



District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 22-304, Office-to-Affordable-Housing Task Force Establishment Act of 2018
- D.C. Council enacts Act 22-312, Senior Dental Services Program Act of 2018
- D.C. Commission on the Arts and Humanities announces availability of the FY 2019 Grant Opportunities
- Department of Employment Services announces intent to establish the District’s Universal Paid Leave Implementation Fund by July 1, 2019
- Department of Health establishes requirements for authorized practitioners to recommend the use of medical marijuana to qualifying patients
- Department of Human Services updates the application deadline for the SNAP Employment and Training Program
- Office of the Deputy Mayor for Planning and Economic Development announces funding availability for the Inclusive Innovation Fund program
- Office of the State Superintendent of Education announces funding availability for the FY 2019 21st Century Community Learning Centers Grant and FY 2018 Charter Schools Program Dissemination Grant

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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ROOM 520S – 441 4th STREET, ONE JUDICIARY SQUARE - WASHINGTON, D.C. 20001 - (202) 727-5090

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-296

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 2, 2018

To approve, on an emergency basis, Modification Nos. 15, 18, and 19 to Contract No. RM-15-RFP-SRR-104-LSI-BY4-SC with Life Stride, Inc. to provide supported rehabilitative residence services, and to authorize payment for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. RM-15-RFP-SRR-104-LSI-BY4-SC Approval and Payment Authorization Emergency Act of 2018”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 15, 18, and 19 to Contract No. RM-15-RFP-SRR-104-LSI-BY4-SC with Life Stride, Inc. to provide supported rehabilitative residence services, and authorizes payment in the amount of \$2.5 million for the goods and services received and to be received under the modifications.

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.


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

ENROLLED ORIGINAL

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



Mayor
District of Columbia
APPROVED
April 2, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-297

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 2, 2018

To approve, on an emergency basis, Modification Nos. 03 and 04 to Contract No. DCAM-17-CS-0025G with Chiaramonte Construction Company for on-call construction, maintenance, and repair services, and to authorize payment in the not-to-exceed amount of \$2.5 million for the goods and services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. DCAM-17-CS-0025G Approval and Payment Authorization Emergency Act of 2018”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 03 and 04 to Contract No. DCAM-17-CS-0025G with Chiaramonte Construction Company for on-call construction, maintenance, and repair services, and authorizes payment in the not-to-exceed amount of \$2.5 million for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.


The Council adopts the fiscal statement of the Office 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.


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

ENROLLED ORIGINAL

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



Mayor
District of Columbia
APPROVED
April 2, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-298

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 2, 2018

To recognize, on an emergency basis, due to congressional review, certain plans as master development plans that have been approved by a governmental entity within the meaning of section 118 of the Internal Revenue Code of 1986, as amended by section 13312 of An Act To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Master Development Plan Recognition Congressional Review Emergency Act of 2018”.

Sec. 2. Approved master development plans.

The following are recognized as master development plans that have been approved by a governmental entity within the meaning of section 118 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 39; 26 U.S.C. § 118), as amended by section 13312 of An Act To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, approved December 22, 2017 (Pub. L. No. 115-97; 131 Stat. 2054):

- (1) Planned unit development projects (including stage one approvals) that have been approved by the Zoning Commission for the District of Columbia (as such approvals may be modified from time to time);
- (2) Development plans for projects that have received approval from the Zoning Commission for the District of Columbia or the Board of Zoning Adjustment (which approvals may be modified from time to time) in connection with the proposed development or redevelopment;
- (3) Development plans that have been approved by an agency of the District of Columbia government;
- (4) Small area plans approved by the Council;
- (5) Neighborhood or area development or revitalization plans issued by an agency of the District of Columbia government;
- (6) The Comprehensive Plan;

ENROLLED ORIGINAL

(7) A development plan to be funded in whole or in part with a tax increment financing approved by the Council;

(8) A development plan associated with a tax increment financing application submitted to the District for which a letter or final, preliminary, or conditional approval has been issued by the Mayor or the Deputy Mayor for Planning and Economic Development and for which the issuance of a tax increment financing bond or note is later authorized or approved by the Council; and

(9) Any other development plan, redevelopment plan, revitalization plan, or similar plan designated by the Mayor that was approved before the effective date of section 13312 of An Act To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, approved December 22, 2017 (Pub L. No. 115-97; 131 Stat. 2054).

Sec. 3. The recognition conferred by this act is intended to clarify what constitutes a master development plan that has been approved by a governmental entity for purposes of section 118 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 39; 26 U.S.C. § 118), as amended by section 13312 of An Act To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, approved December 22, 2017 (Pub. L. No. 115-97; 131 Stat. 2054).

Sec. 4. Applicability

This act shall apply as of March 20, 2018.

Sec. 5. 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. 6. 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

ENROLLED ORIGINAL

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



Mayor
District of Columbia
APPROVED
April 2, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-299

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 2, 2018

To establish, on an emergency basis, that it shall be unlawful for the owner or operator of a grocery store or food retail store to agree to the inclusion of a restrictive land covenant or use restriction in a contract for the sale, lease, or other transfer of real property that prohibits the subsequent use of the property as a grocery store or food retail store, unless the owner or operator relocates the grocery store or food retail store within a half mile of its former location, commences operation of the store within 2 years, and limits the restrictive covenant to not exceed 3 years.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Grocery Store Restrictive Covenant Prohibition Emergency Act of 2018”.

Sec. 2. (a) It shall be unlawful for the owner or operator of a grocery store or food retail store to agree to the inclusion of a restrictive land covenant or other use restriction in a contract for the sale, lease, or other transfer of real property that prohibits the use of the real property as a grocery store or food retail store, or the use of any property within one mile as a grocery store or food retail store.

(b) Any restrictive land covenant or other use restriction on real property of the type described in subsection (a) of this section shall be void and unenforceable.

(c) The prohibition imposed by this section shall not apply to an owner or operator of a grocery store or food retail store that terminates operations at a site for purposes of relocating the grocery store or food retail store to a comparable or larger site located in the District of Columbia within one-half mile of the site where the prior operations were terminated; provided, that relocation and commencement of the operation of the new grocery store or food retail store at the new site occurs within 2 years of the sale, transfer, or lease of the prior site, and that the restrictive covenant or other use restriction agreed upon with respect to the prior site does not have a term in excess of 3 years.

(d) For the purposes of this act, the term:

(1) “Food retail store” means a retail establishment with a primary business of selling food for consumption on-premise or off-premise.

ENROLLED ORIGINAL

(2) "Grocery store" means a retail establishment with a primary business of selling grocery products and includes a selling area that is used for a general line of food, nonfood grocery products, or prescription pharmacy merchandise.

Sec. 3. Applicability.

This act shall apply as of March 10, 2018.

Sec. 4. Fiscal impact statement.

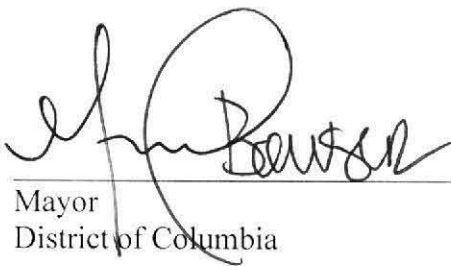
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 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), 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



Mayor
District of Columbia

APPROVED
April 2, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-300

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 2, 2018

To amend the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004 to provide that if a member of the Metropolitan Police Department who, in the performance of duty, sustains any serious or life-threatening injury or illness for which the member requires critical care treatment in a hospital intensive care unit or its equivalent, the member shall not be processed for retirement unless the member, as a result of the injury or illness sustained, has spent more than 172 cumulative work days in a less-than-full-duty status over the 2-year period following the date the member sustained the injury or illness and is unable to work in a less-than-full-duty capacity within the Metropolitan Police Department.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Injured Metropolitan Police Officer Relief Amendment Act of 2018”.

Sec. 2. Section 623 of the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-633), is amended as follows:

(a) Subsection (c) is amended by striking the phrase “(e) and (f)” and inserting the phrase “(e), (f), and (h)” in its place.

(b) A new subsection (h) is added to read as follows:

“(h)(1) If a member of the Metropolitan Police Department has sustained, in the performance of duty, any serious or life-threatening injury or illness for which the member requires critical care treatment in a hospital intensive care unit or its equivalent, the member shall not be processed for retirement pursuant to subsection (b) or subsection (c) of this section unless the member:

“(A) As a result of the injury or illness sustained, has spent more than 172 cumulative work days in a less-than-full-duty status over the 2-year period following the date the member sustained the injury or illness; and

“(B) Is unable to work in a less-than-full-duty capacity within the Metropolitan Police Department.

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“(2) The member shall be provided with additional non-chargeable medical leave and disability compensation pay pursuant to subsection (a) of this section until the member achieves maximum medical improvement or is processed for retirement after having spent more than 172 cumulative work days in less-than-full-duty status over the 2-year period.

“(3)(A) A member who has spent more than 172 cumulative work days in less-than-full-duty status over the 2-year period pursuant to paragraph (1) of this subsection and continues to be unable to perform the full range of duties shall not be processed involuntarily for retirement under section 12(g) of the Act if the member is able and willing to work in any less-than-full-duty capacity within the Metropolitan Police Department.

“(B) The Metropolitan Police Department shall assign the member non-policing duties if the member continues to be unable to perform the full range of duties but is able and willing to work in less-than-full-duty capacity after expiration of the 172 days.

“(C) Nothing in this paragraph shall be construed as preventing the member from seeking retirement for disability under section 12(g) of the Act.”

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.

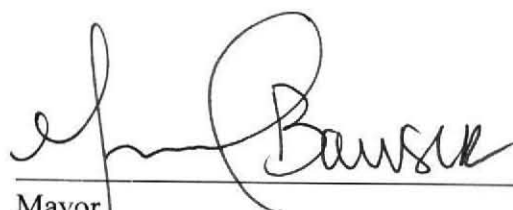
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

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
April 2, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-301

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
APRIL 2, 2018

To amend, on a temporary basis, the Prevention of Child Abuse and Neglect Act of 1977 to broaden the definitions of neglected child and abused to include a victim of sex trafficking or severe forms of sex trafficking; and to amend An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Child Neglect and Sex Trafficking Temporary Amendment Act of 2018”.

Sec. 2. Section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02), is amended as follows:

(a) Paragraph (1) is amended to read as follows:

“(1)(A) “Abused”, when used in reference to a child, means:

“(i) Abused as that term is defined in D.C. Official Code § 16-2301(23); or

“(ii) Sexual abuse, which shall include sex trafficking or severe forms of trafficking in persons as those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A)).

“(B) Nothing in this paragraph shall be construed as preventing or intending to prevent sex trafficking or severe forms of trafficking in persons from being considered a form of sexual abuse for purposes of D.C. Official Code § 16-2301(32).”.

(b) Paragraph (15A) is amended to read as follows:

“(15A) “Neglected child” means a child who is a:

“(A) Neglected child as that term is defined in D.C. Official Code § 16-2301(9); or

ENROLLED ORIGINAL

“(B) Victim of sex trafficking or severe forms of trafficking in persons as those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A)).”.

Sec. 3. Section 2(a) of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(a)), is amended by striking the phrase “neglected child, as defined in D.C. Code, sec. 16-2301(9), shall” and inserting the phrase “neglected child, as defined in section 102(15A) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02(15A)), shall” in its place.

Sec. 4. 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. 5. 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 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), 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
April 2, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-302

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To establish, on a temporary 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 Temporary 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.

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(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);

ENROLLED ORIGINAL

(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.*);

(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.

(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 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), 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
April 4, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-303

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To amend Chapter 36 of Title 47 of the District of Columbia Official Code to make enrollments into the District government’s deferred compensation program automatic for newly hired employees of the District government and to authorize the Mayor to promulgate rules to implement the automatic enrollment provisions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Deferred Compensation Program Enrollment Amendment Act of 2018”.

Sec. 2. Chapter 36 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-3601 is amended as follows:

(1) Subsection (a) is amended by adding a new paragraph (1A) to read as follows:

“(1A)(A) All newly hired employees eligible to participate in the employee deferred compensation program, including employees eligible pursuant to subsection (c) of this section, shall be automatically enrolled in the deferred compensation program.

“(B) All newly hired employees’ contributions shall be no less than 5% of their annual base salary upon hire.

“(C) An employee may increase, reduce, or cease his or her contributions to the deferred compensation program at any time.”.

(2) A new subsection (b-1) is added to read as follows:

“(b-1)(1) The Mayor shall select default investments for the accounts of employees automatically enrolled in the District government’s deferred compensation program. The Mayor may delegate this responsibility to an employee’s personnel authority.

“(2) Upon an eligible employee’s hire, the Mayor shall provide the employee notice of the automatic enrollment required pursuant to subsection (a) of this section; provided, that the Mayor may delegate this function to an employee’s personnel authority or independent agency pursuant to an agreement executed pursuant to subsection (c) of this section. The notice shall explain:

“(A) The employee’s right under the plan to designate how contributions and earnings will be invested;

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“(B) How, in the absence of an investment election by the employee, such contributions and earnings will be invested;

“(C) The percentage of the employee’s base salary that will be contributed to the program;

“(D) The employee’s right to increase, reduce, or cease the employee’s contributions to the program; and

“(E) How an employee may elect investments and change or cease contribution amounts under the plan.”.

(b) Section 47-3602 is amended as follows:

(1) Paragraph (2) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(2) Paragraph (3) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (4) is added to read as follows:

“(4) Rules to implement the Deferred Compensation Program Enrollment Amendment Act of 2018, passed on 2nd reading on March 6, 2018 (Enrolled version of Bill 22-68), within 180 days of its effective date.”.

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.

(c)(1) The Budget Director shall cause the notice of the 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

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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
April 4, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-304

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To establish an Office-to-Affordable-Housing Task Force to determine whether transitioning existing vacant commercial office space to affordable residential housing units would help address the District of Columbia’s affordable housing crisis.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Office-to-Affordable-Housing Task Force Establishment Act of 2018”.

Sec. 2. Establishment.

There is established an Office-to-Affordable-Housing Task Force (“Task Force”) to determine whether transitioning existing vacant commercial office space to affordable residential housing units would help address the District of Columbia’s affordable housing crisis.

Sec. 3. Membership.

(a)(1) The Task Force shall be composed of the following 9 members:

- (A) A low-income renter;
- (B) A representative of an apartment building owner or office building owner;
- (C) A representative of an organization that advocates for the production, preservation, and rehabilitation of affordable housing for low-income households;
- (D) A representative of a philanthropic organization that funds affordable housing;
- (E) A representative of an organization that provides supportive housing services to low-income residents, including housing counseling, financial management, in-kind assistance, or legal representation;
- (F) A representative with expertise in affordable housing policy from the academic or nonprofit community;
- (G) A representative from the for-profit residential development community;
- (H) A residential architect; and
- (I) A structural engineer.

(2) One representative each from the following District agencies shall also serve on the Task Force:

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- (A) The Office of the Deputy Mayor of Planning and Economic Development;
- (B) The Office of Zoning; and
- (C) The Department of Housing and Community Development.

(b)(1) The Mayor may appoint the Task Force members identified in subsection (a)(1) of this section; provided, that after 90 days from the date this act becomes applicable pursuant to section 6, the Chairman of the Council of the District of Columbia shall appoint a member to any position that the Mayor has not yet filled.

(2) The Mayor may appoint the chair of the Task Force; provided, that the Chairman of the Council of the District of Columbia shall appoint the chair if the Mayor has not done so within 90 days after the date this act becomes applicable pursuant to section 6.

(c) Each member shall serve without compensation, except that members may receive reimbursement for expenses incurred in the service of the Task Force.

(d) The Office of the Deputy Mayor of Planning and Economic Development shall provide administrative support for the Task Force.

(e) The Task Force shall meet monthly.

Sec. 4. Report.

Within 120 days after the appointment of the appointed members, the Task Force shall submit a report to the Mayor and the Council that addresses the following:

(1) Whether transitioning vacant commercial office space to affordable housing units, including units with multiple bedrooms, would help address the District of Columbia's affordable housing crisis;

(2) Any legislative, regulatory, zoning, or policy changes that the Task Force recommends making to promote the transition of vacant commercial office buildings to affordable housing units, including units with multiple bedrooms; and

(3) Any costs to the District and property owners associated with the recommended changes and recommendations on how to fund such costs.

Sec. 5. Sunset.

This act shall expire as of the date the Task Force submits the report required by section 4 to the Mayor and the Council.

Sec. 6. 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 the 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. 7. 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. 8. 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
April 4, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-305

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To require a utility company to implement a third-party notification program, to require an assisted living residence, a community residence facility, and a nursing facility to enroll in the third-party notification program and designate a District agency as its third-party contact authorizing it to receive duplicate notification of any past-due bill or termination of service sent to the residence or facility, and to require the third-party contact to provide a copy of any duplicate notification it receives to the Long-Term Care Ombudsman.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Community Residential Facilities Third-Party Notice of Utility Disconnection Requirement Act of 2018".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Assisted living residence" shall have the same meaning as provided in section 201(4) of the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code § 44-102.01(4)).

(2) "Community residence facility" shall have the same meaning as provided in section 2(4) of the Health-Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(4)).

(3) "Entity" means an assisted living residence, a community residence facility, or a nursing facility operating in the District.

(4) "Managing agency" means the District government agency that has oversight of an entity.

(5) "Nursing facility" means a 24-hour institution or distinct part of a 24-hour institution that:

(A) Is primarily engaged in providing nursing care and related services to residents who require medical or nursing care, or rehabilitation services to persons who are injured, disabled, or sick;

(B) Is not primarily for the care and treatment of mental diseases; and

ENROLLED ORIGINAL

(C) Has in effect a transfer agreement that meets the requirements of section 1802 of the Social Security Amendments of 1965, approved July 30, 1965 (79 Stat. 291; 42 U.S.C. § 1395a), with one or more hospitals.

(6) "Ombudsman" means the District of Columbia Long-Term Care Ombudsman established by section 202(a) of the District of Columbia Long-Term Care Ombudsman Program Act of 1988, effective March 16, 1989 (D.C. Law 7-218; D.C. Official Code § 7-702.02(a)) ("Ombudsman Act"), and designated under section 307(a)(12) of the Older Americans Act of 1965, approved October 18, 1978 (92 Stat. 1525; 42 U.S.C. § 3027(a)(12)), to perform the mandated functions of the Long-Term Care Ombudsman Program established by section 201 of the Ombudsman Act.

(7) "Third-party contact" means a person or agency authorized to receive duplicate notification of a past-due bill or termination of service sent to an entity by a utility company.

(8) "Third-Party Notification program" is a program maintained by a utility company under which a customer of the utility company can designate another person or an agency to be the customer's third-party contact authorized to receive a copy of any notification regarding the customer's past-due bill or termination of service because of a past-due bill.

(9) "Utility company" means a business that provides water, natural gas, or electricity service to an entity.

Sec. 3. Third-Party Notification program; utility company requirement.

(a)(1) Within 60 days after the effective date of this act, each utility company shall have implemented a Third-Party Notification program, including providing the enrollment form required by section 4(b).

(2) The enrollment form shall include a provision giving an entity, or other customer, designating a third-party contact the option of making the address, telephone number, and account records of the entity, or other customer, confidential, except in circumstances that the information is required by law to be provided.

(b)(1) A utility company shall send a duplicate of any notification of a past-due bill or termination of service because of a past-due bill sent to an entity to the third-party contact managing agency no more than 2 days after the initial notification was sent to the entity.

(2) Notwithstanding the requirement set forth in paragraph (1) of this subsection, a utility company shall provide such duplicate notifications only in cases where the third-party contacts have been and remain authorized by the participating entity.

Sec. 4. Third-Party Notification program; entity requirement.

(a) Within 90 days after the effective date of this act, an entity shall enroll in the Third-Party Notification program of each utility company from which the entity receives service and, notwithstanding having designated another person or body to be a third-party contact, designate the appropriate managing agency, or agencies, as a third-party contact.

ENROLLED ORIGINAL

(b) An entity shall provide the managing agency, or agencies, a completed Third-Party Notification program enrollment form from each utility company providing service to the entity showing that the managing agency has been designated the entity's third-party contact.

Sec. 5. Ombudsman; notification requirement.

Upon receiving a copy of a notification from a utility company to the utility company's customer of a past-due bill or termination of service, the third-party contact managing agency shall transmit a copy of the notification to the Ombudsman, which shall be transmitted so that the Ombudsman receives the copy on the same day that the notification was received by the third-party contact managing agency.

Sec. 6. Nonliability of a third-party contact and Ombudsman.

A third-party contact, whether a managing agency or other designee, and the Ombudsman shall not have any:

- (1) Responsibility for paying a past-due bill;
- (2) Liability regarding a past-due bill or any other charges that may accrue;
- (3) Authority to delay or prevent termination of service; or
- (4) Authority to make a payment arrangement for the entity.

Sec. 7. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

Sec. 8. 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. 9. 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

ENROLLED ORIGINAL

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
April 4, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-306

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To amend the Retail Incentive Act of 2004 to establish in statutory law the various retail priority areas designated by resolution relating to the Great Streets program; and to amend the H Street, N.E., Retail Priority Area Incentive Act of 2010 to extend the authority to issue grants from the H Street Retail Priority Area Grant Fund through September 30, 2018.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Great Streets Technical Amendment Act of 2018".

Sec. 2. The Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.71 *et seq.*), is amended as follows.

(a) Section 4 (D.C. Official Code § 2-1217.73) is amended as follows:

(1) Subsection (e) is repealed.

(2) Subsection (g) is amended to read as follows:

“(g) There is established the H Street/Bladensburg Road/Benning Road, N.E., Corridor Retail Priority Area, which shall include the parcels, squares, and lots within the area bounded by a line beginning at the intersection of the center lines of Massachusetts Avenue, N.E., Columbus Circle, N.E., and 1st Street, N.E.; continuing northeast along the center line of 1st Street, N.E., to the center line of K Street, N.E.; continuing east along the center line of K Street, N.E., to the center line of Florida Avenue, N.E.; continuing southeast along the center line of Florida Avenue, N.E., to the center line of Staples Street, N.E.; continuing northeast along the center line of Staples Street, N.E., to the center line of Oates Street, N.E.; continuing southeast along the center line of Oates Street, N.E., until the point where Oates Street, N.E., becomes K Street, N.E.; continuing east along the center line of K Street, N.E., to the center line of 17th Street, N.E.; continuing south along the center line of 17th Street, N.E., to the center line of Gales Street, N.E.; continuing northwest along the center line of Gales Street, N.E., to the center line of 15th Street, N.E.; continuing south along the center line of 15th Street, N.E., to the center line of F Street, N.E.; continuing west along F Street, N.E., to the center line of Columbus Circle, N.E.; and continuing south and circumferentially along the center line of Columbus Circle, N.E., to the beginning point. Beginning at the intersection of Holbrook Street, N.E., and Mount Olivet Road, N.E.; thence east on Mount Olivet Road, N.E., to Bladensburg Road, N.E.; thence south on Bladensburg Road, N.E., to 17th Street, N.E.; thence south on 17th Street, N.E., to H Street,

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N.E.; thence east on H Street, N.E., to 19th Street, N.E.; thence south on 19th Street, N.E., to Benning Road, N.E.; thence east on Benning Road, N.E., to Oklahoma Avenue, N.E.; thence southwest on Oklahoma Avenue, N.E., to Clagett Place, N.E.; thence northwest on Clagett Place, N.E., to 20th Street, N.E.; thence northwest along the rear boundaries of all properties with frontage along the southwest side of Benning Road, N.E., to 19th Street, N.E.; thence south on 19th Street, N.E., to Gales Street, N.E.; thence northwest on Gales Street, N.E., to 15th Street, N.E.; thence west on G Street, N.E., to 14th Street, N.E.; thence north on 14th Street, N.E., to Florida Avenue, N.E.; thence west on Florida Avenue, N.E., to Holbrook Street, N.E.; thence north on Holbrook Street, N.E., to the point of beginning.”

(3) Subsection (l) is repealed.

(4) Subsection (m) is amended by striking the phrase “U Street/14th Street Retail Priority Area” and inserting the phrase “14th and U Street, N.W./Adams Morgan/Mt. Pleasant Retail Priority Area” in its place.

(5) Subsection (n) is amended by striking the phrase “Tenleytown Retail Priority Area” and inserting the phrase “Wisconsin Avenue Retail Priority Area” in its place.

(6) New subsections (o), (p), (q), (r), and (s) are added to read as follows:

“(o) There is established the Ward 4 Georgia Avenue Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: beginning at the intersection of Euclid Street, N.W., and Georgia Avenue, N.W.; continuing north along Georgia Avenue, N.W., to Kenyon Street, N.W.; thence continuing west along Kenyon Street, N.W., to Sherman Avenue, N.W.; continuing north along Sherman Avenue, N.W., to New Hampshire Avenue, N.W.; thence continuing northeast along New Hampshire Avenue, N.W., to Spring Road, N.W.; thence continuing northwest along Spring Road, N.W., to 14th Street, N.W., thence continuing north along 14th Street, N.W., to Longfellow Street, N.W., thence continuing east along Longfellow Street, N.W., to Georgia Avenue, N.W., thence continuing north along Georgia Avenue, N.W., to Eastern Avenue, N.W., thence continuing southeast along Eastern Avenue, N.W., to Kansas Avenue, N.E.; thence continuing southwest along Kansas Avenue, N.E., to Blair Road, N.W., thence continuing south along Blair Road, N.W., to North Capitol Street, N.E., thence continuing south along North Capitol Street, N.E., to Kennedy Street, N.W., thence continuing west along Kennedy Street, N.W., to Kansas Avenue, N.W., thence continuing southwest along Kansas Avenue, N.W., to Varnum Street, N.W.; thence continuing east along Varnum Street, N.W., to 7th Street, N.W.; thence continuing south along the center line of 7th Street, N.W., until the point where 7th Street, N.W., becomes Warder Street, N.W.; thence continuing further south along Warder Street, N.W., to Kenyon Avenue, N.W.; thence continuing west along Kenyon Avenue, N.W., to Georgia Avenue, N.W.; and thence south on Georgia Avenue, N.W., to the beginning point.

“(p) There is established the Martin Luther King Jr. Avenue/Good Hope Road/South Capitol Street Retail Priority Area, which shall consist of the parcels, squares, and lots within or abutting the boundary of the following areas:

“(1) The area bounded by a line beginning at the intersection of the center line of Suitland Parkway, S.E., and Martin Luther King, Jr. Avenue, S.E.; continuing northwest along

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the center line of Suitland Parkway, S.E., to the center line of Interstate 295; continuing northeast along the center line of Interstate 295, to the center line of the entrance ramp from 13th Street, S.E., onto Interstate 295; continuing south along the center line of the entrance ramp from 13th Street, S.E., to the center line of Ridge Place, S.E.; continuing east along the center line of Ridge Place, S.E., to the center line of 16th Street, S.E.; continuing north along the center line of 16th Street, S.E., to the center line of R Street, S.E.; continuing east along the center line of R Street, S.E., to the center line of 18th Street, S.E.; continuing south along the center line of 18th Street, S.E., to the center line of Good Hope Road, S.E.; continuing west along the center line of Good Hope Road, S.E., to the center line of Fendall Street, S.E.; continuing south along the center line of Fendall Street, S.E., to the center line of V Street, S.E.; continuing west along the center line of V Street, S.E., to the center line of 16th Street, S.E.; continuing south along the center line of 16th Street, S.E., to the center line of W Street, S.E.; continuing west along the center line of W Street, S.E., to the center line of 14th Street, S.E.; continuing south along the center line of 14th Street, S.E., to the point where 14th Street, S.E., becomes High Street, S.E.; continuing southwest along the center line of High Street, S.E., to the center line of Maple View Place, S.E.; continuing further southwest along a straight line to the intersection of the center lines of High Street, S.E., and Morris Road, S.E.; continuing further southwest along the center line of High Street, S.E., to the center line of Howard Road, S.E.; continuing northwest along the center line of Howard Road, S.E., to the center line of Bowen Road, S.E.; continuing southwest along the center line of Bowen Road, S.E., to the center line of Sheridan Road, S.E.; continuing further southwest along a line extended from the center line of Bowen Road, S.E., to the center line of Suitland Parkway, S.E.; and continuing northwest along the center line of Suitland Parkway, S.E., to the beginning point;

“(2) The area bounded by a line beginning at the intersection of the center line of 4th Street, S.E., and Savannah Street, S.E.; continuing north along the center line of 4th Street, S.E., to the center line of Martin Luther King, Jr. Avenue, S.E.; continuing southwest along the center line of Martin Luther King, Jr. Avenue, S.E., to the center line of Waclark Place, S.E.; continuing north along the center line of Waclark Place, S.E., to the center line of Parkland Place, S.E.; continuing due north to the center line of Malcolm X Avenue, S.E.; continuing east along the center line of Malcolm X Avenue, S.E., to the center line of Oakwood Street, S.E.; continuing northwest along the center line of Oakwood Street, S.E., to the center line of 5th Street, S.E.; continuing northeast along the center line of 5th Street, S.E., to the center line of Lebaum Street, S.E.; continuing further northeast along an extension of the center line of 5th Street, S.E., to the center line of Persimmon Street, S.E.; continuing northeast along the center line of Persimmon Street, S.E., to the center line of Redwood Drive, S.E.; continuing east along the center line of Redwood Drive, S.E., to the center line of Sycamore Drive, S.E.; continuing south along the center line of Sycamore Drive, S.E., to the end of Sycamore Drive, S.E.; continuing along a straight line to the intersection of the center lines of 8th Street, S.E., and Malcolm X Avenue, S.E.; continuing south along the center line of 8th Street, S.E., to the center line of Alabama Avenue, S.E.; continuing southwest along the center line of Alabama Avenue, S.E., to the center line of 6th Street, S.E.; continuing south along the center line of 6th Street,

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S.E., to the center line of Savannah Street, S.E.; and continuing west along the center line of Savannah Street, S.E., to the beginning point;

“(3) The area bounded by a line beginning at the intersection of the center line of Martin Luther King, Jr. Avenue, S.W., and Danbury Street, S.W.; continuing north along the center line of Martin Luther King, Jr. Avenue, S.W., to the center line of Chesapeake Street, S.W.; continuing west along the center line of Chesapeake Street, S.W., to the center line of 2nd Street, S.W.; continuing northeast along the center line of Second Street, S.W., to the center line of Xenia Street, S.W.; continuing northeast along an extension of the center line of 2nd Street, S.W., to the center line of South Capitol Street; continuing southeast along the center line of South Capitol Street to the center line of Martin Luther King, Jr. Avenue; continuing northeast along the center line of Martin Luther King Avenue, S.E., to the center line of 1st Street, S.E.; continuing south along the center line of 1st Street, S.E., to the center line of Danbury Street, S.E.; continuing west along the center line of Danbury Street, S.E., to the center line of South Capitol Street; and continuing further west along the center line of Danbury Street, S.W., to the beginning point; and

“(4) The parcels, squares, and lots abutting Good Hope Road, S.E., beginning at the intersection of Good Hope Road, S.E., and Anacostia Drive, S.E., thence southeast on Good Hope Road, S.E., to its intersection with Naylor Road, S.E.

