

District of Columbia

REGISTER

HIGHLIGHTS

- Office of the Deputy Mayor for Planning and Economic Development extends the submission deadline for the FY18 Neighborhood Prosperity Fund
- Public Service Commission proposes reliability and safety standards and requirements for natural gas utility and service providers operating in the District
- Department of Small and Local Business Development announces funding availability for the 2018 Ward 8 Equitable Food Incubator Grant and the 2018 Ward 8 Grocery Grant
- Office of Tax and Revenue updates income filing requirements to allow taxpayers to file electronically
- District Department of Transportation, Office of Public-Private Partnerships, and the Office of the Chief Technology Officer announce availability of a Master License Agreement for parties interested in installing small cell facilities within the District

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 *et seq.* (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-501 *et seq.* (2012 Repl.).

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MAYOR

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ADMINISTRATOR

CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. ACTS

A22-270 Office of Employee Appeals Hearing Examiner
Classification Amendment Act of 2018 [B22-552].....002368 - 002369

A22-271 Public Employee Relations Board Term Limit
Amendment Act of 2018 [B22-553]002370 - 002371

A22-272 Extension of Time to Dispose of 8th & O Streets, N.W.,
Temporary Amendment Act of 2018 [B22-652].....002372 - 002373

A22-273 Pools Without Penalties Emergency Act of 2018 [B22-695].....002374 - 002376

RESOLUTIONS

Res 22-431 Commission on Health Equity Maranda C. Ward
Appointment Resolution of 2018 002377

Res 22-432 Other Post-Employment Benefits Fund Advisory
Committee Barbara Davis Blum Appointment
Resolution of 2018 002378

BILLS INTRODUCED AND PROPOSED RESOLUTIONS

Notice of Intent to Act on New Legislation -
Bills B22-714, B22-731, B22-737 through B22-743 and
Proposed Resolutions PR22-759, PR22-761 through PR22-767,
and PR22-769 through PR22-772, and PR22-796.....002379 - 002382

COUNCIL HEARINGS

Notice of Public Hearings -
Agency Performance Oversight Hearings, Fiscal Year
2017-2018 (Abbreviated), 3/6/2018.....002383 - 002391

B22-0454 Farmer's Market Meter Fee Cap Amendment
Act of 2017 002392

Fiscal Year 2019 Proposed Budget and Financial Plan,
Fiscal Year 2019 Budget Support Act of 2018,
Fiscal Year 2019 Local Budget Act of 2018,
Fiscal Year 2019 Federal Budget Act of 2018,
and Committee Mark-up Schedule, 3/6/2018.....002393 - 002400

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

COUNCIL HEARINGS CONT'D

Notice of Public Oversight Hearing -

FY17-FY18 Performance of:
 Department of Employment Services,
 Workforce Investment Council, and
 Deputy Mayor for Greater Economic Opportunity
 (Abbreviated)..... 002401

OTHER COUNCIL ACTIONS

Consideration of Temporary Legislation -

B22-707 Board of Elections Domicile Requirement
 Temporary Amendment Act of 2018..... 002402

B22-734 Preservation of Recorded Meetings Temporary
 Amendment Act of 2018 002402

B22-736 Mental Health Information Disclosure Temporary
 Amendment Act of 2018 002402

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

Alcoholic Beverage Regulation Administration -

Class A Renewals for March 9, 2018.....002403 - 002408

Duke’s Grocery - ANC 2B - Change of Hours 002409

Punjab Grill - ANC 2C - New 002410

Suns Cinema - ANC 1D - Substantial Change..... 002411

The Mediterranean Way Gourmet Market - ANC 2B - Class Change..... 002412

Historic Preservation Review Board -

Historic Landmark and Historic District Designations - Cases -

18-09 St. Paul’s Methodist Episcopal Church South,
 150 S Street NW002413 - 002415

18-11 Langston Golf Course Historic District,
 2600 Benning Road NE.....002413 - 002415

16-19 Kingman Park Historic District,
 All properties within East Capitol Street,
 19th Street Maryland Avenue and M Street NE
 and the Anacostia River.....002413 - 002415

Mayor’s Agent for Historic Preservation -

Historic Landmark and Historic District
 Protection Act - H.P.A. 17-615 - Washington
 International School - April 6, 2018 002416

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PUBLIC HEARINGS CONT'D

Zoning Adjustment, Board of - April 18, 2018 - Public Hearings

19728	Patrick and Becky McGeehan - ANC 6A	002417 - 002419
19733	Terrace Manor Redevelopment LP - ANC 8E	002417 - 002419
19734	Angel Donchev - ANC 1A	002417 - 002419
19735	Mi Casa, Inc. - ANC 8A.....	002417 - 002419
19736	Mi Casa, Inc. - ANC 8A.....	002417 - 002419

Zoning Adjustment, Board of - April 25, 2018 - Public Hearings

19732	FocusWorks, LLC - ANC 8C.....	002420 - 002422
19737	Fulcrum Properties Group, LLC - ANC 6B	002420 - 002422

Zoning Commission - Cases -

17-27	Spring Flats MD, LLC	002423 - 002425
18-02	MR 1700 Columbia Retail, LLC	002426 - 002432

FINAL RULEMAKING

Health, Department of - Amend 17 DCMR

(Business, Occupations, and Professionals), Ch. 46 (Medicine), to delete and replace Sec. 4603 (Applicants Educated in Foreign Countries), to update the post-graduate clinical training requirements for doctors educated in foreign countries	002433 - 002434
---	-----------------

Health Care Finance, Department of -

Amend 29 DCMR (Public Welfare), Ch. 9 (Medicaid Program), Sec. 950 (Payment for Reserved Beds), and Ch. 41 (Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities), to update Sections 4101, 4102, 4103, 4105, 4107, and 4199 and add Sec. 4117 (Payment for Reserved Beds), to update the reimbursement methodology for Intermediate Care Facilities for Individuals with Intellectual Disabilities	002435 - 002463
--	-----------------

Tax and Revenue, Office of - Amend 9 DCMR

(Taxation and Assessments), Ch. 3 (Real Property Taxes), Sec. 330 (Income and Expense Reporting by Owners of Income-Producing Property), and Sec. 332 (Time Limits for Filing Forms), to update income filing requirements to allow taxpayers to file electronically or file by paper.....	002464 - 002466
---	-----------------

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING

Health, Department of - Amend 17 DCMR (Business, Occupations, and Professionals), Ch. 49 (Physician Assistants), Sec. 4906 (Continuing Education Requirements), to require LGBTQ training for physician assistants 002467 - 002469

Human Resources, Department of - Amend 6 DCMR (Personnel), Subtitle B (Government Personnel), Ch. 11 (Classification and Compensation), Sec. 1141 (Retained Rates) and Sec. 1199 (Definitions), to update the regulations regarding retained rates 002470 - 002471

Lottery and Charitable Games, Office of - Amend 30 DCMR (Lottery and Charitable Games), Ch. 9 (Description of On-Line Games), and Ch. 99 (Definitions), to implement The Lucky One® on-line game.....002472 - 002476

Public Service Commission - RM3-2018-01 to Amend 15 DCMR (Public Utilities and Cable Television), Ch. 3 (Consumer Rights and Responsibilities), Sec. 301 (Energy Meter Locations) and Sec. 399 (Definitions), to establish customer responsibilities for the installation or relocation of energy meters 002477 - 002482

Public Service Commission - RM37 and F.C. No. 977 to Amend 15 DCMR (Public Utilities and Cable Television), Ch. 37 (Natural Gas Quality of Service Standards and Reliability Performance), Sections 3700 - 3798, and Sec. 3799 (Definitions), to establish reliability and safety standards and requirements for natural gas utility and service providers operating in the District; Second Proposed Rulemaking to incorporate changes from First Proposed Rulemaking published on August 11, 2017 at 64 DCR 7960.....002483 - 002507

NOTICES, OPINIONS, AND ORDERS

MAYOR’S ORDERS

2018-027 Designation of Special Event Areas – Marion Barry Commemorative Statue Dedication002508 - 002509

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS CONT'D

MAYOR'S ORDERS CONT'D

2018-028 Designation of Special Event Areas –
Marion Barry Commemorative
Statue Dedication002510 - 002511

2018-029 Appointment – Interim Chancellor,
District of Columbia Public Schools
(Amanda Alexander)..... 002512

NOTICES, OPINIONS, AND ORDERS CONT'D

BOARDS, COMMISSIONS, AND AGENCIES

Achievement Prep Public Charter School -
Request for Proposals - SY18-19 Facilities
Management Services 002513

Alcoholic Beverage Regulation Administration -
ABC Board's Calendar - March 14, 2018002514 - 002515
ABC Board's Cancellation Agenda - March 14, 2018 002516
ABC Board's Investigative Agenda - March 14, 2018.....002517 - 002518
ABC Board's Licensing Agenda - March 14, 2018..... 002519

City Arts and Prep Public Charter School -
Request for Proposals - Public Relations Editor 002520

Education, Office of the State Superintendent of -
District of Columbia Public Charter School Credit
Enhancement Committee Meeting - March 15, 2018 002521

Elections, Board of -
Certification of Filling ANC/SMD Vacancy in 8B03 -
Charles H. Wilson 002522

Health, Department of -
Board of Occupational Therapy - 2018 Meeting Schedule 002523

KIPP DC Public Charter Schools -
Request for Proposals -
Landscaping 002524
Interior Renovations 002524
Locker Room Conversion Project 002524

LAYC Career Academy Public Charter School -
Request for Proposals - Accounting and Financial
Management Services002525 - 002526

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

**NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D**

Planning and Economic Development, Office of the Deputy Mayor for -
 Notice of Funding Availability - FY18 Neighborhood
 Prosperity Fund (NPF) - Extension Date: March 16, 2018..... 002527

Notice of Public Meeting - Surplus Resolution
 Pursuant to D.C. Official Code § 10-801 -
 1100 Alabama Ave., SE - March 28, 2018 002528

Public Employee Relations Board - See Page 002614

Retirement Board, DC -
 Notice of Investment Committee Meeting -
 March 15, 2018 002529

Notice of Open Public Meeting - March 15, 2018 002530

Small and Local Business Development, Department of -
 Notice of Funding Availability -
 2018 Ward 8 Equitable Food Incubator Grant002531 - 002532
 2018 Ward 8 Grocery Grant.....002533 - 002534

Transportation, District Department of / Public-Private Partnerships,
 Office of / Chief Technology Officer, Office of the -
 Notice of Availability of Master License Agreement
 for Use of Public Right of Way for Small Cell Facilities
 in the District of Columbia..... 002535

Washington Global Public Charter School -
 Request for Proposals - Spanish Instruction Services 002536

Water and Sewer Authority, DC -
 Finance and Budget Committee Meeting - March 22, 2018 002537

Zoning Adjustment, Board of - Cases -
 19452 D.C. Department of General Services -
 ANC 5B - Order.....002538 - 002580
 19665 District Properties.Com, Inc. - ANC 8D - Order002581 - 002583
 19668 Manley Science and Technology Center -
 ANC 7E - Order.....002584 - 002586
 19695 LHO Washington Hotel Three, LLC - ANC 2B -
 Order002587 - 002589

Zoning Commission - Case -
 17-08 Providence Place I LP - Order002590 - 002613

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

**NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D**

Public Employee Relations Board - Certification -

163	PERB Case Nos. 16-UM-01 & 16-UC-01, American Federation of Government Employees Local 631, v. District of Columbia Water and Sewer Authority.....	002614 - 002615
-----	--	-----------------

Public Employee Relations Board - Opinion -

1648	PERB Case Nos. 16-UM-01 & 16-UC-01, American Federation of Government Employees Local 631, v. District of Columbia Water and Sewer Authority.....	002616 - 002624
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ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-270

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 28, 2018

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to require that hearing examiners employed by the Office of Employee Appeals be licensed to practice law in the District and to classify hearing examiners within the Office of Employee Appeals as attorneys within the Legal Service.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Office of Employee Appeals Hearing Examiner Classification Amendment Act of 2018”.

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 601 (D.C. Official Code § 1-606.01) is amended by adding a new subsection (m) to read as follows:

“(m) Hearing examiners employed by the Office of Employee Appeals shall be licensed to practice law in the District of Columbia.”.

(b) Section 851(2) (D.C. Official Code § 1-608.51(2)), is amended to read as follows:

“(2) “Attorney” means:

“(A) Any position which is classified as part of Series 905, except for any position that is occupied by a person whose duties, in whole or in substantial part, consist of hearing cases as an administrative law judge or as an administrative hearing officer; and

“(B) Notwithstanding subparagraph (A) of this paragraph, a hearing examiner employed by the Office of Employee Appeals.”.

Sec. 3. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

ENROLLED ORIGINAL

(c)(1) The Budget Director shall cause the notice of certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
February 28, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-271

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 28, 2018

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to increase the number of consecutive terms a member may serve on the Public Employee Relations Board from 2 terms to 3 terms and to provide that serving the remainder of another member’s term does not count toward the term limit.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Public Employee Relations Board Term Limit Amendment Act of 2018”.

Sec. 2. Section 501(h) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-605.01(h)), is amended by striking the phrase “two (2) consecutive terms.” and inserting the phrase “3 consecutive terms; provided, that a term to fill the remainder of an unexpired term left vacant due to the removal, resignation, or death of a member shall not count toward this limit.” in its place.

Sec. 3. Fiscal impact statement.


The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

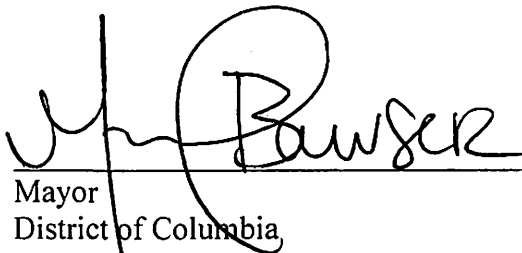
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule

ENROLLED ORIGINAL

Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 28, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-272

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 28, 2018

To amend, on a temporary basis, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to extend the time in which the Mayor may dispose of certain District-owned real property located at 1336 8th Street, N.W., known for tax and assessment purposes as Lot 68 in Square 399.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Extension of Time to Dispose of 8th & O Streets, N.W., Temporary Amendment Act of 2018”.

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (d-7) to read as follows:

“(d-7) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of District-owned real property located at 1336 8th Street, N.W., and known for tax and assessment purposes as Lot 68 in Square 399, for a mixed-use development providing for affordable housing, residential and market-rate housing, and retail, and any ancillary uses allowed under applicable law, pursuant to the 8th & O Streets, N.W., Disposition Approval Resolution of 2016, effective February 2, 2016 (Res. 21-374; 63 DCR 1498), is extended to February 2, 2020.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

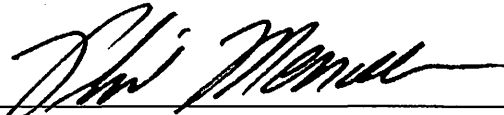
Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

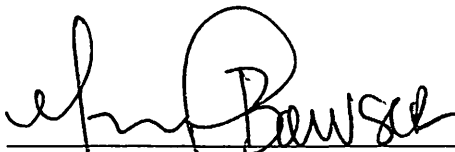
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' December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.12(a)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 28, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-273

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 3, 2018

To establish, on an emergency basis, standards governing the presence of lifeguards at semi-public swimming pools, to exempt an operator of a semi-public swimming pool from the requirement to provide shower facilities, toilet facilities, eye wash stations, and dressing rooms, where use of the semi-public swimming pool is restricted to use by residents and guests, and the semi-public swimming pool is located within 300 feet of a dwelling unit, and to exempt cooperatives, condominiums, and apartment buildings operating semi-public swimming pools from requirements to provide a pool operator, water quality and safety logs, new construction of, or alterations to, a semi-public swimming pool beyond those required by the Americans with Disabilities Act and 28 C.F.R Part 36, Subpart D, a fence around rooftop swimming pools, or a safety line.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Pools Without Penalties Emergency Act of 2018”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Bather” means any person using a swimming pool or spa pool and adjoining deck area for the purpose of water sports, recreation therapy, or related activities.

(2) “Class C, semi-public swimming pool” or “swimming pool” means any swimming pool operated solely for and in conjunction with lodgings such as hotels, motels, cooperatives, apartments, and condominiums.

(3) “Diving board” means a recreational mechanism for entering a swimming pool, consisting of a semi-rigid board that derives its elasticity through the use of a fulcrum mounted below the board.

(4) “Lifeguard” means a person having the qualifications of and possessing current American Red Cross, Young Men's Christian Association, or other Lifeguard Certifications, current First Aid Certificates, and current cardiopulmonary resuscitation (which includes adult, child, and infant) certificates issued by nationally recognized aquatic training organizations, such as the International Lifeguard Training Program, that are adopted and recognized by the Department of Health, and who is responsible for the safety of the users of a swimming pool or spa pool.

ENROLLED ORIGINAL

(5) “Sauna” means an aquatic feature including but not limited to the application of water vapor from hot water facilities such as Jacuzzis, hot tubs, and steam baths.

(6) “Spa pool” means a structure intended for either warm or cold water where prolonged exposure is not intended. Spa structures are intended to be used for bathing or other recreational uses and are not usually drained and refilled after each use. It may include, but is not limited to, hydrotherapy, air induction bubbles, and recirculation.

Sec. 3. Lifeguards.

(a) Except as provided in subsection (b) of this section, a lifeguard shall not be required for a Class C, semi-public swimming pool that is:

(1) Open for use only to persons who hold membership or other paid association in the facility where the swimming pool is located;

(2) Open for use only to persons who are permanent or temporary residents or guests of residents at the facility where the swimming pool is located;

(3) Open for use to persons who are lodging for a fee at the facility where the swimming pool is located; or

(4) A spa pool or sauna.

(b) A lifeguard shall be required for a swimming pool that has:

(1) A diving board;

(2) A depth of at least 5 feet; provided, that the swimming pool is constructed after June 30, 2018; and

(3) An expected bather population of 50 % or more children under 15 years of age.

Sec. 4. Facilities.

An operator of a Class C, semi-public swimming pool shall not be required to provide shower facilities, toilet facilities, eye wash stations, and dressing rooms for swimming pool users where:

(1) Use of the swimming pool is restricted to residents and guests; and

(2) The farthest dwelling unit in the hotel, motel, cooperative, condominium, or apartment building is less than 300 feet from the swimming pool area, as measured along walkways provided for access by residents and guests to the swimming pool area.

Sec. 5. Operations.

A cooperative, condominium, or apartment building operating a Class C, semi-public swimming pool shall not be required to provide:

(1) A swimming pool operator pursuant to section 300.1 of Title 25-C of the District of Columbia Municipal Regulations (25-C DCMR § 300.1);

(2) The information required pursuant to section 412 of Title 25-C of the District of Columbia Municipal Regulations (25-C DCMR § 412 *et seq.*);

ENROLLED ORIGINAL

(3) New construction of, or alterations to, a swimming pool beyond those required by the Americans with Disabilities Act, approved July 26, 1990 (104 Stat. 327; 42 U.S.C. § 12101 *et seq.*), and 28 C.F.R Part 36, Subpart D;

(4) A fence around a rooftop swimming pool; or

(5) A safety line pursuant to section 505.4 of Title 25-C of the District of Columbia Municipal Regulations (25-C DCMR § 505.4).

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia

~~UNSIGNED~~

Mayor
District of Columbia

March 2, 2018

ENROLLED ORIGINAL

A RESOLUTION

22-431

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 6, 2018

To appoint Ms. Maranda C. Ward to the Commission on Health Equity.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Commission on Health Equity Maranda C. Ward Appointment Resolution of 2018”.

Sec. 2. The Council of the District of Columbia appoints:

Ms. Maranda C. Ward
2821 O Street, S.E.
Washington, D.C. 20020
(Ward 7)

as the nonvoting community advisory member from Ward 7 of the Commission on Health Equity, pursuant to section 5043(c)(1)(B) of the Commission on Health Equity Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 7-756.01(c)(1)(B)).

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, to the chairperson of the Commission on Health Equity, and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

22-432

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 6, 2018

To appoint Ms. Barbara Davis Blum to the Other Post-Employment Benefits Fund Advisory Committee.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Other Post-Employment Benefits Fund Advisory Committee Barbara Davis Blum Appointment Resolution of 2018”.

Sec. 2. The Council of the District of Columbia appoints:

Ms. Barbara Davis Blum
2231 Bancroft Place, N.W.
Apt. 3A
Washington, D.C. 20008
(Ward 2)

as a member of the Other Post-Employment Benefits Fund Advisory Committee, pursuant to section 2152(a)(1) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective December 17, 2014 (D.C. Law 20-151; D.C. Official Code § 1-621.52(a)(1)), to serve a term ending 5 years after the effective date of this resolution.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, to the Other Post-Employment Benefits Fund Advisory Committee, and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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

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

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

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

- | | |
|---------|---|
| B22-714 | Bump Stock Prohibition Amendment Act of 2018

Intro. 2-28-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety |
| <hr/> | |
| B22-731 | DC Skills Academy Program Establishment Act of 2018

Intro. 2-20-18 by Councilmember T. White and referred sequentially to the Committee on Labor and Workforce Development and the Committee of the Whole |
| <hr/> | |
| B22-737 | Commission on the Arts and Humanities Dedicated Funding Amendment Act of 2018

Intro. 3-6-18 by Councilmembers Evans, Cheh, R. White, Grosso, Nadeau, and Todd and referred to the Committee on Finance and Revenue |
| <hr/> | |
| B22-738 | Office of Special Capital Projects Establishment Act of 2018

Intro. 3-6-18 by Councilmember Cheh and referred sequentially to the Committee on Transportation and the Environment and the Committee of the Whole with comments from the Committee on Education |
-

- B22-739 TOPA Bankruptcy Tenant Displacement Prevention Amendment Act of 2018
Intro. 3-6-18 by Councilmembers Bonds, Silverman, Allen, Nadeau, and
Chairman Mendelson and referred to the Committee on Housing and
Neighborhood Revitalization
-
- B22-740 Electronic Proof of Automobile Insurance Amendment Act of 2018
Intro. 3-6-18 by Councilmember Nadeau and referred sequentially to the
Committee on Judiciary and Public Safety and the Committee on
Transportation and the Environment
-
- B22-741 Comprehensive Boards and Commissions Review Amendment Act of 2018
Intro. 3-6-18 by Councilmember Todd and referred to the Committee of the
Whole
-
- B22-742 Mental Health Information Disclosure Amendment Act of 2018
Intro. 3-6-18 by Councilmembers Gray, Grosso, Evans, Bonds, Todd, Nadeau,
and Chairman Mendelson and referred to the Committee on Health
-
- B22-743 Preservation of Electronic Recordings of Meetings Amendment Act of 2018
Intro. 3-6-18 by Councilmembers Gray, R. White, Evans, Grosso, and
Chairman Mendelson and referred sequentially to the Committee on Health and
the Committee on Judiciary and Public Safety
-

PROPOSED RESOLUTIONS

- PR22-759 District of Columbia Corrections Information Council Governing Board
Katharine Aiken Huffman Reappointment Resolution of 2018
Intro. 2-20-18 by Chairman Mendelson and referred to the Committee of the
Whole
-
- PR22-761 Commission on Fathers, Men, and Boys Dr. Tamara A. Henry Confirmation
Resolution of 2018
Intro. 2-15-18 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Government Operations
-

- PR22-762 Commission on Fathers, Men, and Boys Dr. Amber A. Hewitt Confirmation Resolution of 2018
Intro. 2-15-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
-
- PR22-763 Board of Social Work Kimberly Washington Confirmation Resolution of 2018
Intro. 2-22-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR22-764 Board of Social Work Danielle Nelson Confirmation Resolution of 2018
Intro. 2-22-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR22-765 Board of Nursing Monica Goletiani Confirmation Resolution of 2018
Intro. 2-22-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR22-766 Board of Massage Therapy Tanika Simmons Confirmation Resolution of 2018
Intro. 2-22-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR22-767 Board of Podiatry Teresa Hilliard Confirmation Resolution of 2018
Intro. 2-22-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR22-769 Citizen Review Panel Patrick M. Foley Appointment Resolution of 2018
Intro. 2-27-18 by Chairman Mendelson and referred to the Committee of the Whole
-

- PR22-770 Citizen Review Panel Shana N. Bartley Appointment Resolution of 2018
Intro. 2-27-18 by Chairman Mendelson and referred to the Committee of the Whole
-
- PR22-771 Citizen Review Panel Sarah Schooler Appointment Resolution of 2018
Intro. 2-27-18 by Chairman Mendelson and referred to the Committee of the Whole
-
- PR22-772 Medical Marijuana Facility Registration Dates and Fees Rulemaking Approval Resolution of 2018
Intro. 2-27-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
-
- PR22-796 Sense of the Council Virginia and Maryland Assault Rifle Prohibition Resolution of 2018
Intro. 3-6-18 by Councilmembers Todd, Gray, Grosso, Evans, Cheh, Allen, Nadeau, R. White, and Bonds and referred to the Committee on Judiciary and Public Safety
-

**COUNCIL OF THE DISTRICT OF COLUMBIA
 ABBREVIATED NOTICE OF PUBLIC HEARINGS
 AGENCY PERFORMANCE OVERSIGHT HEARINGS
 FISCAL YEAR 2017-2018**

3/6/2018

SUMMARY

February 5, 2018	Committee of the Whole Public Briefing on the Fiscal Year 2017 Comprehensive Annual Financial Report (CAFR) at 1:30 p.m. in Room 500
February 7, 2018 to March 9, 2018	Agency Performance Oversight Hearings on Fiscal Year 2017-2018

Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to the committee at which you are testifying. If a written statement cannot be provided prior to the day of the hearing, please have at least 10 copies of your written statement available on the day of the hearing for immediate distribution to the Council. Unless otherwise stated by the Committee, the hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's budget performance oversight hearing schedule, please contact the committee of interest.

ADDENDUM OF CHANGES TO THE PUBLIC HEARING SCHEDULE

<u>New Date</u>	<u>Original Date</u>	<u>Hearing</u>
2/26/2018	2/28/2018	Real Property Tax Appeals Commission (Finance & Revenue - Room 120; 10:00a.m.)
2/26/2018	2/26/2018	Department of Behavioral Health (Joint Hearing with Committee on Health and Committee on the Judiciary and Public Safety - Room 500; 10:00a.m.)
2/27/2018	2/27/2018	Committee on Transportation & the Environment (Time change from 11:00a.m. to 2:30p.m.; Room 123)
2/27/2018	2/27/2018	University of the District of Columbia (Time change from 10:00a.m. to 2:00p.m. - COW; Room 412)
2/28/2018	2/26/2018	Destination DC (Finance & Revenue - Room 412; 10:00a.m.)
3/2/2018	2/13/2018	Recovering Department of Small and Local Business Development (Business & Economic Development - Room 123; 9:00a.m.)
3/2/2018	3/1/2018	Deputy Mayor for Planning and Economic Development (Business & Economic Development - Room 123; 9:00a.m.)
3/5/2018	3/2/2018	Recovering Department of Small and Local Business Development (Business & Economic Development - Room 123; 11:00a.m.)
3/6/2018	2/26/2018	Department of Housing & Community Development & Housing Production Trust Fund - Public Witnesses Only (Housing & Neighborhood Revitalization - Room 500; 2:00p.m.)
3/8/2018	2/28/2018	Metropolitan Washington Airports Authority (COW - Room 500; 9:45a.m.)
3/8/2018	2/8/2018	DC Board of Elections & Office of Campaign Finance (Judiciary - Room 123; 9:30a.m.)
N/A	3/9/2018	Committee on Labor & Workforce Development (Room 500; 10:00a.m.)

PUBLIC HEARING SCHEDULE

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

MONDAY, FEBRUARY 5, 2018; COUNCIL CHAMBER (Room 500)	
Time	Subject
1:30 p.m. - End	Committee of the Whole Public Briefing on the Fiscal Year 2017 Comprehensive Annual Financial Report (CAFR)

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

THURSDAY, FEBRUARY 8, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
9:30 a.m. - End	Commission on Judicial Disabilities and Tenure
	Office of Unified Communications
	Office of Victim Services and Justice Grants
	District of Columbia Board of Ethics and Government Accountability
	District of Columbia Board of Elections
	Office of Campaign Finance

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HEALTH

Chairperson Vincent Gray

MONDAY, FEBRUARY 12, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:30 a.m. - End	Department of Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

MONDAY, FEBRUARY 12, 2018; Room 412	
Time	Agency
10:00 a.m. - End	District of Columbia Office on Aging
	Commission on Aging
	Age Friendly DC Task Force

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

MONDAY, FEBRUARY 12, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Office of Employee Appeals
	Public Employees Relations Board
	Office of Risk Management

Persons wishing to testify about the performance of any of the foregoing agencies may contact: labor@dccouncil.us or by calling 202-724-7772.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Chairperson Kenyan McDuffie

TUESDAY, FEBRUARY 13, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
1:00 p.m. - End	Department of Small and Local Business Development
	Department of Insurance, Securities and Banking
	Department of For-Hire Vehicles
	For-Hire Vehicle Advisory Council

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE OF GOVERNMENT OPERATIONS

Chairperson Brandon Todd

TUESDAY, FEBRUARY 13, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Office of Public-Private Partnerships

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON EDUCATION **Chairperson David Grosso**

TUESDAY, FEBRUARY 13, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Education
	District of Columbia Public Charter School Board

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

WEDNESDAY, FEBRUARY 14, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Disability Services
	Office of Disability Rights

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

THURSDAY, FEBRUARY 15, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Department of Energy and the Environment

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

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

THURSDAY, FEBRUARY 15, 2018; Room 412	
Time	Agency
9:30 a.m. - End	Judicial Nomination Commission
	Criminal Justice Coordinating Council
	Department of Corrections
	Corrections Information Council
	District of Columbia National Guard
	Criminal Code Reform Commission

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON EDUCATION **Chairperson David Grosso**

THURSDAY, FEBRUARY 15, 2018; Room 120	
Time	Agency
10:00 a.m. - End	State Board of Education
	Office of the Ombudsman
	Office of the Student Advocate
	Bullying Prevention Task Force

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

TUESDAY, FEBRUARY 20, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
1:00 p.m. - End	Department of General Services

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

COMMITTEE ON FINANCE & REVENUE **Chairperson Jack Evans**

WEDNESDAY, FEBRUARY 21, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
12:00 p.m. - End	Washington Metropolitan Area Transit Authority

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

COMMITTEE ON EDUCATION **Chairperson David Grosso**

WEDNESDAY, FEBRUARY 21, 2018; Room 412	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON HUMAN SERVICES

Chairperson **Brianne Nadeau**

WEDNESDAY, FEBRUARY 21, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Child and Family Services Agency
	Department of Youth Rehabilitation Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson **Anita Bonds**

WEDNESDAY, FEBRUARY 21, 2018; Room 120	
Time	Agency
11:00 a.m. - End	Mayor's Office of Returning Citizen Affairs
	Commission on Re-Entry and Returning Citizen Affairs
	District of Columbia Housing Authority
	Office of the Advisory Neighborhood Commissions

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson **Elissa Silverman**

THURSDAY, FEBRUARY 22, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Office of Labor Relations and Collective Bargaining
	Department of Human Resources

Persons wishing to testify about the performance of any of the foregoing agencies may contact: labor@dccouncil.us or by calling 202-724-8835.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson **Charles Allen**

THURSDAY, FEBRUARY 22, 2018; Room 412	
Time	Agency
9:30 a.m. - End	Deputy Mayor for Public Safety and Justice
	Office of Neighborhood Safety and Engagement
	Office of Police Complaints
	District of Columbia Sentencing Commission
	Office of Human Rights
	Homeland Security and Emergency Management Agency

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON EDUCATION

Chairperson **David Grosso**

THURSDAY, FEBRUARY 22, 2018; Room 123	
Time	Agency
10:00 a.m. - End	District of Columbia Public Library

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson **Brandon Todd**

THURSDAY, FEBRUARY 22, 2018; Room 120	
Time	Agency
10:00 a.m. - End	Office of Administrative Hearings
	Office of the Inspector General
	Public Access Corporation

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON HEALTH

Chairperson **Vincent Gray**

FRIDAY, FEBRUARY 23, 2018; Room 412	
Time	Agency
10:00 a.m. - End	District of Columbia Health Benefit Exchange Authority
	Department of Health Care Finance

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

JOINT HEARING WITH COMMITTEE ON HEALTH AND COMMITTEE ON JUDICIARY AND PUBLIC SAFETY

Chairperson **Vincent Gray**
Chairperson **Charles Allen**

MONDAY, FEBRUARY 26, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Behavioral Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

MONDAY, FEBRUARY 26, 2018; Room 120	
Time	Agency
10:00 a.m. - End	Events DC
	Real Property Tax Appeals Commission
	Commission on the Arts and Humanities

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

COMMITTEE ON EDUCATION

Chairperson David Grosso

TUESDAY, FEBRUARY 27, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Office of the State Superintendent

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

TUESDAY, FEBRUARY 27, 2018; Room 412	
Time	Agency
2:00 p.m. - End	University of the District of Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

TUESDAY, FEBRUARY 27, 2018; Room 123	
Time	Agency
2:30 p.m. - End	Bicycle Advisory Council
	Pedestrian Advisory Council
	District Department of Transportation

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

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Chairperson Kenyan McDuffie

TUESDAY, FEBRUARY 27, 2018; Room 120	
Time	Agency
11:00 a.m. - End	Public Service Commission
	Office of the People's Counsel
	Office of Cable Television, Film, Music and Entertainment
	Alcoholic Beverage Regulation Administration

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

WEDNESDAY, FEBRUARY 28, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Metropolitan Washington Council of Governments
	Office of Zoning
	Office of Planning

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

WEDNESDAY, FEBRUARY 28, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Office of the Chief Financial Officer
	DC Lottery
	Destination DC

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

COMMITTEE ON EDUCATION

Chairperson David Grosso

THURSDAY, MARCH 1, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Government Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

THURSDAY, MARCH 1, 2018; Room 120	
Time	Agency
9:30 a.m. - End	Metropolitan Police Department
	Fire and Emergency Medical Services Department
	Office of the Attorney General
	Department of Forensic Sciences
	Office of the Chief Medical Examiner

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

FRIDAY, MARCH 2, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Food Policy Council
	DC Water
	Washington Aqueduct

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

COMMITTEE OF GOVERNMENT OPERATIONS

Chairperson Brandon Todd

FRIDAY, MARCH 2, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Office of Chief Technology Officer
	Secretary of the District of the Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

FRIDAY, MARCH 2, 2018; Room 120	
Time	Agency
11:00 a.m. - End	Rental Housing Commission
	Board of Condemnation of Insanitary Buildings
	Board of Real Estate Appraisers
	Real Estate Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON HEALTH

Chairperson Vincent Gray

MONDAY, MARCH 5, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Health and Human Services
	Not-For-Profit Hospital Corporation
	Not-For-Profit Hospital Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

MONDAY, MARCH 5, 2018; Room 412	
Time	Agency
11:00 a.m. - End	Department of Parks and Recreation

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

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Chairperson Kenyan McDuffie

MONDAY, MARCH 5, 2018; Room 123	
Time	Agency
11:00 a.m. - End	Department of Small and Local Business Development Deputy Mayor for Planning and Economic Development

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

TUESDAY, MARCH 6, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
2:00 p.m. - 6:00 p.m.	Department of Housing and Community Development (Public Witnesses Only) Housing Production Trust Fund (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

WEDNESDAY, MARCH 7, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Employment Services (Public Witnesses Only) Workforce Investment Council (Public Witnesses Only) Deputy Mayor for Greater Economic Opportunity (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: labor@dccouncil.us or by calling 202-724-8835.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Brandon Todd

WEDNESDAY, MARCH 7, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Executive Office of the Mayor Office of the City Administrator Office of the Senior Advisor Mayor's Office of Legal Counsel Serve DC

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

WEDNESDAY, MARCH 7, 2018; Room 123	
Time	Agency
11:00 a.m. - End	Housing Finance Agency Department of Housing and Community Development (Government Witnesses Only) Housing Production Trust Fund (Government Witnesses Only) Office of the Tenant Advocate

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

WEDNESDAY, MARCH 7, 2018; Room 120	
Time	Agency
10:00 a.m. - End	District of Columbia Auditor New Columbia Statehood Commission Contract Appeals Board Office of Contracting and Procurement District Retiree Health Contribution District of Columbia Retirement Board/Funds

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

THURSDAY, MARCH 8, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
9:45 a.m. - 5:00 p.m.	Metropolitan Washington Airports Authority
	Office of Budget and Planning
	Department of Consumer and Regulatory Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

**JOINT HEARING WITH COMMITTEE ON HUMAN SERVICES AND
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION**

**Chairperson Brianne Nadeau
Chairperson Anita Bonds**

THURSDAY, MARCH 8, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Department of Human Services
	Interagency Council on Homelessness

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

THURSDAY, MARCH 8, 2018; Room 123	
Time	Agency
9:30 a.m. - 1:00 p.m.	District of Columbia Board of Elections
	Office of Campaign Finance

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

THURSDAY, MARCH 8, 2018; Room 120	
Time	Agency
11:00 a.m. - End	Department of Motor Vehicles
	Department of Public Works

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

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Brandon Todd

FRIDAY, MARCH 9, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Office on Women's Policy and Initiatives
	Office of African American Affairs
	Office of African Affairs
	Office of Asian and Pacific Islander Affairs
	Office of Latino Affairs
	Office of Gay, Lesbian, Bisexual, Transgender & Questioning Affairs
	Office of Religious Affairs
Office of Veterans' Affairs	

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

NOTICE OF PUBLIC HEARING ON

B22-0454 - Farmer's Market Meter Fee Cap Amendment Act of 2017

Monday, April 9, 2018 at 10:00AM
in Room 412 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, DC 20004

On Monday, April 9, 2018, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B22-0454, Farmer's Market Meter Fee Cap Amendment Act of 2017. The hearing will occur concurrently with the Committee's Budget Oversight Hearing for District Department of Transportation (DDOT).

B22-0454 would set a daily limit on the amount a farmer's market is required to pay in parking meter fees to the DDOT.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, Staff Assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring eight copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Benjamin at the following address: Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. Statements may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on April 23, 2018.

**COUNCIL OF THE DISTRICT OF COLUMBIA
 NOTICE OF PUBLIC HEARINGS
 FISCAL YEAR 2019 PROPOSED BUDGET AND FINANCIAL PLAN,
 FISCAL YEAR 2019 BUDGET SUPPORT ACT OF 2018,
 FISCAL YEAR 2019 LOCAL BUDGET ACT OF 2018
 FISCAL YEAR 2019 FEDERAL BUDGET ACT OF 2018, AND
 COMMITTEE MARK-UP SCHEDULE**

3/6/2018

SUMMARY

March 21, 2018	Mayor Transmits the Fiscal Year 2019 Proposed Budget and Financial Plan
March 23, 2018	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2019 Proposed Budget and Financial Plan
March 26, 2018 to April 26, 2018	Committee Public Hearings on the "Fiscal Year 2019 Local Budget Act of 2018." (The Committees may also simultaneously receive testimony on the sections of the Fiscal Year 2019 Budget Support Act that affect the agencies under each Committee's purview)
April 27, 2018	Committee of the Whole Public Hearing on the "Fiscal Year 2019 Local Budget Act of 2018", "Fiscal Year 2019 Federal Budget Act of 2018" and "Fiscal Year 2019 Budget Support Act of 2018."
May 2-4, 2018	Committee Mark-ups and Reporting on Agency Budgets for Fiscal Year 2019
May 8, 2018	Budget Work Session 10:00 a.m.
May 15, 2018	Committee of the Whole and Council consideration of the "Fiscal Year 2019 Local Budget Act of 2018", "Fiscal Year 2019 Federal Portion Budget Request Act of 2018" and the "Fiscal Year 2019 Budget Support Act of 2018"
May 29, 2018	Council consideration of the "Fiscal Year 2019 Local Budget Act of 2018" and the "Fiscal Year 2019 Federal Portion Budget Request Act of 2018"

The Council of the District of Columbia hereby gives notice of its intention to hold public hearings on the FY 2019 Proposed Budget and Financial Plan, the "Fiscal Year 2019 Local Budget Act of 2018", "Fiscal Year 2019 Federal Portion Budget Request Act of 2018" and the "Fiscal Year 2019 Budget Support Act of 2018". The hearings will begin Monday, March 26, 2018 and conclude on Thursday, April 26, 2018 and will take place in the Council Chamber (Room 500), Room 412, Room 120, or Room 123 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

The Committee mark-ups will begin Wednesday, May 2, 2018 and conclude on Friday, May 4, 2018 and will take place in the Council Chamber (Room 500) of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to the corresponding committee office. If a written statement cannot be provided prior to the day of the hearing, please have at least 15 copies of your written statement available on the day of the hearing for immediate distribution to the Council. The hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's budget oversight hearings and mark-up schedule please contact the committee of interest.

PUBLIC HEARING SCHEDULE

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

FRIDAY, MARCH 23, 2018; COUNCIL CHAMBER (Room 500)	
Time	Subject
10:00 a.m. - End	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2019 Proposed Budget and Financial Plan

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

MONDAY, MARCH 26, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:30 a.m. - End	Metropolitan Washington Council of Governments
	Office of Zoning
	Office of Planning

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dcccouncil.us or by calling 202-724-8196.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

MONDAY, MARCH 26, 2018; Room 412	
Time	Agency
11:00 a.m. - End	Department of General Services

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

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

TUESDAY, MARCH 27, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Council of the District of Columbia
	District of Columbia Auditor
	New Columbia Statehood Commission
	Contract Appeals Board
	Office of Contracting and Procurement
	District of Columbia Retirement Board/Funds
	District Retiree Health Contribution

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dcccouncil.us or by calling 202-724-8196.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

TUESDAY, MARCH 27, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Health and Human Services
	Not-For-Profit Hospital Corporation
	Not-For-Profit Hospital Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dcccouncil.us) or by calling 202-654-6179.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

TUESDAY, MARCH 27, 2018; Room 123	
Time	Agency
11:00 a.m. - End	Department of Energy and the Environment

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

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

WEDNESDAY, MARCH 28, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Disability Services
	Office of Disability Rights

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dcccouncil.us or by calling 202-724-8170.

COMMITTEE ON EDUCATION **Chairperson David Grosso**

WEDNESDAY, MARCH 28, 2018; Room 412	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairman Brandon Todd

WEDNESDAY, MARCH 28, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Office of Asian and Pacific Islander Affairs
	Office of Latino Affairs
	Office of Veterans' Affairs
	Office of African American Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

WEDNESDAY, MARCH 28, 2018; Room 120	
Time	Agency
10:00 a.m. - End	University of the District of Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

THURSDAY, MARCH 29, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
9:30 a.m. - End	Deputy Mayor for Public Safety and Justice
	Office of Neighborhood Safety and Engagement
	Metropolitan Police Department
	Criminal Justice Coordinating Council
	Office of Police Complaints

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

THURSDAY, MARCH 29, 2018; Room 412	
Time	Agency
11:00 a.m. - End	District of Columbia Housing Authority
	Mayor's Office on Returning Citizen Affairs
	Office of the Advisory Neighborhood Commissions

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON EDUCATION

Chairperson David Grosso

THURSDAY, MARCH 29, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Education
	District of Columbia Public Charter School Board

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

THURSDAY, MARCH 29, 2018; Room 120	
Time	Agency
9:30 a.m. - 5:00 p.m.	Office of Budget and Planning
	Department of Consumer and Regulatory Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON HEALTH

Chairperson Vincent Gray

MONDAY, APRIL 9, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mccameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

MONDAY, APRIL 9, 2018; Room 412	
Time	Agency
10:00 a.m. - End	District Department of Transportation

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

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

WEDNESDAY, APRIL 11, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Events DC
	Destination DC
	Commission on the Arts and Humanities

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

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Chairperson Kenyan McDuffie

WEDNESDAY, APRIL 11, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Department of Small and Local Business Development
	Department of Insurance, Securities and Banking
	Department of For-Hire Vehicles

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

WEDNESDAY, APRIL 11, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Office of Labor Relations and Collective Bargaining
	Department of Human Resources
	Office of Risk Management

Persons wishing to testify about the performance of any of the foregoing agencies may contact: labor@dccouncil.us or by calling 202-724-7772.

COMMITTEE ON EDUCATION

Chairperson David Grosso

WEDNESDAY, APRIL 11, 2018; Room 120	
Time	Agency
10:00 a.m. - End	State Board of Education
	Office of the Ombudsman
	Office of the Student Advocate

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON HUMAN SERVICES

Chairperson Brianne Nadeau

THURSDAY, APRIL 12, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Human Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

THURSDAY, APRIL 12, 2017; Room 412	
Time	Agency
9:30 a.m. - End	Fire and Emergency Medical Services Department
	Office of Unified Communications
	Homeland Security and Emergency Management Agency

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

THURSDAY, APRIL 12, 2018; Room 123	
Time	Agency
11:00 a.m. - End	Department of Motor Vehicles
	Department of Parks and Recreation

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

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

FRIDAY, APRIL 13, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Department of Housing and Community Development (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

FRIDAY, APRIL 13, 2018; Room 123	
Time	Agency
10:30 a.m. - 5:00 p.m.	Office of the Attorney General
	Office of Victim Services and Justice Grants
	Board Ethics and Government Accountability
	District of Columbia Board of Elections
	Office of Campaign Finance

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairman Brandon Todd

FRIDAY, APRIL 13, 2018; Room 120	
Time	Agency
10:00 a.m. - End	Office of Administrative Hearings
	Office of the Inspector General

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

TUESDAY, APRIL 17, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
1:30 p.m. - End	Department of Housing and Community Development (Government Witnesses Only)
	Housing Production Trust Fund
	Housing Finance Agency

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

WEDNESDAY, APRIL 18, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Employment Services (Public Witnesses Only)
	Workforce Investment Council (Public Witnesses Only)
	Deputy Mayor for Greater Economic Opportunity (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: labor@dccouncil.us or by calling 202-724-7772.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

WEDNESDAY, APRIL 18, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Office of the Chief Financial Officer
	DC Lottery
	Real Property Tax Appeals Commission

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

COMMITTEE ON HUMAN SERVICES

Chairperson Brianne Nadeau

WEDNESDAY, APRIL 18, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Child and Family Services Agency
	Department of Youth Rehabilitation Services

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON EDUCATION

Chairperson David Grosso

WEDNESDAY, APRIL 18, 2018; Room 120	
Time	Agency
10:00 a.m. - End	District of Columbia Public Library

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON EDUCATION

Chairperson David Grosso

THURSDAY, APRIL 19, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Government Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON HEALTH

Chairperson Vincent Gray

THURSDAY, APRIL 19, 2018; Room 412	
Time	Agency
10:00 a.m. - End	District of Columbia Health Benefit Exchange Authority Department of Health Care Finance

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Chairperson Kenyan McDuffie

THURSDAY, APRIL 19, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Public Service Commission Office of People's Counsel

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey (cautrey@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

THURSDAY, APRIL 19, 2018; Room 120	
Time	Agency
9:30 a.m. - End	District of Columbia National Guard Office of Human Rights Department of Corrections Corrections Information Council Department of Forensic Sciences Office of the Chief Medical Examiner

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

FRIDAY, APRIL 20, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Department of Public Works

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

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

FRIDAY, APRIL 20, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Department of Employment Services (Government Witnesses Only) Workforce Investment Council (Government Witnesses Only) Deputy Mayor for Greater Economic Opportunity (Government Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: labor@dccouncil.us or by calling 202-724-7772.

COMMITTEE ON HEALTH

Chairperson Vincent Gray

MONDAY, APRIL 23, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Behavioral Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron (mcameron@dccouncil.us) or by calling 202-654-6179.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Chairperson Kenyan McDuffie

TUESDAY, APRIL 24, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Office of Cable Television, Film, Music and Entertainment Alcoholic Beverage Regulation Administration Deputy Mayor for Planning and Economic Development

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autry (cautry@dccouncil.us) or by calling 202-724-8053.

