the Rider CNM and the accompanying CREF Documents.<sup>8</sup> The Commission also published the Notice of Final Rulemaking in the *D.C. Register*, which finalized the amended rules for the Community Net Metering program in the District.<sup>9</sup> No comments were received in response to the NOPT.

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<sup>1</sup> D.C. Code § 2-505 (2001 Ed.) and D.C. Code § 34-802 (2001 Ed.).

<sup>2</sup> *RM-09-2016-01*, Potomac Electric Power Company’s revised Community Net Metering Rider, CREF Contract, and Procedural Manual, filed December 5, 2016.

<sup>3</sup> *D.C. Law* 21-0160 (October 8, 2016).

<sup>4</sup> *RM-09-2016-01*, Potomac Electric Power Company’s Community Net Metering Rider, CREF Contract, and Procedural Manual, filed October 12, 2016.

<sup>5</sup> 63 *D.C. Reg.* 013501-013502 (2016).

<sup>6</sup> *RM-09-2016-01*, Potomac Electric Power Company’s letter supporting the amended definition as set forth in the Commission’s NOPR consistent with the NOPR, filed November 28, 2016.

<sup>7</sup> *RM-09-2016-01*, Potomac Electric Power Company’s Community Net Metering Rider, CREF Contract, and Procedural Manual, filed December 5, 2016.

<sup>8</sup> 63 *D.C. Reg.* 016183-016185 (2016).

<sup>9</sup> *RM-09-2016-01-E*, 63 *D.C. Reg.* 16089-16090 (2016); 15 DCMR § 900 *et. seq.* (2016).

3. In the Rider CNM, Pepco sets forth how it will implement Community Net Metering for residential and commercial customers and what components of the bill will be used to calculate the CREF Credit Rate in accordance with the following tariff pages:

**RATE SCHEDULES FO ELECTRIC SERVICE IN THE DISTRICT OF COLUMBIA,  
P.S.C. of D.C. No. 1**

**Eighty-Third Revised Page No. R-1  
Superseding Eighty-Second Revised Page No. R-1**

**P.S.C. of D.C. No. 1  
Eighty-Third Revised Page No. R-2  
Superseding Eighty-Second Revised Page No. R-2**

**P.S.C. of D.C. No. 1  
Seventy-Sixth Revised Page No. R-2.1  
Superseding Seventy-Fifth Revised Page No. R-2.1**

**P.S.C. of D.C. No. 1  
Fifty-Second Revised Page No. R-2.2  
Superseding Fifty-First Revised Page No. R-2.2**

**P.S.C. of D.C. No. 1  
First Revised Page No. R-52  
Superseding Original Page No. R-52**

**P.S.C. of D.C. No. 1  
First Revised Page No. R-52.1  
Superseding Original Page No. R-52.1**

4. Specifically, Pepco provides that the components of the CREF Credit Rate for Residential and Commercial customers are:

	<b>Applicable to Residential Customers</b>	<b>Applicable to Commercial Customers</b>
<b>Generation</b>		
All kWh	<u>Yes</u>	<u>Yes</u>
Administrative Charge	<u>Yes</u>	<u>Yes</u>
<b>Transmission</b>		
All kWh	<u>Yes</u>	<u>Yes</u>
<b>Distribution</b>		
All kWh Charge	<u>Yes</u>	<u>No</u>
Residential Aid Discount Surcharge	<u>Yes</u>	<u>No</u>
Energy Assistance Trust Fund	<u>Yes</u>	<u>No</u>
Sustainable Energy Trust Fund	<u>Yes</u>	<u>No</u>
Public Space Occupancy Surcharge	<u>Yes</u>	<u>No</u>
Delivery Tax	<u>Yes</u>	<u>No</u>

5. The Commission at its regularly scheduled open meeting held on February 23, 2017, took final action approving the proposed the Rider CNM and the accompanying CREF Documents. The Rider CNM will become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED TARIFF

## GAS TARIFF 95-3, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S APPLICATION FOR AUTHORITY TO WITHDRAW WATERGATE TARIFF

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. Code") and in accordance with section 2-505 of the D.C. Code,<sup>1</sup> of its intent to act upon the proposed tariff amendment of the Washington Gas Light Company ("WGL" or "Company")<sup>2</sup> in not less than 30 days from the date of publication of this Notice of Proposed Tariff ("NOPT") in the *D.C. Register*.

2. On January 30, 2017, WGL filed an Application, pursuant to 15 DCMR § 101.1 for Authority to Withdraw P.S.C. of D.C. No.3, pages 28-31, Steam and Chilled Water Rates for Service to the Watergate Project ("Watergate Tariff").<sup>3</sup>

3. According to WGL, it "entered into an Agreement with Watergate Improvements, Inc.<sup>4</sup> to provide steam and chilled Water for all of the buildings in the Watergate Complex through a central plant to be located on the premises ("Central Plant") to generate heat, hot water and air conditioning to the buildings and an underground structure built in the District of Columbia ("Agreement").<sup>5</sup> WGL states that the "Central Plant was constructed, owned or leased, and operated by Washington Gas, and the rates and charges for the services provided by Washington Gas were initially set by agreement of the parties and later established by the Commission, under the Company's tariff."<sup>6</sup>

4. The Company asserts that the "Agreement is set to expire on February 1, 2020, with the automatic renewal for additional 25-year terms unless terminated by either party at the end of the initial term or any subsequent 25-year term, provided the party seeking termination of the contract gives three (3) years' prior written notice."<sup>7</sup> According to WGL, "[u]nder the

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<sup>1</sup> D.C. Code § 34-802 (2001); D.C. Code § 2-505 (2001).

<sup>2</sup> Gas Tariff 95-3, *In the Matter of Washington Gas Light Company's Application for Authority to Withdraw Watergate Tariff* ("Gas Tariff 95-3"), Letter from Cathy Thurston-Seignious, Supervisor, Administrative and Associate General Counsel, Washington Gas Light Company, to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, filed January 30, 2017 ("WGL's Application").

<sup>3</sup> *Gas Tariff 95-3*, WGL's Application.

<sup>4</sup> The Watergate Complex Council, represented by each of the affected buildings in the Watergate Complex, was subsequently formed to address all matters related to the Central Plant.

<sup>5</sup> *Gas Tariff 95-3*, WGL's Application at 1.

<sup>6</sup> *Gas Tariff 95-3*, WGL's Application at 1-2.

<sup>7</sup> *Gas Tariff 95-3*, WGL's Application at 2.

agreement, termination by Washington Gas shall be only with the approval of any regulatory authority having jurisdiction in the premises.”<sup>8</sup>

5. The Company states that “on January 24, 2017, it provided the affected Watergate entities written notification of its intent to terminate the Agreement (Attachment A) and hereby seeks Commission approval to terminate the Agreement and applicable portions of the tariff.”<sup>9</sup> According to WGL, it seeks to terminate its services under the Agreement for the following reasons: “(1) the provision of steam and chilled water is not a core function of Washington Gas, the utility provider of retail natural gas service in the District of Columbia, and the Company is not obligated by law to provide this service; and (2) Washington Gas has outsourced most of the functions associated with the operation of the Central Plant, demonstrating that there are other companies that can operate and maintain the Central Plant, other than Washington Gas.”<sup>10</sup> WGL asserts that it “has a very minor role in the operation and maintenance of the Central Plant, other than oversight of the performance of the work and preparation of bills, and no ownership interest in the facilities.”<sup>11</sup>

6. The Company states that “District of Columbia firm ratepayers would not be negatively impacted by withdrawal of the Watergate Tariff.”<sup>12</sup> WGL submits that “the Commission has authorized pass-through of the operating and capital costs of the maintenance and operation of the Central Plant to the Watergate Complex Council and allowed the Watergate Complex Council to directly purchase any capital improvements associated with the Capital Plant.”<sup>13</sup> The Company states that the “Watergate Complex Council pays Washington Gas monthly demand and commodity charges pursuant to the Company’s tariff; however, these revenues are not included in Washington Gas’s cost of service for purposes of calculating base rates.”<sup>14</sup>

7. Finally, according to the Company, “Watergate South, Inc., one of the representatives in the Watergate Complex Council; filed an Expedited Complaint for Declaratory Judgment and Injunctive Relief in D.C. Superior Court against Washington Gas and the other representative of the Watergate Complex Council, seeking to end the Agreement.”<sup>15</sup> WGL states that “[g]iven this entity’s interest in terminating the Agreement and pursuing other arrangements

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<sup>8</sup> *Gas Tariff 95-3*, WGL’s Application at 2.

<sup>9</sup> *Gas Tariff 95-3*, WGL’s Application at 2.

<sup>10</sup> *Gas Tariff 95-3*, WGL’s Application at 3.

<sup>11</sup> *Gas Tariff 95-3*, WGL’s Application at 3.

<sup>12</sup> *Gas Tariff 95-3*, WGL’s Application at 3.

<sup>13</sup> *Gas Tariff 95-3*, WGL’s Application at 3-4.

<sup>14</sup> *Gas Tariff 95-3*, WGL’s Application at 3-4.

<sup>15</sup> *Gas Tariff 95-3*, WGL’s Application at 4.

for heating and cooling needs, as well as the Company's desire to end its oversight of the Central Plant, continuation of the provision of this service is not in the public interest."<sup>16</sup>

8. WGL proposes to revise the following tariff page of P.S.C. of D.C. No. 3:

**NATURAL GAS TARIFF, P.S.C. of D.C. No. 3  
Seventeenth Revised Page No. 1  
Superseding Sixteenth Revised Page No. 1**

9. WGL's Application may be reviewed at the Office of the Commission Secretary, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday or may be viewed on the Commission's website by visiting [www.dcpsec.org](http://www.dcpsec.org) and, under the "eDocket System" tab, selecting "Search Current Dockets" and typing "GT95-03" in the field labeled "Select Case Number" and "17" as the item number. A copy of the proposed tariff revisions is available upon request at a per-page reproduction fee by contacting the Commission Secretary at (202) 626-5150 or [PSC-CommissionSecretary@dc.gov](mailto:PSC-CommissionSecretary@dc.gov).

10. Any person desiring to comment on the Revised Tariff Application shall file written comments no later than 30 days from the date of publication of this Notice in the *D.C. Register*. Comments should be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, at the address listed in the preceding paragraph. Any responses to comments shall be filed within 45 days from the date of publication of this Notice in the *D.C. Register*. Once the comment period expires, the Commission will take final action.

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<sup>16</sup> *Gas Tariff 95-3*, WGL's Application at 4.

**DISTRICT OF COLUMBIA RETIREMENT BOARD**

**INVESTMENT COMMITTEE**

**NOTICE OF CLOSED MEETING**

March 16, 2017

10:00 a.m.

DCRB Board Room  
900 7<sup>th</sup> Street, N.W.  
Washington, D.C 20001

On Thursday, March 16, 2017, at 10:00 a.m., the District of Columbia Retirement Board (DCRB) will hold a closed investment committee meeting regarding investment matters. In accordance with D.C. Code §2-575(b)(1), (2), and (11) and §1-909.05(e), the investment committee meeting will be closed to deliberate and make decisions on investments matters, the disclosure of which would jeopardize the ability of the DCRB to implement investment decisions or to achieve investment objectives.

The meeting will be held in the Board Room at 900 7<sup>th</sup> Street, N.W., Washington, D.C 20001.

For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or [Deborah.Reaves@dc.gov](mailto:Deborah.Reaves@dc.gov).

## DISTRICT OF COLUMBIA RETIREMENT BOARD

## NOTICE OF OPEN PUBLIC MEETING

March 16, 2017

1:00 p.m.

900 7<sup>th</sup> Street, N.W.  
2<sup>nd</sup> Floor, DCRB Boardroom  
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, March 16, 2017, at 1:00 p.m. The meeting will be held at 900 7<sup>th</sup> Street, N.W., 2<sup>nd</sup> floor, DCRB Boardroom, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

*Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled.* For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or [Deborah.Reaves@dc.gov](mailto:Deborah.Reaves@dc.gov).

**AGENDA**

- |       |                                   |                 |
|-------|-----------------------------------|-----------------|
| I.    | Call to Order and Roll Call       | Chair Bress     |
| II.   | Approval of Board Meeting Minutes | Chair Bress     |
| III.  | Chair's Comments                  | Chair Bress     |
| IV.   | Executive Director's Report       | Mr. Stanchfield |
| V.    | Investment Committee Report       | Mr. Warren      |
| VI.   | Operations Committee Report       | Ms. Collins     |
| VII.  | Benefits Committee Report         | Mr. Smith       |
| VIII. | Legislative Committee Report      | Mr. Blanchard   |
| IX.   | Audit Committee Report            | Mr. Hankins     |
| X.    | Other Business                    | Chair Bress     |
| XI.   | Adjournment                       |                 |



**SOMERSET PREP PUBLIC CHARTER SCHOOL****NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Affiliate Cooperation Agreement**

The Somerset Prep Public Charter School intends to enter into a sole source contract with Somerset Academy Inc. to establish and support high quality educational choice schools that provide students with knowledge, skills and character needed to succeed in top-quality public school, colleges and the competitive world beyond.

- Somerset Prep constitutes the sole source for Somerset Academy Inc. to promote a culture that maximizes student achievement and foster the development of responsible, self-directed life-long learners in a safe and enriching environment.
- Approximately \$30,000 annually is required to be a “Member School” in this network.
- For further information regarding this notice contact [sspdc\\_bids@somersetprepdc.org](mailto:sspdc_bids@somersetprepdc.org) no later than **5:00 pm March 20, 2017**.

**SOMERSET PREP PUBLIC CHARTER SCHOOL****NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Charter School Services and Support**

The Somerset Prep Public Charter School intends to enter into a sole source contract with Academia DC, LLC to coordinate the services required to support the School. Also, to advise the School Board on administrative duties.

- Somerset Prep constitutes the sole source for Academia DC, LLC to make sure that they meet Board and school policies and procedures, the Charter and with the District and federal rules and regulations.
- For further information regarding this notice contact [sspdc\\_bids@somersetprepdc.org](mailto:sspdc_bids@somersetprepdc.org) no later than **5:00 pm March 20, 2017**.

**THE NEXT STEP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Executive Recruitment Services**

The Next Step Public Charter School Solicits Proposals for Executive Recruitment Services for the 2016-2017 school year (July 1, 2016 – June 30, 2017).

The Request for Proposals (RFP) specifications such as scope and responsibilities can be obtained on Friday, March 3, 2017 from Celine Fejeran, TNSPCS Executive Search Committee Chairman via email listed below.

**Bids must be received by Friday, March 17, 2017 by midnight (EST) at the email address listed below. Any bids not addressing all areas as outlined in the IFB (RFP) will not be considered.**

**SUBMITT BIDS** electronically to: [rfped@nextsteppcs.org](mailto:rfped@nextsteppcs.org)

**WASHINGTON CONVENTION AND SPORTS AUTHORITY  
(T/A EVENTS DC)**

**NOTICE OF RESCHEDULED PUBLIC MEETING**

The Board of Directors of the Washington Convention and Sports Authority (t/a Events DC), in accordance with the District of Columbia Self-Government and Governmental Reorganization Act of 1973, D.C. Official Code §1-207.42 (2006 Repl., 2011 Supp.), and the District of Columbia Administrative Procedure Act of 1968, as amended by the Open Meetings Amendment Act of 2010, D.C. Official Code §2-576(5) (2011 Repl., 2011 Supp.), hereby gives notice that a previously announced meeting scheduled for March 9, 2017, will instead take place on March 10, 2017, beginning at 9:30 a.m.

The meeting will take place in the Dr. Charlene Drew Jarvis Board Room of the Walter E. Washington Convention Center, 801 Mount Vernon Place, N.W., Washington, D.C. 20001. The Board's agenda includes reports from its Standing Committees.

For additional information, please contact:

Sean Sands  
Chief of Staff  
Washington Convention and Sports Authority  
t/a Events DC

(202) 249-3012  
sean.sands@eventsdc.com

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, March 23, 2017 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at [www.dcwater.com](http://www.dcwater.com).

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or [lmanley@dcwater.com](mailto:lmanley@dcwater.com).

**DRAFT AGENDA**

- |    |                                    |                              |
|----|------------------------------------|------------------------------|
| 1. | Call to Order                      | Chairman                     |
| 2. | February 2017 Financial Report     | Director of Finance & Budget |
| 3. | Agenda for April Committee Meeting | Chairman                     |
| 4. | Adjournment                        | Chairman                     |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Order No. 17549-A of Georgetown Visitation Preparatory School**, pursuant to 11 DCMR Subtitle Y § 704, for a modification of significance of BZA Order No. 17549, now requesting special exception relief under the R-use requirements of Subtitle U § 203.1(l), to complete additions to existing academic buildings, increase student enrollment to 530, and increase faculty and staff to 125 for an existing private school in the R-3 Zone at premises 1524 35th Street N.W. (Square 1292, Lot 202).

The original application (No. 17549) was pursuant to the Zoning Regulations of 1958<sup>1</sup>, pursuant to 11 DCMR § 3104.1, for a special exception to increase a private school student enrollment cap from 435 to 490, and to increase the cap on faculty and staff from 110 to 120, under section 206, in the R-3 District at premises 1524 35th Street, N.W. (Square 1292, Lot 202).

<b>HEARING DATE</b> (Case No. 17549):	February 20, 2007
<b>DECISION DATE</b> (Case No. 17549):	February 20, 2007
<b>FINAL ORDER ISSUANCE DATE</b> (Case No. 17549):	February 27, 2007
<b>MODIFICATION HEARING DATE:</b>	February 8, 2017
<b>MODIFICATION DECISION DATE:</b>	February 8, 2017

**SUMMARY ORDER ON REQUEST FOR MODIFICATION OF SIGNIFICANCE**

**BACKGROUND**

On February 20, 2007, in Application No. 17549, the Board of Zoning Adjustment (“Board” or “BZA”) approved the self-certified request by Georgetown Visitation Preparatory School (the “Applicant”) for a special exception to increase a private school student enrollment cap from 435 to 490, and to increase the cap on faculty and staff from 110 to 120, under § 206, in the R-3 District. The Board issued Order No. 17549 on February 27, 2007. The approval in Case No. 17549 was subject to six conditions, namely:

1. The number of students shall not exceed 490.
2. The School shall have a maximum of 120 staff members.
3. Outdoor activities shall take place under staff supervision at all times.
4. The grounds and landscaping of the School shall be maintained in a neat and orderly condition at all times.

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<sup>1</sup> The original application was filed under the Zoning Regulations (Title 11, DCMR) which were then in effect (the “1958 Zoning Regulations”) but which were repealed on September 6, 2016 and replaced with new text of Title 11, DCMR (the “2016 Regulations”). Other than the description of the original application and its caption, the other references in this Order to provisions contained in Title 11 DCMR are to the 2016 Regulations. The repeal of the 1958 Zoning Regulations and their replacement with the 2016 Regulations has no effect on the vesting and validity of the original application.

5, Trash and refuse generated by the School shall be kept from public view and collected at least twice weekly.

6. The Traffic Management Plan shall be established, implemented and monitored in accordance with the terms of the plan (attached).

### **MOTION FOR MODIFICATION OF SIGNIFICANCE**

On October 3, 2016, the Applicant submitted a request for a modification of significance to the relief previously approved by the Board in Order No. 17549. (Exhibit 1.) In Case No. 17549, the Board approved, with six conditions, a special exception to increase a private school student enrollment cap from 435 to 490, and to increase the cap on faculty and staff from 110 to 120, under § 206, in the R-3 District. There is currently one existing Board Order attached to the Property, Order No.17549.

In the present case, the Applicant is now requesting special exception relief under the R-use requirements of Subtitle U § 203.1(1), to complete additions to existing academic buildings, increase student enrollment to 530, and increase faculty and staff to 125 for an existing private school in the R-3 Zone. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) The Applicant submitted architectural plans reflecting the request to complete an addition to an existing building in this application. (Exhibits 7, 51 (revised plans) and 52 (revised site plan).) This is the same Applicant and Property for which the Board approved special exception relief in Order No. 17549.

The Applicant indicated that the proposed modification of significance meets the burden of proof for the additional relief requested. Further, the Applicant seeks to modify the conditions of approval included in BZA Order No. 17549 to reflect an increase in student enrollment to 530 and faculty and staff to 125. (Exhibit 10.)

#### *The Merits of the Request for Modification of Significance*

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a minor modification or modification of consequence<sup>2</sup> requires a public hearing and is a modification of significance. The Applicant's request complies with 11 DCMR Subtitle Y § 704, which provides the Board's procedures for considering requests for modifications of significance.

In the current case, the Applicant submitted an application for new special exceptions and changes in conditions in a case that had been previously approved. Since additional relief as well as changes in conditions were being requested to that previously approved in Case No. 17549, it met the definition of a modification of significance and a public hearing was held.

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<sup>2</sup> See, Subtitle Y §§ 703.3 and 703.4.

Pursuant to Subtitle Y § 704.6, a public hearing on a request for a modification of significance shall be focused on the relevant evidentiary issues requested for modification and any condition impacted by the requested modification. Pursuant to Subtitle Y § 704.7, the scope of a hearing conducted pursuant to Subtitle Y § 704.1 is limited to the impact of the modification on the subject of the original application, and does not permit the Board to revisit its original decision. Pursuant to Subtitle Y § 704.8, a decision on a request for modification of plans shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application. Finally, pursuant to Subtitle Y § 704.9, the filing of any modification request under this section does not act to toll the expiration of the underlying order and the grant of any such modification does not extend the validity of any such order.

*Notice.* Pursuant to Subtitle Y §§ 704.4, and 704.5, all requests for modifications of significance must be served by the moving party on all parties in the original proceeding at the same time that the request is filed with the Board. In addition, pursuant to Subtitle Y § 400.4, the Office of Zoning provides notice upon its acceptance on behalf of the Board of an application requiring a public hearing to the applicant, to the affected Advisory Neighborhood Commission (“ANC”), the affected Single Member District ANC Commissioner, the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), and the Councilmember for the ward within which the property is located. Pursuant to Subtitle Y § 402.1, the Board also provides notice of the public hearing to the applicant, the affected ANC, the affected Single Member District ANC Commissioner, all owners of property within 200 feet of the subject property, any leaseholders on the subject property, OP and all other appropriate government agencies, and the Councilmember for the ward within which the property is located.