“(q) There is established the Minnesota/Benning Retail Priority Area, which shall consist of the parcels, squares, and lots within or abutting the boundary of the following areas: Beginning at the intersection of the center line of A Street, S.E., and 35th Street, S.E.; continuing north along the center line of 35th Street, S.E., to the center line of East Capitol Street; continuing northeast along the center line of 35th Street, N.E., to the center line of Blaine Street, N.E.; continuing northwest along a straight line to the intersection of the center lines of Clay Street, N.E., and 36th Street, N.E.; continuing north along the center line of 36th Street, N.E., to the center line of Dix Street, N.E.; continuing west along the center line of Dix Street, N.E., to the center line of Anacostia Avenue, N.E.; continuing north along the center line of Anacostia Avenue, N.E., to the end of this section of Anacostia Avenue, N.E.; continuing east in a straight line to the intersection of the center lines of Anacostia Avenue, N.E., and Foote Street, N.E.; continuing northeast along the center line of Anacostia Avenue, N.E., to the center line of Hayes Street, N.E.; continuing southeast along the center line of Hayes Street, N.E., to the center line of Kenilworth Terrace, N.E.; continuing northeast along the center line of Kenilworth Terrace, N.E., to the center line of Nannie Helen Burroughs Avenue, N.E.; continuing southeast along the center line of Nannie Helen Burroughs Avenue, N.E., to the center line of Minnesota Avenue, N.E.; continuing southwest along the center line of Minnesota Avenue, S.E., to the center line of Grant Street, N.E.; continuing east along the center line of Grant Street, N.E., to the center line of 42nd Street, N.E.; continuing south along the center line of 42nd Street, N.E., to the center line of Benning Road, N.E.; continuing northwest along the center line of Benning Road, N.E., to the center line of 41st Street, N.E.; continuing south along the center line of 41 Street, N.E., to the center line of Clay Place, N.E.; continuing west along the center line of Clay Place, N.E., to the center line of 40th Street, N.E.; continuing south along the center line of 40th Street, N.E., to the

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center line of East Capitol Street; continuing west along the center line of East Capitol Street to the center line of B Street, S.E.; continuing southwest along the center line of B Street, S.E., to the center line of Ridge Road, S.E.; continuing northwest along the center line of Ridge Road, S.E., to the center line of Minnesota Avenue, S.E.; continuing southwest along the center line of Minnesota Avenue, S.E., to the center line of A Street, S.E.; and continuing west along the center line of A Street, S.E., to the beginning point.

“(r) There is established the Pennsylvania Avenue, S.E., Retail Priority Area, which shall consist of the parcels, squares, and lots within or abutting the boundary of the following areas:

“(1) The area bounded by a line beginning at the intersection of the center line of Naylor Road, S.E., and Q Street, S.E.; continuing northwest along the center line of Naylor Road, S.E., to the center line of 22nd Street, S.E.; continuing north along the center line of 22nd Street, S.E., to the center line of Fairlawn Avenue, S.E.; continuing northeast along the center line of Fairlawn Avenue, S.E., to the center line of N Street, S.E.; continuing southeast along the center line of N Street, S.E., to the center line of Minnesota Avenue, S.E.; continuing northeast along the center line of Minnesota Avenue, S.E., to the center line of 28th Street, S.E.; continuing south along the center line of 28th Street, S.E., to the center line of Q Street, S.E.; and continuing west along the center line of Q Street, S.E., to the beginning point;

“(2) The area bounded by a line beginning at the intersection of the center lines of 30th Street, S.E., and Park Drive, S.E.; continuing north along a straight line to the intersection of the center lines of 30th Street, S.E., and S Street, S.E.; continuing north along the center line of 30th Street, S.E., to the center line of O Street, S.E.; continuing southeast along the center line of O Street, S.E., to the center line of Carpenter Street, S.E.; continuing northeast along the center line of Carpenter Street, S.E., to the center line of 33rd Place, S.E.; continuing southeast along the center line of 33rd Place, S.E., to the center line of Pennsylvania Avenue, S.E.; continuing northwest along the center line of Pennsylvania Avenue, S.E., to the center line of 33rd Street, S.E.; continuing south and west along the center line of 33rd Street, S.E., to the center line of Branch Avenue, S.E.; continuing south along the center line of Branch Avenue, S.E., to the center line of Park Drive, S.E.; and continuing west along the center line of Park Drive, S.E., to the beginning point; and

“(3) The area bounded by a line beginning at the intersection of the center lines of 37th Street, S.E., and Suitland Road, S.E.; continuing north along the center line of 37th Street, S.E., to the center line of Alabama Avenue, S.E.; continuing northeast along the center line of Alabama Avenue, S.E., to the center line of Q Street, S.E.; continuing southeast along the center line of Q Street, S.E., to the center line of Fort Dupont Street, S.E.; continuing south along the center line of Fort Dupont Street, S.E., to the center line of Southern Avenue, S.E.; continuing southwest along the center line of Southern Avenue, S.E., to the center line of Suitland Road, S.E.; and continuing northwest along the center line of Suitland Road, S.E., to the beginning point.

“(s) There is established the 7th Street/Georgia Avenue Retail Priority Area, which shall consist of the parcels, squares, and lots within or abutting the boundary of the following areas: Beginning at the intersection of the center line of Massachusetts Avenue, N.W., and 11th Street,

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N.W.; continuing north along the center line of 11th Street, N.W., to the center line of Florida Avenue, N.W.; continuing southeast along the center line of Florida Avenue, N.W., to the center line of Barry Place, N.W.; continuing northeast along the center line of Barry Place, N.W., to the center line of Georgia Avenue, N.W.; continuing north along the center line of Georgia Avenue, N.W., to the center line of Howard Place, N.W.; continuing east along the center line of Howard Place, N.W., to the center line of 6th Street, N.W.; continuing south along the center line of 6th Street, N.W., to the center line of W Street, N.W.; continuing east along the center line of W Street, N.W., to the center line of 5th Street, N.W.; continuing south along the center line of 5th Street, N.W., to the center line of Rhode Island Avenue, N.W.; continuing northwest along the center line of Rhode Island Avenue, N.W., to the center line of 6th Street, N.W.; continuing south along the center line of 6th Street, N.W., to the center line of New York Avenue, N.W.; continuing southwest along the center line of New York Avenue, N.W., to the center line of Mount Vernon Place, N.W.; continuing west along the center line of Mount Vernon Place, N.W., to the center line of Massachusetts Avenue, N.W.; and continuing northwest along the center line of Massachusetts Avenue, N.W., to the beginning point.”

(b) Section 4b(b) (D.C. Official Code § 2-1217.73b(b)) is amended as follows:

(1) Paragraph (2) is amended by adding a new subparagraph (A-i) to read as follows:

“(A-i) Manufacturers, distributors, incubators, and accelerators; provided, that each includes an on-site retail component that sells general or merchandise goods;”

(2) Paragraph (3)(C) is amended to read as follows:

“(C) Execute an employment agreement with the Department of Employment Services pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor’s Order 83-265, dated November 9, 1983 (30 DCR 5990); and”.

(3) Paragraph (4)(A) is amended by striking the phrase “into thirds or fourths and disbursed accordingly” and inserting the phrase “and disbursed” in its place.

Sec. 3. H Street, N.E., Retail Priority Area Incentive Act of 2010, effective April 8, 2011 (D.C. Law 18-354; D.C. Official Code § 1-325.171 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-325.171) is amended as follows:

(1) Paragraph (5) is repealed.

(2) Paragraph (6) is amended by striking the phrase “H Street, N.E. Retail Priority Area” and inserting the phrase “H Street/Bladensburg Road/Benning Road, N.E., Corridor Retail Priority Area” in its place.

(b) Section 3(c)(3) (D.C. Official Code § 1-325.172(c)(3)) is amended by striking the phrase “September 30, 2017” and inserting the phrase “September 30, 2018” in its place.

(c) Section 4 (D.C. Official Code § 1-325.173) is amended by striking the phrase “H Street, N.E. Retail Priority Area” wherever it appears and inserting the phrase “H Street/Bladensburg Road/Benning Road, N.E., Corridor Retail Priority Area” in its place.

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Sec. 4. The Great Streets Neighborhood Retail Priority Areas Approval Resolution, effective July 10, 2007 (Res. 17-257; 54 DCR 7194), is repealed.

Sec. 5. 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. 6. 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
April 4, 2018

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AN ACT

D.C. ACT 22-307

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To amend 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, to repeal the requirement that the Mayor submit a plan, modification, or waiver to the District of Columbia Medicaid State Plan to the Council of the District of Columbia for passive review before submission to the Secretary of the United States Department of Health and Human Services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Assistance Program Modernization Amendment Act of 2018”.

Sec. 2. Section 1(a) of 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(a)), is amended as follows:

(a) Paragraph (1) is amended by striking the phrase “In accordance with paragraph (2) of this subsection, the Mayor may submit” and inserting the phrase “The Mayor may submit” in its place.

(b) Paragraph (2) is repealed.

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

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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
April 4, 2018

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AN ACT

D.C. ACT 22-308

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To amend the Business Improvement Districts Act of 1996 to authorize the establishment and administration of the Dupont Circle Business Improvement District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Dupont Circle Business Improvement District Amendment Act of 2018".

Sec. 2 The Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 *et seq.*), is amended by adding a new section 211 to read as follows:

“Sec. 211. Dupont Circle BID.

“(a) Subject to review and approval by the Mayor pursuant to sections 5 and 6, the formation of the Dupont Circle BID, including nonexempt real property within the geographic area set forth in subsection (b) of this section, is authorized and the BID taxes established in subsection (c) of this section are imposed through the expiration of this act or the termination or dissolution of the BID.

“(b) The Dupont Circle BID shall be comprised of the geographic area bounded by a line that begins at the southwest corner of Square 67, the beginning being the intersection of the north line of P Street, N.W., and the east line of 22nd Street, N.W., and leaving the beginning and running with the boundary of the proposed Dupont Circle BID with the east line of 22nd Street, N.W., north, to the north line of a 15-foot public alley in Square 67; with the north line of the public alley, east, to the northerly line of the 30-foot public alley in Square 67; with the northerly line of the 30-foot public alley, southeasterly, to a break in the north line of the public alley; continuing along the north line of the 30-foot public alley, east, to the southeasterly line of a 15-foot public alley in Square 67; thence with the southeasterly line of the public alley, northeasterly, to the southwesterly line of Massachusetts Avenue, N.W.; thence running with the southwesterly line of Massachusetts Avenue, N.W., southeasterly, to the west line of 21st Street, N.W.; thence running through Massachusetts Avenue, N.W., northeasterly, to the intersection of the south line of Q Street, N.W., and the east line of 21st Street, N.W.; thence running along the south line of Q Street, N.W., east, to the south extension of the west line of Lot 151, Square 93; thence running across Q Street, N.W., with the south extension of the west line of Lot 151,

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Square 93, and with the west lines of Lots 151 and 154, Square 93, north, to a point on the public alley system in Square 93; thence running with a northwest line of Lot 154, Square 93, northeasterly, to a common corner of Lots 154 and 155, Square 93; thence with the southwesterly line of Lot 155, Square 93, northwesterly, to the east line of a 15-foot public alley in Square 93; thence running with the east line of the public alley, north, to the south line of Hillyer Place, N.W.; thence running across Hillyer Place, N.W., northwesterly, to the intersection of the north line of Hillyer Place, N.W., and the northeasterly line of a 15-foot public alley in Square 93; thence running with the northeasterly line of the public alley, northwesterly, to the north line of a 16-foot public alley in Square 93; thence running with the north line of the public alley, west, to a west line of Lot 830, Square 93; thence running with a west line of Lot 830, Square 93, north, to a north line of Lot 830, Square 93; thence running with a north line of Lot 830, Square 93, east, to a west line of Lot 830, Square 93; thence running with a west line of the Lot 830, Square 93, north, to the south line of R Street, N.W.; thence running through R Street, N.W., northwesterly, to the southwest corner on R Street, N.W., of Lot 65, Square 92; thence running with a west line of Lot 65, Square 92, north, to a line in the west boundary of the Lot 65, Square 92; thence running with the line, east, to a line in the west boundary of Lot 65, Square 92; thence running with the line, north, to a line in the west boundary of Lot 65, Square 92; thence running with the line, west, to a line in the west boundary of Lot 65, Square 92; thence running with the line, north, to a south line of the Lot 65, Square 92; thence running with the south line, west, to a west line of Lot 65, Square 92; thence running with the west lines of Lots 65 and 37, Square 92, north, to the northeasterly line of a 4-foot public alley; thence running with the northeasterly lines of the 4-foot public alley and a 12-foot public alley in Square 92, northwesterly, to the north line of a 12-foot public alley in Square 92; thence running with the north line of the public alley, west, to the east line of 21st Street, N.W.; thence running with the east line of 21st Street, N.W., north, to the south line of S Street, N.W.; thence running through S Street, N.W., and Florida Avenue, N.W., northwesterly, to the north line of S Street, N.W., and the southwest corner of Lot 37, Square 2532; thence running with the west line of the Lot 37, Square 2532, north, to the south line of a 15-foot public alley in Square 2532; thence running through the public alley, northwesterly, to the southwest corner of Lot 32, Square 2532; thence running with the west line of Lot 32, Square 2532, and the west line of Lot 31, Square 2532, north, to the south line of Bancroft Place, N.W.; thence running through Bancroft Place, N.W., northwesterly, to the intersection of the north line of Bancroft Place, N.W., and the east line of a 15-foot public alley in Square 2531; thence running with the east line of the alley, northerly, to a break in the east line of the alley; thence continuing along the easterly line of the alley, northwesterly, to the southeasterly line of Leroy Place, N.W.; thence running through Leroy Place, N.W., northwesterly, to the northwesterly line of Leroy Place, N.W. and the southwesterly corner of Lot 310, Square 2530; thence running with the southwesterly line of Lot 310, Square 2530, northwesterly, to the northwest corner of the lot; thence running with the northwesterly line of Lot 310, Square 2530, northeast, to the southwesterly corner of Lot 820, Square 2530; thence running with the southwesterly line of the Lot 820, Square 2530, northwesterly, to the

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southeasterly line of California Street, N.W.; thence running with the southeasterly line of California Street, N.W., northeasterly, to the southwesterly line of Connecticut Avenue, N.W.; thence running through the Connecticut Avenue, N.W., northeasterly, to the northwesterly corner of U.S. Reservation 303 (also referred to as Lot 801, Square South of 2536); thence running with the southeasterly line of California Street, N.W., through Columbia Road, N.W., northeasterly, to a northwest corner of former Lot 41, Square 2535 (now known for assessment and taxation purposes as Lots 832, 833, and 7000-7006, Square 2535); thence running along the northeasterly boundary of former Lot 41, Square 2535, southeasterly, to a break in the northeasterly boundary; thence continuing along the northeasterly boundary of former Lot 41, Square 2535, southeasterly, to the southwesterly line of 19th Street, N.W.; thence running with the southwesterly line of 19th Street, N.W., southeasterly, to the northwesterly line of Florida Avenue, N.W.; thence running with the northwesterly line of Florida Avenue, N.W., crossing T Street, N.W., southwesterly, to the north extension of the west line of 20th Street, N.W.; thence running across Florida Avenue, N.W., with the north extension and with the west line of 20th Street, N.W., south, to the south corner of Square 91 and the northeasterly line of Connecticut Avenue, N.W.; thence running through R Street, N.W., southeasterly, to the northwest corner of Square 111; thence running with the south line of R Street, N.W., east, to the west line of a 15-foot public alley in Square 111; thence running with the west line of the alley, south, to a break in the west line of the alley; thence continuing with the west line of a 15-foot public alley, southeasterly, to the west extension of the north line of Lot 820, Square 111; thence running with the north extension and the north line of Lot 820, Square 111, east, to the northeast corner of the Lot 820, Square 111, and the west line of an irregularly shaped public alley in Square 111; thence running with the west line of the public alley, south, to a break in the west line of the public alley; thence continuing with the west line of the irregularly shaped public alley, southeasterly, to the north line of Lot 824, Square 111; thence running along the north line of Lot 824, Square 111, east, to the westerly line of a 10-foot public alley in Square 111; thence running with the westerly line of the 10-foot public alley, southeasterly, to the west extension of the north line of Lot 54, Square 111; thence running with the west extension and the north line of Lot 54, Square 111, east, to the west line of 19th Street, N.W.; thence running with the west line of 19th Street, N.W., through Q Street, N.W., south, to the south line of Q Street, N.W.; thence running with the south line of Q Street, N.W., through 19th Street, N.W., east, to the northeast corner on Q Street, N.W., of Lot 4, Square 135; thence running with a northeasterly boundary of Lot 4, Square 135, south, to a northeast line of Lot 4, Square 135; thence continuing with a northeasterly boundary of Lot 4, Square 135, southeasterly, to the northwesterly line of New Hampshire Avenue, N.W.; thence running with the northwesterly line of New Hampshire Avenue, N.W., southwesterly, to the northeasterly line of Dupont Circle and the southeasterly corner of Lot 4, Square 135; thence running through New Hampshire Avenue, N.W., southeasterly, to a northwest corner of Lot 35, Square 136, and the southeast line of New Hampshire Avenue, N.W.; thence running with the southeasterly line of New Hampshire Avenue, N.W., northeasterly, to the north most corner of Lot 35, Square 136; thence running

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with a northeast line of Lot 35, Square 136, southeasterly, to a northeast corner of Lot 35, Square 136; thence continuing with a northeast line of Lot 35, Square 136, southeasterly, to a northeast corner of Lot 35, Square 136; thence continuing with a northeast line of Lot 35, Square 136, southeasterly, to the north line of Lot 1, Square 136; thence running with the north line of Lot 1, Square 136, west, to the northeast corner of Lot 34, Square 136; thence running with the east line of Lot 34, Square 136, south, to the north line of P Street, N.W.; thence running with the north line of P Street, N.W., West, to the southwest corner of Lot 34, Square 136; thence running through P Street, N.W., southerly, to the north point of curvature of U.S. Reservation 61; thence continuing through P Street, N.W., with a north line of U.S. Reservation 61 and its east extension, easterly, to the west line of 19th Street, N.W.; thence running with the west line of 19th Street, N.W., south, to the southeasterly extension of the southwest line of U.S. Reservation 61; thence running through Massachusetts Avenue, N.W., with the southeasterly extension and the southwest line of U.S. Reservation 61, northwesterly, to the south point of the curvature of U.S. Reservation 61; thence running through Massachusetts Avenue, N.W., Connecticut Avenue, N.W., 19th Street, N.W., and New Hampshire Avenue, N.W., on the arc of Dupont Circle to the right, southwesterly, to the northwesterly line of New Hampshire Avenue, N.W. and a northeast corner of Lot 816, Square 114; thence running with the northwesterly line of New Hampshire Avenue, N.W., southwesterly, to the north line of O Street, N.W.; thence running with the north line of O Street, N.W., west, to the east line of 20th Street, N.W.; thence running with the east line of 20th Street, N.W., north, to the east extension of the south line of Lot 99, Square 96; thence running through 20th Street, N.W., with the east extension, and along the south line of Lot 99, Square 96, and its west extension, west, to the east line of Lot 44, Square 96; thence running with the east line of Lot 44, Square 96, south, to the south line of the lot; thence running along the south lines of Lots 44, 43, 42, and 41, Square 96, and across Hopkins Street, N.W., and along the south lines of Lot 21, 20, 19, 18, 17, and 104, Square 96, and across 21st Street, N.W., and along the south line of Lot 93, Square 68, west, to an east line of Lot 96, Square 68; thence running with an east line of the Lot 96, Square 68, south, to a south line of the lot; thence running with the south line of Lot 96, Square 68, west, to a break in the south boundary of the lot; thence continuing along a south line of Lot 96, Square 68, northwesterly, to a break in the south boundary of the lot; thence continuing along a south line of Lot 96, Square 68, and the south line of Lot 76, Square 68, and its west extension, west, to the east line of Lot 88, Square 68; thence running with the east line of Lot 88, Square 68, and its south extension across a 30-foot public alley in Square 68, south, to the northeast corner of Lot 818, Square 68; thence running with a north line of Lot 818, Square 68, west, to a break in the north boundary of Lot 818, Square 68; thence continuing along a north line of Lot 818, Square 68, south, to a break in the north boundary of Lot 818, Square 68; thence running with a north line of Lot 818, Square 68, and the north line of Lot 86, Square 68, west, to the east line of 22nd Street, N.W.; thence running with the east line of 22nd Street, N.W., and its north extension across P Street, N.W., north, to the place of beginning.

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“(c)(1) The BID taxes for the nonexempt properties in the Dupont Circle BID shall be as follows:

“(A) Except as provided in subparagraph (B) of this paragraph, the amount that is the product of \$.09 per \$100 multiplied by the tax year’s assessed value of a particular Class 2, 3, or 4 property, up to \$70 million annually. Any amount of the tax year’s assessed value of such property above \$70 million shall be taxed in the amount that is the product of \$.02 per \$100 for the first tax year, increased by the rate of \$.005 per \$100 each tax year thereafter until the total BID tax rate is \$.09 per \$100, multiplied by the tax year’s assessed value of such property above \$70 million.

“(B) The amount of \$120 per hotel or motel room annually, for property defined under D.C. Official Code § 47-813(c-3)(3).

“(C) The amount of \$120 per unit annually of Class 1 property that contains 5 or more residential units available for rental for non-transient residential dwelling purposes that were placed in service after the effective date of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*). All other Class 1 property is exempt from this BID tax.

“(2) To the extent that a building that is subject to the BID tax is constructed pursuant to a ground lease on land that is exempt from real property taxes, the assessed value of the real property for purposes of the BID tax shall include the value of the building and the leasehold interest, possessory interest, beneficial interest, or beneficial use of the land, and the lessee or user of the land shall be assessed the corresponding BID tax, which shall be collected in the same manner as possessory interest taxes under D.C. Official Code § 47-1005.01, or as otherwise provided in this act.

“(3) A 3% annual increase in the BID taxes over the current tax year rates specified in paragraph (1) of this subsection is authorized subject to the requirements of section 8(b). Notwithstanding the annual increase authorized in this paragraph, all tax amounts shall remain fixed for the first 5 years.

“(4) BID taxes under this section shall be imposed and become effective for tax years beginning after September 30, 2018, notwithstanding any other provision to the contrary under this act.”.

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 Act, approved December

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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
April 4, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-309

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To declare, on an emergency basis, due to congressional review, that the District-owned real properties located at 1220 Maple View Place, S.E., known for tax and assessment purposes as Lot 811 in Square 5800, 1648 U Street, S.E., known for tax and assessment purposes as Lot 884 in Square 5765, 1518 W Street, S.E., known for tax and assessment purposes as Lot 814 in Square 5779, and 1326 Valley Place, S.E., known for tax and assessment purposes as Lot 849 in Square 5799, are no longer required for public purposes and to authorize the disposition of the properties to the L'Enfant Trust for the purpose of rehabilitating the properties in accordance with historic preservation standards and developing workforce housing.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Historic Anacostia Vacant Properties Surplus Declaration and Disposition Authorization Congressional Review Emergency Act of 2018".

Sec. 2. (a) Notwithstanding the requirements 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 *et seq.*), the Council declares the real properties ("Properties") located at:

- (1) Lot 811 in Square 5800;
- (2) Lot 884 in Square 5765;
- (3) Lot 814 in Square 5779; and
- (4) Lot 849 in Square 5799

are no longer required for public purposes and authorizes the disposition of the Properties to the L'Enfant Trust, as approved by the Mayor; provided, that the land shall be transferred for the purpose of renovation in accordance with historic preservation standards for use as workforce housing.

(b)(1) Title to any property identified in subsection (a) of this section for which a certificate of occupancy has not been issued within 5 years of the date of transfer from the District to the L'Enfant Trust shall revert to the District.

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(2) The District shall not assess or collect real property taxes for any property identified in subsection (a) of this section until a buyer at arm's length from the L'Enfant Trust purchases the property.

(c) As a condition of transfer, the L'Enfant Trust shall:

(1) Renovate and develop the properties as workforce housing, in accordance with historic preservation standards;

(2) Subcontract 35% of the total adjusted project budget to Certified Business Enterprises;

(3) Include in each property's sales contract and deed of conveyance a provision that requires that the individuals who purchase each property shall qualify for workforce housing and occupy the premises as their primary residence for a minimum period of 3 years; and

(4) No later than December 31, 2018, partner with a Ward 8 homebuyers program that will conduct at least 2 informational sessions for Ward 8 residents who are also first-time homebuyers.

(d) For the purposes of this act, the term "workforce housing" means housing that must be owner-occupied by low- or moderate-income households whose total income does not exceed 120% of Area Median Income, as determined by the U.S. Department of Housing and Urban Development.

Sec. 3. Applicability.

This act shall apply as of March 13, 2018.

Sec. 4. 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. 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), 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

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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



Mayor
District of Columbia

APPROVED
April 4, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-310

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To amend, on an emergency basis, the Not-for-Profit Hospital Corporation Establishment Amendment Act of 2011 to require the retention of electronic recordings of meetings of the Board of Directors of the Not-For-Profit Hospital Corporation (“Board”) for a minimum of 5 years, to require the Board to take all efforts reasonably necessary to recover and retain electronic recordings of its meetings as of April 1, 2013, and to require the Chairperson of the Board to inform the Council and the Director of the District of Columbia Open Government Office in writing of compliance efforts by April 1, 2018.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Preservation of Electronic Recordings of Meetings Emergency Amendment Act of 2018”.

Sec. 2. Section 5116 of the Not-for-Profit Hospital Corporation Establishment Amendment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 44-951.05), is amended by adding new subsections (d-1) and (d-2) to read as follows:

“(d-1) Electronic recordings of meetings of the Board shall be retained for a minimum of 5 years.

“(d-2)(1) The Board shall immediately undertake all efforts reasonably necessary to recover and retain electronic recordings of all meetings of the Board that have occurred as of April 1, 2013.

“(2) If the Board’s current provider of electronic recording services is incapable of retaining electronic meeting recordings for a minimum of 5 years, then the Board shall immediately utilize an alternate means of electronically recording its meetings and retaining such electronic recordings for a minimum of 5 years.

“(3) By April 1, 2018, the Chairperson of the Board shall provide a written update to the Council of the District of Columbia and the Director of the District of Columbia Open Government Office regarding its progress in complying with paragraphs (1) and (2) of this subsection.”.

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Sec. 3. 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. 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), 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



Mayor
District of Columbia

APPROVED
April 4, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-311

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 4, 2018

To amend, on an emergency basis, the District of Columbia Mental Health Information Act of 1978 to permit the disclosure of mental health information by a third-party payor to a health care provider in certain enumerated instances, to require a health care provider to notify clients whether its third-party payor’s privacy practices permit the disclosure of mental health information, and to allow clients to prevent the disclosure of mental information by a third-party payor upon request.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Mental Health Information Disclosure Emergency Amendment Act of 2018”.

Sec. 2. Section 301 of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1203.01), is amended as follows:

(a) Subsection (b) is amended as follows:

(1) Strike the phrase “a health care provider” and insert the phrase “a health care provider or its third-party payor” in its place.

(2) Strike the phrase “case management, or rehabilitation of a health or mental disorder” and insert the phrase “case management, conduct of quality assessment and improvement activities, or rehabilitation of a health or mental disorder” in its place.

(b) Subsection (c) is amended as follows:

(1) Paragraph (1)(A) is amended by striking the phrase “Whether the health care provider’s” and inserting the phrase “Whether the health care provider or its third-party payor’s” in its place.

(2) Paragraph (2) is amended by striking the phrase “the health care provider” and inserting the phrase “the health care provider or its third-party payor” in its place.

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Sec. 3. 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. 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), 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



Mayor
District of Columbia

APPROVED
April 4, 2018

AN ACT

D.C. ACT 22-312

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 6, 2018

To establish a Senior Dental Services Program to be administered by the Department of Health to provide diagnostic, preventive, and restorative dental health care services to senior citizens 65 years of age or older who are domiciled in the District and have an annual household adjusted gross income of no more than \$100,000.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Senior Dental Services Program Act of 2018".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Covered dental health care services" means diagnostic, preventive, and restorative dental health care services.
- (2) "DOH" means the Department of Health.
- (3) "SDSP" means the Senior Dental Services Program established by section 3.

Sec. 3. Senior Dental Services Program.

(a) There is established the Senior Dental Services Program, which shall be administered by the Department of Health, in consultation with the Office on Aging, to provide free covered dental health care services to senior citizens 65 years of age or older who are domiciled in the District and have an annual household adjusted gross income of no more than \$100,000.

(b) Under the SDSP, DOH shall award grants to provide maximum flexibility to private-practice dental health care providers to promote the health and welfare of low-income senior citizens.

(c) DOH shall provide grantees with the grant funds within 30 days after DOH approves a grant application.

(d) Dental health care providers shall:

- (1) Submit a grant application on the form developed by DOH; and
- (2) Maintain records of eligible senior citizens served, covered dental health care services provided, and moneys spent for a minimum of 6 years.

(e) To receive covered dental health care services, a senior citizen shall complete a SDSP application certifying that the senior citizen:

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- (1) Is domiciled in the District of Columbia;
 - (2) Is 65 years of age or older; and
 - (3) Has an annual household adjusted gross income of no more than \$100,000.
- (f) The SDSP shall be funded from the following sources:
- (1) In Fiscal Year 2019, \$500,000 in recurring local funds;
 - (2) Federal grants; and
 - (3) Private donations.
- (g) Money in the SDSP shall be used to implement and operate the SDSP.

Sec. 4. Annual report.

By January 1, 2020, and on an annual basis thereafter, DOH shall transmit a report to the Mayor and the Council regarding the performance of the SDSP in the prior fiscal year.

Sec. 5. Rules.

DOH, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to govern the award and administration of grants consistent with this act and the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*).

Sec. 6. 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.

(c)(1) The Budget Director shall cause the notice of the 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. 7. 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. 8. Effective date.

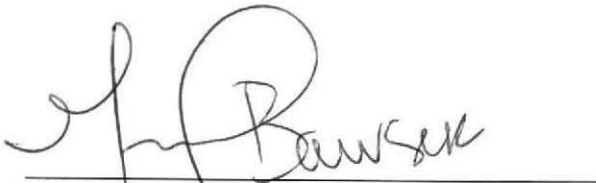
The act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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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
April 6, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-313

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 6, 2018

To enact into law and enter the Interstate Medical Licensure Compact with other member jurisdictions to permit physicians to obtain an expedited license to practice medicine in member jurisdictions, to set forth procedures for a physician to apply to receive an expedited license, to impose fees for the issuance of an expedited license, to provide for the renewal of an expedited license, to require the establishment of a database of physicians who have applied for an expedited license, to provide for the conduct of joint investigations by boards of medicine in member jurisdictions, to provide for disciplinary actions against physicians granted an expedited license, to establish the Interstate Medical Licensure Compact Commission, to define the powers and duties of the Commission, to provide for the operations of the Commission, to provide for the oversight of the Commission, to authorize the Commission to enforce rules and provisions of the Compact, to provide for the resolution of disputes among member jurisdictions, and to outline the criteria and procedures for withdrawal from the Compact; to authorize the Mayor to appoint commissioners to the Commission and the Department of Health to conduct criminal background checks on behalf of the District of Columbia Board of Medicine; and to make a conforming amendment to the Confirmation Act of 1978.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Interstate Medical Licensure Compact Enactment Act of 2018”.