COMMITTEE ON EDUCATION

Chairperson David Grosso

TUESDAY, APRIL 24, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Office of the State Superintendent

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Brandon Todd

TUESDAY, APRIL 24, 2018; Room 123	
Time	Agency
11:00 a.m. - End	Office of the Chief Technology Officer

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

WEDNESDAY, APRIL 25, 2018; Room 412	
Time	Agency
11:00 a.m. - End	District of Columbia Office on Aging Office of the Tenant Advocate

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairman Brandon Todd

THURSDAY, APRIL 26, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Executive Office of the Mayor Office of the City Administrator Office of the Senior Advisor Mayor's Office of Legal Counsel Secretary of the District of Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6663.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

THURSDAY, APRIL 26, 2017; Room 123	
Time	Agency
10:00 a.m. - End	Office of Employee Appeals Public Employees Relations Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact: labor@dccouncil.us or by calling 202-724-7772.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

FRIDAY, APRIL 27, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Committee of the Whole Hearing on the "Fiscal Year 2019 Local Budget Act of 2018," "Fiscal Year 2019 Federal Portion Budget Request Act of 2018" and the "Fiscal Year 2019 Budget Support Act of 2018"

COMMITTEE MARK-UP SCHEDULE**WEDNESDAY, MAY 2, 2018; COUNCIL CHAMBER (Room 500)**

Time	Committee
2:00 p.m. - 4:00 p.m.	Committee on Labor and Workforce Development
4:00 p.m. - 6:00 p.m.	Committee on Housing and Neighborhood Revitalization

THURSDAY, MAY 3, 2018; COUNCIL CHAMBER (Room 500)

Time	Committee
10:00 a.m. - 11:00 a.m.	Committee on Government Operations
11:00 a.m. - 12:00 pm.	Committee on Finance and Revenue
12:00 p.m. - 2:00 p.m.	Committee on Business and Economic Development
2:00 p.m. - 4:00 p.m.	Committee on Human Services
4:00 p.m. - 6:00 p.m.	Committee on Health

FRIDAY, MAY 4, 2018; COUNCIL CHAMBER (Room 500)

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

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
NOTICE OF PUBLIC OVERSIGHT HEARING
1350 Pennsylvania Avenue, NW, Washington, DC 20004**

ABBREVIATED NOTICE

**CHAIRPERSON ELISSA SILVERMAN
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT**

ANNOUNCES A PUBLIC OVERSIGHT HEARING ON

The FY17-FY18 Performance of:

**Department of Employment Services
Workforce Investment Council
Deputy Mayor for Greater Economic Opportunity**

**Thursday, March 15, 2018, 11am
Hearing Room 500 John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember Elissa Silverman, Chairperson of the Committee on Labor and Workforce Development, announces a public oversight hearing before the Committee on the fiscal years 2017 and 2018 performance of the Department of Employment Services, the Workforce Investment Council, and the Deputy Mayor for Greater Economic Opportunity. This hearing is rescheduled from Friday, March 9 and will be held at 11a.m. on Wednesday, March 15, 2018, in Room 500 of the John A. Wilson Building. This abbreviated notice is provided pursuant to Council Rule 421(c)(3).

This hearing will be for government witnesses only. Public witnesses will testify at the previously noticed hearing on March 7, 2018. Interested parties should refer to the notice for that hearing on the Council's website at http://dccouncil.us/files/user_uploads/event_testimony/2-28-18_%202017-2018%20Performance%20Oversight%20Hearings.pdf.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B22-707, Board of Elections Domicile Requirement Temporary Amendment Act of 2018, **B22-734**, Preservation of Recorded Meetings Temporary Amendment Act of 2018, and **B22-736**, Mental Health Information Disclosure Temporary Amendment Act of 2018 were adopted on first reading on March 6, 2018. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on April 10, 2018.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/9/2018

Notice is hereby given that:

License Number: ABRA-090659

License Class/Type: A / Retail - Liquor Store

Applicant: LeLiquor, Inc

Trade Name: Le Liquors

ANC: 1C07

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

1776 COLUMBIA RD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
4/23/2018

A HEARING WILL BE HELD ON:
5/7/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/9/2018

Notice is hereby given that:

License Number: ABRA-024522

License Class/Type: A / Retail - Liquor Store

Applicant: R S Liquors, Inc

Trade Name: Cap Liquors

ANC: 6D06

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

1301 SOUTH CAPITOL ST SW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
4/23/2018

A HEARING WILL BE HELD ON:
5/7/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/9/2018

Notice is hereby given that:

License Number: ABRA-086022

License Class/Type: A / Retail - Liquor Store

Applicant: Krishna Corporation

Trade Name: Sherry's Wine and Spirits

ANC: 3C01

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

2627 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
4/23/2018

A HEARING WILL BE HELD ON:
5/7/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/9/2018

Notice is hereby given that:

License Number: ABRA-089011

License Class/Type: A / Retail - Liquor Store

Applicant: Moonkor Corporation

Trade Name: S.E. Market

ANC: 6B10

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

1500 INDEPENDENCE AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
4/23/2018

A HEARING WILL BE HELD ON:
5/7/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/9/2018

Notice is hereby given that:

License Number: ABRA-023984

License Class/Type: A / Retail - Liquor Store

Applicant: MG Liquors, Inc.

Trade Name: Barrel House Liquors

ANC: 2F03

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

1339 14TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
4/23/2018

A HEARING WILL BE HELD ON:
5/7/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/9/2018

Notice is hereby given that:

License Number: ABRA-093281

License Class/Type: A / Retail - Liquor Store

Applicant: JSLK INC

Trade Name: Virginia Market

ANC: 2B08

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

1776 U ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
4/23/2018

A HEARING WILL BE HELD ON:
5/7/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

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

Placard Posting Date: March 9, 2018
Protest Petition Deadline: April 23, 2018
Roll Call Hearing Date: May 7, 2018

License No.: ABRA-092298
Licensee: Shoreditch Cooperative, LLC
Trade Name: Duke’s Grocery
License Class: Retailer’s Class “C” Restaurant
Address: 1513 17th Street, N.W.
Contact: Daniel Kramer, Managing Member: (202) 733-5623

WARD 2 ANC 2B SMD 2B05

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 7, 2018 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

Licensee requests a substantial change to change of hours of Sidewalk Cafe.

CURRENT HOURS OF OPERATION INDOORS

Sunday through Thursday 7:00 am to 2:00 am, Friday and Saturday 7:00 am to 3:00 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INDOORS

Sunday through Thursday 10:00 am to 2:00 am, Friday and Saturday 10:00 am to 3:00 am

CURRENT HOURS OF OPERATION FOR SIDEWALK CAFE

Sunday through Thursday 8:00 am to 11:00 pm, Friday and Saturday 8:00 am to 12:00 am

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

Sunday through Thursday 10:00 am to 11:00 pm, Friday and Saturday 10:00 am to 12:00 am

PROPOSED HOURS OF OPERATION FOR SIDEWALK CAFÉ

Sunday through Thursday 8:00 am to 12:00 am, Friday and Saturday 8:00 am to 1:00 am

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

Sunday through Thursday 10:00 am to 12:00 am, Friday and Saturday 10:00 am to 1:00 am

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

Placard Posting Date: March 9, 2018
Protest Petition Deadline: April 23, 2018
Roll Call Hearing Date: May 7, 2018
Protest Hearing Date: June 27, 2018

License No.: ABRA-109216
Licensee: Punjab Grill 1001 Penn, LLC
Trade Name: Punjab Grill
License Class: Retailer's Class "C" Restaurant
Address: 427 11th Street, N.W.
Contact: Stephen J. O'Brien, Esq.: 202-625-7700

WARD 2

ANC 2C

SMD 2C01

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 7, 2018 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 27, 2018 at 1:30 p.m.**

NATURE OF OPERATION

New C Restaurant serving Indian cuisine. Seating Capacity of 150, Total Occupancy Load of 199. Sidewalk Cafe with 50 seats. The License will include an Entertainment Endorsement to provide Live Entertainment.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR SIDEWALK CAFÉ

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

HOURS OF LIVE ENTERTAINMENT INDOORS ONLY

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 9, 2018
Protest Petition Deadline: April 23, 2018
Roll Call Hearing Date: May 7, 2018

License No.: ABRA-098888
Licensee: Suns Cinema, Inc.
Trade Name: Suns Cinema
License Class: Retailer’s Class “C” Tavern
Address: 3107 Mount Pleasant Street, N.W.
Contact: Andrew Kline, Esq.: (202) 686-7600

WARD 1 ANC 1D SMD 1D04

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 7, 2018 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

Licensee requests a substantial change to expand operations to the second floor of the licensed premises, increasing seating from 15 to 28, and increasing Total Occupancy Load from 15 to 29.

CURRENT HOURS OF OPERATION

Sunday through Thursday 7:00 am to 2:00 am, Friday and Saturday 7:00 am to 3:00 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION

Sunday through Thursday 8:00 am to 2:00 am, Friday and Saturday 8:00 am to 3:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 9, 2018
Protest Petition Deadline: April 23, 2018
Roll Call Hearing Date: May 7, 2018

License No.: ABRA-098845
Licensee: The Mediterranean Way, Co.
Trade Name: The Mediterranean Way Gourmet Market
License Class: Retailer’s Class “B” (25%)
Address: 1717 Connecticut Avenue, N.W.
Contact: Chrissie Chang: (703) 992-3994

WARD 2 ANC 2B SMD 2B01

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 7, 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

Class Change from Ret. Class “B” (25%) to Ret. Class “B” Beer and Wine.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday, 10am – 8pm
Monday – Saturday, 10am – 10pm

HISTORIC PRESERVATION REVIEW BOARD**NOTICE OF PUBLIC HEARINGS**

The D.C. Historic Preservation Review Board will hold a public hearing to consider an application to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. (This hearing has been continued from the meeting of February 22, 2018.) The Board will also consider the nomination of the property to the National Register of Historic Places:

Case No. 18-09: St. Paul’s Methodist Episcopal Church South
150 S Street NW
Square 3104, Lot 820
Applicant: D.C. Preservation League
Affected Advisory Neighborhood Commission: 5E

The hearing will take place at **9:00 a.m. on Thursday, March 22, 2018**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board’s Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street, SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

At the same hearing, March 22, the Board will consideration of an application to designate the following property as a historic district in the D.C. Inventory of Historic Sites. The property was listed

Case No. 18-11 Langston Golf Course historic district
2600 Benning Road NE
Reservation 343G; Parcel 171, Lot 5, Parcel 160, Lots 8 and 42, and
Parcel 162, Lots 5 and 7; Squares 4458, 4459, 4460, 4461, 4462, 4463,
4464, 4480, 4481, 4482, 4483, 4483E and 4484
Applicant: National Park Service (owner)
Affected Advisory Neighborhood Commissions: 5D and 5C

At the same hearing, March 22, the Board will continue consideration of an application to designate the following properties as a historic district in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the proposed district to the National Register of Historic Places:

Case No. 16-19: Kingman Park Historic District
Including all properties within a boundary formed by East Capitol Street,
19th Street Maryland Avenue and M Street NE and the Anacostia River.
Including all lots in Squares 1118, 1119, 1120, 1125, 1126, 1127, 1128,
1134, 1139, 4458, 4459, 4460, 4461, 4462, 4463, 4464, 4477, 4478, 4480,
4481, 4483, 4483E, 4484, 4486, 4495, 4506, 4514, 4515, 4516, 4517,

4518, 4522, 4523, 4525, 4526, 4527, 4528, 4549, 4550, 4558, 4559; all lots in Parcels 149 and 160; Parcel 162, Lot 10; and Reservations 343F and 343G.

Affected Advisory Neighborhood Commissions: 5D, 6A and 7D

Again, the hearing will take place at **9:00 a.m. on Thursday, March 22, 2018**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street, SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

For each property, a copy of the historic designation application is currently on file and available for inspection by the public at the Historic Preservation Office. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates a property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and

rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District of Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

MAYOR’S AGENT FOR HISTORIC PRESERVATION**THE HISTORIC LANDMARK AND HISTORIC DISTRICT PROTECTION ACT****NOTICE OF PUBLIC HEARING**

Public notice is hereby given that the Mayor’s Agent will hold a public hearing on an application affecting property subject to the Historic Landmark and Historic District Protection Act of 1978. Interested parties may appear and testify on behalf of, or in opposition to, the application. The hearing will be held at 1100 4th Street SW, Suite E850.

Hearing Date: **Friday, April 6, 2018 at 9:00 a.m.**
Case Number: H.P.A. 17-615
Square/Lot: Square 2084, A&T Lot 841
Applicant: Washington International School
Type of Work: Construction of new 23,000 square foot two-story addition with underground parking

Affected Historic Property: Tregaron (the Causeway), Cleveland Park Historic District
Affected ANC: 3C

The Applicant’s claim is that the proposed addition and underground parking is necessary in the public interest because it is consistent with the purposes of the preservation law and necessary to construct a project of special merit.

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

Interested persons or parties are invited to participate in and offer testimony at this hearing. Any person wishing to testify in support of or opposition to the application may appear at the hearing and give evidence without filing in advance. However, any affected person who wishes to be recognized as a party to the case is required to file a request with the Mayor’s Agent at least fifteen (15) days prior to the hearing. This request shall include the following information: 1) requesting party’s name and address; 2) whether the party will appear as a proponent or opponent of the application; 3) if the party will appear through legal counsel, and if so, the name and address of legal counsel; and 4) a written statement setting forth the manner in which the party may be affected or aggrieved by action upon the application and the grounds upon which the party supports or opposes the application. Any requests for party status should be sent to the Mayor’s Agent at historic.preservation@dc.gov or 1100 4th Street SW, Suite E650, Washington, D.C. 20024. For further information, contact the Historic Preservation Office, at historic.preservation@dc.gov or (202) 442-7600.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, APRIL 18, 2018
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

WARD SIX

19728
ANC 6A **Application of Patrick and Becky McGeehan**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the nonconforming structure requirements of Subtitle C § 202.2, from the rear yard requirements of Subtitle E § 306.1, and from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story addition to an existing one-story rear addition to an attached principal dwelling unit in the RF-1 Zone at premises 121 Tennessee Avenue N.E. (Square 1012, Lot 20).

WARD EIGHT

19733
ANC 8E **Application of Terrace Manor Redevelopment LP**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the new residential development requirements of Subtitle U § 421 to construct a new, 128-unit apartment building in the RA-1 District at premises at 3341–3353 23rd Street S.E. and 2270–2272, 2276 Savannah Street S.E. (Square 5894, Lots 3, 4, and 5).

WARD ONE

19734
ANC 1A **Application of Angel Donchev**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the nonconforming structure requirements of Subtitle C § 202.2, the lot occupancy requirements of Subtitle E § 304.1, and the rear yard requirements of Subtitle E § 306.1, and under Subtitle E § 5203 from the height requirements of Subtitle E § 303.1, to construct a partial third-story addition and roof deck to an existing flat in the RF-1 District at premises 1432 Newton Street N.W. (Square 2677, Lot 371).

BZA PUBLIC HEARING NOTICE

APRIL 18, 2018

PAGE NO. 2

WARD EIGHT

19735 ANC 8A **Application of Mi Casa, Inc.**, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1, and from the side yard requirements of Subtitle D § 307.4, to construct a new principal dwelling unit in the R-3 Zone at premises 1528 W Street S.E. (Square 5779, Lot 824).

WARD EIGHT

19736 ANC 8A **Application of Mi Casa, Inc.**, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the lot dimension requirements of Subtitle D § 302.1, to construct a new principal dwelling unit in the R-3 Zone at premises 1928 15th Street S.E. (Square 5766, Lot 800).

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 testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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

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

Do you need assistance to participate?

Amharic

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BZA PUBLIC HEARING NOTICE

APRIL 18, 2018

PAGE NO. 3

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Chinese

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。这些是免费提供的服务。

French

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 cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

Korean

참여하시는데 도움이 필요하세요?

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Spanish

¿Necesita ayuda para participar?

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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 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
LORNA L. JOHN, MEMBER
CARLTON HART, VICE-CHAIRPERSON,
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**

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, APRIL 25, 2018
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

WARD EIGHT

19732 **Application of FocusWorks, LLC**, pursuant to 11 DCMR Subtitle X, Chapter
ANC 8C 10, for a use variance under the nonconforming use requirements of Subtitle C §
204.1, to construct a rear addition to an existing four-unit apartment house and
convert it to a six-unit apartment house in the R-3 Zone at premises 400
Newcomb Street S.E. (Square 5996, Lot 805).

WARD SIX

19737 **Application of Fulcrum Properties Group, LLC**, pursuant to 11 DCMR
ANC 6B Subtitle X, Chapter 10, for a use variance from the use provisions of Subtitle U §
301.1, to use the existing two-story building for an office use in the RF-1 Zone at
premises 500 13th Street S.E. (Square 1043, Lot 817).

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 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

BZA PUBLIC HEARING NOTICE

APRIL 25, 2018

PAGE NO. 2

general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.*** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning’s website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

Do you need assistance to participate?

Amharic

ለመከተል ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም መተርጎም

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

0312 ወይም በኢሜል 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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Vietnamese

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

BZA PUBLIC HEARING NOTICE

APRIL 25, 2018

PAGE NO. 3

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CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

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

TIME AND PLACE: **Monday, April 23, 2018, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Z.C. Case No. 17-27 (Spring Flats MD, LLC - Map Amendment @ Square 2902, Lots 804 and 807)

THIS CASE IS OF INTEREST TO ANCs 4C and 1A

On December 15, 2017, the Office of Zoning received a petition from Spring Flats MD, LLC (the "Petitioner") requesting approval of a Zoning Map amendment to rezone property located at 1125 Spring Road, NW (Square 2902, Lots 804 and 807) (the "Property") from the RF-1 District to the RA-2 District. On February 2, 2018, the Office of Planning submitted a report in support of setting down the petition for a public hearing. At its public meeting of February 12, 2018, the Zoning Commission voted to set down the petition for a public hearing. The Petitioner submitted its prehearing statement on February 15, 2018.

The Property consists of approximately 144,400 square feet of land area and is bounded by 10th Street to the east, Spring Road to the south, District-owned property to the west, and a 15-foot wide public alley to the north. The eastern-most portion of the Property is a closed portion of 10th Street, NW, which will be rebuilt and rededicated as a public street. The Property is presently zoned RF-1 and is designated as a Local Public Facility on the Comprehensive Plan Future Land Use Map, which reflects the prior uses at the Property.

The Petitioner seeks a Zoning Map amendment to rezone the Property from the RF-1 zone to the RA-2 zone. The purposes of the RA zones are to (i) permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts; and (ii) permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. The maximum density in the RA-2 zone is 1.8 FAR (2.16 as an Inclusionary Zoning development) and the maximum permitted building height is 50 feet with no limit on the number of stories.

The Zoning Commission has determined that this public hearing will be conducted in accordance with the rulemaking case provisions of the Zoning Commission's Rules of Practice and Procedure, 11-Z DCMR, Chapter 5.

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.

Time limits.

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

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

- | | | |
|----|---------------|----------------|
| 1. | Organizations | 5 minutes each |
| 2. | Individuals | 3 minutes each |

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 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission.

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

ANTHONY J. HOOD, ROBERT E. MILLER, PETER 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.

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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 trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለመከተፍ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም መከተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አጭኩት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚጠኩ በነጻ ናቸው።

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

TIME AND PLACE: **Thursday, April 12, 2018, @ 6:30 P.M. – 2nd Case**
Office of Zoning Hearing Room
441 4th Street, N.W. Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 18-02 (MR 1700 Columbia Retail, LLC – Text Amendments to Allow Veterinary Hospitals and Veterinary Boarding Hospitals as Special Exceptions when Abutting an Existing Residential Use in a Mixed-Use Building and to Permit such Hospitals to Board Domesticated Dogs)

THIS CASE IS OF INTEREST TO ALL ANCs

Through a petition filed January 18, 2018, MR 1700 Columbia Retail, LLC requested text amendments to Subtitle U, Title 11, Zoning, of the District of Columbia Municipal Regulations (“DCMR”), concerning the special exception approval of veterinary hospitals and veterinary boarding hospitals in those zones to which MU-Use Groups C, D, and E apply, which are currently:

MU-Use Group C	MU-Use Group D	MU-Use Group E
MU-12, MU-13 MU-14 CG-5 CG-6 CG-7	MU-3	MU-4, MU-5 MU-6 MU-17, MU-18 MU-19 MU-24, MU-25 MU-26, MU-27 CG-2

Veterinary hospitals are permitted as special exceptions in these zones. Veterinary boarding hospitals are not expressly mentioned, except in one of the three applicable provisions. Among the conditions applicable to the use is that it may not abut existing residential uses or board domesticated dogs. The amendment would clarify that the special exception also is available to Veterinary boarding hospitals. The amendments would also permit veterinary boarding hospitals and Veterinary hospitals to abut existing residential uses in mixed-use building if certain conditions are met and to board domesticated dogs.

In its setdown report dated February 2, 2018, the Office of Planning recommended that the petition be set down for public hearing. The Zoning Commission set the case down for hearing on February 12, 2018; and authorized the immediate publication of this notice of public hearing with a 30-day notice period.

The proposed amendments to Title 11 of DCMR (the Zoning Regulations of 2016) follow with new text shown in **bold** and underline text and deleted text shown in ~~strikethrough~~ text:

Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, of Subtitle U, is amended as follows:

Paragraph (k) of § 508.1 of § 508, SPECIAL EXCEPTION USES (MU-USE GROUP C), is amended to read as follows:

508.1 Unless specifically prohibited by Subtitle U § 509, the following uses shall be permitted in MU-Use Group C if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to the following conditions:

...

- (k) Veterinary office, hospital, **or boarding hospital** subject to the following conditions:
- (1) A veterinary hospital **or veterinary boarding hospital** may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808~~(h)~~(j)(1), ~~except domesticated dogs~~;
 - (2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;
 - (3) The veterinary hospital **or veterinary boarding hospital** shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
 - (4) The veterinary hospital **or veterinary boarding hospital** shall not abut an existing residential use or a residential zone; **unless the existing residential use is in a mixed use building and the Applicant demonstrate that:**
 - (A) **The Building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;**
 - (B) **The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use will be kept closed, and all doors facing a residential use will be solid core;**

(C) Animal waste will be placed in closed waste disposal containers and will be collected by a waste disposal company at least weekly;

(D) Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and

(E) Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable; and

(5) External yards or other external facilities for the keeping of animals shall not be permitted; and

(6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

...

Paragraph (m) of § 511.1 of § 511, SPECIAL EXCEPTION USES (MU-USE GROUP D), is amended to read as follows:

511.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section.

...

(m) Veterinary office or hospital, or veterinary boarding hospital subject to the following conditions:

(1) A veterinary hospital or veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(j)(1), ~~except domesticated dogs;~~

(2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;

(3) The veterinary hospital or veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;

- (4) The veterinary hospital or veterinary boarding hospital shall not abut an existing residential use or a residential zone; unless the existing residential use is in a mixed use building and the Applicant demonstrate that:
 - (A) The Building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;
 - (B) The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use will be kept closed, and all doors facing a residential use will be solid core;
 - (C) Animal waste will be placed in closed waste disposal containers and will be collected by a waste disposal company at least weekly;
 - (D) Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and
 - (E) Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable; and
- (5) External yards or other external facilities for the keeping of animals shall not be permitted; and
- (6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

...

Paragraph (l) of § 513.1 of § 513, SPECIAL EXCEPTION USES (MU-USE GROUP E), is amended to read as follows:

513.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section

...

- (1) Veterinary office or hospital, **or veterinary boarding hospital** subject to the following conditions:
 - (1) A veterinary hospital **or veterinary boarding hospital** may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(j)(1), ~~except domesticated dogs~~;
 - (2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;
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 - (B) **The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use will be kept closed, and all doors facing a residential use will be solid core;**
 - (C) **Animal waste will be placed in closed waste disposal containers and will be collected by a waste disposal company at least weekly;**
 - (D) **Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and**
 - (E) **Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable; and**

- (5) External yards or other external facilities for the keeping of animals shall not be permitted; and
- (6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

...

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat 797), as amended, D.C. Official Code § 6-64101 (2001), *et seq.*

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of 11 DCMR-Z § 506.

How to participate as a witness.

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

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C., 20001, by email to zcsubmissions@dc.gov, or by fax to (202) 727-6072. Please include the case number (ZC Case No. 18-02) 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.

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¿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 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 cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

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ለመከተል ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም መከተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አጭኩት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚጠቅሙበት ጊዜ ነው።

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (Department), pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of adoption of the following amendments to Chapter 46 (Medicine) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The amendments to Section 4603 (Applicants Educated in Foreign Countries) are necessary to enable the Board of Medicine to license, on a case by case basis, qualified foreign-trained medical school graduates who are licensed in another state or have Board certification but do not meet the current requirement of three (3) years of post-graduate clinical training in a U.S. residency program certified by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). These qualified doctors can then become fully licensed physicians in the District and serve the residents by providing medical care and treatment. Additional minor edits have been made to the section in order to clarify the language.

The emergency rulemaking was originally adopted on September 6, 2017 and became effective on that date. The Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 20, 2017 at 64 DCR 010599. A second emergency rule was adopted on January 3, 2018 and became effective on that date. No comments were received on the emergency and proposed rulemaking and no changes have been made to the proposed rule. The rules were adopted as final on January 18, 2018 and shall become effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*.

Chapter 46, MEDICINE, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 4603, APPLICANTS EDUCATED IN FOREIGN COUNTRIES, is deleted in its entirety and replaced with the following:

4603 APPLICANTS EDUCATED IN FOREIGN COUNTRIES

4603.1 The Board may grant a license to practice medicine to an applicant educated in a foreign country who:

- (a) Meets all requirements of this chapter except for §§ 4602 and 4604; and
- (b) Submits documentation to the Board as required under this section, which demonstrates to the satisfaction of the Board that the applicant's education and training satisfy the requirements of this chapter and the Act in

ensuring that the applicant has the proper training, experience, and qualifications to practice medicine.

- 4603.2 An applicant for a post-graduate clinical training program in the District of Columbia shall submit an application for a Medical Training License in accordance with § 4611.
- 4603.3 An applicant under this section shall furnish proof satisfactory to the Board that the applicant has successfully completed all educational and training requirements to practice medicine in the foreign country in which the medical education was undertaken.
- 4603.4 An applicant under this section shall be certified by the Educational Commission for Foreign Medical Graduates (ECFMG).
- 4603.5 An applicant under this section shall complete three (3) years of postgraduate clinical training in a program or programs approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA).
- 4603.6 For applicants who hold or have held an unrestricted medical license in another state, or who hold Board certification recognized by the American Board of Medical Specialties (ABMS) or AOA, the Board may find that:
- (a) A non-ACGME or non-AOA approved postgraduate clinical training program is substantially equivalent to the requirements of an ACGME or AOA program and meets the educational requirements of § 4603.5; and
 - (b) Significant clinical practice in addition to at least one year of post-graduate clinical training is substantially equivalent to and meets the educational requirements of § 4603.5.
- 4603.7 An applicant shall arrange for a certified transcript of the applicant's medical education record to be sent directly from the educational institution to the Board or its designees, except as provided by § 4603.8.
- 4603.8 The Board may waive the transcript requirement of § 4603.7 upon a showing of extraordinary hardship if the applicant is able to establish by substitute documentation that the applicant possesses the requisite education and degrees.
- 4603.9 If a document required by this chapter is in a language other than English, an applicant shall arrange for its translation into English by a translation service acceptable to the Board and shall submit a notarized translation signed by the translator attesting to its accuracy.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2017 Supp.)) and 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) (2013 Repl.)), hereby gives final notice of the intent to adopt amendments to Chapter 9 (Medicaid Program) and Chapter 41 (Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), respectively entitled “Medicaid Program” and “Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities.”

These final rules update the reimbursement methodology for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID). Each ICF/IID may be reimbursed when the Medicaid beneficiary is hospitalized or on a therapeutic leave of absence. The rules governing reserved bed days for nursing facilities and ICFs/IID are set forth in § 950 (Payment for Reserved Beds) of Chapter 9. These proposed rules repeal the reserve bed day sections governing ICFs/IID in section 950. These sections are now included as a new § 4117 to ensure that all the rules governing reimbursement for ICFs/IID are included in one chapter. In addition, the “hospitalization” and “therapeutic leave of absence” categories of reserved bed days have been combined to afford increased flexibility in the utilization of reserved bed days.

The reimbursement methodology is amended as follows: (1) in § 4101.14 the frequency of acuity level assessments has been extended for low-acuity beneficiaries from once every twelve (12) months to once every three (3) years to lessen the administrative burden on providers and beneficiaries; (2) in § 4107 the requirements to spend a certain percentage of Medicaid reimbursement funds on direct service delivery have been modified to require providers to expend ninety-five percent (95%) of funds in the Direct Service cost center and one-hundred percent (100%) of funds in the Active Treatment cost center, allowing providers to shift unspent reimbursement funds among certain other cost centers to cover over-expenditure in those cost centers; and (3) in § 4105 the rebasing timeline has been changed from FY17 to FY18 due to the length of time to complete the audit process for provider cost reports and ongoing provider appeals associated with the cost report audit process. The aggregate impact of these changes is \$ 260,647.85 in FY18 and \$ 269,509.88 in FY19.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 27, 2017 at 64 DCR 011222. DHCF received no comments. DHCF is making technical corrections in §§ 4105 and 4107 to clarify that certain changes to ICFs/IID provider reimbursement methodology are effective November 1, 2017, the effective date of the corresponding State Plan Amendment (SPA). Finally, DHCF is proposing a technical change to § 4105.2, to clarify that updated rates for ICF/IID services, effective January 1, 2018, are included in the Medicaid Fee Schedule located on the DHCF website at <https://www.dc->

medicaid.com/dcwebportal/nonsecure/feeScheduleDownload. A public notice of the Medicaid Fee Schedule update was published in the *D.C. Register* on at 64 DCR 012357 on December 1, 2017.

The corresponding amendment to the District of Columbia State Plan for Medical Assistance (State Plan) was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) and the Council of the District of Columbia (Council). The Council approved the corresponding SPAs through the Fiscal Year 2018 Budget Support Emergency Act of 2017, on July 20, 2017 (D.C. Act 22-104). CMS approved the corresponding SPA on November 6, 2017 with an effective date of November 1, 2017.

This final rule was adopted on February 26, 2018, and shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 950, PAYMENT FOR RESERVED BEDS, is amended to read as follows:

950 PAYMENT FOR RESERVED BEDS

- 950.1 Vendor payment for reserved bed days for hospitalization or therapeutic leaves of absence, for a resident of a nursing facility, when provided in the resident's plan of care, shall not exceed eighteen (18) days during any fiscal year, if there is a reasonable expectation that the resident will return to the nursing facility.
- 950.2 **[REPEALED]**
- 950.3 **[REPEALED]**
- 950.4 Payment for reserved bed days authorized in accordance with section 950.1 shall equal one hundred (100) percent of the facility's per diem rate.
- 950.5 **[REPEALED]**
- 950.6 Each resident shall reside in the nursing facility for at least one (1) day as a condition of vendor payment for reserved bed days.
- 950.7 Each provider shall require the family member or caregiver to sign a leave and request form upon exit and return to the facility. The provider shall ensure that each family member or caregiver provide contact information.
- 950.8 Each provider shall discuss the resident's medical regimen with the family member or caregiver. The provider shall ensure that each family member or

caregiver is provided a sufficient quantity of the resident's medication for the leave period.

- 950.9 Each provider shall report to DHCF any unusual incident that occurred during any therapeutic leave of absence.

Chapter 41, MEDICAID REIMBURSEMENT FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended to read as follows:

Section 4101, ACUITY LEVEL ASSIGNMENTS, is amended as follows:

4101 ACUITY LEVEL ASSIGNMENTS

- 4101.1 Reimbursement rates shall be differentiated based on the individual's acuity level, as recommended by DDS, through the Level of Need Assessment and Risk Screening Tool (LON), and interdisciplinary teams of health and habilitation professionals, pursuant to the Individual Service Plan (ISP).
- 4101.2 Acuity levels higher than Acuity Level 1 (Base), specific to the medical and health needs of each qualified individual, shall be requested by the ICF/IID, recommended by DDS, and approved by DHCF.
- 4101.3 Reimbursement under this chapter shall be governed according to the following acuity levels:
- (a) Acuity Level 1 (Base) shall represent the health, habilitation, and support needs of a beneficiary whose level of care determination (LOC) reflects a need for ICF/IID services. Acuity Level 1 shall be the base acuity level.
 - (b) Acuity Level 2 (Moderate) shall represent the health, habilitation, and support needs of a beneficiary who:
 - (1) Meets the requirements of § 4101.3(a); and
 - (2) Requires moderate levels of services in order to effectively support functional impairments, as described in § 4101.6.
 - (c) Acuity Level 3 (Extensive – Behavioral) shall represent the health, habilitation, and support needs of a beneficiary who:
 - (1) Meets the requirements of § 4101.3(a); and
 - (2) Requires services and interventions that can address conditions associated with an extensive intellectual and developmental

disability and significant behavioral challenges as described in § 4101.7.

- (d) Acuity Level 4 (Extensive – Medical) shall represent the health, habilitation, and support needs of a beneficiary who:
 - (1) Meets the requirements of § 4101.3(a); and
 - (2) Requires services and interventions that can address conditions associated with a significant intellectual and developmental disability and significant medical and support challenges as described in § 4101.8.
- (e) Acuity Level 5 (Pervasive) shall represent the health, habilitation, and support needs of a beneficiary who:
 - (1) Meets the requirements of § 4101.3(a);
 - (2) Requires services and interventions that can address conditions associated with a pervasive intellectual and developmental disability; and
 - (3) Exhibits dangerous behaviors or conditions that require one-to-one (1:1) supervision for twenty-four (24) hours per day or less, as described in § 4101.9.
- (f) Acuity Level 6 (Pervasive Plus Skilled Nursing) shall represent the health, habilitation, and support needs of a beneficiary who:
 - (1) Meets the requirements of § 4101.3(a);
 - (2) Requires services and interventions that can address conditions associated with a pervasive level of care to accommodate individuals with dangerous behaviors or conditions that require one to one (1:1) supervision twenty-four (24) hours per day; and
 - (3) Requires extensive skilled nursing services as described in § 4101.10.

4101.4 For purposes of reimbursement, a beneficiary admitted on or after October 1, 2012, shall be assumed to be at Acuity Level 1 (Base). An ICF/IID may request through, and with supporting documentation by, DDS that DHCF assign a beneficiary to a higher acuity level. This request must be accompanied by documentation submitted by the ICF/IID that justifies the higher acuity level.

- 4101.5 In order for a beneficiary to qualify at an acuity level above Acuity Level 1 (Base), the ICF/IID shall ensure that qualified health and habilitation practitioners assess each beneficiary using the LON.
- 4101.6 A beneficiary shall qualify for Acuity Level 2 (Moderate) when assessed to have at least one (1) of the following characteristics:
- (a) Is unable to perform two (2) or more activities of daily living (ADL);
 - (b) Is non-ambulatory;
 - (c) Is unable to evacuate self without assistance in the event of a fire or other emergency situation;
 - (d) Is assessed to lack life safety skills to ensure self-preservation; or
 - (e) Has a diagnosis of one (1) of the following conditions:
 - (1) Blindness;
 - (2) Deafness;
 - (3) Autism Spectrum Disorder; or
 - (4) Epilepsy.
- 4101.7 A beneficiary shall qualify for Acuity Level 3 (Extensive – Behavioral) when he or she is dually diagnosed with an intellectual and developmental disability and with one (1) or more behavioral disorders that:
- (a) Are assaultive, self-abusive, including pica, or aggressive;
 - (b) Require a Behavior Support Plan (BSP) which shall be based on current data and targets the identified behaviors; and
 - (c) Require intensive staff intervention and additional staff resources to manage the behaviors set forth in § 4101.8(a).
- 4101.8 A beneficiary shall qualify for Acuity Level 4 (Extensive – Medical) when he or she requires skilled nursing and extensive health and habilitation supports on a daily basis. Skilled nursing and extensive health and habilitation supports shall be prescribed by the individual’s primary care physician or advanced practice registered nurse (APRN).

- 4101.9 A beneficiary shall qualify for Acuity Level 5 (Pervasive) when he or she requires one-to-one (1:1) staffing and exhibits one (1) or more of the following characteristics:
- (a) Has a history of, or is at high risk for, elopement resulting in risk to the beneficiary or others;
 - (b) Exhibits behavior that is life-threatening to the beneficiary or others;
 - (c) Exhibits destructive behavior that poses serious property damage, including fire-setting;
 - (d) Is a sexual predator; or
 - (e) Has a history of, or is at high risk for, falls with injury and a primary care physician or advanced practice registered nurse order for one-to-one (1:1) supervision.
- 4101.10 A beneficiary shall qualify for Level 6 (Pervasive Plus Skilled Nursing) if the beneficiary requires at least one (1) type of skilled nursing that shall be ordered by a primary care physician or advanced practice registered nurse and provided, at a minimum, on an hourly basis.
- 4101.11 For a beneficiary who requires services at or above Acuity Level 4, the prescription of the physician or advanced practice registered nurse, shall specify the type, frequency, scope, and duration of the skilled nursing and health and habilitation support services required.
- 4101.12 The number of one-to-one (1:1) staffing hours shall be approved by DHCF using results from assessments conducted by ICFs/IID. Under Levels 5 and 6 (Pervasive and Pervasive Plus Skilled Nursing), DHCF's approval shall be based on having staff member(s) assigned to the beneficiary who have no other duties while assigned to the beneficiary.
- 4101.13 Each ICF/IID shall have responsible direct care staff on duty and awake on a twenty-four (24) hour basis when residents are present in the facility to ensure prompt, appropriate action in the event of injury, illness, fire, or other emergency.
- 4101.14 Acuity level assignments shall be recertified every three (3) years for beneficiaries assigned Acuity Level 1 through 4, and annually for beneficiaries assigned Acuity Level 5 or 6. Each ICF/IID shall be responsible for requesting recertification of the beneficiary's acuity level assignment by compiling and submitting the beneficiary's information in the required format(s) at least twenty (20) days before the ISP effective date. Each ICF/IID shall ensure that the individual has an approved acuity level assignment by the ISP effective date. At minimum, the ICF/IID shall provide DHCF with the following:

- (a) Level of Need Assessment and Risk Screening Tool (LON); and
- (b) Current ISP document including medical, psychological, occupational or physical therapy assessment, or in the absence of a current ISP document, evidence of consensus by a majority of the members of the beneficiary's interdisciplinary team for the proposed acuity level assignment.

4101.15 Late submission of the documentation required for recertifications as set forth in § 4101.14 shall result in payment at the rates that correspond to Acuity Level 1 (Base) beginning on the first day following the expiration of the assignment. DHCF shall not make retroactive adjustments to the reimbursement rates for late submissions of recertification documentation.

4101.16 Additional documentation shall be required to support the acuity level assignment for a beneficiary. Depending on acuity level, additional documentation shall be required as follows:

- (a) For Acuity Level 3 (Extensive – Behavioral) the following additional documentation is required:
 - (1) A BSP addressing the targeted behaviors;
 - (2) A written behavior plan that shall be based on current data and which targets the identified behaviors; and
 - (3) A concise statement that summarizes thirty (30) days of behavioral data prior to the date of the request and justification of the need for intensive staff intervention and additional staff resources to manage targeted behaviors.
- (b) For Acuity Level 4 (Extensive – Medical) documentation that includes an order for daily skilled nursing and extensive health supports prepared by the beneficiary's primary care physician or an advance practice registered nurse is required.
- (c) For Acuity Level 5 (Pervasive) the following additional documentation is required:
 - (1) A concise statement setting forth the presenting problem that necessitates one to one (1:1) supervision and the number of requested one to one (1:1) hours;
 - (2) Evidence of a history or risk of elopement that results in risk to the beneficiary and/or others;

- (3) Evidence of behavior that is life threatening to self and/or others;
 - (4) Evidence of destructive behavior causing serious property damage, including fire starting;
 - (5) Evidence of sexually predatory behavior;
 - (6) Evidence of a history of, or risk of, falls with injury, and an order from the beneficiary's primary care physician or APRN;
 - (7) A BSP that shall be based on current data and targets the behaviors identified;
 - (8) A job description for one to one (1:1) staff based on the beneficiary's individual needs; and
 - (9) Thirty (30) days of behavioral data prior to the date of the request in support of the targeted behaviors.
- (d) For Acuity Level 6 (Pervasive plus Skilled Nursing) the following additional documentation is required:
- (1) An order for skilled nursing services prepared by the beneficiary's primary care physician or APRN;
 - (2) A concise statement setting forth the presenting problem that necessitates one to one (1:1) supervision and skilled nursing and the number of requested one to one (1:1) hours; and
 - (3) A job description for one to one (1:1) staff based on the beneficiary's individual needs.

4101.17 Documentation required to review a beneficiary's acuity level shall be submitted to DHCF within sixty (60) days of the event that necessitates assignment to a higher acuity level.

4101.18 On a case-by-case basis, DHCF shall consider requests for retroactive adjustment to a beneficiary's acuity level that may result in a change to the reimbursement rate. DHCF decisions shall be based on the facility's submission of required documentation as set forth below:

- (a) A concise statement setting forth the situation that necessitates retroactive adjustment;
- (b) Evidence of the higher acuity level for the specified period of time for which the change in acuity level is requested. This evidence shall include

the LON and other clinical and professional documentation such as discharge planning notes, physician’s notes, other clinician’s notes, interdisciplinary team meeting notes, and healthcare reports for the same defined period of time; and

- (c) Evidence that a higher level of service was delivered for the defined period and that the higher level of service delivered is that required for the higher acuity level. This evidence shall include documentation of staffing levels detailing hours and types of services delivered for each day in the defined period of time. Evidence shall also include the identity of the specific staff delivering the higher acuity services and an attestation from the staff of the higher acuity service they delivered.

- 4101.19 Any retroactive adjustment based on § 4101.18 shall be limited to the time that has lapsed since the date of the beneficiary’s last continuous stay review, as set forth in § 4109.
- 4101.20 DHCF, or its designee, shall have access to all approved ISP documents.
- 4101.21 Each ICF/IID shall notify DHCF of the transfer or death of a beneficiary at least seven (7) business days after the date of the event.

Section 4102, REIMBURSEMENT METHODOLOGY, is amended as follows:

4102 REIMBURSEMENT METHODOLOGY

- 4102.1 The rates for ICF/IID services were developed based on Fiscal Year (FY) 2010 cost data reported by providers of different sizes serving individuals at varying acuity levels. The rates shall vary based on staffing ratios, facility size, and beneficiary acuity level.
- 4102.2 For the purposes of rate-setting, and independent of the classification used by the Department of Health for licensing, DHCF shall classify ICFs/IID as follows:
 - (a) Class I - A facility with five (5) or fewer licensed beds; and
 - (b) Class II - A facility with six (6) or more licensed beds.
- 4102.3 The residential component of the rate, as described in § 4100.5(a), shall be based on a model that includes the following seven (7) cost centers:
 - (a) The “Direct Service” cost center, which shall include expenditures as follows:
 - (1) Nurses, including registered nurses (RNs), licensed practical nurses (LPNs), and certified nursing assistants (CNAs);

- (2) Qualified Intellectual Disabilities Professionals (QIDPs);
 - (3) House managers;
 - (4) Direct Support Personnel;
 - (5) Allocated time of staff with administrative duties and who are also utilized in direct service support, subject to the results of a time study or time sheet process that has been approved by DHCF; and
 - (6) Fringe benefits, including but not limited to required taxes, health insurance, retirement benefits, vacation days, paid holidays, and sick leave.
- (b) The “All Other Health Care and Program Related” cost center, which shall include expenditures for:
- (1) Pharmacy co-pays and over-the-counter medications;
 - (2) Medical supplies;
 - (3) Therapy costs, including physical therapy, occupational therapy, and speech therapy;
 - (4) Behavioral health services provided by psychologists or psychiatrists;
 - (5) Nutrition and food;
 - (6) Medical record maintenance and review;
 - (7) Insurance for non-direct care health staff;
 - (8) Quality Assurance;
 - (9) Training for direct care staff;
 - (10) Program development and management, including recreation;
 - (11) Incident management; and
 - (12) Clothing for beneficiaries.
- (c) The “Non-Personnel Operations” cost center, which shall include expenditures for:

- (1) Food service and supplies related to food service;
 - (2) Laundry;
 - (3) Housekeeping and linen; and
 - (4) Non-capital repair and maintenance.
- (d) The “Administration” cost center which shall include expenditures for:
- (1) Payroll taxes;
 - (2) Salaries and consulting fees to non-direct care staff;
 - (3) Insurance for administrators and executives;
 - (4) Travel and entertainment;
 - (5) Training costs;
 - (6) Office expenses;
 - (7) Licenses;
 - (8) Office space rent or depreciation;
 - (9) Clerical staff;
 - (10) Interest on working capital; and
 - (11) Staff transportation.
- (e) The “Non-Emergency Transportation” cost center, which shall include expenditures for:
- (1) Vehicle license, lease, and fees;
 - (2) Vehicle maintenance;
 - (3) Depreciation of vehicle;
 - (4) Staffing costs for drivers and aides not otherwise covered by, or in excess of costs for, direct support personnel;
 - (5) Fuel; and

- (6) Vehicle insurance.
- (f) The “Capital” cost center, which shall include expenditures for leased, owned, or fully depreciated properties, less all amounts received for days reimbursed pursuant to the “Policy on Reserved Beds,” as set forth on page 2 of Attachment 4.19C of the State Plan for Medical Assistance, for the following:
 - (1) Depreciation and amortization;
 - (2) Interest on capital debt;
 - (3) Rent;
 - (4) Minor equipment;
 - (5) Real estate taxes;
 - (6) Property insurance;
 - (7) Other capital; and
 - (8) Utilities, including electricity, gas, telephone, cable, and water.
- (g) The “Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment” cost center shall include only the allowable share of the Assessment expenditure consistent with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70 and 433.72.

4102.4 Fiscal Year (FY) 2013 rates shall be based on FY 2010 cost data reported by providers, legal requirements, and industry standards, and shall be paid for services delivered beginning on October 1, 2012 through September 30, 2013. FY 2013 rates, and all rates thereafter, shall be set forth in this Chapter. FY 2013 rates were developed based upon the following assumptions:

- (a) FY 2013 Non-Personnel Operations per diem rates shall be based on FY 2010 costs, inflated twelve percent (12%);
- (b) FY 2013 Capital per diem rates shall be based on FY 2010 costs, inflated fifteen percent (15%);
- (c) FY 2013 rates for the cost centers described in §§ 4102.4(a) and (b) shall be calculated as the quotient of total industry expenditures divided by the total number of industry licensed bed days as reported for FY 2010;

- (d) The FY 2013 rate for Non-Emergency Transportation shall be eighteen dollars (\$18) per person, per day; and
- (e) Capital expenditures for Class I and Class II facilities shall be calculated separately.

4102.5

FY 2014 rates shall be based on the reported FY 2013 cost reports, adjusted for inflation, in accordance with the index described in § 4102.13. In establishing the rates for FY 2014, DHCF shall use FY 2013 rates as a baseline to compare to the FY 2013 cost reports. After inflationary adjustments, DHCF may make operational adjustments as described in this section to each cost center based on the provider's actual reported costs. These adjustments may increase or decrease the per diem rates for each cost center. For services rendered on or after January 1, 2014, DHCF shall also incorporate the following rate setting principles:

- (a) Effective January 1, 2014, and on October 1, annually thereafter, DHCF may make appropriate outlier adjustments when the entire ICF/IID provider community experiences uncharacteristically low or high costs (*e.g.*, wage increases) experienced by the entire ICF/IID provider community and supported by legislative or other unanticipated changes. With respect to the Capital cost center, market induced fluctuations in the cost of items comprising that rate (*e.g.*, property appreciation/depreciation, significant increase in the cost of utilities, etc.) shall be documented and confirmed using information from the Bureau of Labor Statistics, the Consumer Price Index, the District of Columbia Office of Tax and Revenue, and other relevant indices or reports;
 - (1) All adjustments shall be limited to one (1) time in any given fiscal year.
 - (2) Except for the Capital cost center, operational adjustments shall be subject to a five percent (5%) maximum. Operational adjustments to the Capital cost center shall be subject to a maximum of ten percent (10%);
 - (3) An outlier adjustment shall not exceed the amount of the rebased cost center, subject to the upper payment limit;
 - (4) Except for inflationary adjustments, all other adjustments under this section shall be supported through provider documentation and data reflecting the economic landscape of the Washington, D.C. Metropolitan area;
 - (5) All adjustments described in § 4102.5 shall be limited to fiscal years when rebasing does not occur;

(6) “Operational Adjustment” shall refer to an adjustment made to any cost center based on information reflected in an ICF/IID’s cost report (*i.e.*, actual reported costs). These reported costs will be compared to the actual reported aggregate costs for all ICF/IIDs. An operational adjustment provides a mechanism for DHCF to address under- or over-payments that are identified after comparing the projections used to determine the rate with the provider’s actual costs; and

(7) “Outlier Adjustment” shall refer to an adjustment made after the ICF/IID submits a cost report and the actual reported costs reflect uncharacteristically low or high costs. In order to qualify for an outlier adjustment, the unexpected expense must impact all of the District’s ICF/IIDs.

(b) Effective January 1, 2014, the rate for Non-Emergency Transportation shall be twelve dollars and sixteen cents (\$12.16).

4102.6 For dates of service on or after October 1, 2016 through September 30, 2017, final reimbursement rates for the residential component will be based on providers’ FY 2014 cost reports subject to audit and adjustment by DHCF.

4102.7 Direct Service cost center reimbursement rates shall be calculated based on staffing ratios, facility size, and individuals’ acuity levels. All rates shall accommodate the following staffing patterns:

(a) Two (2) Direct Support Personnel (DSP) at three (3) shifts per day for three hundred sixty-five (365) days per year, at the following staffing ratios:

(1) Class I Facilities: One (1) DSP to every two (2) individuals (1:2); and

(2) Class II Facilities: One (1) DSP to every three (3) individuals (1:3).