Proper and timely notice of the application was provided to ANC 2E, the only other party to Application No. 17549, the ANC Commissioner for Single Member District 2E02, OP, DDOT, the Ward Councilmember for the Property, and the Council Chairman and the At Large Councilmembers. (Exhibits 17, 19-28.) Also, notice of the public hearing was provided to the Applicant, ANC 2E, and all owners of property within 200 feet of the subject property, and the Ward Councilmember. (Exhibits 29-32.)

*Reports.* ANC 2E submitted a report dated November 8, 2016, in support of the application. The ANC report indicated that at a regularly scheduled, properly noticed public meeting on November 1, 2016, at which a quorum was present, the ANC voted 8:0:0 to support the special exceptions requested in this application. (Exhibit 47.)

OP submitted a timely report on January 23, 2017, recommending approval, with conditions, of the proposed request for special exception relief from Subtitle U § 203.1(l) and Subtitle X § 901, to increase student enrollment from 490 to 530 and the faculty and staff from 120 to 125 as well as for an eight-classroom, two-story addition to the Applicant’s previously approved approval. (Exhibit 54.) DDOT submitted a report dated January 27, 2017, requesting additional time and a waiver from the 10-day agency filing deadline to allow sufficient time in which to review the Applicant’s proposal. (Exhibit 59.) DDOT then submitted a supplemental report dated January



31, 2017, stating that it had no objection to the granting of the request subject to conditions. (Exhibit 60.)

Ten letters of support for the application were submitted for the record. (38, 40-46, 48, 53, 56.) Also, a letter from the U.S. Commission of Fine Arts recommending no objection to concept design was submitted to the record. (Exhibit 63.)

*Burden of Proof.* As directed by 11 DCMR Subtitle X § 901.2 and Subtitle Y § 704, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception and a modification of significance. With its application, the Applicant submitted a statement of intended use, architectural plans and elevations, traffic analyses, and a self-certification memorandum fully describing the project and relief being requested and noted how it met the burden of proof for special exception relief under 11 DCMR Subtitle U § 203.1(l). (Exhibits 4, 5, 7, 10, 41, 51-52, and 57.)

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle U § 203.1(l), that the requested special exception 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. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board also concludes that in seeking a modification of significance to Case No. 17549, the Applicant has met its burden of proof under 11 DCMR Subtitle Y § 704.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant the request would not be adverse to any party and therefore an order containing full finding of facts and conclusions of law need not be issued pursuant to D.C. Official Code § 2-509(c) (2012 Repl.). Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 for modification of significance of the Board's approval in Application No. 17549-A is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS AND PROPOSED REVISED SITE PLAN IN EXHIBITS 51 AND 52 AND SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The number of students shall not exceed 530.
2. The school shall have a maximum of 125 staff members.
3. Outdoor activities shall take place under staff supervision at all times.

4. The grounds and landscaping of the facility shall be maintained in a neat and orderly condition at all times.
5. Trash and refuse generated by the School shall be kept from public view and collected at least twice weekly.
6. The Traffic Management Plan shall continue to be monitored in accordance with the terms of the approved Traffic Management Plan and any other improvements that may be required by the District Department of Transportation's ("DDOT") review, including those noted by DDOT in Exhibit 60 of the case record of Case No. 17549-A.

In all other respects, Order No. 17549 remains unchanged.

**VOTE ON ORIGINAL APPLICATION ON FEBRUARY 20, 2007: 3-0-2**

(Geoffrey H. Griffis, Ruthanne G. Miller, Cutis L. Etherly, Jr. to grant; John A. Mann not present, not voting; No Zoning Commission Member present.)

**VOTE ON MODIFICATION OF CONSEQUENCE ON FEBRUARY 8, 2017: 3-0-2**

(Frederick L. Hill, Carlton E. Hart, and Peter G. May to APPROVE; two Board seats 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:** February 28, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

BZA APPLICATION NO. 17549-A

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PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, 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**

**Order No. 19271-A of DGS of DC**, pursuant to 11 DCMR Subtitle Y § 704, for a modification of significance of BZA Order No. 19271, now requesting special exception relief under the rooftop mechanical screening requirements of Subtitle C § 1500.6, to modernize rooftop equipment on an existing public school in the R-2 Zone at premises 4800 Meade Street N.E. (Square 5159, Lot 801).

The original application (No. 19271) was pursuant to the Zoning Regulations of 1958<sup>1</sup>, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow 86 parking spaces to operate a public school in the R-2 District at premises 4800 Meade Street, N.E. (Square 5159, Lot 801).

<b>HEARING DATE</b> (Case No. 19271):	June 7, 2016
<b>DECISION DATE</b> (Case No. 19271):	June 7, 2016
<b>FINAL ORDER ISSUANCE DATE</b> (Case No. 19271):	June 14, 2016
<b>MODIFICATION HEARING DATE:</b>	January 11, 2017
<b>MODIFICATON DECISION DATE:</b>	January 11, 2017

**SUMMARY ORDER ON REQUEST FOR MODIFICATION OF SIGNIFICANCE**

**BACKGROUND**

On June 7, 2016, in Application No. 19271, the Board of Zoning Adjustment (“Board” or “BZA”) approved the self-certified request by DGS of DC (the “Applicant”) for a variance from the off-street parking requirements under § 2101.1, to allow 86 parking spaces to operate a public school in the R-2 District. The Board issued Order No. 19271 on June 14, 2016. (Exhibit 9 of the record for Case No. 19271A.) The approval in Case No. 19271 was subject to the approved plans at Exhibit 29 in the record of that case and to one condition, namely:

1. The Applicant shall provide wayfinding information on all media (website, flyers, mailers, etc.) used to advertise events at the auditorium to encourage the use of non-auto modes of transportation, and provide directions to the campus using transit and other non-auto modes.

**MOTION FOR MODIFICATION OF SIGNIFICANCE**

On October 18, 2016, the Applicant submitted a request for a modification of significance to the plans approved by the Board in Order No. 19271. (Exhibit 1.) In Case No. 19271, the Board

<sup>1</sup> The original application was filed under the Zoning Regulations (Title 11, DCMR) which were then in effect (the “1958 Zoning Regulations”) but which were repealed on September 6, 2016 and replaced with new text of Title 11, DCMR (the “2016 Regulations”). Other than the description of the original application and its caption, the other references in this Order to provisions contained in Title 11 DCMR are to the 2016 Regulations. The repeal of the 1958 Zoning Regulations and their replacement with the 2016 Regulations has no effect on the vesting and validity of the original application.

approved a variance from the off-street parking requirements to allow 86 parking spaces to operate a public school in the R-2 District. There is currently one existing Board Order attached to the Property, Order No.19271. (Exhibit 9.)

In the present case, the Applicant is now requesting a special exception from the rooftop mechanical screening requirement (Subtitle C § 1500.6) in conjunction with the Applicant's modernization of an existing school building's heating, air conditioning, and ventilation equipment. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.) The Applicant submitted architectural plans reflecting these modifications. (Exhibit 6.) This is the same Applicant and Property for which the Board approved variance relief in Order No. 19271.

The Applicant indicated that the proposed modification of significance meets the burden of proof for the additional relief requested. Further, the Applicant does not seek to modify the conditions of approval included in BZA Order No. 19271. (Exhibit 8.)

*The Merits of the Request for Modification of Significance*

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a minor modification or modification of consequence<sup>2</sup> requires a public hearing and is a modification of significance. The Applicant's request complies with 11 DCMR Subtitle Y § 704, which provides the Board's procedures for considering requests for modifications of significance.

In the current case, the Applicant submitted an application for a special exception in a case that had been previously approved for separate variance relief. Since additional relief was being requested to that already approved in Case No. 19271, it clearly met the definition of a modification of significance and a public hearing was held.

Pursuant to Subtitle Y § 704.6, a public hearing on a request for a modification of significance shall be focused on the relevant evidentiary issues requested for modification and any condition impacted by the requested modification. Pursuant to Subtitle Y § 704.7, the scope of a hearing conducted pursuant to Subtitle Y § 704.1 is limited to the impact of the modification on the subject of the original application, and does not permit the Board to revisit its original decision. Pursuant to Subtitle Y § 704.8, a decision on a request for modification of plans shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application. Finally, pursuant to Subtitle Y § 704.9, the filing of any modification request under this section does not act to toll the expiration of the underlying order and the grant of any such modification does not extend the validity of any such order.

*Notice.* Pursuant to Subtitle Y §§ 704.4, and 704.5, all requests for modifications of significance must be served by the moving party on all parties in the original proceeding at the same time that the request is filed with the Board. In addition, pursuant to Subtitle Y § 400.4, the Office of Zoning provides notice upon its acceptance on behalf of the Board of an application requiring a public hearing to the applicant, to the affected Advisory Neighborhood Commission ("ANC"), the affected Single Member District ANC Commissioner, the Office of Planning ("OP"), the District

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<sup>2</sup> See, Subtitle Y §§ 703.3 and 703.4.

Department of Transportation (“DDOT”), and the Councilmember for the ward within which the property is located. Pursuant to Subtitle Y § 402.1, the Board also provides notice of the public hearing to the applicant, the affected ANC, the affected Single Member District ANC Commissioner, all owners of property within 200 feet of the subject property, any leaseholders on the subject property, OP and all other appropriate government agencies, and the Councilmember for the ward within which the property is located.

Proper and timely notice of the application was provided to ANC 7C, the only other party to Application No. 19271, the ANC Commissioner for Single Member District 7C07, OP, DDOT, the Ward Councilmember for the Property, and the Council Chairman and the At Large Councilmembers.<sup>3</sup> (Exhibits 14-23.) Also, notice of the public hearing was provided to the Applicant, ANC 7C, ANC 7C07, all owners of property within 200 feet of the subject property, any leaseholders on the subject property, OP, and the Ward Councilmember. (Exhibit 28.)

*Reports.* ANC 7C submitted two reports, one pertaining to the previous case before the Board<sup>4</sup> and the other concerning the current case. The second ANC report was dated January 10, 2016 but submitted to the record on January 10, 2017, and recommended approval of the requested relief in the current application for rooftop mechanical screen requirements. The ANC report indicated that at a regularly scheduled, properly noticed public meeting on November 10, 2016, at which a quorum was present, the ANC voted 4:0 to support the request for special exception. In the report, the ANC stated that it felt the proposed mechanical screen design would be less obtrusive both in respect to its visibility as well as to the proposed rooftop solar panel layout than if the installation was for a single rooftop screen enclosing all equipment on the academic building, as required under the Zoning Regulations. (Exhibit 36.)

OP submitted a report on December 29, 2016, recommending approval of the proposed request for special exception relief from Subtitle C § 1500.6, which modifies the Applicant’s previously approved plans. (Exhibit 34.) DDOT also submitted a timely report stating that it had no objection to the granting of the request. (Exhibit 33.)

*Burden of Proof.* As directed by 11 DCMR Subtitle X § 901.2 and Subtitle Y § 704, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception and a modification of significance of approved plans. With its application, the Applicant submitted a statement of intended use, architectural plans and elevations, and a self-certification memorandum fully describing the project and relief being requested and

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<sup>3</sup> While technically the referrals were sent by the Office of Zoning as would be done for any new application pursuant to Subtitle Y §§ 400.4 and 402.1, the notice provided in this case met the requirements of the Regulations.

<sup>4</sup> The first ANC report, dated January 10, 2016, but submitted to the record on January 10, 2017, stated that it recommended approval of the previously approved parking request. The report reviewed the past votes taken while Case No. 19271 was actively in progress, noting that a vote by the full ANC was not able to occur prior to the BZA hearing on the issue. The report stated that the Single Member District ANC Commissioner, ANC 7C07, had written a letter in that case, dated June 7, 2016, expressing support for the project. The report further stated that on November 10, 2016, at a properly noticed public meeting with a quorum present, the ANC voted 4:0 to approve the parking variance and submitted the report in the current case record “as [ ] example that the Department of General Services has fulfilled this requirement related to their previous case before the BZA.” (Exhibit 35.)

noted how it met the burden of proof for special exception relief under 11 DCMR Subtitle C § 1500.6. (Exhibits 3, 6, and 8.)

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle C § 1500.6, that the requested special exception 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. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board also concludes that in seeking a modification of significance to Case No. 19271, the Applicant has met its burden of proof under 11 DCMR Subtitle Y § 704.

As noted, the only parties to the case were the ANC and the Applicant. Accordingly, a decision by the Board to grant the request would not be adverse to any party and therefore an order containing full finding of facts and conclusions of law need not be issued pursuant to D.C. Official Code § 2-509(c) (2012 Repl.). Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 for modification of significance of the Board's approval in Application No. 19271-A is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBIT 6.**

In all other respects, Order No. 19271 remains unchanged.

**VOTE ON ORIGINAL APPLICATION ON JUNE 7, 2016: 3-0-2**

(Marnique Y. Heath, Frederick L. Hill, and Michael G. Turnbull to APPROVE; Anita Butani D'Souza, recused; Jeffrey L. Hinkle not present, not voting.)

**VOTE ON MODIFICATION OF CONSEQUENCE ON JANUARY 11, 2017: 3-0-2**

(Frederick L. Hill, Robert E. Miller, and Carlton E. Hart to APPROVE; two Board seats 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:** February 27, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Appeal No. 19345 of Diane Conocchioli**, pursuant to 11 DCMR §§ 3100 and 3101,<sup>1</sup> from an August 17, 2015 decision by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permit No. B1507921, granted to permit a health clinic in the C-M-1 District at premises 1225 4th Street, N.E. (Square 804, Lot 56).<sup>2</sup>

**HEARING DATE:** October 4, 2016

**DECISION DATE:** October 4, 2016

**ORDER DISMISSING APPEAL**

This appeal was filed on July 14, 2016 by Diane Conocchioli (the “Appellant”). The Appellant challenges the issuance of Building Permit No. B1507921 on August 17, 2015 to allow the interior alteration and repair of the premises at 1225 4<sup>th</sup> Street, N.E. (“the Subject Property”) by Planned Parenthood of Metropolitan Washington (the “Property Owner”).

On September 27, 2016, the Property Owner filed a Motion to Dismiss the appeal as untimely. (Exhibit 41.) The motion also argued that the Appellant lacked standing and is not aggrieved by the decision complained of. On September 28, 2016, the Department of Consumer and Regulatory Affairs (“DCRA”) filed a Motion to Dismiss arguing that the appeal was filed after the deadline and that the Appellant has not met the criteria for extension of that deadline. (Exhibit 42.)

On September 30, 2016, the Property Owner filed a Motion to Strike, or in the Alternative, Motion to Dismiss Property Owner's Motion to Dismiss, arguing that the Property Owner is not a party to the appeal and that the Office of Zoning deemed the appeal timely. (Exhibit 44.)

Following a public hearing on October 4, 2016, the Board of Zoning Adjustment (“Board”) voted to dismiss the appeal as untimely.

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<sup>1</sup> This appeal was filed with the Board of Zoning Adjustment when the Zoning Regulations of 1958 (“ZR 58”) were in effect, but those regulations were repealed on September 6, 2016 and replaced by new text (“the 2016 Regulations” or “ZR 16”). Although ZR 16 was in effect at the time of the public hearing on this appeal, the Board applied the requirements of ZR 58 when considering the issue of timeliness, as ZR 58 was in effect at the time Building Permit No. B1507921 was issued and the appeal was filed.

<sup>2</sup> The original caption referenced Building Permit No. B1501052, which was issued on February 3, 2015. The caption has been amended to reflect the Appellant’s challenge to Building Permit No. B1507921, issued on August 17, 2015. (Exhibit 13.)



## PRELIMINARY MATTERS

Notice of Appeal and Notice of Hearing. By memoranda dated July 29, 2016, the Office of Zoning (“OZ”) provided notice of the appeal to the Zoning Administrator (“ZA”) at DCRA; Advisory Neighborhood Commission (“ANC”) 6C, the ANC Single Member District Commissioner 6C06; the Office of Planning; and the Councilmember for Ward 6. On August 1, 2016, OZ mailed letters providing notice of the hearing to the Appellant, the owner and lessee of the Subject Property, and DCRA. Notice was also published in the *D.C. Register* on August 5, 2016. (63 DCR 10201.)

Parties. The parties to this appeal are Diane Conocchioli (the “Appellant”), DCRA (the “Appellee”), Planned Parenthood of Metropolitan Washington (the “Property Owner”), and ANC 6C, which is the ANC for the area within which the property that is the subject of the appeal is located. All four are automatic parties to the appeal pursuant to the definition of the term “Party,” as set forth in 11 DCMR § 3199.1. ANC 6C did not submit a written report to the record nor participate in the public hearing.

## FINDINGS OF FACT

1. The Subject Property is located at 1225 4<sup>th</sup> Street, N.E. (Square 804, Lot 56) and is mapped in the C-M-1 District.
2. On August 14, 2015, the ZA at DCRA granted Zoning Review Approval to the application for Building Permit No. B1507921 (the “Building Permit”) to allow the interior renovation of first floor office space for an outpatient health clinic on the Subject Property.
3. The Building Permit was issued on August 17, 2015 to Planned Parenthood of Metropolitan Washington, the owner of the Subject Property.
4. The Appellant concedes that it became aware of the proposed project prior to the Zoning Review Approval by DCRA on August 14, 2015. (Exhibit 3.) Specifically, on August 10, 2015, the Appellant contacted the Chairperson of ANC 6C and another commissioner regarding her concerns with the proposed project.
5. On September 10, 2015, the Appellant, along with several other residents, were permitted to speak at the beginning of ANC 6C’s meeting to present their concerns about the proposed project and the lack of a public hearing.
6. After the issuance of the Building Permit on August 17, 2015, the Appellant communicated her concerns about the approved permit via email to staff at DCRA. Her first email communication with DCRA was sent on October 5, 2015. (Exhibit 29.)

7. From October 2015 until June 2016, the Appellant was in communication with representatives from ANC 6C, DCRA, and OZ regarding her concerns about the Building Permit and the possibility of an appeal.
8. The Appellant also indicated that, during this time, she observed the Subject Property regularly to monitor whether notice had been posted to indicate that the Property Owner had filed an application for zoning relief with the Board that was to be considered at a public hearing. (Hearing Transcript of October 4, 2016 (“Tr.”), p. 37-38.)
9. The Appellant filed the appeal of the Building Permit with the Office of Zoning on July 14, 2016.
10. In the 11 months between the issuance of the Building Permit and the filing of this appeal, the Property Owner occupied the building and commenced work on the interior renovations, in accordance with the Building Permit. (Tr., p. 34.)

## CONCLUSIONS OF LAW

The Board is authorized by § 8 of the Zoning Act of 1938, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.), to hear and decide appeals where it is alleged by the appellant that there is error in any decision made by any administrative officer in the administration of the Zoning Regulations. An appeal must be filed within 60 days after the date the appellant “had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.” (11 DCMR § 3112.2(a).) Although this deadline is a “claims processing rule” and therefore not jurisdictional in nature, *see Gatewood v. District of Columbia Water and Sewer Authority*, 82 A.3d 41 (2013) (WASA deadline to file appeal of water bill is non-jurisdictional), the failure to adhere to the rule will result in the dismissal of an appeal unless the 60-day deadline is extended under circumstances stated at 11 DCMR § 3112.2(d).

The Appellant challenges the Zoning Administrator’s approval of Building Permit No. B1507921, which was issued on August 17, 2015. The Appellant indicated that she became aware of the project prior to the Building Permit’s issuance. Based on the evidence and testimony in the record, the Board finds that the Appellant had actual knowledge of the approval of the Building Permit, at the latest, on October 5, 2015, when the Appellant engaged in email communications with DCRA regarding her concerns about the issuance of the permit. The appeal was filed on July 14, 2016, well after the expiration of the 60-day regulatory deadline in 11 DCMR § 3112.2(a).

The Board may extend the appeal deadline if the appellant demonstrates “exceptional circumstances that are outside of the appellant's control and could not have been reasonably

anticipated that substantially impaired the appellant's ability to file an appeal to the Board” and shows that the extension “will not prejudice the parties to the appeal.” (11 DCMR § 3112.2(d).) The Board finds that no such exceptional circumstances exist in this case. The testimony and evidence provided by the Appellant indicate that, rather than filing a timely appeal with the Board, the Appellant pursued her concerns about the Building Permit through other channels, such as petitioning the ANC to consider the matter and communicating concerns with DCRA via email. Further, the Appellant testified that she did not file the appeal after the issuance of the Building Permit because she was awaiting the possibility that the Property Owner would file an application for zoning relief with the Board based on further review of the Building Permit. (Tr., p. 38.) In sum, the Appellant’s rationale for untimely filing of the appeal are rooted in the Appellant’s misunderstanding of the process for seeking zoning relief and for filing a zoning appeal with the Board. The D.C. Court of Appeals has supported the Board’s finding that confusion regarding the regulatory deadline for an appeal does not constitute an exceptional circumstance for the purpose of extending that deadline. (*See Basken v. Bd. of Zoning Adjustment*, 946 A.2d 356, 370-71 (2008), finding no exceptional circumstance where the Appellant untimely filed an appeal in reliance on advice from Intervenor’s attorney.) Further, the Board finds that the Property Owner would be prejudiced by the extension of the deadline for appeal, as the Property Owner has moved forward with the project in reliance on the Building Permit in the 11 months between the issuance of the permit and the filing of the appeal.