Sec. 2. The Interstate Medical Licensure Compact is enacted into law and entered into by the District of Columbia with all other jurisdictions legally joining therein in the form substantially as follows:

“Sec. 1. Purpose.

“In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact (“Compact”) have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby

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enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

“Sec. 2. Definitions.

“In this Compact:

“(1) “Bylaws” means those bylaws established by the interstate commission pursuant to section 11 of the Compact for its governance, or for directing and controlling its actions and conduct.

“(2) “Commissioner” means the voting representative appointed by each member board pursuant to section 11 of the Compact.

“(3) “Conviction” means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

“(4) “Expedited license” means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.

“(5) “Interstate commission” means the interstate commission created pursuant to Section 11 of the Compact.

“(6) “License” means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

“(7) “Medical practice act” means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

“(8) “Member board” means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

“(9) “Member state” means a state that has enacted the Compact.

“(10) “Practice of medicine” means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

“(11) “Physician” means any person who:

“(A) Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;

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“(B) Passed each component of the United States Medical Licensing Examination (“USMLE”) or the Comprehensive Osteopathic Medical Licensing Examination (“COMLEX-USA”) within 3 attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

“(C) Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

“(D) Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

“(E) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

“(F) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

“(G) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;

“(H) Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and

“(I) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

“(12) “Offense” means a felony, gross misdemeanor, or crime of moral turpitude.

“(13) “Rule” means a written statement by the interstate commission promulgated pursuant to section 12 of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

“(14) “State” means any state, commonwealth, district, or territory of the United States.

“(15) “State of principal license” means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

“Sec. 3. Eligibility.

“(a) A physician must meet the eligibility requirements as defined in section 2(11) of the Compact to receive an expedited license under the terms and provisions of the Compact.

“(b) A physician who does not meet the requirements of section 2(11) of the Compact may obtain a license to practice medicine in a member state if the individual complies with all

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laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

“Sec. 4. Designation of state of principal license.

“(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

“(1) The state of primary residence for the physician;

“(2) The state where at least 25% of the practice of medicine occurs;

“(3) The location of the physician’s employer; or

“(4) If no state qualifies under paragraph (1), (2), or (3) of this subsection, the state designated as state of residence for purpose of federal income tax.

“(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a) of this section.

“(c) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

“Sec. 5. Application and issuance of expedited licensure.

“(a) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

“(b)(1) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician’s eligibility, to the interstate commission.

“(2) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

“(3) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202.

“(4) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the laws of that state.

“(c) Upon verification in subsection (b) of this section, physicians eligible for an expedited license shall complete the registration process established by the interstate commission

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to receive a license in a member state selected pursuant to subsection (a) of this section, including the payment of any applicable fees.

“(d) After receiving verification of eligibility under subsection (b) of this section and any fees under subsection (c) of this section, a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

“(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

“(f) An expedited license obtained though the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

“(g) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

“Sec. 6. Fees for expedited licensure.

“(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

“(b) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

“Sec. 7. Renewal and continued participation.

“(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

“(1) Maintains a full and unrestricted license in a state of principal license;

“(2) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

“(3) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and

“(4) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

“(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

“(c) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

“(d) Upon receipt of any renewal fees collected in subsection (c) of this section, a member board shall renew the physician's license.

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“(e) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

“(f) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

“Sec. 8. Coordinated information system.

“(a) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under section 5 of the Compact.

“(b) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

“(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

“(d) Member boards may report any nonpublic complaint, disciplinary, or investigatory information not required by subsection (c) of this section to the interstate commission.

“(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

“(f) All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

“(g) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

“Sec. 9. Joint investigations.

“(a) Licensure and disciplinary records of physicians are deemed investigative.

“(b) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

“(c) A subpoena issued by a member state shall be enforceable in other member states.

“(d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

“(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

“Sec. 10. Disciplinary actions.

“(a) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

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“(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician’s license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

“(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

“(1) Impose the same or lesser sanction(s) against the physician so long as such sanctions are consistent with the medical practice act of that state; or

“(2) Pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

“(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for 90 days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day suspension period in a manner consistent with the medical practice act of that state.

“Sec. 11. Interstate medical licensure compact commission.

“(a) The member states hereby create the “Interstate Medical Licensure Compact Commission”.

“(b) The purpose of the interstate commission is the administration of the Compact, which is a discretionary state function.

“(c) The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the Compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

“(d) The interstate commission shall consist of 2 voting representatives appointed by each member state who shall serve as Commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A Commissioner shall be:

“(1) An allopathic or osteopathic physician appointed to a member board;

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“(2) An executive director, executive secretary, or similar executive of a member board; or

“(3) A member of the public appointed to a member board.

“(e) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

“(f) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

“(g) Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d) of this section.

“(h) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to:

“(1) Relate solely to the internal personnel practices and procedures of the interstate commission;

“(2) Discuss matters specifically exempted from disclosure by federal statute;

“(3) Discuss trade secrets, commercial, or financial information that is privileged or confidential;

“(4) Involve accusing a person of a crime, or formally censuring a person;

“(5) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

“(6) Discuss investigative records compiled for law enforcement purposes; or

“(7) Specifically relate to the participation in a civil action or other legal proceeding.

“(i) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

“(j) The interstate commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.

“(k) The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee

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shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the Compact including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as necessary.

“(1) The interstate commission may establish other committees for governance and administration of the Compact.

“Sec. 12. Powers and duties of the interstate commission.

“The interstate commission shall have the duty and power to:

“(1) Oversee and maintain the administration of the Compact;

“(2) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact;

“(3) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions;

“(4) Enforce compliance with Compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

“(5) Establish and appoint committees including, but not limited to, an executive committee as required by section 11 of the Compact, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;

“(6) Pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the interstate commission;

“(7) Establish and maintain one or more offices;

“(8) Borrow, accept, hire, or contract for services of personnel;

“(9) Purchase and maintain insurance and bonds;

“(10) Employ an executive director who shall have such powers to employ, select or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;

“(11) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

“(12) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;

“(13) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed;

“(14) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

“(15) Establish a budget and make expenditures;

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“(16) Adopt a seal and bylaws governing the management and operation of the interstate commission;

“(17) Report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;

“(18) Coordinate education, training, and public awareness regarding the Compact, its implementation, and its operation;

“(19) Maintain records in accordance with the bylaws;

“(20) Seek and obtain trademarks, copyrights, and patents; and

“(21) Perform such functions as may be necessary or appropriate to achieve the purposes of the Compact.

“Sec. 13. Finance powers.

“(a) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

“(b) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

“(c) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

“(d) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

“Sec. 14. Organization and operation of the interstate commission.

“(a) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within 12 months of the first interstate commission meeting.

“(b) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

“(c) Officers selected in subsection (b) of this section shall serve without remuneration from the interstate commission.

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“(d)(1) The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities, provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

“(2) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this paragraph shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

“(3) The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

“(4) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

“Sec. 15. Rulemaking functions of the interstate commission.

“(a) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope

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of the purposes of the Compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

“(b) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the “Model State Administrative Procedure Act” of 2010, and subsequent amendments thereto.

“(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

“Sec. 16. Oversight of interstate compact.

“(a) The executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact’s purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

“(b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities or actions of the interstate commission.

“(c) The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the Compact, or promulgated rules.

“Sec. 17. Enforcement of interstate compact.

“(a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

“(b) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney’s fees.

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“(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

“Sec. 18. Default procedures.

“(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the interstate commission promulgated under the Compact.

“(b) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the interstate commission shall:

“(1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

“(2) Provide remedial training and specific technical assistance regarding the default.

“(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the commissioners and all rights, privileges, and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

“(d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

“(e) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

“(f) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

“(g) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

“(h) The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

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“Sec. 19. Dispute resolution.

“(a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.

“(b) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

“Sec. 20. Member states, effective date and amendment.

“(a) Any state is eligible to become a member state of the Compact.

“(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 7 states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

“(c) The governors of nonmember states, or their designees, shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the Compact by all states.

“(d) The interstate commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

“Sec. 21. Withdrawal.

“(a) Once effective, the Compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.

“(b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

“(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

“(d) The interstate commission shall notify the other member states of the withdrawing state’s intent to withdraw within 60 days of its receipt of notice provided under subsection (c) of this section.

“(e) The withdrawing state is responsible for all dues, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

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“(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the interstate commission.

“(g) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

“Sec. 22. Dissolution.

“(a) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one member state.

“(b) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

“Sec. 23. Severability and construction.

“(a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

“(b) The provisions of the Compact shall be liberally construed to effectuate its purposes.

“(c) Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

“Sec. 24. Binding effect of compact and other laws.

“(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

“(b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

“(c) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

“(d) All agreements between the interstate commission and the member states are binding in accordance with their terms.

“(e) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.”.

Sec. 3. (a) The Mayor is authorized to appoint, with the advice and consent of the Council pursuant to section 2(f) of the Confirmation Act of 1978, effective March 3, 1979, (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)), 2 commissioners to the Interstate Medical Licensure Compact Commission, pursuant to section 11(d) of the Interstate Medical Licensure Compact (“Compact”), enacted and entered into pursuant to section 2, and one alternate

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commissioner, who may exercise voting authority in the absence of one of the District's commissioners, pursuant to section 11(g) of the Compact.

(b) The Department of Health is authorized to conduct the criminal background checks required to be conducted by the District of Columbia Board of Medicine by section 5(b)(2) of the Compact.

Sec. 4. Pursuant to the requirements of 31 U.S.C. §§ 1341, 1342, 1349 to 1351, and 1511 to 1519, and D.C. Official Code §§ 47-105 and 47-355.01 to 355.08, nothing in the Interstate Medical Licensure Compact ("Compact") creates an obligation of the District in anticipation of an appropriation for such purpose, and the District's legal liability for the payment of any amount under the Compact does not and may not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year.

Sec. 5. Section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)), is amended as follows:

(a) Paragraph (54) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(b) Paragraph (55) is amended by striking the period and inserting a semicolon in its place.

(c) Paragraph (56) is amended by striking the period and inserting the phrase "; and" in its place.

(d) A new paragraph (57) is added to read as follows:

"(57) The Interstate Medical Licensure Compact Commission established by section 2 of the Interstate Medical Licensure Compact Enactment Act of 2018, passed on 2nd reading on March 6, 2018 (Enrolled version of Bill 22-177)."

Sec. 6. 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. 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), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

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
April 6, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-314

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 6, 2018

To amend the Nurse Staffing Agency Act of 2003 to clarify that a business that offers only a registry of nursing personnel for employment is not required to be licensed as a nurse staffing agency.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Nurse Staffing Agency Amendment Act of 2018".

Sec. 2. The Nurse Staffing Agency Act of 2003, effective March 10, 2004 (D.C. Law 15-74; D.C. Official Code § 44-1051.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 44-1051.02) is amended as follows:

(1) Paragraph (3) is amended by striking the phrase "provision or referral" and inserting the word "provision" in its place.

(2) Paragraph (7) is amended as follows:

(A) Strike the phrase "providing or referring" and insert the word "providing" in its place.

(B) Strike the phrase "temporary nursing services" and insert the phrase "temporary nursing personnel" in its place.

(b) Section 3 (D.C. Official Code § 44-1051.03) is amended as follows:

(1) Strike the phrase "providing or referring" and insert the word "providing" in its place.

(2) Strike the phrase "services or related aide services" and insert the phrase "related aide personnel" in its place.

(c) Section 6(b) (D.C. Official Code § 44-1051.06(b)) is amended by striking the phrase "providing and referring" and inserting the word "providing" in its place.

(d) Section 11 (D.C. Official Code § 44-1051.11) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Strike the phrase "providing or referring" and insert the word "providing" in its place.

(B) Strike the phrase "temporary nursing services" and insert the phrase "temporary nursing personnel" in its place.

(2) Subsection (b) is amended by striking the phrase "provided or referred" wherever it appears and inserting the word "provided" in its place.

ENROLLED ORIGINAL

(e) Section 12 (D.C. Official Code § 44-1051.12) is amended as follows:

(1) Strike the phrase “providing or referring” and insert the word “providing” in its place.

(2) Strike the phrase “personal care services” and insert the word “personal care aide personnel” in its place.

(3) Strike the phrase “provided or referred” and insert the word “provided” in its place.

(f) Section 13 (D.C. Official Code § 44-1051.13) is amended as follows:

(1) Strike the phrase “provide or refer” and insert the word “provide” in its place.

(2) Strike the phrase “temporary nursing services” and insert the phrase “temporary nursing personnel” in its place.

(3) Strike the phrase “provided or referred” and insert the word “provided” in its place.

(g) Section 14 (D.C. Official Code § 44-1051.14) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “provided or referred” and inserting the word “provided” in its place.

(2) Subsection (b) is amended to read as follows:

“(b) If a nurse staffing agency terminates a Certified Nurse Aide due to unsafe practice pursuant to the Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), or Chapter 32 of Title 29 of the District of Columbia Municipal Regulations, the agency shall report the action to the Board within 10 days of the termination.”

(h) Section 15 (D.C. Official Code § 44-1051.15) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “provided or referred” and inserting the word “provided” in its place.

(2) Paragraph (2) is amended by striking the phrase “provided or referred” and inserting the word “provided” in its place.

(3) Paragraph (4) is amended by striking the phrase “providing or referring” and inserting the word “providing” in its place.

(4) Paragraph (5) is amended as follows:

(A) Strike the phrase “provided or referred” and insert the word “provided” in its place.

(B) Strike the phrase “providing or referring” and insert the word “providing” in its place.

(5) Paragraph (6) is amended by striking the phrase “providing or referring” and inserting the word “providing” in its place.

(6) Paragraph (8) is amended by striking the phrase “provided or referred” wherever it appears and inserting the word “provided” in its place.

(7) Paragraph (9) is amended by striking “provided or referred” wherever it appears and inserting the word “provided” in its place.

(8) Paragraph (10) is amended as follows:

(A) Strike the phrase “provided or referred” and insert the word “provided” in its place.

ENROLLED ORIGINAL

(B) Strike the phrase "before being referred" and insert the phrase "before being provided" in its place.

(i) Section 16 (D.C. Official Code § 44-1051.16) is amended as follows:

(1) Subsection (b)(1) is amended as follows:

(A) Strike the phrase "provided or referred" and insert the word "provided" in its place.

(B) Strike the phrase "temporary nursing services" and insert the phrase "temporary nursing personnel" in its place.

(2) Subsection (c) is amended by striking the phrase "provided or referred" and inserting the word "provided" 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 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
April 6, 2018

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**

B22-764 Franklin School Real Property Tax Exemption Amendment Act of 2018

Intro. 3-29-18 by Councilmember Evans and referred to the Committee on Finance and Revenue

B22-766 Substance Abuse and Opioid Overdose Prevention Amendment Act of 2018

Intro. 4-9-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PROPOSED RESOLUTIONS

PR22-814 District of Columbia Sentencing Commission Molly M. Gill Reappointment Resolution of 2018

Intro. 3-27-18 by Chairman Mendelson and referred to the Committee of the Whole

PR22-815	Citizen Review Panel Elizabeth Corson Mohler Appointment Resolution of 2018 Intro. 3-28-18 by Chairman Mendelson and referred to the Committee of the Whole
PR22-816	Contract 22-440 Disapproval Resolution of 2018 Intro. 4-6-18 by Councilmembers T. White, Grosso, and McDuffie and Retained by the Council
PR22-818	Washington International School Refunding Revenue Bonds Project Approval Resolution of 2018 Intro. 4-9-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
PR22-819	Georgetown Day School Revenue Bonds Project Approval Resolution of 2018 Intro. 4-9-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
PR22-820	Board of Architecture, Interior Design, and Landscape Architecture Patrick X. Williams Confirmation Resolution of 2018 Intro. 4-9-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-821	Board of Barber and Cosmetology Kandace P. Murray Confirmation Resolution of 2018 Intro. 4-9-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
PR22-822	Board of Barber and Cosmetology Cedrica Edwards Confirmation Resolution of 2018 Intro. 4-9-18 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development

PR22-823 Stack Eight Project Disposition Approval Resolution of 2018
Intro. 4-9-18 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Business and Economic Development

PR22-824 District of Columbia Corrections Information Council Governing Board
Nkechi Taifa Appointment Resolution of 2018
Intro. 4-9-18 by Chairman Mendelson and referred to the Committee of the
Whole

**Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Hearing**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCES A PUBLIC HEARING ON:

**Bill 22-453, the “Nonprofit Stormwater Infrastructure Incentive Amendment Act of 2017”
Bill 22-759, the “14th Street NW International House of Pancakes Real Property Tax Exemption
Act of 2018”**

**Bill 22-760, the “Alabama Avenue International House of Pancakes Real Property Tax
Exemption Act of 2018”**

Bill 22-761, the “Golden Triangle Business Improvement District Amendment Act of 2018”

Bill 22-764, the “Franklin School Real Property Tax Exemption Amendment Act of 2018”

Monday, April 30, 2018

10:00 a.m.

Room 120 - John A. Wilson Building

1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing to be held on Monday, April 30th, 2018 at 10:00 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 22-453, the “Nonprofit Stormwater Infrastructure Incentive Amendment Act of 2017” would provide that a tax-exempt entity shall not lose its tax-exempt status if its grounds are used to generate stormwater retention credits.

Bill 22-759, the “14th Street, NW International House of Pancakes Real Property Tax Exemption Act of 2018” would amend Chapter 46 of the District of Columbia Official Code to provide for a real property tax exemption for DC Pancakes, LLC, located at 3100 14th Street, N.W., #109 in Lot 2001, Square 2674.

Bill 22-760, the “Alabama Avenue International House of Pancakes Real Property Tax Exemption Act of 2018” would amend section 47-4650 of the District of Columbia Official Code to exempt from taxation certain property of CHR LLC William C. Smith & Co. located at 1523 Alabama Ave SE, Washington, DC 20032 described as Lot 819, Square 5912.

Bill 22-761, the “Golden Triangle Business Improvement District Amendment Act of 2018” would amend the Business Improvement Districts Act of 1996 to add designated properties to the Golden Triangle BID, to revise the rates of assessment, and to establish the residential tax rate for residential members of the Golden Triangle Business Improvement District.

Bill 22-764, the “Franklin School Real Property Tax Exemption Amendment Act of 2018” would amend Chapter 46 of Title 47 of the District of Columbia Official code to exempt the property located at 925 13th Street, N.W., known as the Franklin School and described as Lot 808 in Square 285, from real property taxation and possessory interest taxation for a specified period as long as the property is developed, constructed, and operated a museum of language of language arts.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Friday, April 27, 2018. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B22-763, Southwest Waterfront Exemption Temporary Amendment Act of 2018, and **B22-774**, Medical Marijuana Certified Business Enterprise Preference Temporary Amendment Act of 2018 were adopted on first reading on April 10, 2018. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on May 1, 2018.

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT DISAPPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to disapprove CA 22-440, proposed loan agreement between the Department of Housing and Community Development (DHCD) and Manna, Inc., from the Housing Production Trust Fund (HPTF) in the amount of \$1,744,021 to finance cost associated with the construction of 12 new townhouses located at 2200-2210 Hunter Place, S.E., Washington, D.C., in Ward 8 was filed in the Office of the Secretary on March 27, 2018.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 22-816: Contract 22-440 Disapproval Resolution of 2018

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

Pursuant to the Consolidated Appropriations Act of 2017, approved May 5, 2017 (P.L. 115-31), the Council of the District of Columbia gives notice that the Mayor has transmitted the following Grant Budget Modification (GBM).

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

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

GBM 22-76: FY 2018 Grant Budget Modifications as of March 9, 2018

RECEIVED: 14 day review begins April 10, 2018

GBM 22-77: FY 2018 Grant Budget Modifications as of March 14, 2018

RECEIVED: 14 day review begins April 10, 2018

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 22-116 Request to reprogram \$28,995,171 of Capital funds budget authority and allotment within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary on April 9, 2018. This reprogramming is needed to fund Major repairs/Maintenance, Ballou HS Modernization, Bruce Monroe & Park View ES Modernization, Orr ES Modernization, Garrison ES Modernization, Maury ER Modernization and Houston ES Modernization capital projects.

RECEIVED: 14 day review begins April 10, 2018

Reprog. 22-117 Request to reprogram \$2,000,000 of Capital funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of the Secretary on April 9, 2018. This reprogramming is needed to support the D.C. Powerline Undergrounding (DCPLUG) initiative.

RECEIVED: 14 day review begins April 10, 2018

Reprog. 22-118

Request to reprogram \$2,219,130 of Pay-As-You-Go (Paygo) Capital funds budget authority and allotment from the District Department of Transportation (DDOT) to the Reverse Pay-As-You-Go (Paygo) Capital project and subsequently to the Local funds budgets of the Office of the City Administrator (OCA) and the Department of General Services (DGS) was filed in the Office of the Secretary on April 9, 2018. This reprogramming is necessary to support the cost of consulting services for the evaluation of the Daily Building Modernization as a Public-Private Partnership.

RECEIVED: 14 day review begins April 10, 2018

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-090132

License Class/Type: A / Retail - Liquor Store

Applicant: Morris Miller Inc

Trade Name: Morris Miller Liquors

ANC: 4A02

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

7804 ALASKA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11am - 7pm	11am - 7pm
Monday:	9am - 9pm	9am - 9pm
Tuesday:	9am - 9pm	9am - 9pm
Wednesday:	9am - 9pm	9am - 9pm
Thursday:	9am - 9pm	9am - 9pm
Friday:	9am - 9pm	9am - 9pm
Saturday:	9am - 9pm	9am - 9pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-090270

License Class/Type: A / Retail - Liquor Store

Applicant: Lucky 7, LLC

Trade Name: LUCKY 7 LIQUOR

ANC: 5C07

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

2314 RHODE ISLAND AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-097252

License Class/Type: A / Retail - Liquor Store

Applicant: S. R. Brothers, Inc

Trade Name: S & R Liquors

ANC: 2B06

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

1015 18TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	Closed -	Closed -
Monday:	10 am - 10 pm	10 am - 10 pm
Tuesday:	10 am - 10 pm	10 am - 10 pm
Wednesday:	10 am - 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 - 8 pm	10 am - 8 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-014553

License Class/Type: A / Retail - Liquor Store

Applicant: Ace Beverages of Washington DC, Inc.

Trade Name: Ace Beverage

ANC: 3D08

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

3301 NEW MEXICO AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	-	-
Monday:	9 am - 7 pm	9 am - 7 pm
Tuesday:	9 am - 7 pm	9 am - 7 pm
Wednesday:	9 am - 7 pm	9 am - 7 pm
Thursday:	9 am - 7 pm	9 am - 7 pm
Friday:	9 am - 7 pm	9 am - 7 pm
Saturday:	9 am - 5 pm	9 am - 5 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-105842

License Class/Type: A / Retail - Liquor Store

Applicant: FB Liquors, LLC

Trade Name: FB Liquors

ANC: 1B02

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

1905 9TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 12 am	10 am - 12 am
Monday:	10 am - 12 am	10 am - 12 am
Tuesday:	10 am - 12 am	10 am - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am
Thursday:	10 am - 12 am	10 am - 12 am
Friday:	10 am - 12 am	10 am - 12 am
Saturday:	10 am - 12 am	10 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-091013

License Class/Type: A / Retail - Liquor Store

Applicant: Sedona, Inc.

Trade Name: McReynold's Liquors

ANC: 2A08

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

1776 G ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 10 pm	11 am - 10 pm
Monday:	9 am - 11 pm	9 am - 11 pm
Tuesday:	9 am - 11 pm	9 am - 11 pm
Wednesday:	9 am - 11 pm	9 am - 11 pm
Thursday:	9 am - 11 pm	9 am - 11 pm
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
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-100341

License Class/Type: A / Retail - Liquor Store

Applicant: Wardman Wines, LLC

Trade Name: Wardman Wines

ANC: 5E01

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

625 Monroe ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	9 am - 10 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-089012

License Class/Type: A / Retail - Liquor Store

Applicant: Cork & Bottle Incorporated

Trade Name: Cork N Bottle Wine & Spirits

ANC: 4B01

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

7421 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 9 pm	10 am - 9 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
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
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-060351

License Class/Type: A / Retail - Liquor Store

Applicant: DK, Corporation

Trade Name: Joe Caplan Liquors

ANC: 1B01

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

1913 7TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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:	7 am - 12 am	7 am - 12 am
Tuesday:	7 am - 12am	7 am - 12 am
Wednesday:	7 am - 12 am	7 am - 12 am
Thursday:	7 am - 12 am	7 am - 12 am
Friday:	7 am - 12 am	7 am - 12 am
Saturday:	7 am - 12 am	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-060242

License Class/Type: A / Retail - Liquor Store

Applicant: Venus Indo Services, Inc.

Trade Name: Pan Mar Liquors

ANC: 2B06

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

1926 I ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-103150

License Class/Type: A / Retail - Liquor Store

Applicant: Noma Spirits and Wines, Inc.

Trade Name: Oasis Market

ANC: 6C06

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

1179 3RD ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-101261

License Class/Type: A / Internet

Applicant: GoBrands, Inc.

Trade Name: Go Puff - Rive

ANC: 2E05

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

3401 WATER ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-104222

License Class/Type: A / Retail - Liquor Store

Applicant: Michigan Liquors LLC

Trade Name: Michigan Liquors

ANC: 5B05

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

3934 12th ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-101097

License Class/Type: A / Retail - Liquor Store

Applicant: Watergate Liquors, LLC

Trade Name: Watergate Vintners & Spirits

ANC: 2A04

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

2544 VIRGINIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	8 am - 10 pm
Monday:	8 am - 10 pm	8 am - 10 pm
Tuesday:	8 am - 10 pm	8 am - 10 pm
Wednesday:	8 am - 10 pm	8 am - 10 pm
Thursday:	8 am - 10 pm	8 am - 10 pm
Friday:	8 am - 10 pm	8 am - 10 pm
Saturday:	8 am - 10 pm	8 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-000010

License Class/Type: A / Retail - Liquor Store

Applicant: Pauls Liquors Inc.

Trade Name: Pauls Discount Wine & Liquor

ANC: 3E04

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

5205 WISCONSIN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 6 pm	10 am - 6 pm
Monday:	7:30 am - 9 pm	7:30 am - 9 pm
Tuesday:	7:30 am - 9 pm	7:30 am - 9 pm
Wednesday:	7:30 am - 9 pm	7:30 am - 9 pm
Thursday:	7:30 am - 9 pm	7:30 am - 9 pm
Friday:	7:30 am - 9 pm	7:30 am - 9 pm
Saturday:	7:30 am - 9 pm	7:30 am - 9 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-021972

License Class/Type: A / Retail - Liquor Store

Applicant: Three Way Liquors, Inc.

Trade Name: Three Way Liquors Inc

ANC: 4D06

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

4823 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	-	-
Monday:	10 am - 9 pm	10 am - 9 pm
Tuesday:	10 am - 9 pm	10 am - 9 pm
Wednesday:	10 am - 9 pm	10 am - 9 pm
Thursday:	10 am - 9 pm	10 am - 9 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
4/13/2018

Notice is hereby given that:

License Number: ABRA-084582

License Class/Type: A / Retail - Liquor Store

Applicant: Medhanie Weldegergish

Trade Name: 1618 Liquor and Grocery Cold Beer and Wine

ANC: 6E01

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

1618 8th ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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	10 am - 9 pm
Monday:	8 am - 12 am	9 am - 9 pm
Tuesday:	8 am - 12 am	9 am - 9 pm
Wednesday:	8 am - 12 am	9 am - 9 pm
Thursday:	8 am - 12 am	9 am - 9 pm
Friday:	8 am - 12 am	9 am - 9 pm
Saturday:	8 am - 12 am	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-025523

License Class/Type: A / Retail - Liquor Store

Applicant: Bhuller's Corporation

Trade Name: JJ Mutt Wine & Spirits

ANC: 6B02

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

643 PENNSYLVANIA AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 9:30 pm	10 am - 9:30 pm
Monday:	10 am - 9:30 pm	10 am - 9:30 pm
Tuesday:	10 am - 9:30 pm	10 am - 9:30 pm
Wednesday:	10 am - 9:30 pm	10 am - 9:30 pm
Thursday:	10 am - 9:30 pm	10 am - 9:30 pm
Friday:	10 am - 9:30 pm	10 am - 9:30 pm
Saturday:	10 am - 9:30 pm	10 am - 9:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-097605

License Class/Type: A / Retail - Liquor Store

Applicant: Red Sea Inc.

Trade Name: Dennies Liquors

ANC: 7E01

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

5000 BENNING RD SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-074960

License Class/Type: A / Retail - Liquor Store

Applicant: Parki, Inc.

Trade Name: Imperial Wine & Spirits

ANC: 2B05

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

1033 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	9 am - 10 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-098255

License Class/Type: A / Retail - Liquor Store

Applicant: Big D Corporation

Trade Name: Big D Liquors

ANC: 7D06

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

4173 MINNESOTA AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 11:59 pm	9 am - 11:59 pm
Monday:	9 am - 11:59 pm	9 am - 11:59 pm
Tuesday:	9 am - 11:59 pm	9 am - 11:59 pm
Wednesday:	9 am - 11:59 pm	9 am - 11:59 pm
Thursday:	9 am - 11:59 pm	9 am - 11:59 pm
Friday:	9 am - 11:59 pm	9 am - 11:59 pm
Saturday:	9 am - 11:59 pm	9 am - 11:59 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-074594

License Class/Type: A / Retail - Liquor Store

Applicant: 18th & D Liquors, Inc.

Trade Name: Master Liquors

ANC: 6A08

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

1806 D ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-000437

License Class/Type: A / Retail - Liquor Store

Applicant: Hayden's, Inc.

Trade Name: Hayden's, Inc.

ANC: 6B02

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

700 NORTH CAROLINA AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11:00 am - 7:00 pm	11:00 am - 7:00 pm
Monday:	11:00 am - 8:30 pm	11:00 am - 8:30 pm
Tuesday:	11:00 am - 8:30 pm	11:00 am - 8:30 pm
Wednesday:	11:00 am - 8:30 pm	11:00 am - 8:30 pm
Thursday:	11:00 am - 8:30 pm	11:00 am - 8:30 pm
Friday:	11:00 am - 8:30 pm	11:00 am - 8:30 pm
Saturday:	11:00 am - 8:30 pm	11:00 am - 8:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-073781

License Class/Type: A / Retail - Liquor Store

Applicant: Bowen Enterprise, Inc.