(b) One (1) LPN for each facility at one (1) shift per day for three hundred sixty-five (365) days per year, for all ICFs/IID;

(c) One (1) additional LPN for each ICF/IID at one (1) shift per weekend day (Saturday and Sunday) for fifty-two (52) weeks per year. This staffing pattern shall apply only to Class II facilities;

(d) One (1) RN, one (1) QIDP, and one (1) house manager, each at one (1) shift per day for two hundred sixty (260) days per year, at a ratio of one (1) staff person to every twelve (12) individuals (1:12) for all ICFs/IID;

- (e) For services provided to individuals assigned to acuity levels higher than Acuity Level I, an ICF/IID shall be paid rates that can accommodate additional staffing needs as follows:
- (1) Acuity Level 2 (Moderate) rates shall also include one (1) additional DSP at three (3) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP for every two (2) individuals (1:2) for all ICFs/IID;
 - (2) Acuity Level 3 (Extensive – Behavioral) rates shall also include costs associated with two (2) additional DSPs. The rates for Acuity Level 3 shall include one (1) DSP at three (3) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP staff member for every two (2) individuals for all ICFs/IID. The rate shall also include one (1) DSP at two (2) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP staff member for every two (2) individuals for all ICFs/IID;
 - (3) Acuity Level 4 (Extensive – Medical) rates shall also include costs associated with one (1) additional LPN at two (2) shifts per day for three hundred sixty-five (365) days per year, for all ICFs/IID. Class II facilities shall also receive a rate that includes one (1) certified nurse aide (CNA) at two (2) shifts per day for three hundred sixty-five (365) days per year;
 - (4) Acuity Level 5 (Pervasive) rates shall vary based on the number of one-to-one services prescribed for a beneficiary. Acuity Level 5 rates shall also include one (1) DSP at two (2) or three (3) shifts per day, for five (5) or seven (7) days per week for fifty-two (52) weeks per year, at a staffing ratio of one (1) DSP to one (1) beneficiary (1:1); and
 - (5) Acuity Level 6 (Pervasive Plus Skilled Nursing) rates shall vary based on the number of one-to-one services prescribed for a beneficiary. Acuity Level 6 rates shall also include one (1) LPN at one (1), two (2), or three (3) shifts per day for seven (7) days per week for fifty-two (52) weeks per year, at a staffing ratio of one (1) LPN to one (1) beneficiary (1:1).
- (f) The base salaries used in the development of FY 2013 rates for direct care staff wages and salaries, subject to adjustment for inflation using the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility Market Basket Index, shall be as follows:
- (1) DSP: Twelve dollars and fifty cents (\$12.50) per hour;

- (2) LPN: Twenty one dollars (\$21.00) per hour;
- (3) CNA: Sixteen dollars and eighty-three cents (\$16.83) per hour;
- (4) House Manager: Forty-five thousand dollars (\$45,000) per year;
- (5) RN: Seventy thousand dollars (\$70,000) per year; and
- (6) QIDP: Sixty thousand dollars (\$60,000) per year.

(g) Salaries set forth in Section 4102.7(f) shall be treated as follows:

- (1) “Paid time off” shall include the addition of eighty (80) hours of paid leave. Holiday pay shall include the addition of forty-four (44) hours to ensure that the rate includes the rate of pay plus one-half (1/2) the rate of pay (time and one-half) for holidays worked;
- (2) Salaries shall be inflated by twenty percent (20%) and paid leave and holiday pay shall be inflated by twelve percent (12%), to accommodate fringe benefits; and
- (3) All rates shall include paid time off and holiday pay for all hourly full-time equivalents (FTEs).

(h) Effective October 1, 2013 through September 30, 2016, Direct Care Staff Compensation shall be inflated by the greater of any adjustment to the living wage or the associated costs of benefits and inflation based on the CMS Skilled Nursing Facility Market Basket Index or other appropriate index if the CMS Skilled Nursing Facility Market Basket Index is discontinued.

(i) Effective October 1, 2016, Direct Care Staff Compensation shall be inflated only by any adjustment to the living wage.

4102.8 The “All Other Health Care and Program Related Expenses” cost center reimbursement rates shall be calculated based on the facility size and the “Direct Care” cost center rate, which varies by staffing ratios and individuals’ acuity levels. The rate for this cost center shall be calculated as a fixed percentage of the rate for direct services, at twelve percent (12%) for Class I facilities and at seventeen percent (17%) for Class II facilities.

4102.9 The “Non-Personnel Operations” cost center reimbursement rates shall be calculated based on industry average reported costs. The Non-Personnel Operations reimbursement rate shall be equal to the industry average reported

expenses per licensed bed day for the line items included in the cost center, and shall be uniformly set for all providers.

- 4102.10 During FY 2013, the “Administration” cost center reimbursement rates shall be calculated based on the staffing ratios, facility size, and individuals’ acuity levels. The Administration reimbursement rate shall vary based on the nature of ownership of the physical premises where the ICF/IID is housed. The Administration rate shall be a uniform percentage of the sum of the rates for all other cost centers and acuity levels. Beginning January 1, 2014, and on October 1, 2014 and annually thereafter, reimbursement rates for the Administration cost center shall be uniform for Class I and Class II facilities. The Administration rate shall be a uniform percentage of the sum of the Acuity Level I (Base) rates comprising the Residential cost center for leased, Class I facilities, as set forth in this Chapter.
- 4102.11 The “Non-Emergency Transportation” cost center reimbursement rates shall be based on the industry average expenses divided by the total number of licensed bed days. Beginning January 1, 2014, and on October 1, 2014 and annually thereafter, Non-Emergency Transportation cost center reimbursement rates shall be based on actual, reported costs.
- 4102.12 The “Capital” cost center reimbursement rates shall be determined in accordance with 42 C.F.R. § 413.130 and based on the industry average reported expenses per licensed bed day for the line items included in this cost center as described in § 4102.3. The rate shall vary based on the nature of ownership of the physical premises where the ICF/IID is housed. The Capital rate for leased premises shall be equal to the industry average reported expenses per licensed bed day for the line items included. The Capital rate for provider-owned premises shall be equal to fifty percent (50%) of the rate for leased premises. The Capital rate for fully depreciated premises shall be equal to fifty percent (50%) of the rate for provider owned premises. The Capital rate shall also be subject to the following principles:
- (a) When a sale/leaseback of an existing ICF/IID facility occurs, the ICF/IID’s allowable capital related cost may not exceed the amount that the seller/lessor would have recorded had the seller/lessor retained legal title;
 - (b) Depreciation shall incorporate the following principles:
 - (1) When depreciated buildings and building improvements are acquired, the cost basis of the depreciable asset shall be the lesser of the cost or acquisition value of the previous owner(s) less all reimbursement attributable to the asset as determined by DHCF or the fair market value of the asset at time of acquisition. Notwithstanding, if the seller makes the full payback in accordance

with § 4102.12(b)(6), the cost basis to the new owner shall be the lesser of the fair market value or the purchase price;

- (2) Facilities shall employ the straight-line method for calculating depreciation subject to the limits set forth in §§ 4102.12(b)(3)-(6) below. Accelerated methods for calculating depreciation shall not be allowed. Subject to the limits set forth in §§ 4102.12(b)(3)-(6), the annual depreciation expense of an asset shall be determined by dividing the basis of the asset reduced by any estimated salvage or resale value by the estimated years of useful life of the asset at the time it is placed in service;
- (3) Depreciation expense of buildings and building improvements shall be limited to the basis of each asset and shall not exceed the basis of such assets less the aggregate amount received in reimbursement for such assets in the current and prior years;
- (4) Fully depreciated buildings and building improvements subsequently sold or disposed of shall be subject to payback by the owner to the program of all depreciation expense paid to the owner and all previous owners when such assets are no longer used to provide ICF/IID services or have been transferred to new owners in an arm's length transaction, provided that such payback shall be reduced by all amounts previously paid back, if any, by prior owners;
- (5) ICFs/IID shall estimate assets' years of useful life in accordance with the most recent edition of "Estimated Useful Lives of Depreciable Hospital Assets" published by the American Hospital Association, or if not applicable, relevant guidance issued by the U.S. Internal Revenue Service. Subject to the limits set forth in paragraphs (d) and (e), depreciation expense for the year of disposal can be computed by using either the half-year method or the actual time method;
- (6) Assets shall be recorded using historical cost, except for donated assets which shall be recorded at fair market value at the time received and based on the lesser of at least two (2) bona fide appraisals. Costs during the construction of an asset, consulting and legal fees, interest, and fund raising, should be capitalized as a part of the cost of the asset;
- (7) When an asset is acquired by a trade-in, the cost of the new asset shall be the sum of the book value of the old asset and any cash or issuance of debt as consideration paid;

- (8) Facilities that previously did not maintain fixed asset records and did not record depreciation in prior years shall be entitled to any straight-line depreciation of the remaining useful life of the asset. The depreciation shall be based on the cost of the asset or fair market value of a donated asset at the time of purchase, construction or donation over its normal useful life. Fully depreciated assets shall not be included in the Capital cost center, except for the costs associated with utilities and relevant leasehold improvements. No depreciation may be taken on an asset that would have been fully depreciated if it had been properly recorded at the time of acquisition;
- (9) Leasehold improvements made to rental property by the lessor shall be depreciated over the lesser of the asset's useful life or the remaining life of the lease;

- (c) On a case by case basis, DHCF may reimburse an ICF/IID by providing an offset to capital costs that shall be equal to the daily amount computed under this subsection in situations when DDS has not filled vacant bed space(s). The ICF/IID shall receive the product of the capital cost multiplied by the administrative rate anytime this payment is made;
- (d) The daily cost described in § 4102.12(c) shall be computed as the capital component of the daily per-diem rate, multiplied by the number of vacant bed space(s); and
- (e) ICFs/IID shall incur costs and provide DHCF with proof of the vacant bed space in order to be eligible.

4102.13 Effective October 1, 2013 through September 30, 2016, the per diem rates for “Non-Personnel Operations,” “Non-Emergency Transportation,” “Capital,” and “Active Treatment” cost centers shall be adjusted for inflation on an annual basis in accordance with the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility Market Basket Index or other appropriate index if the CMS Skilled Nursing Facility Market Basket Index is discontinued.

4102.14 Effective October 1, 2016, the annual inflation adjustment in the per diem rates for “Non-Personnel Operations,” “Non-Emergency Transportation,” “Capital,” and “Active Treatment” cost centers shall be eliminated.

4102.15 The Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment shall be a broad based assessment on all ICF/IID providers in the District of Columbia at a uniform rate of five and one-half percent (5.5%) of each ICF/IID’s gross revenue. The allowable cost of the Assessment shall be calculated consistently with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70, and 433.72.

4102.16 Beginning October 1, 2016, ICF/IID reimbursement rates, shall be as follows:

	Beds	Facility	Direct care staffing FY 17	Other health care & program FY 17	Non-Pers Oper FY 17	Transp. FY 17	Capital FY 17	Admin FY 17	Active Tx FY 17	Tax FY 17	Total Rate FY 17
Base	4 - 5	Leased	\$320.02	\$41.60	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$33.25	\$637.85
		Owned	\$320.02	\$41.60	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$31.57	\$605.51
		Depreciated	\$320.02	\$41.60	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$27.47	\$589.34
	6	Leased	\$240.73	\$43.33	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$28.69	\$550.41
		Owned	\$240.73	\$43.33	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$27.15	\$520.88
		Depreciated	\$240.73	\$43.33	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$26.38	\$506.11
Moderate	4 - 5	Leased	\$320.02	\$41.60	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$33.25	\$637.85
		Owned	\$320.02	\$41.60	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$31.57	\$605.51
		Depreciated	\$320.02	\$41.60	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$30.72	\$589.34
	6	Leased	\$312.05	\$56.17	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$33.32	\$639.20
		Owned	\$312.05	\$56.17	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$31.78	\$609.67
		Depreciated	\$312.05	\$56.17	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$31.01	\$594.90
Extensive behavioral	4 - 5	Leased	\$391.35	\$50.87	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$37.69	\$722.87
		Owned	\$391.35	\$50.87	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$36.00	\$690.54
		Depreciated	\$391.35	\$50.87	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$35.16	\$674.37
	6	Leased	\$359.60	\$64.73	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$36.41	\$698.40
		Owned	\$359.60	\$64.73	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$34.87	\$668.86
		Depreciated	\$359.60	\$64.73	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$34.10	\$654.09
Extensive medical	4 - 5	Leased	\$431.59	\$56.11	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$40.19	\$770.85
		Owned	\$431.59	\$56.11	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$38.50	\$738.51
		Depreciated	\$431.59	\$56.11	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$37.66	\$722.34
	6	Leased	\$374.71	\$67.45	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$37.39	\$717.21
		Owned	\$374.71	\$67.45	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$35.85	\$687.67
		Depreciated	\$374.71	\$67.45	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$35.08	\$672.90

Pervasive 8 h / 7 d	4 - 5	Leased	\$462.67	\$60.15	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$42.12	\$807.90
		Owned	\$462.67	\$60.15	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$40.43	\$775.56
		Depreciated	\$462.67	\$60.15	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$39.59	\$759.40
	6	Leased	\$383.38	\$69.01	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$37.95	\$727.99
		Owned	\$383.38	\$69.01	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$36.41	\$698.46
		Depreciated	\$383.38	\$69.01	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$35.64	\$683.69
Pervasive 8 h / 5 d	4 - 5	Leased	\$417.33	\$54.25	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$39.30	\$753.86
		Owned	\$417.33	\$54.25	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$37.61	\$721.52
		Depreciated	\$417.33	\$54.25	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$36.77	\$705.35
	6	Leased	\$338.04	\$60.85	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$35.01	\$671.56
		Owned	\$338.04	\$60.85	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$33.47	\$642.02
		Depreciated	\$338.04	\$60.85	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$32.70	\$627.25
Pervasive 16 h	4 - 5	Leased	\$605.32	\$78.69	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$50.98	\$977.96
		Owned	\$605.32	\$78.69	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$49.30	\$945.62
		Depreciated	\$605.32	\$78.69	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$48.45	\$929.45
	6	Leased	\$526.02	\$94.68	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$47.21	\$905.58
		Owned	\$526.02	\$94.68	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$45.67	\$876.04
		Depreciated	\$526.02	\$94.68	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$44.90	\$861.27
Pervasive 24 h	4 - 5	Leased	\$747.96	\$97.24	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$59.85	\$1,148.02
		Owned	\$747.96	\$97.24	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$58.16	\$1,115.68
		Depreciated	\$747.96	\$97.24	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$57.32	\$1,099.51
	6	Leased	\$668.67	\$120.36	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$56.47	\$1,083.16
		Owned	\$668.67	\$120.36	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$54.93	\$1,053.62
		Depreciated	\$668.67	\$120.36	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$54.16	\$1,038.85
Nursing 1:1 8 h / 7 d	4 - 5	Leased	\$543.15	\$70.61	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$47.12	\$903.85
		Owned	\$543.15	\$70.61	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$45.43	\$871.51
		Depreciated	\$543.15	\$70.61	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$44.59	\$855.34
	6	Leased	\$463.86	\$83.49	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$43.18	\$828.18
		Owned	\$463.86	\$83.49	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$41.64	\$798.65
		Depreciated	\$463.86	\$83.49	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$40.87	\$783.88

Nursing 1:1 8 h / 5 d	4 - 5	Leased	\$472.24	\$61.39	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$42.71	\$819.31
		Owned	\$472.24	\$61.39	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$41.03	\$786.97
		Depreciated	\$472.24	\$61.39	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$40.18	\$770.80
	6	Leased	\$392.94	\$70.73	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$38.57	\$739.91
		Owned	\$392.94	\$70.73	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$37.03	\$710.37
		Depreciated	\$392.94	\$70.73	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$36.26	\$695.60
Nursing 1:1 16 hours	4 - 5	Leased	\$766.28	\$99.62	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$60.99	\$1,169.85
		Owned	\$766.28	\$99.62	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$59.30	\$1,137.51
		Depreciated	\$766.28	\$99.62	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$58.46	\$1,121.34
	6	Leased	\$686.98	\$123.66	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$57.66	\$1,105.96
		Owned	\$686.98	\$123.66	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$56.12	\$1,076.42
		Depreciated	\$686.98	\$123.66	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$55.35	\$1,061.65
Nursing 1:1 24 hours	4 - 5	Leased	\$989.41	\$128.62	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$74.85	\$1,435.85
		Owned	\$989.41	\$128.62	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$73.17	\$1,403.51
		Depreciated	\$989.41	\$128.62	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$72.33	\$1,387.34
	6	Leased	\$910.11	\$163.82	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$72.14	\$1,383.73
		Owned	\$910.11	\$163.82	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$70.60	\$1,354.19
		Depreciated	\$910.11	\$163.82	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$69.83	\$1,339.42

Section 4103, ACTIVE TREATMENT SERVICES, is amended as follows:**4103 ACTIVE TREATMENT SERVICES**

- 4103.1 An individual residing in an ICF/IID shall receive continuous active treatment services, consistent with the requirements set forth in 42 C.F.R. § 483.440. Active treatment services shall vary depending on the needs of the beneficiary, as determined by the interdisciplinary team.
- 4103.2 An ICF/IID shall ensure that a beneficiary receives active treatment services on a daily basis. The ICF/IID may affiliate with outside resources to assist with program planning and service delivery or the facility may provide active treatment services directly.
- 4103.3 A program of active treatment services shall include aggressive, consistent implementation of a program of specialized training, treatment, health services, and other related services that is directed towards:
- (a) The acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible; and
 - (b) The prevention or deceleration of regression or loss of current optimal functional status.
- 4103.4 In accordance with 42 C.F.R. §§ 483.440(c) - (d), an interdisciplinary team shall determine the type of active treatment services that a beneficiary needs based on preliminary evaluations, assessments, and re-assessments. Each beneficiary's active treatment requirements shall be described in his Individual Program Plan (IPP), pursuant to 42 C.F.R. § 483.440(c). The ICF/IID shall ensure that each beneficiary receives all of the services described in the IPP.
- 4103.5 For dates of service on or after January 1, 2014, the per diem reimbursement rate for active treatment shall equal the average of FY13 active treatment rates multiplied by two hundred sixty (260) days of service, to account for the maximum days of service provided, inclusive of holidays, and divided by three hundred sixty-five (365).

Section 4105, REBASING, is amended as follows:**4105 REBASING**

- 4105.1 Effective November 1, 2017 (FY 2018), and every three (3) years thereafter, reimbursement rates for the residential component shall be updated based on cost reports from the most recently audited year, as determined by DHCF.

- 4105.2 The rate schedule set forth in § 4102.16 shall be updated after completion of the FY 2018 rebasing. The updated rates for ICF/IID services, effective January 1, 2018, are included in the Medicaid Fee Schedule located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>.

Section 4107, FISCAL ACCOUNTABILITY, is amended as follows:

4107 FISCAL ACCOUNTABILITY

- 4107.1 Effective October 1, 2013 through September 30, 2017, except for the Administration, Capital, and Active Treatment cost centers, each facility shall spend at least ninety-five percent (95%) of the rate under each cost center on service delivery to Medicaid individuals. Facilities expending less than ninety-five percent (95%) of each cost center shall be subject to repayment requirements set forth in Subsection 4107.6.
- 4107.2 Effective October 1, 2013 through September 30, 2017, each ICF/IID shall spend one hundred percent (100%) of the rate for Active Treatment on service delivery to Medicaid individuals. Facilities expending less than one hundred percent (100%) of the rate for Active Treatment shall be subject to repayment requirements set forth in Subsection 4107.6.
- 4107.3 Effective January 1, 2014 through September 30, 2017, each ICF/IID shall spend one hundred percent (100%) of the rate associated with the Capital cost center. A facility that fails to expend one hundred percent (100%) on capital shall be subject to repayment requirements set forth in Subsection 4107.6.
- 4107.4 Effective November 1, 2017, each ICF/IID shall spend at least ninety-five percent (95%) of the rate for Direct Service and one-hundred percent (100%) of the rate for Active Treatment on service delivery to Medicaid beneficiaries. Facilities expending less than ninety-five percent (95%) of the rate for Direct Service or one-hundred percent (100%) of the rate for Active Treatment shall be subject to repayment requirements set forth in Subsection 4107.6.
- 4107.5 Effective November 1, 2017, each ICF/IID shall spend at least ninety-five percent (95%) of the aggregate rate for the All Other Health Care and Program Related, Non Personnel Operations, Non-Emergency Transportation, and Capital cost centers. Facilities expending less than ninety-five percent (95%) of the aggregate rate for these four (4) cost centers shall be subject to repayment requirements set forth in Subsection 4107.6.
- 4107.6 Repayment amounts shall be as follows:
- (a) The repayment amount described in § 4107.1 shall be the difference between ninety-five percent (95%) of the rate for the applicable cost

center(s) and the facility's reported expenses for the applicable cost center(s);

- (b) The repayment amount for Active Treatment described in § 4107.2 shall be the difference between one hundred percent (100%) of the payments made for Active Treatment and the facility's reported expenses for Active Treatment;
- (c) The repayment amount for Capital described in § 4107.3 shall be the difference between one hundred percent (100%) of the payments made for Capital and the facility's reported Capital expenses;
- (d) The repayment amounts described in § 4107.4 shall be as follows:
 - (1) The difference between ninety-five percent (95%) of the Direct Service rate and the facility's reported Direct Service expenses; and
 - (2) The difference between one-hundred percent (100%) of the Active Treatment rate and the facility's reported Active Treatment expenses; and
- (e) The repayment amount described in § 4107.5 shall be the difference between ninety-five percent (95%) of the aggregate rate for the All Other Health Care and Program Related, Non Personnel Operations, Non-Emergency Transportation, and Capital cost centers and the facility's reported aggregate expenses for these four (4) cost centers.

4107.7 In accordance with D.C. Official Code § 47-1272(c), DHCF, or its designee, has the right to inspect payroll and personnel records to support the Department's obligations pursuant to the Living Wage Act of 2006, effective March 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 47-1270 *et seq.*), and implementing regulations.

4107.8 DHCF shall evaluate expenditures subject to the requirements in this section through annual review of cost reports. DHCF, or its designee, shall review each cost report for completeness, accuracy, compliance, and reasonableness through a desk audit.

4107.9 On-site audits shall be conducted not less than once every three (3) years. Each ICF/IID shall allow access, during on-site audits or review by DHCF or U.S. Department of Health and Human Services auditors, to relevant financial records and statistical data to verify costs previously reported to DHCF.

4107.10 DHCF shall issue a notice to each ICF/IID that is required to repay as set forth in this section. The notice shall set forth the repayment amount and include language describing the procedure and timeframes for requesting an appeal before OAH.

Filing an appeal with OAH shall not stay any action to recover the amounts prescribed in this section.

A new Section 4117, PAYMENT FOR RESERVED BEDS, is added to read as follows:

4117 PAYMENT FOR RESERVED BEDS

- 4117.1 Payment for reserved bed days for hospitalization or therapeutic leaves of absence for a beneficiary who is a resident of an ICF/IID may be authorized for up to sixty (60) days during a District fiscal year, if there is a reasonable expectation that the beneficiary will return to the facility.
- 4117.2 Payment for therapeutic leaves of absence shall only be authorized if provided for in a beneficiary's plan of care.
- 4117.3 Payment for reserved bed days authorized in accordance with §§ 4117.1 and 4117.2 shall equal the facility's per diem rate for the beneficiary, based on the beneficiary's approved acuity level assignment.
- 4117.4 A reserved bed day for purposes of this section is a day in which a beneficiary who is a resident of an ICF/IID receives fewer than eight (8) hours of supports in an ICF/IID beginning at midnight (12:00 am) and ending at 11:59 p.m.
- 4117.5 Payment for reserved beds is conditioned on each beneficiary residing in an ICF/IID for at least one (1) day.
- 4117.6 Each provider shall require the family member or caregiver to sign a leave and request form upon exit and return to the facility. The provider shall ensure that each family member or caregiver provide contact information.
- 4117.7 Each provider shall discuss the resident's medical regimen with the family member or caregiver. The provider shall ensure that each family member or caregiver is provided a sufficient quantity of the resident's medication for the leave period.
- 4117.8 Each provider shall report to DHCF any unusual incident that occurred during any therapeutic leave of absence.
- 4117.9 Each provider shall comply with all reporting requirements for reserved bed days set forth in 29 DCMR § 951.

Section 4199, DEFINITIONS, is amended as follows:

4199 DEFINITIONS

- 4199.1 For purposes of this chapter, the following terms shall have the meanings ascribed:

Active Treatment - A program of specialized and generic training, treatment, health services, and related services designed toward the acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible, and the prevention or deceleration of regression or loss of current optimal functional status. These services shall be provided consistent with Federal standards.

Activities of Daily Living - The ability to bathe, transfer, dress, eat and feed oneself, engage in toileting, and maintain bowel and bladder control (continence).

Acuity Level - The intensity of services required for a Medicaid beneficiary residing in an ICF/IID. Individuals with a high acuity level require more care; those with lower acuity levels require less care.

Administrator - An individual responsible for the administration or implementation of ICF/IID policies or procedures, and other roles other than delivering services directly related to resident treatment and care, food service, or maintenance of the facility.

Allowable costs - Actual costs, after appropriate adjustments, incurred by an ICF/IID, which are reimbursable under the Medicaid program.

Base year - The standardized year on which rates for all facilities are calculated to derive a prospective reimbursement rate.

Behavior Support Plan - A written document requested by the Individual Support Team that is developed by a psychologist or psychology associate and incorporated into the Individual Support Plan. If developed by a psychology associate, the plan shall be approved by the psychologist.

Current Individual Support Plan (ISP) - An Individual Support Plan with a range of effective dates that includes the date on which the plan is being reviewed.

Depreciation - The systematic distribution of the cost or other basis of depreciable assets, less salvage value, over the estimated useful life of the assets.

Direct service costs - Costs incurred by a provider that are attributable to the operation of providing services to individuals.

District Fiscal Year - A twelve (12) month period beginning on October 1 and ending on September 30.

Elopement - To run away; abscond.

Employee - A worker in an ICF/IID that does not serve as a manager or administrator, and is not under contract to provide professional services.

Facility - An intermediate care facility for individuals with intellectual disabilities.

Habilitation - The process by which an individual is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, including, in the case of a person committed under [D.C. Official Code § 7-1304.06a](#), to refrain from committing crimes of violence or sex offenses, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency.

Holiday pay - The term used in a labor agreement, provider policy, or in the absence of either, by the U.S. Department of Labor.

Individual Support Plan (ISP) - The document produced through coordinated efforts of ICFs/IID and DDS. The ISP is the successor to the Individual Habilitation Plan as defined in the court-approved *Joy Evans* Exit Plan. For purposes of Medicaid reimbursement, the individual program plan, as described in [42 C.F.R. § 483.440\(c\)](#), shall be included within the ISP.

Industry Average - The sum of total industry expenditures divided by total industry licensed bed days per reported fiscal year costs.

Interdisciplinary team - A group of persons, with special training and experience in the diagnosis and habilitation of individuals with intellectual and developmental disabilities, with the responsibility to perform a comprehensive evaluation of each beneficiary and participating in the development, implementation, and monitoring of the beneficiary's individual habilitation plan. The “core team” shall include the individual, the individual's representative, the service coordinator, and relevant clinical staff.

Level of Care Determination (LOC) - The assessment used by DDS to determine a beneficiary's eligibility for ICF/IID services.

Level of Need Assessment and Risk Screening Tool (LON) - The comprehensive and uniform assessment tool developed by DDS that determines the beneficiary's individual support needs and identifies potential risks to be addressed by the interdisciplinary team.

Licensed bed days - Three hundred and sixty-five (365) days or the number of days of that calendar year.

Life safety skills - An individual's ability to protect oneself from perceived and apparent risks and life-threatening situations such as fires, evacuation emergencies, traffic, and ingestion of toxic substances.

Manager - An individual who is responsible for the administration of an ICF/IID facility inclusive of human resources, maintenance, and policy management.

Non-ambulatory - A beneficiary who spends all of his or her time out of bed in a wheelchair or a chair.

One-to-One - An altered staffing pattern that allows one staff to provide services to an individual with intellectual disabilities exclusively for an authorized period of time.

Owner - A person who is a sole proprietor, partner, or corporate stockholder-employee owning any of the outstanding stock of the contracted provider.

Per diem rate - The rate per day established by DHCF.

Professional services - Services provided pursuant to any legal arrangement, which include occupational and speech therapies and nursing care services provided by an individual or a corporation.

Quality of care improvements - The same definition as set forth in [D.C. Official Code § 47-1270](#), and any subsequent amendments thereto.

Related organization - In accordance with [42 C.F.R. § 413.17\(b\)\(1\)](#), an organization is related to an ICF/IID when the ICF/IID, to a significant extent, is associated or affiliated with, or has control over, or is controlled by the organization furnishing the services, facilities, or supplies.

Therapeutic leave of absence – When a beneficiary leaves the ICF/IID to visit with relatives and friends or to participate in a District-approved therapeutic and rehabilitative program.

OFFICE OF TAX AND REVENUE

NOTICE OF FINAL RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-874 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019, Pub. L. 109-356; D.C. Official Code § 1-204.24d (2016 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of this final action to amend Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR), by amending Sections 330 and 332 related to filing the income and expense form for income producing property.

The amendments to Sections 330 and 332 provide authority to the Office of Tax and Revenue to mail notices of income and expense filing requirements in lieu of the actual forms. Affected taxpayers can choose to file electronically or download the appropriate income and expense form and file by paper.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on January 26, 2018 at 65 DCR 000689. No comments were received concerning the proposed rulemaking. This final rulemaking is identical to the published text of the proposed rulemaking. This final rulemaking shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 330, INCOME AND EXPENSE REPORTING BY OWNERS OF INCOME-PRODUCING PROPERTY, is amended follows:

Subsections 330.1, 330.4, 330.6 and 330.12 are amended to read as follows:

330.1 The provisions of §§ 330-334 implement the income and expense reporting by owners of income-producing property.

...

330.4 An affected taxpayer under §§ 330-334 is the owner (or owners) of income-producing property or properties in the District who is (are) required to file an income-expense form under the D.C. Official Code § 47-821, and in accordance with the provisions of this chapter.

...

330.6 In the following instances, there shall be added to the real property tax levied for the next ensuing tax year a penalty in the amount of ten percent (10%) of the tax:

- (a) If the appropriate income-expense form is not received by the Deputy Chief Financial Officer on or before April 15th of the year in which written notice of a filing requirement of such form is mailed to the affected taxpayers;
- (b) If any income-expense form is timely received on or before April 15th, but is either inaccurate or incomplete and, after written notice from the Deputy Chief Financial Officer and in the opinion of the Deputy Chief Financial Officer, remains inaccurate or incomplete; or
- (c) If an income and expense form is received after the time extended by the Deputy Chief Financial Officer.

...

330.12 Any information, form or documents required by §§ 330-334 to be received by the specified date may, on or before such date, be electronically received as instructed in the notice before midnight, postmarked in the mail, or hand-delivered to the Customer Service Center, Office of Tax and Revenue, 1101 4th Street, S.W., Suite W270, Washington, D.C. 20024 between the hours of 8:15 AM and 4:30 PM.

Section 332, TIME LIMITS FOR FILING FORMS, is amended follows:

Subsections 332.1 - 332.3 are amended to read as follows:

- 332.1 The income and expense form, with accompanying attachments and documents, shall be received by the Deputy Chief Financial Officer on or before April 15th of the year in which written notice of a filing requirement of such form is mailed to the affected taxpayers. Such form, with accompanying attachments and documents, shall, on or before such date, be electronically received as instructed in the notice before midnight, postmarked in the mail, or hand-delivered to the Customer Service Center, Office of Tax and Revenue, 1101 4th Street, S.W., 2nd Floor, Washington, D.C. between the hours of 8:15 AM and 4:30 PM.
- 332.2 Written notice of a filing requirement of the income and expense form shall be mailed by the Deputy Chief Financial Officer to the affected taxpayers at least thirty (30) days prior to the due date provided in § 332.1. Such notice shall state where and how the appropriate income and expense form may be found and filed.
- 332.3 When, in the opinion of the Deputy Chief Financial Officer, an income and expense form submitted prior to the deadline set forth in § 332.1 has not been accurately completed (that is, it is either inaccurate or incomplete, or both),

the Deputy Chief Financial Officer shall inform the affected taxpayer (or the taxpayer's agent) as soon as possible and request, in writing, that the form be accurately completed and delivered not later than thirty (30) days from the date of the mailing of the notice or as otherwise specified.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (Department), pursuant to § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), Mayor's Order 98-140, dated August 20, 1998, and the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016, effective April 6, 2016 (D.C. Law 21-95; 63 DCR 6502, published on April 29, 2016), hereby gives notice of the intent to take final rulemaking action to adopt the following amendment to Section 4906 (Continuing Education Requirements) of Chapter 49 (Physician Assistants) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The rulemaking is necessary to update the District of Columbia Municipal Regulations pertinent to the Board of Medicine in order to reflect additional continuing education requirements imposed by the LGBTQ Cultural Competency Continuing Education Amendment Act of 2016 for physician assistants this rulemaking will enhance professionalism within the community and operate in support of the health and welfare of the public.

Chapter 49, PHYSICIAN ASSISTANTS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 4906, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:

Subsection 4906.4 is amended to read as follows:

- 4906.4 An applicant for renewal of a license to practice as a physician assistant shall submit proof pursuant to § 4906.7 of having completed during the two-year (2) period preceding the date the license expires approved continuing medical education as follows:
- (a) Forty (40) hours of credit in continuing medical education meeting the requirements of Category 1, as specified in § 4907.2;
 - (b) Sixty (60) hours of credit in continuing medical education meeting the requirements of either Category 1 or Category 2, as specified in § 4907.2 or § 4907.3; and
 - (c) Beginning with the renewal period ending December 31, 2018, two (2) hours of credit in Category 1 or Category 1-equivalent continuing medical education coursework focusing on cultural

competence or appropriate clinical treatment specifically for individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression (LGBTQ), which shall meet the requirements of § 4906.8, and which shall count towards the hours required under paragraph (b). Category I-equivalent hours shall be acceptable so long as they have been prescribed by the American Academy of Family Physicians or another entity approved by the Board.

Subsection 4906.5 is amended to read as follows:

4906.5 An applicant for reactivation of an inactive license or reinstatement of a license to practice as a physician assistant shall submit proof pursuant to § 4906.7 of having completed during the two-year (2) period immediately preceding the date of application approved continuing medical education as follows:

- (a) Forty (40) hours of credit in continuing medical education meeting the requirements of Category 1;
- (b) Sixty (60) hours of credit in continuing medical education meeting the requirements of either Category 1 or Category 2; and
- (c) Beginning with the renewal period ending December 31, 2018, two (2) hours of credit in Category 1 or Category 1-equivalent continuing medical education coursework focusing on cultural competence or appropriate clinical treatment specifically for individuals who are lesbian, gay, bisexual, transgender, gender nonconforming, queer, or questioning their sexual orientation or gender identity and expression (LGBTQ), which shall meet the requirements of § 4906.8, and which shall count towards the hours required under paragraph (b). Category I-equivalent hours shall be acceptable so long as they have been prescribed by the American Academy of Family Physicians or another entity approved by the Board.

Subsection 4906.6 is amended to read as follows:

4906.6 A physician assistant who is required to obtain continuing medical education credits pursuant to § 4906.4 or 4906.5 may, in lieu of meeting the requirements of those sections, furnish proof satisfactory to the Board that the physician assistant holds a current valid certificate from the NCCPA that entitles the physician assistant (under the by-laws of the NCCPA) to use the designation "Physician Assistant-Certified" or "PA-

C." Nothing in this subsection shall waive the requirement of §§ 4906.4(c) and 4906.5(c).

A new subsection 4906.8 is added to read as follows:

- 4906.8 Continuing medical education hours that are completed, pursuant to § 4906.4(c), in cultural competence and appropriate clinical treatment specifically for individuals who are LGBTQ shall, at a minimum, provide information and skills to enable a physician assistant to care effectively and respectfully for patients who identify as LGBTQ, which may include:
- (a) Specialized clinical training relevant to patients who identify as LGBTQ, including training on how to use cultural information and terminology to establish clinical relationships;
 - (b) Training that improves the understanding and application, in a clinical setting, of relevant data concerning health disparities and risk factors for patients who identify as LGBTQ;
 - (c) Training that outlines the legal obligations associated with treating patients who identify as LGBTQ;
 - (d) Best practices for collecting, storing, using, and keeping confidential, information regarding sexual orientation and gender identity;
 - (e) Best practices for training support staff regarding the treatment of patients who identify as LGBTQ and their families;
 - (f) Training that improves the understanding of the intersections between systems of oppression and discrimination and improves the recognition that those who identify as LGBTQ may experience these systems in varying degrees of intensity; and
 - (g) Training that addresses underlying cultural biases aimed at improving the provision of nondiscriminatory care for patients who identify as LGBTQ.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Administrative Assistant, at Angli.Black@dc.gov, (202) 442-5977.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF PROPOSED RULEMAKING**

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to the authority established in section 404(a) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.04(a) (2016 Repl. & 2017 Supp.)), and Mayor’s Order 2008-92, dated June 26, 2008, hereby gives notice of the intent to adopt the following amendments to Chapter 11 (Classification and Compensation) of Title 6 (Personnel), Subtitle B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

The proposed rules will amend Title 6-B, Chapter 11 of the DCMR by eliminating the two-year limit for payment of a retained rate pursuant to § 1141.5. This regulatory change is being made by: (1) eliminating the “two (2) year” period specified in § 1141.5; (2) deleting language in § 1141.9 concerning unexpired rate periods, and rephrasing language to reflect that an employee is entitled to the retained rate if he or she is promoted to a position where the maximum rate is less than the retained rate; (3) deleting “retained rate period” from § 1141.11 in the list of triggering events that terminates a retained rate; (4) deleting § 1141.12 as the existing language is unnecessary given the elimination of the retained rate period; (5) renumbering § 1141.13 to 1141.12; (6) deleting § 1141.14 relating to the termination of a retained rate; (7) renumbering § 1141.15 to 1141.13 and eliminating salary or rate schedule increases for individuals receiving a retained rate; (8) renumbering § 1141.16 to 1141.14; and (9) revising the definition of “retained rate period” in § 1199.1 by eliminating “no more than two (2) years.”

Chapter 11, CLASSIFICATION AND COMPENSATION, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:**Section 1141, RETAINED RATES, is amended as follows:****Subsection 1141.5 is amended to read as follows:**

1141.5 An employee shall be eligible for a retained rate as provided in § 1141.2 beginning on the effective date of the reduction in grade or salary, if the employee has served for fifty-two (52) consecutive weeks or more in a position on a covered salary or rate schedule at a grade or salary higher than the grade or salary to which reduced.

Subsection 1141.9 is amended to read as follows:

1141.9 An employee shall be entitled to the retained rate when he or she is promoted or temporarily promoted to another position when the maximum rate of the new position is less than the retained rate.

Subsections 1141.11 through 1141.14 are amended to read as follows:

- 1141.11 A retained rate shall cease to apply if any of the following conditions occur:
- (a) The employee has a break in service of one (1) workday or more;
 - (b) The employee is entitled to a rate of basic pay that is equal to or higher than the retained rate; or
 - (c) The employee is subsequently changed to a lower grade for cause or at the employee's request.
- 1141.12 When, as a result of an increase to the rate(s) of the grade to which the employee is reduced upon being changed to a lower grade, an employee's retained rate becomes equal to or lower than a rate of the new grade, the retained rate shall cease and the agency shall adjust the employee's rate of basic pay as follows:
- (a) If the retained rate equals a rate in the new grade, the employee shall receive that rate; or
 - (b) If the employee's retained rate falls between two (2) rates of the new grade, the employee shall receive the higher rate.
- 1141.13 Employees receiving a retained rate shall not be entitled to any subsequent increases in salary or rate schedules established by the Council or Mayor's authority during a pay retention period.
- 1141.14 An employee who was receiving a retained rate prior to the effective date of this chapter shall be entitled to continue to receive those benefits based upon the laws, rules, and regulations that were in effect on the date the employee became eligible for the retained rate benefits.

Subsections 1141.15 and 1141.16 are repealed.**Section 1199, DEFINITIONS, is amended as follows:****Subsection 1199.1, "Retained rate period" is amended to read as follows:**

Retained rate period - the period from the effective date of the action changing an employee to a lower grade, during which the employee is provided a retained rate.

Comments on these proposed regulations should be submitted, in writing, within thirty (30) days of the date of the publication of this notice to the D.C. Department of Human Resources, Policy and Compliance Administration. Comments may be submitted by mail to 441 4th Street, Northwest, Suite 330S, Washington, D.C. 20001, or by e-mail to dchr.policy@dc.gov. Copies of this proposed rulemaking are available, at cost, by writing to the above address.

OFFICE OF LOTTERY AND CHARITABLE GAMES**NOTICE OF PROPOSED RULEMAKING**

The Executive Director of the Office of Lottery and Charitable Games, pursuant to the authority set forth in Section 424a of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790, Pub. L. 93-198; D.C. Official Code § 1-204.24(a) (2016 Repl.)), as amended by the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (Pub. L. No. 109-356, § 201, 120 Stat. 2019; D.C. Official Code §§ 1-204.24a(c)(6) (2016 Repl.)) and section 4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code §§ 3-1306(a) and 3-1321 (2016 Repl.)), hereby gives notice of the intent to amend Chapters 9 (Description of On-Line Games) and 99 (Definitions) of Title 30 (Lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR).

The purposes of the proposed amendments are to implement The Lucky One® on-line game.

The Office of Lottery and Charitable Games hereby gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 9, DESCRIPTION OF ON-LINE GAMES, of Title 30 DCMR, LOTTERY AND CHARITABLE GAMES, is amended as follows:

Section 911, DESCRIPTION OF THE D.C. QUICK CASH GAME, is repealed and replaced with the following:

911 DESCRIPTION OF THE LUCKY ONE®

911.1 The Agency may offer a one (1) digit keno style monitor game using a fixed payout known as The Lucky One®.

911.2 For each The Lucky One® drawing, one (1) winning number is chosen out of a field of thirty-six (36) numbers that are selected by a random number generator. The winning number is displayed at the end of each The Lucky One® drawing on the player monitor.

911.3 The Lucky One® players will have the option of selecting a single number, multiple numbers, high/low and/or odd/even.

911.4 The bet(s) that a player selects for each The Lucky One® drawing are printed on The Lucky One® Ticket, the date(s) of the drawing(s) the type of bet(s), the number of plays, the identifying number for each such drawing, the price of The Lucky One® Ticket, a retailer number, a serial number, and a bar code.

- 911.5 The Lucky One® drawings will occur every four (4) minutes during the following periods:
- (a) 12:02 a.m. to 1:58 a.m.
 - (b) 6:06 a.m. to 11:58 p.m.
 - (c) Other The Lucky One® drawing times and intervals may be designated by the Executive Director and made available to agents and the public in game instructions issued pursuant to chapter 8 of this Title.
- 911.6 A player may wager on three (3) different bet types in a single The Lucky One® Game:
- (a) LUCKY NUMBER – The player selects one (1) number up to ten (10) numbers from the range of 1-36. The Quick Pick option is only available for single number wagers. Minimum bet per play is one dollar (\$1). The maximum bet per play is fifty dollars (\$50). The wager options are \$1, \$2, \$5, \$10, \$20, \$25, \$30, \$50. Example: Player selects numbers 1 and 13, wager \$10. Total cost will be 2 plays X \$10 = \$20.
 - (b) HIGH/LOW – The player selects if the number drawn will be High or Low or uses the Quick Pick option. Low numbers are 1-18 (one through eighteen); High numbers are 19-36 (nineteen through thirty-six). Minimum bet per play is one dollar (\$1). The maximum bet per play is \$50. The wager options are \$1, \$2, \$5, \$10, \$20, \$25, \$30, \$50.
 - (c) ODD/EVEN – The player selects if the number drawn will be Odd or Even or uses the Quick Pick option. Minimum bet per play is one dollar (\$1). The maximum bet per play is \$50. The wager options are \$1, \$2, \$5, \$10, \$20, \$25, \$30, \$50. Odd and Even numbers are defined as follows:
 - (1) Odd numbers: one (1), three (3), five (5), seven (7), nine (9), eleven (11), thirteen (13), fifteen (15), seventeen (17), nineteen (19), twenty-one (21), twenty-three (23), twenty-five (25), twenty-seven (27), twenty-nine (29), thirty-one (31), thirty-three (33), and thirty-five (35).
 - (2) Even numbers: two (2), four (4), six (6), eight (8), ten (10), twelve (12), fourteen (14), sixteen (16), eighteen (18), twenty (20), twenty-two (22), twenty-four (24), twenty-six (26), twenty-eight (28), thirty (30), thirty-two (32), thirty-four (34), and thirty-six (36).
- 911.7 A player selects up to twenty (20) consecutive The Lucky One® draws for each The Lucky One® Game on a single The Lucky One® Ticket.

- 911.8 A ticket which is printed in error for The Lucky One® game may be cancelled only on the date purchased and prior to the drawing break. The tickets shall be voided only by the issuing agent and the terminal that printed the ticket, The player may request a refund or a replacement ticket. If for any reason the terminal that issued the ticket is inoperable prior to the drawing break, the player's sole recourse shall be a refund of the ticket price.
- 911.9 Each ticket may contain multiple bet types, and wager amounts for each bet type can vary by bet type. Example: \$5 wager on the Lucky Number, \$2 on Odd and \$20 on High.
- 911.10 The minimum The Lucky One® ticket price for a consecutive drawing is two dollars (\$2), \$1 x 2 consecutive drawings or \$2. The maximum The Lucky One® ticket price for consecutive drawings may not exceed two hundred eight dollars (\$208.00). A selection slip indicating a price greater than two hundred eight dollars (\$208.00) shall be rejected automatically by the terminal.
- 911.11 If a player has games remaining on a The Lucky One® ticket at the close of daily The Lucky One® operations, the remaining games shall be played and drawn at the start of operations the next day.

Section 912, PRIZE STRUCTURE FOR THE D.C. QUICK CASH GAME, is repealed and replaced with the following:

912 THE Lucky One® PRIZE STRUCTURE, PROBABILITY AND VALIDATION

- 912.1 Overall odds of winning and prizes are determined by the number and type of bet selected for each draw.

912.2 The Lucky One® is a set payout game which pays prizes based on a one-dollar (\$1) bet shall be as follows:

Wager Types	Selections	How to Win	Example Player Selects	Example Number Drawn	\$1 Bet Pays	Odds of Winning
Lucky Number	Any number from 1-36	Player must match number drawn	Player selects the number 2	2	\$24	1:36
Odd/Even	Odd or Even	Player must match if the number drawn is odd or even	Player selects odd	1	\$1.50	1:2
High/Low	High or Low	Player must match if the number drawn is high or low	Player selects high	30	\$1.50	1:2

912.3 The Executive Director may adopt other prize structures that shall be effective upon the issuance of instructions to the public.

912.5 If a player validates a winning The Lucky One® ticket and a portion of The Lucky One® ticket has draw(s) remaining, a The Lucky One® Exchange Ticket will be reissued to the player at no additional cost. The Lucky One® Exchange Ticket shall contain the exact The Lucky One® game play and future drawing date(s) appearing on the validated The Lucky One® ticket it is replacing and shall have all other characteristics of a The Lucky One® ticket except as otherwise stated in these rules. An Exchange Ticket shall not contain a ticket price.

912.6 The Lucky One® Exchange Tickets are valid beginning with the next draw through the last draw on the original The Lucky One® Ticket.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9900, DEFINITIONS, is amended by adding the following terms and definitions:

The Lucky One® Ticket – a terminal generated bearer instrument that is produced when playing The Lucky One® game. The Lucky One® Ticket is the only form of proof of a The Lucky One® wager.

The Lucky One® Exchange Ticket - a terminal generated ticket to replace a consecutive The Lucky One® Ticket that is validated before the last game on The Lucky One® Ticket.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Antar Johnson, Senior Counsel, Office of Lottery and Charitable Games, 2235 Shannon Place SE, Washington, D.C. 20020, or e-mailed to antar.johnson@dc.gov, or filed online at www.dcregs.gov. Additional copies of this proposed rule may be obtained at the address stated above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING**RM3-2018-01, IN THE MATTER OF THE INVESTIGATION INTO THE PUBLIC SERVICE COMMISSION’S RULES GOVERNING ENERGY METER LOCATIONS**

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Section 2-505 (2016 Repl.) of the District of Columbia Official Code,¹ of its intent to amend Sections 301 and 399.1, Chapter 3 (Consumer Rights and Responsibilities) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (“DCMR”), commonly referred to as the Consumer Rights and Responsibilities. This chapter sets forth standards for energy meter locations.

2. The Commission gives notice of its intent to take final rulemaking action in not less than 30 days after publication of this Notice of Proposed Rulemaking (“NOPR”) in the *D.C. Register*.