In opposition to the motions to dismiss filed by the Property Owner and DCRA, the Appellant raised two arguments. First, the Appellant claims that the Property Owner is not party to the appeal, as it did not file a request for Intervenor status, and therefore the Board may not consider its Motion to Dismiss. According to the Board’s Rules of Practice and Procedure, automatic party status in an appeal is afforded to the “owner, lessee, operator, or contract purchaser of the property involved in the administrative decision, if not the appellant”. (11 DCMR § 3199.1.) Therefore, the Property Owner is an automatic party to this case, and the first argument is without merit. Second, the Appellant argues that, by accepting the appeal for processing, and scheduling the case for a public hearing, the Office of Zoning deemed the appeal to be timely. The Board disagrees with the Appellant’s characterization of OZ’s role and jurisdiction in the processing of appeals. When a challenge to the timeliness of an appeal is raised, the Board decides that threshold issue at the time of the public hearing. (*See Appeal No. 19047 of Michael Cushman* (2016); *Appeal No. 18568 of Shaw-Dupont Citizens Alliance, Inc.* (2014).) Therefore, OZ’s scheduling of the appeal for public hearing was not a determination on timeliness and does not invalidate the Board’s decision to grant the motions to dismiss the untimely appeal.

The Board is required to give “great weight” to the issues and concerns raised in writing by the affected ANC. Section 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) (2001)). For this appeal, ANC 6C did not file a written report to the record.

Based on the findings of fact, the Board concludes that the appeal does not satisfy the requirements of timeliness set forth in 11 DCMR § 3112.2(a). Accordingly, it is therefore **ORDERED** that the appeal is **DISMISSED**<sup>3</sup>.

**VOTE:** 3-0-2 (Robert E. Miller, Jeffrey L. Hinkle, and Anita Butani D'Souza to DISMISS; Frederick L Hill not present, not voting; 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:** February 24, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

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<sup>3</sup> In its motion to dismiss, the Property Owner also asserted that the Appellant lacks standing to bring the appeal, as it is not "aggrieved" by the decision of the Zoning Administrator. Because the Board granted the motion to dismiss on the grounds of untimeliness, the Board did not reach the issue of standing in this appeal.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19390-A of Jason Burnett**, as amended<sup>1</sup>, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the penthouse setback requirements of Subtitle C § 1500.4, the penthouse enclosure wall requirements of Subtitle C § 1500.9, and the penthouse setback requirements of Subtitle C § 1502.1, to allow the addition of a penthouse and roof deck to an existing three-story, one-family dwelling in the R-1-B Zone at premises 2316 Tracy Place N.W. (Square 2520, Lot 31).

**HEARING DATES:** December 21, 2016 and February 15, 2017

**DECISION DATE:** February 15, 2017

**CORRECTED<sup>2</sup> SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 (original) and 40 (revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 2D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2D, which is automatically a party to this application. The ANC submitted a report of support for the application. The report indicated that at a regularly scheduled and properly notices public meeting on October 17, 2016, at which a quorum was present, the ANC voted 2-0-0 to support the application. (Exhibit 9.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 28.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 27.)

A letter of support for the application from the adjacent neighbors at 2314 Tracy Place, N.W. was submitted to the record. (Exhibit 26.)

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<sup>1</sup> The Applicant amended the application to add special exception relief from the penthouse enclosing wall requirements of Subtitle C § 1500.9. (Exhibit 40.) The caption has been changed accordingly.

<sup>2</sup> The Order was corrected to add a reference to additional revised plans at Exhibit 41, pages 8-10. That is the only change to the Order.

The Sheridan Kalorama Neighborhood Council requested party status in opposition. (Exhibit 32-33.) However, at the public hearing, the Sheridan Kalorama Neighborhood Council testified on the record that it was withdrawing its party status request, based on a settlement with the Applicant and contingent on the Applicant's revised plans. (See, Exhibit 37.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the penthouse setback requirements of Subtitle C § 1500.4, the penthouse enclosure wall requirements of Subtitle C § 1500.9, and the penthouse setback requirements of Subtitle C § 1502.1, to allow the addition of a penthouse and roof deck to an existing three-story, one-family dwelling in the R-1-B Zone. The only parties that remained after the Sheridan Kalorama Neighborhood Council withdrew its opposition request were the Applicant and the ANC. Thus, 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle C §§ 1500.4, 1500.9, and 1502.1, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 7D1-7D2, AS REVISED BY EXHIBIT 37 (REVISED ROOF PLAN) AND PAGES 8-10 OF EXHIBIT 41.**

**VOTE:**           **3-0-2** (Frederick L. Hill, Carlton E. Hart, and Anthony J. Hood, to APPROVE; two Board seats 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:** February 24, 2017

BZA APPLICATION NO. 19390-A  
PAGE NO. 2

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application 19429 of BNY-Development**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, to renovate and expand a one-family dwelling into a flat in the RF-1 Zone at premises 1530 3rd Street, N.W. (Square 521, Lot 39).

**HEARING DATE:** February 22, 2017

**DECISION DATE:** February 22, 2017

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 5E and to owners of property located 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 recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on December 20, 2016, at which a quorum was present, the ANC voted 5-0-1 to support the application. (Exhibit 27.)

The Office of Planning ("OP") submitted a timely report, dated February 10, 2017 in support of the application. (Exhibit 33.) The District Department of Transportation ("DDOT") submitted a timely report, dated February 3, 2017, expressing no objection to the approval of the application. (Exhibit 31.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, to renovate and expand a one-family dwelling into a flat in the RF-1 Zone. 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle E §§ 5201 and 304.1, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 7 AND 34 – ARCHITECTURAL PLANS, ELEVATIONS, AND EXTERIOR RENDERING.**

**VOTE: 4-0-1** (Frederick L. Hill, Carlton E. Hart, Lesyllee M. White, 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:** February 28, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

**BZA APPLICATION NO. 19429**

**PAGE NO. 2**

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19436 of CCA Randolph L.P. and Petworth Station LP**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, and Subtitle C § 703, for a special exception under the parking requirements of Subtitle C §§ 701.5 and 705, and a variance from the density requirements of Subtitle E § 201.4, to add 13 units in three existing apartment buildings in the RF-1 Zone at premises 930-960 Randolph Street N.W. (Square 2905, Lot 812).

**HEARING DATE:** February 22, 2017

**DECISION DATE:** February 22, 2017

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 9.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 10, 2017, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 38.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 37.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application with one condition. (Exhibit 34.)

Three residents testified in support of the application.

**Variance Relief**

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the density requirements of Subtitle E § 201.4, to add 13 units in three existing apartment buildings in the RF-1 Zone. The only parties to the case were the

ANC and the Applicant. No parties appeared at the public hearing in opposition to the 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 ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR Subtitle E § 201.4, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

#### Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under the parking requirements of Subtitle C §§ 701.5 and 705 in the RF-1 Zone. 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle C §§ 701.5 and 705, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 32B AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall install at least one inverted U-rack at each of the three building entrances on Randolph Street N.W.

**VOTE:**       **4-0-1** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, 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:** February 24, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, 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

BZA APPLICATION NO. 19436

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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 THAT 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. 19437 of United Unions, Inc.**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the Downtown-use requirements of Subtitle I § 303.1(b), to permit an eating and drinking establishment on the ground floor of an existing office building in the D-2 Zone at premises 1750 New York Avenue N.W. (Square 171, Lot 33).

**HEARING DATE:** February 22, 2017

**DECISION DATE:** February 22, 2017

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 2A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 10, 2017, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 30.)

The Office of Planning ("OP") submitted a timely report in support of the application. (Exhibit 34.) The District Department of Transportation ("DDOT") submitted a timely report, dated February 3, 2017, expressing no objection to the approval of the application. (Exhibit 32.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the Downtown-use requirements of Subtitle I § 303.1(b), to permit an eating and drinking establishment on the ground floor of an existing office building in the D-2 Zone. 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle I § 303.1(b), 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 9.**

**VOTE:**     **4-0-1**     (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, 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:** February 24, 2017

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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

**BZA APPLICATION NO. 19437**

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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.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 15-18**

**Z.C. Case No. 15-18**

**Initio, LP**

**(Consolidated PUD and Related Map Amendment @ Square 1194, Lot 811)**

**January 30, 2017**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on July 21, 2016, to consider an application for a consolidated planned unit development (“PUD”) and related Zoning Map amendment filed by Initio, LP (“Applicant”). 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”)<sup>1</sup>. 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 Applications, Parties, Hearing, and Post-Hearing Filings**

1. On July 31, 2015, the Applicant filed an application with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the C-2-A Zone District/unzoned to the W-2 Zone District for the parcel located at 2715 Pennsylvania Avenue, N.W., and more particularly described as Square 1194, Lot 811 (“Property”).
2. On March 9, 2016, the Applicant amended the application to include: (a) flexibility from § 2401.2 of the Zoning Regulations, which authorizes the Commission to waive up to 50% of the minimum area requirement for a PUD in the W-2 Zone District<sup>2</sup>; and (b) an expansion of the PUD benefits and amenities package to include a contribution in the amount of \$359,604 to the Housing Production Trust Fund. (Exhibit [“Ex.”] 15.)
3. The Applicant proposes to redevelop the Property with a mixed-use building that has a restaurant on the ground floor and a four-story apartment house with seven residential units above. The proposed building will have a height of 60 feet and density of a 3.5 floor area ratio (“FAR”).

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<sup>1</sup> Chapter 24 and all other provisions of Title 11 DCMR were repealed on September 6, 2016, and replaced with a Chapter 3 of Subtitle 11-X. However, because this application was set down for hearing prior to that date, the Commission’s approval was based upon the standards set forth in Chapter 24.

<sup>2</sup> As discussed below, the Commission concluded that the request was not appropriately characterized as PUD flexibility, which is limited to flexibility from the area requirement for which a variance was ordinarily required. Instead, the Commission considered the request to seek a waiver from a prerequisite to a property being eligible for PUD consideration and granted the waiver.

4. On July 21, 2016, the Applicant requested a waiver from § 3013.1 of the Zoning Regulations in order to amend the application less than 20 days prior to the public hearing and requested additional flexibility from the penthouse setback requirements. (Ex. 40, 38.) The Commission later determined that the penthouse was fully compliant.
5. By report dated April 15, 2016, the District of Columbia Office of Planning ("OP") recommended that the application be set down for a public hearing. (Ex. 16.)
6. On April 11, 2016, the Commission voted to set down the application for a public hearing.
7. On April 25, 2016, the Applicant filed its prehearing statement providing the following information requested by the Commission: (a) confirmation of the National Park Service ("NPS") jurisdiction of the park site immediately west of the Property; (b) the status of Commission of Fine Arts ("CFA")/Old Georgetown Board ("OGB") review of the application; and (c) architectural drawings that provide additional information on the roof structures and dimensions. (Ex. 19-19J.)
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 June 3, 2016. (Ex. 22.) The notice of public hearing was mailed to all owners of property located within 200 feet of the Property and to Advisory Neighborhood Commission ("ANC") 2E on June 1, 2016. (Ex. 24.)
9. On July 1, 2016, the Applicant submitted a supplemental prehearing statement that included updated information regarding: (a) the NPS ownership of the park site to the west of the Property; (b) coordination with the District Department of Transportation ("DDOT") on public space improvements; (c) updates on the Applicant's meeting with the District Department of Energy and the Environment ("DOEE"); (d) updated architectural drawings; (e) the status of discussions with ANC 2E; and (f) the status of OGB and CFA review. (Ex. 28-28H2.)
10. On July 11, 2016, OP submitted a report to the Commission recommending approval of the application and the requested areas of zoning flexibility. (Ex. 29.)
11. At its regularly scheduled public meeting on July 5, 2016, for which notice was properly given and a quorum was present, ANC 2E voted unanimously by a vote of 6-0-0 to support the application. (Ex. 30.)
12. On July 11, 2016, DDOT submitted a report finding no objection to the application, subject to certain conditions listed on page two of its report. (Ex. 31.)
13. The Commission held a public hearing on the application on July 21, 2016.

14. The parties to the case were the Applicant and ANC 2E.
15. At the public hearing on the application, the following persons testified in favor of the Applicant: Mary Mottershead of EastBanc, Inc.; Diogo Machado Lima of Souto Moura Arquitectos, the architect for the PUD; Lisa E. Delplace of Oehme, van Sweden Landscape Architecture, landscape architect; and Nicole White of Symmetra Design, traffic consultant. The Commission accepted Ms. Delplace and Ms. White as expert witnesses in the areas of landscape architecture and transportation planning, respectively.
16. OP and DDOT testified in support of the application at the public hearing.
17. No individuals testified in support of, or in opposition to, the application at the public hearing. However, the record includes a letter of support from the Citizens Association of Georgetown and a letter in opposition to the request for parking flexibility from Atticus Sawatzki. (Ex. 33, 32.)
18. Larry Hargrove, of the Committee of 100 on the Federal City (“Committee of 100”), testified at the public hearing, and the Committee of 100 also submitted a letter into the Record. (Ex. 42.) The Committee’s comments related to the adopted, but not yet effective Subtitle X § 301.2, which would have permitted the Commission to fully waive the minimum lot area requirements for PUDs. As will be explained, that provision was revised prior to its effective date and amended after its effective date so as to have a different impact.
19. The record was closed at the conclusion of the public hearing, except for the Applicant to file a response to the Commission’s comments regarding improvements to the park site to the west of the Property; the chimney proposed for the fifth-floor penthouse; and a portion of the penthouse setback.
20. On August 4, 2016, the Applicant submitted its post-hearing submission responding to the Commission’s request for additional information regarding the improvements for the park site to the west of the Property and the building chimney, as well as revised drawings reflecting the modified fifth-floor roof in order for the penthouse to meet the required setback on this portion of the building. (Ex. 44-44A.)
21. On August 11, 2016, the Applicant submitted a cover letter and its proposed findings of fact and conclusions of law. (Ex. 45, 46.)
22. On September 26, 2016, the Committee of 100 submitted comments concerning the Commission’s authority to grant a PUD minimum area waiver. (Ex. 47-48.)
23. On October 11, 2016, the Applicant submitted an additional post-hearing submission that attached a lighting plan. (Ex. 49-49A2.)

24. On December 19, 2016, the Commission took proposed action to approve the application. The proposed action was referred to the National Capital Planning Commission ("NCPC") on December 21, 2016, pursuant to § 492 of the Home Rule Act.
25. NCPC did not submit a report in this case.
26. On December 29, 2016, the Applicant submitted its final list of its proffered public benefits and draft conditions<sup>3</sup>. (Ex. 51A.)
27. The Commission took final action to approve the PUD on January 23, 2017.

**B. The PUD Site and Surrounding Area**

28. The Property consists of approximately 7,413 square feet of land area and is currently improved with a gas station with a service bay. The Property is situated at the eastern boundary of Georgetown. It is nestled against Rock Creek Parkway on the east. The Four Seasons Hotel is located to the south, on the opposite side of Pennsylvania Avenue N.W. To the west is a "pocket park" on Federal Reservation 691 (Lot 807) near the intersection of Pennsylvania Avenue, M Street, and 28<sup>th</sup> Street. To the north, on the opposite side of M Street, is a four-story building that includes commercial, office, and residential uses.
29. The Property is designated Low-Density Commercial on the District of Columbia Comprehensive Plan Future Land Use Map. The Property is located in the Regional Center Area on the District of Columbia Comprehensive Plan Generalized Policy Map.

**C. PUD Minimum Area Waiver**

30. When the Commission was considering whether to set down this Application for a public hearing, it considered the Applicant's request to waive 11 DCMR § 2402.2, which allows the Commission, after a hearing, to waive not more than 50% of the minimum land area requirement for a PUD if certain conditions are met. As a result of the PUD-related map amendment, the PUD would be zoned W-2. Pursuant to § 2401.1(c), a W-2 PUD must occupy a land area of 15,000 square feet. A full 50% waiver would still result in a minimum required land area of 7,500 square feet, and with only 7,413 square feet of land area this Property does not meet that requirement.
31. In support of its waiver request, the Applicant noted that the Commission had adopted a replacement version of Title 11 DCMR ("the 2016 Regulations") that

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<sup>3</sup> The Commission Chair granted the Applicant's request that the Commission accept the submission more than seven days after the Commission took proposed action.

would become effective on September 6, 2016. The 2016 Regulation would continue to require the same minimum land area for this PUD, but at the time of the Application the yet-to-be effective Subtitle X § 301.2 permitted the Commission to waive an unlimited percentage of this requirement. Although the provision did not apply to this application, the Applicant argued that the policy considerations underlying the Commission's decision to adopt it warranted waiving the 50% limitation of § 2402.2. At its April 11<sup>th</sup> public meeting, the Commission decided to set down this application for a hearing without deciding whether the 50% limitation should be waived, but instead determined that the Applicant must present its case for the waiver at the public hearing, while also demonstrating that the prerequisites of Subtitle X § 301.2 have been met.

32. After the July 21, 2016 hearing, but before the effective date of the 2016 Zoning Regulations, the Commission issued Z.C. Order No. 08-06E, which among other things, amended Subtitle X § 301.2 to reinstated the 50% land waiver limit. The Commission concluded that it would be better to hold a specific public meeting on whether to allow unlimited land area waivers, and therefore agreed to set down for hearing Z.C. Case 08-06F, which proposed a full land area waiver.
33. On September 6, 2016, the 2016 Zoning Regulations became effective, together with changes to the existing zone names. Among those changes was the re-designation of the W-2 zone as MU-13. However, that change did not effect the W-2 map amendment sought for this PUD.
34. This case was first scheduled for proposed action on September 12<sup>th</sup>, but was removed from the agenda. On September 26<sup>th</sup> and again on October 17<sup>th</sup>, the Commission, recognizing the potential significance of Z.C. Case No. 08-06F, deferred taking proposed action until it decided that case.
35. At its public meeting on December 19, 2016, the Commission took final action to approve Z.C. Case No. 08-06F including amendments to Subtitle X § 30. However, the amendments as adopted differed from the amendments originally advertised. The Commission amended Subtitle X § 301.2 to retain the 50% limitation for some zone districts, while for others, including the MU-13 Zone District, it added new subsection, Subtitle X § 301.3 to allow for more than a 50% waiver, but not to less than 5,000 square feet. In both instances, the Commission would have to find after a public hearing that the development is of exceptional merit and is in the best interests of the District of Columbia or the country and if the development is to be located outside the Central Employment Area, at least 80% of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto.
36. Therefore, had this PUD been filed after September 6, 2016, it would have been eligible for a land waiver to 7,413 square feet.

37. The waiver limit of § 2402.2 may be waived without use of the variance standard because it does not pertain to how property may be used, but instead establishes one prerequisite to a property being eligible to obtain PUD relief from such standards. Nevertheless, the Commission is required to set forth the basis of a decision to waive § 2402.2 with such clarity as to be understandable. (*Blagden Alley Ass'n v. D.C. Zoning Comm'n*, 590 A.2d 139, 146 (D.C. 1991).)
38. The Commission concludes that although new Subtitle X § 301.3 does not technically apply to this PUD, the underlying policy considerations that prompted the Commission to adopt it are equally relevant to the Commission's determination of this request. Since the Commission has determined that an MU-13 property of less than 15,000 square feet is eligible to request a land waiver to not less than 5,000 square feet, the Commission determined that this PUD should be similarly eligible. For that reason, and because for the reasons stated in this Order this PUD meets the existing requirements for waiver under both applicable § 2402.2 and new Subtitle X § 301.3, the Commission waives the 50% limitation of the former and grants a land area waiver to 7,413 square feet.

### Existing and Proposed Zoning

39. The Property is primarily in the C-2-A Zone District; the easternmost portion of the Property is unzoned. The C-2-A Zone District includes the following development standards:
- The maximum permitted height within the C-2-A Zone District is 50 feet; (11 DCMR § 770.1.)
  - The maximum permitted density is 2.5 FAR, of which 1.5 can be non-residential uses; (11 DCMR § 771.2.)
  - The permitted lot occupancy for the C-2-A Zone District is 60%; and (11 DCMR § 772.1.)
  - The minimum depth of a rear yard is 15 feet; and the minimum side yard shall be three inches wide for each foot of height, but not less than eight feet. (11 DCMR §§ 774.1 and 775.4(a).)
40. The Applicant requests a map amendment to rezone the Property to the W-2 Zone District. The W-2 Zone District includes the following development requirements:
- The maximum permitted height within the W-2 Zone District is 60 feet;
  - The maximum permitted density is 4.0 FAR, not more than 2.0 of which may be used for other than residential purposes; (11 DCMR §§ 930.1 and 931.3.)

- The permitted maximum lot occupancy in the W-2 Zone District is 75%; and (11 DCMR § 932.1.)
- The minimum depth of a rear yard when a residential use begins above grade is three inches per foot (“in./ft.”) of vertical distance from the horizontal plane upon which the residential use begins to the highest point of the main roof, but not less than 12 feet. (11 DCMR § 933.2.) No side yard is required, but if a side yard is provided, its minimum width shall be at least eight feet. (11 DCMR § 934.2.)

**E. Description of the PUD Development**

41. The Applicant seeks approval of a consolidated PUD and related Zoning Map Amendment in order to redevelop the Property with a mixed-use building that has a restaurant on the ground floor and a four-story apartment house with seven residential units above. The building will be 60 feet in height and consists of approximately 26,034 square feet of floor area, resulting in a density of 3.5 FAR. The PUD has a lot occupancy of 74.8%. No off-street parking will be provided for the PUD, but there will be a through driveway for deliveries, trash collection, and resident guest drop off.
42. Vehicular site circulation is provided on the western boundary of the Property extending one-way from Pennsylvania Avenue to M Street, with a covered porte cochere for residents, potential restaurant patrons, drop off, and loading. Bollards may serve as a barrier between the entry drive and the potential plaza improvements on Federal Reservation 691. There will be café seating for the restaurant on the east side of the Property.
43. The residential units are accessed directly from an elevator that connects to a 500-square-foot ground floor lobby in the southeast corner of the building, facing Pennsylvania Avenue. The residential lobby is also accessible from the covered drive on the east side of the building. The penthouse level of the proposed building includes residential recreation space and amenities, a mechanical equipment area, and a small terrace.
44. The primary entrance to the restaurant will be on the west side of the Property from the plaza, with a secondary exit on the east side of the Property. The restaurant space is approximately 2,600 square feet.
45. Both the restaurant and residential functions are serviced by a shared service lobby that is accessed from the driveway on the east side of the site. A cellar occupies 100% of the site below grade, providing space for required mechanical, electrical, and plumbing equipment. The cellar also contains individual storage units for the residential units, bike storage, a prep kitchen and public restrooms for the restaurant, and the trash rooms for both uses. The trash will be brought to



the ground floor for pick up via a conveyor system or the second service elevator at designated times.