Trade Name: Bowen Discount

ANC: 7E02

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

4510 BOWEN RD SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 9 pm	10 am - 9 pm
Monday:	10 am - 9 pm	10 am - 9 pm
Tuesday:	10 am - 9 pm	10 am - 9 pm
Wednesday:	10 am - 9 pm	10 am - 9 pm
Thursday:	10 am - 9 pm	10 am - 9 pm
Friday:	10 am - 10 pm	10 am - 10 pm
Saturday:	10 am - 10 pm	10 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-081464

License Class/Type: A / Retail - Liquor Store

Applicant: Weygandt Wines, LLC

Trade Name: Weygandt Wines

ANC: 3C04

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

3519 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	9 am - 10 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10pm	9 am - 10pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-088173

License Class/Type: A / Retail - Liquor Store

Applicant: 6220 Georgia LLC

Trade Name: Victor Liquors

ANC: 4A04

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

6220 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 12 am	9 am - 12 am
Monday:	9am - 12am	9am - 12am
Tuesday:	9am - 12am	9am - 12am
Wednesday:	9am - 12am	9am - 12am
Thursday:	9am - 12am	9am - 12am
Friday:	9am - 12am	9am - 12am
Saturday:	9am - 12am	9am - 12am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-072215

License Class/Type: A / Retail - Liquor Store

Applicant: Blue Nile Liquors, LLC

Trade Name: Rhode Island Liquor

ANC: 5C07

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

1812 HAMLIN ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-009272

License Class/Type: A / Retail - Liquor Store

Applicant: Sun Ok Kim

Trade Name: Strand Liquors

ANC: 7C06

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

605 DIVISION AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 9 pm	9 am - 9 pm
Tuesday:	9 am - 9 pm	9 am - 9 pm
Wednesday:	9 am - 9 pm	9 am - 9 pm
Thursday:	9 am - 9 pm	9 am - 9 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-096105

License Class/Type: A / Retail - Liquor Store

Applicant: Ratnakrupa, LLC

Trade Name: Peacock Liquors

ANC: 5D01

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

1625 NEW YORK AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-105273

License Class/Type: A / Retail - Liquor Store

Applicant: Iacovelli Cafe & Liquor, LLC

Trade Name: Iacovelli Cafe & Liquor

ANC: 1A08

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

3651 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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:	7 am - 10 pm	7 am - 10 pm
Tuesday:	7 am - 10 pm	7 am - 10 pm
Wednesday:	7 am - 10 pm	7 am - 10 pm
Thursday:	7 am - 10 pm	7 am - 10 pm
Friday:	7 am - 10 pm	7 am - 10 pm
Saturday:	8 am - 10 pm	8 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-072074

License Class/Type: A / Retail - Liquor Store

Applicant: Yene, Incorporated

Trade Name: Brightwood Liquors

ANC: 4A06

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

5916 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-088221

License Class/Type: A / Retail - Liquor Store

Applicant: Lion's Gate Inc

Trade Name: Lion's Fine Wine & Spirits

ANC: 1A08

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

3614 GEORGIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-089498

License Class/Type: A / Retail - Liquor Store

Applicant: Costco Wholesale Corporation

Trade Name: Costco Wholesale #1120

ANC: 5C03

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

2441 Market ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-016425

License Class/Type: A / Retail - Liquor Store

Applicant: In Soon Park

Trade Name: Cathedral Liquors

ANC: 3C03

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

3000 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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:	7 am - 12 am	7 am - 12 am
Tuesday:	7am - 12 am	7 am - 12 am
Wednesday:	7 am - 12 am	7 am - 12 am
Thursday:	7 am - 12 am	97am - 12 am
Friday:	7 am - 12 am	7 am - 12 am
Saturday:	7 am - 12 am	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-090800

License Class/Type: A / Retail - Liquor Store

Applicant: Cordial Union, LLC

Trade Name: Cordial Fine Wine and Beer

ANC: 5D01

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

1309 5TH ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	9 am - 10 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-078014

License Class/Type: A / Retail - Liquor Store

Applicant: R&P Enterprises, LLC

Trade Name: Tenley Wine & Liquors

ANC: 3E01

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

4525 Wisconsin AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	12 pm - 6 pm	12 pm - 6 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-085918

License Class/Type: A / Retail - Liquor Store

Applicant: Eun & Peter, Inc.

Trade Name: Uncle Lee's Seafood

ANC: 7C04

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

1102 EASTERN AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7:00am - 12:00am	7:00am - 12:00am
Monday:	7:00am - 12:00am	7:00am - 12:00am
Tuesday:	7:00am - 12:00am	7:00am - 12:00am
Wednesday:	7:00am - 12:00am	7:00am - 12:00am
Thursday:	7:00am - 12:00am	7:00am - 12:00am
Friday:	7:00am - 12:00am	7:00am - 12:00am
Saturday:	7:00am - 12:00am	7:00am - 12:00am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-106551

License Class/Type: A / Retail - Liquor Store

Applicant: Pako, LLC

Trade Name: Kovaks Liquors

ANC: 5D02

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

1237 MOUNT OLIVET RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-090448

License Class/Type: A / Retail - Liquor Store

Applicant: Hwan Eun

Trade Name: West End Market

ANC: 2A03

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

2424 PENNSYLVANIA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	N/A - N/A
Monday:	8 am - 12 am	9 am - 12 am
Tuesday:	8 am - 12 am	9 am - 12 am
Wednesday:	8 am - 12 am	9 am - 12 am
Thursday:	8 am - 12 am	9 am - 12 am
Friday:	8 am - 12 am	9 am - 12 am
Saturday:	8 am - 12 am	9 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-075614

License Class/Type: A / Retail - Liquor Store

Applicant: Capitol 1 DC, LLC

Trade Name: Greenway Liquors

ANC: 7F06

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

3700 MINNESOTA AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 11:30 pm	8 am - 11:30 pm
Monday:	8 am - 11:30 pm	8 am - 11:30 pm
Tuesday:	8 am - 11:30 pm	8 am - 11:30 pm
Wednesday:	8 am - 11:30 pm	8 am - 11:30 pm
Thursday:	8 am - 11:30 pm	8 am - 11:30 pm
Friday:	8 am - 11:30 pm	8 am - 11:30 pm
Saturday:	8 am - 11:30 pm	8 am - 11:30 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-102521

License Class/Type: A / Internet

Applicant: District Still, LLC

Trade Name: District Still

ANC: 5E03

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

175 R ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-104641

License Class/Type: A / Internet

Applicant: Webwines, LLC

Trade Name: Best Deals Wine

ANC: 5E03

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

175 R ST NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-085968

License Class/Type: A / Retail - Liquor Store

Applicant: GG Liquor and Wine, LLC

Trade Name: Cavalier Wine and Liquors

ANC: 1A04

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

3515 14TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-102653

License Class/Type: A / Internet

Applicant: A-Team Importers LLC

Trade Name: A - Team Importers

ANC: 3F02

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

4221 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-003730

License Class/Type: A / Retail - Liquor Store

Applicant: Woodley Wine & Liquor, Inc.

Trade Name: Calvert Woodley Wine & Liquor

ANC: 3F02

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

4339 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	8:30 am - 7 pm	8:30 am - 7 pm
Monday:	8:30 am - 9 pm	8:30 am - 9 pm
Tuesday:	8:30 am - 9 pm	8:30 am - 9 pm
Wednesday:	8:30 am - 9 pm	8:30 am - 9 pm
Thursday:	8:30 am - 9 pm	8:30 am - 9 pm
Friday:	8:30 am - 9 pm	8:30 am - 9 pm
Saturday:	8:30 am - 9 pm	8:30 am - 9 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-071312

License Class/Type: A / Retail - Liquor Store

Applicant: AKB Enterprises, Inc.

Trade Name: Gandel's Liquors

ANC: 6B01

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

211 PENNSYLVANIA AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10am - 10pm	10am - 10pm
Monday:	9am - 11pm	9am - 11 pm
Tuesday:	9am - 11pm	9am - 11pm
Wednesday:	9am - 11pm	9am - 11pm
Thursday:	9am - 11pm	9am - 11pm
Friday:	9am - 11pm	9am - 11pm
Saturday:	9am - 11pm	9am - 11pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-072213

License Class/Type: A / Retail - Liquor Store

Applicant: Universal Daruwala, LLC

Trade Name: Universal Liquors

ANC: 2B01

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

2018 FLORIDA AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 12 am	9 am - 12 am
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
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-094605

License Class/Type: A / Retail - Liquor Store

Applicant: RMG, Inc.

Trade Name: World Wine and Spirits

ANC: 6B06

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

1453 PENNSYLVANIA AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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:	10 am - 10 pm	10 am - 10 pm
Tuesday:	10 am - 10 pm	10 am - 10 pm
Wednesday:	10 am - 10 pm	10 am - 10 pm
Thursday:	10 am - 10 pm	10 am - 10 pm
Friday:	10 am - 11 pm	10 am - 11 pm
Saturday:	10 am - 11 pm	10 am - 11 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-095984

License Class/Type: A / Retail - Liquor Store

Applicant: Nine Nines Inc.

Trade Name: Bell Wine & Liquor

ANC: 2B06

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

1821 M ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 12 am	9 am - 12 am
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
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-108222

License Class/Type: A / Retail - Liquor Store

Applicant: Sammy Liquor, LLC

Trade Name: Sammy's Liquors

ANC: 5C04

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

2725 BLADENSBURG RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9:30 am - 10 pm	9:30 am - 10 pm
Monday:	9:30am - 10 pm	9:30 am - 10 pm
Tuesday:	9:30am - 10 pm	9:30 am - 10 pm
Wednesday:	9:30am - 10 pm	9:30 am - 10 pm
Thursday:	9:30am - 10 pm	9:30 am - 10 pm
Friday:	9:30am - 10 pm	9:30 am - 10 pm
Saturday:	9:30am - 10 pm	9:30 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-077016

License Class/Type: A / Retail - Liquor Store

Applicant: WJ Globe, Inc.

Trade Name: Young's Globe Liquors

ANC: 7E04

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

4520 BENNING RD SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 11 pm	9 am - 11 pm
Monday:	9 am - 11 pm	9 am - 11 pm
Tuesday:	9 am - 11 pm	9 am - 11 pm
Wednesday:	9 am - 11 pm	9 am - 11 pm
Thursday:	9 am - 11 pm	9 am - 11 pm
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
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-086200

License Class/Type: A / Retail - Liquor Store

Applicant: Yonas, Inc.

Trade Name: Corner Market

ANC: 8A07

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

1447 Howard RD SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-100880

License Class/Type: A / Retail - Liquor Store

Applicant: Wisconsin Ave Imports LLC

Trade Name: Pearson's Wine and Spirits

ANC: 3B02

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

2436 WISCONSIN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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:	10 am - 10 pm	10 am - 10 pm
Tuesday:	10 am - 10 pm	10 am - 10 pm
Wednesday:	10 am - 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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-000301

License Class/Type: A / Retail - Liquor Store

Applicant: Lee-Irving Liquor, Inc.

Trade Name: Irving Wine & Spirits

ANC: 1D04

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

3100 MT PLEASANT ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	9 am - 10 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 11 pm	9 am - 11 pm
Saturday:	9 am - 11 pm	9 am - 11 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-096780

License Class/Type: A / Retail - Liquor Store

Applicant: Hugomar, LLC

Trade Name: Wide World Of Wines

ANC: 3B02

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

2201 WISCONSIN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 5 pm	10 am - 5 pm
Monday:	10 am - 9 pm	10 am - 9 pm
Tuesday:	10 am - 9 pm	10 am - 9 pm
Wednesday:	10 am - 9 pm	10 am - 9 pm
Thursday:	10 am - 9 pm	10 am - 9 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-070948

License Class/Type: A / Retail - Liquor Store

Applicant: JCP Liquors, Inc.

Trade Name: Seymours Liquors

ANC: 7E06

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

5581 CENTRAL AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 12 am	9 am - 12 am
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
4/13/2018

Notice is hereby given that:

License Number: ABRA-016866

License Class/Type: A / Retail - Liquor Store

Applicant: 4652 Livingston, Inc.

Trade Name: South Capitol Liquors

ANC: 8D02

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

4652 LIVINGSTON RD SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9:30am - 10pm	9:30am - 10pm
Monday:	9:30am - 10pm	9:30am - 10pm
Tuesday:	9:30am - 10pm	9:30am - 10pm
Wednesday:	9:30am - 10pm	9:30am - 10pm
Thursday:	9:30am - 10pm	9:30am - 10pm
Friday:	9:30 am - 10pm	9:30am - 10pm
Saturday:	9:30am - 10pm	9:30am - 10pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-000104

License Class/Type: A / Retail - Liquor Store

Applicant: Mac Arthur Liquors, Inc.

Trade Name: Bassin's Mac Arthur Liquors

ANC: 3D05

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

4877 MACARTHUR BLVD NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	-	-
Monday:	9:30 am - 8:30 pm	9:30 am - 8:30 pm
Tuesday:	9:30 am - 8:30 pm	9:30 am - 8:30 pm
Wednesday:	9:30 am - 8:30 pm	9:30 am - 8:30 pm
Thursday:	9:30 am - 8:30 pm	9:30 am - 8:30 pm
Friday:	9:30 am - 8:30 pm	9:30 am - 8:30 pm
Saturday:	9:30 am - 8:30 pm	9:30 am - 8:30 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-079922

License Class/Type: A / Retail - Liquor Store

Applicant: Trabra Incorporated

Trade Name: Union Liquors

ANC: 8A05

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

1537 Good Hope RD SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 12 am	10 am - 12 am
Monday:	10 am - 12 am	10 am - 12 am
Tuesday:	10 am - 12 am	10 am - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am
Thursday:	10 am - 12 am	10 am - 12 am
Friday:	10 am - 12 am	10 am - 12 am
Saturday:	10 am - 12 am	10 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-106753

License Class/Type: A Retail - Liquor Store

Applicant: Ace of Capital, LLC

Trade Name: Central Liquors

ANC: 2C01

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

625 E ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9am - 12am	9am - 12am
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
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-097473

License Class/Type: A / Retail - Liquor Store

Applicant: T and A, LLC

Trade Name: Montana Liquors

ANC: 5C05

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

1801 Montana AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	CLOSED - CLOSED	CLOSED - CLOSED
Monday:	9 AM - 10 PM	9 AM - 10 PM
Tuesday:	9 AM - 10 PM	9 AM - 10 PM
Wednesday:	9 AM - 10 PM	9 AM - 10 PM
Thursday:	9 AM - 10 PM	9 AM - 10 PM
Friday:	9 AM - 10 PM	9 AM - 10 PM
Saturday:	9 AM - 10 PM	9 AM - 10 PM

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-094621

License Class/Type: A / Retail - Liquor Store

Applicant: Bodega Market LLC

Trade Name: Bodega Market

ANC: 5D06

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

1136 FLORIDA AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9am - 10pm	9am - 10pm
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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-087537

License Class/Type: A / Retail - Liquor Store

Applicant: Wine Specialist Store, LLC

Trade Name: The Wine Specialist

ANC: 2A06

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

1133 20th ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	CLOSED -	CLOSED -
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
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-085209

License Class/Type: A / Retail - Liquor Store

Applicant: Jade Liquors, Inc.

Trade Name: Georgetown Wine and Spirits

ANC: 2E07

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

1500 27TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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	10am - 10pm
Monday:	10am - 10 pm	10am - 10pm
Tuesday:	10am - 10pm	10am - 10pm
Wednesday:	10am - 10pm	10am - 10pm
Thursday:	10am - 10pm	10am - 10pm
Friday:	10am - 10pm	10am - 10pm
Saturday:	10am - 10pm	10am - 10pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-096294

License Class/Type: A / Retail - Liquor Store

Applicant: Staples Beer & Wine Grocery LLC

Trade Name: Staples Beer & Wine Grocery LLC

ANC: 5D06

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

1364 FLORIDA AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	9 am - 10 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-060652

License Class/Type: A / Retail - Liquor Store

Applicant: TM Liquors, Inc.

Trade Name: Big Ben Liquors

ANC: 5E05

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

1300 NORTH CAPITOL ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 12 am	9 am - 12 am
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
4/13/2018

Notice is hereby given that:

License Number: ABRA-060751

License Class/Type: A / Retail - Liquor Store

Applicant: Rosebud Liquor, Inc.

Trade Name: Rosebud Liquor

ANC: 2B04

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

1711 17TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10am - 11pm	10am - 11pm
Monday:	10 am - 11 pm	10 am - 11 pm
Tuesday:	10 am - 11 pm	10 am - 11 pm
Wednesday:	10 am - 11 pm	10 am - 11 pm
Thursday:	10 am - 11 pm	10 am - 11 pm
Friday:	10 am - 12 am	10 am - 12 am
Saturday:	10 am - 12 am	10 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-097671

License Class/Type: A / Retail - Liquor Store

Applicant: Grand Cata, LLC

Trade Name: Grand Cata

ANC: 6E01

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

1550 7TH ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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:	10 am - 10 pm	10 am - 10 pm
Tuesday:	10 am - 10 pm	10 am - 10 pm
Wednesday:	10 am - 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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-071601

License Class/Type: A / Retail - Liquor Store

Applicant: Yoef, Inc.

Trade Name: Stanton Liquors

ANC: 5D07

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

1044 BLADENSBURG RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-026228

License Class/Type: A / Retail - Liquor Store

Applicant: Jas & Jassi, Inc.

Trade Name: Big Valu Liquors

ANC: 5C02

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

3174 BLADENSBURG RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-026574

License Class/Type: A / Retail - Liquor Store

Applicant: 2325 Bladensburg Rd Corp

Trade Name: Syd's

ANC: 5C04

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

2325 BLADENSBURG RD NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-103575

License Class/Type: A / Retail - Liquor Store

Applicant: Chevy Chase Liquors, LLC

Trade Name: Chevy Chase Wine & Spirits

ANC: 3G06

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

5544 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-077335

License Class/Type: A / Retail - Liquor Store

Applicant: Ventura, LLC

Trade Name: Albert's Liquors

ANC: 6B06

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

328 KENTUCKY AVE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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:	10 am - 10 pm	10 am - 10 pm
Tuesday:	10 am - 10 pm	10 am - 10 pm
Wednesday:	10 am - 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
4/13/2018

Notice is hereby given that:

License Number: ABRA-080830

License Class/Type: A / Retail - Liquor Store

Applicant: Majestic Beverage Sales, LLC

Trade Name: Circle Wine & Spirits

ANC: 3G05

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

5501 CONNECTICUT AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 10 pm	9 am - 10 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-060758

License Class/Type: A / Retail - Liquor Store

Applicant: Mac's Liquors, Inc.

Trade Name: Mac's Wine & Liquors

ANC: 5E03

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

401 RHODE ISLAND AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-095251

License Class/Type: A / Retail - Liquor Store

Applicant: 10th Street Market DC, Inc.

Trade Name: 10th Street Market

ANC: 6E01

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

1000 S ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 9 pm	9 am - 9 pm
Tuesday:	9 am - 9 pm	9 am - 9 pm
Wednesday:	9 am - 9 pm	9 am - 9 pm
Thursday:	9 am - 9 pm	9 am - 9 pm
Friday:	9 am - 9 pm	9 am - 9 pm
Saturday:	9 am - 9 pm	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-089532

License Class/Type: A / Retail - Liquor Store

Applicant: ANS Enterprises, Inc.

Trade Name: University Wine & Spirit

ANC: 5A06

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

333 Hawaii AVE NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 12 am	9 am - 12 am
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
ON
4/13/2018

Notice is hereby given that:

License Number: ABRA-100881

License Class/Type: A / Retail - Liquor Store

Applicant: Harvard Joha Inc.

Trade Name: Harvard Liquors

ANC: 1B09

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

2901 SHERMAN AVE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
BEFORE:
5/29/2018

A HEARING WILL BE HELD ON:
6/11/2018

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 - 11 pm	9 am - 11 pm
Monday:	9 am - 10 pm	9 am - 10 pm
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
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

NOTICE OF PUBLIC HEARING

Placard Posting Date: April 13, 2018
Protest Petition Deadline: May 29, 2018
Roll Call Hearing Date: June 11, 2018
Protest Hearing Date: August 8, 2018

License No.: ABRA-109327
Licensee: S & H 5, Inc.
Trade Name: Streets Market
License Class: Retailer's Class "B" Full Service Grocery
Address: 3427 Connecticut Avenue, N.W.
Contact: Andrew Kline, Esq.: 202-686-7600

WARD 3 ANC 3C SMD 3C04

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 June 11, 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 August 8, 2018 at 4:30 p.m.

NATURE OF OPERATION

A new Retailer's Class B full service grocery store with a Tasting Permit.

HOURS OF OPERATION

Sunday through Saturday 7am - 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 8am - 11pm

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

Placard Posting Date: April 13, 2018
Protest Petition Deadline: May 29, 2018
Roll Call Hearing Date: June 11, 2018
Protest Hearing Date: August 8, 2018

License No.: ABRA-109475
Licensee: White Russian, LLC
Trade Name: The Eleanor DC
License Class: Retailer's Class "C" Tavern
Address: 100 Florida Avenue, N.E.
Contact: Risa Hirao: (202) 544-2200

WARD 5

ANC 5E

SMD 5E03

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 June 11, 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 August 8, 2018 at 1:30 p.m.**

NATURE OF OPERATION

New Class "C" Tavern featuring upscale bar food, pinball, and arcade games, with 160 seats and a Total Occupancy Load of 295. Licensee is requesting a Summer Garden Endorsement to include 52 seats, and an Entertainment Endorsement to include indoor Live Entertainment.

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES AND SUMMER GARDEN)

Sunday – Thursday 11am – 2am

Friday – Saturday 11am – 3am

PROPOSED HOURS OF LIVE ENTERTAINMENT INSIDE ONLY

Sunday – Thursday 11am – 2am

Friday – Saturday 11am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: April 13, 2018
 Protest Petition Deadline: May 29, 2018
 Roll Call Hearing Date: June 11, 2018

License No.: ABRA-109169
 Licensee: English Standard, LLC
 Trade Name: The Imperial
 License Class: Retailer's Class "C" Tavern
 Address: 2001 18th Street, N.W.
 Contact: William Thomas: (202) 262-5637

WARD 1

ANC 1C

SMD 1C07

Notice is hereby given that this licensee has requested to transfer the license to a new location with Substantial Changes 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 June 11, 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 OPERATION/SUBSTANTIAL CHANGES

Licensee requests to transfer license from 2321 18th Street, N.W. to a new location at 2001 18th Street, N.W. Establishment is a class C Tavern with live entertainment. The Tavern has a Total Occupancy Load of 398 with seating for 169. Applicant is also requesting the following Substantial Changes to the license: to add a Summer Garden endorsement with a total capacity of 72 seats, and to change the hours of operation, alcoholic beverage sales and consumption, and live entertainment.

CURRENT HOURS OF OPERATION FOR INSIDE PREMISES AND SUMMER GARDEN

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

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SUMMER GARDEN

Sunday 10am to 2am, Monday through Thursday 8am to 2am, Friday and Saturday 8am to 3am

CURRENT HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES

Sunday through Thursday 6pm to 2am, Friday and Saturday 6pm to 3am

PROPOSED HOURS OF OPERATION INSIDE PREMISES AND FOR SUMMER GARDEN

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

PROPOSED HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES

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

PROPOSED HOURS OF LIVE ENTERTAINMENT FOR SUMMER GARDEN

Sunday through Saturday 10am to 9pm

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

Placard Posting Date: April 6, 2018
Protest Petition Deadline: May 21, 2018
Roll Call Hearing Date: June 4, 2018
Protest Hearing Date: August 1, 2018

License No.: ABRA-108087
Licensee: **Piccanteli, LLC
Trade Name: The Ministry
License Class: Retailer's Class "C" Tavern
Address: 601 New Jersey Avenue, N.W.
Contact: Bryan Short, Esq.: (202) 460-5169

WARD 6

ANC 6C

SMD 6C02

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 June 4, 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 **August 1, 2018 at 4:30 p.m.**

NATURE OF OPERATION

A new Tavern and cafe serving coffee, sandwiches, pastries, small plates and artisanal cocktails. Seating capacity of 55 inside. Total Occupancy Load of 150. Sidewalk Café with 20 seats. License will include an Entertainment Endorsement.

HOURS OF OPERATION INSIDE PREMISES AND FOR THE SIDEWALK CAFE

Sunday through Thursday 7 am – 2 am, Friday and Saturday 7 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE PREMISES AND FOR THE SIDEWALK CAFE

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

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES AND FOR THE SIDEWALK CAFE

Sunday through Thursday 8 am – 2 am, Friday and Saturday 8 pm – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: April 6, 2018
Protest Petition Deadline: May 21, 2018
Roll Call Hearing Date: June 4, 2018
Protest Hearing Date: August 1, 2018

License No.: ABRA-108087
Licensee: **Picantelli, LLC
Trade Name: The Ministry
License Class: Retailer's Class "C" Tavern
Address: 601 New Jersey Avenue, N.W.
Contact: Bryan Short, Esq.: (202) 460-5169

WARD 6

ANC 6C

SMD 6C02

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 June 4, 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 **August 1, 2018 at 4:30 p.m.**

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HOURS OF OPERATION INSIDE PREMISES AND FOR THE SIDEWALK CAFE

Sunday through Thursday 7 am – 2 am, Friday and Saturday 7 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE PREMISES AND FOR THE SIDEWALK CAFE

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

HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES AND FOR THE SIDEWALK CAFE

Sunday through Thursday 8 am – 2 am, Friday and Saturday 8 pm – 3 am

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

NOTIFICATION OF PUBLIC HEARING FOR NEW SCHOOL FACILITIES

The DC Public Charter School Board (DC PCSB) gives notice of its intent to hold a public hearing on the three approved new charter school facilities at the board meeting on May 21, 2018. DC PCSB will hold a vote on the applications during the board meeting on June 18, 2018. Please see below for more information. For questions, please contact 202-328-2660 or hcousino@dcpcsb.org .

North Star College Preparatory Academy for Boys	
Official Notice	https://dcpcsb.egnyte.com/dl/M2lleYKsoB
Proposed Ward(s)	7
Link to further information	http://www.dcpcsb.org/public-comment/notice-public-hearing-facility---north-star-college-preparatory-academy-boys-pcs

Digital Pioneers Academy	
Official Notice	https://dcpcsb.egnyte.com/dl/5Wdoq8UM0c
Proposed Ward(s)	7
Link to further information	http://www.dcpcsb.org/public-comment/notice-public-hearing-facility---digital-pioneers-academy-pcs

North Star College Preparatory Academy for Boys	
Official Notice	https://dcpcsb.egnyte.com/dl/DXvhiIJrsO
Proposed Ward(s)	1
Link to further information	http://www.dcpcsb.org/public-comment/notice-public-hearing-facility---family-place-pcs

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, MAY 23, 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 THREE

19744 **Application of Compass Coffee**, pursuant to 11 DCMR Subtitle X, Chapter 9, ANC 3D for a special exception under Subtitle U § 513.1(n) from the use requirements of Subtitle U § 512.1(d)(3) , to permit a coffee and prepared food shop with more than 18 seats in the MU-4 Zone at premises 4850 Massachusetts Avenue N.W. (Square 1500, Lots 4 and 3).

WARD THREE

19751 **Application of MED Developers, LLC**, pursuant to 11 DCMR Subtitle X, ANC 3C Chapter 9, for special exceptions under the use provisions of Subtitle U § 203.1(f), and under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, to construct a new continuing care retirement community in the R-1-B Zone at premises 2619-2623 Wisconsin Avenue N.W. (Square 1935, Lots 44 and 812).

WARD FIVE

19752 **Application of Jemal's Hecht East T, LLC**, pursuant to 11 DCMR Subtitle X, ANC 5D Chapter 9, for a special exception under the use requirements of Subtitle U § 802.1(j), to permit a large format retail use in the PDR-3 Zone at premises 1515 New York Avenue N.E. (Square 4037, Lot 813).

WARD TWO

19754 **Application of Capital One**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a ANC 2E special exception under Subtitle U § 513.1(n) from the use requirements of Subtitle U § 512.1(d)(3), to permit a prepared food shop with 106 seats in the MU-4 Zone at premises 3146-3150 M Street N.W. (Square 1199, Lot 64).

BZA PUBLIC HEARING NOTICE

MAY 23, 2018

PAGE NO. 2

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

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

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

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

0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

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.

BZA PUBLIC HEARING NOTICE

MAY 23, 2018

PAGE NO. 3

Korean

참여하시는데 도움이 필요하세요?

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

Spanish

¿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.

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**

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2012 Repl.)); Section 4902(d) of the Health Clarifications Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(d) (2012 Repl.)), and Mayor's Order 2011-71, dated April 13, 2011, hereby gives notice of the adoption of the following amendments to Chapter 8 (Recommending Physicians), Chapter 10 (Enforcement Actions), and Chapter 99 (Definitions) of Subtitle C (Medical Marijuana), Title 22 (Health), of the District of Columbia Municipal Regulations ("DCMR").

The purpose of this rulemaking is to establish the requirements and guidelines for advanced practice registered nurses, dentists, naturopathic physicians, and physician assistants to recommend the use of medical marijuana to a qualifying patient; to clarify that a referral or request for a consultation from a qualifying patient's primary care provider or specialist for the purposes of determining whether the patient may benefit from the use of medical marijuana is within the permissible scope of a *bona fide* authorized practitioner-patient relationship for purposes of complying with the Act and the regulations implementing the Act; and to further define prohibited conduct.

This rulemaking was published as a Notice of Proposed Rulemaking in the D.C. Register on August 11, 2017, at 64 DCR 7951. The Department did not receive any comments in response to this notice. No changes have been made to the rulemaking.

Following the required period of Council review, the rules were deemed approved by the D.C. Council on October 26, 2017. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Chapter 8, RECOMMENDING PHYSICIANS, of Title 22-C DCMR, MEDICAL MARIJUANA, is amended as follows:

The title of Chapter 8 is amended to read as follows:

Chapter 8 RECOMMENDING AUTHORIZED PRACTITIONERS

Section 800, QUALIFICATIONS TO BE A RECOMMENDING PHYSICIAN, is amended as follows:

The title of Section 800 is amended to read as follows:

800 QUALIFICATIONS TO BE A RECOMMENDING AUTHORIZED PRACTITIONER

800.1 An authorized practitioner who is licensed and in good standing to practice medicine, osteopathy, advanced practice registered nursing, dentistry, naturopathic medicine, or as a physician assistant in the District of Columbia may recommend the use of medical marijuana to a qualifying patient if the authorized practitioner:

- (a) Is in a *bona fide* relationship with the qualifying patient, which for purposes of complying with this chapter and the Act shall mean that the authorized practitioner:
 - (1) Has completed a full assessment of the patient’s medical or dental history and current medical or dental condition, including a personal physical examination, not more than ninety (90) days prior to making the recommendation; and
 - (2) Has responsibility for the ongoing care and treatment of the patient either directly or in consultation with another licensed authorized practitioner;
- (b) Makes the recommendation based upon the authorized practitioner’s assessment of the qualifying patient’s:
 - (1) Medical or dental history;
 - (2) Current medical or dental condition; and
 - (3) A review of other approved medications and treatments that might provide the qualifying patient with relief from a qualifying medical or dental condition or the side effects of a qualifying medical or dental treatment; and

- (c) Is not the owner, director, officer, member, incorporator, agent, or employee of a dispensary, cultivation center, or testing laboratory.

800.2

An authorized practitioner who is licensed and in good standing to practice medicine, osteopathy, advanced practice registered nursing, dentistry, naturopathic medicine, or as a physician assistant in the District of Columbia may evaluate a patient for the sole or primary purpose of the recommendation of medical marijuana only if:

- (a) The evaluation is based upon a written referral to the recommending authorized practitioner by the patient's current primary care authorized practitioner or an authorized practitioner specialist responsible for the current treatment of the patient's medical condition;
- (b) The recommending authorized practitioner complies with the requirements set forth in Subsection 800.1; and
- (c) There is no exchange of any form of remuneration, gift, donation, bartering, referral fees, or fee-splitting between the referring and recommending authorized practitioner either directly or indirectly.