Section 301, Chapter 3, CONSUMER RIGHTS AND RESPONSIBILITIES, of Title 15, PUBLIC UTILITIES AND CABLE TELEVISION, is amended to read as follows:

301 ENERGY METER LOCATIONS

301.1 When an indoor electric Meter installation is replaced or relocated outdoors due to modifications in electric service equipment by the Electric Utility, the replacement or relocation shall be at no expense to the Customer. The cost of connecting the Meter to the Customer’s electric service panel shall remain with the Customer.

301.2 Whenever a new natural gas or electric service line is installed or an existing natural gas or electric service line is replaced, the Meter shall be placed according to the requirements of this Section and at no expense to the Customer. However, Meter relocation and house piping costs incurred at the request and for the convenience of the Customer, when the Meter is situated in a location compliant with the District of Columbia and federal laws and regulations, shall be at the Customer’s expense and the costs shall be calculated in accordance with the Commission-approved Tariff for this service.

¹ D. C. Official Code § 2-505 (2016 Repl.).

- 301.3 If a Meter is located where it is inaccessible for purposes of maintenance, the Customer shall grant access to the Meter for maintenance or service Disconnection within the provisions of Subsection 310.1. The Customer shall bear the cost of relocating the Meter if the Meter shall be moved due to the Customer's affirmative denial of access to the Meter.
- 301.4 Unless otherwise allowed in this Section, electric and gas Meters and Gas Service Regulators shall be located outdoors. The Electric Utility or Natural Gas Utility maintains discretion in determining the location of indoor or outdoor equipment, subject to the provisions of this Section and all applicable federal and District of Columbia laws and regulations, including, but not limited to, the District Department of Transportation permitting requirements, the Design Guideline for Utility Meters issued by the District of Columbia Historic Preservation Review Board, and any applicable District building laws and regulations.
- 301.5 Except in the case of an emergency, the Electric Utility or Natural Gas Utility shall provide a written notice to a Customer by first class mail, or by personal delivery at least thirty (30) days prior to replacing or relocating electric or gas equipment associated with the Customer's service. Customers who receive bills electronically shall also be provided with a written notice electronically. The notice shall request that if the Customer is not the owner of the building, the Customer should forward the written notice to the owner of the building. If the Electric Utility or Natural Gas Utility knows the current address of the owner of the building, notice shall also be delivered to that address.
- 301.6 The written notice required by Section 301.5 shall inform the Customer and building owner of the equipment that the Electric utility or Natural Gas Utility proposes to replace or relocate, the planned new location and how to contact the Electric Utility or Natural Gas Utility to provide supplemental information, such as the building's historic status or any private property line limitations. The written notice shall include contact information for the Commission and the Office of the People's Counsel.
- 301.7 When necessary to install Meters at multiple locations on a premise, the Electric Utility or Natural Gas Utility shall install them in a Meter Bank, if possible. If not, the Electric Utility or Natural Gas Utility shall provide a tag or other means to indicate there are multiple Meter locations.
- 301.8 In situations where exterior Meters, Gas Service Regulators, Shut-Off Valves or other necessary equipment cannot be installed on the private property in front of a building, the Electric Utility and Natural Gas Utility shall avoid installing equipment on the principal street facades and shall employ best efforts to place the equipment to the rear and secondary

facades of the private property. Installing equipment on public space is subject to the applicable District of Columbia regulations.

301.9 The Electric Utility and Natural Gas Utility shall establish provisions in their tariffs addressing compliance with the requirements of this Section, including but not limited to electric and gas Meter, Gas Service Regulator and gas Shut-Off Valve maintenance and inspection, location, replacement and relocation, and associated charges.

301.10 The following rules shall apply to gas equipment:

- (a) When installing a gas Meter or Gas Service Regulator outdoors, a Natural Gas Utility shall consider potential damage to the gas equipment and shall employ best efforts to preserve the integrity and appearance of the building and its façades.
- (b) The gas Meter location shall accommodate access for meter reading, inspection, repairs, testing, and the safe changing and operation of the gas Shut-Off Valve.
- (c) Gas Meters or Gas Service Regulators located outdoors shall be installed in one of the following locations:
 1. When feasible and practical to do so, aboveground in a protected location adjacent to the building served, and as close as possible to the point where the Distribution Main Line is tapped; or
 2. In a buried vault or Meter box. The vault or Meter box shall be located, when possible, either adjacent to the building served or near the gas Main Line.
- (d) Gas Meters and Gas Service Regulators shall not be installed in the following locations:
 1. Beneath or in front of windows or other building openings that may directly obstruct emergency fire exits;
 2. Under interior stairways (for Meters only);
 3. Under exterior stairways, unless an alternate means of egress exists and the Meter and service regulator are installed in a well-vented location under stairs constructed of noncombustible material;
 4. Near building air intakes;
 5. In contact with soil, water, or other potentially corrosive materials;

6. A crawl space; and
 7. Gas Service Regulators shall be located outdoors or when located indoors, shall be vented to the outside.
- (e) When considering the proper location for Meter boxes or Meter vaults, the Natural Gas Utility shall comply with the applicable federal regulations, if any, and at a minimum take into account the following:
1. Ease of access;
 2. Ventilation;
 3. Vehicular traffic;
 4. Soil accumulation;
 5. Surface water runoff;
 6. High water table;
 7. Proximity to building air intakes or openings;
 8. Proximity to source of ignition or any source of heat, which may damage the gas Meter;
 9. Ice damage or freezing presenting safety risks; and
 10. Other potential damages anticipated by the Natural Gas Utility based on the Natural Gas Utility prior experience.
- (f) Gas piping installed through walls shall be properly coated to protect from corrosion.
- (g) Placing gas Meters indoors shall be considered only when:
1. The gas service line pressure is less than ten (10) pounds per square inch gauge (“psig”);
 2. The gas Meter could not be installed safely on the private property surrounding the building, as prescribed in Subsection 301.8, and would have to be placed fully or partially on public space;
 3. A Natural Gas Utility determines that a Meter is subject to a high risk of damage based on the Natural Gas Utility’s prior experience; and
 4. Protection from ambient temperatures is necessary to avoid Meter freeze-ups, flooding or icing, or other extreme

weather conditions that could impact the safe and accurate operation of the Meter.

- (h) Meters installed indoors shall be located in a ventilated place not less than three (3) feet from a source of ignition or source of heat which may damage the Meter. Indoor Meters shall be supported in such a manner as to be as free as possible from damage that will render them unsafe or inaccurate.
- (i) When a gas Meter is located indoors, the Natural Gas Utility shall inform the customer in writing of any safety measures that the customer needs to adhere to, including but not limited to ventilation requirements and proximity of ignition source or heat.
- (j) All gas Meters located indoors shall be equipped with an operable shut off valve located at a readily accessible location outdoors.
- (k) All gas Meters installed indoors at multi-family buildings or rowhouses shall be inspected by the Natural Gas Utility every two years.

Section 399, Chapter 3, CONSUMER RIGHTS AND RESPONSIBILITIES, of Title 15, PUBLIC UTILITIES AND CABLE TELEVISION, is amended to add the following definitions:

399 DEFINITIONS

399.1 When used in this chapter, the following terms and phrases shall have the meaning:

Distribution Line: a pipeline other than a gathering or transmission line.

Main Line: a Distribution Line that serves as a common source of supply for more than one service line.

Gas Service Regulator: the device on a service line that controls the pressure of gas delivered from a higher pressure to the pressure provided to the customer. A service regulator may serve one customer or multiple customers through a meter header or manifold.

Shut-Off Valve: a small local valve used to control the flow of gas and is installed upstream of the gas meter.

Meter Bank: numerous Meters served by a single regulator where all Meters are near each other and connected through a Meter header

(aka manifold) to provide service to numerous units or customers in the same building or adjoining buildings.

3. All persons interested in commenting on the subject matter of this proposed rulemaking action may submit comments and reply comments, in writing, not less than 30 and 45 days, respectively, after publication of this NOPR in the *D.C. Register* with Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington D.C. 20005 or at the Commission's website at https://edocket.dcpSC.org/public/public_comments. Copies of these proposed rules are available upon request, at a per-page reproduction cost by contacting the Commission Secretary at (202) 626-5150 or psc-commissionsecretary@dc.gov.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF SECOND PROPOSED RULEMAKING**RULEMAKING NUMBER 37- NATURAL GAS QUALITY OF SERVICE STANDARDS AND RELIABILITY PERFORMANCE; and****FORMAL CASE NO. 977, IN THE MATTER OF THE INVESTIGATION INTO THE QUALITY OF SERVICE OF WASHINGTON GAS LIGHT COMPANY, DISTRICT OF COLUMBIA DIVISION, IN THE DISTRICT OF COLUMBIA**

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,¹ of its intent to amend Chapter 37 (Natural Gas Quality of Service Standards and Reliability Performance) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (“DCMR”), commonly referred to as the Natural Gas Quality of Service Standards (“NGQSS”). This chapter sets forth standards for ensuring that a natural gas utility and natural gas service providers operating in the District of Columbia meet an adequate level of quality, reliability, and safety in the natural gas service provided to District of Columbia residents. The Commission gives notice of its intent to take final rulemaking action in not less than 30 days after publication of this Notice of Proposed Rulemaking (“NOPR”) in the *D.C. Register*.²

Chapter 37, NATURAL GAS QUALITY OF SERVICE STANDARDS AND RELIABILITY PERFORMANCE, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended to read as follows:

3700 PURPOSE AND APPLICABILITY

- 3700.1 The purpose of this chapter is to establish standards and requirements for ensuring that a Natural Gas Utility and Natural Gas Service Providers operating in the District of Columbia meet an adequate level of quality, reliability, and safety in the natural gas service provided to District of Columbia customers.
- 3700.2 This chapter shall apply to all Natural Gas Utility and natural gas service providers operating in the District of Columbia, subject to the authority of the Public Service Commission of the District of Columbia (“Commission”).
- 3700.3 All written Natural Gas Quality of Service Standards (“NGQSS”) reports, studies, surveys, or filings required to be submitted to the Commission shall be docketed under Formal Case No. 977 or a successor docket.

¹ D. C. Official Code § 2-505 (2016 Repl.).

² A prior NOPR was published in *64 D.C. Register 7960-7983* on August 11, 2017.

3701 REPORTING REQUIREMENTS FOR REPORTABLE AND LIMITED SERVICE OUTAGES AND GAS INCIDENTS

- 3701.1 The Natural Gas Utility shall report to the Commission and the Office of the People’s Counsel (“OPC”) of the District of Columbia all Reportable Service Outages and incidents.
- 3701.2 The Natural Gas Utility shall report Reportable Service Outages by telephone and e-mail to the Commission’s Office of Compliance and Enforcement (“OCE”) and OPC, at the earliest practicable time, but not later than one (1) hour after the Natural Gas Utility’s dispatch has been informed of a Reportable Service Outage, with as much detailed information as possible. To the extent that all information required by Subsection 3701.3 is not available at the time of the initial communication, the Natural Gas Utility shall within two (2) hours of the dispatch, supplement its initial report with the additional information. This reporting requirement applies to business and non-business hours.
- 3701.3 Each telephone and e-mail report rendered by the Natural Gas Utility to OCE and OPC subsequent to a Reportable Service Outage shall state clearly, at a minimum, the following information:
- (a) The location(s) of the service outage(s), including street addresses; the ward(s) and/or quadrant(s) where the service outage(s) occurred;
 - (b) The estimated number of customers out of service, if known;
 - (c) A preliminary assessment as to the cause(s) of the service outage(s), if known; and
 - (d) The estimated repair and/or restoration time, if known.
- 3701.4 During the course of each Reportable Service Outage, the Natural Gas Utility shall report periodically to OCE and OPC regarding the status of the service outage and the Natural Gas Utility’s progress in restoration efforts. The frequency of such periodic updates to OCE shall be jointly determined by the utility and OCE at the start of the service outage and/or as modified during the course of the service outage. The Natural Gas Utility shall update OCE and OPC if the originally estimated restoration time needs to be extended.
- 3701.5 Updated estimated restoration information, if available, shall be continuously provided to District of Columbia customers by the Natural Gas Utility’s customer service representatives and by the Natural Gas Utility’s automated voice response unit.
- 3701.6 The Natural Gas Utility shall file a written report concerning all Reportable Service Outages with the Commission and OPC within twenty-one (21) calendar days following the end date of a Reportable Service Outage.

3701.7 Each written report concerning a Reportable Service Outage shall state clearly, at a minimum, the following information:

- (a) The date(s) and times when the Reportable Service Outage began and ended;
- (b) The location(s) of the service outage(s), including street addresses, the ward(s) or quadrant(s);
- (c) Pipe size, material, pressure and type of gas pipeline involved;
- (d) The date(s) and time(s) the Natural Gas Utility received the first call regarding the outage(s) or became aware of the outage(s);
- (e) The dates and times when the restoration effort began and ended;
- (f) The date and time when the maximum number of customers experienced an outage and the total number of customers affected at that time (both on a system-wide basis and for the District of Columbia only);
- (g) The total number of customers that experienced an outage given in one hour intervals throughout the outage (both on a system-wide basis and for the District of Columbia only);
- (h) The total number of customer interruption durations (converted into hours) during the outage (both on a system-wide basis and for the District of Columbia only);
- (i) Any information concerning requests made for outside assistance, including the organization(s) to which such requests were made, the date and time of the requests, and the resources requested;
- (j) Any information concerning outside assistance received, including the organization(s) that provided personnel, the date(s) and time(s) of personnel arrivals and departures, all crew personnel with names, ID numbers and the type of work (covered tasks) performed with complete Operator Qualifications (OQ) records;
- (k) Any information on the Natural Gas Utility's own and contractor personnel and resources used in the restoration efforts with names, identification numbers and the type of work (covered tasks) performed with complete OQ records;
- (l) Any system-wide information concerning customer communications including the hourly call volumes (specifically identifying the total number of customer calls received and the total number of customer calls answered by the Natural Gas Utility during each hour of the service outage), the hourly staffing numbers (specifically identifying the total

number of customer service representatives logged into the call center and supporting phone systems actively taking or waiting to take customer calls), and the telephone service factor provided on an hourly basis during the entire duration of the service outage (specifically identifying the percentage of answered calls that were answered within a thirty (30)-second timeframe);

- (m) The total number of customers interrupted and the customer interruption durations (converted into hours) along with the causes of the outages (both on a system-wide basis and for the District of Columbia only);
- (n) The detailed explanation of the work (covered tasks) performed as part of the emergency restoration efforts including the Natural Gas Utility's own and contractor personnel and resources used with the names, ID numbers and the type of work (covered tasks) performed with complete OQ records (both on a system-wide basis and for the District of Columbia only);
- (o) Any issues concerning the availability of materials that affected restoration progress and a description of the emergency measures taken to resolve such issues;
- (p) A self-assessment of the Natural Gas Utility's restoration efforts in the District of Columbia;
- (q) The total number of customers, and percent of all affected customers, restored, given in one-hour intervals throughout the Reportable Service Outage restoration effort (both on a system-wide basis and for the District of Columbia only);
- (r) An analysis, based upon the availability of the data and all other surrounding circumstances, of the Natural Gas Utility's performance in its current restoration efforts as compared to its past restoration efforts, taking into account all relevant factors, such as the severity of the current outage in terms of the number of customers affected (both on a system-wide basis or the District of Columbia only);
- (s) Complete investigation of the root cause of the abnormal operating condition of the gas pipelines which resulted in the gas service outage and the steps the Natural Gas Utility will implement to prevent such an occurrence in the future; and
- (t) Whether there were any safety issues associated with the outage, how the safety issues were addressed, and if any customers were in danger at any time during the restoration.

3701.8 The Natural Gas Utility shall report Limited Service Outage(s) by telephone and e-mail to OCE and OPC at the earliest practicable time, but not more than one (1)

hour after the Natural Gas Utility's dispatch has been informed of a Service Outage, with as much detailed information as possible. To the extent that all information required by Subsection 3701.9 is not available at the time of the initial communication, the Natural Gas Utility shall within two (2) hours of the dispatch supplement its initial report with the additional information. This reporting requirement applies to business and non-business hours.

3701.9 The reporting requirements for Limited Service Outage(s) are as follows:

- (a) The Natural Gas Utility shall report Limited Service Outage(s) affecting 25 to 100 customers and lasting more than eight (8) hours on the Natural Gas Utility's side of the gas pipeline;
- (b) No report needs to be filed if the customer service outage was caused by an event on the customer's side of the meter; and
- (c) No report needs to be filed if the outage is the result of planned maintenance activities, provided that the customer was informed prior to the implementation of the maintenance activities.
- (d) Each telephone and e-mail report concerning Limited Service Outage(s) shall state clearly, at a minimum, the following information:
 1. The location(s) of the service outage(s), including street addresses, the ward(s) and/or quadrant(s);
 2. The estimated number of customers out of service, if known;
 3. A preliminary assessment as to the cause(s) of the service outage(s), if known; and
 4. The estimated repair and/or restoration time, if known.
- (e) Written reports concerning Limited Services Outage(s) shall be submitted by the Natural Gas Utility with the Commission and OPC within ten (10) days from the date of repair/restoration completion or within two (2) weeks of the event occurrence whichever comes first.
- (f) Each written report concerning Limited Service Outage(s) shall state clearly, at a minimum, the following information as applicable to the given outage(s):
 1. A description of the service outage(s) and information as to the cause of the outage(s);
 2. The location(s) of the service outage(s), including street addresses, the ward(s) and/or quadrants;
 3. Pipe size, material, pressure, and type of gas pipeline involved;

4. The time the Natural Gas Utility received the first call regarding the outage(s) or became aware of the outage(s);
5. The actual repair and restoration times of the service outage(s);
6. The duration of the service outage(s) rounded to the nearest hour and half-hour;
7. The estimated number of customers affected by the service outage(s);
8. The steps taken to minimize and/or control the service outage(s);
9. Detailed information on the Natural Gas Utility's own and contractor personnel deployed to the restoration efforts including names, ID numbers, type of work (covered tasks) performed and complete OQ records; and
10. The root cause analysis of the cause of the outage(s) and the steps the Natural Gas Utility will implement to prevent such an occurrence in the future, if any.

3701.10 The Natural Gas Utility shall report by telephone and e-mail all incidents to OCE and OPC at the earliest practicable time, but not later than one (1) hour after the Natural Gas Utility's dispatch has been informed of the incident, with as much detailed information as possible. To the extent that all information required by Subsection 3701.9 is not available at the time of the initial communication, the Natural Gas Utility shall, within two (2) hours of the dispatch, supplement its initial report with the additional information. The Natural Gas Utility shall continue providing updates to the Commission and OPC on all incidents as information becomes available. This reporting requirement applies to business and non-business hours.

3701.11 Each telephone and e-mail report concerning, all incident(s) shall state clearly, at a minimum, the following information:

- (a) A description of the incident(s);
- (b) The location(s) of the incident(s), including street addresses and the District's ward(s) and/or quadrant(s);
- (c) Pipe size, material, pressure and type of gas pipeline involved;
- (d) The estimated number of customers and/or persons affected, if known;
- (e) A preliminary assessment as to the cause(s) of the incident(s), if known;
- (f) The steps the Natural Gas Utility will voluntarily take to provide assistance to consumers; and
- (g) The Natural Gas Utility shall provide regular updates to OCE and OPC on the incident, as requested by the pipeline safety inspector, until the incident is resolved.

- 3701.12 Initial written reports concerning all incidents shall be filed with OCMS and OPC within five (5) days of the event occurrence.
- 3701.13 Each written report concerning all incidents shall state clearly, at a minimum, the following information:
- (a) A description of the incident(s) and information as to the root cause of the incident(s);
 - (b) The location(s) of the incident(s), including street addresses, the ward(s) and/or quadrant(s);
 - (c) Pipe size, material, pressure and type of gas pipeline involved;
 - (d) The date(s) and time(s) the Natural Gas Utility received the first call regarding the incident(s) or became aware of the incident(s);
 - (e) The estimated number of customers and/or persons affected, and street shutdowns;
 - (f) The steps the Natural Gas Utility took to provide assistance;
 - (g) The amount of time it took for assistance to arrive;
 - (h) The date(s) and time(s) of arrival of the first Natural Gas Utility responder to the scene of the incident;
 - (i) The date and time the area was made safe;
 - (j) The total number of injuries, hospitalizations, and fatalities;
 - (k) An estimated total dollar amount of damage and loss to the Natural Gas Utility caused by the incident(s) if known; and
 - (l) The results of investigations into the root causes of the incident(s) and steps the Natural Gas Utility will implement to prevent such an occurrence in the future.
- 3701.14 The Natural Gas Utility shall update the initial written report and shall file same with OCMS and OPC within thirty (30) days of the event occurrence.

3702 REPORTING AND REPAIRING REQUIREMENTS FOR GAS LEAKS AND ODOR COMPLAINTS

- 3702.1 The Natural Gas Utility's reporting and repair requirements for gas leaks and odor complaints shall follow four steps: (i) respond to all leaks and odor complaints within the timeframes established for the appropriate Code Orders and categorize any gas leak by grade; (ii) notify OCE and OPC by e-mail and telephone of each Grade 1, Grade 2 and Grade 3 gas leak; (iii) provide periodic updates to the initial

notification; and (iv) submit written reports on the results of the leak detection and repair, and odor complaints. The leak detection, classification, and repair personnel shall meet the federal training requirements for natural gas operations, maintenance, and emergencies (49 Code of Federal Regulations, Part 192).

3702.2

The Natural Gas Utility shall:

- (a) Respond to (be at the site of) all Code 1 Orders, on a monthly average basis, within thirty (30) minutes after the Natural Gas Utility's dispatch has been informed about the leak and/or odor complaint during business or non-business hours; with no more than three (3) percent of the overall monthly response times over fifty (50) minutes and no single event response time exceeding two (2) hours;
- (b) Respond to (be at the site of) all Code 2 Orders, on a monthly average basis, within sixty (60) minutes after the Natural Gas Utility's dispatch has been informed about the leak and/or odor complaint during business or non-business hours; with no more than ten (10) percent of the overall monthly response times over seventy-five (75) minutes and no single event response time exceeding four (4) hours;
- (c) Respond to all Code 3 Orders, by making a determination as to the severity of the gas leaks and/or reported odor complaints and indicate to the customer/caller when a representative will be at the site, provided that on a monthly average basis, a representative will be at the site not later than ninety (90) minutes after the Natural Gas Utility's dispatch has been informed about the leak and/or odor complaint during business and non-business hours; with no more than twenty (20) percent of the overall monthly response times over ninety (90) minutes and no single event response time exceeding six (6) hours; and
- (d) Notify OCE and OPC within twenty-four (24) hours following the end of each month, for those Code 1 response times that do not meet the requirements of these rules and that exceeded the fifty (50) minute allowable response time and the single event maximum response time, and provide to OCE, on a monthly basis, the following additional information:
 1. Full root cause analysis;
 2. Location from which the technician was dispatched;
 3. Time of dispatch;
 4. Time of arrival;
 5. Length of time of the response;
 6. Whether the Natural Gas Utility's standard processes for dispatch and response were followed and if not, a description of any deviation and the reason why;
 7. Reason for any response in excess of the average allowable response time and in excess of two hours;

8. Number of in-progress Code orders (any Code) at the time of dispatch in the District of Columbia;
 9. Number of in-progress gas leaks (any Grade) at the time of dispatch in the District of Columbia;
 10. Number of service technicians (qualified per Pipeline Hazardous Material Safety Administration OQ requirements to respond to Code 1 orders) on-the-clock at the time of dispatch; and
 11. Proposed remedy to prevent a similar circumstance, if any.
- (e) Upon responding to a Code 1, Code 2, or Code 3 Order, determine whether there is a gas leak that is in need of repair and if so, shall categorize the gas leak by grade pursuant to Subsection 3702.4.
- (f) Provide to OCMS and OPC on a quarterly basis the compliance reporting required by Subsection 3708.2. The Natural Gas Utility shall provide explanations if these time limits are exceeded, pursuant to Section 3708.3.

3702.3 The Natural Gas Utility shall report to OCE and OPC by telephone and e-mail all natural gas leaks, except gas leaks found inside residential and/or commercial customers' property at the earliest practicable time, but not later than one (1) hour after the Natural Gas Utility's dispatch has been informed about and determined that the odor complaint resulted from a leak and/or the dispatch has determined that a leak has occurred on the Natural Gas Utility's gas system, with as much detailed information as possible. To the extent all information required by Subsection 3702.5 is not available at the time of the initial communication; the Natural Gas Utility shall within two (2) hours of the dispatch supplement its initial information with the additional information. Gas leaks found for odor complaints reported inside customers' facilities and odor complaints where no leaks are found shall not be reported. This reporting requirement applies to gas leaks that are found during business and non-business hours.

3702.4 Each gas leak shall be categorized as Grade 1, 2, or 3. All leaks shall be classified with the following criteria:

- (a) Grade 1: A leak that presents an immediate or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous;
- (b) Grade 2: A leak that is recognized as being non-hazardous at the time of detection, but requires scheduled repair based on probable future hazard; and
- (c) Grade 3: A leak that is non-hazardous at the time of detection and can be reasonably expected to remain non-hazardous.

- 3702.5 Each telephone and e-mail report to OCE and OPC of Grade 1, Grade 2, and Grade 3 leak(s) due to a gas-related odor complaint shall state clearly, at a minimum, the following information:
- (a) A description of the type of leak(s);
 - (b) The location of the leak(s), including street address(s), the ward(s) and/or quadrant(s);
 - (c) Pipe size, material, pressure and type of gas pipeline involved.
 - (d) The estimated number of customers and/or persons whose services were disrupted, if any;
 - (e) A preliminary assessment as to the cause of the leak(s), if known.
 - (f) The estimated time to repair the leak, if known; and
 - (g) The Natural Gas Utility shall provide OCE and OPC with regular updates to the initial report as it receives more information.
- 3702.6 All Grade 1 leaks shall be promptly repaired. If not repaired immediately, upon detection, because of downgrading of the Grade 1 leak to a Grade 2 leak, the Natural Gas Utility shall recheck the address within forty-eight (48) hours to determine if a Grade 1 leak returns. The job site shall be continuously observed until completion of the repair or downgrade of the Grade 1 leak to a Grade 2 leak. If the Grade 1 leak returns, the job can no longer be downgraded and the leak must be repaired under current Grade 1 standards. The Natural Gas Utility shall submit a written report after one (1) week from the initial grading of the leak to OCE and OPC regarding the status of the downgraded leak and the Natural Gas Utility's progress in completing repairs, and follow Sections 3702.11 and 3702.12 for Grade 2 and Grade 3 leaks respectively until completion of the leak repair. Within eight (8) hours after a Grade 1 leak is downgraded to a Grade 2 leak, the Natural Gas Utility shall report by telephone and e-mail to OCE and OPC and shall state clearly the leak downgrading information, Subsection 3702.5 information and the name, telephone number, and identification of the technician downgrading the leak.
- 3702.7 Each written report to OCE and OPC concerning Grade 1 leaks shall state clearly, at a minimum, the following information as applicable to the incident:
- (a) The street address, the ward(s) and/or quadrant(s) location of the leak or odor;
 - (b) A description of the type of leak;
 - (c) Pipe size, material, pressure, and type of the gas pipeline involved;

- (d) The time the Natural Gas Utility received the first call regarding a gas leak or leak detection;
- (e) The time the Natural Gas Utility’s technician reached the site;
- (f) The cause of the leak, if known;
- (g) The time the area was made safe; and
- (h) The actual repair time; the time and date when the job was completed with actual repair duration.

3702.8 Grade 2 leaks shall be monitored and reevaluated at least once every six months until cleared with no further signs of leak. Depending upon the location and magnitude of the leakage condition, reevaluation may be made earlier than six months. If reevaluation of a Grade 2 leak indicates potential hazard, i.e., reclassified as a Grade 1 leak, and it shall be repaired immediately. For Grade 2 leaks that do not pose an immediate hazard, the Natural Gas Utility shall schedule repairs within thirty (30) days depending upon the severity of the leak. Otherwise, Grade 2 leaks shall be repaired or cleared within one calendar year, but no later than 15 months from the date the leak was first reported.

3702.9 Grade 3 leaks shall be monitored and reevaluated during the next scheduled leak survey, or within fifteen (15) months of the date reported, whichever occurs first, until the leak is regraded or cleared with no further signs of leak.

3702.10 Written reports for leaks classified as Grade 2 and Grade 3 shall be filed semi-annually with OCMS and OPC. The report shall be submitted forty-five (45) days after the reporting period, starting with the six-month reporting period following after publication of the Notice of Final Rulemaking adopting the NGQSS in the *D.C. Register*.

3702.11 Each semi-annual written report concerning Grade 2 leaks shall state clearly, at a minimum, the following information as applicable:

- (a) The street address, the ward(s) and/or quadrant(s) location of the leak or odor;
- (b) A description of the type and cause of leak;
- (c) Pipe size, material, pressure, and type of the gas pipeline involved; and
- (d) The schedule and the status of repair of all Grade 2 leaks consistent with the standard provided in Subsection 3702.10.

3702.12 Each semi-annual written report concerning Grade 3 leaks shall state clearly, at a minimum, the following information as applicable:

- (a) The street address, the ward(s) and/or quadrant(s) of the leak or odor;

- (b) A description of the type and cause of leak;
- (c) Pipe size, material, pressure, and type of gas pipeline involved; and
- (d) The status of reevaluation and repair schedule, if applicable, of Grade 3 leaks, consistent with Subsection 3702.11.

3702.13 The Natural Gas Utility shall create and maintain database(s) for all gas leaks and customer reported gas-related odor complaints. The database(s) shall be referred to as the “Leak Identification, Detection and Repair, and Odor Complaints (LIDAROC)”. The database(s) shall contain, at a minimum, the grade of the leak, type of leak, location of the leak, the ward and/or quadrant where the leak occurred, the pressure involved, estimated number of customers whose services were disrupted because of the leak, if any, the cause of the leak, response time, estimated and actual time to repair the leak, and actions taken. The Natural Gas Utility shall incorporate all natural gas leaks and customer reported odor complaint calls into the database(s) within five (5) days of receipt of the gas-related odor complaint and/or determination that a leak has occurred on its gas system. The database(s) shall also reflect the Code order assigned to each complaint call (i.e., Code 1, Code 2 or Code 3) and be organized in a way that permits analysis of the data by the time taken to respond, repair, and resolve the gas leaks.

3702.14 The Natural Gas Utility shall update the database(s) after it has repaired and/or resolved the leak and customer reported odor complaints and shall submit an electronic and a hard copy of the database(s) to the Commission and OPC on a quarterly basis.

3703 REPORTING AND RESPONDING REQUIREMENTS FOR GAS EMERGENCIES

3703.1 The Natural Gas Utility shall immediately dispatch personnel to the site of the Gas Emergency and shall arrive at the site within fifty (50) minutes of receiving an emergency call during normal business and non-business hours.

3703.2 A Gas Emergency shall be reported by telephone and e-mail to OCE and OPC with as much detailed information as possible at the earliest practicable time, but not later than thirty (30) minutes after the Natural Gas Utility’s dispatch has been informed that a Gas Emergency has occurred. The Natural Gas Utility shall provide updates to the initial report as it receives more information. This reporting requirement applies to business and non-business hours.

3703.3 Each telephone and e-mail report of a Gas Emergency shall state clearly, at a minimum, the following information:

- (a) The location of the Gas Emergency, person making the report and contact information; the ward(s) and/or quadrant(s) where the Gas Emergency occurred;

- (b) The estimated number of customers impacted by the Gas Emergency, and street shutdowns, if known;
- (c) A preliminary assessment as to the cause of the Gas Emergency, if known;
- (d) The time between becoming aware of the Gas Emergency and responding (arriving at the emergency site) to the Gas Emergency, if known;
- (e) The estimated time to clear the Gas Emergency, if known;
- (f) The estimated time to repair pipeline facilities affected by the Gas Emergency, and/or restore service, if known; and
- (g) A preliminary assessment as to any injuries, deaths, or personal property damage, if known.

3703.4 During the course of a Gas Emergency on the Natural Gas Utility's system, the Natural Gas Utility shall report periodically by telephone and e-mail to OCE and OPC, regarding the status of the Gas Emergency and the utility's progress in clearing the Gas Emergency and making the site safe. The Natural Gas Utility shall provide updates or progress on the Gas Emergency every hour until the Gas Emergency is resolved.

3703.5 Written reports concerning all Gas Emergencies shall be filed with the Commission and OPC within five (5) days of the event occurrence. The Natural Gas Utility shall provide updates to its written report as it receives more information.

3703.6 Each written report concerning a Gas Emergency shall state clearly, at a minimum, the following information:

- (a) The location of the Gas Emergency;
- (b) The date and time when the Gas Emergency started;
- (c) The date and time when the emergency crew arrived at the scene;
- (d) The date and time when the Gas Emergency ended;
- (e) An assessment as to the cause, origin, and contributing factors of the Gas Emergency;
- (f) The number of customers affected by the Gas Emergency;
- (g) An assessment as to any injuries, deaths, or personal property damage; and
- (h) The steps the Natural Gas Utility is taking to minimize the possibility of a recurrence of the incident.

3704 CUSTOMER SERVICE STANDARDS, CUSTOMER SURVEYS, SERVICE PROVISIONING

- 3704.1 The Natural Gas Utility shall maintain a customer service (walk-in) office physically located in the District of Columbia.
- 3704.2 The Natural Gas Utility shall conduct annual customer surveys to assess customer satisfaction with the quality of customer service provided by the company to its District of Columbia customers. The Natural Gas Utility shall provide the results of the surveys to the Commission and OPC. The customer satisfaction surveys shall be conducted from (1) a statistically representative sample of residential customers; and (2) customers randomly selected from those customers who have contacted the company's customer service department within the year in which service is being measured. The representative sample shall be drawn from customers contacting the company's customer service department in the previous year and shall be conducted with a sample of customers who contacted the Natural Gas Utility by walk-in, telephone, or e-mail. The survey instrument and the method shall be pre-approved by OCE. The Natural Gas Utility shall include the results from all available previous years of the survey up to a maximum of ten years in the Quality of Service Standard Performance Report (QSSPR).
- 3704.3 The Natural Gas Utility shall gather data and report statistics regarding the number of service calls met on the same day requested or scheduled, excluding instances where a customer misses a mutually agreed upon time to the Commission and OPC. The Natural Gas Utility shall report the percentage of scheduled service appointments met by the Natural Gas Utility on the same day requested. Service appointment data shall be compiled and aggregated monthly. A minimum performance standard of 95% on a quarterly basis will apply. The Natural Gas Utility shall record the delay, in hours and/or days, in responding to requested or scheduled service calls. The Natural Gas Utility shall provide the results on service calls met and delayed to the Commission and OPC on an annual basis in the QSSPR.
- 3704.4 The Natural Gas Utility shall gather data on the percentage of meters that are actually read by the company on a monthly basis. Eligible meters include both residential and commercial accounts. On-cycle meter reads performance standard of 95% on a quarterly basis will apply. The Natural Gas Utility shall provide the results to the Commission and OPC on an annual basis in the QSSPR.
- 3704.5 The Natural Gas Utility shall perform the customer requested meter testing on a timely basis, but at a minimum shall test 97% of meters, on a quarterly basis, on pre-scheduled test time mutually agreed upon by the Natural Gas Utility and the customer. The Natural Gas Utility shall submit its results to the Commission and OPC on an annual basis in the QSSPR.
- 3704.6 The Natural Gas Utility shall answer at least seventy (70) percent of all customers' phone calls within thirty (30) seconds, on a system-wide basis, and

shall maintain records delineating customer phone calls answered by a Natural Gas Utility representative or an automated operator system. The Natural Gas Utility shall measure and report on an annual basis to the Commission and OPC the average customer wait time before being transferred from an automated operator system to a Natural Gas Utility representative.

- 3704.7 The Natural Gas Utility’s Call Answering statistics shall exclude calls made during periods of major telecommunications failures, and periods of labor disruption.
- 3704.8 The Natural Gas Utility shall maintain a Call Abandonment Rate, on a system-wide basis, below ten (10) percent on a quarterly basis, and shall report the information to the Commission and OPC on an annual basis in the QSSPR.
- 3704.9 The Natural Gas Utility’s Call Abandonment Rate statistics shall exclude Abandoned Calls, and calls made during periods of major telecommunications failures, and periods of labor disruption.
- 3704.10 If the Natural Gas Utility fails to meet the standards set forth in Subsections 3704.3, 3704.4, 3704.5, 3704.6 or 3704.8, for two (2) consecutive quarters, it shall be required to develop a corrective action plan.
- 3704.11 The corrective action plan shall describe the cause(s) of the Natural Gas Utility’s non-compliance with Subsections 3704.3, 3704.4, 3704.5, 3704.6 or 3704.8, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).
- 3704.12 Progress on current corrective action plans shall be included in the Natural Gas Utility’s annual QSSPR, filed with OCMS, and OPC by April 30 of each year starting with the year after publication of the Notice of Final Rulemaking adopting the NGQSS in the *D.C. Register*.
- 3704.13 On a quarterly basis, the Natural Gas Utility shall complete installation of 95% of new residential service requests within ten (10) business days of the start date for the new installation.
- 3704.14 The start date of the installation shall be designated as the first business day after all of the following events have taken place:
- (a) The customer’s valid billing information is received;
 - (b) The site is ready for service (cleared, graded, staked, etc.);
 - (c) The service connection fee is paid, if applicable;
 - (d) The gas safety inspection report is received;

- (e) The security deposit is paid, if applicable;
- (f) All mains and regulating facilities are installed;
- (g) Any required public space excavation is completed;
- (h) Any delays due to weather emergencies do not intervene; and
- (i) All rights-of-way permits are obtained, and all One-Call requirements have been met.

3704.15 The Natural Gas Utility shall submit a written report on its performance pursuant to Subsection 3704.13 annually every six (6) months. The report shall be submitted to OCE and OPC, forty-five (45) days after the six (6)-month reporting period ends.

3704.16 After the submission of four (4) consecutive reports pursuant to Subsection 3704.15, the Commission may modify the frequency of the reporting.

3704.17 The reports pursuant to Subsection 3704.15 shall clearly state the total number of new residential service installation requests received during the relevant reporting period, and for the new residential installation service requests received, the percentage of new residential service connections that were completed in accordance with Subsection 3704.13.

3704.18 If the Natural Gas Utility fails to meet the standard set in Subsection 3704.13 in any two consecutive quarters, it shall develop a corrective action plan.

3704.19 The corrective action plan shall describe the cause(s) of the Natural Gas Utility's non-compliance with Subsection 3704.13, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).

3704.20 Progress on any current corrective action plans shall be included in the Natural Gas Utility's annual QSSPR.

3704.21 The Natural Gas Utility shall report the actual performance obtained during the reporting period in the annual QSSPR of the following year.

3705 RELIABILITY STANDARDS, LOW PRESSURE WATER INFILTRATION, UNDERGROUND DAMAGE PREVENTION, LOST TIME ACCIDENTS OSHA 300 LOG

3705.1 The Natural Gas Utility shall establish a gas main ranking index to determine its gas main segments (including associated service lines) most in need of improvement or replacement. Factors associated with the main ranking index for making improvement and replacement decisions include, poor leak history, poor cathodic protection or poor gas main conditions determined from visual

observations, poor pressure in the area, interruption of service due to water infiltration, segment affected by city or state public improvement projects, etc. At least once each calendar year, the Natural Gas Utility shall rank and identify areas of piping networks of its natural gas operating system requiring improvements to eliminate segments most susceptible to leakage, excavation damage, failure, supply interruptions or failure to meet its minimum design pressure and volume deliverability requirements. The Natural Gas Utility shall retain in its leak data base the leak data/leak history in the main segments and service lines it has replaced. The Natural Gas Utility shall establish a performance ranking by area, on a scale of one to ten with one being the poorest performing segment. The Natural Gas Utility shall provide the results to the Commission and OPC on a biennial basis.

- 3705.2 Each calendar year, the Natural Gas Utility shall perform the necessary analysis for the issues identified in Subsection 3705.1, and provide plans for eliminating the ten worst performing segments due to low pressure or interruption problems. The Natural Gas Utility shall file the results in Formal Case No. 1115, or the successor reporting docket, on an annual basis.
- 3705.3 The Natural Gas Utility shall respond to all underground utility locate requests and locate their facilities in accordance with the damage prevention laws established within the District of Columbia and the U.S. Department of Transportation. The Natural Gas Utility shall maintain an accurate count of all locate requests, responses to locate requests, number of gas main and service lines inaccurately marked which resulted in damages (e.g., hits per 1,000 locates) or construction delays, number of locations which the Natural Gas Utility failed to mark as required by the damage prevention rules, number of calls not made for Miss Utility ticket numbers by excavator(s), reports of incidents to underground utilities, damages caused by excavators or third party to gas underground facilities, third party responsible for the damage, and the root cause(s) of the damage. An annual report shall be filed with the Commission and OPC in the QSSPR no later than February 15 of the following year.
- 3705.4 The Natural Gas Utility shall monitor high volume condensate drips on its low pressure distribution network to minimize service continuity disruption. In no case shall a natural gas customer outage due to condensate accumulation be more than 5% of the low-pressure customer base during two consecutive winter periods. The Natural Gas Utility shall prepare a remediation plan within 120 days of exceeding the 5% standard of service interruption, for the approval of the Commission, and provide a target date for completion of the recommended repair to the low-pressure piping network. The Natural Gas Utility shall file the results with the Commission and OPC on an annual basis in the QSSPR.
- 3705.5 The standard in Subsection 3705.4 may be changed or modified by the Commission, at a later date, based on a study of trends in service interruptions.

3705.6 The Natural Gas Utility shall measure annually its Lost Time Accident Rate as reported in the Occupational Safety and Health Administration (“OSHA”) 300 Log Summary of Occupational Injuries and Illnesses. The Natural Gas Utility may provide this information on a system-wide basis with a breakdown for each of the jurisdictions. The Natural Gas Utility shall provide the results to the Commission and OPC on an annual basis in the QSSPR.

3706 BILLING ERROR NOTIFICATION

3706.1 The Natural Gas Utility and all natural gas service providers must inform the Commission and OPC when a billing error has affected 100 or more customers or when the number of affected customers is equal to or more than two (2) percent of the Natural Gas Utility’s or natural gas service provider’s customer base in the District, whichever is fewer. The Natural Gas Utility and natural gas service providers with a customer base of fewer than 100 customers shall report errors when two (2) or more customers are affected.

3706.2 The Natural Gas Utility and all natural gas service providers shall submit an initial billing error notification within one (1) business day of discovering or being notified of the error. After submitting the initial notification, the Natural Gas Utility and natural gas service providers must submit a follow-up written report within 14 calendar days and a final written report within sixty (60) calendar days.

3706.3 The Natural Gas Utility and all natural gas service providers shall send the initial billing error notification via e-mail to OCE and OPC and then file the notice required by Subsection 3706.2 with the Commission and OPC.

3706.4 The initial billing error notification shall contain the following information:

- (a) Type(s) of billing error(s) found;
- (b) Date and time the billing error(s) was discovered;
- (c) How the Natural Gas Utility service provider discovered the error(s); and
- (d) Approximate number of customers affected.

3706.5 The Natural Gas Utility and all natural gas service providers shall file the follow-up written report with OCMS, with a copy provided to OPC within fourteen (14) days of the initial report. The follow-up report, shall contain the following information:

- (a) Type(s) of billing error(s);
- (b) Date and time of the billing error(s);
- (c) Number of customers affected;

- (d) Cause of the error and status of any and all corrective action(s) taken; and
- (e) Timeline for completing any and all other required corrective action(s) which must include the provision of refunds and/or credits, no later than 60 days after the billing error(s) was discovered, as necessary to correct the billing error(s).

3706.6 If the information in the follow-up report filed pursuant to Subsection 3706.5 changes, the Natural Gas Utility and all natural gas service providers shall file a final written report with OCMS, with a copy provided to OPC. The final written report shall contain the following information:

- (a) Type(s) of billing error(s);
- (b) Date and time of billing error(s);
- (c) Number of customers affected and the dollar amount involved;
- (d) Duration of the billing error(s);
- (e) Cause of the error, corrective action(s) and preventative measure(s) taken; and
- (f) Lessons learned, if any.

3706.7 Upon receipt of the final written report, the Commission shall determine whether any further investigation is necessary.

3706.8 No later than sixty (60) days after the date the Natural Gas Utility or natural gas supplier discovers or is notified of the billing error(s), it shall notify each affected customer of the following:

- (a) The nature of the error;
- (b) The amount by which the customer's previous bill(s) were inaccurate;
- (c) If appropriate, the steps the Natural Gas Utility or natural gas service provider will take to ensure that the customer receives a full refund if overbilled or when customers will be required to make payment if underbilled no later than the date specified in Subsection 3706.5(e); and
- (d) The Natural Gas Utility or natural gas service provider shall by letter or bill insert describe to customers the nature of the billing error and the corrective action that the company intends to implement. If a refund or outstanding balance appears on a customer's billing statement, the Natural Gas Utility or natural gas service provider shall provide a clear description and explanation of the reason(s) for the error.

3708 COMPLIANCE REPORTING

- 3708.1 The Natural Gas Utility and all natural gas service providers shall collect and retain accurate data demonstrating compliance with the measures in this chapter. Data are to be collected on a monthly basis in a format established by Commission Order.
- 3708.2 The Natural Gas Utility and all natural gas service providers shall file monthly compliance data, and aggregated data for the three (3) months in the quarter, with the Commission, with a copy provided to OPC, on a quarterly basis pursuant to the following schedule:
- (a) The report for the months of January, February, and March shall be filed on April 30;
 - (b) The report for the months of April, May, and June, on July 30;
 - (c) The report for the months of July, August, and September, on October 30; and
 - (d) The report for the months of October, November, and December, on January 30 of the following year. A cumulative annual report for the current reporting year shall also be filed by January 30 of the following year.
- 3708.3 If the Natural Gas Utility fails to comply with any requirement stated in Subsection 3702.2, that is not already subjected to an approved action plan, for two consecutive months, the Natural Gas Utility shall provide the reason(s) for not meeting the requirement(s) (including the actual response time(s) and the dispatch location(s) for the technicians responding to the event(s), a proposed remedy to prevent a similar occurrence(s), and show cause as to why a penalty(s) shall not be imposed. The Natural Gas Utility shall file a report with the Commission, with a copy provided to OPC, within fifteen (15) days of the end of the month.

3709 – 3796 RESERVED.**3797 PENALTIES**

- 3797.1 The regulations in this Chapter are natural gas quality of service standards, some of which affect the reliability of services provided to customers. Subsections 3701.2 to 3701.14 and 3705.1 to 3705.6 contain quality of service rules which are designated as reliability performance standards adopted by the Commission within the meaning of D.C. Official Code § 34-706(e). If a utility fails to comply with Subsections 3701.2 to 3701.14 and 3705.1 to 3705.6, it may be subject to forfeiture or civil penalty in accordance with D.C. Official Code § 34-706.

3797.2 Failure to comply with the remaining Subsections of this Chapter may result in the penalties set forth in D.C. Official Code § 34-706 (a) for failure to comply with Commission rules and regulations.

3797.3 Violations of the natural gas quality of service standards and of the reliability performance standards set forth in this Chapter will be handled according to the rules established in DCMR, Chapter 23. When determining the amount of the civil penalty for violations of this Chapter, the Commission will consider the factors established in Chapter 23.

3798 WAIVER

3798.1 The Commission may, in its discretion, waive any provisions of Chapter 37 of this title.

3799 DEFINITIONS

3799.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Abandoned Calls – calls to the Natural Gas Utility that are terminated by the customer after the customer selects the menu option and is placed in the queue and has been in queue at least thirty seconds, but has not yet reached a customer service representative or any other automated response system.

Abnormal Operating Condition – A condition that may indicate failure of gas piping integrity or a deviation from normal operation or a malfunction of a component on gas piping infra-structure that may result in a hazard(s) to persons, property or the environment.

Call Abandonment Rate – the annual number of Abandoned Calls divided by the total number of calls the Natural Gas Utility received.

Call Answering – a process whereby a Natural Gas Utility representative, voice response unit, or other automated operator system is ready to render assistance or ready to accept information necessary to process a customer's call. An acknowledgement that the customer is waiting on the line does not constitute an answer.

Code 1 Orders – gas leak or customer reported odor complaint calls involving a strong gas leak, carbon monoxide, illness, broken service main or gaslight, fire in progress, explosion, uncontrolled appliance heat, steam or noise, gas blowing or hissing, second call, or pressure alarm.

Code 2 Orders – gas leak or customer reported odor complaint calls involving a “medium” gas leak, or noise.

Code 3 Orders – gas leak or customer reported odor complaint calls involving a “slight” gas leak.

Commission – Public Service Commission of the District of Columbia.

Condensate Drips – devices installed on low pressure natural gas distribution system at its lowest elevation to facilitate collection of condensates such as ground water or other liquids infiltrating the gas piping.

Dispatch – unit of the Natural Gas Utility that receives calls, disseminates information and assigns service calls to technicians and field crews, and acknowledges their feedback during responses to gas leaks, incidents and emergencies.