**F. Development Incentives and Flexibility**

46. The Applicant requests flexibility from the following requirements of the Zoning Regulations:
- a. To have zero parking spaces where three are required pursuant to § 2101 of the Zoning Regulations; and
  - b. To have a rear yard of varying widths and a minimum of 0' where 12'-0" is required pursuant to § 933 of the Zoning Regulations, as shown on Sheet S-02 of the Plans;
47. The Applicant also requests design flexibility in the following areas:
- a. 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;
  - b. 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, pavers, 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, and final approval by the Old Georgetown Board, U.S. Commission of Fine arts and the National Park service;
  - c. To vary the final selection of all exterior signage on the building; and
  - d. To vary the location and design of the ground-floor components of the building 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 retail or service use.

**G. Project Benefits and Amenities**

48. Urban Design, Architecture, and Landscaping (11 DCMR § 2403.9(a)) – The building is designed by world-renowned and 2011 Pritzker Prize-winning architect, Eduardo Souto de Moura. The PUD has a compact volume of four stories where apartments open onto balconies that add outdoor living space to

each unit. Supporting this volume is a ground floor that curves with the unique configuration of the site between M Street and Pennsylvania Avenue. A new driveway serves as access to the apartments, the restaurant, and the loading area. The portion of ground-floor volume that falls outside the perimeter of the upper floors is a transparent construction of steel and glass that opens to the park and to an outdoor plaza. Souto Moura Arquitectos opted for brick as a material because it seems to be the most appropriate for this part of the city. The slabs of concrete and ground floor walls in granite give the building a certain tectonic and gravitational image, like the buildings in Old Georgetown. The structural solution uses metal trellises to achieve the cantilever over the driveway and will be lined with brick.

49. Site Planning, and Efficient and Economical Land Utilization (11 DCMR § 2403.9(b)) – The PUD proposes the redevelopment of an underutilized site and the replacement of a gas station with a residential building and restaurant. The one-way driveway will allow for efficient ingress and egress of the site.
50. Affordable Housing (11 DCMR § 2403.9(f)) – Even though the PUD is not subject to the Inclusionary Zoning requirements of Chapter 26, the Applicant will contribute \$359,604 to the Housing Production Trust Fund. Not less than one half of said contribution will be made prior to the issuance of a building permit for the proposed development, and the balance will be made prior to the issuance of a certificate of occupancy for the PUD.
51. Effective and Safe Vehicular and Pedestrian Access (11 DCMR § 2403.9 (c)) – In order to further encourage the use of non-auto modes of transportation, the Applicant will implement a Transportation Demand Management (“TDM”) plan with strategies to limit the need for and use of vehicles at the proposed residential building. The TDM plan includes:
  - a. Bylaws, public offering statements, purchase agreements, and deeds with provisions prohibiting unit owners from obtaining Residential Parking Permits;
  - b. For the first 10 years that the building is open, the Applicant shall offer the choice of either an annual Capital Bikeshare or an annual car share membership to the initial purchaser or renter of a unit;
  - c. Provide, as a one-time incentive, up to seven bicycle helmets for distribution to new residents;
  - d. Offer a preloaded \$10 SmarTrip card for each unit at the sale or rental of units in the building for the first 10 years that the building is open;
  - e. Provide at least nine long-term bicycle parking spaces within the building;

- f. Post all TDM commitments on-line and provide each initial resident with links to CommuterConnections.com, goDCgo.com, WMATA Metrobus routes, and DC Bicycle maps;
  - g. Designate a member of the building's management or operations staff as the site's TDM Leader;
  - h. On an as-needed basis, the Applicant will negotiate a lease or other contractual arrangement from an operator(s) of nearby parking garages that provides the Applicant with monthly parking passes for residential tenants who require parking, as set forth below:
    - i. The passes shall be dedicated for the exclusive use of residents of the PUD, to provide access at any time to parking spaces in said garages 24 hours a day, up to seven days a week, 52 weeks a year;
    - ii. The parking spaces for which the passes provide access will be located within one-quarter mile of the PUD; and
    - iii. The passes shall be priced at market rates for similar parking privileges at the same garage or parking facility;
  - i. Residents of the PUD will not be eligible to apply for Residential Parking Permits ("RPP"). The Applicant will notify all residential tenants of the fact that they are not eligible to apply for RPP. Furthermore, the Applicant will cause all residential tenants to agree not to apply for or obtain a residential parking permit; and
  - j. If the commercial tenant of the PUD is a restaurant, the Applicant will provide, or require the tenant to provide, a valet parking arrangement with the Four Seasons Hotel or other nearby parking facilities at market rates for similar valet parking arrangements.
52. Environmental Benefits (11 DCMR § 2403.9(h)) – The PUD will be developed to fulfill or exceed LEED-Gold Certification.
53. Other Public Benefits and Development Amenities- Community Recreation Spaces (11 DCMR § 2403.9(j)) – Prior to the issuance of a certificate of occupancy for the PUD, the Applicant shall have finalized an agreement with the National Park Service for the improvement and long-term maintenance of U.S. Reservation 691 (Meigs Park) and the park area east of the Property (Reservation 360). Said agreement shall include the design development plans approved by NPS and DDOT and shall not be substantially inconsistent with the concept plans shown on Sheets L-05 through L-07 of the Plans. The specific materials, furniture and other elements for the improvement of the park area shall be as

required and approved by NPS and DDOT, the minimum value of which shall be \$200,000.

#### H. Comprehensive Plan

54. The PUD advances the purposes of the Comprehensive Plan, is consistent with the Future Land Use Map and Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan.
55. The Future Land Use Map of the Comprehensive Plan designates the Property for Low-Density Commercial land uses. The Framework Element describes the Low-Density Commercial category as shopping and service areas that are generally low in scale and character. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Their common feature is that they are comprised primarily of one- to three-story commercial buildings. The corresponding zone districts are generally C-1 and C-2-A, although other districts may apply. (10A DCMR § 225.8.)
56. Although the W-2 District is not listed among corresponding land use categories for the Low-Density Commercial category, land and development immediately south of the Property is also designated Low-Density Commercial and is zoned W-2. Of note, none of the W zones are listed in the Framework Element of the Comprehensive Plan.
57. The Generalized Policy Map designates the Property as part of the Regional Center. This is the same designation as the area immediately south of the Property, which is zoned W-2. Regional Centers have the largest range of commercial functions outside the Central Employment Area and are likely to have major department stores, many special shops, concentrations of restaurants, movies, and other leisure or entertainment facilities. They typically draw patrons from across the city, as well as patrons from nearby suburban areas. A large office component is also associated with regional centers. As with Multi-Neighborhood Centers, infill development at Regional Centers should provide new retail, entertainment, service uses, additional housing, and employment opportunities where feasible. These centers are generally located along major arterials and are served by transit. Heights and densities in regional centers should be appropriate to the scale and function of development in adjoining communities, and should be further guided by policies in the Land Use Element and the area Elements.
58. The PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the Applicant's Statement in Support and in the OP reports. (Ex. 3, 16, 29.)

**I. Office of Planning Reports**

59. On April 15, 2016, OP submitted a report recommending set down of the application. (Ex. 16.) The OP report stated that the application is not inconsistent with the maps and written elements of the Comprehensive Plan. The report also recommended that the Applicant provide the following information on the application: (a) a Transportation Demand Management Plan, Loading Demand Management Plan, and Driveway Circulation Plan for the PUD that has been developed in coordination with the District Department of Transportation; (b) coordination with DDOT and the Public Space Committee; (c) agreement with National Park Service to improve the adjacent parkland; and (d) revised plans, if needed, based on OGB's design review and approval. The Applicant provided this requested information to OP and the Commission within subsequent filings.
60. On July 11, 2016, OP submitted a report recommending approval of the application. (Ex. 29.)

**J. DDOT Report**

61. On July 11, 2016, DDOT submitted a report finding no objection to the application, subject to the following conditions:
- a. Providing one long-term bicycle parking space per unit (seven to nine) as proposed, plus a minimum of two additional spaces for employees of the restaurant or long-term guests to the building; and
  - b. Clarifying that the TDM plan is inclusive of membership benefits for the full 10-year period.

(Ex. 31.) The Applicant provided this requested information to DDOT and the Commission within subsequent filings.

**K. ANC Support**

62. By letter dated July 11, 2016, ANC 2E indicated that at its regularly scheduled public meeting on July 5, 2016, for which notice was properly given and a quorum was present, ANC 2E voted unanimously by a vote of 6-0-0 to support the application. (Ex. 30.)

**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 development "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 and loading, or for 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.
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 Commission waives the minimum area requirements of § 2401.1 of the PUD Regulations to 7,413 square feet for the reasons discussed in findings of fact number 30 through 38.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The residential and restaurant use for this development is appropriate for the Property. The impact of the development on the surrounding area is not unacceptable. Accordingly, the PUD 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 consistent with the Comprehensive Plan. Moreover, the development's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Approval of the PUD is appropriate because the proposed development is consistent with the present character of the area and 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 § 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 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.
10. The Commission 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. The Commission carefully considered ANC 2E's recommendation for approval and concurs in its recommendation.

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. (2007 Repl.).

### **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 consolidated review of a PUD and a related Zoning Map amendment from the C-2-A Zone District/unzoned to the W-2 Zone District for the parcel located at 2715 Pennsylvania Avenue, N.W., and more particularly described as Square 1194, Lots 811. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

#### **A. Project Development**

1. The PUD shall be developed in accordance with the plans titled "2715 Pennsylvania Avenue" prepared by Souto Moura Arquitectos, dated July 1, 2016 and marked as Exhibits 28H1 and 28H2 of the record, and the supplemental lighting plans, dated October 11, 2016, and marked as Exhibits 49A1 and 49A2 ("Plans").
2. CFA Approval. **Prior to the issuance of a building permit for the PUD,** the Applicant shall have obtained final approval for the design of the project by the U.S. Commission of Fine Arts.
3. Restricted Use of Balconies/Terraces. **For the life of the PUD,** the Applicant shall prominently feature in each residential lease and/or condominium documents the following restrictions:
  - a. Balconies shall be subject to standard building quiet hours of 11:00 p.m. to 8:00 a.m. so as to not unreasonably disturb any other resident or neighbor. There shall be no playing of any music, musical instruments, radio, television, or the like on balconies during these hours;
  - b. Bicycles may be stored only in designated bicycle storage areas and not on balconies. Other large modes of transport or recreation, such as strollers, scooters, surfboards, kayaks, paddleboards, and the like may be stored only in designated resident storage areas and not on balconies. Construction, gardening, or other large or unsightly items such as shovels, tools, suitcases, and the like may be stored only in designated resident storage areas and not on balconies;

- c. No rugs, towels, clothing or other articles shall be hung from balconies. No signs or other advertising materials shall be placed in windows or on balconies.
  - d. Only small electric or gas grills approved by the District of Columbia Code are permitted for use on balconies. No planters or accessory lighting shall be suspended from windows or balcony railings or ledges; and
  - e. Balconies shall not be used as sleeping quarters for residents or guests at any time.
4. The Applicant shall also have flexibility with the design of the PUD in the following areas:
- a. 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;
  - b. 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, pavers, 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, and final approval by the Old Georgetown Board, U.S. Commission of Fine Arts, and the National Park Service;
  - c. To vary the final selection of all exterior signage on the building; and
  - d. To vary the location and design of the ground-floor components of the building 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 retail or service use.

**B. Public Benefits**

5. Contribution to the Housing Production Trust Fund. The Applicant shall contribute \$359,604 to the Housing Production Trust Fund. Not less than one half of said contribution shall be made **prior to the issuance of a building permit for the proposed development**, and the balance shall be made **prior to the issuance of a certificate of occupancy for the PUD**.



6. LEED Certification. **Prior to the issuance of a certificate of occupancy for the building,** the Applicant shall furnish a copy of its LEED certification application to the Green Building Certification Institute. The PUD shall fulfill or exceed LEED-Gold Certification.
7. Park Improvements. **Prior to the issuance of a certificate of occupancy for the building,** the Applicant shall have finalized an agreement with the National Park Service (“NPS”) for the improvement and long-term maintenance of U.S. Reservation 691 (Meigs Park) and the park area east of the Property (Reservation 360). Said agreement shall include the design development plans approved by NPS and DDOT and shall not be substantially inconsistent with the concept plans shown on Sheets L-05 through L-07 of the Plans. The specific materials, furniture and other elements for the improvement of the park area shall be as required and approved by NPS and DDOT, the minimum value of which shall be \$200,000.

**C. Traffic/Pedestrian Improvements**

8. Transportation Demand Measures. **For the life of the PUD (except as noted),** the Applicant shall implement the following Transportation Demand Management (TDM) plan:
  - a. Bylaws, public offering statements, purchase or lease agreements, and deeds would include a provision prohibiting unit owners or renters from obtaining Residential Parking Permits;
  - b. For the first 10 years that the building is open, the Applicant shall offer the choice of either an annual Capital Bikeshare or an annual car share membership to the purchaser or renter of a unit;
  - c. Provide, as a one-time incentive, up to seven bicycle helmets for distribution to new residents;
  - d. Offer a preloaded \$10 SmarTrip card for each unit at the sale or rental of units in the building for the first 10 years that the building is open;
  - e. Provide at least nine long-term bicycle parking spaces;
  - f. Post all TDM commitments on-line and provide each initial resident with links to CommuterConnections.com, goDCgo.com, WMATA Metrobus routes, and DC Bicycle maps;
  - g. Designate a member of the building's management or operations staff as the site's TDM liaison;

- h. On an as-needed basis, the Applicant will negotiate a lease or other contractual arrangement from an operator(s) of nearby parking garages that provides the Applicant with monthly parking passes for residential tenants who require parking, as set forth below:
  - i. The passes shall be dedicated for the exclusive use of residents of the PUD, to provide access at any time to parking spaces in said garages 24 hours a day, up to seven days a week, 52 weeks a year;
  - ii. The parking spaces for which the passes provide access will be located within ¼ mile of the PUD; and
  - iii. The passes shall be priced at market rates for similar parking privileges at the same garage or parking facility;
- i. Residents of the PUD will not be eligible to apply for Residential Parking Permits (“RPP”). The Applicant will notify all residential tenants of the fact that they are not eligible to apply for RPP. Furthermore, the Applicant will cause all residential tenants to agree not to apply for or obtain a residential parking permit; and
- j. If the commercial tenant of the PUD is a restaurant, the Applicant shall provide, or require the tenant to provide, a valet parking arrangement with the Four Season Hotel or other nearby parking facilities at market rates for similar valet parking arrangements.

**D. Miscellaneous**

1. No building permit shall be issued 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, Department of Consumer and Regulatory Affairs. 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 PUD shall be valid for a period of two years from the effective date of Zoning Commission Order No. 15-18. Within such time, an application must be filed for a building permit for the construction of the development as specified in 11 DCMR § 2409.1. Construction of the development must commence within three years of the effective date of this Order.
3. 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 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 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 December 19, 2016, upon the motion of Commissioner May as seconded by Chairman Hood, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application by a vote of **3-1-1** (Anthony J. Hood, Robert E. Miller, and Peter G. May to approve; Michael G. Turnbull to oppose; Peter Shapiro, not present, not voting).

On January 30, 2017, upon the motion of Vice Chairman Miller, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **3-1-1** (Anthony J. Hood, Robert E. Miller, and Peter G. May to approve; Michael G. Turnbull to oppose; Peter Shapiro, not having participated, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on March 10, 2017.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 15-31**

**Z.C. Case No. 15-31**

**777 17<sup>th</sup> Street, LLC**

**(Consolidated PUD and PUD-Related Map Amendment @ 777 17<sup>th</sup> Street, NE  
Square 4507, Lots 936, 941, and 942)**

**January 9, 2017**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on September 29, 2016, to consider an application from 777 17<sup>th</sup> Street, LLC (“Applicant”) for review and approval of a consolidated planned unit development (“PUD”) and PUD-related map amendment for Lots 936, 941, and 942 in Square 4507 (“Property”). The application proposes a mixed-use development consisting of retail and residential uses (“Project”). The Commission considered the application pursuant to Chapters 24 and 30 and § 102 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”).<sup>1</sup> The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application with conditions.

**FINDINGS OF FACT**

**Application, Parties, and Hearing**

1. The Property is comprised of lots 936, 941, and 942 in Square 4507 (“Property”). It is located in the Northeast neighborhood of Ward 5 and consists of approximately 26,285 square feet of land area. (Exhibit [“Ex.”] 2.)
2. The Property is currently unimproved and is located two blocks from two stops along the H Street – Benning Road streetcar line. (Ex. 2.)
3. On December 17, 2015, the Applicant submitted an application to the Commission for the review and approval of a PUD and PUD-related map amendment to rezone property located in the C-3-A Zone District to the C-2-B Zone District. (Ex. 2.)
4. On April 1, 2016, the Office of Planning (“OP”) submitted a setdown report recommending that a public hearing be held on the application. It requested additional information on several items prior to the public hearing: (Ex.11.)
  - A transportation demand management plan and loading management plan;

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<sup>1</sup> Pursuant to Subtitle A § 102.3(c) of the 2016 Zoning Regulations, an application for a building permit filed on or after September 6, 2016 is vested under the 1958 Zoning Regulations if the building permit plans are consistent with an unexpired approval of a first-stage, second-stage, or consolidated planned unit development that was granted after September 6, 2016, but which was set down for a public hearing prior to September 6, 2016. In this case, the consolidated planned unit development was set down for a public hearing on June 3, 2016, and is therefore considered a vested project under the 1958 Zoning Regulations.

- Street level renderings; and
  - Refined amenities package.
5. On April 11, 2016, the Commission set the application down for a public hearing, supporting OP's request for additional information prior to the public hearing. The Commission asked for additional materials, including a construction management plan, details regarding the roof structure, details regarding the material palette for the eastern wall of the building; and additional information concerning the future development of neighboring properties. (April 11, 2016 Transcript ["Tr."], pp. 35-48.)
  6. The Applicant filed its pre-hearing statement on April 26, 2016, including responses to OP's and the Commission's comments above. (Ex. 13-13A4.)
  7. Notice of the public hearing was published in the *D.C. Register* on June 27, 2016 and was mailed to Advisory Neighborhood Commissions ("ANC") 5D and 6A and to owners within 200 feet of the Property on June 27, 2016. (Ex. 16, 17.)
  8. A public hearing was held on September 29, 2016, during which the Applicant gave its presentation and responded to cross-examination. The Applicant proffered, and the Commission accepted, Sean Stadler, as an expert in architecture and Nicole White as an expert in transportation engineering. The Applicant also proffered testimony from Mark Gionet, its landscape architect. (See September 29, 2016 Transcript.)
  9. No parties spoke in support or opposition to the application.
  10. Sharon Cole and Bruce Adkins, neighbors of the proposed development, testified in opposition to the application. Equitable and Reasonable Investment submitted comments in opposition to the application. (Ex. 33, 35; September 29, 2016 Tr., pp. 78-89.)
  11. Prasun Desai and Yohance Fuller, neighbors of the proposed development, submitted letters in support of the application. (Ex. 27, 31.)
  12. H Street Main Street submitted a letter in support of the application. (Ex. 24)
  13. ANC 5D did not take action on this application prior to the hearing; however, the Single Member District representative submitted a letter in support of the application. (Ex. 36.)
  14. ANC 6A submitted a resolution in support of the application. (Ex. 26.)
  15. At the conclusion of the public hearing, the Commission closed the record except for the Applicant's post-hearing submission and proposed order as well as responses to the Applicant's post-hearing submission from OP, DDOT, and both ANCs. The Commission requested additional information regarding:

- a. Additional penthouse details, including information on the material palette, landscaping, lighting, and the feature wall and to provide additional sections and perspectives;
  - b. Signage plan;
  - c. Revised locations for affordable units and to consider deeper affordability proffer; and
  - d. Consideration of incorporating additional balconies on the eastern façades.
16. The Commission specifically asked the Applicant to meet with ANC 5D prior to submission of the post-hearing materials, as well as with Mr. Adkins and Ms. Cole. (September 29, 2016 Tr., pp. 77-96.)
  17. The Applicant filed its post-hearing submission and draft order on October 31, 2016. Its submission provided responses to each item requested by the Commission. (Ex. 41-41B2.)
  18. On November 8, 2016, ANC 5D submitted a resolution “generally supportive” of the Project, but with concern about the Project’s height. (Ex. 42.) The ANC’s report is discussed in more detail below.
  19. At its public meeting on November 14, 2016, the Commission considered the case and stated that it was concerned that the proposed rooftop planters violated the one-to-one rooftop setback requirement of the Zoning Regulations, requested that the Applicant and/or OP consult with the Zoning Administrator to ascertain whether he believed they violated this requirement, requested a report on the results of this consultation, and took proposed action to approve the application.
  20. The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) as required by the District of Columbia Home Rule Act on November 15, 2016. NCPC’s Executive Director, by delegated action dated December 29, 2016, found that the proposed PUD would not adversely affect the identified federal interests in the National Capital and would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.
  21. On November 21, 2016, the Applicant submitted its list of proffered public benefits of the PUD and draft conditions, pursuant to 11 DCMR §§ 2403.16 - 2403.18. (Ex. 44.)
  22. On December 5, 2016, the Applicant submitted is final list of proffered public benefits of the PUD and draft conditions, pursuant to 11 DCMR § 2403.20. (Ex. 45.)
  23. On December 12, 2016, the Applicant submitted an additional post-hearing submission. (Ex. 46.) It stated that per the Commission’s request when it took proposed action, the Applicant met with the Zoning Administrator regarding the proposed rooftop planters and whether they violated the one-to-one penthouse setback requirement of the Zoning

Regulations. The Applicant reported that the Zoning Administrator reviewed the plans and concluded that the planters would violate the Regulations. Accordingly, the Applicant submitted a revised set of plans with the planters set back so as to comply with the requirement. (Ex. 46A.)