Section 801, FORM OF RECOMMENDATION, is amended as follows:

Section 801.1 is amended to read as follows:

801.1

An authorized practitioner's recommendation that a qualifying patient may use medical marijuana shall be written on a form provided by the Department and include the following:

- (a) The name, address, telephone number, and specialty or primary area of clinical practice of the authorized practitioner;
- (b) The authorized practitioner's District of Columbia health occupation license number;
- (c) The qualifying patient's name, date of birth, and home address;
- (d) The patient's qualifying medical or dental condition or qualifying medical or dental treatment;
- (e) A statement certifying that the patient has a qualifying medical or dental condition or suffers from the side effects of a qualifying medical or dental treatment, and that in the authorized practitioner's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for this patient;

- (f) The length of time that the qualifying patient has been under the care of the authorized practitioner;
- (g) A statement that the authorized practitioner has explained the potential risks and benefits of the use of marijuana to the qualifying patient and the qualifying patient's parent or legal guardian, if applicable;
- (h) The authorized practitioner's signature and date; and
- (i) The qualifying patient's signed consent for the release of medical or dental information related to the patient's qualifying medical or dental condition or treatment.

Section 802, RECORDS MAINTAINED BY PHYSICIAN AND DEPARTMENT, is amended to read as follows:

802 RECORDS MAINTAINED BY AUTHORIZED PRACTITIONERS AND DEPARTMENT

802.1 An authorized practitioner recommending the use of medical marijuana to a qualifying patient shall maintain a record for each qualifying patient which shall:

- (a) Accurately reflect the evaluation and treatment of the patient and include the following as applicable:
 - (1) Patient's name and the date(s) of treatment;
 - (2) Patient's medical or dental history and updated health history;
 - (3) Documented results of a full assessment of the patient's medical or dental history and current medical or dental condition;
 - (4) Documented results of the authorized practitioner's physical examination of the patient;
 - (5) Treatment plan;
 - (6) Informed consent document(s);
 - (7) Diagnosis and treatment rendered;
 - (8) List of drugs prescribed, administered, dispensed and the quantity;
 - (9) Radiographs;

- (10) Patient financial/billing records;
 - (11) Name of the authorized practitioner or assistive personnel providing service(s);
 - (12) Laboratory work orders; and
- (b) Be kept for three (3) years after last seeing the patient or three (3) years after a minor patient reaches eighteen (18) years of age.

802.2 The Department shall maintain a confidential record, which shall not be subject to requests under the Freedom of Information Act, of each recommending authorized practitioner for the purpose of monitoring compliance with the Act.

Section 803, NO OFFICE AT DISPENSARY OR CULTIVATION CENTER, is amended to read as follows:

803 NO OFFICE AT A DISPENSARY, CULTIVATION CENTER, OR TESTING LABORATORY

803.1 An authorized practitioner recommending the use of medical marijuana to a qualifying patient shall not:

- (a) Have a professional office located at or adjacent to a dispensary, cultivation center, or testing laboratory;
- (b) Have employees, agents, volunteers, or independent-contractors affiliated directly or indirectly with the authorized practitioner located at or adjacent to a dispensary, cultivation center, or testing laboratory; or
- (c) Receive financial compensation directly or indirectly from a dispensary, cultivation center, or testing laboratory, or a director, officer, member, incorporator, agent, or employee of a dispensary, cultivation center, or testing laboratory.

803.2 An authorized practitioner recommending the use of medical marijuana to a qualifying patient shall not have employees, agents, volunteers, or independent-contractors affiliated directly or indirectly with a dispensary, cultivation center, or testing laboratory on the premises of the authorized practitioner's professional office, clinic, or an institutional facility where the authorized practitioner sees patients or has privileges to see patients.

803.3 An authorized practitioner recommending the use of medical marijuana to a qualifying patient shall not have expeditors or employees, agents, volunteers or independent-contractors affiliated directly or indirectly with an expeditor on the premises of the authorized practitioner professional office, clinic, or an

institutional facility where the authorized practitioner sees patients or has privileges to see patients.

Section 804, NOTIFICATION OF END OF QUALIFYING MEDICAL CONDITION OR TREATMENT, is amended to read as follows:

804 NOTIFICATION OF END OF QUALIFYING MEDICAL OR DENTAL CONDITION OR TREATMENT

804.1 An authorized practitioner shall notify the Department in writing within fourteen (14) calendar days after advising a qualifying patient that he or she no longer suffers from a qualifying medical or dental condition or treatment.

Section 805, TRAINING PROGRAM FOR RECOMMENDING PHYSICIANS, is amended to read as follows:

805 TRAINING PROGRAM FOR RECOMMENDING AUTHORIZED PRACTITIONERS

805.1 The Department shall make available an educational program for authorized practitioners on the medical and dental indications, uses, and side effects of medical marijuana and the District's medical marijuana program, and may charge a fee for the training program.

805.2 The program shall be made available to authorized practitioners licensed to practice medicine, osteopathy, advanced practice registered nursing, dentistry, naturopathic medicine, or as a physician assistant in the District of Columbia who recommend or intend to recommend the use of medical marijuana to qualifying patients.

805.3 If approved by the District of Columbia Board of Medicine, Nursing, or Dentistry the program may be used toward satisfying the continuing education requirements for the respective health profession for the number of credits approved by the board.

A new Section 806, BOARD AUDITS OF RECOMMENDATIONS, is added to read as follows:

806 BOARD AUDITS AND REVIEW OF RECOMMENDATIONS

806.1 The Department shall timely notify the Board of Medicine whenever a physician, naturopathic physician, or physician assistant provides more than two hundred fifty (250) recommendations in any twelve (12)-month period to patients for the use of medical marijuana.

806.2 The Department shall timely notify the Board of Nursing whenever an advance

practice registered nurse provides more than 250 recommendations in any 12-month period to patients for the use of medical marijuana.

806.3 The Department shall timely notify the Board of Dentistry whenever a dentist provides more than 250 recommendations in any 12-month period to patients for the use of medical marijuana.

806.4 The Boards of Medicine, Nursing, and Dentistry shall audit and review the recommendations submitted by the authorized practitioners under its purview who provide more than 250 recommendations in a 12-month period.

Chapter 10, ENFORCEMENT ACTIONS, is amended as follows:

Section 1000, COMPLAINTS AGAINST PATIENTS, CAREGIVERS OR RECOMMENDING PHYSICIANS, is amended as follows:

The title of Section 1000 is amended to read as follows:

1000 COMPLAINTS AGAINST PATIENTS, CAREGIVERS, OR RECOMMENDING AUTHORIZED PRACTITIONERS

Subsection 1000.1 is amended to read as follows:

1000.1 The Department shall receive, at any time during the registration period, complaints from any person alleging a violation or misconduct by a patient, caregiver, or recommending authorized practitioner. Complaints shall be in writing and set forth enough information to allow the Department staff to investigate the matter, which shall include at a minimum:

- (a) The facts or circumstances that form the basis of the complaint, including the date(s), time(s), and location(s) of the incident(s);
- (b) Clear identification of the patient, caregiver, or recommending authorized practitioner who is the subject of the complaint;
- (c) The name(s), and contact information (if known) of any witnesses to the incident;
- (d) Any supporting documentation or photos; and
- (e) The contact information for the complainant.

Subsection 1000.5 is amended to read as follows:

1000.5 Complaints against recommending authorized practitioners shall be forwarded to the relevant licensing board for disposition.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9900, DEFINITIONS, Subsection 9900.1, is amended by adding these definitions, to appear in alphabetical order:

Authorized practitioner- a physician, advanced practice registered nurse, physician assistant, dentist, or naturopathic physician who is licensed and in good standing to practice under District law.

Bona fide relationship with a qualifying patient- a relationship between an authorized practitioner and qualifying patient for which the authorized practitioner:

- (a) Has completed a full assessment of the patient's medical or dental history and current medical or dental condition, including a personal physical or dental examination; and
- (b) Has responsibility for the ongoing care and treatment of the patient.

Caregiver- a person who:

- (a) Is designated by a qualifying patient as the person authorized, on the qualifying patient's behalf, to possess, obtain from a dispensary, dispense, administer, and assist in the administration of medical marijuana;
- (b) Is registered with the Department as the qualifying patient's caregiver;
- (c) Is not currently, with the exception of caregivers providing services on behalf of nursing homes and hospices, serving as the caregiver for another qualifying patient; and
- (d) Is at least 18 years of age.

Dentist- an individual who is licensed and in good standing to practice dentistry under District law, but does not include an individual who only holds a dental teaching license.

Expediter - other than a registered caregiver, any person or entity employed, contracted, volunteering, or compensated by any form of remuneration, gift, donation, or bartering, to register individuals as patients in the medical marijuana program, to connect individuals with recommending authorized practitioners, to solicit individuals to become qualifying patients, to complete application forms or to assist individuals in completing application forms to become qualifying patients, or to transport or deliver to the Department application forms for individuals seeking to become qualifying patients.

Qualifying medical or dental condition- any condition for which treatment with medical marijuana would be beneficial, as determined by the patient's authorized practitioner.

Qualifying medical or dental treatment- means:

- (a) Chemotherapy;
- (b) The use of azidothymidine or protease inhibitors;
- (c) Radiotherapy; or
- (d) Any other treatment, as determined by rulemaking, whose side effects require treatment through the administration of medical marijuana in the same manner as a qualifying medical or dental condition.

Qualifying patient- a resident of the District who has a qualifying medical or dental condition or is undergoing a qualifying medical or dental treatment, or a patient enrolled in another jurisdiction's medical marijuana program; provided, that a patient from another jurisdiction shall not be a qualifying patient if the Department determines that there is a shortage of medical marijuana or the real-time electronic records system referenced in the Act is inactive.

Testing laboratory- an entity that is not owned or operated by a director, officer, member, incorporator, agent, or employee of a cultivation center or dispensary, and is registered by the Department to test medical marijuana and medical marijuana products that are to be sold under the Act.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF PROPOSED RULEMAKING**Electronics Stewardship Program Infractions**

The Director of the Department of Energy and Environment (DOEE or Department), in accordance with the authority set forth in the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2016 Repl. and 2017 Supp.)); the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.*) (2013 Repl. and 2017 Supp.); the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1041.01 *et seq.* (2013 Repl. and 2017 Supp.)); and Mayor's Order 2015-250, dated December 8, 2015, hereby gives notice of the intent to amend Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations by adopting the following amendment to Chapter 40 (Department of Environment (DDOE) Infractions).

The proposed rulemaking establishes a schedule of civil infractions for violations of the District's Electronics Stewardship Program. After careful consideration of comments, the proposed rules will be submitted to the Council of the District of Columbia for review and approval, in accordance with D.C. Official Code § 2-1801.04. The rules will become final upon Council approval, or thirty (30) days after submission, if the Council has not earlier disapproved the proposed rules, and following publication of the final rules in the *D.C. Register*.

Chapter 40, DEPARTMENT OF ENVIRONMENT (DDOE) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

A new Section 4013, ELECTRONICS STEWARDSHIP PROGRAM INFRACTIONS, is added to read as follows:

4013 ELECTRONICS STEWARDSHIP PROGRAM INFRACTIONS

4013.1 [RESERVED]

4013.2 [RESERVED]

4013.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) D.C. Official Code § 8-1041.07(a) (a person knowingly disposing of covered electronic equipment as solid waste in the District except through recycling programs or other methods approved by the Mayor); and

- (b) D.C. Official Code § 8-1041.07(b) (a manufacturer disposing of covered electronic equipment as solid waste in the District except through recycling programs or other methods approved by the Mayor).

4013.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) D.C. Official Code § 8-1041.03(a) (selling or offering for sale or delivering to a retailer for subsequent sale unregistered new covered electronic equipment);
- (b) D.C. Official Code § 8-1041.05(a)(3)(A) (failure of a representative organization to meet minimum convenience); and
- (c) D.C. Official Code § 8-1041.05(a)(3)(C) (failure of a representative organization to accept and recycle or reuse all covered electronic equipment brought to a site by a covered entity free of charge).

4013.5 Violation of any provision of Title I, Subtitle B, of the Sustainable Solid Waste Management Amendment Act of 2014, as amended, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code §§ 8-1041.01 *et seq.* (2013 Repl. and 2017 Supp.)) or the implementing rules in 20 DCMR Chapter 41 that is not cited elsewhere in this section, shall be a Class 5 infraction.

The proposed rules are available for viewing at: <http://doee.dc.gov/ecycle>. Additionally, a copy of these proposed rules can be obtained for viewing at the Martin Luther King, Jr. Library, 901 G St., NW, Washington, D.C. 20001, during normal business hours.

All persons desiring to comment on the proposed regulations should file comments in writing no later than thirty (30) days after the publication of this notice in the *D.C. Register*. Comments should identify the commenter and be clearly marked “DOEE Electronics Stewardship Proposed Fines Comments.” Comments may be (1) mailed or hand-delivered to DOEE, 1200 First Street NE, 5th Floor, Washington, D.C. 20001, Attention: DOEE Electronics Stewardship Regulations, or (2) sent by e-mail to productstewardship@dc.gov, with the subject indicated as “DOEE Electronics Stewardship Proposed Fines Comments.”

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1802.02 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; P.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 its intent to amend Chapter 1 (Income and Franchise Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The newly amended regulations provide updated technical guidance regarding the exemptions from income and franchise taxes. The guidance in this regulation is necessary to provide clarity to taxpayers attempting to comply with District franchise tax exemption requirements.

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

Chapter 1, INCOME AND FRANCHISE TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 102, EXEMPT ORGANIZATIONS, is amended to read as follows:

102 EXEMPT ORGANIZATIONS

- 102.1 The responsibility for establishing the right to exemption from the tax shall rest upon the organization claiming the exemption.
- 102.2 An organization shall not be exempt merely because it is not organized and operated for profit.
- 102.3 The granting of exempt status to any organization shall not relieve that organization of its responsibility to withhold tax from its employees as required by law.
- 102.4 Franchise tax exemptions shall only be valid for the period stated on the franchise tax exemption certificate. An exemption will only be allowed for a period during which the exemption certificate is unexpired for the entirety of the relevant filing period.
- 102.5 Exemptions Applications for Exempt Organizations
- (a) An entity exempt from income and franchise taxes under D.C. Code Ann. § 47-1802.01 shall obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the

institution is entitled to the exemption. No exemption shall be allowed without a valid exemption certificate.

- (b) Beginning with exemption certificates issued on or after June 1, 2018, exemption certificates issued to exempt organizations shall be valid only for a period of up to five years from the date issued.
- (c) Exemption certificates issued to exempt organizations prior to June 1, 2018, shall expire upon notice by the Office of Tax and Revenue.
- (d) In order to receive an exemption certificate, an exempt organization shall follow the Office of Tax and Revenue's electronic application process.
- (e) All exemption applications filed by exempt organizations shall include, but are not limited to, the following information:
 - a. Taxpayer ID Number;
 - b. Name;
 - c. Address;
 - d. Sales Tax Account Number;
 - e. NAICS Code;
 - f. Federal Exemption Status;
 - g. Proof of IRS exemption (e.g., IRS Determination Letter or Application for Recognition of Exemption);
 - h. Organizational details; and
 - i. Articles of Incorporation.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at DC Office of Tax and Revenue, 1101 4th Street, SW, Suite 750, Washington, DC 20024; telephone at (202) 442-6462; or, email at jessica.brown@dc.gov. Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-2023 (2015 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; P.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 its intent to amend Chapter 4 (Sales and Use Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The newly added regulation provides clarity to the “location in the District” requirement for qualification as a semipublic institution for sales tax purposes. The guidance in this regulation is necessary to provide clarity to taxpayers attempting to comply with District sales tax exemption requirements.

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

Chapter 4, SALES AND USE TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 477 is amended to read as follows:

477 SEMIPUBLIC INSTITUTION LOCATED IN THE DISTRICT

- 477.1 In order to receive an exemption from sales and use tax under D.C. Code §47-2005(3), a semipublic institution must be located within the District.
- 477.2 For the purpose of the exemption from sales taxes for semipublic institutions in D.C. Code Ann. § 47-2005, the requirement to be “located within the District” requires that the institution must itself lease or own an office in the District of Columbia.
- 477.3 For the purpose of qualifying as a location within the District, if a semipublic institution leases an office in the District of Columbia, an exemption from sales and use tax shall only be valid for the term of the lease.
- 477.4 In the case of a continuous month-to-month lease in the District of Columbia, a semipublic institution will be eligible for a sales tax exemption for a period of no longer than one year.

477.5 Cooperative Office Spaces

- (a) For purposes of this regulation, “cooperative office space” is defined as a coworking or shared office space offering short term or flexible leasing options.
- (b) If a semipublic institution leases an office in a cooperative office space, such institution will be exempt only for the period of the lease.
- (c) All cooperative office space leases must be for fair market value to be considered leases for purposes of determining whether a semipublic institution is located within the District.
- (d) To qualify as a location in the District, a cooperative office space must be used to carry out significant business operations of the semipublic institutions. Leasing office space in a cooperative office space alone is insufficient to qualify as a location in the District. For this purpose, the term “business operations” is defined to include answering phone calls, conducting fundraising drives, organizing events, holding meetings, and other tasks necessary to the running of the semipublic institution.
- (e) Example 1: A semipublic institution leases office space in a cooperative office space and conducts all of its business operations from such space. This semipublic institution has a location in the District.
- (f) Example 2: A semipublic institution leases office space in a cooperative office and conducts no more than 25% of its business operations from the cooperative office space. This semipublic institution does not have a location in the District.
- (g) Example 3: A semipublic institution leases office space in a cooperative office and conducts no business in such space. This semipublic institution does not have a location in the District.

477.6 Home Offices: A home office will qualify as a location in the District for purposes of the sales tax exemption if at least 50% of the business operations of the semipublic institution is conducted from such home office.

Comments on this proposed rulemaking should be submitted to Jessica Brown, Assistant General Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Jessica Brown may be contacted by: mail at DC Office of Tax and Revenue, 1101 4th Street, SW, Suite 750, Washington, DC 20024; telephone at (202) 442-6462; or, email at jessica.brown@dc.gov. Copies of this rule and related information may be obtained by contacting Jessica Brown as stated herein.

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Board of Ethics and Government Accountability (Board), pursuant to the authority set forth in Section 209 and 221 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.09 and 1-1162.21 (2016 Repl.)), hereby gives notice of the adoption of the following emergency rulemaking to add new Sections 5530 and 5535 to Chapter 55 (Board of Ethics and Government Accountability: Hearing Procedures) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking will establish the procedural rules for informal hearings, and revises the ministerial schedule of fines authorized under D.C. Official Code section 221(a)(3).

The emergency rulemaking action is necessary to protect and promote the public welfare by creating procedures the Board will immediately apply to provide a mechanism and a forum for the resolution of government ethics complaints. Without the procedures established by these emergency rules, there will be no clear means to conduct informal ethics enforcement actions or adjudicate ethics violations informally.

The Board adopted these rules as final at a regular meeting on April 5, 2018 and they will become effective immediately. The emergency rules shall remain in effect for one hundred and twenty (120) days or until August 3, 2018, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Board also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 55, BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY: HEARING PROCEDURES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

A new Section 5530 is added to read as follows:

5530 INFORMAL HEARING FOR ALLEGED VIOLATIONS OF THE CODE OF CONDUCT

5530.1 The Director may institute or conduct an informal hearing, including an order to show cause, on alleged violations of the financial reporting and disclosure requirements, or any other violation of the Code of Conduct.

5530.2 Notice of an informal hearing shall be issued in writing at least ten (10) days prior to the hearing; provided that the ten (10) day period may be waived for good cause shown as long as the party is given a sufficient opportunity to prepare for the hearing.

- 5530.3 In the notice, an alleged violator of the financial reporting and disclosure requirements or of the Code of Conduct shall be informed of:
- (a) The nature of the alleged violation;
 - (b) The authority on which the hearing is based;
 - (c) The time and place of the hearing;
 - (d) The right to be represented by any other person duly authorized in person to do so;
 - (e) The fact that the alleged violator's failure to appear may be considered an admission of the allegation; and
 - (f) The fact that service of process shall be by electronic or regular mail.
- 5530.4 The Director shall regulate the course of the informal hearing and the conduct of the parties and their counsel.
- 5530.5 The respondent, or his or her counsel, may present the respondent's case and evidence to the Director, either in person or in writing.
- 5530.6 The Director may wait a reasonable period of time for the respondent to appear before beginning the informal hearing.
- 5530.7 If the respondent fails to appear after a reasonable period of time, the Director may elect to reschedule the informal hearing, issuing notice of the same and serving the respondent both by certified and regular mail. However, the Director is not obligated to reschedule the informal hearing if the respondent fails to appear after a reasonable period of time, and may elect to proceed with the informal hearing by making a record of the proceeding.
- 5530.8 Following the conduct of each informal hearing, the Director shall:
- (a) Determine whether a violation has occurred; and
 - (b) Issue a written order with findings of facts and conclusions of law.
- 5530.9 Any party adversely affected by any order of the Director may obtain review of the order by filing, with the Ethics Board, a request for a hearing in accordance with D.C. Official Code § 1-1162.21(a)(3).
- 5530.10 The request for a hearing pursuant to § 5530.9 shall be filed within fifteen (15) days from the Director's issuance of an order.

A new Section 5535 is added to read as follows:

5535 SCHEDULE OF FINES

5535.1 Upon a determination, pursuant to §5530.8, that a violation has occurred, the Director may ministerially impose a fine upon the respondent with each allegation constituting a separate violation.

5535.2 Fines shall be imposed as follows:

- (a) Failure to follow the process for accepting gifts and donations established in D.C. Official Code §1-329.01: not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per violation;
- (b) Participating personally and substantially in a particular matter that could affect the employee's own financial interests, in violation of D.C. Official Code § 1-1162.23 (a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (c) Participating personally and substantially in a particular matter that could affect the financial interests of the employee's spouse or registered domestic partner, in violation of D.C. Official Code § 1-1162.23 (a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (d) Participating personally and substantially in a particular matter that could affect the financial interests of the employee's dependent children, in violation of D.C. Official Code § 1-1162.23 (a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (e) Participating personally and substantially in a particular matter that could affect the financial interests of any entity or organization in which the employee serves as an officer, director, trustee, general partner, or employee, in violation of D.C. Official Code § 1-1162.23 (a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (f) Participating personally and substantially in a particular matter that could affect the financial interests of anyone with whom the employee is negotiating or has any arrangement concerning prospective employment, in violation of D.C. Official Code § 1-1162.23 (a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;

- (g) Working on a matter that involves a nongovernmental organization in which the employee or a family member has a financial interest, in violation of D.C. Official Code § 1-1162.23 (a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (h) Using his or her official position or title in a manner that the employee knows is likely to have a direct and predictable effect on the employee's own financial interests, in violation of D.C. Official Code § 1-1162.23 (a): not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (i) Using his or her official position or title in a manner that the employee knows is likely to have a direct and predictable effect on the financial interests of a person or entity that is closely affiliated with the employee, in violation of D.C. Official Code § 1-1162.23 (a): not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (j) Using his or her official position or title in a manner that the employee knows is likely to have a direct and predictable effect on the financial interests of a person or entity that is closely affiliated with the employee, in violation of D.C. Official Code § 1-1162.23 (a): not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (k) Using his or her official position or title to personally and substantially participate in any particular matter that the employee knows is likely to have a direct and predictable effect on the employee's own financial interests, in violation of D.C. Official Code § 1-1162.23 (a): not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (l) Using his or her official position or title to personally and substantially participate in any particular matter that the employee knows is likely to have a direct and predictable effect on the financial interests on the financial interests of a person or entity that is closely affiliated with the employee, in violation of D.C. Official Code § 1-1162.23 (a): not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (m) Performing an official duty, as a District government employee, if the employee or a member of the employee's household has real property, stocks, bonds, commodities, or other property that could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities, in violation of D.C. Official Code § 1-1162.23 (a) and § 1-1162.23 (d)(2)(A): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;

- (n) Member(s) of an employee's household acquiring stocks, bonds, commodities, real estate, or other property, the acquisition of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities, in violation of D.C. Official Code § 1-1162.23 (d)(2)(A): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (o) Acquiring an outside business or business interest that is related directly to the employee's official duties, official action, recommendation, or which is related to matters over which the employee could wield any influence, official or otherwise, in violation of D.C. Official Code § 1-1162.23 (d)(2)(B): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (p) Member(s) of an employee's household acquiring an outside business or business interest that is related directly to the employee's official duties, official action, or recommendation, or which is related to matters over which the employee could wield any influence, official or otherwise, in violation of D.C. Official Code § 1-1162.23 (d)(2)(B): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (q) Acquiring stocks, bonds, commodities, real estate, or other property, the acquisition of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities, in violation of D.C. Official Code § 1-1162.23 (d)(2)(A): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (r) Using official authority or influence for the purpose of interfering with or affecting the result of an election, in violation of D.C. Official Code § 1-1171.02 (a)(1): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (s) Knowingly soliciting, accepting, or receiving a political contribution from any person, in violation of D.C. Official Code § 1-1171.02 (a)(2): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (t) Filing as a candidate for election to a partisan political office in a District-regulated election, in violation of D.C. Official Code § 1-1171.02 (a)(3): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (u) Knowingly directing, or authorizing anyone else to direct, any subordinate to participate in an election campaign or requesting a subordinate to make a political contribution, in violation of D.C. Official Code § 1-1171.02 (a)(4): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;

- (v) Knowingly directing, or authorizing anyone else to direct, that any subordinate participate in an election campaign or requesting a subordinate to make a political contribution, in violation of D.C. Official Code § 1-1171.02 (a)(4): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (w) Working on any political campaign or engaging in any other type of political activity while at work or otherwise on duty, in violation of D.C. Official Code § 1-1171.03 (a)(1): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (x) Engaging in any political activity during work hours, in violation of D.C. Official Code § 1-1171.03 (a)(1): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (y) Engaging in political activity in a D.C. government building as prohibited by D.C. Official Code § 1-1171.03 (a)(2): not less than one hundred dollars (\$100) nor more than two thousand five dollars (\$2,500) per violation;
- (z) Engaging in political activity while in a District government uniform or official insignia, in violation of D.C. Official Code § 1-1171.03 (a)(3): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (aa) Engaging in political activity in a D.C. government vehicle, in violation of D.C. Official Code §§ 1-1171.03 (a) (4): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (bb) Using District government resources to coerce, explicitly or implicitly, any subordinate employee to engage in political activity, in violation of D.C. Official Code § 1-1171.03 (b): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (cc) Serving as an officer or director of an outside entity when there is a reasonable likelihood that such entity might be involved in the employee's District work, in violation of District Personnel Manual (DPM) § 1807.1 (d): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (dd) Serving as an officer or director of an outside entity or organization when there is a reasonable likelihood that such entity will be involved in an official government action or decision that the employee would take or recommend, in violation of DPM § 1807.1 (d): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ee) Using information that is not available to the public for personal benefit, in violation of DPM § 1800.3 (c): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;

- (ff) Using information that is not available to the public for any non-governmental purpose, in violation of DPM § 1800.3 (c): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (gg) Permitting others to use information that is not available to the public for personal benefit, in violation of DPM § 1800.3 (c): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (hh) Permitting others to use information that is not available to the public for any non-governmental purpose, in violation of DPM § 1800.3 (c): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (ii) Engaging in outside activities that conflict with the employee's official government duties and responsibilities, in violation of DPM § 1800.3 (j): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (jj) Failure to report waste, fraud, abuse of authority, violations of law, or threats to public health or safety, in violation of DPM § 1801.1: not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (kk) Being employed by the District government and failing to report credible violations of the District Code of Conduct, in violation of DPM § 1801.1: not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ll) Interfering with or obstructing any investigation conducted by a District or federal agency, in violation of DPM § 1801.2: not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (mm) Failure to fully cooperate with any investigation, enforcement action, or other official function of the Office of Government Ethics, in violation of DPM § 1801.3: not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (nn) Taking coercive, harassing, or retaliatory action against any employee acting in good faith, in violation of DPM § 1801.4: not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (oo) Coercing, harassing, or retaliating against any employee who reasonably believes there has been a violation or misuse of resources and discloses that to a supervisor or a public body, in violation of DPM § 1801.4: not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;

- (pp) Accepting a gift from a prohibited source, in violation of DPM § 1803.2 (a): not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (qq) Soliciting a gift from a prohibited source, in violation of DPM § 1803.2 (a): not less than two thousand dollars (\$2,000) nor more than four thousand dollars (\$4,000) per violation;
- (rr) Soliciting or coercing the offering of a gift, in violation of DPM § 1803.2 (b): not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000) per violation;
- (ss) Accepting a gift in return for being influenced in the performance or nonperformance of an official act, in violation of DPM § 1803.3 (a): not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000) per violation;
- (tt) Taking any action to pressure or coerce other District government employees into contributing monetarily to a private cause, in violation of DPM § 1803.3 (b): not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation;
- (uu) Accepting a salary or anything of monetary value from a private source as compensation for services to the government, in violation of DPM § 1803.8: not less than one thousand five hundred dollars (\$1,500) nor more than three thousand five hundred dollars (\$3,500) per violation;
- (vv) Soliciting a salary or anything of monetary value from a private source as compensation for services to the government, in violation of DPM § 1803.8: not less than two thousand dollars (\$2,000) nor more than four thousand dollars (\$4,000) per violation;
- (ww) Accepting, directly or indirectly, a gift from a District employee who earns a lower salary, in violation of DPM § 1804.3: not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per violation;
- (xx) Coercing a gift from a District employee with a lower salary, in violation of DPM § 1804.4: not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) per violation;
- (yy) Acquiring any stocks, bonds, commodities, real estate, or other property, the possession of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities, in violation of DPM § 1805.8 (a): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (zz) Acquisition by members of the employee's household of any stocks, bonds, commodities, real estate, or other property, the possession of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities, in

violation of DPM § 1805.8 (a): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;

- (aaa) Acquiring an interest in or operating any business which is in any way related to the employee's official duties, official action, recommendation, or which is in any way related to matters over which the employee could wield any influence, official or otherwise, in violation of DPM § 1805.8 (b): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (bbb) Acquisition by members of an employee's household of an interest in or operating any business which is in any way related to the employee's official duties, official action, recommendation, or which is in any way related to matters over which the employee could wield any influence, official or otherwise, in violation of DPM § 1805.8 (b): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ccc) Directly or indirectly making a hiring decision regarding a position within his or her own agency with respect to a relative, in violation of DPM § 1806.3: not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ddd) Taking any action to appoint, employ, promote, evaluate, interview, or advance any individual who is a relative, in violation of DPM § 1806.3: not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (eee) Engaging in any outside employment, private business activity, or other interest that is reasonably likely to interfere with the employee's ability to perform his or her job, or which may impair the efficient operation of the District government, in violation of DPM § 1807.1(a): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (fff) Gambling while on duty and while on District government owned or leased property (other than as permitted), in violation of DPM § 1807.1(b): not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) per violation;
- (ggg) Using District government time to raise money for a private cause, in violation of DPM § 1807.1(b): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (hhh) Using District government property to raise money for a private cause, in violation of DPM § 1807.1(b): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (iii) Ordering, directing, or requesting subordinate officers or employees to perform during regular working hours any personal services not related to official District government functions and activities, in violation of DPM

- § 1807.1(c): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (jjj) Maintaining financial or economic interest in or serving as an officer or director of an outside entity if there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee, in violation of DPM § 1807.1(d): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
 - (kkk) Engaging in outside employment, private business activity, or other interest which permits an employee to capitalize on his or her official title or position, in violation of DPM § 1807.1(e): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
 - (lll) Engaging in outside employment, private business activity, or other interest which permits others to capitalize on his or her official title or position, in violation of DPM § 1807.1(e): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
 - (mmm) Divulging any official government information to any unauthorized person or in advance of its authorized issuance, or making use of or permitting others to make use of information not available to the general public, in violation of DPM § 1807.1(f): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
 - (nnn) Engaging in any outside employment, private business activity, or other interest which might impair an employee's mental or physical capacity that he can no longer carry out his duties and responsibilities in a proper and efficient manner, in violation of DPM § 1807.1(g): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
 - (ooo) Serving in a representative capacity, agent, or attorney for any outside entity involving any matter before the District government, in violation of DPM § 1807.1(h): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
 - (ppp) Contracting through an organization that the employee controls or substantially owns with the District government, in violation of DPM § 1807.1(h): not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation;
 - (qqq) Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law, in violation of DPM § 1807.1(i): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;

- (rrr) Misusing District government property for other than authorized purposes, in violation of DPM § 1808.1: not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) per violation;
- (sss) Permitting others to misuse District government property for other than authorized purposes, in violation of DPM § 1808.1: not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) per violation;
- (ttt) Failure to comply with all applicable Financial Disclosure Statement filing requirements, in violation of DPM § 1810.4 (e) or Council Code of Conduct XI (c): not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per violation;
- (uuu) Knowingly acting as an attorney, agent, or representative, at any time after leaving District employment, in any formal or informal appearance before an agency as to a particular matter involving a specific party or parties in which the employee personally and substantially worked on while a District government employee, in violation of DPM § 1811.3: not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation;
- (vvv) Making any oral or written communication to an agency, at any time after leaving District employment, with the intent to influence that agency on behalf of another person as to a particular matter involving a specific party or parties on which the employee personally and substantially participated while a District government employee, in violation of DPM § 1811.4: not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation;
- (www) Knowingly acting as an attorney, agent, or representative, within two years of leaving District employment, in any formal or informal matter before an agency if he or she previously had official responsibility for that matter during the last year the employee worked for the District, in violation of DPM § 1811.5: not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation; and
- (xxx) Knowingly representing or aiding, counseling, advising, consulting, or assisting in representing any other person, within two years of leaving District employment, by personal appearance before an agency as to a particular government matter involving a specific party if the former employee participated personally and substantially in that matter during the last year the employee worked for the District, in violation of DPM § 1811.8: not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation.
- (yyy) Failing to act impartially and giving preferential treatment to any private organization or individual in violation of DPM § 1800.3(h).