Distribution Line – gas pipelines that provide natural gas delivery service to customers.

Gas Emergency – any sudden and unexpected situation where leakage, blowing gas, loss of gas pressure, an overpressure condition, or loss of telemetry or control-system has caused or may cause serious injury or damage to life and/or property. Examples of emergencies include gas-fed fires, explosions involving gas, escaping gas, unplanned supply interruptions, releases of hazardous material, carbon monoxide poisonings, and odorant releases.

Gas Pipeline Facility – a pipeline, a right of way, a building, or equipment used in transporting natural gas or treating natural gas during its transportation.

Grade 1 - A leak that presents an immediate or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous;

Grade 2 - A leak that is recognized as being non-hazardous at the time of detection, but requires scheduled repair based on probable future hazard; and

Grade 3 - A leak that is non-hazardous at the time of detection and can be reasonably expected to remain non-hazardous.

High Pressure (HP) System – a gas pipeline in which the gas pressure is higher than the pressure provided to the customer. Typically, high pressure pipelines operate over 60 pounds per square inch gauge (psig) and are not transmission pipes.

Interruption Duration – the period of time, truncated or rounded to the nearest minute, during which a Reportable Service Outage occurs.

Incident – an event involving the release or potential release of natural gas that interrupts normal operations or causes a crisis. A reportable incident is an event that involves the release of gas and a death or injury requiring in-patient hospitalization or property damage or costs of \$5,000 or more to the Natural gas Utility, or an event receiving media attention or that requires closing a public street.

Limited Service Outages (LSO) – customer service outage(s) caused by failure of gas piping integrity or a deviation from normal operation or a malfunction of a component on gas piping infrastructure affecting 25 to 100 customers and lasting more than 8 hours.

Low Pressure (LP) System – a gas pipeline in which the pressure is substantially the same as the pressure provided to the normal residential customer. Low pressure lines normally operate at 7.8 inches water column.

Medium Pressure (MP) System – a gas pipeline in which the gas pressure is higher than the pressure provided to the customer. Typically, medium pressure pipelines operate higher than the LP System (at 7.8 inches water column) up to 60 pounds per square inch gauge (psig).

Natural Gas – is a gaseous flammable fossil fuel consisting primarily of methane.

Natural Gas Service Provider – a natural gas supplier, including an Aggregator, Broker, or Marketer, who generates or produces natural gas, sells natural gas, or purchases, brokers, arranges, or markets natural gas for sale to customers.

Natural Gas Utility – the company that owns or controls the distribution facilities required for the transmission and delivery of natural gas to customers, provides sales service and delivery of distribution service of natural gas, and is regulated by the Public Service Commission of the District of Columbia.

Normal Business Hours – Monday through Friday, 8:00 a.m. to 9:00 p.m., and Saturday, 8:00 a.m. to 4:30 p.m. (except major holidays). The main office serves customers Monday through Friday (except holidays) from 8:30 a.m. to 4:30 p.m. The Anacostia office accepts bill payments by check or money order only, Monday through Friday (except holidays), 8:00 a.m. to 4:00 p.m. All other hours including, holidays and Sunday are designated as non-normal business hours.³

Occupational Safety and Health Administration (OSHA) 300 log (OSHA 300 Log) –a log of all recordable occupational injuries and illnesses on forms approved by OSHA. This form is called OSHA 300 Log. It is regularly updated by OSHA. OSHA 300 Log shall be used to record each case within seven (7) calendar days after the employer received information that a recordable work-related injury or illness has occurred.

Office of the Commission Secretary (OCMS) – Secretary of the Public Service Commission of the District of Columbia.

Office of Compliance and Enforcement (OCE) – Office of Compliance and Enforcement of the Public Service Commission of the District of Columbia.

Office of the People’s Counsel (OPC) – Office of the People’s Counsel of the District of Columbia.

Outside Assistance – resources not routinely used by a Natural Gas Utility for service restoration. Natural Gas Utility resources transferred among utility operating areas are not considered outside assistance.

PSIG – pounds per square inch gauge.

Regulator Station – a facility for controlling the pressure and flow of natural gas serving a distribution system.

Reportable Service Outages - customer service outages caused by failure of gas piping integrity or a deviation from normal operation or a malfunction of a component on gas piping infrastructure affecting more than 100 customers and lasting more than eight (8) hours; or any outage occurring at a Master-Metered Apartment Building (as defined in 15 DCMR § 499.1) affecting more than 100 residential units.

Telephone Service Factor – the percentage of calls answered within a specified amount of time. For example, if the service level time is set at thirty (30) seconds and seventy (70) percent of calls are answered in less than thirty (30) seconds, then the telephone service factor is seventy (70).

Transmission Line – a pipeline, other than a gathering line, that: (1) transports gas from a gathering line or storage facility to a gas distribution center, storage facility, or large volume customer that is not down-stream from a gas distribution center; (2) operates at a hoop stress of twenty (20) percent or more of Specified Minimum Yield Strength (SMYS); or (3) transports gas within a storage field.

2. All persons interested in commenting on the subject matter of this proposed rulemaking action may submit comments, in writing, not later than 30 days after publication of this NOPR in the D.C. Register with Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, NW, Suite 800, Washington D.C. 20005. Copies of these proposed rules may be obtained, at cost, by writing the Commission Secretary at the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-027
March 1, 2018

SUBJECT: Designation of Special Event Areas – Marion Barry Commemorative
Statue Dedication

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as the 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.), and pursuant to 19 DCMR § 1301.8, it is hereby **ORDERED** that:

1. On Saturday, March 3, 2018, between the hours of 3:00 a.m. and 5:00 p.m., the following areas shall be designated as Special Event Areas to accommodate activities associated with the Marion Barry Commemorative Statue Dedication:
 - a. Pennsylvania Avenue NW between 13th and 14th Streets
 - b. E Street NW between 13th and 14th Streets
2. The designated areas shall be operated and overseen by the DC Commission on the Arts and Humanities and Executive Office of the Mayor.
3. This Order is an authorization for the use of the designated streets for activities associated with the production of the event. The named operator shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event. All building, health, safety, and use of public space requirements shall remain applicable to the Special Event Area designated by this Order.

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 2018-028
March 2, 2018

SUBJECT: Designation of Special Event Areas – Marion Barry Commemorative Statue Dedication

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as the 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.), and pursuant to 19 DCMR § 1301.8, it is hereby **ORDERED** that:

1. Beginning at 3:00 a.m. on Saturday, March 3, 2018 through 10:00 p.m. on Sunday, March 4, 2018, the following areas shall be designated as Special Event Areas to accommodate activities associated with the Marion Barry Commemorative Statue Dedication:
 - a. Pennsylvania Avenue NW between 13th and 14th Streets
 - b. E Street NW between 13th and 14th Streets
2. The designated areas shall be operated and overseen by the DC Commission on the Arts and Humanities and Executive Office of the Mayor.
3. This Order is an authorization for the use of the designated streets for activities associated with the production of the event. The named operator shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event. All building, health, safety, and use of public space requirements shall remain applicable to the Special Event Area designated by this Order.
4. This Order supersedes Mayor's Order 2018-027, dated March 1, 2018.

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 2018-029
March 6, 2018

SUBJECT: Appointment – Interim Chancellor, District of Columbia Public Schools


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to 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.), section 105 of the Public Education Reform Amendment Act of 2007, effective June 12, 2007, D.C. Law 17-9, D.C. Official Code § 38-174 (2012 Repl. and 2017 Supp.), it is hereby **ORDERED** that:

1. **AMANDA ALEXANDER** is appointed Interim Chancellor of the District of Columbia Public Schools, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor’s Order 2017-030, dated February 3, 2017.
3. **EFFECTIVE DATE:** This Order shall become effective on March 7, 2018.



MURIEL BOWSER
MAYOR

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

ACHIEVEMENT PREP PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****SY18-19 Facilities Management Services**

Achievement Prep PCS is seeking competitive bids for comprehensive facilities management services to include facilities maintenance, engineering, landscaping/snow removal, janitorial services and general labor support.

Please find RFP specifications at www.achievementprep.org under “News”. Proposals must be received by 5:00PM on Friday, March 30th, 2018. Please send proposals to bids@achievementprep.org and include “RFP for Facilities Management” in the heading as appropriate.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, MARCH 14, 2018
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members: Nick Alberti, Mike Silverstein,
James Short, Donald Isaac, Sr., Bobby Cato, Rema Wahabzadah,

- Protest Hearing (Status)** **9:30 AM**
Case # 18-PRO-00004; ANB with Double H, LLC, t/a French 75, 1400 14th Street NW, License #108192, Retailer CT, ANC 2F
Application for a New License
- Show Cause Hearing (Status)** **9:30 AM**
Case # 17-CMP-00635; Biergarten Haus, Inc., t/a Biergarten Haus, 1355 H Street NE, License #83695, Retailer CT, ANC 6A
Failed to Take Steps Necessary to Ensure Property is Free of Litter
- Show Cause Hearing (Status)** **9:30 AM**
Case # 17-CC-00100; Daci Enterprises, LLC, t/a Dacha Beer Garden, 1600 7th Street NW, License #92773, Retailer CT, ANC 6E
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age
- Show Cause Hearing (Status)** **9:30 AM**
Case # 17-CMP-00579; La Prima Food Group, Inc., t/a La Prima Catering, 5105 Berwyn Road, College Park, MD, License #89797, Retailer Caterer
Failed to File Quarterly Statement
- Show Cause Hearing (Status)** **9:30 AM**
Case # 17-CMP-00700; MST Enterprises, Inc., t/a Churreria Madrid Restaurant 2505 Champlain Street NW, License #60806, Retailer CR, ANC 1C
No ABC Manager on Duty, Provided Entertainment Without an Entertainment Endorsement, Failed to Maintain on Premises Three Years of Adequate Books and Records Showing All Sales

Board's Calendar

March 14, 2018

Show Cause Hearing*

10:00 AM

Case # 17-CMP-00621; Atlas Performing Arts Center, t/a Atlas Performing Arts Center, 1333 H Street NE, License #85207, Retailer CX, ANC 6A
Purchased Alcohol from an Off-Premises Retailer

Show Cause Hearing*

11:00 AM

Case # 17-251-00159; Debebe Addis, t/a Mesobe Restaurant and Deli Market 1853 7th Street NW, License #81030, Retailer CR, ANC 1B
Operating after Hours, Substantial Change in Operation Without Board Approval, No ABC Manager on Duty, Interfered with an Investigation

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Protest Hearing*

1:30 PM

Case # 17-PRO-00086; Foggy Bottom Grocery, LLC, t/a FoBoGro, 2140 F Street NW, License #82431, Retailer B, ANC 2A
Application to Renew the License

***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
CANCELLATION AGENDA

WEDNESDAY, MARCH 14, 2018
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board will be cancelling the following licenses for the reasons outlined below:

ABRA-100498 – **Veloce** – Retail – D – Restaurant – 1828 L Street NW
[Licensee requested cancellation.]

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, MARCH 14, 2018
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On Wednesday, March 14, 2018 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# 17-251-00259, Spaghetti Garden Brass Monkey Peyote Roxanne, 2317-2319 18th Street N.W., Retailer CR, License # ABRA-010284

2. Case# 17-CC-00148, Shipley Liquors, 2281 Savannah Street S.E., Retailer A, License # ABRA-107000

3. Case# 18-CMP-00005, Power Night Club/Lounge/Restaurant, 2335 Bladensburg Road N.E., Retailer CT, License # ABRA-104228

4. Case# 18-CMP-00009, Cleveland Park Bar & Grill, 3421 Connecticut Avenue N.W., Retailer CT, License # ABRA-073821

5. Case# 18-CMP-00010, Mad Fox Brewing Taproom, 2218 Wisconsin Avenue N.W., Retailer CR, License # ABRA-092955

6. Case# 18-CC-00001, Downtown Liquors, 3712 14th Street N.W., Retailer A, License # ABRA-108146

7. Case# 17-CMP-00013, La Morenita Restaurant, 3539 Georgia Avenue N.W., Retailer CR, License # ABRA-086595

-
8. Case# 18-CMP-00012, XO Restaurant and Lounge, 1426 L Street N.W., Retailer CT, License # ABRA-098370
-
9. Case# 18-CMP-00006, Chinese Disco, 3251 Prospect Street N.W., Retailer CR, License # ABRA-078058
-
10. Case# 17-CMP-00731, Chinese Disco, 3251 Prospect Street N.W., Retailer CR, License # ABRA-078058
-
11. Case# 18-251-00006, Cobalt/30 Degrees/Level One, 1639-1641 R Street N.W., Retailer CT, License # ABRA-071833
-
12. Case# 18-CMP-00029, District Anchor, 1900 M Street N.W., Retailer CN, License # ABRA-100517
-
13. Case# 18-CMP-00031, Lax Wine & Spirits, 3035 Naylor Road S.E., Retailer A, License # ABRA-082054
-
14. Case# 18-CMP-00023, Black Whiskey, 1410 14th Street N.W., Retailer CT, License # ABRA-091434
-
15. Case# 18-AUD-00013, Los Cuates Restaurant, 1564 Wisconsin Avenue N.W., Retailer CR, License # ABRA-079261
-
16. Case# 18-CMP-00044, Cantina Marina, 600 Water Street S.W., Retailer Caterer, License # ABRA-107994
-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, MARCH 14, 2018 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review request from Attorney Risa Hirao to allow parent company, Hill Restaurant Group, LLC, to tender checks for 713 Partners, LLC to pay wholesalers for alcoholic beverage purchases in the District of Columbia. ANC 6B. SMD 6B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Finn McCool's*, 713 8th Street SE, Retailer CR, License No. 107078.
-

2. Review request from Attorney Risa Hirao to allow parent company, Hill Restaurant Group, LLC, to tender checks for 514 Partners, LLC to pay wholesalers for alcoholic beverage purchases in the District of Columbia. ANC 6B. SMD 6B04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Tio Javier*, 514 8th Street SE, Retailer CR, License No. 107131.
-

***In accordance with D.C. Official Code §2-547(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.**

CITY ARTS AND PREP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Public Relations Editor

City Arts + Prep PCS solicits proposals for the following:

- **Public Relations Editor**

Proposals and requests for the full RFP should be emailed to bids@cityartspcs.org no later than 5:00 P.M., Tuesday, March 20, 2018.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT
ANNOUNCES MARCH 15, 2018 PUBLIC MEETING
FOR THE DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL CREDIT
ENHANCEMENT COMMITTEE

The Office of the State Superintendent of Education (OSSE) hereby announces that it will hold a public meeting for the District of Columbia Public Charter School Credit Enhancement Committee as follows:

12:30 p.m. – 1:30 p.m.
Thursday March 15, 2018
1050 First St. NE, Washington, DC 20002
Conference Room 536 (LeDroit Park)

For additional information, please contact:

Debra Roane, Financial Program Specialist
Office of Public Charter School Financing and Support
Office of the State Superintendent of Education
1050 First St. NE, Fifth Floor
Washington, DC 20002
(202) 478-5940
Debra.Roane@dc.gov

The draft agenda for the above-referenced meeting will be:

- I. Call to Order
- II. Approval of agenda for the March. 15, 2018, committee meeting
- III. Approval of minutes from Sept. 21, 2017, committee meeting
- IV. Breakthrough Montessori Public Charter School - \$ 2,000,000 direct loan and \$500,000 credit enhancement request
- V. Review of Credit Enhancement Committee By-laws
- VI. Review of the Conflict of Interest Policy
- VII. Review of Direct Loan and Credit Enhancement Policies and Procedures

Any changes made to the agenda that are unable to be submitted to the DC Register in time for publication prior to the meeting will be posted on the [public meetings calendar](#) no later than two (2) business days prior to the meeting.

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:

Charles H. Wilson
Single-Member District 8B03

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Occupational Therapy (“Board”) hereby gives notice of its regular meetings for the calendar year 2018, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2016 Repl.).

The Board will continue to hold its meeting on a quarterly basis in 2018. The first meeting of the year will be held on Monday, March 26, 2018 from 2:30 PM to 4:30 PM and will be open to the public from 2:30 PM until 3:00 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b) (2016 Repl.)), the meeting will be closed from 3:00 PM to 4:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Subsequent meetings of the calendar year will be held at the same time on the following dates:

Monday, June 11, 2018
Monday, September 17, 2018
Monday, December 17, 2018

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Health Professional Licensing Administration website at <http://doh.dc.gov/events> and to view additional information and agenda.

KIPP DC PUBLIC CHARTER SCHOOLS
REQUEST FOR PROPOSALS

Landscaping

KIPP DC is soliciting proposals from qualified vendors for Landscaping. The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00 P.M., EST, on March 30, 2018. Questions can be addressed to denocencia.wade@kippdc.org.

Interior Renovations

KIPP DC is soliciting proposals from qualified vendors for Interior Renovations. The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00 P.M., EST, on April 5, 2018. Questions can be addressed to denocencia.wade@kippdc.org.

Locker Room Conversion Project

KIPP DC is soliciting proposals from qualified vendors for a Locker Room Conversion Project. The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00 P.M., EST, on April 5, 2018. Questions can be addressed to denocencia.wade@kippdc.org.

LAYC CAREER ACADEMY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

LAYC Career Academy Public Charter School is seeking bids from prospective vendors to provide:

- Accounting and Financial Management Services

Proposals are due no later than Noon (12:00 PM EST) Friday, April 27, 2018. No proposals will be accepted after the deadline. Questions can be addressed to jeremy@laycca.org.

Details:

LAYC Career Academy is soliciting proposals for a one (1) year contract, with opportunity for renewal, for Accounting and Financial Management Services for our school. Vendors are required to submit written proposals that present the vendor's qualifications and understanding of the work to be performed. The vendor's proposal should be prepared simply and economically and should provide all the information it considers pertinent to its qualifications for the specifications listed herein. Emphasis should be placed on completeness of services offered and clarity of content.

The proposal must be submitted no later than 12:00 PM on April 27, 2018, to the following email address: jeremy@laycca.org, Attn: Request for Proposal for Business Office Functions.

- a) Proposal Content - A completed proposal must contain the following:
 - Proposal with Signature Page – the proposal and signature must be completed and signed by an individual authorized to bind the vendor. All proposals submitted without a signature page may be deemed non responsive.
 - References – Proposals shall include a list of two or three (2-3) references including name, address, phone number and contact person
- b) Proposal Period – Services are to start on July 01, 2018
- c) Proposal Award - It is the intent of the school to accept the lowest responsible proposal, provided it has been submitted in accordance with the proposal documents. If a proposal is selected it will be the most advantageous regarding price, quality of service, the vendors qualifications and capabilities to provide the specified service, and other factors which LAYC Career Academy may consider. The school reserves the right to accept or reject any or all proposals and to waive irregularities therein
- d) Term and Renewal – The term of the Contract shall be for one (1) year unless earlier terminated. The Contract may be terminated by either party with a ninety (90) day written notice. The services are to start July 01, 2018.
- e) Basis of Payment – Payment will be made to the contractor within 30 days upon receiving the contractor's monthly invoice. The invoice shall state the date the service was performed. Special services provided will be billed via a separate invoice and described by the service provided and the date it was provided.

Specifications

The contractor shall provide the School with accounting and finance support by creating systems for record keeping, billing, collections, preparation of financial statements, and auditing. The contractor will establish and maintain accurate books of account in accordance with generally accepted accounting principles. The specifications outline the requirements for Accounting and Financial Management Services for the school.

Responsibilities of the Contractor:

1. Serve as Chief Financial Officer
2. Prepare/ cut checks for payments of vendors/ reimbursements/ and other billing/ payment needs
3. Work with Operations Manager and Executive Director in handling accounting and finance functions
4. Handle Insurance premium inquiries and audits
5. Assist with financial audits, IRS filings, state tax filings, tax forms, 990's, and 1099's
6. Accurately track spending in conjunction with Operations Manager
7. Monitor online banking accounts and deposits/ withdrawals
8. Supply monthly financial statements in requested formats for internal use, board oversight, and compliance with the Public Charter School Board and other government entities as needed
9. Respond in a timely manner to other business office related requests
10. Assist in the development and monitoring of the school's annual budget

Pricing should be inclusive of all staffing, labor, and necessary supplies and external costs.

OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC
DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

FY18 Neighborhood Prosperity Fund (NPF)

The Deputy Mayor for Planning and Economic Development (DMPED) invites the submission of proposals for the **FY 18 Neighborhood Prosperity Fund (NPF)**. DMPED will award up to a maximum of **\$3 million**. The application deadline is **Friday, March 9, 2018** at 12:00p.m.

The Office of the Deputy Mayor for Planning and Economic Development hereby extends the current request for applications.

Open date: Friday, February 2, 2018

Closed date: Friday, March 9, 2018

Extension date: Friday, March 16, 2018

For additional eligibility requirements and exclusions, please review the Request for Applications (RFA) which was posted at <https://dmped.dc.gov/service/grant-opportunities> on **Friday, January 19, 2018**.

Application Process: Interested applicants must submit electronically by **Friday, March 16, 2018** at 12:00 p.m. DMPED will not accept applications submitted after 12:00 p.m. Late submissions applications will not be forwarded to the review panel. Instructions and guidance regarding application preparation can be found in the RFA, which was posted on **Friday, January 19, 2018**.

Award of Grants: DMPED will award 1 or more grants for an aggregate total of \$3 million.

For More Information: Check our website at <https://dmped.dc.gov/service/grant-opportunities>

Questions may be sent to LaToyia Hampton, Grants Administrator at the Deputy Mayor for Planning and Economic Development at latoyia.hampton@dc.gov or 202-724-7648.

Reservations: DMPED reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

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

**NOTICE OF PUBLIC MEETING REGARDING
SURPLUS RESOLUTION PURSUANT TO D.C. OFFICIAL CODE §10-801**

The Office of the Deputy Mayor for Planning and Economic Development will conduct a public meeting to receive public comments on the proposed surplus of the District of Columbia owned property identified below.

Property:

Square/A&T Lots	Premise Address
5868/810 & 817	1100 Alabama Ave., SE

The public meeting will be held at the date, time, and location as follows:

Date: Wednesday, March 28, 2018

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

Location: RISE Demonstration Center
2730 Martin Luther King, Jr. Avenue, SE
Washington, D.C. 20032

Contact: James Parks, James.Parks2@dc.gov
(202) 727-4282

Please note that written comments will be accepted by U.S. Mail or email until Friday, April 19, 2018, at:

The Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attention: Ed Fisher, Executive Director
Ed.Fisher2@dc.gov

DISTRICT OF COLUMBIA RETIREMENT BOARD
NOTICE OF INVESTMENT COMMITTEE MEETING

March 15, 2018
10:00 a.m.

DCRB Board Room
900 7th Street, N.W.
Washington, D.C 20001

The District of Columbia Retirement Board (DCRB) will hold an Investment Committee meeting on Thursday, March 15, 2018, at 10:00 a.m. to consider investment matters. The meeting will be held at 900 7th Street, N.W., 2nd floor, DCRB Boardroom, Washington, D.C. 20001. A general agenda for the open portion of the 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.

AGENDA

- | | | |
|------|--|--------------------|
| I. | Call to Order and Roll Call | Chair Warren |
| II. | Approval of Investment Committee Meeting Minutes | Chair Warren |
| III. | Chair's Comments | Chair Warren |
| IV. | Chief Investment Officer's Report | Ms. Morgan-Johnson |

At this point, the investment committee meeting will be closed in accordance with D.C. Code §2-575(b)(1), (2), and (11) and §1-909.05(e) 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.

- | | | |
|-----|----------------|--------------|
| V. | Other Business | Chair Warren |
| VI. | Adjournment | |

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF OPEN PUBLIC MEETING

March 15, 2018

1:00 p.m.

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

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, March 15, 2018, at 1:00 p.m. The meeting will be held at 900 7th Street, N.W., 2nd 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.

AGENDA

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

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

2018 Ward 8 Equitable Food Incubator Grant

The Department of Small and Local Business Development (DSLBD) is soliciting applications for the **Ward 8 Equitable Food Incubator Grant**. DSLBD intends to award up to five (5) grants from the \$250,000 in total available funding for Fiscal Year 2018. The application deadline is Friday, March 23, 2018 at 2:00 p.m.

The purpose of the Ward 8 Equitable Food Incubator Grant is to provide food preparation infrastructure to resident businesses of Ward 8, in Ward 8.

Eligible applicants: Businesses or nonprofit organizations that have a federal recognized tax exemption. For additional eligibility requirements and exclusions, please review the Request for Applications (RFA) which has been posted at <http://dslbd.dc.gov/service/current-solicitations-opportunities>.

Eligible Use of Funds: Funds may be used to provide food preparation infrastructure to resident businesses of Ward 8, in Ward 8. Funds can be used for expenses incurred during the Period of Performance, which is October 1, 2017 through September 30, 2018. For additional examples of eligible uses of funds and exclusions, please review the RFA.

Application Process: Interested applicants must complete an online application by **Friday, March 23, 2018** at 2:00 p.m. Applications submitted via hand delivery, mail or courier service will not be accepted. Applications received after the deadline will not be forwarded to the review panel. Instructions and guidance regarding application preparation can be found in the RFA, which will be available at <http://dslbd.dc.gov/service/current-solicitations-opportunities>.

Selection Process: Grant recipients will be selected through a competitive application process. All applications from eligible applicants that are received before the deadline will be forwarded to a review panel to be evaluated, scored, and ranked based on the selection criteria listed below.

1. Capacity and Experience of the Applicant (25 points)
2. Strength of the Project Implementation Plan (25 points)
3. Financial Viability of Applicant Organization (25 points)
4. Creativity and Innovation (25 points)

A program team will review the panel reviewers' recommendations. The Director of DLSBD will make the final determination of grant awards. A grantee will be selected by April 6, 2018.

Award of Grants: Up to five (5) grants totaling \$250,000 will be awarded. The amount of awards may be between \$10,000 and \$250,000.

For More Information: Attend the Application Information Session. Please refer to the Request for Applications to see the date, time and location of this meeting.

Questions may be sent to Kate Mereand at the Department of Small and Local Business Development at Katherine.Mereand-Sinha@dc.gov. All questions must be submitted in writing.

Reservations: DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

2018 Ward 8 Grocery Grant

The Department of Small and Local Business Development (DSLBD) is soliciting applications for the **Ward 8 Grocery Grant**. DSLBD intends to award up to two (2) grants from the \$400,000 in total available funding for Fiscal Year 2018. The application deadline is Friday, March 23, 2018 at 2:00 p.m.

The purpose of the Ward 8 Grocery Grant is to encourage the development of alternative models for grocery stores for Ward 8.

Eligible applicants: Businesses or nonprofit organizations that have a federal recognized tax exemption. For additional eligibility requirements and exclusions, please review the Request for Applications (RFA) which has been posted at <http://dslbd.dc.gov/service/current-solicitations-opportunities>.

Eligible Use of Funds: Funds may be used to develop alternative grocery stores in Ward 8. Funds can be used for expenses incurred during the Period of Performance, which is October 1, 2017 through September 30, 2018. For additional examples of eligible uses of funds and exclusions, please review the RFA.

Application Process: Interested applicants must complete an online application by **Friday, March 23, 2018** at 2:00 p.m. Applications submitted via hand delivery, mail or courier service will not be accepted. Applications received after the deadline will not be forwarded to the review panel. Instructions and guidance regarding application preparation can be found in the RFA, which will be available at <http://dslbd.dc.gov/service/current-solicitations-opportunities>.

Selection Process: Grant recipients will be selected through a competitive application process. All applications from eligible applicants that are received before the deadline will be forwarded to a review panel to be evaluated, scored, and ranked based on the selection criteria listed below.

1. Capacity and Experience of the Applicant (25 points)
2. Strength of the Project Implementation Plan (25 points)
3. Financial Viability of Applicant Organization (25 points)
4. Creativity and Innovation (25 points)

A program team will review the panel reviewers' recommendations. The Director of DLSBD will make the final determination of grant awards. A grantee will be selected by April 6, 2018.

Award of Grants: Up to two (2) grants totaling \$400,000 will be awarded. The amount of awards may be between \$10,000 and \$390,000.

For More Information: Attend the Application Information Session. Please refer to the Request for Applications to see the date, time and location of this meeting.

Questions may be sent to Jennifer Prats at the Department of Small and Local Business Development at jennifer.prats@dc.gov or 202-727-3900.

Reservations: DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

**DISTRICT DEPARTMENT OF TRANSPORTATION
OFFICE OF PUBLIC-PRIVATE PARTNERSHIPS
OFFICE OF THE CHIEF TECHNOLOGY OFFICER**

**Notice of Availability of Master License Agreement for Use of Public Right of Way for
Small Cell Facilities in the District of Columbia**

The Office of Public-Private Partnerships (OP3), Office of the Chief Technology Officer (OCTO) and the District Department of Transportation (DDOT) have established a Master License Agreement for interested parties to install small cell facilities within the public right of way in the District. The Master License Agreement will be made available on March 12, 2018 online at: <https://octo.dc.gov/page/small-cells>. Interested parties must complete and sign the Master License Agreement, scan the signed Agreement and email it to the District at Small.Cell@dc.gov to participate in the program. Once approved by both agencies, a fully executed Master License Agreement will be provided to the interested party.

In addition, DDOT will hold a meeting at **1100 4th Street, SW, Washington, DC 20024 in Room E200 in April, 2018** at which time the permitting process and the Transportation Online Permitting System will be discussed. DDOT will provide notice in the DC Register of the meeting at least two (2) weeks before the meeting. Shortly after the public meeting, DDOT will begin accepting permits from interested parties with fully executed Master License Agreements.

For additional information, please contact:

Seth W. Miller Gabriel
Executive Director, Office of Public-Private Partnerships
Office of the City Administrator
1350 Pennsylvania Ave, NW
Suite 533
Washington, DC 20004
(202) 724-6683
seth.millergabriel@dc.gov

WASHINGTON GLOBAL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

Washington Global Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for the following services:

- Spanish Instruction Services

Proposal Submission

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **4:00 p.m. EST on March 20, 2018** unless otherwise stated in associated RFP's. Proposals should be emailed to bids@washingtonglobal.org.

No phone call submission or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

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 22, 2018 at 11:00 a.m. The meeting will be held in the Board Room (4th 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.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

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|---|-----------------------|
| 1. Call to Order | Committee Chairperson |
| 2. February, 2018 Financial Report | Committee Chairperson |
| 3. Agenda for April, 2018 Committee Meeting | Committee Chairperson |
| 4. Adjournment | Committee Chairperson |

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

Application No. 19452 of D.C. Department of General Services, as amended, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for special exceptions under the MU-use requirements of Subtitle U § 513.1(b), parking requirements of Subtitle C § 701.5, the open court requirements of Subtitle G § 202.1, the lot occupancy requirements of Subtitle G § 404.1, and the rear yard requirements of Subtitle G § 405.2, and variances from the loading requirements of Subtitle C § 901.1, the floor area ratio (“FAR”) requirements of Subtitle G § 402.1, and the height requirements of Subtitle G § 403.1 to allow an emergency shelter as an addition to an existing building in the MU-4 zone at premises 1700 Rhode Island Avenue, N.E. (Square 4134, Lot 800).¹

HEARING DATE: March 1, 2017

DECISION DATE: April 5, 2017

DECISION AND ORDER

This self-certified application was submitted on January 4, 2017 by the District of Columbia Department of General Services, the owner of the property that is the subject of the application (the “Applicant”). The application, as subsequently amended, requested special exceptions to allow an emergency shelter use for more than 25 persons² and relief from requirements for

¹ The caption has been modified to reflect changes in the requested relief. The Applicant originally requested a special exception under Subtitle U § 513.1(b)(6) to allow an emergency shelter for more than 25 persons as well as variances from requirements for height, floor area ratio, lot occupancy, rear yard, open court width, parking, and loading and delivery space. (*See* Exhibit 7.) The Applicant subsequently amended the application to request, pursuant to Subtitle X § 901.2, a special exception to allow an emergency shelter for more than 25 persons in the MU-4 zone under Subtitle U § 420.1(f) as well as special exception relief from requirements for building height under Subtitle G § 403.1, floor area ratio under Subtitle G § 402.1, lot occupancy under Subtitle G § 404.1, open court width under Subtitle G § 202.1, rear yard under Subtitle G § 405.5(a)(1) and (2), parking under Subtitle C § 701.5, and off-street loading and delivery space under Subtitle C § 901.1. (*See* Exhibit 36.) The application was again amended to request a special exception to allow an emergency shelter for more than 25 persons in the MU-4 zone under Subtitle U § 420.1(f) as well as special exception relief from requirements for lot occupancy under Subtitle G § 404.1, open court width under Subtitle G § 202.1, rear yard under Subtitle G § 405.5(a)(1) and (2), and parking under Subtitle C § 701.5, and area variances from requirements for building height under Subtitle G § 403.1, floor area ratio under Subtitle G § 402.1, and off-street loading and delivery space under Subtitle C § 901.1. (*See* Exhibits 39, 43.)

The caption was revised to substitute Subtitle U § 513.1(b) for Subtitle U § 420.1(f), which applies in RA zones, while the subject property is zoned MU-4 and is in Use Group E. (*See* Subtitle U § 500.2.) Subtitle G § 405.2, which states the minimum depth of a rear yard in the MU-4 zone, was substituted for Subtitle G § 405.5(a)(1) and (2), which prescribes methods for the measurement of a rear yard, depending on whether a lot abuts an alley.

² The emergency shelter will provide 46 residential units, with a capacity of up to 150 beds.

parking, open court width, lot occupancy, and rear yard, as well as area variances from requirements for loading, floor area ratio (“FAR”), and building height to allow an emergency shelter as an addition to an existing building in the MU-4 zone at 1700 Rhode Island Avenue, N.E. (Square 4134, Lot 800). Following a public hearing, the Board of Zoning Adjustment (“Board” or “BZA”) voted to grant the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated January 4 or 5, 2017, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Department of Human Services (“DHS”); the Councilmember for Ward 5 as well as the Chairman and the four at-large members of the D.C. Council; Advisory Neighborhood Commission 5B (the “ANC”), the ANC in which the subject property is located; and Single Member District/ANC 5B03. Pursuant to 11 DCMR Subtitle Y § 402.1, on January 6, 2017 the Office of Zoning mailed letters providing notice of the hearing to the Applicant, the Councilmember for Ward 5, ANC 5B, ANC 5C,³ and the owners of all property within 200 feet of the subject property. Notice was published in the *District of Columbia Register* on January 13, 2017 (64 DCR 330).

Party Status. The Applicant, ANC 5B, and ANC 5C were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application from Citizens for Responsible Options (“CFRO”), a group of residents living near the subject property.

Applicant’s Case. The Applicant provided evidence and testimony about the proposed emergency shelter from witnesses Rashad M. Young, the City Administrator; Laura Green Zeilinger, the Director of the District Department of Human Services and an expert in matters relating to homelessness, including best practices in providing services for the homeless; Greer Gillis, the Director of the Department of General Services; Ronnie McGhee, the project architect of the proposed emergency shelter building and an expert in architecture; Ryan Moody, an expert in landscape architecture; and Dan VanPelt, an expert in transportation planning and engineering. The Chairman of the Council of the District of Columbia, Phil Mendelson, testified “to present the public policy underlying [the application], to explain the process behind [the Council’s site selection] decision, and to state the Council’s support for these sites [selected by the Council] for emergency shelters.” (Exhibit 183.)

OP Report. By memorandum dated February 17, 2017, the Office of Planning recommended approval of the application. (Exhibit 49.)

³ The subject property is located across a street from the boundary of ANC 5C, which therefore is also considered an “affected ANC” for purposes of this application. (See Subtitle Y § 101.8.) However, ANC 5C did not submit a report or otherwise participate in this proceeding. With respect to ANC 5C, there were no issues or concerns to which the Board was required to give great weight.

DDOT. By memorandum dated February 16, 2017, the District Department of Transportation indicated no objection to approval of the application. (Exhibit 47.)

Other Agency Reports. The Board received letters in support of the proposed emergency shelter from the D.C. Fire and Emergency Medical Services Department (Exhibit 40) and the District of Columbia Public Schools (Exhibit 62.)

The U.S. Commission of Fine Arts (“CFA”) submitted comments by letter dated February 24, 2017, indicating that CFA had reviewed the concept design for the Ward 5 shelter and commending “this innovative building program that recognizes the value of decentralized short-term housing and provides residents with safe and dignified accommodations.” The CFA members “strongly endorsed the overall goal of building transitional housing for homeless families in established residential neighborhoods, and they expressed support for the development of programmatic and operational guidelines for these facilities.” (Exhibit 106.)

ANC Report. By resolution adopted at a public meeting March 17, 2017 with a quorum present, ANC 5B indicated its support for one aspect of the application (minimum court width) and its opposition to all other zoning relief requested.⁴ The ANC’s resolution objected to the site selection process and stated concerns raised by “many residents of ANC 5B,” including that “many residents of ANC 5B believe that the site is too small; ... the number of parking spots will create a burden to current residents, especially elderly residents; ... increased traffic poses a risk for pedestrians due to the lack of sidewalks in some of the streets directly surrounding the property; and the height of the proposed building is incompatible with some of the architecture of the community directly surrounding the property....” In addition, “many residents of ANC 5B have raised questions about whether the use is ‘emergency’ as that term is defined in the Zoning Regulations.” (Exhibit 208.)

Party in Opposition. Citizens for Responsible Options stated “concerns about the *size and scope* of the proposed shelter structure on this particular site, and about the impact of its size and scope on neighbors and the community at large.” (Exhibit 55; emphasis in original.) The party in opposition also objected to the number of residents at the planned shelter, which would be “more than *37 times as many residents* as permitted as of right under current zoning regulations.” (Exhibit 55; emphasis in original.) CFRO asserted that approval of the application would authorize construction of

this enormous facility without [the Applicant’s] having conducted a reasonable inquiry into alternative sites, with inadequate on-site parking, with no loading dock, and without properly ameliorating the noise, traffic, and congestion that the addition of 150 residents plus visitors and more than a dozen staff on a single lot will bring to this residential neighborhood.

(Exhibit 55.)

⁴ ANC 5B described the relief requested as a special exception for an emergency shelter for more than 25 persons and variances for all other aspects of the relief requested by the Applicant. As previously noted, the Applicant amended the initial application to reflect that relief from some requirements is available by special exception.

According to CFRO, the proposed emergency shelter building “is fundamentally incompatible with the neighborhood” and would “loom over the surrounding single-family homes, cut off their sunlight, air, and open sight-lines, and dwarf confronting single-family houses.” (Exhibit 55.) CFRO opposed all the Applicant’s requests for special exception relief, generally on the ground that the subject property was too small for the proposed use. The party in opposition also argued against approval of the variances requested by the Applicant, asserting that the degree of relief requested was excessive, and that the variance requests “arise from the presence of other uses on the property, which is not an ‘exceptional situation or condition.’”

Persons in support. The Board received letters and heard testimony from persons in support of the application. The persons in support generally cited the need for the emergency shelter and stated that the subject property was an appropriate location for the use, that the size and operation of the planned shelter would not be objectionable, and that the emergency shelter use would not generate adverse impacts in the surrounding neighborhood, including with respect to parking and neighborhood character, especially considering the presence of similarly sized buildings along Rhode Island Avenue. The persons in support commented favorably on the design of the planned emergency shelter, especially with respect to the retention of aspects of the existing building, and asserted that approval of the application would be consistent with policies stated in the Comprehensive Plan.

Persons in opposition. The Board also received letters and heard testimony from persons in opposition to the application. The persons in opposition commented unfavorably on the site selection process for the proposed emergency shelter. With respect to the emergency shelter use, the persons in opposition generally objected to the size of the proposed building, in terms of both its height and the number of residents, and asserted that the location of the shelter on the subject property would cause adverse impacts with respect to traffic, parking, noise, and light, and would not be consistent with zoning requirements or with the character of the surrounding neighborhood. The persons in opposition objected to changes to the existing building on the site and contended that the planned emergency shelter would not be consistent with the Comprehensive Plan or with a small-area plan for the area around Rhode Island Avenue in the vicinity of the subject property.

FINDINGS OF FACT

1. The subject property is located on the northeast corner of the intersection of 17th Street and Rhode Island Avenue, N.E. (Square 4134, Lot 800). The lot area is 12,336 square feet.
2. The subject property is irregularly shaped but generally rectangular, with approximately 113 feet of frontage on Rhode Island Avenue (on the south) and 150 feet of frontage on 17th Street (on the west). The northern property line, approximately 100 feet long, abuts a parcel improved with a four-story apartment house, now under construction. The

subject property abuts a public alley, 15 feet wide, for approximately 97 feet along the eastern property line. The alley extends from Hamlin Street to the north to Rhode Island Avenue to the south.

3. As a corner lot, the subject property is bounded by public space along two streets, with setbacks of 20 feet along Rhode Island Avenue and 25 feet along 17th Street.
4. The subject property is improved with a brick building located in the southwestern portion of the parcel, and with a monopole communications antenna tower, 150 feet tall, and a small (360 square feet) utility building supporting the antenna functions, located in the northeastern corner of the property.⁵ The existing improvements result in a lot occupancy of 28 percent and a floor area ratio of 1.0 at the subject property.
5. The brick building was constructed in the 1920s as a police station but has been decommissioned and is now vacant. The building is three stories (approximately 41.3 feet) in height. A one-story rear addition was previously built to enlarge the building on the northern side.
6. The subject property is located within convenient walking distance of Metrobus stops on Rhode Island Avenues and other nearby streets. The Rhode Island Avenue Metrorail station is located approximately one mile southwest of the site. (Exhibit 7.)
7. Bicycle- and car-sharing options are accessible within a mile of the subject property. Bicycle facilities in the area include exclusive and shared bicycle lanes on several nearby streets, as well as access to the Metropolitan Branch Trail. (Exhibit 29.)

Program needs

8. More than 7,000 persons experience homelessness in the District of Columbia on any given night. They currently include 941 families in emergency shelter, including approximately 600 families now staying in “overflow” hotels. Almost half of the families now served in emergency shelters are headed by a parent – usually a mother age 24 or younger – with infant children. Approximately 60 percent of residents at emergency shelters are children. (Exhibits 185, 186, 210.)
9. The Department of Human Services administers the Homeless Services Reform Act of 2005 (“Homeless Services Reform Act”), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code §§ 4-751.01 *et seq.*), which established requirements for the delivery of publicly funded services for homeless persons and specified that eligible clients had the right to shelter in certain severe weather conditions. The District was required to

⁵ The antenna and telecommunications facility were approved by special exception, subject to conditions, as part of the District’s emergency communications network. *See* Application No. 16991; order issued March 19, 2003. The Applicant states that the antenna is “operational and would require adding over \$1 million to the project budget to re-locate it offsite.” (Exhibit 7.)

make available appropriate space in District of Columbia public or private buildings and facilities for any person in the District who was homeless and could not access other shelter. The Mayor was directed not to place homeless families in non-apartment style shelters. (D.C. Official Code §§ 4-753.01, 4-754.11.)

10. The Homeless Services Reform Act specified that the District’s provision of homeless services must be based on a Continuum of Care that offers a comprehensive range of services through various member agencies and is designed to meet the specific, assessed needs of individuals and families who are homeless or at imminent risk of becoming homeless. (D.C. Official Code § 4-753.01.) The District is required to respond to the changing needs of individuals and families by ensuring that transfer between and among services within the Continuum of Care is fluid and allows clients to modify the intensity of services they receive to meet their needs, preferences, and changing circumstances. (D.C. Official Code § 4-753.01(a).)
11. The Continuum of Care may include a range of services, including (a) shelter to meet the housing needs of individuals and families who are homeless through the provision of temporary shelter for families for the purpose of meeting short-term housing needs and other supportive service needs, and (b) supportive services for the purpose of providing families who are homeless or at imminent risk of becoming homeless with services that address their housing, employment, physical health, mental health, alcohol and other substance abuse recovery, child care, case management, transportation, and other health and social service needs which, if unmet, may be barriers to obtaining or maintaining permanent housing. These services may be delivered through shelters. (D.C. Official Code §§ 4-753.01(b)(3)(C), 4-753.01(b)(5).)
12. The Homeless Services Reform Act created the D.C. Interagency Council on Homelessness (“ICH”) for the purpose of facilitating interagency, cabinet-level leadership in planning, policymaking, program development, provider monitoring, and budgeting for the Continuum of Care of homeless services. (D.C. Official Code § 4-752.01(a).) The ICH is chaired by the City Administrator and is charged with providing leadership in the development of strategies and policies that guide the implementation of the District’s policies and programs for meeting the needs of individuals and families who are homeless or at imminent risk of becoming homeless. (D.C. Official Code §§ 4-752.01(a), 4-752.01(a).)
13. The District previously sheltered homeless families at the D.C. Village shelter “in conditions described as ‘overcrowded,’ ‘pest infested,’ and ‘inhumane’” until beginning to shelter families at D.C. General, a former hospital that “was not intended to be used for the purpose of sheltering families,” in 2007. The D.C. General family shelter was intended as a temporary measure but “remains the District’s primary emergency family shelter, housing 250 to 300 families experiencing homelessness. (Exhibit 184.)

14. In 2015 the Interagency Council on Homelessness participated in the development of Homeward DC, the District’s strategy to end homelessness. Homeward DC is a five-year strategic plan to prevent and end homelessness that was devised based on research and experience and in recognition of best practices and evidence-based models from across the country. Homeward DC calls for the development of “service-enriched, community-based shelters” that are smaller in scale than the D.C. General family shelter, which is proposed to be closed by the 2019-2020 hypothermia season. According to DHS, the temporal aspect of the Homeward DC goal is critically important both from a cost perspective and as a means to provide suitable shelter for families who are experiencing homelessness. (Exhibit 186.)
15. Two principal components of Homeward DC are the need to provide a total of 280 residential units to replace the D.C. General family shelter, and the need to provide emergency shelters that will serve families in a smaller, more dignified environment than is provided at the D.C. General family shelter. Each new community-based shelter was intended to be “economically feasible and able to be developed within a 24-30 month timeline,” and located on a site close to Metrobus transportation and other services and amenities. (Exhibits 185, 186.)
16. By letter dated September 18, 2015, Mayor Muriel Bowser transmitted legislation to the Council entitled the “Advancing Year Round Access to Shelter Policy and Prevention of Homelessness Amendment Act of 2015” (now known as “Interim Eligibility and Minimum Shelter Standards Act of 2015”) (“the Interim Eligibility Act”).
17. The Committee Report for the bill⁶ explained the need for the legislation as follows:

[t]he problems with D.C. General as a shelter are myriad.... The size of this facility has proven difficult to manage. Moreover, the building is old and outdated with basic systems that work poorly and are costly to maintain, including its heating, cooling, electrical, and water systems. In addition, the facility has been reported to be infested with pests and vermin. Also, outbreaks of scabies and reports of filthy communal bathrooms have been made. Further, reports of drug dealing and fights in and around the facility are rampant.... [N]umerous complaints of staff misconduct ... have been made.

(Exhibit 184.)
18. The Committee Report indicated that there was “widespread agreement that D.C. General is inadequate to meet the needs of families experiencing homelessness and should be closed.” The report noted that Mayor Vincent Gray had “offered a plan to replace D.C.

⁶ Council of the District of Columbia, Committee of the Whole, Committee Report on Bill 21-352, “Interim Eligibility and Minimum Shelter Standards Amendment Act of 2015.”

General with a network of smaller shelters located throughout the city” in 2014. In order to implement this model Mayor Bowser sought Council “authorization to depart from the existing legal preference to provide apartment-style shelter” and instead “to utilize private room units to replace D.C. General.”

19. The Committee Report emphasized that “the District’s strategy should be not only to close D.C. General, but to replace the inappropriate existing facilities with new facilities that meet the needs of those they serve and to do so in a way that adheres to the standards of dignity we expect as a government. Thus ... we should also seek to provide our homeless population with housing that is safe, humane, and in the interest of public health.”
20. As enacted, the Interim Eligibility Act, *inter alia*, amended the Homeless Shelter Reform Act to authorize the Mayor to provide shelter to a family in a private room meeting certain minimum standards and constructed for the purpose of closing the D.C. General family shelter.
21. Those private rooms are referred to as “DC General Family Shelter replacement unit,” a term defined as “a private room that includes space to store and refrigerate food and is constructed by or at the request of the District for the purpose of sheltering a homeless family.” (D.C. Official Code § 4–751.01(11A).) A “private room” is defined as a part or division of a building that has: (A) four continuous non-portable walls meeting both the ceiling and floor; (B) a door that locks from both the inside and outside as its main point of access; (C) sufficient insulation from sound; (D) lighting within the room that the occupants can turn on or off as desired; and (E) access to on-site bathroom facilities, including a toilet, sink, and shower. (D.C. Official Code § 4–751.01(28A).)
22. Buildings composed of D.C. General Family Shelter replacement units (“Replacement Units”) must include, at minimum, a private bathroom – including a toilet, sink, and bathtub or shower – in at least 10 percent of the Replacement Units. One private, lockable bathroom that includes a toilet, sink, and bathtub and is accessible to all residents must be provided for every five Replacement Units. At least two multi-fixture bathrooms must be provided per floor, with multiple toilets, sinks, and showers. (D.C. Official Code § 4-753.01(d)(3).)
23. The Mayor was directed to maintain a minimum of 280 D.C. General Family Shelter Replacement Units in the District’s shelter inventory, once the Replacement Units were constructed. (D.C. Official Code § 4–753.01(d)(5).)
24. In 2016 Mayor Muriel Bowser announced an initiative entitled “A Plan to Close D.C. General: Short Term Family Housing in All 8 Wards.” The plan called for the replacement of the family shelter at the former D.C. General Hospital with smaller shelters on sites throughout the District. (Exhibit 183.)