24. At its January 9, 2017 public meeting, the Commission considered the revised rooftop plans submitted by the Applicant and concluded that the revised rooftop design did not violate the 1:1 penthouse setback requirement.
25. The Commission took final action to approve the application at its public meeting.

## **THE MERITS OF THE APPLICATION**

### **Description of Property and Surrounding Areas**

26. The Property consists of approximately 26,285 square feet of land area at the intersection of 17<sup>th</sup> Street, N.E., H Street, N.E. and Benning Road, N.E. The Property is bounded by Benning Road to the south, 17<sup>th</sup> Street to the west, H Street to the north, and private property to the east. It is located along a major gateway into the District. It is currently improved with a used car sales lot. (Ex. 2.)
27. The stretch of Benning Road along which the Property sits, exhibits a wide variety of uses and massings. To the west of the Project is a surface shopping center known as Hechinger Mall, which is owned by a developer and contemplated for redevelopment. To the east of the site are low-rise garden apartments. The south side of Benning Road is improved with two- to three-story residential uses. Caddy-corner to the Property is a dry cleaner, low-rise office use, and a McDonald's. To the north of the site is the Developing Families Center, which is under contract with a developer. (Ex. 2.)
28. The Property is located in the C-3-A Zone District, which permits a maximum height of 65 feet and a maximum density of 4.0 floor area ratio ("FAR"). It abuts land to the east that is located in the R-5-B Zone District, as does the property to the south of Benning Road. The properties to the west and north of the site are also located in the C-3-A Zone District, while the commercial uses caddy-corner to the Property are located in the C-2-A Zone District. (Ex. 2.)

### **The Project**

29. The Project will deliver a mixed-use building with approximately 180 residential units, approximately 11,468 square feet of which will be set aside as affordable housing. A major feature of this development is its focus on public spaces: it not only physically improves public spaces, but the building design was developed with a focus on how it is perceived from public spaces. (Ex. 2-2A5, 13-13A4.)
30. The massing of the Project is sensitive to the surrounding context. The maximum building height of 90 feet is at the corner of 17<sup>th</sup> Street and Benning Road. The building otherwise steps down to lesser heights as the building stretches toward neighboring

properties. The building is fully designed so as to establish a strong sense of place. (Ex. 2-2A5, 13-13A4.)

31. The building façades along H Street and 17<sup>th</sup> Street incorporate a series of undulating interior balconies that provide articulation in the building elevations and create visual interest for pedestrians. In an effort to enhance the pedestrian experience, the Applicant is setting the building back from the property line approximately four feet along both 17<sup>th</sup> Street and Benning Road for a height of approximately 16 feet, six inches. This will create comfortable sidewalk widths and ease pedestrian circulation. (Ex. 2-2A5, 13-13A4.)
32. The Applicant is also incorporating tree boxes along 17<sup>th</sup> Street, which will improve the streetscape and provide an aesthetic respite for pedestrians. In addition to enhancing the sidewalks for its own Project, the Applicant is proposing to establish a sidewalk on the north side of H Street, where one does not currently exist. The Applicant wants to create clear, physical connections with the community it is joining; establishing the missing link in the sidewalk will help facilitate access to its Project for those living in the community and vice versa. (Ex. 2-2A5, 13-13A4.)
33. The Project will have two vehicular entrances. Two 30-foot, surface loading spaces will be accessed from Benning Road. The loading area is tucked in an internal courtyard, buffering it from adjacent homes. The parking garage will be accessed via the 16-foot public alley that extends to 18<sup>th</sup> Street. The western end of the alley is a “paper” alley, meaning that it only exists on paper and has never been constructed. The Applicant is improving the public alley to establish a connection with 18<sup>th</sup> Street. The alley will remain open to use by the public. Approximately 45 parking spaces will be provided in a below-grade garage: 36 spaces are zoning-compliant and nine spaces are located in vault space below the alley. (Ex. 2-2A5, 13-13A4.)
34. The Project will consist of approximately 180 residential units. The units will reflect a mix of studios, one-bedroom units, and two-bedroom units. The articulation of the building provides numerous opportunities for private outdoor spaces. Many of the residential units include an interior balcony, while some units on the second and seventh floor will enjoy private terraces. The rooftop will provide amenity spaces available for all residents, including a pool and a green roof. (Ex. 2-2A5, 13-13A4)
35. The Project will be constructed to a density of approximately 6.0 FAR (including 0.55 FAR of nonresidential uses) and a maximum height of 90 feet at the corner of 17<sup>th</sup> Street and Benning Road. The building will step down in height as it stretches to the east along both Benning Road and H Street. (Ex. 2-2A5, 13-13A4)

#### **PUD Flexibility Requested**

36. Parking and Loading: The parking requirements of the Zoning Regulations require 72 parking spaces for this Project. The Project will include 45 parking spaces, nine of which are located in vault space below the public alley. The Zoning Regulations require a



55-foot berth for the residential uses and the Project will include a 30-foot berth for the residential uses. (Ex. 13-13A4.)

37. The Applicant further sought flexibility in the design of the building:
- a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To provide a range in the number of residential units plus or minus 10% from the number depicted on the plans and in this statement;
  - c. To vary the number and location of affordable units, provided that (i) the minimum amount of square feet of gross floor area required for affordable housing is met; (ii) the affordable units will be distributed proportionately across unit types and evenly on all floors except the top two floors; and (iii) the proportion of affordable studio, efficiency, and one-bedroom units to all affordable units will not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units;
  - d. 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;
  - e. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;
  - f. To vary the final streetscape design and materials, as required by District public space permitting authorities.
  - g. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems;
  - h. To vary the final use and design on the ground-floor retail space frontage, including the number, size, design, and locations of doors, windows, awnings, canopies, and similar features, to accommodate the needs of specific tenants over the life of the Project; and
  - i. To vary the number, location, size, and other features of signs, subject to the dimensions provided as Exhibit 41-41B.

(Ex. 13.)

### **Project Amenities and Public Benefits**

38. As detailed in the Applicant's testimony and written submissions, the proposed PUD will provide the following project amenities and public benefits: (Ex. 13.)
- a. Exemplary Urban Design, Architecture, and Open Spaces. The building design concentrates the massing at the corner of Benning Road and 17<sup>th</sup> Street, which establishes a sense of place along Benning Road, while still respecting the surrounding lower scale buildings. The design also sets the building back from the lot lines abutting Benning Road and 17<sup>th</sup> Street, expanding the spaces at the base of the building that will be open to the public. Setting the building back will allow for wider sidewalks, which will encourage pedestrian traffic around the retail spaces. In addition to providing the setback at the ground floor, the design incorporates setbacks on the upper levels in order to provide articulation and depth to the building. With the exception of the projection that is proposed on H Street, the articulation of the façade is accommodated on private property and does not require use of public space;
  - b. Site Planning and Efficient Land Utilization. The Project will transform an underutilized lot into a well-designed, mixed-use structure. The new Project will be both an efficient and economical use of land along the Streetcar line, a major bus line (Routes X1, X2, and X9) and along a major gateway into the District. The Project will also activate the surrounding street network with a combination of active ground-floor uses, additional residents, and streetscape improvements; (Ex. 2.)
  - c. Housing and Affordable Housing. This Project will create approximately 180 new residential units. Eight percent of the residential floor area will be set aside as affordable housing. Half of these units will be reserved for households earning up to 80% of the area median income ("AMI") and the other half will be reserved for households earning up to 50% of AMI, as outlined in the chart below. Fifty percent of the affordable units will be two- or three-bedroom units and 60% of the units reserved at the 50% AMI level will be two- or three- bedroom units;

Residential Unit Type	Residential GFA/ Percentage of Total	Income Type	Affordable Control Period	Affordable Unit Type
Total	143,338 sf/100%		Life of project	Rental
Market Rate	131,871 sf/92%	Market	Life of project	Rental
IZ	Not less than 4%	80% AMI	Life of project	Rental
IZ	Not less than 4%	50% AMI	Life of project	Rental

- d. Effective and Safe Vehicular and Pedestrian Access and Transportation Demand Management Measures. As noted above, the project incorporates setbacks on private property to enhance the pedestrian experience around the site. The project also reduces the number of curb cuts that serve the site from four to one, which will reduce the potential for conflicts between vehicular and pedestrian traffic. Two of the existing curb cuts are within 60 feet of an intersection, which is considered a subpar condition by DDOT; the project eliminates those curb cuts and will establish one that is sufficiently set back from Benning Road’s intersection with 17<sup>th</sup> Street. The Applicant is also filling in a missing link in the sidewalk network on the north side of H Street, which further supports pedestrian maneuvering around the site. Although the improvements do not immediately abut the Property, the Applicant sees this as an opportunity to integrate with the community by strengthening the physical connections between them. Providing a sidewalk on the north side of H Street will facilitate pedestrian activity from the existing neighborhood to and from the Project.

In addition to the pedestrian-friendly improvements, the Applicant is proposing a number of measures that will minimize impacts from its vehicular maneuvers. All access to the parking garage will be via the public alley at the rear of the Property. The Applicant is proposing to construct the western portion of the alley, as it does not currently exist. A separate point of access will be provided via Benning Road for the loading. All loading maneuvers will be accommodated on-site, and will not require any use of public space for backing-in or backing-out of the spaces;

- e. Environmental Benefits. The project will be certifiable at the LEED v. 2009 Gold level; and
- f. Uses of Special Value. The Applicant is offering the following benefits and amenities as uses of special value, in addition to those items referenced above:
  - i. Construction. Applicant shall abide by the terms of the Construction Management Plan entered into the Record as Exhibit 28C;
  - ii. Security. The Applicant will install a minimum of four security cameras on the façade of the building, at least two of which will be installed on the

eastern façade of the building. The Applicant will incorporate security lighting on its property, adjacent to the public alley;

- iii. Residential Permit Parking Program. The Applicant will include a provision in its leases to preclude residents from securing a Ward 5 residential parking permit;
- iv. Community Room. The Applicant will designate a space within its project that will be a minimum of at least 500 square feet for use by the community for public meetings or programs, as determined by the ANC;
- v. Tree Boxes. The Applicant will provide four tree boxes along 17<sup>th</sup> Street; and
- vi. Flowers. The Applicant will provide flowering plantings along the south side of H Street in an effort to beautify the streetscape, as depicted in the plans.

### **Compliance with PUD Standards**

39. In evaluating a PUD application, the Commission must “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects.” The Commission finds that the development incentives for the height, density and flexibility are appropriate and fully justified by the additional public benefits and project amenities proffered by the Applicant. The Commission finds that the Applicant has satisfied its burden of proof under the Zoning Regulations regarding the requested flexibility from the Zoning Regulations and satisfaction of the PUD standards and guidelines set forth in the Applicant’s statement and the OP report.
40. The Commission credits the testimony of the Applicant and its experts as well as OP and DDOT, and finds that the superior design, site planning, streetscape improvements, housing and affordable housing, uses of special value, and transportation demand and loading management plans all constitute acceptable project amenities and public benefits.
41. The Commission finds that the PUD as a whole is acceptable in all proffered categories of public benefits and project amenities. The proposed benefits and amenities are superior as they relate to urban design, landscaping, housing and affordable housing, effective and safe transportation access, and uses of special value to the neighborhood and the District as a whole.
42. The Commission believes the final benefits and amenities package addresses the comments and concerns noted by those who testified in opposition to the application, particularly the transportation demand management (“TDM”) plan and loading management plan. The Commission credits the testimony of OP and agrees that the PUD provides significant and sufficient public benefits and project amenities.

43. The Commission finds that the character, scale, massing, mix of uses, and design of the PUD are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits. Specifically, the Commission credits the testimony of the Applicant and the Applicant's architectural and transportation planning witnesses that the PUD represents an efficient and economical redevelopment of a strategic and transit-oriented parcel located along the streetcar line.
44. The Commission credits the testimony of OP and DDOT, and accepts both of the ANCs' reports, noting that the PUD will provide benefits and amenities of substantial value to the community and the District commensurate with the additional height and density sought through the PUD process. The Commission notes that the proposed massing is consistent with the goals and objectives of the Benning Road Redevelopment Framework Plan and the Comprehensive Plan. The massing of the project balances the potential massing of future development with the existing massing of neighboring residential uses.
45. The Commission credits OP and DDOT's testimony that the impact of the PUD on the level of services will not be unacceptable. The Commission notes that the TDM measures that the Applicant undertakes will mitigate any impacts of the project.
46. The Commission credits the testimony of the Applicant's traffic consultant, who submitted a comprehensive transportation review that concluded that the PUD would not have adverse effects due to traffic or parking impacts. The Applicant is providing a substantial TDM package, that DDOT supports, which will not only mitigate impacts from the project but generally improve existing conditions. Specifically, the Applicant will improve pedestrian and vehicular conditions on the Property. Any traffic, parking, or other transportation impacts of the PUD on the surrounding area are capable of being mitigated through the measures proposed by the Applicant and are acceptable given the quality of the public benefits of the PUD, particularly in light of the transportation demand management plan being proffered.

#### **Compliance with the Comprehensive Plan**

47. The Commission credits the testimony of OP and the Applicant regarding the Property's designation as appropriate for Medium-Density Residential and Medium-Density Commercial development pursuant to the Future Land Use Map of the District of Columbia. The proposed height and density of the PUD is consistent with this designation. (Ex. 13, 29.)
48. The Commission credits the testimony of the Applicant and OP regarding the compliance of the PUD with the District of Columbia Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide, and area elements of the plan: (Ex. 2, 11, 13, 29.)
  - a. The Commission finds that the proposed PUD is not inconsistent with the written elements of the Comprehensive Plan and promotes the policies of its Land Use,

Transportation, Environmental, Housing, and Urban Design Citywide Elements and its Upper Northeast Area Element;

- b. The Project implements Land Use Element policies that encourage growth and revitalization to an underutilized lot along a high transit corridor;
- c. The Project implements Transportation Element policies that promote transit-oriented development and urban design improvements. The PUD brings new housing and retail uses within walking distance of the H Street streetcar and, through its TDM Plan, provides effective incentives to discourage motor vehicle use;
- d. The Project implements Housing Element policies that encourage expansion of the city's supply of high-quality market-rate and affordable housing, including affordable housing units that are family-size units and provide deeper affordability limits;
- e. The Project implements Urban Design Element policies that call for enhancing the aesthetic appeal and visual character of areas around major thoroughfares. The PUD significantly improves an underutilized parcel of land along a vital corridor in the District of Columbia;
- f. The Project advances several objectives of the Upper Northeast Area Element, including the development of an underutilized site, streetscape improvements and pedestrian facility improvements. Achieving these objectives will strengthen the gateway into the District and provide a stronger link to the Anacostia River. This development is a key link between the successful H Street Corridor and entry points further east along Benning Road. The Project is consistent with the objectives of the Area Element and seeks to create a successful mixed-use residential project; and
- g. The Commission credits the testimony of the Applicant that the PUD is consistent with and furthers the goals of the Benning Road Redevelopment Framework Plan. The Benning Road plan was prepared by OP and approved by the District Council in 2008. The objective of the plan was to encourage new development along the Benning Road corridor that incorporates new residential uses and improved retail options into existing neighborhoods. The plan notes that this Property, along with five nearby neighboring properties are appropriate for redevelopment. Collectively, the plan viewed the five development sites as ripe for infill residential and neighborhood serving retail. More specifically, the plan envisioned this Property to be a prime opportunity for retail uses given its proximity to the Hechinger Mall property and for incorporation of new residential uses. This site is the first of the sites along Benning Road to move forward with redevelopment, leading the way to effectuating a vision for development that was put into motion by OP eight years ago.

**Agency Reports**

49. By report dated September 19, 2016, OP recommended approval of the application. OP confirmed that the Project supports the written elements of the Comprehensive Plan and is not inconsistent with the Future Land Use and Generalized Policy maps of the Comprehensive Plan. OP also noted that the Project is consistent with the Benning Road Plan in that it provides neighborhood-serving retail, it proposes architecture and massing to better frame the corridor, and it provides mixed income housing. The Benning Road Plan specifically calls the Property out as appropriate for redevelopment as a mixed-use residential and retail project. (Ex. 29.)
50. OP concluded that the benefits and amenities were commensurate given the flexibility requested. (Ex. 29.)
51. OP recommended approval of the application subject to continued coordination with other District agencies including the District's Department of Housing and Community Development ("DHCD"), DDOT, and the District Department of Energy and Environment ("DOEE") on the specific details of the application to ensure advancement of the District's goals and that the Applicant will update the construction management plan in conjunction with the neighbors' input. (Ex. 29.)
52. By report dated September 19, 2016, DDOT noted its support of the application. DDOT noted that it had no objections to the PUD. (Ex. 30.)
53. DDOT noted that although it typically requires all access to a site to occur via an existing alley, it was comfortable with allowing all retail loading to access the site via Benning Road given the size constraints of the existing alley. DDOT noted that the existing alley would be challenging for trucks to maneuver, thus it supports a curb cut from Benning Road for loading. Residential access to the garage will occur via the existing alley. DDOT testified that the alley could accommodate the proposed traffic despite resident concerns to the contrary. The existing alley is a typical size for alleys in the District. (Ex. 30; September 29, 2016 Tr., p. 74.)

**Advisory Neighborhood Commission Reports**

54. ANC 6A submitted a letter in support of the application. It noted that the developer undertook a significant level of outreach and communication regarding its plans with the residents of our area. It also supported the use of private property along 17<sup>th</sup> Street and Benning Road to improve pedestrian circulation. It further noted that the building will have adequate parking, reducing traffic or congestion impact on the neighborhood, and that the design of the building ensures that the light and air of neighboring properties will not be negatively impacted. (Ex. 26.)
55. ANC 5D did not take action on the application prior to the public hearing, though the Single Member District representative submitted a letter in support of the application. (Ex. 36.)

56. ANC 5D submitted a report “generally in support” of the application dated November 7, 2016. (Ex. 42.) The report stated that the ANC was concerned about the building’s height, and the potential impact the height on the immediate vicinity. ANC 5D further stated that “the proposed use will benefit the neighborhood by adding affordable units and other community benefits.”

### **Parties in Support and in Opposition**

57. There were no additional parties to this application, either in support or in opposition.

### **Persons and Organizations in Support or Opposition**

58. H Street Main Street submitted a letter in support of the application noting that this project would provide much needed neighborhood-serving retail and is critical to improving the walkability of this area. The project is a vast improvement over the existing use and is better utilization of the property. (Ex. 24.)
59. Prasun Desai, the owner of 1707 H Street, the property immediately abutting the project, submitted a letter in support. The neighbor noted that the proposed use was an improvement over the existing use of the site and that the proposed massing was appropriate for its context. He further noted that retail uses would benefit the neighborhood and that he supported the proposed architecture. (Ex. 27.)
60. Yohance Fuller, serving as the representative of 1709 H Street, LLC, the owner of 1709 H Street, submitted a letter in support of the application. Mr. Fuller noted that the building was designed to relate to its context and that the proposed massing was appropriate. He indicated his own plans for a vertical addition on his property, confirming that the proposed height of the Project would be consistent with his own proposal. As noted by other supporters, Mr. Fuller agreed that the proposed use was an improvement over the existing used car sales lot located on the Property. (Ex. 31.)
61. Equitable and Respectful Reinvestment submitted a letter noting concerns about redevelopment in the area. The letter opposed redevelopment of sites adjacent to the Property, but did not address redevelopment of the instant Property. Equitable and Respectful Reinvestment noted general concerns about eliminating services currently utilized by long-time residents. These concerns related to services provided on neighboring sites but not on the Property itself. (Ex. 33.)
62. Bruce Adkins, the owner of 1711 H Street, submitted a letter in opposition to the application and testified in opposition to the application at the public hearing. He noted three primary concerns: the existing alley cannot accommodate the proposed traffic; the at-risk windows on the eastern façade might affect his development rights, which concerned him because he was contemplating a vertical addition to his property; and the proposal projects beyond the existing building line. DDOT provided testimony in response to his concerns regarding use of the alley. DDOT testified that the existing alley is a typical condition throughout the District and it can accommodate the number of trips that are proposed to and from the site. DDOT also noted that the alley forks toward the



eastern end of the square, which provides a release valve in the event there is a vehicular conflict in the square. With respect to Mr. Adkins' second concern, the Applicant confirmed that the windows were being provided at their own risk, meaning that if the neighboring property owner constructed a vertical addition, they would have to remove them. These windows would not affect Mr. Adkins' ability to construct a vertical addition on his property. Finally, the Applicant confirmed that it was proposing a projection along H Street, consistent with what was permitted under the Building Code. (Ex. 35; September 29, 2016 Tr., pp. 78-82.)

63. Sharon Cole, the immediate neighbor on Benning Road, testified in opposition to the application at the public hearing. She testified that it was her understanding that the Applicant was purchasing her property and displacing the existing residents living in the rental units along Benning Road. The Applicant confirmed that this was not the case and that no residential uses would be displaced by the Project. (September 29, 2016 Tr., pp. 79-89.)

### CONCLUSIONS OF LAW

1. Pursuant to 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, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider the application as a consolidated PUD and it has the authority to approve a PUD-related map amendment. The Commission may impose development guidelines, conditions, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts.
3. The Property meets the minimum area requirements of Chapter 24 of the Zoning Regulations.
4. Proper notice of the proposed PUD was provided in accordance with the requirements of the Zoning Regulations and as approved by the Commission.
5. The development of the PUD will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a mix of uses with more attractive and efficient overall planning and design not achievable under matter-of-right standards. Here, the height, character, scale, massing, mix of uses, and design of the proposed PUD is appropriate. The proposed redevelopment of the Property, with a mix of residential and retail uses, capitalizes on the Property's transit-oriented location and is compatible with citywide and area plans of the District of Columbia, including the Benning Road Plan.

6. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted for the reasons detailed below.
7. The PUD complies with the applicable height and bulk standards of the Zoning Regulations and will not cause a significant adverse effect on any nearby properties. The residential and retail uses for this PUD are appropriate for the Property's location. The PUD's height, bulk, and uses are consistent with the District's planning goals for the surrounding neighborhood and are consistent with anticipated future development.
8. The PUD provides superior features that benefit the surrounding neighborhood to a significantly greater extent than the matter-of-right development on the Property provides. The Commission finds that the urban design, site planning, public space improvements, efficient and safe transportation features and measures, housing and affordable housing, ground-floor retail uses, and uses of special value are all significant public benefits. The impact of the PUD is acceptable given the exceptional quality of the public benefits of the PUD.
9. The impact of the PUD on the surrounding area and the operation of city services is not unacceptable. The Commission agrees with the conclusions of the Applicant's traffic expert and DDOT that the proposed PUD will not create adverse traffic, parking, loading, or pedestrian impacts on the surrounding community. The application will be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
10. Approval of the PUD is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed PUD is consistent with the Property's Medium-Density Commercial and Medium-Density Residential designation on the Future Land Use Map and furthers numerous goals and policies of the written elements of the Comprehensive Plan as well as other District planning goals for the immediate area, including the Benning Road Plan.
11. The Commission concludes that the proposed PUD is appropriate given the superior features of the PUD, the benefits and amenities provided through the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
12. The PUD will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
13. The Applicant proposed improvements for the public space immediately abutting its property and while the Zoning Commission does not have jurisdiction over the development of public space, it supports the proposed improvements. It understands the Applicant will work with DDOT regarding the specific improvements to the public space.

14. 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 the recommendations of OP in all zoning cases. The Commission carefully considered the OP reports and found OP's reasoning persuasive in recommending approval of the application.
15. The Commission 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. The Commission carefully considered the positions of ANC 5D and ANC 6A in support of approving the application and concurs in the recommendation of approval. The Commission considered ANC 5D's comments regarding its concern about the height. The Commission concludes that the proposed height is appropriate when considering the future context of the development. This area has been designated for redevelopment in the Benning Road Corridor Plan and two neighboring properties are currently being marketed for redevelopment, both of which would allow a similar height through the PUD process. The proposed height exceeds existing building heights in this neighborhood; however, this is the first development to move forward along Benning Road. The expectation, as noted in the Benning Road Plan, is that additional properties will follow suit, many of which will likely seek approvals for similar massing. The proposed height is not inconsistent with the Comprehensive Plan or with development plans for this neighborhood. For these reasons, the Commission considers the height to be appropriate.
16. The Applicant 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 application for the review and approval of a consolidated planned unit development and PUD-related map amendment from the C-3-A Zone District to the C-2-B Zone District for the Property for the mixed-use development described herein, subject to the following conditions:

#### **A. Project Development**

1. The Project shall be developed in accordance with the architectural drawings submitted into the record on October 31, 2016, as Exhibit 41B1-41B2, as modified by the drawings submitted into the record on December 12, 2016, as Exhibit 46A, and as further modified by the guidelines, conditions, and standards herein (collectively, the "Plans").

2. The Project will have flexibility from the parking and loading requirements as noted herein.
3. The Applicant will have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To provide a range in the number of residential units plus or minus 10% from the number depicted on the plans and in Exhibits 2-2G and 13-13A4;
  - c. To vary the number and location of affordable units, provided that: (i) the minimum amount of square feet of gross floor area required for affordable housing is met; (ii) the proportion of affordable studio, efficiency, and one-bedroom units to all affordable units will not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units; and (iii) the same number of affordable units have frontage on 17<sup>th</sup> Street and Benning Road as depicted in Exhibit 41;
  - d. 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;
  - e. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;
  - f. To vary the final streetscape design and materials, as required by District public space permitting authorities;
  - g. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems;
  - h. To vary the final use and design on the ground-floor retail space frontage, including the number, size, design, and locations of doors, windows, awnings, canopies, and similar features, to accommodate the needs of specific tenants over the life of the Project; and

- i. To vary the number, location, size, and other features of signs, subject to the dimensions provided as Exhibit 41-41B.

**B. Transportation**

1. **For the life of the Project**, the Applicant shall abide by the terms of the loading management plan, which requires compliance with the following:
  - a. Delivery and trash trucks will unload/load in the loading dock;
  - b. Parcel vehicles for the retail area will use the loading dock;
  - c. Loading vehicles, including delivery vans and trucks will access the loading dock via the proposed curb cut on Benning Road. The driveway will support right-turn in access and right-turn out egress;
  - d. All reverse maneuvers in the loading area will occur on site and not across public space;
  - e. Trucks larger than 30 feet will be restricted from delivery onto the site;
  - f. Resident move-ins, move-outs, and retail and residential deliveries, excluding FedEx and UPS trucks, will be scheduled in advance by a loading dock manager;
  - g. Trucks will not be allowed to idle pursuant to the guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (engine idling);
  - h. Residents will be required to schedule move-ins and move-outs;
  - i. Trash and recycle pick-up will occur in rear-loaded vehicles. All trash pick-up will occur in the loading dock;
  - j. A dedicated trash and recycling area is provided in the loading dock area; and
  - k. It shall be the responsibility of building management to inform all building tenants of this LMP and its conditions.
2. **For the life of the Project (except as noted below)**, the Applicant shall abide by the terms of the transportation demand management (“TDM”) plan, which requires compliance with the following:

- a. **For the first five years that the building is open**, the Applicant will provide to each new resident an one-time Capital Bikeshare or a car share subsidy of \$85 (annual membership costs, plus an account credit if an annual membership costs less than \$85) until the maximum value is obtained. The total amount of subsidies will have a maximum value of \$76,075 cumulative for the Project (equivalent to providing one subsidy for each dwelling unit; the subsidy is not required to be paid in full but as each unit is filled). This benefit shall be codified in the rental/condominium documents;
- b. Provide, as a one-time incentive, bicycle helmets for distribution to new residents (one per unit or a maximum of 179 helmets);
- c. Install a TransitScreen or similar device displaying real-time transportation schedules and the location of bikeshare stations, carshare vehicles, and any other public transportation options;
- d. The applicant will reserve a space in the parking garage for a car sharing service if there is interest by the car sharing company to provide a car on-site;
- e. Offer a preloaded \$10 SmarTrip card for each unit at the initial sale or rental of units in the building;
- f. Provide long-term and short-term bicycle parking spaces in-line with zoning regulations. The applicant will meet the zoning requirement and provide 62 long-term spaces and 14 short-term bicycle parking spaces (or seven racks in public space);
- g. Provide an electric vehicle charging station with the parking garage;
- h. Provide a repair station within the bike room;
- i. Post all TDM commitments on-line and provide each initial resident with links to CommuterConnections.com, goDCgo.com, WMATA Metrobus routes, and DC Bicycle maps; and
- j. Designate a member of the building's management or operations staff as the site's TDM coordinator.

Residential Unit Type	Residential GFA / Percentage of Total	Income Type	Affordable Control Period	Affordable Unit Type	
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C. Construction

The Applicant shall abide by the terms of the construction management plan submitted as Exhibit 28C in the record. The Applicant shall provide proof of compliance to the Zoning Administrator in the form of a letter **prior to issuance of a building permit.**

D. Benefits and Amenities

1. **Affordable Housing.** Prior to the issuance of the first Certificate of Occupancy for the residential component of the Project, the Applicant shall demonstrate the following:

a. **For the life of the Project,** the Applicant shall:

- (i) Provide a total of approximately 143,338 square feet (“sq. ft.”) of residential Gross Floor Area (“GFA”) of housing;
- (ii) Devote not less than eight percent of the residential GFA, equaling approximately 11,468 sq. ft., as inclusionary units pursuant to 11 DCMR, Chapter 26;
- (iii) Devote not less than 50% of the inclusionary units (equaling not less than six units) for households earning less than 50% of the Area Median Income for the Washington, DC metropolitan statistical area (“AMI”); and
- (iv) Devote not less than 50% of the inclusionary units (equaling not less than six units) as inclusionary units for households earning less than 80% of the AMI;

b. **For the life of the Project,** 50% of the inclusionary units shall be two- or three-bedroom units, and 60% of the units set aside at the 50% of AMI level shall be two- or three-bedroom units;

c. **For the life of the Project,** the distribution of the affordable housing units shall be in accordance with Sheets A-06 and A-07 marked as Exhibit 41B of the record, and in accordance with the following chart. The Applicant shall have the flexibility to modify the location of the affordable units so long as the same proportion of affordable units are located along 17<sup>th</sup> Street and Benning Road as reflected in Exhibit 41B and the distribution otherwise complies with § 2605.6; and

Total	143,338 sf/100%		Life of project	Rental
Market Rate	11,871 sf/92%	Market	Life of project	Rental
IZ	Not less than 4%	80% AMI	Life of project	Rental
IZ	Not less than 4%	50% AMI	Life of project	Rental

- d. Inclusionary Zoning Covenant required by D.C. Official Code § 6-1041.05(a)(2)(2012 Repl.) shall include a provision or provisions requiring compliance with all the terms of this Condition;
- 2. **LEED-Gold. Prior to the issuance of a certificate of occupancy**, the Applicant shall submit evidence to the Zoning Administrator, in the form of a document certified by the project’s architect, that the Project shall be eligible for certification at the LEED v. 2009 Gold level.
- 3. **Security. Prior to the issuance of a certificate of occupancy**, the Applicant shall submit evidence to the Zoning Administrator that the Applicant has installed a minimum of four security cameras on the façade of the building, at least two of which will be installed on the eastern façade of the building, and that the Applicant has incorporated security lighting on its property, adjacent to the public alley.
- 4. **Residential Permit Parking Program. For the life of the Project**, the Applicant shall include a provision in its leases precluding residents from securing a residential parking permit. The Applicant shall provide the relevant excerpt of the lease to the Zoning Administrator **prior to issuance of a certificate of occupancy**.
- 5. **Community Room. For the life of the Project**, the Applicant shall reserve a space of at least 500 square feet for use by the community for public meetings or programs, as determined by the ANC in coordination with the Applicant. The Applicant shall submit evidence of this to the Zoning Administrator in the form of plans showing the space reserved for this use **prior to the issuance of a certificate of occupancy**.
- 6. **Tree Boxes.** The Applicant shall provide four tree boxes along 17<sup>th</sup> Street, in coordination with DDOT during the public space process. The Applicant shall provide a copy of its public space permit allowing such work **prior to issuance of a residential certificate of occupancy**.
- 7. **Flowers.** The Applicant will provide flowering plantings along the south side of H Street in an effort to beautify the streetscape. The Applicant shall provide photographic evidence of the landscaping **within six months of issuance of the certificate of occupancy**.



8. **Public Space. Prior to the issuance of a residential certificate of occupancy, the Applicant shall submit evidence to the Zoning Administrator that it has completed the following:** The Applicant shall set its building back four feet from the property line for its entire façade along Benning Road and 17<sup>th</sup> Street for a height no less than 15 feet. This setback shall be used to widen the public sidewalk. The Applicant shall coordinate with DDOT during the public space process regarding the design of this space.
9. **Prior to the issuance of a residential certificate of occupancy, the Applicant shall submit evidence to the Zoning Administrator that is has completed the following:** The Applicant shall construct at least 65 feet of sidewalk on the north side of H Street at the northeast corner of 17<sup>th</sup> Street and H Street, NE. The Applicant shall coordinate with DDOT during the public space process regarding the design of this space.
10. **Prior to the issuance of a residential certificate of occupancy, the Applicant shall submit evidence to the Zoning Administrator that is has completed the following:** The Applicant shall construct the unimproved portion of the public alley at the west end of Square 4507. The Applicant shall coordinate with DDOT during the public space process regarding the design of this space.

**E. Miscellaneous**

1. No building permit shall be issued for the Project 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 of the Department of Consumer and Regulatory Affairs (“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 PUD 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 the Project. Construction of the Project must begin within three years of the effective date of this Order.
3. In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code §§ 2-1401.01 et al (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, familial 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.

For the reasons stated above, the Commission concludes that the Applicant has met its burden, and it is **HEREBY ORDERED** that the application be **GRANTED**.

On \_\_\_\_\_, upon the motion of \_\_\_\_\_, as seconded by \_\_\_\_\_, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Third Mayoral Appointee position vacant, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on March 10, 2017.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 16-07**

**Z.C. Case No. 16-07**

**W-G 9<sup>th</sup> & O, LLC**

**(Consolidated PUD and Related Map Amendment @ Square 399)**

**January 9, 2017**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on October 24, 2016, to consider applications for a consolidated planned unit development (“PUD”) and related zoning map amendment filed by W-G 9<sup>th</sup> & O, LLC (“Applicant”). The Commission considered the applications 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 applications.<sup>1</sup>

**FINDINGS OF FACT**

**The Applications, Parties, Hearings, and Post-Hearing Filings**

1. On March 29, 2016, the Applicant filed applications with the Commission for consolidated review and approval of a PUD and a related Zoning Map amendment from the C-2-A Zone District to the C-2-B Zone District for property located at 810 O Street, N.W. (Square 399, Lot 66) (“PUD Site”).
2. The PUD Site has a land area of approximately 15,093 square feet and is a rectangular lot bounded by O Street, N.W. to the north, a 10-foot public alley to the east, private property to the south, and 9<sup>th</sup> Street, N.W. to the west. The PUD Site is located within the Shaw Historic District and is improved with the Scripture Cathedral Church, a 50-foot-tall brick building constructed in 1986. The Scripture Cathedral Church does not contribute to the Historic District since its construction post-dates the period of significance (1833-1932).
3. Other than the PUD Site, Square 399 is improved with residential dwellings, apartment houses, a gas station, and surface parking. The O Street Market, which was developed pursuant to Z.C. Order No. 07-26, is located across O Street to the north of the PUD Site. Across the alley to the east of the PUD Site is a vacant District-owned property that is proposed to be privately developed with a new mixed-use residential and retail building. (See D.C. Council Resolution R21-0374, dated February 2, 2016.)

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<sup>1</sup> Pursuant to Subtitle A § 102.3(c) of the 2016 Zoning Regulations, an application for a building permit filed on or after September 6, 2016 is vested under the 1958 Zoning Regulations if the building permit plans are consistent with an unexpired approval of a first-stage, second-stage, or consolidated planned unit development that was granted after September 6, 2016, but which was set down for a public hearing prior to September 6, 2016. In this case, the consolidated planned unit development was set down for a public hearing on June 3, 2016, and is therefore considered a vested project under the 1958 Zoning Regulations.

4. The Applicant proposes to raze the existing building on the PUD Site to build a mixed-use building comprised of ground-floor retail use and approximately 66 residential units, including four penthouse units (“Project”). The Project will have a maximum density of 6.0 floor area ratio (“FAR”) and a maximum building height of 90 feet. The Project will include approximately 90,558 square feet of gross floor area, with approximately 83,658 square feet of gross floor area devoted to residential use (including residential amenity space) in the main building and approximately 6,900 square feet of gross floor area devoted to ground-floor use. The Project also includes approximately 4,822 square feet of gross floor area devoted to penthouse habitable space and approximately 1,364 square feet of gross floor area devoted to penthouse communal recreation space. The Project will provide 56 zoning-compliant parking spaces, three tandem parking spaces, and 12 vault parking spaces located in a two-level below-grade parking garage. Shared loading facilities will be provided for the retail and residential uses. Vehicular and loading access will both be provided from the public alley at the rear of the PUD Site.
5. The Project’s ground level is programmed with retail uses that will activate the surrounding streets and encourage the use of alternative transportation modes. The Project also includes significant public space improvements, including new lighting, trees, planting beds, bicycle racks, and sidewalk paving. The Project will provide a 10-foot setback from the east property line along the alley at the rear of the PUD Site, resulting in the ability to locate all proposed vaults for the building on private property and not in public space.
6. The Inclusionary Zoning (“IZ”) regulations, set forth in Chapter 26 of the 1958 Zoning Regulations, require the Applicant to set aside: (i) a minimum of eight percent of the Project’s residential gross floor area in the main portion of the building to households earning up to 80% of the area median income (“AMI”) (a minimum of 6,592 square feet required); and (ii) a minimum of eight percent of the penthouse habitable space to households earning up to 50% of the AMI (a minimum of 386 square feet required). The Applicant will set aside a minimum of eight percent of the residential gross floor area to IZ units, with approximately 4,610 square feet of gross floor area (four units) set aside for households earning up to 50% of the AMI and approximately 2,387 square feet of gross floor area (two units) reserved for households earning up to 80% of the AMI. The floor area devoted to units at 50% of the AMI is 2,346 square feet more than is required by the Zoning Regulations.
7. The Project was reviewed and conceptually approved by the Historic Preservation Review Board (“HPRB”), which voted 7-0-0 on April 30, 2015, to approve the Project concept and delegated final approval to staff. (*See* HPA 15-248.)
8. By report dated June 3, 2016 (Exhibit [“Ex.”] 13), the District of Columbia Office of Planning (“OP”) recommended that the application be set down for a public hearing. At its public meeting on June 13, 2016, the Commission voted to schedule a public hearing on the application.

9. The Applicant submitted a prehearing statement on June 29, 2016 (Ex. 15-15G) and a public hearing was timely scheduled for the matter. On July 22, 2016, the notice of public hearing was mailed to all owners of property located within 200 feet of the PUD Site; Advisory Neighborhood Commission (“ANC”) 6E, the ANC in which the PUD Site is located; ANC 2F, the ANC located across 9<sup>th</sup> Street from the PUD Site, and to Councilmembers Charles Allen and Jack Evans, of Ward 6 and 2, respectively. A description of the proposed development and the notice of the public hearing in this matter were published in the *DC Register* on July 29, 2016.
10. On October 4, 2016, the Applicant submitted a supplemental prehearing statement in response to comments raised by the Commission and OP at the setdown meeting. (Ex. 24-24B.) The supplemental submission included revised architectural plans and elevations and a comprehensive transportation review (“CTR”) report prepared by Gorove/Slade Associates and submitted to the District Department of Transportation (“DDOT”) on September 9, 2016.
11. On October 14, 2016, OP and DDOT each submitted a report on the application. The OP report indicated that it could not make a recommendation on the application due to concerns primarily related to whether Project’s benefits and amenities were commensurate with the flexibility being requested. (Ex. 26.) The DDOT report indicated no objection to the application with the following conditions: (i) the Applicant fund the installation and first year’s operation expenses of a new Capital Bikeshare station located within the boundaries of ANC 6E; (ii) the Applicant provide a TransitScreen in the residential lobby; (iii) the Applicant unbundle parking from leases of all units and charge market rate, defined as the average cost for parking within a quarter mile of the site on a weekday; and (iv) the Applicant provide six short-term bicycle parking spaces (three racks). (Ex. 27.)
12. On October 20, 2016, the Applicant submitted additional materials to the record, which responded to the issues raised in the OP and DDOT reports. (Ex. 29-29A.) On October 24, 2016, the Applicant submitted a motion to accept the late filing of the CTR, which was submitted to the record less than 30 days prior to the public hearing and thus inconsistent with the requirements of Subtitle Z, §§ 401.7 and 401.8 of the 2016 Zoning Regulations.<sup>2</sup>
13. At its regularly scheduled public meeting on June 7, 2016, for which notice was properly given and a quorum was present, ANC 6E voted 5-0-1 to support the application. (Ex. 28.)
14. The parties to the case were the Applicant and ANC 6E.
15. The Commission convened a public hearing on October 25, 2016, which was concluded that same evening. At the hearing, the Applicant presented three witnesses in support of

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<sup>2</sup> Although the Project is subject to the 1958 Zoning Regulations, the Office of Zoning applied the procedural requirements of the 2016 Zoning Regulations to this case.

the application: Steven Cassell on behalf of the Applicant; Phil Esocoff of Gensler, architect for the Project; and Erwin Andres of Gorove/Slade Associates, transportation consultant for the Project. Based upon their professional experience and qualifications, the Commission qualified Mr. Esocoff as an expert in architecture and Mr. Andres as an expert in transportation planning and engineering.

16. At the public hearing, the Applicant submitted a copy of its PowerPoint presentation, which included photographs of the materials that were presented at the public hearing. (Ex. 31A.) As a preliminary matter, the Commission granted the Applicant's request to accept the CTR less than 30 days prior to the public hearing.
17. Jennifer Steingasser and Joel Lawson testified on behalf of OP at the public hearing. Evelyn Israel testified on behalf of DDOT at the public hearing.
18. The record was closed at the conclusion of the hearing except to receive additional submissions from the Applicant and responses thereto by OP, DDOT, and ANC 6E.
19. On October 31, 2016, the Applicant filed a post-hearing submission, which provided the information requested by the Commission at the public hearing. (Ex. 35-35B.) The post-hearing submission included the following materials: (i) updated architectural plan and elevation sheets; (ii) confirmation of Project development data; (iii) confirmation of the Project's proposed public benefits and amenities and TDM measures; (iv) response to an email in opposition to the Project, submitted during the October 25, 2016 public hearing; and (v) draft findings of fact and conclusions of law.
20. On November 9, 2016, OP submitted a supplemental report. (Ex. 36.) The report stated that the Applicant included a request for additional penthouse relief at the hearing, and that OP had not had an opportunity to evaluate the requested relief in its hearing report. OP stated that it believed the Applicant's justification for the relief was aesthetic, and that it therefore did not support the request for the relief.
21. At the public meeting of November 14, 2016, the Commission reviewed the additional materials submitted by the Applicant. The Commission stated that it did not believe the Applicant had sufficiently justified its request for penthouse setback relief. The Commission further stated that it agreed with the position stated in OP's supplemental report that the additional affordable housing provided in the Project at the 50% of AMI level above what would be required as a matter of right is 763 square feet, not 3,027 square feet as stated by the Applicant, and with the OP recommendation regarding the language of the proposed affordable housing condition. At the meeting, the Applicant indicated that it consented to these changes. The Commission then took proposed action to approve the application. The proposed action was referred to the National Capital Planning Commission ("NCPC") on November 15, 2016, pursuant to § 492 of the Home Rule Act.
22. On November 21, 2016, the Applicant submitted supplemental penthouse plans and sections that show a revised penthouse that does not require the previously requested

setback relief, an updated affordable housing proffer, and its list of proffers and proposed conditions. (Ex. 38-38B.)