- 5535.3 The aggregate set of the penalties imposed against each person under the Director's authority pursuant to §§ 5535.1 and 5535.2 may not exceed **five thousand dollars (\$5,000)**.
- 5535.4 Any fine imposed by the Director, pursuant to §§ 5535.1 and 5535.2, shall become effective on the sixteenth (16th) day following the issuance of a decision and order; provided, that, the respondent does not request a hearing pursuant to § 5530.11.
- 5535.5 The Director may modify, rescind, dismiss, or suspend any fine imposed, pursuant to §§ 5535.1 and 5535.2, for good cause shown.
- 5535.6 Fines imposed pursuant to this chapter shall be paid within ten (10) days of the effective date of the issuance of an Order of the Director. Payment by check or money order shall be payable to the D.C. Treasurer, and directed to the Board of Ethics and Government Accountability, 441 4th Street NW, Suite 830 South, Washington, DC, 20001.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with Brian K. Flowers, General Counsel, Board of Ethics and Government Accountability, 441 4th Street, N.W., 830 South, Washington, D.C. 20001. Comments also may be sent electronically to bega@dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2018-037
April 5, 2018

SUBJECT: Appointment — Open Government Advisory Group

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 2016-094, dated June 9, 2016, it is hereby **ORDERED** that:

1. The following persons are appointed as District of Columbia Government designees to the Open Government Advisory Group, serving at the pleasure of the Mayor:
 - a. **ELAINE BLOCK** as a designee of the Attorney General.
 - b. **REBECCA KATZ** as designee of the Executive Office of the Mayor, replacing Karuna Seshasai.
 - c. **TOM MOIR** as designee of the Mayor's Office of Legal Counsel, replacing Melissa Tucker.
 - d. **KARUNA SESHASAI** as designee of the Mayor's Office of General Counsel, replacing Betsy Cavendish.
 - e. **VICTORIA WASSMER** as designee of the Deputy Mayor for Public Safety and Justice, replacing Lyndsey Miller-Vierra.
 - f. **MARIE WHITTAKER** as designee of the Deputy Mayor for Planning and Economic Development, replacing Tim White.

2. **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 2018-038
April 5, 2018

SUBJECT: Appointment — District of Columbia Financial Literacy Council


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 5 of the Financial Literacy Council Establishment Act of 2008, effective August 15, 2008, D.C. Law 17-209, D.C. Official Code § 38-731.04 (2013 Repl.), it is hereby **ORDERED** that:

1. **JEFFREY A. BANKS** is appointed as Chairperson of the District of Columbia Financial Literacy Council, to serve until April 2, 2020.
2. **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 2018-039
April 10, 2018

SUBJECT: Amendment: Establishment of the District of Columbia Commission on Persons with Disabilities

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2016 Repl.), and in accordance with the Disability Rights Protection Act of 2006, effective March 8 2007, D.C. Law 16-239; D.C. Official Code § 2-1431.01 *et seq.* (2016 Repl.), and section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, approved October 30, 2000, 114 Stat. 1696; 42 U.S.C. § 15025, it is hereby **ORDERED** that:

I. AMENDMENT TO MAYOR'S ORDER 2009-165

- A. Section 4 of Mayor's Order 2009-165, dated September 25, 2009, is repealed and replaced with new sections 4A and 4B to read as follows:

4A. COMMISSION MEMBERSHIP AND MEETINGS

- A. The Commission shall consist of a minimum of twelve (12) and a maximum of fifteen (15) public members who shall be appointed by the Mayor.
- B. The public members of the Commission shall be District of Columbia residents and should include representation from the following communities:
1. Persons with disabilities.
 2. Representatives of the District of Columbia business community

3. Representatives of the service provider community who serve persons with disabilities in the District.
 4. Representatives of advocacy organizations that serve persons with disabilities in the District, and
 5. Other individuals in the District who have a demonstrated interest in enhancing the self-determination, productivity, integration, and valued participation of people with disabilities in all facets of community life.
- C. The Mayor shall also appoint at least two (2) members of the DD Council, not including the DD Council Chairperson, to serve as members of the Commission.
- D. At least fifty-one percent (51%) of Commission members shall at all times consist of persons with disabilities, and the remaining members shall have experience with, or a demonstrated interest in, issues that impact persons with disabilities.
- E. Each member of the Commission, or a designated representative, shall attend all meetings of the full Commission and all meetings of the subcommittees on which the member serves. The Commission's bylaws may permit public members to take excused absences.
- F. Any member who, without receiving an excused absence, fails to attend three (3) consecutive Commission meetings shall be deemed to be removed from the Commission, and a vacancy shall be created.

4B. DD COUNCIL MEMBERSHIP

- A. The DD Council shall consist of nineteen (19) members appointed by the Mayor.
- B. Twelve (12) members of the DD Council shall be consumer members appointed as follows:
- i. Four (4) shall be District residents with developmental disabilities;
 - ii. Four (4) shall be District residents who are parents or guardians of persons with developmental disabilities or immediate relatives or guardians of adults with mentally

impairing developmental disabilities who cannot advocate for themselves (collectively, “**representatives**”); and

- iii. Four (4) shall be either District residents with developmental disabilities or representatives.
- C. At least one (1) of the DD Council consumer members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or shall be an individual with a developmental disability who resides or previously resided in an institution.
- D. None of the DD Council consumer members shall be employees of a District government agency that receives funds or provides services under the Federal Assistance to State Developmental Disabilities Councils grant program, managing employees of any other entity which receives such funds or provides such services, or persons with an ownership or controlling interest with respect to any such entity.
- E. Three (3) members of the DD Council shall be organizational members, appointed as follows:
- i. One (1) representative from a District-designated protection and advocacy organization;
 - ii. One (1) representative from the District’s designated University Center for Excellence on Developmental Disabilities Education, Research, and Service; and
 - iii. One (1) representative from a local, non-governmental agency or not-for-profit organization concerned with services for District residents with developmental disabilities.
- F. Four (4) government members, appointed as follows:
- i. One (1) representative from the Department on Disability Services;
 - ii. One (1) representative from the Office of the State Superintendent of Education or the District of Columbia Public Schools;
 - iii. One (1) representative from the Office on Aging;


- iv. One (1) representative of a District government agency that administers funds under Titles V and XIX of the Social Security Act.
- G. A governmental or organizational member of the DD Council shall have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program the member represents and shall recuse himself or herself from any discussion of grants or contracts for which the member's department, agency, or program are grantees, contractors, or applicants and shall comply with the conflict of interest assurance requirement under section 124(c)(5)(D) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, approved October 30, 2000, 114 Stat. 1696, 42 U.S.C. § 15024(c)(5)(D).
- H. All DD Council members shall be District residents.
- I. The membership of the Council shall be geographically representative of the District and reflect the diversity of the District with respect to race and ethnicity.
- B. Section 5 is amended by striking the sentence "The date on which a majority is sworn in shall serve as the anniversary date for all subsequent appointments." and inserting the sentence "The anniversary date for appointments to both the Commission and DD Council shall be January 1." in its place.

II. CURRENT MEMBERS OF THE DISTRICT OF COLUMBIA COMMISSION ON PERSONS WITH DISABILITIES AND THE DEVELOPMENTAL DISABILITIES STATE PLANNING COUNCIL

- A. Current members of the District of Columbia Commission on Persons with Disabilities ("**Commission**") and the Developmental Disabilities State Planning Council ("DD Council") shall continue to serve, for the remainders of their terms, pursuant to the authority under which they were appointed.
- B. The term of appointment of each current member of the Commission and DD Council is extended to January 1 of the year after which the term would otherwise expire.

III. **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 2018-040
April 10, 2018

SUBJECT: Appointments – Commission on African-American Affairs

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with the Commission on African-American Affairs Establishment Act of 2012, effective March 14, 2012, D.C. Law 19-106; D.C. Official Code §§ 3-1441 and 3-1442 (2016 Repl.), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01 (2017 Supp.)), it is hereby **ORDERED** that:

1. **WHITNEY N. HUBBARD** pursuant to the Commission on African-American Affairs Whitney Hubbard Confirmation Resolution of 2017, effective February 12, 2018, PR22-0670, is appointed as a public voting member of the Commission on African-American Affairs, replacing Endrea Frazier, to serve the remainder of an unexpired term ending July 08, 2018.
2. **VEDA R. RASHEED** pursuant to the Commission on African-American Affairs Veda Rasheed Confirmation Resolution of 2017, effective February 12, 2018, PR22-0665, is appointed as a public voting member of the Commission on African-American Affairs, replacing Camille Smith-Franklin, to serve the remainder of an unexpired term ending June 15, 2019.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to February 12, 2018.



MURIEL BOWSER
MAYOR

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

DC COMMISSION ON THE ARTS AND HUMANITIES

NOTICE OF FUNDING AVAILABILITY

FY 2019 Grant Opportunities

The DC Commission on the Arts and Humanities (CAH) announces the availability of fiscal year 2019 grants programs. Grants supporting fellowships and individual projects for artists and humanities professionals, arts and humanities education projects, projects supporting wards 7 and 8, projects supporting capital improvement and acquisition, public art projects and participation in a capacity-building program for organizations will be available during this cycle.

CAH's mission is to provide grants, programs and educational activities that encourage diverse artistic expressions and learning opportunities, so that all District of Columbia residents and visitors can experience the rich culture of our city.

Individual grant applicants must be at least 18 years of age and reside in the District of Columbia for at least one year prior to the grant application deadline with the intention to maintain DC residency throughout fiscal year 2019 (October 1, 2018 – September 30, 2019). Organizational applicants must be registered in the District of Columbia, headquartered with a land address in DC and have nonprofit status for at least one year prior to the application deadline, in addition to other eligibility criteria detailed in the program's guidelines. All applicants must meet with individual and business regulatory compliance.

All eligible applications are reviewed through a competitive process. CAH will publish evaluation criteria and eligibility requirements in its forthcoming grant guidelines.

The Request for Applications (RFA) will be available electronically beginning April 30, 2018 on the CAH website at <http://dcarts.dc.gov/>. Applicants must apply online. The deadlines for applications vary by grant program and occur between June 1 and July 27, 2018. Requests for reasonable accommodations should be submitted at least seven days prior to an application deadline.

CAH will be presenting the overview of its FY19 grant opportunities on Saturday, April 28, 2018 at 10:00 AM at Janney Elementary School at 4130 Albemarle Street NW, Monday, April 30 at 2:30 PM in the multipurpose room at 200 I Street SE and on Tuesday, May 1, 2018 at 6:00 PM at the R.I.S.E. Demonstration Center at 2730 Martin Luther King Jr. Avenue, SE. The presentation will be live-streamed via Periscope @thedcarts. Requests for reasonable accommodations should be submitted at least seven days prior to a meeting date.

Technical assistance workshops will be offered throughout the application period to provide service to applicants.

For more information, please contact:

Heran Sereke-Brhan
Senior Grants Officer
DC Commission on the Arts and Humanities
200 I (Eye) St. SE
Washington, DC 20003
(202) 724-5613 or Heran.Sereke-Brhan2@dc.gov

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

Vacant Building Enforcement

Address:	Square:	Lot:
916-918 H Street NE	0933	0801

The Department of Consumer and Regulatory Affairs (DCRA), has reviewed and **approved** your request for an Economic Hardship Exemption for the above property for real property tax years **2016-2017 tax year only**.

DCRA will immediately notify the Office of Tax and Revenue (OTR) to reclassify the subject property as exempt or Class 1/Class 2.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

Vacant Building Enforcement

Address:	Square:	Lot:
1322 Hamlin Street NE	3959	0019

The Department of Consumer and Regulatory Affairs (DCRA) has reviewed and **approved** your request for exemption from the Vacant Building Registration requirements, for the property listed above, for the following reason(s): **ECONOMIC HARDSHIP**

Based on the supporting evidence provided, you are exempt from the vacant tax rate for **2018 tax year ONLY**. Annually you are required by law to register vacant property or seek an exemption for the current tax year. DCRA will notify the Office of Tax and Revenue (OTR) to reclassify the subject property as a Class 1/Class 2. DCRA reserves the right to revoke this exemption if the building is not maintained in accordance with the Vacant Building Maintenance standards, or if disqualifying information is obtained.

DC SCHOLARS PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Video Production, Computer Coding and Robotics After School Programming**

DC Scholars Public Charter School intends to enter into a sole source contract with RSN Sports DMV LLC for contracted afterschool programming instruction on Video Production and Media Streaming for approximately \$20,000 in school year 2017-18. RSN Sports will also provide Computer Coding and Robotics instruction for an additional \$20,000 during the school year 2017-18. The decision to sole source is due to the fact that DC Scholars Public Charter School previously partnered with RSN Sports for After School programming in school year 2016-17 and it would be most effective to continue these services through RSN Sports. In the 2017-18 school year, RSN Sports will provide two professional support staff to run each after school course (i.e. Video Production and Computer Coding) two days per week on a bi-weekly basis. In addition to instruction, the RSN staff will ensure students in the class complete a bi-monthly presentation of skills learned. RSN Sports also provides basic materials and software technology while DC Scholars PCS has agreed to provide internet services and computers for each student in the After School courses. RSN Sports has a proven history on training students on Student Media Art System, including Social Media safety and Computer Coding.

The Sole Source Contract will be awarded at the close of business on April 23, 2018. If you have questions or concerns regarding this notice, contact **Emily Stone** at [202-559-6138](tel:202-559-6138) or estone@dcscholars.org no later than **4:00 pm on April 24, 2018**.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT

ANNOUNCES APRIL 19, 2018 PUBLIC MEETING OF
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 April 19, 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 April 19, 2018, committee meeting
- III. Approval of minutes from March 15, 2018, committee meeting
- IV. City Arts and Prep Public Charter School - \$ 2,000,000 direct loan application
- 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.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF FUNDING AVAILABILITY****Fiscal Year 2019 21st Century Community Learning Centers Grant
(ESEA Title IV, Part B)****CFDA: 84.287C and FAIN: S287C180008****Request for Application Release Date: April 27, 2018 at 3:00pm****Enterprise Grants Management System Application Release Date: May 4, 2018 at 3:00pm**

The Division of Systems and Supports, K-12, within the Office of the State Superintendent of Education (OSSE), will be soliciting grant proposals from eligible District of Columbia agencies. These agencies are inclusive of local educational agencies, community-based organizations, another public or private entities, or a consortium of two (2) or more of such agencies, organizations, or entities that do not currently receive 21st Century Community Learning Centers (21st CCLC) grant funds in the District of Columbia.

The purpose of the 21st CCLC program is to establish or expand community learning centers that provide students with academic enrichment opportunities along with activities designed to complement the students' regular academic program. Along with student opportunities, 21st CCLC offers the students' families literacy and related educational development. 21st CCLC programs, which can be located in elementary schools, secondary schools, or other similarly accessible facilities, provide a range of high-quality services to support student learning and development. At the same time, centers help working parents by providing a safe environment for students during non-school hours or periods when school is not in session.

The 21st CCLC program is authorized under Part B of Title IV of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015. The grant is supported through federal funds awarded to the District to support the 21st Century Community Learning Centers and through local funds as part of a strategic citywide effort to increase access to high quality child care and support D.C.'s efforts under the Child Care and Development Block Grant Act of 2014, effective November 19, 2014 ((P.L. 113-186; 42 U.S.C. 9858 et seq.) (2012 Repl. and 2015 Supp.))

Under ESEA, the law's specific purposes are to:

- provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet the challenging state academic standards;
- offer students a broad array of additional services, programs, and activities, such as youth development activities, service learning, nutrition and health education, drug and violence prevention programs, counseling programs, arts, music, physical fitness and wellness programs, technology education programs, financial literacy programs, environmental literacy programs, mathematics, science, career and technical programs, internship or apprenticeship programs, and other ties to an in-demand industry sector or occupation for high school students that are

designed to reinforce and complement the regular academic program of participating students; and

- offer families of students served by the community learning centers opportunities for active and meaningful engagement in their children's education, including opportunities for literacy and related educational development.

The total funding available for 21st CCLC awards is \$2,000,000 (\$341,039 Federal and \$1,658,961 Local). The 21st CCLC grant award period will be from the date of the award to Monday, September 30, 2019. Successful applicants will be funded for two (2) additional years (three-year grant award period) subject to funding availability.

Program costs must be paid, not merely incurred, by the awardee to the payee prior to requesting reimbursement. All awards will be reviewed annually for consideration of continued funding. To receive more information or for a copy of the Request for Applications (RFA), please contact:

Sheryl Hamilton
Office of the State Superintendent of Education
1050 First Street, NE, 5th Floor
Washington, D.C. 20002
Telephone: (202) 741-6404
Email: 21stcclc.info@dc.gov

Organizations interested in applying for 21st CCLC may use the following link to access OSSE's on-line Enterprise Grants Management System (EGMS): <http://grants.osse.dc.gov/>. Applicants will need to create an EGMS username and password to access the 21st CCLC application. The RFA and application submission guidance will also be available on OSSE's 21st CCLC webpage at <http://osse.dc.gov/service/title-iv-part-b-21st-century-community-learning-centers>.

Applications must be submitted through EGMS by Monday, June 18, 2018 at 3:00 p.m. Eastern Standard Time in order to be eligible for review. A review panel will be convened to review, score, and rank each application. The review panel will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences with 21st CCLC. Upon completion of their review, reviewers shall make recommendations for awards based on the scoring rubric. OSSE's Division of Systems and Supports, K-12 will make all final award decisions.

OSSE will provide two web-based pre-application technical assistance sessions on **Thursday, May 10 and Tuesday, May 15, 2018**. The pre-application technical assistance sessions will include an overview of the 21st CCLC grant program, competition, and EGMS for application submissions; and will provide technical assistance for any grant competition inquiries. Potential applicants may register for the May 10 session [here](#) or for the May 15 session [here](#).

Two in-person pre-application technical assistance sessions will be held at OSSE (1050 First Street, NE, Washington, DC) on **Tuesday, May 8 and Thursday, May 17, 2018** from 10:00 a.m. to 12:00 p.m. Potential applicants may register for one of the in-person technical assistance sessions [here](#). Please note that seating will be limited so please limit the number of staff registering and attending the in-person sessions to three or less.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF FUNDING AVAILABILITY****FY 2018 Charter Schools Program Dissemination Grant (ESEA Title V, Part B)****CFDA: 84.282A and FAIN: U282A150028****Request for Application Release Date: Monday, April 30, 2018, 12:00 p.m.**

The Office of the State Superintendent of Education (OSSE) will issue a Request for Applications (RFA) for the FY 2018 Charter Schools Program (CSP) Dissemination Grant. The dissemination grant is funded through the federal FY 2015 CSP State Educational Agencies Grant pursuant to sections 5201-5211 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, Public Law 107-110.

Approximately \$892,912 in dissemination grant funds will be awarded to eligible public charter school local education agencies (LEAs) to assist other schools in adapting the public charter school's program (or certain aspects of the public charter school's program), or to disseminate information about best practices at the public charter school through such activities as:

- Assisting other individuals with planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;
- Developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating within the partnership;
- Developing curriculum materials, assessments, and other materials that promote increased student achievement, and are based on successful practices within the assisting charter school; and
- Conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

To be eligible for this grant, a public charter LEA must:

- Have been in operation in the District of Columbia for at least three (3) consecutive years prior to this solicitation (open and serving students since at least the 2014-15 school year); and
- Have demonstrated overall success, including:
 - (1) Substantial progress in improving student academic achievement;
 - (2) High levels of parent satisfaction; and
 - (3) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

Additional eligibility information for charter LEAs who have previously been awarded a CSP dissemination subgrant:

- Charter LEAs that have previously been awarded one CSP dissemination subgrant from OSSE are eligible to apply for a second CSP dissemination subgrant under the conditions described below.
- Charter LEAs that have previously received two CSP dissemination subgrants from OSSE are not eligible to apply for a third CSP dissemination subgrant.

Any charter LEA who has previously received one CSP-funded dissemination grant may apply for a second dissemination subgrant, subject to the following conditions:

- No more than one dissemination project may be carried out by a subgrantee at one time;
- Subgrantees will not use funds to carry out the same project or activities from a previous dissemination subgrant;
- Dissemination subgrant applicants must have satisfactorily completed all activities under their previous dissemination subgrant, including full draw-down funds and all OSSE reporting requirements; and
- The application must meet all other requirements listed above.

Determinations regarding the number of competitive grant awards will be based on the quality and number of applications received and available funding. Successful applicants may be awarded amounts less than requested. Priority may be given to projects within the following areas of focus:

- a. Improving educational outcomes for disadvantaged students by raising achievement and attainment for specific subgroups (including statewide assessments, graduation rates, and post-secondary enrollment rates) and reducing achievement gaps between subgroups;
- b. Disseminating best and promising practices related to student discipline and school climate or effectively incorporating student body diversity with respect to improving academic achievement for educationally disadvantaged students; and
- c. Disseminating successful special education practices to partner LEAs who became independent LEAs for special education purposes within the last three years, in accordance with District of Columbia law (*see* D.C. Official Code §38.1802.10(c)).

A review panel or panels will be convened to review, score, and rank each application. The review panel will be composed of external, neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE will make all final award decisions.

The grant award period will be two years from the date of the award, and LEAs must commit to obligate all grant funds awarded under this competition within the grant award period. Awards are limited to one per charter LEA. Due to the wide variety of possible dissemination projects, there is no minimum or maximum award amount.

The RFA will be available on OSSE's website at www.osse.dc.gov. All applications will be submitted through the Enterprise Grants Management System (EGMS) at grants.osse.dc.gov. Please note that all interested applicants must submit a letter of intent to apply no later than Friday, May 11, 2018 and must participate in a Pre-Application Webinar. To receive more information, please contact Brianna Becker at Brianna.Becker@dc.gov.

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:

Kelly Waud
Single-Member District 6B07

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF EMPLOYMENT SERVICES**

**Public Notice to District of Columbia Employers
And Employees for Paid Family Leave**

Notice is hereby given that, pursuant to the Universal Paid Leave Amendment Act of 2016 (“Paid Leave Act”), all covered employers will be required to contribute an amount equal to 0.62% of the wages of each of its covered employees to the Universal Paid Leave Implementation Fund by July 1, 2019. Contributions will be collected electronically by payroll tax from the Department of Employment Services (DOES), Office of Paid Family Leave (OPFL), on a quarterly basis.

Covered Employee

A covered employee is any worker of a covered employer who spends more than 50% of his or her work time for that employer working in the District of Columbia; or whose employment for the covered employer is based in the District and who regularly spends a substantial amount of his or her work time for that covered employer in the District and not more than 50% of his or her work time for that covered employer in another jurisdiction.

Covered Employer

A covered employer is any individual, partnership, general contractor, subcontractor, association, corporation, business trust, or any group of persons who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee and is required to pay unemployment insurance on behalf of its employee. A covered employer is also a self-employed individual who has opted into the paid-leave program established pursuant to the Paid Leave Act.

All communications with covered employers, covered employees, applicants, eligible individuals, health care providers, claims examiners, and DOES OPFL will occur by phone, email, and through the online portal on or after July 1, 2019. For more information on the implementation of the Paid Family Leave (PFL) program, please visit does.dc.gov.

Comments on this notice and any request for information should be addressed to:

Department of Employment Services
Office of Paid Family Leave
4058 Minnesota Ave. NE
Washington, DC 20019
does.opfl@dc.gov

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, Washington, DC, intends to issue a permit (No. 6472-C3) to the District of Columbia Water and Sewer Authority (DC Water) to construct and operate the Dewatered Sludge Loading Facility Odor Scrubber listed below. This is a renewal of a previously issued permit. The emission control equipment is located at 5000 Overlook Avenue SW, Washington DC 20032. The contact person for the facility is Meena Gowda, Principal Counsel, at (202) 787-2628.

Equipment Location	Address	Equipment Size	Type
Blue Plains WWTP- Atop Solids Processing Building	5000 Overlook Ave. SW Washington, DC 20032	54,000 cfm	Indusco Packed Bed Tower Scrubber or equivalent

The application to construct and operate the odor scrubber and the draft renewal permit and supporting documents are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No comments or hearing requests submitted after May 14, 2018 will be accepted.

DEPARTMENT OF HEALTH CARE FINANCE

PUBLIC NOTICE

MEDICAID FEE SCHEDULE UPDATES FOR DENTAL SERVICES

The Department of Health Care Finance (DHCF), in accordance with the requirements set forth in Section 988 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations, published January 1, 2016 (63 DCR 40), announces changes to the procedure codes and rates for the reimbursement of Medicaid covered dental services billed by dental providers that will go into effect on June 1, 2018.

Each year, the American Dental Association (ADA) releases dental procedure code updates and additions. This Medicaid fee schedule update aligns DHCF dental procedure codes with those published by the ADA. The Medicaid Fee Schedule for Dental Procedures is located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>.

For further information or questions regarding this fee schedule update, please contact Amy Xing, Reimbursement Analyst, Department of Health Care Finance, at amy.xing2@dc.gov, or via telephone at (202) 481-3375.

DEPARTMENT OF HEALTH**PUBLICATION OF NOTICES SENT TO ADVISORY NEIGHBORHOOD COMMISSIONS IN WARDS 7 AND 8 FOR A COMMENT PERIOD REGARDING MEDICAL MARIJUANA DISPENSARY REGISTRATION APPLICANTS**

The Director of the Department of Health, pursuant to the requirement of § 5107.6 of Chapter 51 (Registration and Permit Categories) of Subtitle C (Medical Marijuana) of Title 22 (Health) of the District of Columbia Municipal Regulations, hereby submits for publication in the *D.C. Register* copies of the notices sent to Advisory Neighborhood Commissions in Wards 7 and 8, pursuant to 22-C DCMR § 5107, pertaining to a period for affected Advisory Neighborhood Commissions to submit comments regarding applicants for a medical marijuana dispensary registration in Ward 7 and in Ward 8.

The notices were sent to Advisory Neighborhood Commissions on DC Health letterhead, containing the following contact information in the footer: 899 North Capitol Street NE, 5th Fl, Washington, DC 20002 | P: 202-442-5955 | F: 202-442-4795 | dchealth.dc.gov. The DC Health letterhead and footer have since been removed from the copies below to adhere to *D.C. Register* publication standards.

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Health Regulation and Licensing Administration
Medical Marijuana and Integrative Therapy Division

March 28, 2018

Robin Hammond Marlin
3350 Erie St SE
Washington, DC 20020

Re.: Medical Marijuana Dispensary Application Notification

Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the "Department") shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

The Director invites ANCs in the affected ward to comment on the dispensary applicants identified below. As defined in 22-C DCMR § 5109.1, comments from the ANC shall relate to, and will be scored on, the ANC's concerns or support regarding the dispensary's proposed location, including but not limited to:

1. The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood.
2. The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward.
3. The ANCs' concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, and halfway houses.

Please note that comments pertaining to aspects of the dispensary applicant that are not in regard to the dispensary's proposed location will not be accepted by the Department. Additionally, the Department shall only accept comments that have been voted on, approved and submitted by the ANC as a whole. Comments submitted by a single member district representative will not be accepted.

The comments from your ANC are due to the Department of Health **by 12:00 Noon on Thursday, May 3, 2018**, and shall be addressed to 899 North Capitol Street, NE, 2nd Floor, Washington, DC 20002, Attn. Arian R. Gibson. The comments shall be contained in a single document and represent the official position of the ANC. Please be sure to send your comments in a manner that ensures signed receipt.

The following applicants for a Medical Marijuana Dispensary registration in your ward has received a provisional score of 150 or above and may be reviewed by the ANC during the thirty (30) day comment period:

Charmed LLC
d/b/a Charmed Healthcare LLC
43 Allison St NE
Washington, DC 20011

The aforementioned applicant proposes to operate a medical marijuana dispensary at **2335 Pennsylvania Ave, SE**, between the hours of 11:00 a.m. – 7:00 p.m. Monday through Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

DC Holistic Wellness Group, LLC
d/b/a DC Holistic
2927 Arizona Ave NW
Washington, DC 20016

The aforementioned applicant proposes to operate a medical marijuana dispensary at **4721 Sheriff Rd, NE**, between the hours of 11:00 a.m. – 8:00 p.m. Monday through Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

PharmaCann LLC
d/b/a PharmaCann
1010 Lake St
Oak Park, Illinois 60301

The aforementioned applicant proposes to operate a medical marijuana dispensary at **2323 Pennsylvania Ave, SE**, between the hours of 8:00 a.m. – 7:00 p.m. Monday through Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana

cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

We encourage you to continue to monitor the DC Health Medical Marijuana & Integrative Therapy webpage for additional announcements and information regarding the program. The webpage address is <https://dchealth.dc.gov/service/medical-marijuana-program>. A copy of the Medical Marijuana regulations can be found on the DC Health Medical Marijuana & Integrative Therapy webpage at <https://dchealth.dc.gov/node/823012>.