25. Under the 2016 initiative to close the D.C. General family shelter and establish new emergency shelters with a maximum of 50 family units each, the Mayor proposed seven sites as potential locations for the new shelters, and proposed to build some of the shelters on sites leased by the District. (Exhibit 183.)
26. The sites proposed by the Mayor were identified after the District undertook a search for properties in each ward that could meet the relevant criteria: that is, sites capable of providing a total of at least 280 units, so as to replace the emergency shelter at D.C. General; were economically feasible; were close to public transportation and other services and amenities; and could be developed within 24 to 30 months. The search considered District-owned properties as well as properties to purchase or lease. (Exhibit 183.)
27. In Ward 5, the Mayor selected, as the site for a new emergency shelter, a parcel at 2266 25th Place, N.E.
28. Under District law, the Mayor could not proceed with the leases, land acquisition, and construction proposed without Council approval.
29. Therefore, through a letter from Mayor Muriel Bowser to Council Chairman Mendelson, dated February 11, 2016, The Mayor proposed legislation, entitled the “Homeward DC Omnibus Approval of Facilities Plan for Short-term Housing for Persons Experiencing Homelessness Act of 2016,” to seek Council approval for the Mayor’s acquisition and construction plan and for certain proposed transactions for the development of short-term housing facilities for families and individuals experiencing homelessness.
30. In her letter Mayor Bowser “committed to closing DC General” and recognized that, to do so, “we need alternative, safe, and dignified places for families experiencing homelessness,” noting that “[b]est practices suggest that children and families do best when short-term housing is provided in smaller-scale, service-enriched, community-based settings.” The Mayor proposed legislation so that the Council could “express support for and intent to approve impending contracts for short-term housing for persons experiencing homelessness [and to] specify the process for Council approval of these contracts.... The Mayor stated that

It is critical that the Council express its intent to approve the proposed leases and construction contracts in advance, so that the Department of General Services will be able to complete negotiations of the leases and advance the process for construction contracts. It is imperative that the District provide developers with a demonstrated commitment to ensure their willingness to assume risk for advancing designs, securing financing and initiating predevelopment activities.

31. The transactions included a lease between the District and Jemal’s Tony LLC for a facility in Ward 5 for approximately 50 families experiencing homelessness, at a cost of approximately \$2.04 million annually, consistent with a letter of intent entered into between the District and Jemal’s Tony LLC, dated November 2, 2015. (Homeward DC Omnibus Approval of Facilities Plan for Short-term Housing for Persons Experiencing Homelessness Act of 2016, Sec. 2(a)(4).)
32. The Council of the District of Columbia endorsed aspects of the Mayor’s plan – especially the intention to end use of D.C. General as an emergency shelter for families – but “disagreed with three of the seven sites proposed by the Mayor, and disagreed with the economics of the Mayor’s plan – namely that five of the seven sites would be leased....” On March 17, 2016, the Council held a public hearing to address site selection for the emergency shelters, which lasted almost 12 hours and for which more than 80 citizens registered to testify. In May 2016, the Council voted unanimously to direct the Mayor to change three of the sites selected for new shelters – among them the site in Ward 5 – and “to change the economic structure of the plan so that all of the sites would be owned, not leased” by the District. The Council also appropriated a capital budget of \$125 million for the plan. (Exhibit 183.)
33. The Councilmembers received suggestions for alternative sites at the public hearing and subsequently, including “approximately a dozen alternative sites” for the Ward 5 shelter. As described in the testimony of Council Chairman Phil Mendelson, the Council “considered a number of suggested locations” before considering two locations as “the most preferable: The Penn Center Building ... in Eckington (326 R Street)” and the subject property. “For each, site acquisition would be easiest and cheapest, since the properties are already city-owned and there was community support for the Rhode Island Avenue site.” Ultimately “the Council dropped the Penn Center site” after learning that D.C. Public Library “already had plans to use the building as it begins renovation of the Martin Luther King Library.” The Council concluded that, “[w]hen all of the factors ... [were] taken together, all of the suggested locations, including the Mayor’s proposal, were less reasonable than 1700 Rhode Island Avenue.” The Council endorsed the selection of the subject property and found no other reasonable sites for an emergency shelter in Ward 5. (Exhibit 183; Mendelson, Transcript (“Tr.”) of March 1, 2017 at 16.)
34. The “Homeward DC Omnibus Approval of Facilities Plan for Short-Term Housing for Persons Experiencing Homelessness Act of 2016” was renamed the “Homeless Shelter Replacement Act of 2016.” In its report on the Act (Bill 21-620), the Council stated that Bill 21-620 presented “a clear plan for how the District will replace D.C. General and, notably, will be fully funded through Bill 21-668, the *Fiscal Year 2017 Local Budget Act of 2016*. The Council report also stated that Bill 21-620 was

a strong statement of the District’s commitment to making homelessness rare, brief, and non-recurring and that doing the right thing can be done in

a manner that is both an effective and efficient use of the District’s financial resources and capital assets. The District’s strategy cannot be simply to close D.C. General, but to close and replace D.C. General with new facilities and a full complement of services and supports that truly meet the needs of families experiencing homelessness.

(Exhibit 184.)

35. The Homeless Shelter Replacement Act of 2016 (D.C. Law 21-141, effective July 29, 2016; D.C. Official Code § 4-754.01 Note) authorized the Mayor, at Section 3(a), to use designated funds to provide temporary shelter for families experiencing homelessness by constructing six facilities containing D.C. General Family Shelter replacement units, as defined in The Homeless Services Reform Act, to replace the D.C. General family shelter. Section 3(a)(4) authorized the Mayor “to use funds appropriated for capital project ‘HSW05C—Ward 5 Homeless Shelter’ to construct a facility to provide temporary shelter for families experiencing homelessness containing up to 50 DC General Family Shelter replacement units on District-owned land at 1700 Rhode Island Avenue, N.E., Square 4234, Lot 800....” The Act appropriated up to \$100 million for the specified purposes. (Section 3(b).) The Mayor was authorized to use funds appropriated for capital project THK16C – Temporary and Permanent Supportive Housing Pool Project for any acquisition or construction authorized by the Act, the cost of which exceeded the amount appropriated for HSW05C – Ward 5 Shelter. (Section 3(c).)

36. The Homeless Shelter Replacement Act reflected the Council’s findings, in Section 2, that:

Best practices suggest that children and families do best when short-term housing is provided in smaller-scale, service-enriched, community-based settings, and it is therefore in the best interest of the District to replace the DC General Family Shelter with a series of facilities throughout the District that provide temporary shelter. (Paragraph 4.)

To close the DC General Family Shelter ... the District needs to construct new facilities that are safe and dignified spaces for families experiencing homelessness. (Paragraph 6.)

It is in the best interest of the District to construct these new temporary-shelter facilities on District-owned land, in part to avoid the disruption to the provision of services in the continuum of care that would accompany the eventual expiration of leases. (Paragraph 7.)

37. The D.C. Council’s Committee Report on Bill 21-620, “*Homeless Shelter Replacement Act of 2016*,” provides an overview of homelessness in the District of Columbia and the “new approach to sheltering families experiencing homelessness.” The report notes that

replacement of the D.C. General family shelter by “a similar number of new family units, but in smaller facilities purposely designed with the intention of housing families experiencing homelessness will immediately eliminate some of the most pressing problems that exist at D.C. General” in part because “smaller facilities with fewer families will likely be easier to manage.” The Committee Report concludes that “[r]eplacement of D.C. General offers the District a unique opportunity to design a system of shelter facilities with a focus on prioritizing the needs of clients and takes into account lessons learned over decades of providing shelter and services in inadequate facilities.” (Exhibit 184.)

38. The Applicant’s proposed emergency shelter was designed to comply with the statutory requirements and to incorporate standards and guidelines devised by the Interagency Council on Homelessness and the Department of Human Services based *inter alia* on research including studies of best practices. As a result:
- (a) The emergency shelter will provide 46 sleeping units, consistent with the policy to replace the beds currently provided at the D.C. General family shelter with smaller facilities in locations around the District.
 - (b) The number of sleeping units per floor is generally limited to 10, to encourage a predictable environment in which each family could experience greater privacy, without excessive noise or turbulence in the hallways, at a scale where the common rooms on each floor would feel more like community living rooms than anonymous cafeterias or auditoriums. (Exhibit 186.)
 - (c) Each floor is designed to provide a direct line of sight down the floor’s single central hallway, which will enhance personal safety by removing hiding places so that the program operator can ensure safety without the need for more intrusive security measures. Activities in the common areas and hallways will be monitored by staff stationed at the security desk on each floor 24 hours per day. (Exhibit 186.)
 - (d) The emergency shelter will not use congregate, dormitory-style bathrooms but will provide bathrooms that will accommodate only one person at a time, with at least one private bathroom for every two family units and some rooms having en-suite private bathrooms to accommodate families with special needs. (Exhibit 186.)

Emergency shelter use

39. The Applicant proposes to construct and operate an emergency shelter at the subject property. A new addition will be constructed to the north and east of (but not over) the existing building, after the existing one-story addition is removed. The existing building will be renovated and adapted for use, together with the new addition, as an emergency

shelter containing 46 residential units, space for support services, administrative offices, and recreational space and other common areas for the residents.

40. The emergency shelter will meet all applicable code and licensing requirements, and will be operated consistent with the Short-Term Family Housing programs administered by the Department of Human Services for the purpose of providing immediate support to families experiencing homelessness.
41. The main entrance to the emergency shelter will be located in the new addition, accessible from 17th Street. The building will not be accessible from Rhode Island Avenue; the entrance to the existing building, which faces Rhode Island Avenue, will be converted to an emergency exit.
42. The ground floor will be used primarily for a large multipurpose room for dining and for group meetings, conference rooms, a computer room for residents, and work stations and other areas for employees of the emergency shelter.
43. Consistent with the Short-Term Family Housing programs, the emergency shelter will provide private meeting space for the provision of “wrap-around” services designed to assist residents in obtaining permanent housing more quickly. The services are intended to provide connections to permanent housing programs, housing search assistance, credit counseling, and budgeting, as well as to offer assistance in meeting needs such as childcare, health care, training, and employment services. Much of the space devoted to the provision of wrap-around services will be located on the ground floor. (Exhibits 29, 36.)
44. The emergency shelter will provide 46 residential units, with a capacity of up to 150 beds, in a six-story building containing approximately 47,000 square feet of gross floor area. The Applicant anticipates an average of 138 residents of the emergency shelter at any given time, of whom approximately 60 percent will be children.
45. The second and third floors of the new emergency shelter will each contain 11 residential units, utilizing space in both the existing building and the new addition. The upper floors (four through six) will each contain eight residential units located entirely in the new addition. (Exhibits 5, 36A1.)
46. Each residential floor will provide common areas accessible to residents, with laundry facilities, microwave ovens, storage space, and study rooms. Staff monitors will be stationed near the common areas on each residential floor in locations that will provide a line of sight encompassing the elevators and the entire lengths of the corridors.

47. The residential units will be arranged so that two or three units on each floor will have private bathrooms; other bathrooms will be shared by two units. Some residential units will have adjoining doors to accommodate larger families when needed.
48. The residential units will be fully furnished. Residents found eligible for emergency shelter will be permitted to bring personal belongings but not large furniture. (Exhibits 94A, 186.)
49. The existing building has a full basement, and a small basement will be constructed under the new addition to house some mechanical equipment associated with the antenna tower. The basement level of the building will be devoted primarily to storage, mechanical functions, and areas for employees of the emergency shelter. (Exhibits 7, 36A1; McGhee, Tr. at 43-44.)
50. In conjunction with construction of the new addition, the tower array of the monopole will be raised 15 feet to a location above the new addition, and a generator and other equipment associated with operation of the antennas will be relocated from the top of the utility building to the basement of the new addition. The utility building will be incorporated into the new construction. (McGhee, Tr. at 37.)
51. The Applicant asserted that operation of the antenna tower will not create any safety issues for the emergency shelter or surrounding properties, citing a study of radio frequency (“RF”) electromagnetic fields performed at the site by an engineering firm. The study indicated that the location of the antenna tower adjacent to the new emergency shelter will comply with rules and regulations of the Federal Communications Commission (“FCC”) for RF emissions upon implementation of certain corrective actions. (Exhibit 94A; McGhee, Tr. at 37.)
52. Two areas for outdoor recreation will be made available to residents of the emergency shelter, both with seating and with play areas designed for children of various ages. One outdoor area will be provided along the northern edge of the subject property, approximately 10 feet wide. The other, located in the southeastern portion of the property, will include a low seat wall with screening, including plantings. (Exhibit 36A1.)
53. The Applicant will install and maintain landscaping in public and private space around the emergency shelter building. Several large oak and spruce trees now on the subject property will be retained. Plantings will include a perennial garden near the entrance, grassy areas in the vicinity of the existing building, and shrubbery to screen the southeastern outdoor recreation area. A wooden privacy fence will be installed along the northern and western perimeters of the property.
54. Along Rhode Island Avenue, a chain link fence and existing overgrown shrubs will be removed so as to provide open views of the existing building and pedestrian-friendly

gardens along the public sidewalk. New fencing – as planned, a short brick retaining wall topped with a screen – will be installed along the southern property line, located approximately 20 feet from the sidewalk to maintain the privacy of the open recreation area for use by shelter residents. Along 17th Street, landscaping will include a new lawn to define the area near the entrance to the emergency shelter and emphasize the façade of the existing building.

55. Meals will be prepared off-site and delivered to the emergency shelter twice daily in vans. (Exhibit 186.)
56. Trash will be stored for collection in bins on the east side of the building, accessible via a service entrance situated between the telecommunications tower and the parking area. Trash collection is anticipated to occur three times per week.
57. The emergency shelter will be operated by a staff typically ranging from 10 to 22 employees. At least 10 employees will be on-site at all times, and as many as 26 could be at the facility during shift changes. Because of the timing of the shift changes, at 7:00 a.m., 3:00 p.m., and 11:00 p.m., the arrival times of most employees will not coincide with the times of peak traffic on streets in the vicinity of the subject property.
58. The Applicant will implement a transportation demand management (“TDM”) program designed to minimize the traffic impacts of the emergency shelter use by reducing travel demand by single-occupant vehicles during peak travel times. Elements of the TDM plan will include designation of a TDM coordinator, who will develop and distribute information about transportation facilities and services, and the provision of transit subsidies and bicycle amenities. All residents of the emergency shelter will receive SmarTrip vouchers to encourage public transit use. Children who are enrolled in a D.C. public school or charter school are eligible to receive a DC One Card, which permits free travel on Metrorail and Metrobus. (Exhibit 29.)
59. Residents of the shelter will not be permitted to park vehicles on site. Based on its experience at other emergency shelters, the Applicant projects that less than one percent of shelter residents will own a vehicle, and that most residents will likely utilize non-automobile transportation options such as public transit, bicycles, or walking to travel to and from the emergency shelter. (Exhibit 29.)
60. The Applicant proposed to designate 30 feet of curb space along 17th Street as a pick-up and drop-off zone for residents of the emergency shelter. Parking would not be permitted within the zone. An existing curb cut on 17th Street, also 30 feet wide and currently used to provide vehicular access to the northern portion of the subject property, will be removed.

61. The block of 17th Street adjoining the subject property is currently subject to the Residential Permit Parking (“RPP”) program. Parking on Rhode Island Avenue in the vicinity of the subject property is time-restricted.
62. The emergency shelter use will meet zoning requirements for short-term and long-term bicycle parking, in accordance with Subtitle C § 802.1, by providing at least four short-term bicycle parking spaces and four long-term bicycle parking spaces. Bicycle racks for short-term parking will be installed in public space, subject to DDOT approval, at the western entrance of the facility along 17th Street. Long-term bicycle parking spaces will be provided inside the building. (Exhibits 29, 43.)
63. The Applicant will provide four vehicle parking spaces in a surface lot located under an overhang of the new addition on the eastern portion of the site, accessible from the alley. Three of the parking spaces will be reserved for use by employees of the emergency shelter.
64. The fourth parking space will be designated as a service/delivery space for use by vehicles making deliveries to the property via the public alley. The Applicant anticipates that the designated loading area will be used primarily by vehicles no larger than a 19-foot delivery van for deliveries of food and supplies.
65. Approximately six deliveries are expected per day at the emergency shelter, including trash collection. Of those six deliveries, three are anticipated to involve passenger pick-ups and drop-offs that are likely to occur at the main entrance on 17th Street. Two of the daily deliveries will be made by vans bringing meals to the shelter at known arrival times. (Exhibits 29, 36, 43, 47.)
66. The Applicant will implement a loading management plan to coordinate deliveries to the subject property. Pursuant to the loading management plan: (a) The building management will designate a loading manager who will coordinate and schedule deliveries where possible, and will be on duty during delivery hours. (b) Loading operations will be limited to daytime hours of operation, with signage indicating these hours posted prominently at the loading zone. (c) Trucks using the loading zone will not be allowed to idle and will be required to follow all District of Columbia guidelines for heavy vehicle operation, including those with respect to engine idling and primary access routes. (Exhibit 29.)
67. A “community advisory team” was formed as part of the Mayor’s community engagement process related to the emergency shelter initiative in Ward 5 to coordinate community feedback and input, share information on issues and concerns, and comment on building designs to help ensure that the new shelter building would reflect the character the surrounding neighborhood. The Ward 5 community advisory team will conduct “ongoing discussions about specific concerns” with respect to the emergency

- shelter and will “provide feedback on concerns related to resident quality of life during construction and help develop” a “good neighbor agreement” for the program. The good-neighbor agreement, between the service provider of the emergency shelter and the advisory team on behalf of the community, will address expectations and commitments regarding exterior facility and landscape maintenance, community safety, neighborhood codes of conduct, and communication, problem-solving, and mutual respect. (Exhibits 185, 186.)
68. The emergency shelter building will be certified as LEED Gold, thereby minimizing its impact on surrounding properties with respect to light, fumes, noise, and storm water management. Compliance with requirements for LEED Gold certification will require the Applicant to install noise-dampening mechanical equipment at the emergency shelter building. (Exhibit 210; McGhee, Tr. at 40-41.)
69. Construction of the new addition to the existing building for use as an emergency shelter will increase lot occupancy at the subject property from the existing 28 percent to 73 percent.
70. The subject property is a corner lot, and the Applicant has selected the 17th Street frontage as the front; therefore, the rear lot line abuts the public alley along the east side of the lot.
71. The Applicant proposes to build the new addition to the rear lot line along much of the eastern edge except for an area, 12 feet wide, along the northern edge and an area in the southeastern portion of the property that will be devoted to open recreation space for residents of the emergency shelter. Where the building is constructed to the eastern (rear) lot line, the rear yard setback will be 7.5 feet, as measured from the center line of the abutting alley for that portion of the building below a 25-foot plane. No rear yard setback will be provided for portions of the building above the 25-foot plane.⁷
72. The rear-facing windows in the new addition will abut the public alley and will not be directly in front of another building. The rear-facing windows will be located more than 40 feet from any other building. No habitable rooms will be located at the rear of the new addition such that sight lines will penetrate into the habitable rooms.
73. The planned emergency shelter building will have a non-rectangular open court on the southern portion of the subject property between the existing building and the new

⁷ Pursuant to Subtitle G § 405.4, on a lot in the MU-4 zone a horizontal plane may be established at 20 feet above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yard. Subtitle G § 405.5(a) prescribes a method to measure rear yard when a lot in MU-4 abuts an alley: (1) for that portion of the structure below a horizontal plane described in Subtitle G § 405.4 from the center line of the alley to the rear wall of the portion; and (2) for that portion of the structure above the horizontal plane described in Subtitle G § 405.4, from the rear lot line to the rear wall of that portion immediately above the plane.

construction. The open court will be 19.25 feet at the widest, and the largest circle that could be inscribed in the court would have a diameter of 17 feet.⁸

74. The Applicant proposes to construct the new addition to a height of 69.8 feet to house the emergency shelter use.
75. The existing building is not a designated historic landmark and is not located in a historic district, but is considered eligible as a historic resource due to its age and status as a building of the District of Columbia Government. The Applicant therefore opted to treat the existing building with the same level of protection as would be accorded a designated historic landmark. (Exhibits 7, 36, 49; McGhee, Tr. at 83-84.)
76. The new addition to the existing building was designed, after consultation with the Historic Preservation Office in the Office of Planning, to retain the most significant portion of the existing building and to retain views of the existing building from Rhode Island Avenue and from 17th Street. The new addition will be constructed predominately on the north and east sides, rather than over the existing building. (Exhibits 7, 36, 49.)
77. The adaptive reuse of the existing building will contribute as much as eight feet to the height of the new addition because the existing building was constructed three feet above grade, and because its three floors have atypically high floor-to-ceiling heights. The first floor has a height of 13 feet, the second floor is at 12 feet, and the third floor is at 11 feet. Floor-to-ceiling heights on the first three floors of the new addition will match those in the existing building, since the new addition will not be large enough to accommodate transitional ramps inside. By maintaining the existing floorplates and matching those heights in the new addition, the Applicant will avoid major demolition on the site, in keeping with historic preservation guidelines. (Exhibit 36; McGhee, Tr. at 46.)
78. The Applicant submitted shadow studies to illustrate the shading impacts of the new construction on the surrounding area. The studies depicted shadow impacts of both the planned new addition and a building of a size permitted on the site as a matter of right consistent with Inclusionary Zoning provisions. (Exhibits 94A, 94B2, 204D.)

MU Zoning classification

79. The subject property is located in a Mixed-Use (MU) zone, MU-4.
80. The Mixed-Use zones provide for mixed-use developments that permit a broad range of commercial, institutional, and multiple dwelling unit residential development at varying densities. (11 DCMR Subtitle G § 100.1.) The MU zones are designed to provide

⁸ See Subtitle B § 100.2, “Court, Width of” definition: The minimum horizontal dimension substantially parallel with the open end of an open court or the lesser horizontal dimension of a closed court; or, in the case of a non-rectangular court, the diameter of the largest circle that may be inscribed in a horizontal plane within the court.

facilities for housing, shopping, and business needs, including residential, office, service, and employment centers. (Subtitle G § 100.2.) In the MU zones, buildings may be entirely residential, or may be a mixture of non-residential and residential uses. (Subtitle G § 100.4.)

81. The purposes of the MU zones include to: (a) provide for the orderly development and use of land and structures in the MU zones, characterized by a mixture of land uses; (b) provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities and scale throughout the city; (c) reflect a variety of building types, including shop-front buildings which may include a vertical mixture of residential and non-residential uses, buildings made up entirely of residential uses, and buildings made up entirely of non-residential uses; (d) encourage safe and efficient conditions for pedestrian and motor vehicle movement; (e) ensure that infill development is compatible with the prevailing development pattern within the zone and surrounding areas; (f) preserve and enhance existing commercial nodes and surroundings by providing an appropriate scale of development and range of shopping and service opportunities; and (g) ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces. (Subtitle G § 100.3.)
82. The MU-4 zone is intended to: (a) permit moderate-density mixed-use development; (b) provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and (c) be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers. (Subtitle G § 400.3.)

Nearby properties

83. The subject property is located in a Mixed-Use zone that encompasses areas on both sides of Rhode Island Avenue from 13th Street, N.E. to 24th Street, N.E. Nearby properties in the same MU-4 zone to the north and east of the subject property are devoted to commercial uses, especially automobile-related retail uses such as tire sales and used-car sales. A public library is located one block to the east, next to a large park complex extending from 18th Street to 24th Street between Franklin and Hamlin Streets.
84. A four-story apartment house is under construction on the lot, also zoned MU-4, that abuts the subject property to the north. The building is 46 feet in height and contains six dwelling units configured around an open court. The exterior wall facing the subject property is built on the property line and does not contain any windows. (Exhibits 7, 36, 197.)

85. Three other apartment buildings are located in the vicinity to the west of the subject property. Two of those buildings, located on Rhode Island Avenue near its intersection with Franklin Street, have five-and-a-half stories. The other, on Franklin Street south of the subject property, has four stories. (Exhibits 36, 36A.)
86. Properties to the north of the MU-4 district are zoned R-1-B and are improved primarily with two-story detached dwellings. Several detached dwellings are located to the immediate west of the subject property. A church is located in the same square, just west of the dwellings fronting on 17th Street.
87. The Rhode Island Avenue right of way is 130 feet wide in the vicinity of the subject property. The 17th Street right of way is 90 feet wide.
88. The detached dwellings closest to the subject property are located at least 110 feet from the western façade of the existing building. The existing building is built to the property line, while the dwellings on the west side of 17th Street have front yard setbacks of approximately 20 feet that supplement the distance provided by the 90-foot right of way. (Exhibit 94B2, p. 76; McGhee, Tr. at 33.)
89. No other property in Square 4134⁹ or within 500 feet of the subject property is presently used as an emergency shelter. (Exhibits 7, 36.)

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks a special exception under Subtitle U § 513.1(b) as well as certain other special exception and area variance relief to allow an emergency shelter for more than 25 persons in the MU-4 zone at 1700 Rhode Island Avenue, N.E. (Square 4134, Lot 800). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR Subtitle X § 901.2.)

Emergency shelter use. Pursuant to Subtitle U § 513.1, certain uses, including an emergency shelter use, may be permitted in the MU-4 zone if approved by the Board as a special exception under Subtitle X, Chapter 9, subject to the provisions applicable to each use. In the case of an emergency shelter use considered under Subtitle U § 513.1(b), the provisions specify that no other property containing an emergency shelter for seven or more persons may be located either in the same square or within a radius of 500 feet from any portion of the site of the proposed emergency shelter (Subtitle U § 513.1(b)(1)); the proposed emergency shelter must provide

⁹ The Applicant's Exhibit 36 (p. 8) inadvertently referred to the Square of the property as "4124," not 4134.

adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility (Subtitle U § 513.1(b)(2)); the proposed emergency shelter must meet all applicable code and licensing requirements (Subtitle U § 513.1(b)(3)); the proposed emergency shelter must not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area (Subtitle U § 513.1(b)(4)); and a facility for more than 25 persons, not including any resident supervisors or staff and their families, can be approved only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the location and if there is no other reasonable alternative to meet the program needs of that area of the District (Subtitle U § 513.1(b)(6)).¹⁰

Based on the findings of fact, the Board concludes that the new building will be devoted to use as an emergency shelter, as that term is defined in the Zoning Regulations, and that the application satisfies the requirements for special exception relief in accordance with Subtitle U § 513.1(b). The Zoning Regulations define an “emergency shelter” as “[a] facility providing temporary housing for one (1) or more individuals who are otherwise homeless as that arrangement is defined in the Homeless Services Reform Act of 2005 ...; an emergency shelter use may also provide ancillary services such as counseling, vocational training, or similar social and career assistance.” (11 DCMR Subtitle B § 100.2.) The Department of Human Services has publicly referred to the facility as “short-term family housing” to avoid use of the term “shelter” and to convey that the facility is intended to provide “a supportive program for residents that is respectful and harmonious with the variety of housing types in the surrounding community.” (See Exhibit 186 at 5.) The Short-Term Family Housing programs implemented by DHS are subject to requirements in the Homeless Services Reform Act related to “temporary shelter” for families. The Board concurs with the Applicant that the planned use of the subject property is as a facility providing temporary housing under the Homeless Services Reform Act “and fits wholly into the zoning definition despite the publicized name of ‘Short Term Housing Facility.’” (Exhibit 186 at p. 6.)

The party in opposition argued that the Applicant’s proposed emergency shelter “stretches the contemplated scope of the special exception in [Subtitle] U § 513.1(b) beyond the breaking point” and therefore requires use variance relief. CFRO acknowledged that the Applicant “may seek to exceed the 25-resident maximum” specified in Subtitle U § 513.1(b)(6) but contends that “nothing in the regulations suggests that such authority would be unlimited.” According to CFRO, a facility of the size proposed in this proceeding – potentially serving 150 residents – is not “intended for the MU-4 zone” since the “magnitude of the deviation itself is compelling evidence of the inappropriateness of the development.” (Exhibit 55.) The party in opposition did not identify an alternative use category, but argued only that the Applicant’s planned use would not be an emergency shelter due to its size. The Board does not agree. The relevant zoning

¹⁰ Another provision – that the Board may approve more than one emergency shelter in a square or within 500 feet only when the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations (Subtitle U § 513.1(b)(5)) – is not applicable in this instance because no other facility is now located in the same square as or within 500 feet of the subject property.

provision, Subtitle U § 513.1(b)(6), plainly allows a facility for more than 25 persons so long as the applicable requirements are met. In creating the provision that allows for special exception approval of an emergency shelter, the Zoning Commission could have imposed a limit on the size of the facility, but the Commission did not do so. In fact, the loading requirements applicable to emergency shelters contemplate facilities larger than 100,000 square feet -- more than twice the size of what is proposed here. (11 DCMR Subtitle C § 901.1.) The notion that a facility larger than 100,000 square feet would be subject to an unstated occupancy limit of less than 150 residents is preposterous. The Board therefore finds no reason to conclude that the number of residents alone would transform an emergency shelter use into some other use.

Certain requirements of Subtitle U § 513.1(b) are satisfied or do not apply to this application since the proposed emergency shelter will be the only such use in the vicinity of the subject property. They are Subtitle U § 513.1(b)(1), concerning other emergency shelters in the same square or within 500 feet, and Subtitle U § 513.1(b)(5), concerning the cumulative effect of multiple facilities. With respect to Subtitle U § 513.1(b)(3), the Board credits the Applicant's testimony, confirmed by the Office of Planning and not disputed by any testimony or evidence, that the proposed emergency shelter will meet all applicable code and licensing requirements.

Pursuant to Subtitle U § 513.1(b)(2), the proposed emergency shelter must provide adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility. The proposed emergency shelter at the subject property will have three on-site parking spaces reserved for use by employees of the facility.¹¹ The parking spaces will be appropriately located on the ground level, under a portion of the new addition, accessible from an existing public alley. The spaces will be located at a considerable distance from any neighboring dwelling. Views of the parking spaces will be minimal, given their location and the landscaping that the Applicant plans to install and maintain especially around the perimeter of the subject property.

The number of parking spaces provided on-site at the new emergency shelter will be adequate for the needs of occupants, employees, and visitors to the facility.¹² Both DDOT and the Applicant's traffic expert concluded that the emergency shelter will not generate a significant demand for parking. Based on the Applicant's experience at other emergency shelters, very few residents will have personal vehicles, and in fact approximately 60 percent of the residents will likely be young children. Residents of the emergency shelter will not be permitted to park on-site, and will receive transit subsidies to encourage use of public transportation. The number of employees will be relatively small, generally 10 to 22 employees, with a maximum of 26 during shift changes. The use of personal vehicles is not necessary for convenient access to the site, since the location is well-served by public transportation and conveniently located near car- and

¹¹ A fourth parking space will be reserved for use by vehicles making deliveries to the emergency shelter.

¹² Pursuant to Subtitle C § 701.5, the minimum requirement for zoning purposes for an emergency shelter of the size proposed by the Applicant is 22 parking spaces. The Applicant has requested a reduction in the number of required spaces in accordance with Subtitle C § 703.2, and as discussed in this order, the Board concludes that special exception approval of that reduction is warranted.

bicycle-sharing facilities, and the shelter building will provide both short-term and long-term bicycle storage.

In accordance with Subtitle U § 513.1(b)(4), the Board finds that the proposed emergency shelter will not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area. The emergency shelter at the subject property will be the only such facility in the vicinity. DDOT concurred with the Applicant’s method of calculating trip generation estimates for the project, and concluded that “impacts to the surrounding vehicle network [associated with shelter operation] are expected to be minimal.” (Exhibit 47.) The emergency shelter is not expected to generate significant increases in traffic, at a level that would have an adverse impact on the neighborhood, because most shelter residents likely will not travel to the site by personal vehicle, the shelter will be staffed by a relatively small number of employees who will work in shifts on a schedule that will not coincide with peak traffic periods on nearby streets, the residents will move in without bringing furniture or other large items typically delivered by trucks, and the internal circulation of the site, including a designated loading area and trash storage area on the east side of the building, will be adequate to accommodate food deliveries by van and trash collection via the public alley. DDOT concluded that the Applicant’s proposal for access to the loading facilities and off-street parking spaces was consistent with DDOT standards. DDOT also concurred that the Applicant’s “proposed loading area is sufficient to accommodate the project and is consistent with DDOT standards,” noting the relatively limited use of the facilities for meal deliveries and trash pick-up, and that all food and supply delivery will occur from vehicles no longer than 19 feet. (Exhibit 47.)

The emergency shelter use is not likely to generate any adverse impacts relating to noise or operations. Operation of the emergency shelter will be supervised by staff who will be on-site 24 hours each day. All operations will be contained within the building with the exception of the outdoor recreation areas, which will be screened from adjoining properties by landscaping and fences. Trash collection and deliveries will occur via the public alley on the eastern side of the building, at a considerable distance from the nearest neighboring residences. Operation of the emergency shelter use will be guided by a “good neighbor agreement” devised by a community advisory team that will conduct ongoing discussions to address any concerns about the emergency shelter that may arise in the future.

CFRO contends that the Applicant “has failed to meet its burden of proof for the relief it seeks” and that instead “the record before the Board . . . will demonstrate the myriad ways in which [the Applicant’s] optimistic vision is unfounded.” The Board does not agree. The Applicant presented testimony in support of the application from numerous expert witnesses; its traffic analysis was corroborated by DDOT; and the Office of Planning concluded that the application met the requirements for approval of the requested zoning relief. The Board received letters in support of the application from the D.C. Fire and Emergency Medical Services Department (Exhibit 40) and the District of Columbia Public Schools (Exhibit 62) in addition to the recommendation of approval from the Office of Planning and the statement of no objection to approval of the requested zoning relief from the District Department of Transportation. The

party in opposition presented testimony from residents living in the vicinity of the subject property that was principally anecdotal in nature, with unsubstantiated claims about traffic, parking, and impacts on light and air. In the determination of the Board, that testimony did not provide a persuasive basis to disregard the expert testimony and evidence presented by the Applicant.

The party in opposition also argued that the proposed emergency shelter would have an adverse impact on the neighborhood because of “the number of similar facilities in the area.” The Board agrees with CFRO that “similar is not identical.” (Kirlin, Tr. at 129.) However, the entities cited by CFRO are not “similar” for purposes of Subtitle U § 513.1(b)(4) because they are not facilities that provide temporary emergency shelter to families experiencing homelessness or closely related services. Rather, CFRO lists multi-family residential buildings that contain some affordable units, including a building providing permanent housing for seniors, and organizations that “provide housing support, medical support, educational support for disadvantaged individuals while they are homeless or they are seeking income assistance for housing or other assistance” (Kirlin, Tr. at 129-130.)¹³ These properties include apartment houses and organizations providing social services, but are not “similar” to the Applicant’s proposal in that they offer permanent, rather than emergency, housing, or they are non-residential and offer a variety of social services, not necessarily related to the types of “wrap-around” services that the Applicant proposes to provide to residents of the new emergency shelter.

Pursuant to Subtitle U § 513.1(b)(6), an emergency shelter for more than 25 persons can be approved only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the location and if there is no other

¹³ The purportedly “similar” facilities cited by CFRO included the Violet Project at 1515 Rhode Island Avenue, N.E. “a 23 unit residence now under construction, which will include at least 3 low-income units”; a multi-family residential building at 1545 Girard Street, N.E. “advertised as 25 ‘affordable luxury apartments for seniors,’ but which houses ‘10 formerly chronically homeless individuals’”; three multi-family residential buildings that “all participate in DC’s Section 8 and housing voucher programs,” the Franklin, at 1511 Franklin Street, N.E., “54 units (unknown number of affordable units),” the Edwards Apartments at 1530 Rhode Island Avenue, N.E., “44 units (unknown number of affordable units),” and the Carrolton, 1515-1525 Franklin Street, N.E., “75 units (unknown number [of affordable units])”; the Veterans Administration Community Resources and Referral Center at 1500 Franklin Street, N.E.; the National Center for Children and Families at 1438 Rhode Island Avenue, N.E., “a referral facility which serves ‘homeless families, victims of domestic violence, and children and adolescents’”; Brookland Manor at 1331 Rhode Island Avenue, N.E., “a 20 acre, 19-building site with 535 low-income housing units, soon to be replaced by 1,760 residential units, including 200 senior plus 265 low-income housing units as developers set aside not 10%, but 20%, ‘affordable units’”; and the Department of Aging at 18th and Everts Street, N.E. (Exhibits 119, 202; Kirlin, Tr. at 130-131.) According to information provided by the Applicant, the building at 1545 Girard Street, N.E. is a “25-unit senior community” for persons aged at least 55 years who earn less than 30 percent of the area median income, some of whom may be formerly homeless, and the Community Resource and Referral Center, at 1500 Franklin Street, N.E., is an element of the Washington DC Veterans Affairs Medical Center that provides services, such as employment assistance and counseling, to “homeless and at-risk” veterans but is “not a shelter.” (See Exhibit 204B.)

reasonable alternative to meet the program needs of that area of the District.¹⁴ The Board concludes that the District’s program goals and objectives cannot be achieved by a facility of a smaller size at the subject property because the size of the planned emergency shelter, in terms of the number of units, is required by the District policy to close the D.C. General family shelter and to provide a like number of emergency shelter units in smaller facilities on sites in locations around the District. By statute, the District of Columbia is required to maintain an inventory of 280 Replacement Units, once constructed. Provision of a total of 280 residential units is also a key component of the Homeward DC initiative devised by the Interagency Council on Homelessness. To achieve a total of 280 Replacement Units District-wide, each individual emergency shelter for families must contain between 46 and 50 sleeping units.

The Applicant indicated that the optimal number of units in an emergency shelter for families experiencing homelessness is 50, with a maximum of 10 units per floor. However, in this case, due to site constraints – especially the size of the subject property and the configuration of the existing building – the Applicant determined that the maximum number of units that could be provided was 46. The Ward 5 emergency shelter was designed to provide 11 units on the first two floors to maximize the use of space in the existing building while still meeting the statutory requirements and guidelines mandated by DHS and ICH, as described in Finding of Fact 38.

The decision to provide 46 residential units in the Ward 5 emergency shelter was also driven by program needs related to the provision of wrap-around services. The Applicant determined that a larger number of units in a single facility would help achieve program efficiencies and manage the costs of the services by allowing the provision of services to a larger number of people at one location, rather than building and operating multiple smaller facilities. The desire for efficiency and cost-management was balanced by the need to provide a smaller, family-scale environment on each floor and in the emergency shelter as a whole. The maximum number of sleeping units was set at 50 as the optimal balance between legal requirements and the program needs and costs.

The Board notes the concern of the Commission of Fine Arts that “there may be a mismatch between the size of the program and the constraints of this small site, which already holds a historic police station building and a cellular telecommunications tower and support shed.” However, the Board concludes that, despite the constraints of the subject property, the Applicant has designed “a new building that can reasonably meet the specified program ...” and does not agree that “there may need to be a reduction of units for this site” beyond the small decrease in the preferred number of units, from 50 to 46, necessitated by the adaptive reuse of the existing building. The Board finds no basis to conclude that relocation of the telecommunications facility “to another site,” as suggested by CFA, is feasible or desirable.

¹⁴ The emergency shelter proposed in this application will not include any resident supervisors or staff and their families.

The Board was persuaded that construction of multiple smaller facilities on various sites in Ward 5 was not a feasible option. The Applicant’s witnesses described the importance of the six-story, 46-unit shelter considering the relevant legal requirements, the costs of providing the services, and the program needs of an emergency shelter facility for families with small children.¹⁵ The Applicant decided against building smaller shelters because the operation of multiple structures would require the operation of multiple programs, with significantly higher annual operating costs than a single 46-unit shelter. (Zeilinger, Tr. at 88-89, 260-261; Gillis, Tr. at 53.)

Construction of multiple smaller facilities would also “extend the timeline” by years until sufficient Replacement Units would become available to allow the closure of the D.C. General family shelter. Homeward DC calls for the development of “service-enriched, community-based shelters” on a schedule such that the D.C. General family shelter can be closed by the 2019-2020 hypothermia season. According to DHS, the temporal aspect of the Homeward DC goal is critically important from a cost perspective and to provide suitable shelter for families who are experiencing homelessness. (Exhibit 186; Zeilinger, Tr. at 222.)

The size of the planned emergency shelter in terms of the dimensions of the building similarly reflects requirements of District laws and policies. The Homeless Services Reform Act, as amended by the Interim Eligibility Act, establishes standards for the provision of services for families by specifying the minimum requirements for a private room, for bathrooms, and for access to related services. Specific design elements of the emergency shelter proposed in this application were derived from the legal requirements as well as from research and experience, concerning especially the general maximum of 10 sleeping units per floor and the provision of a single hallway on each floor, so that the entire length is visible to staff, to enhance the residents’ security.

ANC 5B and the party in opposition both objected to the proposed height, which CFRO described as “just too much.” The ANC stated that “a shorter building would be more appropriate given the nearby single-family homes and the site’s zoning” and that “permitting an increase in height from 40 feet to 70 would substantially impair the intent, purpose, and integrity of the zoning plan, because the height is not within the range of a low- to moderate-density zone.” ANC 5B recommended that the Applicant should consider “making design revisions to the proposed building to reduce ... the height to be no taller than five floors while not reducing the private living space of incoming families.” (Exhibit 208.) The Board does not agree, in part because ANC 5B understated the maximum height permitted as a matter of right in the MU-4 zone, which is 50 feet, and described the existing zoning as “a low- to moderate-density zone” while the MU-4 zone permits moderate-density mixed-use development. The Applicant’s architect indicated that the 50 feet in building height allowed in MU-4 zone “is roughly a 5-story

¹⁵ The director of DHS testified that “the scale ... between 46 to 50 families, offers the right balance between effective and efficient service delivery and creating a quiet, familial setting where families can thrive.” The proposed size is also “necessary to achieve the legislative goal of replacing D.C. General with facilities for 280 families.” (Exhibit 186.)

structure.” (Exhibit 204A, p. 19.) The Applicant proposed a six-story building, and described the need for the additional story as essential to achieving a public purpose. The Applicant also indicated that use of basement space would not be appropriate for any of the shelter operations involving residents, given the need to offer inviting areas on the ground floor for the provision of support services. The Applicant emphasized that an emergency shelter with adequate space for 46 residential units, and a preferred maximum of 10 units per floor, required a six-story building. The ANC did not indicate what design revisions to the proposed building could achieve a reduction in height to be no taller than five floors “while not reducing the private living space of incoming families.”

The Board does not agree with the members of the Commission of Fine Arts that the proposed massing of the new Ward 5 emergency shelter would be “too tall for its context,” considering also the larger buildings located in the vicinity of the subject property, or that the new construction would overwhelm the former police station. The new construction will be built next to, rather than over, the existing building, and the design of the new addition incorporated suggestions from the Historic Preservation Office so that views of the existing building will be preserved.

The Board also disagrees with CFA’s comment that “the typical floor plan contains unnecessary and redundant circulation space and could be rationalized to make floors more compact and efficient.” The Applicant has demonstrated that other configurations suggested by the CFA are not feasible because they would not achieve all of the program needs faced by the Applicant, including the need to provide an adequate number of Replacement Units while achieving a suitable environment, including adequate outdoor recreation space, in a secure location for residents, also considering the costs of providing the necessary services.

The Board finds that the planned height of the emergency shelter will not cause any objectionable conditions relating to light, air, or privacy, given the distance of the building from nearby properties, including the detached dwellings across 17th Street to the west. The subject property is a corner lot with frontage on two streets with relatively wide rights of way, and the abutting public space is wide enough to provide a significant buffer between the emergency shelter and adjoining properties to the south and west. The new addition will provide a side yard on the northern property line, where none is required, and the windows in the emergency shelter will not align with windows in any nearby building, including the new apartment house on the abutting property to the north.

The Board finds that the proposed density is appropriate at the site, considering especially the public need for the facility and the lack of adverse impacts associated with the emergency shelter on the use of neighboring property. An increase in density is not necessarily incompatible with a residential neighborhood where an increase in the population of an area would not demonstrably bring about an increase in traffic or indicate a significant change in the level of noise. *Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 295 (D.C. 1974).

The Board concludes that the Applicant has satisfied the requirement of Subtitle U § 513.1(b)(6) in showing that there is no other reasonable alternative to the proposed Ward 5 emergency shelter to meet the program needs of that area of the District. This application grew out of a process, undertaken over a period of years, to devise and implement policies addressing homelessness in the District of Columbia. As part of the process, the responsible District agencies identified certain criteria to assess whether a given property would be a suitable location for an emergency shelter designed to serve families in D.C. General Replacement Units. The Mayor identified sites in each ward. The Council considered the Mayor’s proposal, as well as other possible sites, before making a determination that the subject property best fit the selection criteria. The Council endorsed 1700 Rhode Island Avenue and found no reasonable alternative site in Ward 5 to meet the Applicant’s programmatic needs. (Mendelson, Tr. at 17.) The City Administrator stated that the Applicant’s “proposal to construct a six-story emergency shelter at this site is a critical element of the District’s eight-ward initiative to developing a more effective crisis response system. (Exhibit 185.) The director of the Department of General Services testified that no other reasonable alternative was practical to meet the needs of the District. (Exhibit 187; Gillis, Tr. at 30.) The Office of Planning recommended approval of the emergency shelter proposed at the subject property, and other agencies – the Department of Transportation, the D.C. Fire and Emergency Medical Services Department, and the District of Columbia Public Schools – also indicated their support for the application.

The Board does not agree that any additional proof of a “meaningful” or “diligent” search is necessary, and concludes instead that the Applicant provided substantial evidence of the site selection process that ultimately led to the Council’s endorsement of the subject property. The Board finds no reason to require the Applicant now to conduct “a reasonable search,” as defined by CFRO, or to “second guess” the program needs identified by experts, including those at the Interagency Council on Homelessness and the Department of Human Services, as those needs and the best way to meet them in a cost-effective manner are outside the scope of the Board’s expertise in zoning. *Compare D.C. Library Renaissance Project/West End Library Advisory Group v. District of Columbia Zoning Comm’n*, 73 A.3d 107 (D.C. 2013) (Zoning Commission was not required to consider the value of land rights to be transferred to a developer as an “adverse effect” under zoning regulations where the Mayor and Council had negotiated and entered into a land distribution agreement under which the developer agreed to construct an important facility at no direct cost, and the Commission declined to “second guess the calculations that led the District ... to conclude this was a good deal”; the Commission reasonably concluded that zoning regulations did not require consideration of the financial underpinnings of the land transfer, which did not fall within the core of the Zoning Commission’s expertise in land-use matters.)

In accordance with Subtitle X § 901.2, the Board concludes that approval of the requested special exception to allow an emergency shelter will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. As

discussed above, the Board does not find that operation of the shelter will create any adverse impacts on the use of neighboring property.

Approval of the requested special exception will be in harmony with the purposes of the MU zone to provide for the orderly development and use of land and structures, characterized by a mixture of land uses; to provide for a varied mix of residential, service, and related uses at an appropriate density and scale; to reflect a variety of building types; encourage safe and efficient conditions for pedestrian and motor vehicle movement; and to ensure that infill development is compatible with the prevailing development pattern within the zone and surrounding areas. (*See* Subtitle G § 100.3.) Approval of the special exception will also be in harmony with the purposes of the MU-4 zone to permit moderate-density mixed-use development and to provide facilities for housing and mixed uses outside of the central core, in a location of a low- to moderate-density residential area with access to main roadways or rapid transit stops. (*See* Subtitle G § 400.3.)

Parking. The Applicant seeks special exception approval, pursuant to Subtitle C § 703.2, of a reduction in the parking requirement for an emergency shelter use under Subtitle C § 701.5. The zoning requirement for an emergency shelter of the size proposed by the Applicant is a minimum of 22 parking spaces, and the Applicant proposes to provide three on-site parking spaces. The Zoning Regulations, in accordance with Subtitle C § 703.1, provide flexibility from the minimum required number of parking spaces, *inter alia*, when the provision of the required number of spaces would be impractical or unnecessary due to a lack of demand for parking or proximity to transit. Pursuant to Subtitle C § 703.2, the Board may grant a reduction in the number of required parking spaces subject to the general special exception requirements and to the applicant's demonstration of at least one of the eight enumerated conditions. A reduction in the required number of parking spaces must be only for the amount that the applicant is physically unable to provide, and must be proportionate to the reduction in parking demand demonstrated by the applicant. (Subtitle C § 703.3.)