23. On December 16, 2016, the Applicant submitted its revised list of proffers and draft conditions that incorporated comments received from the Office of the Attorney General. (Ex. 39-39A.)
24. On December 22, 2016, the Applicant submitted a further revised list of proffers and draft conditions. The revised list incorporated a change suggested by ANC 6E. (Ex. 40-40A.)
25. The Executive Director of NCPC, by delegated action dated December 29, 2016, found that the Project was not inconsistent with the Comprehensive Plan for the National Capital or other federal interests. (Ex. 41.)
26. The Commission took final action to approve the Project on January 9, 2017.

### **The PUD Site and Surrounding Area**

27. The PUD Site is located at 810 O Street, N.W. (Square 399, Lot 66) and has a land area of approximately 15,093 square feet. The PUD Site is rectangular in shape and is bounded by O Street, N.W. to the north, a 10-foot public alley to the east, private property to the south, and 9<sup>th</sup> Street, N.W. to the west. The PUD Site is located within the Shaw Historic District and is improved with the Scripture Cathedral Church, a 50-foot-tall brick building constructed in 1986. The Scripture Cathedral Church does not contribute to the Historic District since its construction post-dates the period of significance (1833-1932).
28. Square 399 is improved with residential row dwellings, apartment houses, a gas station, and surface parking. The O Street Market is located across O Street to the north of the PUD Site, and a vacant District-owned property that is proposed to be privately developed with a new mixed-use residential and retail building is located across the alley to the east of the PUD Site.
29. The PUD Site is presently zoned C-2-A. The Applicant proposes to rezone the PUD Site to the C-2-B Zone District. The requested map amendment is consistent with the Comprehensive Plan's Future Land Use Map designation of the PUD Site as mixed-use: Medium-Density Commercial and Medium-Density Residential. The requested map amendment is also consistent with the Comprehensive Plan's Generalized Policy Map designation of the PUD Site as a Neighborhood Commercial Center.

### **Existing and Proposed Zoning**

30. The PUD Site is currently zoned C-2-A. The C-2-A Zone 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. (11 DCMR § 720.2.) The C-2-A

Zone 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. (11 DCMR § 720.3.) The C-2-A Zone District shall permit development to medium proportions, and shall accommodate a major portion of existing commercial strip developments. (11 DCMR §§ 720.4-720.5.) As a matter-of-right, property in the C-2-A Zone District can be developed with a maximum density of 2.5 FAR and a maximum building height of 50 feet. (11 DCMR §§ 770.1 and 771.2.)

31. The Applicant proposes to rezone the PUD Site to the C-2-B Zone District in connection with this application. The C-2-B Zone District is designed to serve commercial and residential functions similar to the C-2-A District, but with high-density residential and mixed uses. (11 DCMR § 720.6.) The C-2-B Zone District shall be compact and located on arterial streets, in uptown centers, and at rapid transit stops. (11 DCMR § 720.8.) In the C-2-B Zone District, building use may be entirely residential or a mixture of commercial and residential uses. (11 DCMR § 720.9.) The C-2-B Zone District permits a maximum height of 65 feet and 90 feet as a PUD (§§ 770.1 and 2405.1); a maximum density of 3.5 FAR and 6.0 FAR as a PUD (§§ 771.2 and 2405.2); a maximum lot occupancy of 80% (§ 772.1); a rear yard depth of 15 feet (§ 774.1); if provided, a side yard width of at least two inches per foot of height, with a minimum of six feet (§ 775.5); and a Green Area Ratio (“GAR”) of 0.3 (§ 3402.9). For off-street parking, one space is required for each three dwelling units (residential requirement); and one space is required for each additional 750 square feet of gross floor area in excess of 3,000 square feet (retail requirement) (§ 2101.1). For residential loading with more than 50 units, one berth at 55 feet, one platform at 200 square feet, and one service/delivery space at 20 feet are required. For retail loading with 5,000-20,000 square feet of gross floor area, one berth at 30 feet and one platform at 100 square feet are required.
32. Consistent with the C-2-B development parameters, the Applicant will develop the PUD Site with a mix of residential and retail uses. A tabulation of the PUD’s development data is included on Sheet A02 of the Architectural Plans and Elevations (“Plans”) dated October 4, 2016. (Ex. 24A.)

### **Description of the PUD Project**

33. The Applicant proposes to raze the existing building on the PUD Site to build a mixed-use building comprised of ground-floor retail use and approximately 66 residential units, including four penthouse units. The Project will have a maximum density of 6.0 FAR and a maximum building height of 90 feet. The Project will include approximately 90,558 square feet of gross floor area, with approximately 83,658 square feet of gross floor area devoted to residential use (including residential amenity space) in the main building and approximately 6,900 square feet of gross floor area devoted to ground floor use. The Project also includes approximately 4,822 square feet of gross floor area devoted to penthouse habitable space and approximately 1,364 square feet of gross floor area devoted to penthouse communal recreation space. The Project will provide 56 zoning-compliant parking spaces, three tandem parking spaces, and 12 vault parking spaces



located in a two-level below-grade parking garage. Shared loading facilities will be provided for the retail and residential uses. Vehicular and loading access will both be provided from the public alley at the rear of the PUD Site.

34. The Project's ground level is programmed with retail uses that will activate the surrounding streets and encourage the use of public transportation. The Project also includes significant public space improvements, including new lighting, trees, planting beds, bicycle racks, and sidewalk pavings. All proposed vaults for the building are located on private property and not in public space.
35. The Applicant will set aside a minimum of eight percent of the residential gross floor area to IZ units. Of that, approximately 4,610 square feet of gross floor area (four units) will be reserved for households earning up to 50% of the AMI and approximately 2,387 square feet of gross floor area (two units) will be reserved for households earning up to 80% of the AMI.
36. The Project is sensitive to the existing neighborhood context and responds in size, form, and in its use of materials. The building's design extends the rich masonry tradition of the Shaw Historic District as exemplified in the nearby landmark and contributing historic structures, such as the O Street Market, Catholic Church, and the Henrietta Apartment house and Bank. (Ex. 3A, Sheets A06-A08.) The base of the building along 9<sup>th</sup> Street features retail bays that are of a similar width and projection into public space as those of the historic shop fronts farther south along 9<sup>th</sup> Street and elsewhere throughout the Historic District. (Ex. 24A, Sheet A20.) The retail bays are intended to enhance the fabric of the surrounding urban environment and create an appropriate and inviting pedestrian scale and experience. Signage will be organized to reflect this rhythm and will be located in a manner that provides appropriate visibility to retail without diminishing the overall dignity and presence of the residential building above.
37. Above street level, the building's façade is articulated with projecting bays and balconies to provide the same level of sculptural plasticity that is found in the area. (Ex. 24A, Sheets A05-A08.) Brick is carefully coursed with matching mortar and V-Struck joints. This masonry technique allows the façade to have a similar quality to the tighter-jointed brickwork of historic row houses and larger historic buildings in the neighborhood like the Henrietta. (Ex. 24A, Sheets A19, A20.) Precast heads, sills, and ornamental cast stone trim include ornamental motifs that are unique to the Project in the same way that other buildings in the Historic District have done for more than a century. Window and balcony openings in the main façade are grouped into large and small groupings to create a lively and varied rhythm while reducing the scale of the overall facade. The proportions of those openings reflect similar geometric ratios in the surrounding historic buildings. This scaling technique is a long established architectural strategy employed in the Shaw Historic District and elsewhere in Washington.
38. The top residential floor is set back to provide a subtle massing transition to the smaller structure farther south but not adjoining the Project. It also allows the bowed, bay projections to assume a vertical proportion similar to those of smaller individual

apartment houses in the area. The setback also allows for an enriched and enlivened building skyline that includes a filigree, laser-cut metal pergola within the allowable height.

39. The north façade along O Street is similarly organized and architecturally developed as the 9<sup>th</sup> Street façade. This facade features the main residential entry and lobby. The entry door is set to the left of the residential lobby window. Both of these elements are set back from, and framed by, distinctive masonry elements at the base of the main façade tower projection. To the right of this tower element is the northern end of the 9<sup>th</sup> Street frontage. The north façade is crowned by an ornamental masonry tower that provides a distinguishing signature for the residential component of the building
40. The corner of the building has wrap-around balconies with an ornamental railing that provides a balance between transparency and opacity for residents to see out while maintaining an appropriate level of privacy. The geometry of the corner element is reflective of the chamfered corners of other commercial buildings in the neighborhood and just across 9<sup>th</sup> Street (Ex. 3A, Sheet A06.)
41. The penthouse is an integral part of the Project, with fenestration to support habitable uses along with required mechanical equipment. The penthouse is clad in terra cotta tiles similar in color to the other mansard roofs and pent-eaves in the neighborhood.
42. The building's south party wall has a developed façade since the future development of the adjoining parcel is undetermined. (Ex. 24A, Sheets A18, A21.) The eastern façades along the alley, are developed with bays that help direct views south, capture daylight, and provide visual privacy for the building's residents. The base of this façade is a garden that visually and acoustically screens the building's loading area and parking garage entry. The northeast wing of the building is offset 10 feet from the edge of the adjacent public alley to accommodate two-way vehicular circulation.
43. The Project will incorporate a number of sustainable and environmentally-friendly elements, such as new landscaping and street tree planting, energy and water efficient systems, construction waste management techniques, methods to reduce stormwater runoff, and bicycle parking. Based on these features, the Project will achieve LEED-Gold under the LEED-2009 for New Construction rating system, and the Applicant will certify the Project as LEED-Gold with the United States Green Building Council ("USGBC"). Moreover, the PUD Site is also located in a walkable, transit-oriented, and infill location, such that many residents, visitors, retail patrons, and employees of the Project will not need to rely on a private vehicle to access the PUD Site.

### **Zoning Flexibility**

44. The Applicant requested the following areas of flexibility from the Zoning Regulations:
45. ***Flexibility from the Loading Requirements.*** The Applicant requested flexibility from the loading requirements of 11 DCMR § 2201.1, which require the following loading

facilities: one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep (residential requirement); and one loading berth at 30 feet deep and one loading platform at 100 square feet (retail requirement). The Applicant proposed to provide one loading berth at 30 feet deep, one service/delivery space at 20 feet deep, and a total of 500 square feet devoted to loading platforms. Thus, the Applicant requests flexibility to not provide the one 55-foot loading berth, and to provide a shared loading platform.

46. The Commission finds that the requested loading flexibility is consistent with the Comprehensive Plan's recommendations to consolidate loading areas within new developments and provide shared loading spaces in mixed-use buildings. The Applicant will implement a loading management plan to ensure that conflicts between retail and residential use of the loading facilities are minimized. In addition, given the nature and size of the residential units, it is unlikely that building residents will use a tractor trailer-sized truck to move in and out of the building, and therefore the 55-foot berth is not necessary. The size and dimensions of the adjacent alley also prevent 55-foot trucks from being able to physically turn into the alley or into the building from the alley at all. Therefore, based on the above findings, as well as DDOT's assertion that the "amount of loading facilities is appropriate" (*see* DDOT Report, p. 2), the Commission supports the Applicant's request for loading flexibility in this case.
47. ***Flexibility from the Penthouse Setback Requirement.*** As shown on Sheet A19 of the Applicant's PowerPoint presentation, the Applicant requested flexibility from the penthouse setback requirement of 11 DCMR §§ 411.18 and 777.1 for a small portion of the penthouse facing O Street. (Ex. 31A.) The Commission concluded that the Applicant had not justified this relief, and the Applicant withdrew its request for this relief.

### **Development Flexibility**

48. The Applicant also requests flexibility in the following additional areas:
- a. To be able to provide a range in the number of residential units of plus or minus 10%;
  - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structure;
  - c. To vary the sustainable design features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the LEED-Gold designation;
  - d. 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, including window frames, doorways, railings, and trim; and other changes to comply with applicable District of Columbia laws and regulations that are necessary to obtain a final building permit;

- e. To be able to select among a range of grill motifs for the ornamental metal railings and the brick balcony dividers;
- f. In the retail and service areas, flexibility to vary the location and design of the ground floor components of the Project 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 retail or service use and to accommodate any specific tenant requirements; and to vary the size of the retail area; and
- g. To vary the features, means and methods of achieving (i) the code-required GAR of 0.3; and (ii) stormwater retention volume and other requirements under 21 DCMR Chapter 5 and the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control.

### **Project Benefits and Amenities**

- 49. Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a)). The Project will have a positive impact on the visual and aesthetic character of the immediate neighborhood and will thus further the goals of urban design while enhancing the streetscape. The Project includes significant new public space improvements, including new street trees, groundcover, and ornamental plantings; raised metal planters; a low wall for seating with decorative coping and LED lighting on O Street; lighting; bicycle racks; permeable paving and granite curbs; decorative stone unit pavers; and ADA-compliant curb ramps with detectable warning pavers. All proposed vaults for the building are located on private property and not in public space. Moreover, the Project's ground level is programmed with retail uses that will activate the surrounding streets. With respect to site planning and efficient and economical land utilization, the Applicant's proposal to replace the existing low-density church building with a new mixed-use, mixed-income apartment house constitutes a significant urban design benefit.
- 50. Housing and Affordable Housing (11 DCMR § 2403.9(f)). The Project will create new housing and affordable housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. The Applicant will dedicate a minimum of eight percent of the building's residential gross floor area as IZ units reserved for households earning up to 80% of the AMI. The Applicant will also dedicate a minimum of eight percent of the residential gross floor area located in the penthouse's habitable space to households earning up to 50% of the AMI. The required square footage generated by the penthouse habitable space to be devoted to IZ units at 50% of the AMI is approximately 386 square feet of gross floor area. The Applicant proposes to dedicate approximately 4,610 square feet of gross floor area to IZ units at 50% of the AMI. Therefore, the Applicant is exceeding the required square footage for IZ units at

50% of the AMI by approximately 2,346 square feet. The IZ units generated by the penthouse habitable space will be located in the main portion of the building. The proposed IZ proffer is set forth in the chart below:

	<b>GFA Required</b>	<b>Units</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type</b>	<b>Required Set-aside percentage</b>	<b>Required AMI</b>	
<b>Total Residential GFA within Main Building</b>	82,403 sf GFA (100% of building)	62	Market rate + IZ	NA	NA	NA	NA	
<b>Market Rate within Main Building</b>	75,811 sf GFA (92% of building)	56	Market rate	NA	NA	NA	NA	
<b>IZ within Main Building</b>	<u>6,592</u> sf GFA from main bldg (8% of main building)  <u>PLUS</u> <u>386</u> sf GFA from penthouse (8% of habitable space)  = <b>TOTAL IZ REQ'D:</b> 6,978 sf GFA in main bldg	5   1  = 6	80% AMI   50% AMI	For the life of the Project	For-sale	8% of residential GFA	80% AMI	
	<b>TOTAL IZ PROVIDED:</b>  80% AMI: 2,387 sf GFA  <u>PLUS</u>  50% AMI: 4,610 sf GFA <sup>3</sup>  Total: <u>6,997</u> sf GFA	  2  4  = 6	  80% AMI  50% AMI	For the life of the Project	For-sale			
	<b>Total Penthouse Habitable GFA</b>	4,822 sf habitable GFA (100% of penthouse habitable space will be market rate)	4	Market rate	NA	NA	8% of penthouse habitable space	50% AMI
	<b>IZ within Penthouse</b>	0 sf. Generates 386 sf of habitable GFA to be located in main building  (8% of penthouse habitable space)	0  Generates 1 required IZ unit located in Main Building	50% AMI	For the life of the Project	For-sale	0	NA

<sup>3</sup> Providing 2,346 square feet at 50% AMI more than is required by the Zoning Regulations.

	GFA Required	Units	Income Type	Affordable Control Period	Affordable Unit Type	Required Set-aside percentage	Required AMI
<b>Total</b>	87,225 sf GFA <i>includes penthouse habitable space</i>	66	Market rate + IZ	All IZ units: for the life of the Project	For-sale	8% residential GFA in main building and penthouse	80% (main building) 50% (penthouse)

51. Environmental Benefits (11 DCMR § 2403.9(h)). The Applicant will ensure environmental sustainability through the implementation of a variety of sustainable design features, including strategies to further enhance the already sustainable nature of the PUD Site’s mixed-use, transit-rich location, and to promote a healthy lifestyle that will holistically benefit Project residents while minimizing impact on the environment. The Project provides a host of environmental benefits consistent with recommendations of 11 DCMR§ 2403.9(h), which include street tree planting, landscaping, energy and water efficient systems, construction waste management techniques, methods to reduce stormwater runoff, and ample bicycle parking. Moreover, the Project will be designed to achieve LEED-Gold under the LEED-2009 for New Construction rating system, and the Applicant will certify the Project as LEED-Gold with the United States Green Building Council (“USGBC”).
  
52. Employment Benefits (11 DCMR § 403.9(j)). The Applicant will submit to the Department of Consumer and Regulatory Affairs (“DCRA”) a First Source Employment Agreement executed by the Applicant, consistent with the First Source Employment Agreement Act of 1984.
  
53. Transportation Benefits (11 DCMR §2403.9(c)). The Project includes a number of elements designed to promote effective and safe vehicular and pedestrian movement, transportation management measures, and connections to public transportation services. The Project provides 56 zoning-compliant parking spaces (plus 12 vault spaces and three tandem spaces), all located in the below-grade parking garage, which is an adequate amount given the PUD Site’s highly walkable location. To promote pedestrian travel, the Applicant will improve the streetscape surrounding the PUD Site and will incorporate new pedestrian-oriented lighting and street furnishings. To promote bicycle travel, the Applicant will provide secure, indoor bicycle parking and will work with DDOT to install bicycle racks in the public space adjacent to the PUD Site. The Applicant will also provide funding to DDOT for the installation and first year’s operation expenses of a new Capital Bikeshare station located within the boundaries of ANC 6E and in a mutually acceptable location to the Applicant and DDOT.
  
54. The Applicant will implement the following transportation demand management (“TDM”) strategies to reduce travel demand:
  - a. Provide bicycle parking facilities for at least 23 long-term bicycles (secure, interior) and at least six short-term bicycles (exterior);

- b. Identify TDM leaders for planning, construction, and operations of the PUD. The TDM leaders will work with residents and employees of the building to distribute materials and market various transportation alternatives and options;
- c. Provide TDM materials to new residents in the Residential Welcome Package;
- d. Provide a bicycle repair station in the bicycle storage room;
- e. Provide a bicycle cleaning facility in the bicycle storage room;
- f. Provide a cargo bicycle for use by residents of the building for purposes of running errands;
- g. Install a TransitScreen in the residential lobby area;
- h. If any units within the PUD are rental units, unbundle the cost of the associated parking space from the cost of the residential lease; and
- i. For the first year following Certificate of Occupancy for the building, offer each unit's incoming residents a one-year membership to Capital Bikeshare.

55. Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(i)). The Applicant will make the following contributions:

- a. Contribute \$20,000 to Bread for the City to support its feeding program and provide monthly grocery bags for seniors and low-income families. Bread for the City provides vulnerable District residents with comprehensive services, including food, clothing, medical care, and legal and social services, in an atmosphere of dignity and respect. Bread for the City promotes the mutual collaboration of clients, volunteers, donors, staff, and other community partners to alleviate the suffering caused by poverty and to rectify the conditions that perpetuate it;
- b. Contribute \$15,000 to New Endeavors by Women to support its programs providing women and families with supportive services and transitional housing. New Endeavors by Women is a program located in the same ANC Single Member District (6E03) as the PUD Site. The program is intended to transform lives by providing housing, fostering the development of life skills, and promoting education and employment to end the cycle of homelessness.
- c. Contribute \$15,000 to Emmaus Services for the Aging for 20 iPads to support the workforce development program for seniors age 55 and over. Emmaus Services is a social justice, not-for-profit organization that provides educational, nutritional, advocacy services, and social programs to older adults (55+) in Washington, DC.

Emmaus' mission is to help seniors remain active, respected, independent and vital members of their community;

- d. Contribute \$15,000 to the Family Life Center Foundation ("FLCF") to support its Champion for Children anti-human trafficking awareness program. FLCF is a not-for-profit public charity that benefits the under-served by strengthening and nurturing them regardless of age, race, socioeconomic status, culture, or background. FLCF has a variety of diverse community outreach programs for persons living under the shadows of violence, substance abuse, and other pathological conditions;
  - e. Contribute \$15,000 to DC Artspace for materials, framing, staffing, and other costs for its after-school youth arts program, in association with the Touchstone Foundation. DC ArtSpace was created as an artistic extension of the New Community Church, serving the Shaw and surrounding neighborhoods with art programs, workshops, and seminars. ArtSpace provides an affordable avenue for artists of all ages and walks of life to express themselves, share skills, create economic opportunities, and find common ground through art while adding significant value to the renewal of the Shaw neighborhood;
  - f. Contribute \$15,000 to Banneker City Little League ("BCLL") for equipment for the T-ball league, including but not limited to bats, baseballs, helmets, gloves, pitching machines, pop-up nets, tees, batting cages. BCLL was founded to help children learn healthy competition, sportsmanship, work ethic, teamwork, and conditioning fundamentals and provide a progressive continuum of that education in a healthy, safe and encouraging culture. The T-ball league is for children ages four through six;
  - g. Contribute \$15,000 to Friends of Kennedy Playground, Inc. for uniforms for its youth basketball and football teams; and
  - h. Contribute \$15,000 to Shaw Main Streets for training and employing ex-offenders to maintain public space along 7<sup>th</sup> and 9<sup>th</sup> Streets, N.W. as part of the Shaw Clean + Safe Team program. The Clean + Safe Team collects trash, abates graffiti, plants and waters tree boxes, and serves as 'eyes and ears' on the street seven days per week. Ex-offenders in the program receive comprehensive training and are paid a living wage.
56. In addition, the Applicant will expend up to \$500,394 to install the streetscape improvements on 9<sup>th</sup> and O Streets, N.W., as shown on Sheet L01 of the Plans and subject to DDOT approval. The \$500,943 figure exceeds DDOT's minimum requirements by approximately \$255,000 and includes undergrounding of some utilities.
57. The Applicant will install two 240-volt electric car charging stations in the below-grade parking garage.