Sincerely,

Arian R. Gibson

Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Antawan Holmes
4805 Meade St NE
Washington, DC 20019

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the "Department") shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

The Director invites ANCs in the affected ward to comment on the dispensary applicants identified below. As defined in 22-C DCMR § 5109.1, comments from the ANC shall relate to, and will be scored on, the ANC's concerns or support regarding the dispensary's proposed location, including but not limited to:

1. The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood.
2. The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward.
3. The ANCs' concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, and halfway houses.

Please note that comments pertaining to aspects of the dispensary applicant that are not in regard to the dispensary's proposed location will not be accepted by the Department. Additionally, the Department shall only accept comments that have been voted on, approved and submitted by the ANC as a whole. Comments submitted by a single member district representative will not be accepted.

The comments from your ANC are due to the Department of Health **by 12:00 Noon on Thursday, May 3, 2018**, and shall be addressed to 899 North Capitol Street, NE, 2nd Floor, Washington, DC 20002, Attn. Arian R. Gibson. The comments shall be contained in a single document and represent the official position of the ANC. Please be sure to send your comments in a manner that ensures signed receipt.

The following applicants for a Medical Marijuana Dispensary registration in your ward has received a provisional score of 150 or above and may be reviewed by the ANC during the thirty (30) day comment period:

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Washington, DC 20011

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DC Holistic Wellness Group, LLC
d/b/a DC Holistic
2927 Arizona Ave NW
Washington, DC 20016

The aforementioned applicant proposes to operate a medical marijuana dispensary at **4721 Sheriff Rd, NE**, between the hours of 11:00 a.m. – 8:00 p.m. Monday through Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

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We encourage you to continue to monitor the DC Health Medical Marijuana & Integrative Therapy webpage for additional announcements and information regarding the program. The webpage address is <https://dchealth.dc.gov/service/medical-marijuana-program>. A copy of the Medical Marijuana regulations can be found on the DC Health Medical Marijuana & Integrative Therapy webpage at <https://dchealth.dc.gov/node/823012>.

Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Sherice A. Muhammad
4409 Jay St NE
Washington, DC 20019

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the "Department") shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

The Director invites ANCs in the affected ward to comment on the dispensary applicants identified below. As defined in 22-C DCMR § 5109.1, comments from the ANC shall relate to, and will be scored on, the ANC's concerns or support regarding the dispensary's proposed location, including but not limited to:

1. The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood.
2. The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward.
3. The ANCs' concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, and halfway houses.

Please note that comments pertaining to aspects of the dispensary applicant that are not in regard to the dispensary's proposed location will not be accepted by the Department. Additionally, the Department shall only accept comments that have been voted on, approved and submitted by the ANC as a whole. Comments submitted by a single member district representative will not be accepted.

The comments from your ANC are due to the Department of Health **by 12:00 Noon on Thursday, May 3, 2018**, and shall be addressed to 899 North Capitol Street, NE, 2nd Floor, Washington, DC 20002, Attn. Arian R. Gibson. The comments shall be contained in a single document and represent the official position of the ANC. Please be sure to send your comments in a manner that ensures signed receipt.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Ashley Emerson
5009 D St SE
Washington, DC 20019

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the "Department") shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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1. The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood.
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1010 Lake St
Oak Park, Illinois 60301

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We encourage you to continue to monitor the DC Health Medical Marijuana & Integrative Therapy webpage for additional announcements and information regarding the program. The webpage address is <https://dchealth.dc.gov/service/medical-marijuana-program>. A copy of the Medical Marijuana regulations can be found on the DC Health Medical Marijuana & Integrative Therapy webpage at <https://dchealth.dc.gov/node/823012>.

Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Sheila M. Carson Carr
515 46th St SE
Washington, DC 20019

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the "Department") shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

The Director invites ANCs in the affected ward to comment on the dispensary applicants identified below. As defined in 22-C DCMR § 5109.1, comments from the ANC shall relate to, and will be scored on, the ANC's concerns or support regarding the dispensary's proposed location, including but not limited to:

1. The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood.
2. The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward.
3. The ANCs' concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, and halfway houses.

Please note that comments pertaining to aspects of the dispensary applicant that are not in regard to the dispensary's proposed location will not be accepted by the Department. Additionally, the Department shall only accept comments that have been voted on, approved and submitted by the ANC as a whole. Comments submitted by a single member district representative will not be accepted.

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The following applicants for a Medical Marijuana Dispensary registration in your ward has received a provisional score of 150 or above and may be reviewed by the ANC during the thirty (30) day comment period:

Charmed LLC
d/b/a Charmed Healthcare LLC
43 Allison St NE
Washington, DC 20011

The aforementioned applicant proposes to operate a medical marijuana dispensary at **2335 Pennsylvania Ave, SE**, between the hours of 11:00 a.m. – 7:00 p.m. Monday through Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

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2927 Arizona Ave NW
Washington, DC 20016

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Maranda C. Ward
2821 O St SE
Washington, DC 20020

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

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Sincerely,

Arian R. Gibson

Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Anthony Lorenzo Green
920 49th St NE
Washington, DC 20019

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

7B ANC Members
3200 S St SE
Washington, DC 20020

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the "Department") shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

7B ANC Members
3851 Alabama Ave SE
Washington, DC 20020

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Via First-Class mail

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

7C ANC Members
4651 Nannie Helen Burroughs Ave NE #2
Washington, DC 20019

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

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Sincerely,

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March 28, 2018

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4058 Minnesota Ave NE Suite 1400
Washington, DC 20019

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Via First-Class mail

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

7E ANC Members
5001 Hanna Pl SE
Washington, DC 20019

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

7F ANC Members
515 46th St SE
Washington, DC 20019

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

The Director invites ANCs in the affected ward to comment on the dispensary applicants identified below. As defined in 22-C DCMR § 5109.1, comments from the ANC shall relate to, and will be scored on, the ANC’s concerns or support regarding the dispensary’s proposed location, including but not limited to:

1. The ANCs’ concerns or support regarding the potential adverse impact of the proposed location to the neighborhood.
2. The ANCs’ concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward.
3. The ANCs’ concerns or support regarding the proposed location’s proximity to substance abuse treatment centers, day care centers, and halfway houses.

Please note that comments pertaining to aspects of the dispensary applicant that are not in regard to the dispensary’s proposed location will not be accepted by the Department. Additionally, the Department shall only accept comments that have been voted on, approved and submitted by the ANC as a whole. Comments submitted by a single member district representative will not be accepted.

The comments from your ANC are due to the Department of Health **by 12:00 Noon on Thursday, May 3, 2018**, and shall be addressed to 899 North Capitol Street, NE, 2nd Floor, Washington, DC 20002, Attn. Arian R. Gibson. The comments shall be contained in a single document and represent the official position of the ANC. Please be sure to send your comments in a manner that ensures signed receipt.

The following applicants for a Medical Marijuana Dispensary registration in your ward has received a provisional score of 150 or above and may be reviewed by the ANC during the thirty (30) day comment period:

Charmed LLC
d/b/a Charmed Healthcare LLC
43 Allison St NE
Washington, DC 20011

The aforementioned applicant proposes to operate a medical marijuana dispensary at **2335 Pennsylvania Ave, SE**, between the hours of 11:00 a.m. – 7:00 p.m. Monday through Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

DC Holistic Wellness Group, LLC
d/b/a DC Holistic
2927 Arizona Ave NW
Washington, DC 20016

The aforementioned applicant proposes to operate a medical marijuana dispensary at **4721 Sheriff Rd, NE**, between the hours of 11:00 a.m. – 8:00 p.m. Monday through Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

PharmaCann LLC
d/b/a PharmaCann
1010 Lake St
Oak Park, Illinois 60301

The aforementioned applicant proposes to operate a medical marijuana dispensary at **2323 Pennsylvania Ave, SE**, between the hours of 8:00 a.m. – 7:00 p.m. Monday through Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

We encourage you to continue to monitor the DC Health Medical Marijuana & Integrative Therapy webpage for additional announcements and information regarding the program. The webpage address is <https://dchealth.dc.gov/service/medical-marijuana-program>. A copy of the Medical Marijuana regulations can be found on the DC Health Medical Marijuana & Integrative Therapy webpage at <https://dchealth.dc.gov/node/823012>.

Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

Health Regulation and Licensing Administration
Medical Marijuana and Integrative Therapy Division

March 28, 2018

Khadijah Watson
2437 Wagner St SE
Washington, DC 20020

Re.: Medical Marijuana Dispensary Application Notification

Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the "Department") shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

The Director invites ANCs in the affected ward to comment on the dispensary applicants identified below. As defined in 22-C DCMR § 5109.1, comments from the ANC shall relate to, and will be scored on, the ANC's concerns or support regarding the dispensary's proposed location, including but not limited to:

4. The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood.
5. The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward.
6. The ANCs' concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, and halfway houses.

Please note that comments pertaining to aspects of the dispensary applicant that are not in regard to the dispensary's proposed location will not be accepted by the Department. Additionally, the Department shall only accept comments that have been voted on, approved and submitted by the ANC as a whole. Comments submitted by a single member district representative will not be accepted.

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The following applicant for a Medical Marijuana Dispensary registration in your ward has received a provisional score of 150 or above and may be reviewed by the ANC during the thirty (30) day comment period:

*BCG Holdings, Inc.
d/b/a Anacostia Organics
1354 W St, SE
Washington, DC 20020*

The aforementioned applicant proposes to operate a medical marijuana dispensary at **2022 Martin Luther King Jr. Ave, SE**, between the hours of 12:00 p.m. – 7:00 p.m. Monday through Friday and the hours of 11:30 a.m. – 5:00 p.m. Saturday and Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Troy Donte Prestwood
2317 16th St SE #101
Washington, DC 20020

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Mary J. Cuthbert
629 Alabama Ave SE
Washington, DC 20032

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Olivia L. Henderson
4612 6th St SE
Washington, DC 20032

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Anthony Muhammad
P.O. Box 73878
Washington, DC 20056

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Chairperson,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

Greta J. Fuller
1352 Maple View Pl SE
Washington, DC 20020

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

8A ANC Members
2100-D Martin Luther King Jr. Ave SE
Washington, DC 20020

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

8B ANC Members
2437 Wagner St SE
Washington, DC 20020

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

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In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

8C ANC Members
3125 Martin Luther King Jr. Ave SE
Washington, DC 20032

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

The Director invites ANCs in the affected ward to comment on the dispensary applicants identified below. As defined in 22-C DCMR § 5109.1, comments from the ANC shall relate to, and will be scored on, the ANC’s concerns or support regarding the dispensary’s proposed location, including but not limited to:

1. The ANCs’ concerns or support regarding the potential adverse impact of the proposed location to the neighborhood.
2. The ANCs’ concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward.
3. The ANCs’ concerns or support regarding the proposed location’s proximity to substance abuse treatment centers, day care centers, and halfway houses.

Please note that comments pertaining to aspects of the dispensary applicant that are not in regard to the dispensary’s proposed location will not be accepted by the Department. Additionally, the Department shall only accept comments that have been voted on, approved and submitted by the ANC as a whole. Comments submitted by a single member district representative will not be accepted.

The comments from your ANC are due to the Department of Health **by 12:00 Noon on Thursday, May 3, 2018**, and shall be addressed to 899 North Capitol Street, NE, 2nd Floor, Washington, DC 20002, Attn. Arian R. Gibson. The comments shall be contained in a single document and represent the official position of the ANC. Please be sure to send your comments in a manner that ensures signed receipt.

The following applicant for a Medical Marijuana Dispensary registration in your ward has received a provisional score of 150 or above and may be reviewed by the ANC during the thirty (30) day comment period:

BCG Holdings, Inc.
d/b/a Anacostia Organics
1354 W St, SE
Washington, DC 20020

The aforementioned applicant proposes to operate a medical marijuana dispensary at **2022 Martin Luther King Jr. Ave, SE**, between the hours of 12:00 p.m. – 7:00 p.m. Monday through Friday and the hours of 11:30 a.m. – 5:00 p.m. Saturday and Sunday. Operation of a registered medical marijuana dispensary includes the authorized sale of medical marijuana obtained from registered medical marijuana cultivation centers to qualified patients or caregivers who are registered with the District's Department of Health.

We encourage you to continue to monitor the DC Health Medical Marijuana & Integrative Therapy webpage for additional announcements and information regarding the program. The webpage address is <https://dchealth.dc.gov/service/medical-marijuana-program>. A copy of the Medical Marijuana regulations can be found on the DC Health Medical Marijuana & Integrative Therapy webpage at <https://dchealth.dc.gov/node/823012>.

Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

8D ANC Members
PO Box 54781
Washington, DC 20032

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

March 28, 2018

8E ANC Members
1310 Southern Ave SE (Room G047)
Washington, DC 20032

Re.: Medical Marijuana Dispensary Application Notification
Via First-Class mail

Dear ANC Member,

In accordance with 22-C DCMR-C § 5107, upon the initial selection of a completed Medical Marijuana Dispensary registration application by a six (6) member panel, the Director of the Department of Health (the “Department”) shall give written notice through the mail of the registration application to all Advisory Neighborhood Commissions (ANCs) in the affected ward. Pursuant to 22-C DCMR § 5107.1, notice shall be given by the Director to ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center. The ANCs must submit their comments to the Director **not later than thirty (30) days** after receiving this notice.

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Sincerely,

Arian R. Gibson
Program Manager, Division of Medical Marijuana and Integrative Therapy

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY**NOTICE OF *CANCELLED* CLOSED FACT-FINDING MEETING****Homeland Security Commission**

The District of Columbia Homeland Security Commission (HSC) Closed meeting scheduled for April 6, 2018 at 1:00 p.m., has been cancelled. For additional information, please contact Sarah Case-Herron, Bureau Chief, Policy and Legislative Affairs at (202) 481- 3107 or sarah.case-herron@dc.gov.

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF CLOSED MEETING

Homeland Security Commission

April 23, 2018

2:00 p.m.-3:30 p.m.

1350 Pennsylvania Ave., North West

Washington D.C. 20004

Room 527

On April 23, 2018 at 2:00 p.m., the Homeland Security Commission (HSC) will hold a closed fact-finding meeting pursuant to D.C. Code § 2-575(b), D.C. Code § 7-2271.04, and D.C. Code § 7-2271.05, for the purpose of gathering information for the annual report.

The meeting will be held at 1350 Pennsylvania Ave., North West Washington D.C. 20004 in room 527.

For additional information, please contact Sarah Case-Herron, Bureau Chief, Policy and Legislative Affairs, by phone at 202-481-3107, or by email at sarah.case-herron@dc.gov.

D.C. HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY

NOTICE OF CLOSED MEETING

Homeland Security Commission

April 20, 2018

10:00 a.m.-12:00 p.m.

1350 Pennsylvania Ave., North West

Washington D.C. 20004

Room 527

On April 20, 2018 at 10:00 a.m., the Homeland Security Commission (HSC) will hold a closed meeting pursuant to D.C. Code § 2-575(b), D.C. Code § 7-2271.04, and D.C. Code § 7-2271.05, for the purpose of discussing the annual report.

The meeting will be held at 1350 Pennsylvania Ave., North West Washington D.C. 20004 in room 527.

For additional information, please contact Sarah Case-Herron, Bureau Chief, Policy and Legislative Affairs, by phone at 202-481-3107, or by email at sarah.case-herron@dc.gov.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES
ECONOMIC SECURITY ADMINISTRATION**

NOTICE OF FUNDING AVAILABILITY (NOFA): SNAP E&T-2019-01

**FY2019 GRANTS TO COMMUNITY-BASED ORGANIZATIONS FOR SNAP
EMPLOYMENT AND TRAINING PROGRAM (SNAP E&T)**

Program Description

The Department of Human Services (DHS), Economic Security Administration (ESA), is the lead agency in the District of Columbia for SNAP Employment and Training (SNAP E&T), as authorized by the Food and Nutrition Act of 2008 (Pub. L. No 110-246, §6(d)(4); 7 U.S.C. §2015(d)(4), (herein referred to as the Act). The purpose of SNAP E&T is to provide SNAP recipients opportunities to gain skills, training or experience that will improve their employment prospects and reduce their reliance on public benefits.

Purpose/Description of Project

This Notice for Application (NOFA) seeks to identify potential applicants with ESA that can provide allowable SNAP E&T services to SNAP recipients. The applicant will provide job training, employment programs and supportive social services to SNAP recipients residing in the District of Columbia. Job Search/Job Readiness services include job training, case management, housing assistance, life skills training, mentoring, and substance abuse counseling. These services shall also include assistance with transportation, clothing, licenses, identification, etc. all of which may assist SNAP E&T customers in overcoming barriers to employment. The scope of allowable services under this NOFA is outlined in Section II of the RFA and includes outreach, planning, administration, and operation of an allowable SNAP E&T component. It also includes participant expenses, such as transportation, dependent care, licenses, uniforms and tools for a job, test fees, books, and tuition expenses. The costs of allowable expenditures are 40% federally funded through the Act. DHS will reimburse awardees for 40% of allowable SNAP E&T programs and activities.

Eligibility

Applications are requested from community-based organizations, SNAP E&T grantees, located in the District of Columbia that have demonstrated experience working with individuals receiving public benefits and people experiencing homelessness. Faith-based organizations, such as churches, synagogues, mosques, or religiously based social service affiliates of such organizations are encouraged to apply. Applications are also encouraged from collaborating community-based and faith-based organizations. Applicants must demonstrate an outstanding track-record of providing employment and training services, and job placements, to persons receiving public benefits and/or other low-income populations. Applicants must provide services that complement ESA's current in-house SNAP E&T program, which currently includes job search, job retention, work-readiness, transportation assistance, and dependent care subsidies to eligible participants.

Review Factors

All applications will be objectively reviewed by an independent panel of reviewers and scored against the criteria specified in the Request for Applications (RFA).

Length of Grant Award

The award period for the grant will be from October 1, 2018 through September 30, 2019 at which time all funds must be invoiced.

Available Funding

Grantees will be awarded funding based on the capacity to meet the requirement of the program. If the grantee is awarded the funding they will receive one base year and possibly three renewal years.

Anticipated Number of Grant Awards

ESA intends to award up to \$440,000 to 5 organizations that will provide allowable employment and training services to SNAP E&T participants.

Request for Application (RFA) Release

The RFA will be released on **March 30, 2018**. The RFA will be posted on the Office of Partnerships and Grant Services website (<http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>) under the District Grants Clearinghouse.

Deadline for Applications

The deadline for submission is April 30, 2018 at 2:00 p.m. Late or incomplete applications will not be forwarded for review.

INGENUITY PREP PUBLIC CHARTER SCHOOL**INVITATION FOR BID****Food Service Management Services**

Ingenuity Prep PCS is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2018-2019 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on April 13, 2018 from Xavier Barnes at bids@ingenuityprep.org or (703) 401-2952.

Proposals will be accepted at EdOps 1611 Connecticut Ave, NW, Suite 200, Washington, DC 20019 on May 9, 2018, not later than 3:00 p.m., attention Xavier Barnes.

All bids not addressing all areas as outlined in the IFB will not be considered.

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Janitorial Services**

KIPP DC is soliciting proposals from qualified vendors for Janitorial Services. The RFP can be found at <http://www.kippdc.org/procurement>. All proposals should be uploaded to the website no later than 5:00 PM EST, on May 5th, 2018. Questions can be addressed to donna.macalester@kippdc.org.

OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (“NOFA”)

Inclusive Innovation Fund**Grant Identification No.:** **DMPED - 017 – IIF- 23712****Background Information:** The Office of the Deputy Mayor for Planning and Economic Development (“**DMPED**”) invites the submission of applications for the Inclusive Innovation Fund (“**IIF**”) Program.**Purpose of Grant Program:**

The District has committed \$1.5 million to enable an investment professional partner that shares Mayor Bowser’s vision for inclusive innovation to create a privately managed fund that invests in early stage, high-growth, DC-based businesses led by underrepresented entrepreneurs, such as people of color, women, LGBTQ individuals, and persons with disabilities.. These businesses may be technology, technology-enabled or non-technology businesses.

Length of Award: **one year for the date of execution.****Anticipated Number of Awards:** DMPED will award one grant of \$1,500,000 to an entity that will serve as a fund manager. Joint ventures (i.e. teams with members from more than one organization) are eligible to apply, but the grant will be disbursed to one entity.

The fund manager will be responsible for raising private capital to leverage the District’s commitment, sourcing deals, managing the portfolio, and making a lasting improvement to underrepresented entrepreneurs’ access to capital in DC. The successful application will have experience working in venture capital and demonstrated ability to fund raise, structure investment deals with early stage companies, manage a portfolio of companies, and support underrepresented entrepreneurs. For-profit corporations and non-profit/tax-exempt corporations (designated by the Internal Revenue Service) will be eligible to apply. Applicants must be authorized to do business in the District of Columbia as required by the Department of Consumer and Regulatory Affairs.

- (1) Comply with District Certified Business Entity and First Source requirements.

Availability of RFA: The Request for Applications (“**RFA**”) will be released on April 30, 2018. The RFA will be posted on DMPED’s website (www.dmped.dc.gov).

Contact Name: LaToyia Hampton, Grants Manager
dmpedgrants@dc.gov
202.724.8111

Deadline for Electronic Submission: Applicants must submit a completed online application to DMPED via the GiftsOnline system by **6PM EST, Wednesday, May 30, 2018**

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

**Government of the District of Columbia
Public Employee Relations Board**

<hr/>)	
In the Matter of:)	
)	
Vice Chairman Tyrone Jenkins and)	
Stephanie McKinnon)	
)	
Complainants)	
)	PERB Case No. 15-U-31
v.)	
)	Opinion No. 1652
)	
Department of Corrections)	
)	
)	
Respondent)	
<hr/>)	

DECISION AND ORDER

This case was initiated July 2, 2015, and came on for hearing before a hearing examiner on February 22, 2017. The Hearing Examiner’s report and recommendations and exceptions thereto are before the Board for disposition. The Hearing Examiner recommended that one of the charges of unfair labor practices against respondent Department of Corrections (“the Department”) should be dismissed but that the other pending charges should be sustained. We adopt the Hearing Examiner’s recommendation that we sustain the charge that the Department committed unfair labor practices by threatening to reprimand and then reprimanding Complainant Tyrone Jenkins, ordering him to leave a roll call, and issuing to him a notice of proposed suspension. The two remaining allegations of unfair labor practices are dismissed.

I. Statement of the Case

A. Pleadings

1. Original Complaint

During the relevant period, Tyrone Jenkins and Stephanie McKinnon (“Complainants”) were uniformed correctional officers at a jail operated by the Department, and Jenkins was also the vice chairman of the Fraternal Order of Police/D.C. Department of Corrections Labor Committee. On July 2, 2015, the Complainants filed *pro se* an unfair labor practice complaint (“Complaint”) “against the D.C. Department of Corrections . . . and its Agents and

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Representatives, including but not limited to Mayor Mariel [sic] Bowser. Director Thomas Faust. Deputy Director Toni Perry. Warden William Smith. Deputy Warden Lennard Johnson. Deputy Warden Sylvia Lane; Kevin Hargrave, Major of Operations shift three; Joseph Pettiford, Major Kevin Hargrave.”¹

The caption of the Complaint had a different list of respondents:

Mariel Bowser Mayor City of Washington D.C.
Director DOC Thomas Faust, Deputy Director Toni Perry
Warden William Smith, Deputy Warden Lennard Johnson
Deputy Warden Sylvia Lane, Major Kevin Hargrave
Major Joseph Pettiford, Lt. William Thomas

The Complaint referred to several exhibits but did not attach them. It contained a certificate of service certifying service upon “Director Thomas Faust, D.C. Department of Corrections.” On September 3, 2015, the Board’s Executive Director sent respondent Faust a letter allowing him to file an answer no later than September 23, 2015.

On September 4, 2015, the individually named respondents jointly filed an answer to the Complaint. Their answer denied commission of unlawful activity and raised affirmative defenses. In addition the answer contained a “motion craving oyer,” which requested the Board to compel production of the exhibits the Complaint cited but did not attach.²

On September 22, 2015, the Executive Director sent the Complainants a letter informing them of certain deficiencies in their Complaint and directing the Complainants to cure them:

Upon review, it appears that your complaint is against the Department of Corrections and others. However, your caption does not indicate that the Department of Corrections is a party to the matter.

Please submit an amended complaint no later than October 13, 2015 that reflects the Department of Corrections as a party, along with a new certificate of service showing that all parties were served with the amended complaint with attachments.

2. Amended Complaint

On October 13, 2015, the Complainants filed an “Amended Unfair Labor Practice Complaint” (“Amended Complaint”), which added the D.C. Department of Corrections to the list of respondents in the caption. The certificate of service certified service upon “DC Department of Corrections, Director Thomas Faust.”

¹ Complaint ¶ 1.

² The answer also contained a motion for enlargement of time that was mooted by the Executive Director’s letter of September 3, 2015, and the subsequent amendment of the complaint.

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The Amended Complaint did not change the allegations of the original Complaint. Those allegations are that the respondents committed unfair labor practices in connection with a March 13, 2015 meeting McKinnon had with Warden Smith at which Jenkins represented McKinnon; a March 19, 2015 meeting involving Warden Smith and Jenkins; and an April 2, 2015 roll call that Jenkins attended in his capacity as vice chairman of the union.

a. Meetings of March 13 and March 19

Regarding the March 13, 2015 meeting, the Amended Complaint alleges that Warden Smith brought McKinnon in to interview her about her noncompliance with an order to close and lock feeding slots at the jail. Smith said this is not a disciplinary investigation and no disciplinary action will be brought against McKinnon. At the start of the meeting, Smith allegedly stared at McKinnon and told her to unzip her sweater.³ Jenkins objected that this instruction was not a lawful order. The warden told Jenkins he was giving inappropriate advice. “The interview continued with Warden Smith repeatedly battering her with the same questions over and over again.”⁴ The Amended Complaint alleges that Smith’s actions on March 13, 2015, violate section 1-617.04(a)(1), (3), and (5) of the D.C. Official Code.⁵

The Amended Complaint alleges Smith requested to meet with Jenkins again to chastise him for his “inappropriate advice.” On March 19, 2015, Smith met with Jenkins and two others and told Jenkins that he was not going to discipline McKinnon, but because of Jenkins’s advice that McKinnon not open up her sweater, she would be suspended for nine days for insubordination and Jenkins would be reprimanded for his inappropriate advice.⁶ Smith said, “I felt that Sgt. Jenkins did not let me teach her a lesson. She didn’t learn anything.”⁷ McKinnon received a letter proposing to suspend her for nine days without pay for insubordination for refusing to close and lock feeding slots at the jail. McKinnon contested the proposed suspension with the deciding official, Major Pettiford. Major Pettiford sustained the charges but reduced the suspension to three days. He “was influenced by Warden Smith’s ‘bad faith’ comments and opinions during the non-disciplinary investigation held on March 13, 2015.”⁸ On or about March 22, 2015, Jenkins received a letter of reprimand from Smith dated March 18, 2015.⁹

The Amended Complaint alleges that the respondents violated section 1-617.04(a)(1), (3), and (5) of the D.C. Official Code in a variety of respects, which may be summarized as follows: Although inmates sexually harassed McKinnon, Warden Smith and Major Pettiford were “indifferent to her sex” and engaged in bad faith and discriminatory practices against her as a female employee regarding her rights to be provided with a safe working condition. Smith

³ Am. Compl. ¶ 8.

⁴ Am. Compl. ¶ 9.

⁵ Am. Compl. ¶ 9.

⁶ Am. Compl. ¶ 10.

⁷ Am. Compl. ¶ 10.

⁸ Am. Compl. ¶ 11.

⁹ Am. Compl. ¶ 10.

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issued a letter of reprimand to Jenkins for protecting McKinnon's *Weingarten* rights. Smith acted in bad faith by suspending McKinnon after telling the complainants the interview was non-disciplinary. Smith failed to provide all material facts of the violation to the union. The disciplinary procedure employed was inconsistent with due process and article 11 of the collective bargaining agreement.

b. Roll Call April 2, 2015

Regarding the April 2, 2015 roll call, the Amended Complaint alleges that Paulette Johnson, the Department's labor relations liaison, invited Jenkins to give the union's point of view on pre-shift roll-call overtime compensation when personnel officials were to visit the jail on April 2, 2015. On that date Ms. Johnson along with the personnel director and Warden Smith attended the 7:30 a.m. second shift roll call. Jenkins was unable to attend that roll call. Jenkins was informed that personnel would be attending the third shift roll call at 3:30 p.m. and wanted him there to represent the employees on that shift. Jenkins stood in line with the rank and file employees as the roll call began. Major Kevin Hargrave ordered Jenkins to leave the roll call. After the two debated whether Jenkins had any business being at the roll call, Major Hargrave physically threw Jenkins out of the room, injuring him.

Jenkins made several requests to the Director of the Department, Thomas Faust, to have the Office of Investigatory Services investigate what Jenkins considered aggravated assault on a union official. Director Faust did not respond. The EEO coordinator was the only one who responded to Jenkins and investigated the incident. The Amended Complaint alleges that Major Hargrave learned of the EEO investigation and obtained copies of its reports. On April 20, 2015, Jenkins received advance notice of a proposed suspension alleging insubordination at the April 2 roll call. Through her signed statement regarding the incident, Paulette Johnson "participated in a cover up" along with other respondents. There has been a pattern and practice of activities to undermine the vice chairman's influence with the union membership. The Amended Complaint alleges that the respondents thereby violated section 1-617.04(a)(1), (3), and (5) of the D.C. Official Code.

The Amended Complaint requests that the Board find that respondents' conduct constitutes an unfair labor practice in violation of section 1-617.04 of the D.C. Official Code, order the respondents to cease and desist from such conduct, rescind the suspension, recommend that the Mayor remove Major Kevin Hargrave and Warden William Smith for their misconduct, sanction all the respondents under the DPM, and award to the complainants damages, costs, and attorneys' fees.

3. Responsive Pleading

After the Complainants filed their Amended Complaint, the individual respondents filed a responsive pleading. The pleading stated, "The individually-named Respondents, through the Office of Labor Relations and Collective Bargaining (OLRCB) file the following Motion to Dismiss, Motion Craving Oyer, Motion for Sanctions, Answer, and Affirmative Defenses

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pursuant to Public Employee Relations Board (PERB) Rules 520 and 553.” The motion to dismiss argued that the amended complaint did not reflect the Department as a party in accordance with the Executive Director’s order. Instead, the individual respondents argued, the caption of the amended complaint was nearly identical to the caption of the original. The motion craving over asserted that the exhibits attached to the Amended Complaint and identified as Exhibits A through G do not correspond to the descriptions of exhibits (a) through (g) in the Amended Complaint. The individual respondents “crave over” for each exhibit—(a) through (g)—cited in the Amended Complaint. The motion for sanctions argued that Complainants’ repeated demand for attorney’s fees when the Complainants were not represented by an attorney warranted dismissal of the case or at least denial of all requested relief. Finally, the individual respondents raised the following affirmative defenses: (1) Complainants lack standing to assert a violation of section 1-617.04(a)(5); (2) the Complaint fails to state an actionable claim under section 1-617.04(a)(3); and (3) the Board lacks jurisdiction to grant Complainants’ requests for attorneys’ fees, compensatory damages, or discipline of employees.