In this case, the Applicant has demonstrated several of the conditions listed in Subtitle C § 703.2. Due to the physical constraints of the property, the required parking spaces cannot be provided on the lot or within 600 feet of the lot. (Subtitle C § 703.2(a).) More than 70 percent of the subject property will be occupied by the emergency shelter use, in the existing building and in a new addition, and by the existing telecommunication tower, or dedicated to outdoor recreation space for the residents of the emergency shelter. The Applicant will provide parking in the only feasible location on the subject property, where no more than three parking spaces can be created, along with a space devoted to loading activities. The required parking spaces cannot be provided on other lots within 600 feet of the subject property because none of the nearby lots is owned by the Applicant or available to provide parking spaces for the emergency shelter.

The emergency shelter use will be particularly well served by mass transit, shared vehicle, and bicycle facilities (Subtitle C § 703.2(b)), since the location offers convenient accessibility to mass transit service, especially Metrobus and Metrorail, as well as to shared vehicle and shared

bicycle facilities. The subject property is located approximately one mile from a Metrorail station, and within convenient walking distance of numerous Metrobus stops, shared vehicle facilities, and bicycle facilities, including shared bicycles. Residents of the emergency shelter will receive transit subsidies to encourage use of public transportation.

The land use and transportation characteristics of the neighborhood minimize the need for required parking spaces. (Subtitle C § 703.2(c).) The subject property is located within walking distance of retail as well as institutional and recreational uses, including a public library and a large park. Use of the subject property as an emergency shelter will minimize the need for required parking spaces because shelter residents are unlikely to own personal vehicles and will not be permitted to park on-site.

The Applicant demonstrated that the amount of traffic congestion existing or which the parking for the building would reasonably be expected to create in the neighborhood supports the request for a reduction in the number of parking spaces. (Subtitle C § 703.2(d).) Both DDOT and the Applicant's transportation expert concluded that operation of the emergency shelter use would not generate adverse impacts with respect to traffic or parking, considering existing conditions in the neighborhood, the relatively small staff expected to be employed at the emergency shelter, and the absence of vehicles operated by shelter residents.

The nature of the emergency shelter use, and the number of residents, employees, and guests who would reasonably be expected to use the proposed building at one time will generate demand for less parking than the minimum parking standards. (Subtitle C § 703.2(e).) The emergency shelter will contain 46 residential units, housing a maximum of approximately 150 persons, but will generate a relatively low demand for parking. The Applicant's experience at other facilities has shown that very few residents of the emergency shelter are likely to own personal vehicles; in fact, more than half of the residents will likely be children. The emergency shelter will employ a relatively small number of employees, who will work in shifts so that the parking demand generated by the staff of the emergency shelter use will not be concentrated at any one time. The emergency shelter use is not likely to generate a significant number of guests or other visitors to the site.

The Board concludes, consistent with Subtitle C § 703.3, that the requested reduction in the required number of parking spaces, from 22 to three, will be only for the amount that the Applicant is physically unable to provide. As demonstrated by the Applicant's drawings in the record, the subject property will be unable to accommodate more than three parking spaces (plus a fourth space reserved for deliveries and trash collection) in light of the existing and planned improvements to the site to operate the planned emergency shelter use. The requested reduction is also proportionate to the reduction in parking demand demonstrated by the Applicant, as reflected in the satisfaction of several of the elements listed in Subtitle C § 703.2 as suitable grounds for approval of a reduction in the otherwise applicable parking requirement. Consistent with Subtitle C § 703.4, the Applicant will implement a transportation demand management plan, which DDOT reviewed and approved.

In accordance with Subtitle X § 901.2, the Board concludes that approval of the requested special exception to allow a reduction in the number of parking spaces will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The grant of flexibility from the minimum required number of parking spaces is warranted, as demonstrated by the Applicant, since the provision of the required number of spaces would be impractical and unnecessary, and the requested reduction reflects the amount of parking that the Applicant is physically unable to provide and is proportionate to a reduction in parking demand associated with the planned emergency shelter use at the subject property. For the reasons discussed above, the Board finds that the proposed reduction in the number of on-site parking spaces will not create any adverse impacts on the use of neighboring property.

ANC 5B opposed the Applicant's request for parking relief on the ground that "construction at the site and parking thereafter will negatively impact elderly residents" in the immediate neighborhood. (Exhibit 208.) For the reasons discussed above, the Board does not agree. The emergency shelter use will generate relatively little demand for parking since residents will not drive their own vehicles, and the number of employees at the facility will also be relatively low. The streets in the immediate vicinity of the proposed shelter are currently subject to restrictions that help maintain the availability of street parking for nearby residents.

The Applicant also requests relief from requirements applicable in the MU-4 zone for lot occupancy, rear yard, and width of open court. Pursuant to Subtitle G § 409.1, the Board may approve exceptions to the development standards of the Mixed Use zones as a special exception consistent with Subtitle X, Chapter 9, subject to the provisions and limitations of Subtitle G, Chapter 12. Pursuant to Subtitle G § 1200.4, relief from the development standards may be granted when the Board finds that the special exception will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps; and will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps.

Lot occupancy. The maximum lot occupancy permitted as a matter of right in the MU-4 zone is 60 percent. (*See* Subtitle G § 404.1.) The new construction proposed in this application would increase lot occupancy to 73 percent.

The Board concurs with the conclusion of the Office of Planning that the increased lot coverage of the proposed addition will be consistent with the intent of the lot occupancy requirement to allow adequate light, air, and privacy to the proposed structure and to adjacent properties. In light of the widths of the rights of way of the two streets abutting the subject property, the emergency shelter facility will be located at a significant distance from uses on nearby properties. The building will be well separated from the residential uses along the west side of 17th Street, and will provide a side yard setback along the northern property line where none is required by the Zoning Regulations. The commercial uses to the east of the site will be separated

by the public alley, thereby limiting any potential impact on light, air, and privacy and meeting the general intent and purpose of the regulations.

In accordance with Subtitle X § 901.2, the Board concludes that approval of the requested special exception to allow an increase in lot occupancy to 73 percent will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The Zoning Regulations permit a lot occupancy as high as 75 percent in the MU-4 zone as a matter of right for projects utilizing the bonus density allowed by the provisions governing Inclusionary Zoning. (See Subtitle C Chapter 10.) As discussed above, the Board does not find that the proposed lot occupancy will create any adverse impacts on the use of neighboring property.

ANC 5B opposes the Applicant's request for lot occupancy relief on the ground that it drives the need to build a taller building. The Board does not agree. The proposed increase in lot occupancy reflects the relatively small size of the lot and the presence of existing improvements that will be retained. Similarly, the Board does not agree with CFRO's contention that the requested relief would result in "severe crowding of the site," especially considering that a higher percentage of lot occupancy is permitted as a matter of right under the Inclusionary Zoning provisions.

Rear yard. Pursuant to Subtitle G § 405.2, a minimum rear yard of 15 feet is required in the MU-4 zone. The Applicant proposes to build the new addition to the rear lot line along a portion of the eastern edge of the subject property, resulting in a rear yard setback of 7.5 feet as measured from the center line of the abutting alley, for the portion of the building below a 25-foot plane and no rear yard setback for portions of the building above the 25-foot plane. In addition, the existing antenna is located in the rear yard in the northeast corner of the property.

The Board concurs with the conclusion of the Office of Planning that the proposed reduction in rear yard setback will be consistent with the intent of the zoning requirement to allow adequate light, air, and privacy to the proposed structure and to adjacent properties. The decreased rear yard will not affect any neighboring residential properties, and will have only a minimal impact on the abutting property to the east, given that the properties will remain separated by the public alley.

ANC 5B opposed the request for rear yard relief, expressing "concerns that the facility is being constructed near the antenna equipment building...." The ANC did not specify its concerns but the Board does not find that the presence of the antenna tower and related facilities will pose any danger to the emergency shelter or nearby properties. As OP notes, the antenna tower will be secured by a fence six feet high, while the existing utility building will be incorporated into the new addition. The Applicant submitted a study of radio frequency electromagnetic fields performed at the site to demonstrate in support of its contention that the antenna tower will

comply with FCC requirements and will not create any safety issues for the emergency shelter or for surrounding properties.

CFRO argued that the request for rear yard relief was not adequately justified. The Board does not agree, particularly since CFRO's objection is largely based on the Applicant's decision to use the eastern property line as the rear of the lot and with its characterization of the relief as the result of a "mismatch between program size and lot size." The Board was not persuaded by CFRO's claim that the apartment house on the abutting lot to the north would suffer "significant adverse effects," since the Applicant will provide a side yard setback between the two buildings, although none is required.¹⁶

In accordance with Subtitle X § 901.2, the Board concludes that approval of the requested special exception to allow a decrease in rear yard setback will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The rear yard proposed by the Applicant will not create any adverse impacts on the use of neighboring property. The reduction in rear yard setback will comply with the requirements of Subtitle G § 1201 for special exception approval of rear yard relief, which mandate certain distances from neighboring windows and consideration of the angle of sight lines and the distance of penetration of sightlines into habitable rooms when determining distances between windows and appropriate yards. Approval of the requested rear yard relief will not hinder the provision of an area adequate for service functions, including parking and loading. The Applicant will provide three parking spaces on-site, the most that can be provided under the circumstances. The emergency shelter use will generate a relatively low demand for loading, which can be accommodated by means of the dedicated loading area on the east side of the new building, accessible from the abutting public alley. Use of the loading area will be subject to a loading management plan that was found appropriate by DDOT.

Open court. Pursuant to Subtitle G § 202.1, a court is not required in an MU zone, but where an open court is provided, its minimum dimensions, in the case of a residential structure with more than three units, is four inches per foot of height of the court, with a minimum of 10 feet. Given the planned building height of 69.8 feet, the minimum width of the proposed open court is 23.33 feet. As proposed, the emergency shelter will have an open court on the southern portion of the subject property with an irregular width measured for zoning purposes at 17 feet. The dimensions of the open court were determined in part by the Applicant's design of the new addition so as to maintain views of the existing building from Rhode Island Avenue.

In accordance with Subtitle X § 901.2, the Board concludes that approval of the requested special exception to allow a decrease in court width will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the

¹⁶ The members of the Commission of Fine Arts "noted that the building to the north has a party wall condition which provides the opportunity to extend this new building [i.e. the new addition proposed by the Applicant] toward the blank wall of this adjacent building rather than setting [it] so far back..." (Exhibit 106.)

use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The court will be located on the southern portion of the property, where it will abut an area of public space 20 feet wide along Rhode Island Avenue to the south and a portion of the public alley to the east. The dimensions of the planned court will be sufficient to provide light and air in and around the southern portion of the new addition.

The Office of Planning concluded that the proposed open court would not adversely affect the use of neighboring property, and ANC 5B supported the application for relief from the court width requirement without stating any issues or concerns, noting that the requested special exception would require “a small reduction in area.” (Exhibit 208.) CFRO opposed the requested relief, but did not specifically allege that the reduction in court width would adversely affect neighboring properties. The Board disagrees with CFRO’s assertion that approval of the requested relief would not be in harmony with the zone plan because a narrower court would allow the Applicant to avoid reducing the number of residential units in the emergency shelter.

Area variances

The Applicant seeks area variances from requirements relating to floor area ratio under Subtitle G § 402.1, building height under Subtitle G § 403.1, and loading under Subtitle C § 901.1. The Board is authorized under § 8 of the Zoning Act to grant variance relief where, “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that 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. (See 11 DCMR Subtitle X § 1000.1.)

Extraordinary or exceptional situation. For purposes of variance relief, the “extraordinary or exceptional situation” need not inhere in the land itself. *Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Rather, the extraordinary or exceptional conditions that justify a finding of uniqueness can be caused by subsequent events extraneous to the land at issue, provided that the condition uniquely affects a single property. *Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987); *DeAzcarate v. District of Columbia Bd. of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C. 1978) (the extraordinary or exceptional condition that is the basis for a use variance need not be inherent in the land but can be caused by subsequent events extraneous to the land itself.... [The] term was designed to serve as an additional source of authority enabling the Board to temper the strict application of the zoning regulations in appropriate cases....); *Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979) (for purposes of approval of variance relief, “extraordinary circumstances” need not be limited to physical aspects of the land). The extraordinary or exceptional conditions affecting a

property can arise from a confluence of factors; the critical requirement is that the extraordinary condition must affect a single property. *Metropole Condominium Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1082-1083 (D.C. 2016), citing *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

The Board may consider the property owner's needs in finding an exceptional situation or condition when the applicant is a non-profit organization and the proposed use is a public service. *Monaco v. District of Columbia Board of Zoning Adjustment*, 407 A.2d 1091 (D.C. 1979) (BZA considered permissible factors in applying the first branch of the variance test to a public service organization; the organization's wish to move to a particular site did not make the site unique, but the Board properly recognized that the site's location made it "uniquely valuable" to the organization and "uniquely suitable for [its] headquarters.") Generally, an applicant's desire to utilize property for a certain use is not by itself sufficient to create an extraordinary or exceptional situation or condition under the zoning regulations, *Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 540 (D.C. 1972), but subsequent decisions modified *Palmer*, permitting the Board to weigh more fully the equities in an individual case. *National Black Child Development Institute, Inc. ("NBCDI") v. District of Columbia Bd. of Zoning Adjustment*, 483 A.2d 687, 690 (D.C. 1984). Consistent with "a well established element of our governmental system," the Board "may be more flexible when it assesses a non-profit organization," even if "a commercial user before the BZA might not be able to establish uniqueness in a particular site's exceptional profit-making potential." *Monaco* at 1098, quoting 3 R. Anderson, *American Law of Zoning* s 14.78 (1968) (the public need for a use is an important factor in granting or denying a variance and "the apparently objective standards of the enabling acts are applied differently to the several kinds of uses..."). The characterization of a proposed use as a public service is significant, and "when a public service has inadequate facilities and applies for a variance to expand..., then the Board of Zoning Adjustment does not err in considering the needs of the organization as possible 'other extraordinary and exceptional situation or condition of a particular piece of property.'" *Monaco* at 1099. *See also NBCDI*, 483 A.2d 687 (D.C. 1984) (BZA did not exceed its authority in granting variance relief to a nonprofit entity whose work promoted the public welfare by benefitting "black children and families within the District," when, absent variance relief, "the great expense of operating offices at another site would cause serious detriment" to the nonprofit.)

The need to expand does not automatically exempt a public service organization from all zoning requirements. In applying for an area variance, a public service organization must show (1) that the specific design it wants to build constitutes an institutional necessity, not merely the most desired of various options, and (2) precisely how the needed design features require the specific variance sought. *Draude v. District of Columbia Bd. of Zoning Adjustment*, 527 A.2d 1242, 1256 (D.C. 1987).

In this proceeding, the Applicant asserted that the subject property has an exceptional situation or condition due to several factors, including the existence of improvements – the existing building and the antenna tower – that will be retained; the shape of the site, which interacts with the

retention of the existing improvements to force the bulk of any new construction further to the rear of the subject property than if the subject property were unimproved; a unique corner lot location; the widths of the areas of public space along both Rhode Island Avenue and 17th Street; the configuration of floors in the existing building; and the programmatic needs of the emergency shelter use. “These cumulative factors have converged to compel the particular architectural solution arrived at by the Applicant which necessitates the variances requested.” (Exhibits 7, 94B.)

CFRO argued that the factors claimed by the Applicant “are not in any way exceptional,” including the presence of the existing improvements, which are the “pre-existing condition of the property voluntarily chosen for the shelter.” Because the proposed use of a property is not a sufficient basis for determining the presence of exceptional conditions, *Metropole Condominium Ass’n*, 141 A.3d at 1083, the Board concurs with CFRO that the Applicant’s program needs are not unique but “are the same wherever the shelter may be located.” (Exhibit 212.)

The Board concludes that the subject property is faced with an exceptional situation and condition as the result of factors including the existing structures on the lot and the designation of the lot, in legislation enacted by the D.C. Council, as the site for a new emergency shelter in furtherance of Homeward DC, a District-wide initiative to comply with statutory requirements and to implement public policy by creating an adequate supply of emergency shelter units for use by eligible families facing homelessness. The Council selected the site as the best option relative to criteria determined by the Council, which in large measure reflected the criteria used by the Mayor and by District agencies in defining the parameters for locations best suited for emergency shelters providing D.C. General Replacement Units, and appropriated funds for use in building and operating an emergency shelter at that site. As discussed *supra*, the Board accepts the Council’s determination.

CFRO disputed the Applicant’s argument that “the District is statutorily mandated to build its proposed shelter on the selected Site” as “flatly contradicted by the express language of D.C. Law 21-141....” (Exhibit 55.) According to CFRO, “there is no compulsion to use this Site, just as there is no evidentiary record in this case that the District’s programmatic needs cannot be met using some other site. This site is simply the one the District chose, and it did so knowing full well that it could not meet the asserted programmatic needs on the Site without relief from the development standards applicable to this MU-4 zoned property. Thus, the problems DGS encountered, and for which relief is sought, are ones of self-creation.” (Exhibit 55.)

First, although the Council technically did not (and could not) mandate the use of the subject property, as a practical matter that is the only site within Ward 5 that could be used. Council approval would have been required to acquire any other site and to enter into a construction contract at the price needed. In fact, the Council rejected the Mayor’s original site choice. For the District to have not gone forward with the site approved, but instead have analyzed the feasibility of other sites in Ward 5, would have been an exercise in futility. The Board recognizes that the legislation did not guarantee that the proposed shelter would be built. The Council could

have, but did not, exempt this shelter from zoning. This meant that special exception relief would be needed and getting that relief is never guaranteed. However, even though the Council's approval was not the final action needed for this particular shelter to be built, its approval was an essential prerequisite for there to be any Ward 5 shelter at all. The Council essentially told DGS to take it or leave it, and DGS had no programmatic choice but to take what the Council gave.

The Board also finds that CFRO's suggestion of self-created hardship is not germane to the Applicant's requests for area variance relief. *See, e.g., Ass'n for the Preservation of 1700 Block of N Street v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 674 (D.C. 1978) (grant of a parking variance was upheld even though the property owner, a YMCA, had "full knowledge" of all problems with the shape of the land, zoning, and costs of putting in parking before buying the property; the YMCA had no feasible alternative method to provide both a pool and all required parking spaces, and its self-created hardship was not a factor to be considered in an application for an area variance, as that factor applies only to a use variance.); *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1169 (D.C. 1990) (Prior knowledge or constructive knowledge or that the difficulty is self-imposed is not a bar to an area variance.); *A.L.W. v. District of Columbia Bd. of Zoning Adjustment*, 338 A.2d 428, 431 (D.C. 1975) (prior knowledge of area restrictions or self-imposition of a practical difficulty did not bar the grant of an area variance).

The Board was not persuaded that the other factors cited by the Applicant, such as the corner lot location and the widths of the abutting public space, create an exceptional situation to warrant variance relief. The Applicant did not indicate how those circumstances gave rise to practical difficulty through the strict application of the Zoning Regulations, except to state that those features imposed "limits on building footprint" and to assert that the public space reduced the size of the lot. (Exhibits 94B2, 211.) The Applicant did not describe how the building options were limited by the condition of the subject property as a corner lot, or how the presence of abutting public space affected the size of the lot.

For purposes of the Applicant's request for area variances from the zoning requirements pertaining to floor area ratio, building height, and loading, the Board finds that the subject property is faced with an exceptional situation and condition as the result of the designation of the lot as the site for the Ward 5 emergency shelter, and due to the presence of existing improvements that will be retained. The Applicant has shown that the District has a need to use the subject property in furtherance of providing a public service, the provision of shelter and services to homeless families. The site is "uniquely valuable" to the Applicant in light of the goals and policies set forth in the Homeward DC initiative, and is "uniquely suitable" as the location for the proposed emergency shelter in light of the site selection process undertaken by District agencies and finally voted on by the Council. The Applicant demonstrated a need for the proposed building height, as a lower building with fewer residential units or the operation of several smaller facilities at multiple locations would complicate the provision of services while greatly increasing the costs, and would not comport with the District's policy decisions with

respect to the optimal size and layout of emergency shelter facilities. The Board finds that the six-story height is an institutional necessity with respect to the construction of an emergency shelter for families that will meet statutory requirements with respect to the provision of private rooms, adequate bathroom facilities, and suitable space to offer wrap-around services while also meeting security requirements and achieving cost efficiencies in the operation of the shelter.

In addition to the designation of the subject property as the site for the Ward 5 emergency shelter, the locations of the existing improvements on the site are germane to a finding of an exceptional situation and condition with respect to the requests for variance relief. The existing development on the subject property restricts the area where the new shelter building can be sited and how vehicular circulation can be routed internally on the lot, and decreases the space available for loading facilities.

Practical difficulties. An applicant for area variance relief is required to show that the strict application of the zoning regulations would result in “practical difficulties.” *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995), quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). A showing of practical difficulty requires “[t]he applicant [to] demonstrate that ... compliance with the area restriction would be unnecessarily burdensome....” *Metropole Condominium Ass’n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1084 (D.C. 2016), quoting *Fleishman v. District of Columbia Bd. of Zoning Adjustment*, 27 A.3d 554, 561-62 (D.C. 2011). In assessing a claim of practical difficulty, proper factors for the Board’s consideration include the added expense and inconvenience to the applicant inherent in alternatives that would not require the requested variance relief. *Barbour v. District of Columbia Bd. of Zoning Adjustment*, 358 A.2d 326, 327 (D.C. 1976).

The Applicant asserted that, absent variance relief, the District would be unable to meet its programmatic needs, since the requested variances are needed to carry out the public purpose of providing the necessary emergency shelter facility at the site designated for Ward 5. The strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the Applicant by precluding the construction of an emergency shelter building on the site consistent with legal and public policy requirements. A building limited to the height and FAR permitted as a matter of right would be unnecessarily burdensome to the Applicant by preventing its implementation of a design derived from extensive research and consideration of operational efficiencies and the costs of providing the necessary services. The provision of the required loading facilities would also create practical difficulty for the Applicant in light of the building constraints on the site and the Applicant’s showing that the emergency shelter operation will not create the need for the loading facilities required by the strict application of the Zoning Regulations.

Pursuant to Subtitle G § 403.1, the maximum building height permitted as a matter of right in the MU-4 zone is 50 feet, not including a penthouse.¹⁷ The Applicant proposes to build the new

¹⁷ The Zoning Regulations do not specify a maximum number of stories in the MU-4 zone.

addition to a height of 69.8 feet to provide six stories to contain the emergency shelter use while matching the floor-to-ceiling heights of the three floors in the existing building. The floor area ratio in the MU-4 zone is limited to 2.5 for residential uses; the Applicant has requested 3.51 FAR.

The new addition was designed to incorporate but not overwhelm the existing building formerly used as a police station. The new addition will be constructed next to, but not over, the existing building, and will maintain views of the existing building from Rhode Island Avenue. The existing building is three stories in height, and the Applicant designed the new addition to rise to six stories so as to provide sufficient space for as many residential units as possible, up to a maximum of 50 units and consistent with the preferred layout of a maximum of 10 units per floor. The atypically high floor-to-ceiling heights of the existing building contributed as much as eight feet to the height of the new addition, which was designed to match the existing floorplates since the new addition will lack sufficient interior space for ramps; the matching floorplates will also avoid the need for interior demolition of the existing building. The retention of the telecommunications antenna tower contributes to the need for FAR relief, since a portion of the existing FAR is attributable to the existing antenna tower and related utility building.

The Applicant seeks variance relief from the height and FAR limits so as to allow a six-story building of a size suitable to satisfy the public need for an emergency shelter consistent with applicable legal and public policy requirements. The size of the planned addition is necessary to provide sufficient room for the necessary number of residential units and space for related functions, such as a dining room, areas devoted to the provision of wrap-around services, and staff offices. The Applicant plans to use the basement space in support of the emergency shelter use (such as for storage and to house mechanical equipment) but testified that basement space is not suitable for other aspects of the emergency shelter operation, including for the provision of related services. The Board credits the Applicant's testimony that a smaller building would not be sufficient to meet its needs in providing a suitable emergency shelter for families experiencing homelessness. The Applicant estimated that the strict application of the zoning limit of 2.5 FAR would allow an emergency shelter with no more than 32 units, which is less than the number of units needed to achieve operational economies of scale, especially considering the provision of wrap-around services for residents, and inadequate for purposes of reaching a total of 280 DC General Family Shelter replacement units in smaller facilities District-wide.

Pursuant to Subtitle C § 901.1, an emergency shelter use with a gross floor area between 30,000 and 100,000 square feet must provide one loading berth and one service/delivery space. The Applicant is proposing not to provide a loading berth or a service-delivery area, but instead to receive deliveries via the existing public alley along the east side of the subject property, where a parking space of a size consistent with the zoning requirements will be reserved for loading. Strict application of the loading requirement would cause practical difficulty to the Applicant because the constraints of the site preclude the provision of a larger loading area without decreasing the space available for parking or other aspects of the emergency shelter use.

No substantial detriment or impairment. The Board finds that approval of the requested variance relief will not result in substantial detriment to the public good or cause any impairment of the zone plan. As previously discussed, the proposed emergency shelter use satisfies the requirements for special exception approval, such that the use is consistent with zoning requirements and will not cause adverse impacts on the use of neighboring property.

The Board concurs with the conclusion of the Office of Planning that the proposed emergency shelter building will be compatible with the development pattern along Rhode Island Avenue, considering nearby developments and that the new addition will be substantially set back from Rhode Island Avenue. The widths of the 17th Street and Rhode Island Avenue rights of way ensure that the emergency shelter will not crowd adjoining properties or “loom over all of the nearby single-family homes,” as alleged by CFRO. Rather, the shadow studies submitted by the Applicant demonstrate that the new addition will not create substantially different light impacts for any nearby property than would result under matter-of-right development.

The Board also concurs with the conclusion of the Office of Planning that approval of the requested loading variance will not cause substantial detriment to the public good. The Applicant demonstrated that the emergency shelter use will not generate significant demand for loading, particularly since residents will move in and out without bringing large furniture with them. The most common use of the loading facilities – for the deliveries of meals and for trash collection – will occur on predictable schedules and will be subject to the requirements of the Applicant’s loading management plan to help mitigate and avoid any potential objectionable conditions.

The Board concludes that approval of the requested zoning relief will not cause substantial impairment to the intent, purpose, and integrity of the zone plan. The proposed use will be consistent with the intended quality of the Mixed-Use zones as locations for mixed-use developments at a broad range of commercial, institutional, and multiple dwelling unit residential development at varying densities. (Subtitle G § 100.1.) A mixture of residential and non-residential uses in a single building is consistent with the MU zones, which are designed to provide facilities for housing and services, among other uses. (Subtitle G §§ 100.2, 100.4.)

The adaptive reuse of the former police station, in new construction designed to protect views of the existing building while also accommodating an operational antenna tower, is consistent with the purposes of the MU zones to provide for the orderly development and use of land and structures in the MU zones, characterized by a mixture of land uses as well as a varied mix of residential and service uses at an appropriate density and scale. The MU zones call for a variety of building types, including buildings that include a vertical mixture of residential and non-residential uses. The Applicant’s planned improvements, including new landscaping and removal of a curb cut on 17th Street, will encourage safe and efficient conditions for pedestrian and motor vehicle movement. The residential appearance of the emergency shelter use will help ensure that the new infill development will be compatible with the prevailing development pattern of higher density uses, including the commercial and multifamily residential uses in the

MU-4 zone along Rhode Island Avenue, and the lower density residential uses in the R-1-B zone in nearby areas. (Subtitle G § 100.3.) The proposed Ward 5 emergency shelter will be consistent with the purposes of the MU-4 zone to permit moderate-density mixed-use development, to provide a facility for housing and mixed uses outside of the central core, and to be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops. (Subtitle G § 400.3.)

The Board notes the Office of Planning’s conclusion that approval of the requested variances would not cause substantial impairment to the intent, purpose, and integrity of the zone plan since the emergency shelter use “is permitted as a special exception and thus presumed appropriate in the zone,” and the proposal is necessary to meet the goals of the District’s short-term family housing initiative. (Exhibit 49.) The Board concurs with the Applicant that the proposed FAR of 3.51 will not cause substantial impairment of the zone plan, particularly since a floor area ratio of 3.0 would be permitted on the site pursuant to Inclusionary Zoning provisions.¹⁸

ANC 5B opposed the Applicant’s request for a FAR variance, but did not state any specific issues or concerns. For reasons already discussed, the Board does not agree with the ANC’s assertion that the emergency shelter building could have been designed as “a shorter building” and still have met all of the relevant program needs of the facility while achieving the same efficiencies. ANC 5B also opposed the request for a loading variance, but based its opposition on the lack of “a detailed loading management plan that will control and manage how and when loading will occur on the site.” The Board notes that the Applicant has agreed to implement a loading management plan, which DDOT found will be suitable for the planned use.

Great weight

The Board is required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.)) For the reasons discussed above, the Board concurs with OP’s recommendation that the application should be approved in this case.

The Board is also required to give “great weight” to the issues and concerns raised 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)(3)(A) (2012 Repl.)) In this case ANC 5B adopted a resolution opposing the Applicant’s request for a special exception to allow operation of the proposed emergency shelter at the subject property on the ground that “the process for site selection and design did not properly accommodate resident input...” For the reasons discussed in this order, the Board concludes that the application satisfied the requirements for approval of the requested special exception for the emergency

¹⁸ Pursuant to Subtitle C § 1002.3, an inclusionary development at the subject property may construct up to 20 percent more gross floor area than permitted as a matter of right (bonus density), subject to all other zoning requirements (as may be modified by the zone) and the limitations established by the Height Act.

shelter. The Board has addressed other issues and concerns raised by ANC 5B in this order, and was not persuaded that they warrant disapproval of any of the zoning relief requested in this application.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the requests for special exceptions to allow an emergency shelter for more than 25 persons, a reduction in parking, and relief from requirements relating to lot occupancy, rear yard, and court width, as well as area variances from requirements relating to building height, floor area ratio, and loading in the MU-4 zone at 1700 Rhode Island Avenue, N.E. (Square 4134, Lot 800). Accordingly, it is **ORDERED** that the application is **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 36A1, 36A2, and 36A3 – PREHEARING STATEMENT: TAB A (REVISED PLANS – PART 1, PART 2, AND PART 3).**

VOTE: 4-0-1 (Frederick L. Hill, Robert E. Miller, Lesylleé M. White, and Carlton E. Hart voting 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 23, 2018

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

BZA APPLICATION NO. 19452

PAGE NO. 42

THERE TO) 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. 19665 of District Properties.Com, Inc., as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the new residential development provisions of Subtitle U § 421.1, and pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the side yard requirements of Subtitle F § 306.3, to construct six new one-family dwellings in the RA-1 Zone at premises 18-28 Brandywine Street S.E. (Square 6170, Lots 58, 59, 60, 61, 62 and 63).

HEARING DATE: January 17, 2018; February 14, 2018
DECISION DATE: February 14, 2018²

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 3 (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") 8D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8D, 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 21, 2017, at which a quorum was present, the ANC voted 4-2 to support the application. (Exhibit 38.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 32.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 33.)

¹ The Applicant amended the application (Exhibit 40) by adding a variance from the side yard requirements of Subtitle F § 306.3 to the original request for a special exception under Subtitle U § 421.

² The hearing on January 17 was postponed to February 14, 2018.

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 side yard requirements of Subtitle F § 306.3, to construct six new one-family dwellings in the RA-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 F § 306.3, 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 a special exception under the new residential development provisions of Subtitle U § 421.1. 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 U § 421.1, and 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 5.**

VOTE: **5-0-0** (Frederick L. Hill, Lorna L. John, Lesylleé M. White, Carlton E. Hart, and Anthony J. Hood, to APPROVE.)

BZA APPLICATION NO. 19665
PAGE NO. 2

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 23, 2018

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.

BZA APPLICATION NO. 19665

PAGE NO. 3

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

Application No. 19668 of Manley Science and Technology Center, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the use provisions of Subtitle U § 203.1(g), to permit a child development center for 30 children in the R-2 Zone at premises 4628 H Street, S.E. (Square 5359, Lot 328).

HEARING DATE: February 14, 2018

DECISION DATE: February 14, 2018

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated November 1, 2017 from the Zoning Administrator, certifying the required relief. (Exhibit 6.)

The Board of Zoning Adjustment (“Board” or “BZA”) 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”) 7E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7E, which is automatically a party to this application. The ANC did not submit a report related to the application. At the hearing, the ANC 7E Chairman who also is the Single Member District commissioner for the subject property, ANC 7E03, testified that he and his colleagues at ANC 7E are in support of the application. (Exhibit 36.) At the end of the hearing, the Board closed the record, but afforded the ANC an opportunity to submit into the record its official report within seven days of the hearing, pursuant to 11 DCMR Subtitle Y § 406.4. The ANC did not submit a report; consequently, there is no written report to which great weight can be afforded.

The Office of Planning (“OP”) submitted a timely report recommending approval of the application with conditions. (Exhibit 31.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 32.)

Three letters were submitted in support of the application. (Exhibits 34 and 35.)

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 use provisions of Subtitle U § 203.1(g), to permit a child development center for 30 children in the R-2 Zone. The only parties to the case were the ANC

and the Applicant. 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 averse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle U § 203.1(g), 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 SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Enrollment shall not exceed 30 children from two months to six years of age and the maximum number of teachers and staff center shall not exceed eight.
2. The center shall operate for 23 hours a day, Monday through Friday (8:00 a.m. to 7:00 a.m.).
3. Most children shall be dropped off between 8:00 a.m. and 10:00 a.m. and picked up between 3:00 p.m. and 6:00 p.m. Other drop-off and pick-up times shall be tailored to fit the needs of the families served.
4. The staff shall help the children to and from the center during drop-off and pick-up.
5. Two parking spaces shall be provided onsite for teachers and staff and employees shall be prohibited from parking on the street in front of, or adjacent to, the property where the center is located.
6. Trash from the child development center shall be collected at least once weekly by a commercial contractor.

VOTE: 5-0-0 (Frederick L. Hill, Anthony J. Hood, Lesylleé M. White, Lorna L. John, and Carlton E. Hart to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

BZA APPLICATION NO. 19668

PAGE NO. 2

FINAL DATE OF ORDER: February 26, 2018

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 § 702.2, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

BZA APPLICATION NO. 19668

PAGE NO. 3

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

Application No. 19695 of LHO Washington Hotel Three, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions from the use permissions under Subtitle U § 504.1(f), and from the penthouse requirements of Subtitle C § 1500.3(c) to construct a new penthouse restaurant in an existing hotel in the MU-15 Zone at premises 1315 16th Street, N.W. (Square 195, Lot 846).

HEARING DATE: February 21, 2018
DECISION DATE: February 21, 2018

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") 2B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a report dated February 12, 2018 recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 10, 2018, at which a quorum was present, the ANC voted 8-0-1 to support the application. (Exhibit 37.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. In its report, OP suggested two conditions for the Board to consider adopting. (Exhibit 36.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 35.)

One neighbor testified on her own behalf, and on behalf of another neighbor who attended the hearing, in opposition to the application.

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 from the use permissions under Subtitle U § 504.1(f), and from the

penthouse requirements of Subtitle C § 1500.3(c) to construct a new penthouse restaurant in an existing hotel in the MU-15 Zone. The only parties to the case were the ANC and the Applicant. 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, Subtitle U § 504.1(f), and Subtitle C § 1500.3(c), 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 10 – ARCHITECTURAL PLANS AND ELEVATIONS - AND WITH THE FOLLOWING CONDITIONS:**

1. The penthouse restaurant's hours of operation shall not exceed the following hours:
 - Sunday through Thursday: 11:00 am to 11:00 pm (outside) and 12:00 midnight (inside);
 - Friday and Saturday: 11:00 am to 12:00 midnight (outside) and 1:00 am (inside).
2. The Applicant shall not permit amplified recorded or live music on the deck.

VOTE: 5-0-0 (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Peter G. May to APPROVE).

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, 2018

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.

BZA APPLICATION NO. 19695
PAGE NO. 2

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 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.

BZA APPLICATION NO. 19695

PAGE NO. 3

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 17-08
Z.C. Case No. 17-08
Providence Place I LP
(Consolidated PUD and Related Map Amendment @ Square 5194, Lot 824)
November 27, 2017

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on October 19, 2017, to consider an application for a consolidated planned unit development (“PUD”) and a related zoning map amendment filed by Providence Place I, LP (“Applicant”) on behalf of the Progressive National Baptist Convention, Inc. (“PNBC”). The Commission considered the application pursuant to Subtitle X, Chapter 3 and Subtitle Z 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 Subtitle Z, Chapter 400. For the reasons stated below, the Commission hereby **APPROVES** the application.

FINDINGS OF FACT

The Application, Parties, Hearings, and Post-Hearing Filings

1. On April 6, 2017, the Applicant filed an application with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the RA-1 zone to the RA-2 zone for a parcel situated on the western edge of the PNBC campus (“Property”). The PNBC campus is located at the southeast corner of the intersection of Nannie Helen Burroughs Avenue and 50th Street, south of Marvin Gaye Park, and is more particularly described as Square 5194, Lot 824. The PUD site is presently improved with a surface parking lot.
2. The Applicant proposes to redevelop the Property with approximately 100 residential units, comprised of one-bedroom, two-bedroom, three-bedroom, and four-bedroom units, all of which will be reserved for households with incomes not exceeding 60% of the area median income (“AMI”). Of the 100 units, 35 will be replacement units for the Lincoln Heights and Richardson Dwellings communities controlled by the DC Housing Authority. Eight of the nine three-bedroom units and all of the four-bedroom units will be replacement units. The project will have a maximum building height of approximately 31 feet, 10 inches; a density of approximately 1.88 floor area ratio (“FAR”); and 48 below-grade parking spaces (“Project”).
3. Alternatively, the Applicant proposes the Project consists of approximately 93 units, with 35 replacement units for Lincoln Heights and Richardson Dwellings communities. Under the alternative proposal, seven three-bedroom units and three four-bedroom units will be set aside as replacement units.
4. By report dated June 1, 2017, the District of Columbia Office of Planning (“OP”) recommended that the application be set down for a public hearing. (Exhibit [“Ex.”] 10.)

At its public meeting on June 12, 2017, the Commission voted to schedule a public hearing on the application.

5. The Applicant filed its prehearing submission on July 17, 2017, and a public hearing was timely scheduled for the matter. (Ex. 16-16G.) On August 9, 2017, the notice of public hearing was sent to all owners of property located within 200 feet of the Property; Advisory Neighborhood Commission (“ANC”) 7C, the ANC in which the Property is located; Commissioner Patricia Malloy, the Single Member District Representative for ANC 7C01, and to Councilmember Vincent Gray, whose ward includes the Property. A description of the proposed development and the notice of the public hearing in this matter were published in the *DC Register* on August 18, 2017.
6. On September 7, 2017, the Applicant filed its Comprehensive Transportation Review (“CTR”). (Ex. 23-23A.)
7. On September 29, 2017, the Applicant filed its supplemental prehearing submission. (Ex. 26-27C.) The supplemental prehearing submission included: (i) revised architectural plans and elevations; (ii) response to outstanding issues from the setdown of the application; (iii) a restatement of the public benefits and project amenities; and (iv) resumes of additional witnesses.
8. On October 5, 2017, OP submitted a hearing report. (Ex. 28.) The OP hearing report recommended approval of the application. (Ex. 28, p. 1.)
9. On October 10, 2017, the District Department of Transportation (“DDOT”) submitted a hearing report. (Ex. 30.) The DDOT hearing report indicated no objection to the application subject to the conditions set forth in Finding of Fact (“FF”) No. 74 of this Order.
10. On October 19, 2017, the Applicant filed additional architectural drawings depicting an alternate design for the building, which eliminates the five-story portion of the building. (Ex. 33-33A). The alternate design is in response to a determination that the portion of the building that is five stories will result in budget difficulties for the all affordable project. At the hearing, the Applicant requested flexibility to construct either the five-story building shown in the original plan or the four-story building shown in the alternate plan.
11. ANC 7C submitted a resolution in support of the Project indicating that at its regularly scheduled and duly noticed public meeting of June 8, 2017, at which a quorum of commissioners was present, ANC 7C voted 7-0 to support the application. (Ex. 13.) The resolution stated that ANC 7C supports the application including the Applicant’s proposal for 100 units of affordable housing.
12. The parties to the case were the Applicant and ANC 7C.
13. The Commission convened a public hearing on the application on October 19, 2017. At the public hearing, the Applicant presented the following witnesses: Rex Cole on behalf

of the Applicant; Dr. Carson Eugene Wise, Sr. on behalf of PNBC; Cheryl O’Neil of Torti Gallas Urban architects for the Project; Erwin Andres, of Gorove/Slade transportation consultant for the Project. Based upon their professional experience and qualifications, the Commission qualified Ms. O’Neil as an expert in planning and architectures, and Mr. Andres as an expert in transportation planning and engineering;

14. Karen Thomas of OP; Jonathan Rogers of DDOT; and Commissioner Patricia Malloy, the single Member District Representative for ANC 7C01, testified in support of the application at the public hearing.
15. At the conclusion of the public hearing, the Commission closed the record and took proposed action to approve the application.
16. On October 26, 2017, the Applicant submitted its proposed findings of fact and conclusions of law. (Ex. 38-38A.)
17. On October 31, 2017, the Applicant sent correspondence to ANC 7C and Commissioner Patricia Malloy explaining the alternate building design and the proposed changes to the DDOT recommendations. (Ex. 39.)
18. On November 6, 2017, the Applicant filed its Post-Hearing Submission, which included a full set of architectural drawings for the alternate design and a statement regarding the Applicant’s additional community outreach. (Ex. 40-40A.)
19. On November 6, 2017, Ms. Angie Rodgers, Director of New Communities Initiative for the Deputy Mayor for Planning and Economic Development submitted a letter in support of the Project. The letter clarified questions related to the role of the Project in meeting the core principles of the District’s New Communities Initiative in the redevelopment of the Lincoln Heights and Richardson Dwellings public housing properties. (Ex. 41.)
20. On November 13, 2017, ANC 7C submitted a second report stating that at its regularly scheduled and duly noticed public meeting of November 9, 2017, at which a quorum of commissioners was present, ANC 7C voted 7-0 to support the application. (Ex. 44.)
21. The proposed action was referred to the National Capital Planning Commission (“NCPC”) on October 23, 2017, pursuant to § 492 of the Home Rule Act. (Ex. 36.)
22. NCPC did not submit a report in this case.
23. The Commission took final action to approve the PUD on November 27, 2017.

The Property and Surrounding Area

24. The Property consists of approximately 70,712 square of land area and is situated on the western edge of the PNBC campus which is located at the southeast corner of the

intersection of Nannie Helen Burroughs Avenue and 50th Street, south of Marvin Gaye Park.

25. In addition to the facilities and structures on the PNBC Campus, the Property is surrounded by a mix of residential uses, educational facilities, and recreational facilities. The Property is well served by several Metrobus routes, including six routes within 0.2 miles of the Property.
26. The Applicant requested a Zoning Map amendment to rezone the Property from the RA-1 zone to the RA-2 zone. As detailed in FF Nos. 57-70, the Commission finds that the requested map amendment is consistent with Future Land Use Map designation Moderate-Density Residential.

The Applicant

27. Providence Place I, LP is a partnership between Progressive National Baptist Convention, CDC and APC Urban, LLC. PNBC owns the Property and has its headquarters on the campus directly across from the PUD site.
28. APC Urban, LLC is a joint venture between Atlantic|Pacific Communities, a national affordable housing development firm based in Miami, and UrbanMatters Development Partners, LLC, a District of Columbia Certified Business Enterprise specializing in the development and preservation of mixed-income communities.

Existing and Proposed Zoning

29. The Property is presently zoned RA-1. The RA-1 zone is intended to permit flexibility of design by permitting all types of urban residential development. (11-F DCMR § 300.1(a).) As a matter-of-right, property in the RA-1 zone can be developed with a maximum density of 0.9 FAR and 1.08 with Inclusionary Zoning (“IZ”). (11-F DCMR § 302.1.) The maximum matter-of-right building height in the RA-1 zone is 40 feet, with no limit on the number of stories. (11-F DCMR § 303.1.) The maximum lot occupancy is 40%. (11-F DCMR § 304.1.)
30. The Applicant proposes to rezone the Property to the RA-2 zone, which permits the following development standards:
 - Height: 50 feet with no limit on the number of stories; 60 feet for a PUD; (11-F DCMR § 303.1; 11-X DCMR § 303.7.)
 - Density: 1.8 FAR; 2.16 FAR with IZ; and 2.59 FAR for a PUD; (11-F DCMR § 302.1; 11-X DCMR § 303.3.)
 - Lot Occupancy: The maximum lot occupancy for residential use is 60%; (11-F DCMR § 304.1.)

- Rear Yard: The minimum rear yard is a distance equal to four inches per one foot of principal building height but not less than 15 feet; (11-F DCMR § 305.1.)
- Side Yard: No side yard is required; however, if a side yard is provided, it shall be no less than four feet; (11-F DCMR § 306.2.)
- Parking for Residential, multiple dwelling unit: one per three dwelling units in excess of four units; (11-C DCMR § 701.5.)
- Bicycle Parking for Residential Apartment: one space for each three dwelling units (long term); one space for each 20 dwelling units (short term); (11-C DCMR § 802.1.)
- Loading for Residential More than 50 Units: one loading berth and one service/delivery space; and (11-C DCMR § 902.2.)
- Green Area Ratio (“GAR”): The minimum required GAR for the RA-2 zone is 0.4. (11-F DCMR § 307.1.)

Description of the PUD Project

31. As shown on the architectural drawings originally submitted as part of the PUD application, the Applicant proposes to redevelop the Property with a five-story apartment house consisting of approximately 132,776 square feet of gross floor area, generating approximately 100 units, all of which will be reserved for households with incomes not exceeding 60% of the AMI. Thirty-five of the units will be replacement units for the Lincoln Heights and Richardson Dwellings communities located immediately north of the Property. The building includes a partially below-grade parking garage with 48 parking spaces and associated loading facilities, which will be from 50th Street.
32. In the alternative, the Applicant proposes to redevelop the Property with a four-story building with approximately 93 units. Even so, the building will include 35 replacement units for the Lincoln Heights and Richardson Dwellings communities. The unit mix for these replacement units in the Alternate Plans includes seven three-bedroom units and three four-bedroom units. (Ex. 40-40A.)
33. The alternate design is in response to a determination that the portion of the building that is five stories will result in budget difficulties for the project. As a result, the Applicant is proposing a design that eliminates the five-story portion of the building, and instead maintains four stories across the project. The design intent and materials of the building will remain unchanged. However, the roof patio on the lower-level roof is relocated to the southern corner of the courtyard on Foote Street, and a screen wall is proposed around the roof patio that maintains the existing character of the 50th Street façade.

34. The Project includes a significant amount of public space improvements, including shade trees and ground plane planting, decorative planters for seasonal display, street lights, and bicycle racks. Also, the Project will include both long-term and short-term bicycle spaces consistent with the requirements of the Zoning Regulations. As a result of the redevelopment of the Property, the perimeter of the Property will be improved to promote a pedestrian-friendly environment with an activated streetscape. All adjacent curb ramps and crosswalks will be improved to current DDOT accessibility standards if they do not currently comply.
35. The same level of architectural detailing is used on all four sides of the building. Moreover, the massing and design of the Project is intended to enhance the residential character of the immediate area and the PNBC campus overall. The Project includes the creation of a new public entrance to the PNBC campus on Fitch Place, and will significantly improve the fabric of the PNBC campus and 50th Street by redeveloping a large, underutilized site.
36. The open area identified as the rear yard at the northern end of the Property will remain as open space.
37. The east-facing courtyard of the proposed apartment house responds to the Trades Hall/PNBC Headquarters building, elevating its importance and highlights it as a special structure. The apartment house is situated on an uphill portion of the Property, helping to preserve the identity of the campus as a collection of buildings surrounded by the natural landscape, particularly from the most prominent view from Nannie Helen Burroughs Avenue. The significant topography is utilized to create a building mass that is integrated with the scale of the existing buildings on the PNBC campus. The building height steps down along the 50th Street frontage and from 50th Street to Campus Drive, creating a building mass integrated with the scale of the PNBC campus as well as a mass that steps down along 50th Street, responding to the road grade and scaling down the height. An additional west-facing courtyard is created along 50th Street that further breaks down the building mass and terminates the view corridor of Foote Street with a special feature. The character of the exterior façades picks up on the Arte Moderne style of the existing dormitory and chapel on the PNBC campus, using a more modest interpretation of the style that is sympathetic to the existing campus buildings, but does not compete with them. The exterior materials of the apartment house are complimentary to the existing buildings on the PNBC campus, enhancing the identity as a cohesive ensemble.
38. The PUD will be certified under the *Enterprise Green Communities* standard and will use Enterprise Green Communities certification to meet the applicable Green Building Act Requirements. The Green Building Act states that the Enterprise Green Communities standard was developed for affordable housing, and shall be used for projects with at least 15% District financing. The Enterprise Green Communities Checklist for the Project is included on Sheet A14 of the architectural drawings. (Ex. 27A2.)
39. As suggested by the Commission and the Department of Energy and Environment (“DOEE”), the Applicant will incorporate solar panels on the building as shown on Sheet

A21 of the architectural plans submitted on September 29, 2017 (Ex. 27A2) and Sheet A49 of the alternate plans submitted on November 6, 2017 (Ex. 40A).