**Comprehensive Plan**

58. The Commission finds that the PUD advances the purposes of the Comprehensive Plan, is consistent with the Future Land Use Map and Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan. The PUD significantly advances these purposes by promoting the social, physical, and economic development of the District through the provision of a high-quality residential development with ground-floor retail on the PUD Site, without generating any adverse impacts. The Project will create new neighborhood-serving retail opportunities to meet the demand for basic goods and services, and will promote the vitality, diversity, and economic development of the surrounding area.
59. The District of Columbia Comprehensive Plan Future Land Use Map designates the PUD as mixed-use: Medium-Density Commercial and Medium-Density Residential.
60. The Medium-Density Commercial 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 in 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. (10A DCMR § 225.10.)
61. The Medium-Density Residential designation is used to define neighborhoods or areas where mid-rise (four-seven stories) apartment buildings are the predominant use. Pockets of low- and moderate-density housing may exist within these areas. The Medium-Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone Districts are generally consistent with the Medium-Density designation, although other zones may apply. (10A DCMR § 225.5.)
62. The Applicant's proposal to rezone the PUD Site from the C-2-A District to the C-2-B District in order to construct the mixed-use Project with significant new housing, affordable housing, and neighborhood-serving retail is consistent with the Comprehensive Plan's designation of the PUD Site, particularly given the fact that the C-2-B Zone District is specifically identified as a corresponding zone district in the Medium- Density Commercial category.
63. The District of Columbia Comprehensive Plan Generalized Policy Map designates the PUD Site in the Neighborhood Commercial Center category. Neighborhood Commercial Centers are intended to meet the day-to-day needs of residents and workers in the adjacent neighborhoods. Their service area is usually less than one mile. Typical uses include convenience stores, sundries, small food markets, supermarkets, branch banks, restaurants, and basic services such as dry cleaners, hair cutting, and child care. Office space for small businesses, such as local real estate and insurance offices, doctors and dentists, and similar uses, also may be found in such locations. (10A DCMR § 223.15.)

64. The Commission finds that the proposed rezoning and PUD redevelopment of the PUD Site is consistent with the policies indicated in the Neighborhood Commercial Center category, since the Project will provide community-serving retail that will meet the day-to-day needs of residents and workers in the proposed building.
65. The Commission finds that the PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as discussed in the findings below.
66. ***Managing Growth and Change.*** In order to manage growth and change in the District, the Comprehensive Plan encourages, among other factors, the growth of both residential and non-residential uses. The Comprehensive Plan also states that redevelopment and infill opportunities along corridors are an important part of reinvigorating and enhancing neighborhoods. The Commission finds that the Project is fully consistent with each of these goals. Redeveloping the PUD Site as a vibrant mixed-use building with residential and retail uses will further the revitalization of the surrounding neighborhood. The proposed retail spaces will create new jobs for District residents, further increase the city's tax base, and help reinvigorate the existing neighborhood fabric.
67. ***Creating Successful Neighborhoods.*** One of the guiding principles for creating successful neighborhoods is getting public input in decisions about land use and development from development of the Comprehensive Plan to implementation of the plan's elements. The Project furthers this goal, since as part of the PUD process the Applicant worked closely with ANC 6E to ensure that the Project has a positive impact on the immediate neighborhood and to develop public benefits and amenities that are specifically needed and requested by the community.
68. ***Building Green and Healthy Communities.*** A major objective for building green and healthy communities is that building construction and renovation should minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. As discussed above, the Project will include a substantial number of sustainable design features and will achieve LEED-Gold certification.
69. The Commission also finds that the PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements, as set forth in the Applicant's Statement in Support and in the OP setdown and hearing reports. (Ex. 3, 13, 26.)

### **Office of Planning Reports**

70. On June 3, 2016, OP submitted a report recommending setdown of the application. (Ex. 13.) The OP report stated that the Project is not inconsistent with the Comprehensive Plan Future Land Use and Policy Maps and written elements, and that the "requested C-2-B zone, eight stories and 6.0 FAR are well within even the by-right parameters of the

medium density commercial category noted in § 225 of the Comprehensive Plan's Citywide Element.” (Ex. 13, p. 3.) The OP report also noted that the Project would be “not inconsistent with written elements of the Comprehensive Plan,” and that “the Guiding Principles, and the Land Use, Transportation, Housing, Environmental, Urban Design and the Near Northwest Area Elements include policies and recommended actions with which the proposal is congruent.” (*Id.* at pp. 3-4.)

71. On October 14, 2016, OP submitted a second report (Ex. 26), which stated that OP could not yet make a recommendation on the application due to the following outstanding concerns: (i) whether the Project's benefits and amenities are commensurate with the flexibility requested; (ii) whether the Applicant properly identified which transportation and public space-related items are required TDM or mitigation measures and which are proffered public benefits; and (iii) whether the Applicant provided consistent numbers regarding square footages, units, and parking spaces for the Project. (Ex. 26, p. 11.) The OP report restated that the Project is “not inconsistent with the Comprehensive Plan's Future Land Use Map designation for medium-density residential and medium-density commercial uses; with the Policy Map; and with written elements.” (Ex. 26, p. 3.) The OP report also noted that the Applicant had addressed a number of issues since the setdown meeting, including identifying “additional benefits, amenities, and proffers and add[ing] detail to better substantiate what had previously been listed.” (Ex. 26, p. 7.)
72. On October 20, 2016, the Applicant submitted materials responding to the OP hearing report and also provided further testimony regarding the proffered public benefits at the public hearing. (Ex. 29-29A.) The Applicant reiterated that the Comprehensive Plan designates the PUD Site mixed-use, medium-density commercial and medium-density residential, and that the existing C-2-A Zone District on the PUD Site is a low- to moderate-density commercial designation, which is a lower designation than medium-density designation. Thus, the Commission finds that the proposed Zoning Map amendment from the C-2-A Zone District to the C-2-B Zone District (which is the lowest zone district within the medium density commercial designation), will bring the PUD Site's zoning into alignment with the Comprehensive Plan.
73. Moreover, the Commission finds that when evaluating a PUD and Zoning Map amendment application, the Commission compares the zone districts that are consistent with the Comprehensive Plan designation for what the subject site should be, to the zone districts that are consistent with the Comprehensive Plan designation for what the Site is proposed to be. (See D.C. Code §§ 6-641.01 et seq.) The range of zone districts that are consistent with the medium density designation ranges from C-2-B to C-3-B. (See 10A DCMR § 225.10.) Thus, the Commission finds that in this case the PUD Site should be zoned C-2-B based upon the PUD Site's medium-density designation, and the Applicant's proposal to develop the PUD Site in accordance with the C-2-B PUD standards is directly consistent with the Comprehensive Plan designation for the PUD Site.
74. Furthermore, pursuant to 11 DCMR § 2403.8, in deciding a PUD application, the Commission is required to “judge, balance, and reconcile the relative value of the project

amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” In this case, the Applicant has provided substantial project amenities and public benefits, which are commensurate to the degree of development incentives requested. At the public hearing, the Applicant also agreed to additional public benefits, including: (i) certifying the project as LEED-Gold with the USGBC (approximately \$100,000 proffer); (ii) removing the previously proposed \$80,000 cap on the contribution for the installation and one year’s maintenance of a new Capital Bikeshare station; and (iii) increasing the affordable housing proffer. In response to OP’s hearing report, the Applicant also asserted that given that no parking relief is being requested in this case, all of the proposed TDM measures should be credited as public benefits for the project.

75. Therefore, based on the analysis above and the additional public benefits proffered by the Applicant, the Commission concludes that the public benefits and project amenities are adequately balanced with the degree of development incentives requested, as required by 11 DCMR § 2403.8.
76. On November 9, 2016, OP submitted a supplemental report. (Ex. 36). The report stated that the Applicant has included a request for additional penthouse relief at the hearing, and that OP had not had an opportunity to evaluate the requested relief in its hearing report. OP stated that it believed the Applicant’s justification for the relief was aesthetic, and that it therefore did not support the request for the relief. The report further stated noted two issues with the Applicant’s affordable housing calculations. The Applicant subsequently modified its affordable housing proffer.

### **DDOT Report**

77. On October 14, 2016, DDOT submitted a report indicating that it had no objection to the application with the following conditions: (i) the Applicant fund the installation and first year’s operation expenses of a new Capital Bikeshare station located within the boundaries of ANC 6E; (ii) the Applicant provide a TransitScreen in the residential lobby; (iii) the Applicant unbundle parking from leases of all units and charge market rate, defined as the average cost for parking within a quarter mile of the site on a weekday; and (iv) the Applicant provide six short-term bicycle parking spaces (three racks). (Ex. 27.) At the public hearing, the Applicant agreed to all of DDOT’s conditions, but noted that the units in the Project would be for-sale condominiums, and thus the condition related to unbundling the cost of parking from leases was inapplicable.

### **ANC Report**

78. By letter dated September 22, 2016, ANC 6E noted that at its duly noticed, regularly scheduled meeting of June 7, 2016, at which a quorum of Commissioners and the public were present, ANC 6E voted 5-0-1 to support the application. (Ex. 28.) The ANC letter listed the public benefits and amenities proposed for the Project, and asserted that “no objections to supporting the application were raised by the public prior to or at the Commission’s meeting.” (Ex. 28, p. 2.)

**Post-Hearing Submissions**

79. On October 31, 2016, the Applicant submitted a post-hearing submission, which included the following materials and information requested by the Commission at the public hearing: (i) updated architectural drawing sheets; (ii) confirmation of Project numbers; (iii) confirmation of the Project's proposed benefits and amenities and TDM measures; (iv) a response to an email in opposition to the Project, submitted during the October 25, 2016 public hearing; and (v) draft findings of fact and conclusions of law. (Ex. 35-35B.)
80. On November 21, 2016, the Applicant submitted supplemental penthouse plans and sections that show a revised penthouse that does not required the previously requested setback relief, an updated affordable housing proffer, and its list of proffers and proposed conditions. (Ex. 38-38B.)
81. On December 16, 2016, the Applicant submitted its revised list of proffers and draft conditions that incorporated comments received from the Office of the Attorney General. (Ex. 39-39A.)
82. On December 22, 2016, the Applicant submitted a further revised list of proffers and draft conditions. The revised list incorporated a change suggested by ANC 6E. (Ex. 40-40A.)

**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, density, lot occupancy, parking and 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.
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, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The mixed uses for the 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.
5. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
6. The applications 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 consistent with the Comprehensive Plan. Moreover, the Project's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Approval of the PUD is appropriate because the Project is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the Project 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 § 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 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and testimony at the public hearing and finds its recommendation to grant the applications persuasive.
10. The Commission 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. The Commission carefully considered the ANC 6E's recommendation for approval and concurs in its recommendation.
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. (2007 Repl.)).

### 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 applications for consolidated review and approval of a planned unit development and related Zoning Map amendment from the C-2-A Zone District to the C-2-B Zone District for property located at 810 O Street, N.W. (Square 399, Lot 66). The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

**A. Project Development**

1. The Project shall be developed in accordance with the Architectural Plans and Elevations dated October 4, 2016 (Ex. 24A) as modified by the supplemental architectural drawings submitted on October 31, 2016 (Ex. 35A), and as further modified by the additional supplemental architectural drawings submitted on November 21, 2016 (Ex. 38A) (together, the “Plans”), and as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the Plans, the Project shall be a mixed-use building with approximately 90,558 square feet of gross floor area (6.0 FAR) and a maximum building height of 90 feet. Approximately 83,658 square feet of gross floor area shall be devoted to residential use in the main building (62 units), plus 4,822 square feet of gross floor area devoted to residential use in the penthouse (four units), for a total of 66 residential units, plus or minus 10%. In addition, approximately 6,900 square feet of gross floor area shall be devoted to ground-floor retail use. The Project shall provide a minimum of 56 zoning-compliant parking spaces.
3. The Applicant is granted flexibility from the loading requirements of 11 DCMR § 2201.1, consistent with the approved Plans and as discussed in the Development Incentives and Flexibility section of this Order.
4. The Applicant shall also have flexibility with the design of the PUD in the following areas:
  - a. To be able to provide a range in the number of residential units of plus or minus 10%;
  - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structure;
  - c. To vary the sustainable design features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the LEED-Gold designation;
  - d. 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, including window frames, doorways, railings, and trim; and other changes to comply with applicable District of Columbia laws and regulations that are necessary to obtain a final building permit;

- e. To be able to select among a range of grill motifs for the ornamental metal railings and the brick balcony dividers;
- f. In the retail and service areas, flexibility to vary the location and design of the ground floor components of the Project 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 retail or service use and to accommodate any specific tenant requirements; and to vary the size of the retail area; and
- g. To vary the features, means and methods of achieving (i) the code-required GAR of 0.3; and (ii) stormwater retention volume and other requirements under 21 DCMR Chapter 5 and the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control.

## B. Public Benefits

1. **Prior to issuance of a Certificate of Occupancy and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator the following:
  - a. **For the life of the Project,** the Applicant shall:
    - (i) Provide a total of approximately 82,403 square feet (“sq. ft.”) of residential Gross Floor Area (“GFA”) of housing;
    - (ii) Set aside no less than eight percent of the residential GFA, equaling not less than 6,997 sq. ft. as inclusionary units pursuant to 11-C DCMR Chapter 10;
    - (iii) Set aside no less than four units (66% of the inclusionary units) comprising at least 4,610 sq. ft. of GFA as inclusionary units for households earning equal to or less than 50% of the MFI (“50% MFI Units”); and
    - (iv) Set aside no less than two units (33% of the inclusionary units) comprising at least 2,387 sq. ft. of GFA as inclusionary units for households earning equal to or less than 80% of the MFI (“80% MFI Units”);
  - b. **For the life of the Project,** the 50% MFI Units shall include a one-bedroom unit with 1,101 sq. ft. of GFA, a one-bedroom unit with 1,156 sq. ft. of GFA, and a three-bedroom with 1,156 sq. ft. of GFA; and the 80% MFI Units shall include a one-bedroom unit with 1,190 sq. ft. of GFA;



c. The distribution of the affordable housing units shall be in accordance with Sheet A1 of the Plans submitted on November 21, 2016, marked as Exhibit 38A of the record, and in accordance with the following chart; and

	GFA Required	Units	Income Type	Affordable Control Period	Affordable Unit Type	Required Set-aside percentage	Required AMI
<b>Total Residential GFA within Main Building</b>	82,403 sf GFA (100% of building)	62	Market rate + IZ	NA	NA	NA	NA
<b>Market Rate within Main Building</b>	75,811 sf GFA (92% of building)	56	Market rate	NA	NA	NA	NA
<b>IZ within Main Building</b>	6,592_sf GFA from main bldg (8% of main building)  <u>PLUS</u> 386 sf GFA from penthouse (8% of habitable space)  = <b>TOTAL IZ REQ'D:</b> 6,978 sf GFA in main bldg	5  1  = 6	80% AMI  50% AMI	For the life of the Project	For-sale	8% of residential GFA	80% AMI
	<b>TOTAL IZ PROVIDED:</b> 80% AMI: 2,387 sf GFA  <u>PLUS</u> 50% AMI: 4,610 sf GFA  Total: 6,997 sf GFA	2  4  = 6	80% AMI  50% AMI	For the life of the Project	For-sale		
<b>Total Penthouse Habitable GFA</b>	4,822 sf habitable GFA (100% of penthouse habitable space will be market rate)	4	Market rate	NA	NA	8% of penthouse habitable space	50% AMI
<b>IZ within Penthouse</b>	0 sf. Generates 386 sf of habitable GFA to be located in main building (314 sf net habitable) (8% of penthouse habitable space)	0  Generates 1 required IZ unit located in Main Building	50% AMI	For the life of the Project	For-sale	0	NA

	GFA Required	Units	Income Type	Affordable Control Period	Affordable Unit Type	Required Set-aside percentage	Required AMI
<b>Total</b>	87,225 sf GFA (71,106 net) <i>includes penthouse habitable space</i>	66	Market rate + IZ	All IZ units: for the life of the Project	For-sale	8% residential GFA in main building and penthouse	80% (main building) 50% (penthouse)

- d. The Inclusionary Zoning Covenant required by D.C. Official Code §§6-1041.05(A)(2)(2012 Repl.) shall include a provision or provisions requiring compliance with all the terms of this condition.
2. **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has:
    - a. Incorporated street tree planting, landscaping, energy and water efficient systems, construction waste management techniques, stormwater management features, and bicycle parking, consistent with Sheets L01-L04, C0.01-C7.02, and G.01 of the Plans (Ex. 24A); and
    - b. Registered the Project with the USGBC to commence the LEED certification process under the USGBC’s LEED-2009 for New Construction rating system. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall also furnish a copy of its LEED certification application submitted to the USGBC to the Zoning Administrator. The application shall indicate that the building has been designed to include at least the minimum number of points necessary to achieve LEED-Gold certification under the USGBC’s LEED for New Construction v2009 standards.
  3. **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has:
    - a. Provided funding to DDOT for the installation and first year’s operation expenses of a new Capital Bikeshare station, to be located within the boundaries of ANC 6E and in a mutually acceptable location to the Applicant and DDOT. The fee for the installation and first year’s operation costs shall be determined at the time of issuance of a Certificate of Occupancy for the Project;
    - b. Installed a minimum of 56 zoning-complaint parking spaces and three tandem spaces in the below-grade parking garage; and
    - c. Applied to DDOT for approval of the installation of 12 vault spaces adjacent to the PUD Site.

4. **Prior to issuance of a Building Permit**, the Applicant shall demonstrate to the Zoning Administrator that it has executed and submitted a First Source Employment Agreement to DOES, consistent with the First Source Employment Agreement Act of 1984.
5. **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has done the following:
  - a. Contributed \$20,000 to Bread for the City to support its feeding program and provide monthly grocery bags for seniors and low-income families, and provide proof to the Zoning Administrator that the feeding program services are being provided and the grocery bags have been purchased;
  - b. Contributed \$15,000 to New Endeavors by Women to support its programs providing women and families with supportive services and transitional housing at 611 N Street, N.W.;
  - c. Contributed \$15,000 to Emmaus Services for the Aging for 20 iPads to support the workforce development program for seniors age 55 and over, and provide proof to the Zoning Administrator that the iPads have been purchased;
  - d. Contributed \$15,000 to FLCF to support its Champion for Children anti-human trafficking awareness program, and provide proof to the Zoning Administrator that the contribution is being used to further development and activities within the Champion for Children program;
  - e. Contributed \$15,000 to DC Artspace for materials, framing, staffing, and other costs for its after-school youth arts program, and provide proof to the Zoning Administrator that materials have been purchased and that the contribution is being provided to staff and generally improve the youth arts program;
  - f. Contributed \$15,000 to BCLL for equipment for the T-ball league, including but not limited to bats, baseballs, helmets, gloves, pitching machines, pop-up nets, tees, batting cages, and provide proof to the Zoning Administrator that the equipment has been purchased;
  - g. Contributed \$15,000 to Friends of Kennedy Playground, Inc. for uniforms for its youth basketball and football teams, and provide proof to the Zoning Administrator that the uniforms have been purchased;
  - h. Contributed \$15,000 to Shaw Main Streets for training and employing ex-offenders to maintain public space along 7<sup>th</sup> and 9<sup>th</sup> Streets, N.W. as part of the Shaw Clean + Safe Team program, and provide proof to the Zoning

Administrator that the contribution is being provided to train and employ ex-offenders; and

- i. Expended up to \$500,394 to install the streetscape improvements on 9<sup>th</sup> and O Streets, N.W., as shown on Sheet L01 of the Plans, subject to DDOT approval, and provide proof to the Zoning Administrator that the improvements have been installed.
6. **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has installed two 240-volt electric car charging stations in the below-grade parking garage.
  7. **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has undertaken the following actions with respect to implementation of the TDM plan:
    - a. Installed bicycle parking facilities for at least 23 long-term bicycles (secure, interior) and at least six short-term bicycles (exterior), as shown on Sheets A14 and L01 of the Plans;
    - b. Identified TDM leaders for planning, construction, and operations of the PUD. The TDM leaders shall work with residents and employees of the building to distribute materials and market various transportation alternatives and options;
    - c. Prepared TDM materials to distribute to new residents in the Residential Welcome Package;
    - d. Installed a bicycle repair station in the bicycle storage room;
    - e. Installed a bicycle cleaning facility in the bicycle storage room;
    - f. Purchased a cargo bicycle for use by residents of the building;
    - g. Installed a TransitScreen in the residential lobby area; and
    - h. If any units within the PUD are rental units, unbundle the cost of the associated parking space from the cost of the residential lease.
  8. **For the first year of operation of the Project**, the Applicant shall offer each unit's incoming residents a one-year membership to Capital Bikeshare.
  9. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall develop the public space improvements on O and 9<sup>th</sup> Streets in accordance with Sheet L01 of the Plans, and shall include new street trees, groundcover, and ornamental plantings; raised metal planters; a low wall for seating with decorative coping and

LED lighting on O Street; lighting; bicycle racks; permeable paving and granite curbs; decorative stone unit pavers; and ADA-compliant curb ramps with detectable warning pavers.

**C. Miscellaneous**

1. No building permit shall be issued 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, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the PUD Site 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 PUD shall be valid for a period of two years from the effective date of Z.C. Order No. 16-07. Within such time, an application must be filed for a building permit, with construction to commence within three years of the effective date of this Order.
3. 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 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 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.
4. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

On November 14, 2016, upon the motion of Vice Chairman Miller, as seconded by Chairman Hood, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** 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; Third Mayoral Appointee position vacant, not voting).

On January 9, 2017, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** 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; Peter Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on March 10, 2017.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

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