Development Flexibility

40. The Applicant has requested flexibility in the following areas:
- a. To be able to provide a range in the number of residential units – plus or minus 10% – so long as all of the residential units are reserved for households with incomes not exceeding 60% of the MFI and at least 35 units are reserved as replacement units for the Lincoln Heights/Richardson Dwellings properties controlled by the DC Housing Authority. The mix of units for the replacement units (specifically, the proportion of one-bedroom, two-bedroom, three-bedroom and four-bedroom units) shall be as reflected in the architectural drawings;
 - b. 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;
 - c. To vary the final selection of the exterior materials within the color ranges of the 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, locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes that do not significantly alter the design in order to comply with all applicable District of Columbia Building Code;
 - d. To vary the location, attributes and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the DDOT Public Space Division; and
 - e. To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved Plans.

Project Benefits and Amenities

41. Urban Design and Architecture; Landscaping and Open Space; Property Planning & Efficient & Economical Land Utilization (§ 305.5(a) – (c)). The massing and design of the Project is intended to enhance the residential character of the immediate area and the PNBC campus. The Project includes the creation of a new public entrance to the campus on Fitch Place, which will enhance the prominence and visibility of the Trades Hall, and improve automobile and pedestrian access to the campus. Moreover, the Project will

significantly improve the fabric of the PNBC campus and 50th Street by redeveloping a large, underutilized site.

42. The new building is situated on an uphill portion of the Property, helping to preserve the identity of the PNBC campus as a collection of buildings surrounded by the natural landscape, particularly from the most prominent view along Nannie Helen Burroughs Avenue. The east-facing courtyard of the apartment house responds to the Trades Hall/PNBC Headquarters building, elevating its importance and highlights it as a special structure. The significant site topography is utilized to create a building mass that is integrated with the scale of the surrounding buildings on the PNBC campus and on 50th Street. The building height steps down both along the 50th Street frontage, and from 50th Street to Campus Drive, creating a building mass integrated with the scale of the PNBC campus and the existing apartment buildings and new townhouses along 50th Street. The frontage facing the campus is predominately three stories, creating a building mass compatible with the Trades Hall/PNBC Headquarters building and existing school building. Stepping down along 50th Street, the apartment house responds to the road grade while a second west-facing courtyard further articulates the street frontage and provides a unique spatial feature that terminates the view corridor of Foote Street. A secondary residential entrance, new sidewalks, grass strip with street trees and low retaining walls with extensive plantings, together with the attractive building frontage, improve the character and quality of 50th Street. The new PNBC campus entry, as well as the primary pedestrian building entry, are articulated with a unique bay feature, which creates new features along Fitch Place and will enliven the street with new pedestrian activity.
43. Car parking, bicycle parking, and all of the loading and service spaces are located in a partially below-grade garage, removing them from public view. Access to the garage is provided at the northernmost end of the building on 50th Street.
44. The character of the exterior façades picks up on the Arte Moderne style of the existing dormitory and chapel on the PNBC campus, using a more modest interpretation of the style that is sympathetic to the existing buildings on the campus, but does not compete with them. Streamlined horizontal readings in masonry detailing and window patterns, corner windows, and articulated vertical bays and features at the two building entries are components of the style utilized to create a nuanced, human-scaled façade. The exterior materials, including the brick and siding in the upper story, are complimentary to the existing buildings on the PNBC campus, enhancing the identity as a cohesive ensemble.
45. The PUD includes a range of unit types, including one-bedroom, two-bedroom, three-bedroom and four-bedroom units. The three-bedroom and four-bedroom units will accommodate larger families and are carefully located to provide access to appropriate amenities, such as the private outdoor space either on ground-level patios or the upper-level balconies. Additional amenity spaces include primary and secondary residential lobbies, a business and fitness center, and a community room that will be made available to building residents and the broader community, including PNBC. The roof terrace on

the lower northernmost roof level will be made available to all of the building residents, and will provide spectacular views of the District's skyline.

46. Historic Preservation (§ 305.5(e)). The Property is situated at the western edge of the PNBC campus, across from the campus' Trades Hall/PNBC Headquarters building. This building was one of the early classroom/administration buildings for the Nannie Helen Burroughs School, originally known as the National Training School for Woman and Girls. The building is designated as a National Historic Landmark. Civil rights and suffrage advocate, Nannie Helen Burroughs founded the school in 1906, and remained active in its leadership until her death in 1961.
47. In light of the historic significance of the PNBC campus, the Applicant has agreed to file a historic designation application for the portion of the PNBC campus that includes the extant resources associated with the National Training School for Women and Girls. The resources included within the landmark designation would include the Trades Hall, chapel, dormitory, and the Lincoln Memorial Arch, but will not include that portion of the campus included in the PUD application. The historic designation application will be filed with the Historic Preservation Office prior to the issuance of a certificate of occupancy for the apartment house that is the subject of this application.
48. Affordable Housing (§ 305.5(g)). The PUD's most significant benefit is the creation of new housing, including additional affordable housing units, consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. If the Property was developed as a matter of right, the Applicant would be required to set aside the greater of 10% of the gross floor area dedicated to residential use including penthouse habitable space, or 75% of its achievable bonus density to inclusionary units for households with incomes not exceeding 60% of MFI. However, the PUD will be an all affordable building with 35 of the units serving as replacement units for the Lincoln Heights and Richardson Dwellings communities. This is a significantly greater amount of affordable housing, and at deeper levels of affordability, than would have been required if the Property was developed as a matter of right. The charts below indicate that none of the affordable housing will be subject to the IZ requirements set forth in Subtitle C, Chapter 10 of Title 11 DCMR. This is because the Applicant will be requesting that the Zoning Administrator grant an exemption from those requirements pursuant to 11-C DCMR § 1001.6. The Commission makes no finding as to whether the exemption should be granted, and notes that if the request is denied, the requirements of Chapter 10 of Title 11-C DCMR as well as the IZ Act as defined at 11-B DCMR § 100.1 will apply.
49. Specifically, if the Applicant constructs the building reflected in the architectural drawings originally proposed for the PUD (100 units), the Applicant shall provide affordable housing in accordance with the chart below:

Residential Unit Type	Floor Area/ % of Total*	Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	101,047/100%	100	Up to 60% of MFI			
Affordable Non-IZ**	10,105/10%	10	Up to 60% of MFI	Life of the Project	Rental	
Affordable Non-IZ	40,732/40%	35	Up to 60% of MFI	99 years	Rental	Replacement units
Affordable Non-IZ	50,210/50%	55	Up to 60% of MFI	40 years	Rental	

* Refers to the residential gross floor area, but the floor area may be adjusted, subtracting the building core factor.

** If the IZ exemption is denied, these units will be Inclusionary Zoning units instead of Affordable Non-IZ units.

50. If the Applicant constructs the building reflected in the alternate plans (93 units), the Applicant shall provide affordable housing in accordance with the chart below:

Residential Unit Type	Floor Area/ % of Total*	Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	94,277/100%	93	Up to 60% of MFI			
Affordable Non-IZ**	9,428/10%	10	Up to 60% of MFI	Life of the Project	Rental	
Affordable Non-IZ	40,317/43%	35	Up to 60% of MFI	99 years	Rental	Replacement units
Affordable Non-IZ	44,532/47%	55	Up to 60% of MFI	40 years	Rental	

* Refers to the residential gross floor area, but the floor area may be adjusted, subtracting the building core factor.

** If the IZ exemption is denied, these units will be Inclusionary Zoning units instead of Affordable Non-IZ units.

51. Employment and Training Opportunities (§ 305.5(h)). Expanding employment opportunities for residents and local businesses is a priority of the Applicant. Therefore, the Applicant has entered into a First Source Employment Agreement with the Department of Employment Services. (Ex. 35.) In addition, the Applicant has entered into a Small Business Enterprise (“SBE”) Agreement with the District Department of Small and Local Business Development to ensure that a preference is made to District-based firms pursuing District government issued procurement opportunities. (Ex. 34A.)

52. Building Space for Special Uses (§ 305.5(j)). The Applicant is providing a community room in the building that will be made available to the broader community, including PNBC.
53. Environmental Benefits (§ 305.5(k)). The Applicant will incorporate solar panels on the building as shown on the updated roof plan on Sheet A21 of the architectural plans submitted on September 29, 2017 and on Sheet A49 of the alternate plans submitted on November 6, 2017. (Ex. 27A2, 40A.)
54. The PUD will meet the requirements of the *Enterprise Green Communities* standard for residential buildings. It will employ environmentally sustainable strategies as called for in the Green Communities standard such as surface water management with extensive bioretention features, native and soil appropriate plantings, natural ventilation features, Energy Star rated appliances, low VOC finishes, water conserving plumbing fixtures, and Energy star rated residential unit light fixtures.
55. Streetscape Plans (§ 305.5(l)). As shown on sheet L100 of the Plans, the PUD includes landscaped and improved streetscapes surrounding the Property. The improved sidewalks along 50th Street and Fitch Place will provide for a better pedestrian experience through the use of street trees, enhanced lighting, and paving, all of which will reactivate the areas adjacent to the Property.
56. Uses of Special Value to the Neighborhood or the District as a Whole ((§ 305.5(q)). The proposed development is important to the implementation of the "Physical Plan" element of the *Lincoln Heights and Richardson Dwellings New Communities Initiative Revitalization Plan*, which was approved by the City Council on December 19, 2006, pursuant to Resolution No. 16-923. Among other things, this plan calls for 215 off-site replacement units for the Lincoln Heights and Richardson Dwellings properties, in order for those properties to be redeveloped with new mixed-income residential communities.

Comprehensive Plan

57. 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.
58. Purposes of the Comprehensive Plan. The purposes of the Comprehensive Plan are six-fold: (1) to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Code §1-245(b) (¶ 1-301.62).) The Commission finds that the Project

significantly advances these purposes by promoting the social, physical, and economic development of the District through the provision of a high-quality residential development that will increase the housing supply, improve the District's natural and architectural assets, promote economic growth and jobs for District residents, and improve the surrounding community. The Project will achieve community goals by providing significant new affordable housing, and will do so through the construction of aesthetically pleasing new buildings that respect the character of the surrounding neighborhood without generating any adverse impacts.

59. Future Land Use Map. According to the District of Columbia Comprehensive Plan Future Land Use Map, the Property is designated as Moderate-Density Residential. The Moderate-Density Residential designation is used to define the District's row house neighborhoods, as well as its low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some of the older inner city neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). The R-3, R-4, R-5-A Zone Districts are generally consistent with the Moderate Density Residential category; the R-5-B Zone District and other zones may also apply in some locations. The R-5-A and the R-5-B Zone Districts correspond to the RA-1 and RA-2 zones, respectively, under the Zoning Regulations of 2016. The Applicant seeks a map amendment for the Property from the RA-1 zone to the RA-2 zone.
60. The Framework Element of the Comprehensive Plan provides that the Land Use Map is not a zoning map. (*See* 10A DCMR § 226.1(a); *see also* Z.C. Order No. 11-13; Z.C. Order No. 10-28.) Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. (*Id.*) By definition, the Map is to be interpreted broadly. (*Id.*) Furthermore, the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. The granting of density bonuses (for example, through planned unit developments) may result in heights that exceed the typical ranges cited here. (*Id.* at § 226.1(c).) The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. (*Id.* at § 266.1(d).)
61. Thus, in evaluating the proposed map amendment, the Property should be viewed in context and not as an isolated parcel. When taken in context with the surrounding neighborhood, the Applicant's proposal to rezone the Property from the RA-1 zone to the RA-2 zone in order to construct an apartment house for households with incomes not exceeding 60% AMI and replacement units for Lincoln Heights and Richardson Dwelling, is consistent with the Comprehensive Plan's designation of the Property, particularly given the fact that the RA-2 zone (previously, the R-5-B Zone District) is

specifically identified as a corresponding zone district in the Moderate-Density Residential land use category.

62. Generalized Policy Map. The Generalized Policy Map of the Comprehensive Plan designates the Property as a Neighborhood Conservation Area and a Neighborhood Enhancement Area. The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods. Limited development and redevelopment opportunities do exist within these areas but they are small in scale. The diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area. (10A DCMR § 223.5.) The guiding philosophy in Neighborhood Enhancement Areas is to ensure that new development fits in and responds to the existing character, natural features, and existing/planned infrastructure capacity. New housing should be encouraged to improve the neighborhood; the unique and special qualities of each area should be maintained and conserved; and overall neighborhood character should be protected as development takes place. (10A DCMR § 223.5.)
63. The Commission finds that the proposed map amendment for the Property from RA-1 to RA-2 will continue to protect and strengthen the existing residential uses in the area while creating a new, high-quality residential community that responds to the existing character, natural features, and infrastructure of the surrounding neighborhood and the PNBC campus.
64. Guiding Principles and Major Elements of the Comprehensive Plan. The Commission further finds that the PUD is consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as discussed in the paragraphs below.
65. Managing Growth and Change. The Commission finds that the PUD is consistent with the guiding principles of the Managing Growth and Change Element. In order to manage growth and change in the District, the Comprehensive Plan encourages diversity and asserts that the District “cannot sustain itself by only attracting small, affluent households. To retain residents and attract a diverse population, the city should provide services that support families [and prioritize] sustaining and prompting safe neighborhoods... and housing for families.” (10A DCMR § 217.2.) Diversity also means maintaining and enhancing the District’s mix of housing types... [with] housing developed for households of different sizes, including growing families as well as singles and couples.” (10A DCMR § 217.3.) The Comprehensive Plan also states that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. (10A DCMR § 217.6.)
66. The PUD is fully consistent with each of these goals. Redeveloping the Property into a vibrant, residential development with approximately 100 affordable units that range in size from one-bedrooms to four-bedrooms will attract a diverse population of residents, including families. The development also takes advantage of a large, vacant site, which

will further help to restore the neighborhood fabric and improve the PNBC campus overall.

67. Creating Successful Neighborhoods. The Commission finds that the PUD is consistent with the guiding principles of the Creating Successful Neighborhoods Element. One of the guiding principles for creating successful neighborhoods is to protect, maintain, and improve residential neighborhoods. (10A DCMR § 218.1.) The preservation of existing affordable housing and the production of new affordable housing both are essential to avoid a deepening of racial and economic divides in the city. (10A DCMR § 218.3.) Public input in decisions about land use and development is an essential part of creating successful neighborhoods, from development of the Comprehensive Plan to implementation of the Plan's elements. (10A DCMR § 218.8.) The PUD furthers these goals because it protects and improves the existing residential neighborhood while producing new affordable housing on a large, vacant site. The Applicant has engaged neighborhood stakeholders, and will continue to do so as part of the PUD process, in order to ensure that redevelopment of the Property is positively received by the neighborhood.
68. Connecting the City. The Commission finds that the PUD is consistent with the guiding principles of the Connecting the City Element. The PUD will help implement a number of the guiding principles of this citywide element. Consistent with 10A DCMR § 220.2, the PUD will include streetscape improvements to encourage better mobility and circulation in and around the Property. The access points for the required parking and loading facilities will appropriately balance the needs of pedestrians, bicyclists, transit users, automobiles, and delivery trucks, as well as the needs of residents and others to move around and through the city. (*Id.*) Moreover, and consistent with 10A DCMR § 220.3, the PUD's streetscape improvements will help reinforce and improve this section of the city by creating a walkable, pedestrian-friendly and well-designed streetscape that improves public safety and encourages all modes of transportation.
69. Building Green and Healthy Communities. The Commission finds that the Project is consistent with the guiding principles of the Building Green and Healthy Communities Element. One of the guiding principles 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. (10A DCMR § 221.3.) The PUD will meet the requirements of the *Enterprise Green Communities* standard for residential buildings. It will employ environmentally sustainable strategies as called for in the *Enterprise Green Communities* standard such as surface water management with extensive bioretention features, native and soil appropriate plantings, natural ventilation features, Energy Star rated appliances, low VOC finishes, water conserving plumbing fixtures, and Energy star rated residential unit light fixtures.
70. The Commission also finds that the PUD furthers the objectives and policies from various elements of the Comprehensive Plan, including the Land Use, Transportation, Housing, Environmental Protection, Economic Development Element, Urban Design

Citywide elements, Infrastructure Element and the Far Northeast and Southeast Area Element, as set forth in the Applicant’s Statement in Support and the OP Reports. (Ex. 2, 10, 28.)

Office of Planning Reports

71. On June 2, 2017, OP submitted a report to the Commission recommending that the application be set down for a public hearing. (Ex. 10.) The OP report stated that the Project “is not inconsistent with the Comprehensive Plan or with the Lincoln Heights and Richardson Dwellings New Communities Revitalization.” (Ex. 10, p. 3.) The report also stated that “[r]edeveloping a portion of the Progressive National Baptist Church headquarters campus as a residential development with approximately 100 affordable units with a range of 1- to 4-bedrooms will attract a diverse population of residents, including families.” (Ex. 10, p. 8.) The report also recommended that the Applicant provide the following: (i) status of the Property’s proposed historic designation; (ii) clarification of whether the open space areas on the Property would be precluded from future development; (iii) CTR and Transportation Demand Management (“TDM”) measures; (iv) refinement to the flexibility requests; (v) information on whether the project would be LEED-Gold; and (vi) consideration of the provision of a green roof and solar panels.
72. On October 5, 2017, OP submitted a hearing report reiterating that the application is not inconsistent with the Comprehensive Plan recommended approval of application. (Ex. 28.) OP stated that “...the proposed PUD meets this criterion and would not be inconsistent with the Comprehensive Plan’s Generalized Future Land Use Map designation of moderate density residential, the Generalized Policy Map designations of neighborhood conservation and enhancement, and the Guiding Principles of the Framework Element. It also is consistent with the Land Use, Transportation, Housing, Urban Design, Environmental, Historic Preservation, and Open Space Elements; as well as the policies of the Far Northeast and Southeast Area Element.” (*Id.* at 5.)
73. The Commission finds that the Applicant sufficiently answered all of the outstanding questions posed by OP in its Prehearing Statement, Supplemental Prehearing Statement, and at the public hearing. (Ex. 16-16G, 27-27C.)

DDOT Report and Testimony

74. On October 10, 2017, DDOT submitted a hearing report. (Ex. 30.) The DDOT hearing report indicated no objection to the application subject to the Applicant:
 - a. Continuing the pedestrian connection along 50th Street, N.E. to the bus stops along Nannie Helen Burroughs Avenue, N.E;
 - b. Continuing the sidewalk internal to the Property along the existing rear drive rather than terminating it at the building’s edge; and

- c. Constructing a six-foot-wide sidewalk and four-foot-wide tree box to extend the building length along 50th Street, N.E. and along Fitch place extending from the intersection of Fitch Place, N.E. and 50th Place, N.E. to Nannie Helen Burroughs Avenue, N.E.; and
 - d. Enhancing the TDM measures to include the following elements:
 - i. Offer each apartment an annual Capital Bikeshare membership for a period of three years; and
 - ii. Work with goDCgo in order to implement the TDM Management plan proposed in the CTR.
75. At the public hearing, the Applicant agreed to all of DDOT's conditions, except the Applicant indicated that it could not construct the sidewalk internal to the Property.
76. The list of TDM measures approved by DDOT was also revised at the public hearing to exclude the requirement that the Applicant unbundle the cost of residential parking from the cost of lease or purchase of each unit, given the affordability level for the Project.
77. At the public hearing, Johnathan Rogers of DDOT testified that DDOT was agreeable to the Applicant's revised TDM measures and stated that "DDOT has no issues with the change in the mitigations that were proposed or modified by the Applicant. With respect to the internal sidewalk, while DDOT finds there to be value in that internal sidewalk to connect to the rest of the pedestrian network that's internal to the site, we understand the challenges of implementing that." (10-19-17 Transcript, p. 33.)

ANC Reports

78. On June 8, 2017, ANC 7C, the ANC in which the Property is located, submitted a report in support of the Project indicating that at its regularly scheduled and duly noticed public meeting of June 8, 2017, at which a quorum of commissioners was present, ANC 7C voted 7-0 to support the application. (Ex. 13.)
79. On November 13, 2017, ANC 7C, submitted a second report in support of the Project indicating that at its regularly scheduled and duly noticed public meeting of November 9, 2017, at which a quorum of commissioners was present, ANC 7C voted 7-0 to support the application. (Ex. 44.)
80. Commissioner Patricia Malloy, the Single Member District Representative for ANC 7C-01, which includes the Property, testified in support of the application at the public hearing and requested additional information regarding the alternate design for the PUD and the Applicant's response to DDOT's comments. On October 31, 2017, the Applicant submitted a letter to the ANC and Commissioner Malloy that explained the alternate building design and the Applicant's proposed changes to the DDOT recommendations. (Ex. 39.)

Interagency Review

81. OP circulated the application to DDOT, DOEE, the Department of Housing and Community Development (“DHCD”), DC Office of Aging, DC Public Schools, DC Water and DC Fire and Emergency Service for their review of the Project. (Ex. 28, p. 12). Other than DDOT, there are no comments in the record from any of the aforementioned agencies.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) results in a project superior to what would result from the matter-of-right standards; (b) offers a commendable number or quality of meaningful public benefits; and (c) protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan. (11-X DCMR § 300.1.)
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 11-X DCMR, Chapter 3 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 residential use for the Project is appropriate for the Property. The impact of the Project on the surrounding area is not unacceptable. Accordingly, the Project should be approved.
5. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
6. The Applicant's requests for flexibility are consistent with the Comprehensive Plan. Moreover, the PUD benefits and amenities are reasonable tradeoffs for the requested development flexibility.

7. 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 Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. 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 reports in this case and, as explained in this decision, finds its recommendation to grant the application persuasive.
9. 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. ANC 7C's report expressed no issues or concerns. Because the ANC expressed no issues or concerns, there is nothing for the Zoning Commission to give great weight to. (*See Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The Commission carefully considered the ANC 7C's position supporting approval of the application and concurred in its recommendation of approval.
10. 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 and approval of a planned unit development and related Zoning Map amendment from the RA-1 to the RA-2 zone for Square 5194, Lot 824. 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 drawings titled "Providence Place" dated Revised September 29, 2017 (Ex. 27A1-Ex. 27A5), and as modified by the guidelines, conditions, and standards of this Order (the "Plans"). The Applicant shall have flexibility to construct the Project in accordance with the alternate plans, dated November 6, 2017 (the "Alternate Plans"). (Ex. 40A).
2. 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 – to be plus or minus 10% of the 100 units depicted in the Plans or the 93 units depicted in the Alternate Plans, so long as all of the residential units are reserved for households with incomes not exceeding 60% of the MFI and at least 35 units are reserved as replacement units for the Lincoln Heights/Richardson Dwellings properties controlled by the DC Housing Authority. The mix of units for the replacement units (specifically, the proportion of one-bedroom, two-bedroom, three-bedroom, and four-bedroom units) shall be as reflected on the Plans and Alternate Plans;
- b. 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;
- c. To vary the final selection of the exterior materials within the color ranges of the 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, locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes that do not significantly alter the design in order to comply with all applicable District of Columbia Building Code;
- d. To vary the location, attributes and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the DDOT Public Space Division; and
- e. To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved Plans.

B. Public Benefits

1. **Prior to the issuance of a final Certificate of Occupancy for the Project**, the Applicant shall file a historic designation application for portions of the PNBC campus not included in the PUD application. The historic designation application shall include Trades Hall, the chapel, dormitory and the Lincoln Memorial Arch.
2. The Applicant shall provide affordable housing as set forth in this condition:
 - a. The charts that follow identify two scenarios, based upon whether the Applicant chooses to construct the Project in accordance with the Plans (100 units/101,047 GFA) or the Alternate Plans (93 units/94,277 GFA). The charts assume that the Applicant will be granted an exemption from the Inclusionary Zoning regulations (“the IZ Regulations”) set forth in

Subtitle C, Chapter 10 of the Zoning Regulations, pursuant to 11-C DCMR § 1001.6 (“IZ Exemption”). However, the Commission takes no position as to whether the IZ Exemption should be granted;

- b. If the Applicant constructs the building reflected in the Plans, the Applicant shall provide affordable housing in accordance with the chart below:

Residential Unit Type	Floor Area/ % of Total*	Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	101,047/100%	100	Up to 60% of MFI			
Affordable Non-IZ**	10,105/ 10%	10	Up to 60% of MFI	Life of the Project	Rental	
Affordable Non-IZ	40,732/4%	35	Up to 60% of MFI	99 years	Rental	Replacement units
Affordable Non-IZ	50,210/50%	55	Up to 60% of MFI	40 years	Rental	

* Refers to the residential gross floor area, but the amount of floor area may be adjusted to subtract the building core factor.

** If the IZ exemption is denied, these units will be Inclusionary Zoning units, instead of Affordable Non-IZ units.

- c. If the Applicant constructs the building reflected in the Alternate Plans, the Applicant shall provide affordable housing in accordance with the chart below:

Residential Unit Type	Floor Area/ % of Total*	Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	94,277/100%	93	Up to 60% of MFI			
Affordable Non-IZ**	9,428/10%	10	Up to 60% of MFI	Life of the Project	Rental	
Affordable Non-IZ	40,317/43%	35	Up to 60% of MFI	99 years	Rental	Replacement units
Affordable Non-IZ	44,532/47%	55	Up to 60% of MFI	40 years	Rental	

* Refers to the residential gross floor area, but the amount of floor area may be adjusted to subtract the building core factor.

** If the IZ exemption is denied, these units will be Inclusionary Zoning units, instead of Affordable Non-IZ units.

- d. Each control period shall commence upon the issuance of the first certificate of occupancy;
 - e. As indicated on each chart, with respect to the residential gross floor area that is subject to the 40-year control period, the Applicant shall construct 35 units, which shall be reserved as replacement units for the Lincoln Heights and Richardson Dwellings communities. If the Applicant constructs the PUD in accordance with the Plans, then the unit mix for these replacement units shall include eight three-bedroom units and three four-bedroom units. If the Applicant constructs the PUD in accordance with the Alternate Plans, then the unit mix for these replacement units shall include seven three-bedroom units and three four-bedroom units;
 - f. Should the IZ Exemption be granted, the affordable housing requirements of this condition shall be stated in the covenant required by 11-C DCMR § 1001.6(a)(4); and
 - g. Should the IZ Exemption be denied, the Applicant shall nevertheless provide affordable housing in accordance with this condition, unless the IZ Regulations impose more restrictive standards. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to 10% of the residential gross floor of the building, and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area.
3. **Prior to the issuance of a building permit for the Project**, the Applicant shall submit to the Zoning Administrator a copy of the executed SBE Agreement with DSLBD and a copy of the executed First Source Employment Agreement with DOES.
 4. **For the life of the Project**, the community room second-floor amenity space in the building shall be made available for use by the broader community, including PNBC.
 5. The Applicant shall include solar panels on the building as depicted on Sheet A21 of the Architectural Plans submitted September 29, 2017 (Ex. 27A2) or Sheet 49 of the Alternate Plans submitted on November 6, 2017 (Ex. 40A).
 6. **Prior to the issuance of a final Certificate of Occupancy for the Project**, the Applicant shall furnish a copy of its *Enterprise Green Communities* certification application to the Zoning Administrator demonstrating that the building has been designed to meet the *Enterprise Green Communities* standard for residential buildings, as shown on the *Enterprise Green Communities* Checklist on Sheet A14 of the Plans. (Ex. 27A2.)

7. **Prior to the issuance of a final Certificate of Occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has installed the streetscape and landscape improvements consistent with the Landscape Plan sheet dated February 10, 2017. (Ex. 27A5.) All sidewalks and elements in public space shall be built to DDOT standards and shall be subject to DDOT approval.

C. **Transportation Mitigations**

1. **Prior to the issuance of a Certificate of Occupancy for the Project**, the Applicant shall construct a six-foot-wide sidewalk and four-foot-wide tree box to extend the building length along 50th Street, N.E. and along Fitch Place, N.E. extending from the intersection of Fitch Place, N.E. and 50th Street, N.E. to Nannie Helen Burroughs Avenue, N.E.
2. **During the operation of the building**, the Applicant shall provide a Transportation Management Program, as set forth in the TDM section of the Comprehensive Transportation Review and as supplemented by the Applicant at the public hearing. The TDM Plan shall include the following: (Ex. 23A)
 - a. The Applicant shall identify a TDM Leader (for planning, construction, and operations) at the building, who shall act as a point of contact with DDOT/Zoning Enforcement with annual updates. The TDM Leader shall work with residents to distribute and market various transportation alternatives and options;
 - b. The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials;
 - c. The Applicant shall meet Zoning requirements to provide bicycle parking facilities at the proposed development. This includes 34 secure long-term parking spaces located on-site and a minimum of six short-term parking spaces around the perimeter of the site (in the form of three bicycle racks);
 - d. The Applicant shall provide a bicycle repair station to be located in the secure long-term bicycle storage room;
 - e. The Applicant shall provide an on-site business center to residents with access to copier, fax, and internet services;
 - f. The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobbies containing information related to local transportation alternatives;
 - g. The Applicant shall offer each unit's first incoming resident(s), an annual membership to either Capital Bikeshare or a car sharing service for a period of three years. A proactive marketing strategy shall be provided to ensure that residents are aware of this benefit; and

- h. The Applicant shall work with goDCgo in order to implement the TDM management plan proposed in the CTR.

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 this Order within which time an application shall be filed for a building permit. Construction must begin 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 October 19, 2017, upon the motion of Vice Chairman Miller, as seconded by Commissioner Shapiro, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

On November 27, 2017, upon the motion of Chairman Hood, 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 A. Shapiro, and Peter G. May to approve; Michael G. Turnbull not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on March 9, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
American Federation of)	
Government Employees)	
Local 631)	PERB Case No. 16-UM-01
)	16-UC-01
	Petitioner)	
)	Certification No. 163
	and)	
)	
District of Columbia)	
Water and Sewer Authority)	
)	
	Respondent)	
_____)	

CERTIFICATION OF REPRESENTATIVE

The requirements of voluntary recognition having been confirmed in the above-captioned matter by the District of Columbia Public Employee Relations Board (“Board”), in accordance with the District of Columbia Comprehensive Merit Personnel Act of 1978 and the Board’s Rules, and its appearing that an exclusive representative has been properly recognized,

Pursuant to the authority invested in the Board by D.C. Official Code §§1-605.02(1) and (2) and in accordance with Board Rule 504.1(a);

IT IS HEREBY CERTIFIED THAT:

The American Federation of Government Employees, Local 631, AFL-CIO has been designated by a majority of the employees of the District of Columbia Water and Sewer Authority in the unit described below, as their preference for its exclusive representative for the purpose of collective bargaining concerning both compensation and terms-and-conditions of employment.

UNIT DESCRIPTION:

All professional and nonprofessional employees of the District of Columbia Water and Sewer Authority, Office of Engineering Services and Bureau of Waste Water Treatment, Laboratory Division; and all nonprofessional and professional employees in the Bureau of Wastewater Division; and the Office of Administrative Services, Water Conservation

Certification of Representation
PERB Case No. 16-UM-01 and 16-UC-01
Page 2

Division and the Procurement and Facilities Division, Goods and Services Branch, and the Permits Office; excluding all management officials, confidential employees, supervisors, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

January 23, 2018

/s/Clarene Phyllis Martin
Executive Director

Government of the District of Columbia
Public Employee Relations Board

_____)	
In the Matter of:)	
)	
American Federation of)	
Government Employees)	
Local 631)	PERB Case No. 16-UM-01
)	16-UC-01
	Petitioner)	
)	Opinion No. 1648
	and)	
)	
District of Columbia)	
Water and Sewer Authority)	
)	
	Respondent)	
_____)	

DECISION AND ORDER

I. Introduction

On March 31, 2016, the American Federation of Government Employees, Local 631 (“AFGE Local 631”) filed two identical petitions, a “Unit Clarification Petition or in the alternative a Unit Modification Petition.” These two cases are now consolidated and this Decision and Order will address both cases. A hearing was held on February 15 and March 6, 2017. The Hearing Examiner issued a Report and Recommendation (“Report”) on August 29, 2017. The District of Columbia Water and Sewer Authority (“WASA”) filed exceptions to the Report on September 20, 2017. The Report is now before the Board for consideration

For reasons stated below, the Board affirms the Hearing Examiner’s Report and Recommendation to include Contract Compliance Specialists I, Contract Compliance Specialists II and the Laboratory Quality Assurance Officer in the bargaining unit, and grants the unit modification petition to include the Permits Office in the bargaining unit.

II. Statement of the Case

On November 22, 1996, AFGE Local 631 was certified as the exclusive representative of a unit of:

All professional and nonprofessional employees of the District of Columbia Water and Sewer Authority, Office of Engineering Services and Bureau of Waste Water Treatment, Laboratory Division; and all nonprofessional and professional employees in the Bureau of Wastewater Division; and the Office of

Decision and Order
PERB Case 16-UM-01 and 16-UC-01
Page 2

Administrative Services, Water Conservation Division and the Procurement and Facilities Division, Good and Services Branch; excluding all management officials, confidential employees, supervisors, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.¹

AFGE Local 631 now seeks the inclusion of 11 positions at WASA in the certified unit. On May 26, 2016, AFGE Local 631 amended its petition to propose a new bargaining unit that includes the WASA Permits Office and to add the position of Officer Assistant III to the bargaining unit.²

Before the Hearing Examiner, the parties stipulated that they reached an agreement that the following three positions should be included in the bargaining unit: Engineer III Collection System Modeling with Job Code PO372, Specialist I Instrumentation and PCS with Job Code P0363, Specialist II Instrumentation, and PCS with Job Code PPO100.³ After the hearing the parties also notified the Hearing Examiner that they agree that the position of Office Assistant III is part of the bargaining unit.⁴ The parties further stipulated at the hearing that they agreed that the Permits Office should be included in the bargaining unit and the certification should include the name “permits office.”⁵

The parties do not agree on six positions: Contract Compliance Specialists I, Contract Compliance Specialists II, Laboratory Quality Assurance Officer, Process Engineer II, Program Manager-Capital Improvement Projects (CIP), and Senior Sourcing Specialist.⁶ WASA contends that these six positions are in management and therefore not eligible for inclusion in the bargaining unit. Furthermore, even if they were not management officials they still would not be eligible because they lack a community of interest with existing bargaining unit members.⁷ AFGE Local 631 states that the positions are not management officials and share a community of interest with the bargaining unit employees.⁸

III. Hearing Examiner’s Report and Recommendation

The Hearing Examiner first determined whether or not each of the six disputed positions were management officials. There is agreement between the parties that the six disputed categories are not supervisory within the meaning of sections 1-617.01(d) and 1-617.09(b)(1) of the Comprehensive Merit Personnel Act (“CMPA”). The Hearing Examiner relied on the

¹ *AFGE Local 631 and WASA*, 43 D.C. Reg. 1969, PERB Case No. 96-RC-01, Slip Op. No. 463 Certification No. 92 (1996).

² Report and Recommendations at 2.

³ Report and Recommendation at 2.

⁴ Report and Recommendation at 2.

⁵ Hearing Transcript at 13.

⁶ Report and Recommendations at 2.

⁷ Report and Recommendations at 2.

⁸ Report and Recommendations at 2.

Decision and Order
PERB Case 16-UM-01 and 16-UC-01
Page 3

Supreme Court’s decision in *NLRB v. Bell Aerospace Co.*⁹ to define management official as: “One who formulates and effectuates management policies by expressing and making operative the decision of their employer.” Relying on the Supreme Court’s opinion in *NLRB v. Kentucky River Community Care, Inc.*,¹⁰ the Hearing Examiner stated that the agency has the burden to establish that each position falls within the exception of section 1-617.09(b)(1). The Hearing Examiner further stated that the duties and authority of the position determine “management official” status, not the title.

A. Management Authority

The Hearing Examiner concluded that WASA did not meet its burden of establishing that the Contract Compliance Specialists I & II are management officials. These positions are responsible for monitoring existing Equal Employment Office (“EEO”) practices and the mandatory employee benefit compliance of contractors doing business with the agency.¹¹ According to the Hearing Examiner, the work of these positions is essentially enforcement and recruitment and does not amount to policy making or to effectively recommending policy.¹² The Hearing Examiner concluded that the Contract Compliance Specialists I and II are not management officials within the meaning of section 1-617.09(b)(1).

The Hearing Examiner concluded that WASA did not meet its burden of establishing that the Laboratory Quality Assurance Officer (“LQAO”) position is in management.¹³ The primary duty of the LQAO is to assure that the water and wastewater system meets the appropriate standards.¹⁴ The guidelines for the measurement of water cleanliness are mandated by the Environmental Protection Agency (“EPA”).¹⁵ The LQAO is an important part of the quality control program at the Authority, but the Hearing Examiner stated that this does not amount to “management” as the term is used in section 1-617.09(b)(1). In fact, quality control work under the National Labor Relations Act is generally considered to be bargaining unit work.¹⁶

According to the Hearing Examiner, WASA met the burden of establishing that the Process Engineer II positions are management officials. Relying on testimony from a former Process Engineer II, the Hearing Examiner concluded that the positions have broad-ranging responsibilities and the record supports the contention that they are heavily relied upon in the operation WASA’s wastewater program.¹⁷ The Hearing Examiner concluded that the Process Engineer II is a management official within the meaning of section 1-617.09(b)(1), and should not be included in the unit

⁹ 416 U.S. 267, 288 (1974).

¹⁰ 532 U.S. 706 (2001).

¹¹ Report and Recommendations at 5.

¹² Report and Recommendations at 6.

¹³ Report and Recommendations at 8.

¹⁴ Report and Recommendations at 7.

¹⁵ Report and Recommendations at 8.

¹⁶ Report and Recommendations at 7.

¹⁷ Report and Recommendations at 10.

Decision and Order

PERB Case 16-UM-01 and 16-UC-01

Page 4

The Hearing Examiner concluded that WASA met its burden of establishing that the Program Manager – Capital Improvement Projects (“CIP”) position is a management official.¹⁸ The position is an important part of WASA’s long term planning process. The long term planning is mostly done by consultants or contractors and it is the Program Manager who represents the District of Columbia in its dealings with these consultants. The Program Manager manages, negotiates contracts, and oversees the work of the consultants.¹⁹ The Hearing Examiner states that the record reflects that the Program Manager effectively recommends actions to be taken and that her duties are aligned with the management of WASA.²⁰ The Hearing Examiner concluded that the Program Manager is a management official within the meaning of section 1-617.09(b)(1), and should not be included in the unit

The Hearing Examiner concluded that WASA met its burden of establishing that the Senior Sourcing Specialist is a management official.²¹ The Hearing Examiner relied on the testimony of Dan Bae, the Senior Sourcing Specialist, who stated that this position has purchase planning and strategy duties that are quite different than the Sourcing Specialists, who are in the bargaining unit.²² The Hearing Examiner concluded that the Senior Sourcing Specialist is a management official within the meaning of section 1-617.09(b)(1), and should not be included in the unit.²³

B. Community of Interest

After determining that some of the contested positions are not management officials, the Hearing Examiner next determined whether these positions should be included in the bargaining unit. WASA argued that these positions do not share a community of interest with the bargaining unit.²⁴ The Hearing Examiner stated that the record supported a finding of a community of interest sufficient to warrant inclusion of the Contract Compliance Specialists and the LQAO in the bargaining unit. These positions share common overall management, work location and working conditions; they are all part of a single integrated work force.²⁵

The Hearing Examiner did not accept WASA’s contention that the Contract Compliance Branch is so compartmentalized as to find they do not share a community of interest with the unit. Instead, the Hearing Examiner stated that there is insufficient evidence in the record that they are so isolated as to have no contact with unit employees.²⁶ The failure to include these positions in the bargaining unit would result in a small residual bargaining unit. The salary of the LQAO is considerably higher than many in the unit, but this fact alone does not warrant a finding that the LQAO lacks a community of interest with the unit.

¹⁸ Report and Recommendations at 13.

¹⁹ Report and Recommendations at 13.

²⁰ Report and Recommendations at 13.

²¹ Report and Recommendations at 15.

²² Report and Recommendations at 15.

²³ Report and Recommendations at 16.

²⁴ Report and Recommendations at 16.

²⁵ Report and Recommendations at 16.

²⁶ Report and Recommendations at 17.

Decision and Order
PERB Case 16-UM-01 and 16-UC-01
Page 5

IV. Exceptions to Hearing Examiner's Report and Recommendation

WASA filed Exceptions to the Hearing Examiner's Report. WASA stated that the Hearing Examiner's conclusions with regard to the positions of Contract Compliance Specialists I & II and the LQAO are not supported by substantial evidence in the record.²⁷ According to WASA, the Hearing Examiner reached contradictory conclusions by stating that the Process Engineer II is a management official and that the LQAO position is not. The Process Engineer II position, in operative and regulatory structure respects, mirrors the functionality of the LQAO, yet they are judged differently.²⁸ WASA stated that without a case-by-case analysis of the current and specific facets of each of the positions, the Report directly contravenes controlling statute and precedent.²⁹ Furthermore, WASA objected to the Hearing Examiner's conclusion that the Contract Compliance Specialists I & II share a community of interest with the current bargaining unit.³⁰

AFGE Local 631 filed Exceptions to the Hearing Examiner's Report. AFGE Local 631 states that the Hearing Examiner's Report regarding the following positions is contrary to law and erroneously applied the law and criteria for managerial employees: Process Engineer II, Sr. Sourcing Specialists and Program Manager (CIP). According to AFGE Local 631, the testimony of WASA managers and employers shows that the people holding these positions do not make operative decisions on behalf of the employer and the Hearing Examiner's recommendations should be rejected on this basis.³¹

V. Discussion

PERB reviews a Hearing Examiner's Report and Recommendation even if no exceptions are filed to determine whether the analysis and conclusions are reasonable, supported by the record, and consistent with precedent. Issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner.³² Mere disagreements with the Hearing Examiner's findings and citation of competing evidence do not constitute proper exceptions if the record contains evidence supporting the Hearing Examiner's conclusions.³³ Parties cannot raise issues for the first time in exceptions if they were not presented to the Hearing Examiner.³⁴

The Board has held that a management official is one who formulates and effectuates management policies by expressing and making operative the decisions of his employer.³⁵ The

²⁷ WASA Exceptions at 2.

²⁸ Report and Recommendations at 12.

²⁹ Exceptions at 8.

³⁰ Exceptions at 8.

³¹ AFGE Local 631 Exceptions at 6-7.

³² *FOP/MPD Labor Comm. v. MPD* 62 D.C. Reg. 3544 Op. No. 1506, PERB Case No. 11-U-50(a) (2015).

³³ *Brinkley v. FOP/MPD Labor Comm., District 20, Local 2087*, 60 D.C. Reg. 17387, Op. No. 1446, PERB Case No. 10-U-12 (2013).

³⁴ *Durant v. DOC*, 59 D.C. Reg. 9821, Op. No. 1286, PERB Case No. 07-U-43(a), 08-U-57 (2012).

³⁵ *AFGE, Local 2725 and D.C. Dep't of Housing and Community Development*, 45 DCR 2049, Slip Op. No. 532 at pgs. 4-5, PERB Case No. 97-UC-01 (1998) citing *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 288 (1974).

Decision and Order
PERB Case 16-UM-01 and 16-UC-01
Page 6

Hearing Examiner applied this case law in finding that certain of the disputed positions did not express and make operative the policies used by WASA.

The Hearing Examiner found that WASA did not meet its burden of proof that the employee positions of Contract Compliance Specialists I, Contract Compliance Specialists II and the LQAO are management officials. Based on the record, the Hearing Examiner found that the Contract Compliance Specialist I and II work is essentially enforcement and recruitment.³⁶ The LQAO position also does not amount to management under section 1-617.09(b)(1).³⁷ Furthermore, the Hearing Examiner found that these two positions share a community of interest with the bargaining unit. Both parties filed exceptions stating that the Hearing Examiner findings are not supported by substantial evidence on the record. The Union also alleges that the Hearing Examiner did not properly apply the correct standard to determine if the positions were management officials. Issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner. A review of the record reveals that the Hearing Examiner's findings and conclusions are reasonable, supported by the record and consistent with Board precedent.

The factors used to determine community of interest are stated in Section 1-617.09(a) of the CMPA. In considering whether there is a community of interest with other employees, the Board has previously looked to factors such as common supervision, skills, and benefits.³⁸ The Hearing Examiner concluded that each of these three positions share common overall management, work location and working conditions.³⁹ The Hearing Examiner noted that the three non-management officials share common benefits, working conditions and location with the bargaining unit positions.⁴⁰ The Board adopts the Hearing Examiner's conclusion that these three positions share a community of interest with the bargaining unit.

VI. Conclusion

Pursuant to Board Rule 520.14, the Board finds the Hearing Examiner's recommendations to be reasonable, supported by the record and consistent with Board precedent. Therefore, the Board adopts the Hearing Examiner's Report, and finds the Contract Compliance Specialist I, Contract Compliance Specialists II and LQAO positions are properly included in the bargaining unit. The following positions were not addressed by the Hearing Examiner because the parties came to an agreement that these positions belong in the bargaining unit: Engineer III Collection System Modeling with Job Code PO372; Specialist I Instrumentation and PCS with Job Code P0363; Specialist II Instrumentation, and PCS with Job Code PPO100; and Office Assistant III. The parties also agreed to include the Permits Office in the certification of the bargaining unit. The Board grants the unit modification petition to include the Permits Office in

³⁶ Report and Recommendations at 6.

³⁷ Report and Recommendations at 7.

³⁸ *AFGE, Local 631 and WASA*, 59 D.C. Reg. 6445, Slip Op. No. 1030, PERB Case No. 08-UC-01 (2012).

³⁹ Report and Recommendation at 16.

⁴⁰ Report and Recommendations at 17.

Decision and Order
PERB Case 16-UM-01 and 16-UC-01
Page 7

the bargaining unit once an official notice is posted by the employing agency for 14 days in compliance with PERB Rule 504.3.

ORDER

IT IS HEREBY ORDERED THAT:

1. The bargaining unit as described in PERB Case No. 96-UM-01 includes the employee positions of Contract Compliance Specialists I, Contract Compliance Specialists II and the Laboratory Quality Assurance Officer.
2. AFGE Local 631's Unit Modification Petition is granted. The bargaining unit as described in PERB Case No. 96-UM-01 is modified as follows:

All professional and nonprofessional employees of the District of Columbia Water and Sewer Authority, Office of Engineering Services and Bureau of Waste Water Treatment, Laboratory Division; and all nonprofessional and professional employees in the Bureau of Wastewater Division; and the Office of Administrative Services, Water Conservation Division and the Procurement and Facilities Division, Goods and Services Branch, and the Permits Office; excluding all management officials, confidential employees, supervisors, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139

3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

November 30, 2017

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 16-UM-01 and 16-UC-01, Op. No. 1648 was sent by File and ServeXpress to the following parties on this the 23rd day of January, 2018.

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DC Water and Sewer Authority
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/s/ Sheryl Harrington
PERB



Public
Employee
Relations
Board

GOVERNMENT OF
THE DISTRICT OF
COLUMBIA



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NOTICE

TO ALL EMPLOYEES, LABOR ORGANIZATIONS, AND AGENCIES ASSOCIATED WITH THE PERFORMANCE OF WORK AT THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY,

The American Federation of Government Employees Local 631 and District of Columbia Water and Sewer Authority (“Petitioners”) filed a Unit Modification Petition with the Public Employee Relations Board. Petitioners request that the Board include the Permits Office in the bargaining unit represented by the Petitioners.

Proposed Unit Description

All professional and nonprofessional employees of the District of Columbia Water and Sewer Authority, Office of Engineering Services and Bureau of Waste Water Treatment, Laboratory Division; and all nonprofessional and professional employees in the Bureau of Wastewater Division; and the Office of Administrative Services, Water Conservation Division and the Procurement and Facilities Division, Goods and Services Branch, and the Permits Office; excluding all management officials, confidential employees, supervisors, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

The Petitioners are requesting that the Board modify the unit description to include the Permits Office which was created in November of 2011 and formerly part of Engineering and Technical Services.

The purpose of this Notice is to inform employees, management and all labor organizations concerned with the Petition and to provide them with an opportunity to present their views on the Petition. Within fourteen (14) days after the posting of this Notice, any affected labor organization or person may file written comments. An affected labor organization that wishes to intervene in these proceedings may submit a written request to the Executive Director of the Board. Any comments or requests to intervene shall meet the requirements of Section 501 of the Board’s Rules.

PERB Case No. 16-UM-01.

This Notice was posted on the _____ day of _____, 2018.

THIS NOTICE MUST NOT BE ALTERED, DEFACED OR COVERED.

/s/ Clarene Phyllis Martin
Executive Director
January 24, 201

District of Columbia REGISTER – March 9, 2018 – Vol. 65 - No. 10 002368 – 002624