4. Partial Dismissal by the Executive Director

In a July 15, 2016 letter to the parties, the Executive Director addressed the issues raised in the responsive pleading. She stated that the Amended Complaint reflects that the Department is a respondent. However, the certificate of service reflected service only upon the Department and Director Thomas Faust. The Executive Director dismissed all respondents other than those two from the Amended Complaint for noncompliance with PERB Rule 501.12. Respondent Faust was also dismissed, consistent with the Board’s precedent that suits against District officials in their official capacities should be treated as suits against the District.¹⁰

The Executive Director found merit in the defenses raised against the claim that the respondents violated section 1-617.04(a)(3) and (5) of the D.C. Official Code. Section 1-617.04(a)(3) prohibits discrimination to encourage or discourage membership in a labor organization. The Amended Complaint does not allege that type of discrimination but only sex discrimination, which the Board does not have authority to investigate.¹¹ Section 1-617.04(a)(5) prohibits refusing to bargain in good faith with the exclusive representative. Only the exclusive representative has standing to assert a violation of section 1-617.04(a)(5).¹² Accordingly, the Executive Director dismissed Complainants’ section 1-617.04 (a) (3) and (5) claims.

Turning to the procedural motions, the Executive Director stated that even if one were to assume that common law procedures apply to the Board, the motion craving over would have to be denied. Citing *Smithson v. Stanton*,¹³ the Executive Director observed that at common law in the District of Columbia, over can only be had of deeds, probates, letters of administration, and

¹⁰ *F.O.P./Metro. Police Dep’t Labor Comm. v. Metro. Police Dep’t*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at 20, PERB Case Nos. 09-U-52 and 09-U-53 (2013).

¹¹ *White v. D.C. Dep’t of Corr.*, 49 D.C. Reg. 8973, Slip Op. No. 686 at 3, PERB Case No. 02-U-15 (2002).

¹² *Gardner v. D.C. Pub. Sch.*, 49 D.C. Reg. 7763, Slip Op. No. 677 at 2, PERB Case Nos. 02-S-01 and 02-U-04 (2002).

¹³ 7 D.C. (2 Mackey) 6, 9-10 (1869).

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other similar documents under seal of which a proffer has been made. None of the exhibits cited in the Amended Complaint are of that nature. The Executive Director added that the proper procedures for obtaining documents from an opponent are found in PERB Rule 522. The motion for sanctions was also denied as being unsupported. The Executive Director's decision became final because neither party moved for reconsideration of it.¹⁴

B. Hearing

A hearing was held on February 22, 2017, concerning the remaining claims, i.e., the section 1-617.04(a)(1) claims against the remaining respondent, the Department. Upon the opening of the hearing, the Hearing Examiner encouraged the parties to settle their disputes, and he discussed settlement with them. The parties then privately discussed settlement further with each other.¹⁵ These discussions led to a confidential agreement between the Department and Complainant McKinnon whereby McKinnon would withdraw her complaint in exchange for an action to be performed by the Department in the future. The Hearing Examiner explained to McKinnon, who was not represented by counsel, that if she were not given the benefit of the agreement she would have the right to reinstate her claim.¹⁶

The Hearing Examiner then conducted a hearing at which Jenkins represented himself and testified. Paulette Johnson, the Department's labor liaison, testified on behalf of the Department. Both parties submitted exhibits as well as post-hearing briefs.

C. Report and Recommendation

On April 28, 2017, the Hearing Examiner submitted his Report and Recommendation ("Report"). In the Report, the Hearing Examiner summarized the testimony and the parties' contentions, and he discussed the legal principles and issues pertaining to the case. The Hearing Examiner noted that the Comprehensive Merit Personnel Act ("CMPA") makes "[i]nterfering with, restraining, or coercing any employee in the exercise of the rights guaranteed by this subchapter" an unfair labor practice.¹⁷ The Board has held that the appropriate test for that unfair labor practice is whether the conduct in question had a reasonable tendency in the totality of the circumstances to interfere, restrain, or coerce the employee in the exercise of rights guaranteed by the CMPA.¹⁸ The Hearing Examiner stated that under the National Labor Relations Act the test does not turn on the employer's motive or intent or whether the coercive action succeeded.¹⁹

¹⁴ PERB R. 500.4.

¹⁵ Tr. 11-12.

¹⁶ Tr. 14-15.

¹⁷ D.C. Official Code § 1-617.04(a)(1).

¹⁸ Report 13 (citing *F.O.P./Hous. Auth. Labor Comm. v. Hous. Auth.*, 60 D.C. Reg. 12127, Slip Op. No. 1410, PERB Case No. 11-U-23 (2013)).

¹⁹ Report 13.

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Following the U.S. Supreme Court's holding in *National Labor Relations Board v. Weingarten*,²⁰ the Board has held that a bargaining unit employee has a right to the active assistance of a union representative when the employee reasonably fears that discipline might arise from an interview and the employee requests representation. The Hearing Examiner stressed that the employee has a right to *active* representation at the interview.²¹ An employer may not silence the union representative or prevent him from conferring with the employee.²² The Hearing Examiner stated that "if the employer acts so as to deny the union representative the active participation in the interview consistent with Weingarten standards, the employer may violate the CMPA by interfering with the representative's rights as an employee, and undermining his role as a union representative of the employee in question."²³ The NLRB has held that serving as a *Weingarten* representative is protected union activity.²⁴

The Hearing Examiner applied these principles to the incidents involved in the case. He began his discussion of the March 13, 2015 meeting by stating, "First, while the March 13 interview was not in the strictest sense investigatory or disciplinary, Johnson testified that DOC is 'lenient' in terms of allowing a union representative to participate in interviews of employees for other reasons, here 'fact finding.' Accordingly in my view the meeting implicated Weingarten standards."²⁵ However, the Hearing Examiner found that *Weingarten* standards, though implicated, were not violated: "[W]hile Smith and Jenkins may have been at odds regarding the nature of Jenkins' representation, I cannot conclude that the Respondent violated Jenkins rights as a union representative."²⁶

The March 19, 2015 meeting, in contrast, did result in violation of the CMPA: "In my view this is simply clearly a case of interference, restraint and coercion proscribed by the Act, and to a certainty was designed to undermine Jenkins as a union representative."²⁷

Two aspects of the March 18, 2015 memorandum led the Hearing Examiner to conclude that it too was an interference with, restraint, and coercion of Jenkins's rights as an employee and as a union representative. The first was its date—March 18, 2015—which was five days after the March 13 meeting and around the time Jenkins was called into Smith's office and orally reprimanded about the propriety of his representation of McKinnon. The second aspect was the content of the memorandum. It states that employees are required to obey orders of their chain of command and must not knowingly withhold information concerning violations of laws and

²⁰ 420 U.S. 251 (1975).

²¹ Report 14-15 (citing *Nurses Ass'n and Dep't of Youth & Rehab. Servs.*, 59 D.C. Reg. 12638, Slip Op. No. 1304 at 4, PERB Case No. 10-U-35 (2012)).

²² Report 14 (citing *FOP/MPD Labor Comm. v. MPD*, 60 D.C. Reg. 10839, Slip Op. No. 1399 at 5-6, PERB Case No. 06-U-34 (2013)).

²³ Report 15.

²⁴ Report 14 (citing *Murtis Taylor Human Servs. Sys.*, 360 N.L.R.B. No. 66 (2014); *Corr. Corp. of Am.*, 347 N.L.R.B. 632, 636 (2006)).

²⁵ Report 20.

²⁶ Report 20.

²⁷ Report 20.

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regulations. To the Department's argument that the memorandum was not a reprimand as defined in the District Personnel Manual, the Hearing Examiner replied,

[A] violation of the CMPA does not of necessity depend on form, it is the substance of the act that controls. In that regard, I cannot ignore the genesis of the issuance of the memo—Smith's disagreement with Jenkins representation of McKinnon and the March 19 meeting. These all form the circumstantial backdrop to the violation. In my view, the memorandum by implication is accusatory, threatening to Jenkins as a union representative. Moreover, the memorandum's being solely circulated to Respondent's managers tends to undermine not only Jenkins as a representative, but the Union itself.²⁸

The next incident the Report discussed was the roll call of April 2, 2015. According to the Hearing Examiner, Jenkins testified that he filed complaints against Warden Smith a few days before April 2.²⁹ He attended the roll call to hear management's presentation on an overtime issue. The Hearing Examiner found that Jenkins was ordered out of the roll. The Hearing Examiner concluded that the order was unjustified: "[T]he Respondent has not offered any justification for his being ordered out of the roll call despite Johnson's testimony that he was rightfully in attendance. The Respondent merely contends that [the Complainant] was insubordinate for resisting Hargrave's order to exit the roll call."³⁰

The Hearing Examiner apparently also found that Jenkins was physically removed from roll call. The removal, along with the order, was also found to be an unfair labor practice: "Hargrave's part in the physical removal of Jenkins before the assembled unit members undermined not only Jenkins as a union representative, but the union itself as the employees' representative. I would conclude that in ordering Jenkins to leave the roll call, and removing him the Respondent violated the CMPA."³¹

The Hearing Examiner said that it was undisputed that the Department suspended Jenkins for five days for his insubordination in disobeying the order to leave roll call. In addition, the Department's witness did not dispute Jenkins's authorization to attend the roll call. "Yet," the Hearing Examiner wrote, "she stated that the Respondent was correct in suspending him for refusing to leave a meeting he was authorized to attend."³² The Hearing Examiner determined that suspending Jenkins for five days for insubordination violated the CMPA.³³

²⁸ Report 21.

²⁹ Report 21.

³⁰ Report 22.

³¹ Report 22.

³² Report 22.

³³ Report 22.

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The Hearing Examiner concluded in summary that the Department engaged in conduct that in violation of section 1-617.04(a)(1) interfered with, restrained, and coerced Jenkins in the exercise of rights guaranteed by section 1-617.06(a)(2) in the following ways:

1. By informing an employee, Tyrone Jenkins, that he had given another employee inappropriate advice at a Weingarten interview of the employee;
2. By informing an employee, Tyrone Jenkins, that the interviewed employee was going to be suspended because of the advice Jenkins had given the interviewee;
3. By informing an employee, Tyrone Jenkins, that Jenkins was going to be reprimanded for giving inappropriate advice at a Weingarten interview;
4. By issuing a memorandum to an employee, Tyrone Jenkins, implying that he had violated certain policies of the Respondent in representing an employee at a Weingarten interview;
5. By ordering an employee, Tyrone Jenkins, to exit a roll call meeting of unit employees, and forcibly removing him from the meeting that he was authorized in his representational capacity to attend;
6. By suspending an employee, Tyrone Jenkins, for five (5) days for purported insubordination for refusing an order to exit a roll call meeting of unit employees.³⁴

The Hearing Examiner then set forth a recommended order that ordered the Department to cease and desist from the foregoing violations, post a notice of the violations, and to make Jenkins whole for the unlawful suspension.³⁵

The Department filed exceptions to the Report on May 12, 2017. Jenkins did not file an opposition or exceptions of his own.

³⁴ Report 23.

³⁵ Report 23-24.

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II. Discussion

A. Preliminary Matters

As noted above, OLRCB filed an answer on behalf of “[t]he individually-named Respondents,” all of whom have now been dismissed. OLRCB has not filed an answer on behalf of the one respondent remaining in the case—the Department. Nonetheless, counsel from OLRCB appeared without objection at the hearing, expressly representing the Department,³⁶ and subsequently filed a post-hearing brief and exceptions on behalf of the Department, also without objection. Therefore, we find that any claim of default for failure to answer was waived when the Complainant proceeded without objection to a hearing on the merits.³⁷

The Department’s failure to answer does affect its first exception, however. The Department’s first exception objects that the Amended Complaint is untimely. The Department argues that the Amended Complaint must be treated as an original complaint because it was not amended in either of the ways permitted by Rule 520.4. It was neither “amended as a matter of course prior to the filing of an answer” nor was it “amended by motion.” The Amended Complaint was filed October 13, 2015. The violations that it alleges occurred more than 120 days earlier, from March 13, 2015, to April 2, 2015. The Department asserts that as a result the Amended Complaint was filed beyond the 120-day deadline provided in Rule 520.4. The Department requests “that the PERB dismiss the Amended Complaint as untimely and beyond the PERB’s jurisdiction.”³⁸

The Department did not raise this issue until after the hearing, when it asserted the untimeliness of the Amended Complaint in a footnote of its post-hearing brief to the Hearing Examiner. The answer of the dismissed, individual respondents did not raise untimeliness as an affirmative defense. And, as discussed, the Department did not file an answer at all. Rule 520.6 provides that an answer to an unfair labor practice complaint “shall also include a statement of any affirmative defenses.” The question arises whether the Department waived the affirmative defense of untimeliness by failing to raise it in an answer.

Following the lead of the U.S. Supreme Court, the D.C. Court of Appeals has reconsidered and reversed its prior position that administrative filing deadlines are mandatory and jurisdictional.³⁹ The posture of the present case—in which respondents filed pleadings and motions, participated in a hearing, and only later claimed that the case was untimely—illustrates one of the reasons the Supreme Court has criticized characterizing procedural rules as jurisdictional: “Objections to a tribunal’s jurisdiction can be raised at any time. . . . Tardy jurisdictional objections can therefore result in a waste of adjudicatory resources and can

³⁶ Tr. 6

³⁷ See *Keister v. McDavid*, 76 A.2d 776, 778 (D.C. 1950); *Micelli v. Moore*, 499 So. 2d 1298, 1299 (La. App. 1986).

³⁸ Exceptions 3.

³⁹ See *Hoggard v. D.C. Pub. Emp. Relations Bd.*, 655 A.2d 320, 323 (D.C. 1995) (“[T]ime limits for filing appeals with administrative adjudicative agencies . . . are mandatory and jurisdictional.”) (quoting *D.C. Pub. Emp. Relations Bd. v. D.C. Metro. Police Dep’t*, 593 A.2d 641, 643 (D.C. 1991)).

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disturbingly disarm litigants.”⁴⁰ The Supreme Court has said that the label “jurisdictional” should be restricted to rules that delineate the classes of cases (subject matter jurisdiction) and the persons (personal jurisdiction) within a tribunal’s authority, as opposed to “claim-processing rules.”⁴¹ In *Dolan v. United States*,⁴² the Court explained that by “claim-processing rules” it means “rules that do not limit a court’s jurisdiction, but rather regulate the timing of motions or claims brought before the court. Unless a party points out to the court that another litigant has missed such a deadline, the party forfeits the deadline’s protection.”⁴³

The D.C. Court of Appeals adopted this distinction in *Smith v. United States*⁴⁴ and *Gatewood v. D.C. Water and Sewer Authority*⁴⁵ and applied it to Superior Court Criminal Rule 35(b)’s deadline for moving to reduce a sentence and to the Water and Sewer Authority’s deadline for filing a petition for review, respectively. The court held that both rules were claim-processing, not jurisdictional.⁴⁶ In 2014 in *Neill v. District of Columbia Public Employee Relations Board*,⁴⁷ the court put the Board on notice that these precedents apply to its rules as well:

Recent authority calls into question whether the PERB’s filing deadlines are in fact jurisdictional. *See Gatewood v. District of Columbia Water & Sewer Auth.*, 82 A.3d 41, 45–49 (D.C.2013) (holding that an agency filing deadline set forth in a regulation as a “rule of administrative convenience” is not jurisdictional). However, assuming the FOP properly raised the 120–day deadline, the correctness of the PERB’s dismissal may not turn on whether the deadline is jurisdictional.⁴⁸

The court also said in *Neill* that claim-processing rules may be relaxed or waived.⁴⁹

The Court of Appeals subsequently stated in *Mathis v. District of Columbia Housing Authority*,⁵⁰ that filing deadlines are “quintessential claim-processing rules.”⁵¹ A deadline is not jurisdictional, the court held, unless it is found in a statute and the legislature has clearly stated that the deadline is to have jurisdictional consequences.⁵² In *Poth v. United States*,⁵³ the court

⁴⁰ *Sibelius v. Auburn Regional Med. Center*, 568 U.S. 145, 153 (2013).

⁴¹ *Kontrick v. Ryan*, 540 U.S. 443, 455 (2004).

⁴² 560 U.S. 605 (2010).

⁴³ *Id.* at 610.

⁴⁴ 984 A.2d 196 (D.C. 2009).

⁴⁵ 82 A.3d 41 (D.C. 2013).

⁴⁶ *Smith*, 984 A.2d at 201; *Gatewood*, 83 A.3d at 49.

⁴⁷ 93 A.3d 229 (2014).

⁴⁸ *Id.* at 232 n.5.

⁴⁹ *Id.* at 238.

⁵⁰ 124 A.3d 1089 (2015).

⁵¹ *Id.* at 1102 (quoting *Henderson ex rel. Henderson v. Shinseki*, 562 U.S. 428, 435 (2011)).

⁵² *Id.* at 1101-3.

⁵³ 150 A.3d 784 (D.C. 2016).

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held that Superior Court Criminal Rule 33's time limit on a motion for a new trial was not jurisdictional because it lacked a statutory basis.⁵⁴

The 120-day time limit raised by the Department is not in the CMPA, nor is it in any other statute: it is in Rule 520.4, a rule adopted by the Board. In view of the unequivocal controlling authority discussed above, we overrule our prior holdings that filing deadlines established by the Board's rules are mandatory and jurisdictional. Those rules are claim-processing rules and the deadlines they set are waivable.

An answer to an unfair labor practice complaint must state the respondent's affirmative defenses.⁵⁵ By failing to file a timely answer, the Department waived its affirmative defenses,⁵⁶ including its defense of untimeliness. Consequently, there is no need to analyze the Department's defense that the Amended Complaint was untimely. The Hearing Examiner properly disregarded it. It is sufficient to add that had the Department raised this claim in an answer, the result would have been the same because the Department's argument is without merit.⁵⁷

B. The Merits of the Case

1. The Department's Exceptions

The Department has presented five exceptions on the merits of the case. They concern the the lawfulness of the Department's treatment of Jenkins during and after the March 13 and 19 meetings and the lawfulness of the Department's treatment of Jenkins during and after the April 2, 2015 roll call. The exceptions are: (1) The Hearing Examiner's finding that the March 13, 2015 "meeting implicated Weingarten standards" is inconsistent with PERB precedent. (2) The Hearing Examiner's finding that the Department's issuance of a March 18, 2015 memorandum was influenced by later events occurring on March 19, 2015 is factually impossible and thus unreasonable. (3) The Hearing Examiner erroneously concluded that the Department "has not offered any justification for [Jenkins] being ordered out of the roll call." (4) The Hearing Examiner's conclusion that ordering Jenkins to exit the roll call was an unfair labor practice is nullified by his failure to analyze the order using the *Wright Line* standard. (5) The Hearing Examiner failed to apply PERB precedent before determining that the Complainant's suspension was unlawful.

⁵⁴ *Id.* at 788.

⁵⁵ PERB R. 520.6.

⁵⁶ See *Council of Sch. Officers, Local 4 v. DCPS*, 59 D.C. Reg. 3274, Slip Op. 803 at 15, PERB Case No. 04-U-38 (2007).

⁵⁷ See *D.C. Metro. Police Dep't v. D.C. Pub. Emp. Relations Bd.*, C.A No. 98-MPA-16 (D.C. Super. Ct. Apr. 13, 1999) (reversing the Board's holding that the opportunity Rule 501.13 provides to cure a deficient pleading cannot extend the period of time to initiate a cause of action); *FOP/MPD Labor Comm. v. MPD*, 52 D.C. Reg. 2517, Slip Op. No. 736 at n.12, PERB Case No. 02-U-14 (2004) ("Consistent with the D.C. Superior Court's Decision in *D.C. Metropolitan Police Department v. D.C. Public Employee Relations Board*, once a deficiency is cured in a filing, the document's official filing date is its original filing date. CA No. 98-MPA-16 (1999).")

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2. Meetings of March 13 and March 19

a. Testimony Regarding the Meetings

After Jenkins was put under oath, the Hearing Examiner asked him if he drafted the Amended Complaint. Jenkins replied that he did, together with McKinnon.⁵⁸ The Hearing Examiner asked Jenkins if he would ratify the statements in the Amended Complaint as his testimony, and Jenkins said he would.⁵⁹ The Hearing Examiner then asked him a second time:

So you would be willing to ratify and adopt, as your testimony or part of your testimony here today, the contents of your Amended Complaint?

THE WITNESS: Yes, sir.⁶⁰

When asked if he had anything to add to what was stated in the Amended Complaint, Jenkins stated that he did not.⁶¹ Counsel for the Department did not object to any of these questions. After that, Jenkins testified on cross examination and on further examination by the Hearing Examiner.

The Hearing Examiner asserted in his Report that having Jenkins adopt the Amended Complaint as part of his testimony “was appropriate because so much of his Amended Complaint which he had a hand in drafting was testimonial in nature.” The Hearing Examiner stated that in his Report he would use the words aver and averment “to describe Jenkins’ complaint-based testimony as opposed to his hearing testimony.”⁶² Nevertheless, the Report frequently says “Jenkins testified” or “Jenkins stated” when referring to allegations that are in the Amended Complaint only. The Department does not object in its exceptions to the manner in which the Report uses the allegations of the Amended Complaint.

The Board does not encourage this procedure. It has been said that pleadings have no probative force or evidentiary value even when admitted without objection.⁶³ However, in this case, where a *pro se* complainant adopted under oath without objection a detailed complaint that he and his co-complainant drafted and was thereafter cross examined, the Board will accept the Hearing Examiner’s unopposed recommendation that we regard the statements in the Amended Complaint as part of the evidentiary record of the case and as probative.

⁵⁸ Tr. 20:12-22.

⁵⁹ Tr. 21:1-5.

⁶⁰ Tr. 22:1-5.

⁶¹ Tr. 22:6-23:10.

⁶² Report 4.

⁶³ *Red Henry Painting Co. v. Bank of N. Tex.*, 521 S.W.2d 339, 343 (Tex. Civ. App. 1975).

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b. Exceptions Regarding the Meetings

In exception 2, the Department objects to the Hearing Examiner's assertion that the March 13 meeting "implicated *Weingarten* standards." This assertion, according to the Department, conflicts with the Hearing Examiner's recognition that the testimony showed the meeting was neither investigatory nor disciplinary.⁶⁴ In addition, the Department asserts that no questioning took place before Warden Smith told Jenkins that he had given inappropriate advice.⁶⁵ The Department asks the Board to reject the Hearing Examiner's conclusion that the meeting implicated *Weingarten* standards and to reject as well "three related legal conclusions that the Department violated the law." The related legal conclusions are that the Department violated the law by (1) telling Jenkins (at the March 19 meeting) that he had given inappropriate advice, (2) telling him (at the March 19 meeting) that he would be reprimanded for the inappropriate advice, and (3) issuing a memorandum to him on March 18 implying that he had violated policies.⁶⁶ Exception 3 adds that the Hearing Examiner erred when he stated that the "genesis" of the memorandum was "Smith's disagreement with Jenkins' representation of McKinnon and the March 19 meeting." The Department states that it is impossible for a meeting on March 19 to be the genesis of a memorandum from the day before.

The Department's request that the Board reject the finding that the meeting implicated *Weingarten* actually supports the Hearing Examiner's recommendation that the Board dismiss the claim that Smith's actions on March 13 violated the CMPA. The Hearing Examiner proceeded as if *Weingarten* applied but averred that "while Smith and Jenkins may have been at odds regarding the nature of Jenkins' represent[ation], I cannot conclude that the Respondent violated Jenkins rights as a union representative."⁶⁷ The Board concurs that Jenkins did not prove that Smith interfered with Jenkins's representation of McKinnon at the meeting. Whether *Weingarten* applied or not, there was no unfair labor practice.

Even if *Weingarten* did not apply to the March 13 meeting, the Board need not reject the Hearing Examiner's related conclusions as the Department requests. "[T]he protected nature of a union steward's conduct is not entirely dependent on whether the employees involved were entitled, under *Weingarten*, to request union representation."⁶⁸ It does not follow from the non-*Weingarten* nature of a meeting attended by a union representative that nothing management does to the union representative as a result of the meeting can be an unfair labor practice. Representing McKinnon at the March 13 meeting was protected activity.⁶⁹ In violation of section 1-617.04(a)(1), Smith interfered with and restrained Jenkins in carrying out that protected activity by calling Jenkins in for a second meeting to complain again about his advice and to tell him that he would be reprimanded for it.

⁶⁴ Report 20.

⁶⁵ Exceptions 4-5.

⁶⁶ Exceptions 5.

⁶⁷ Report 20.

⁶⁸ *U.S. Postal Serv. v. Moore*, 252 N.L.R.B. 624, 624 n.2 (1980), *enforcement denied*, 671 F.2d 503 (9th Cir. 1981).

⁶⁹ D.C. Official Code § 1-617.06(a)(2).

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The March 18, 2015 memorandum was introduced into evidence and was the subject of testimony. The Department argues, with some logic, that the March 19 meeting could not be the “genesis” of a memorandum dated the day before. Setting aside then any connection between the memorandum and the March 19 meeting, we find that the Hearing Examiner’s determination that the memorandum “by implication is accusatory and threatening to Jenkins as a union representative” is supported by the record. The record supports the Hearing Examiner’s findings on both the timing and the content of the memorandum. As to the timing, the memorandum is dated March 18, 2015.⁷⁰ This is five days after Jenkins, McKinnon, and Smith had their meeting on March 13.⁷¹ Jenkins attended the meeting in a representational capacity.⁷² Jenkins testified that at the meeting he advised McKinnon not to do anything that she felt was inappropriate.⁷³

The memorandum is directed to Jenkins from Warden Smith with copies to Jenkins’s superiors: “Deputy Wardens, Majors, Shift Commanders.” As the Hearing Examiner said, the content of the memorandum matters, not its form. The content of the memorandum is a list of rules on chain of command and ethics juxtaposed with the menacing subject line “Appropriate Advice When Representing an Employee.” Despite that title, nothing in the body of the memorandum directly deals with appropriate advice. The combination of the title with the body of the memorandum implies that somehow Jenkins’s advice to McKinnon violated rules of ethics and the chain of command without saying how. Jenkins testified, “[I]t’s a slander on my character as a Union rep and violated my position as the vice chair. . . . It’s just a list of policies, but it’s accusing me of being dishonest.”⁷⁴ Jenkins also testified that he was concerned about the memorandum’s effect on his future job prospects.⁷⁵

We concur with the Hearing Examiner’s conclusion that by issuing the memorandum the Department violated section 1-617.04(a)(1). That conclusion is reasonable, supported by the record, and consistent with Board precedent.

3. Roll Call of April 2, 2015

The Amended Complaint alleges three unlawful actions by the Department in connection with the April 2 roll call: ordering Jenkins to exit the roll call, physically removing him, and proposing to suspend him on the ground that he complied only after repeated orders to leave.⁷⁶

⁷⁰ Complainant’s Ex. B.

⁷¹ Am. Compl. ¶ 8, Answer to Am. Compl. ¶ 8.

⁷² Tr. 30-33.

⁷³ Tr. 39.

⁷⁴ Tr. 67:8-16.

⁷⁵ Tr. 40:5-8.

⁷⁶ Am. Compl. ¶¶ 18, 19.

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a. Order to Exit Roll Call

The Department's fourth and fifth exceptions concern the order to exit the roll call. The fourth exception argues that the record does not support the Hearing Examiner's conclusion that the Department offered no justification for the order. To the contrary, the Department asserts, "Ms. Johnson testified that the Complainant's disruption, and nothing else, caused the Department to order the Complainant's removal from roll call."⁷⁷ On the basis of that justification, the Department contends in its fifth exception that the Hearing Examiner's failure to conduct a *Wright Line* analysis nullifies his conclusion that ordering Jenkins to exit roll call was a violation.⁷⁸ The Department quotes one of the Board's cases, where we said:

In assessing whether a Complainant has met its burden of proof in a[] dual motive case, such as the instant case, the Board has adopted the two-part test of Wright Line to determine the existence of a violation. The Wright Line standard was developed as a rule for allocating the burdens of proof to determine the existence of an unfair labor practice violation where mixed or dual motives exist, i.e., prohibited and non-prohibited, for actions taken by employers against their employees.⁷⁹

The Department asserts that this is a dual motive case because it put on evidence that its motive was Jenkins's disruption whereas Jenkins "suggested, and the Hearing Examiner found, that the Department removed the Complainant because of union activity."⁸⁰ The Department stated that the Hearing Examiner "was obligated to analyze the parties' arguments under [*Wright Line*'s] burden-shifting paradigm."⁸¹

Those two exceptions are unfounded because the Department did not put on evidence that disruption by Jenkins was a justification or motive for ordering Jenkins to leave roll call. Johnson's testimony was that Jenkins was asked to step out of the roll call and *then* he became disruptive.⁸² The Hearing Examiner pointed out this distinction: "The Respondent merely contends that [the Complainant] was insubordinate for *resisting* Hargrave's order to exit the roll call."⁸³ If the Hearing Examiner found that the Department removed the Complainant because of union activity, he did not say so. He simply said that the removal was "unjustified."⁸⁴ The Hearing Examiner was not obligated to view the order to exit roll call as a dual motive issue.

⁷⁷ Exceptions 6-7.

⁷⁸ Exceptions 7

⁷⁹ *AFGE, Local 2725 v. Hous. Auth.*, 45 D.C. Reg. 4022, PERB Case No. 544 at 2 n.3, PERB Case No. 97-U-07 (1998).

⁸⁰ Exceptions 8.

⁸¹ Exceptions 8.

⁸² Tr. 76-77.

⁸³ Report 22 (emphasis added).

⁸⁴ Report 22.

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Another reason *Wright Line*⁸⁵ does not apply is that ordering Jenkins to leave the room was not an adverse employment action. The *Wright Line* test is “generally not used in cases in which the employee or union has not alleged adverse employment action, but instead simply claims that the employer’s conduct tended to interfere with, restrain, or coerce employees in the exercise of protected rights.”⁸⁶ Accordingly, in this instance “[t]he proper test then is whether the conduct in question had a reasonable tendency in the totality of the circumstances to interfere with, restrain, or coerce the employee.”⁸⁷ Proof of motive is not required.⁸⁸

The Hearing Examiner concluded that “ordering Jenkins out of the roll call constitutes a violation of the CMPA.”⁸⁹ The record supports this conclusion. Jenkins testified that he came to the roll call on union business. He testified that he was there as vice chairman of the union to hear a presentation from personnel officers,⁹⁰ and the Department’s witness, one of the personnel officers, agreed.⁹¹ Jenkins was ordered to leave the roll call.⁹² This order prevented Jenkins from performing the function he intended to perform there as union vice chairman. The Board concurs with the Hearing Examiner’s conclusion that by ordering Jenkins to exit a roll call meeting of unit employees the Department interfered with Jenkins’s right to assist a labor organization⁹³ and thereby violated section 1-617.04(a)(1).⁹⁴ That conclusion is reasonable, supported by the record, and consistent with Board precedent.

b. Physical Removal

The evidence regarding the actions taken by the Department’s employees to remove Jenkins from the room after he was ordered to leave is conflicting. In his testimony about the roll call incident, Jenkins related a version of that incident that differed from the version in the Amended Complaint, and he expressly denied facts stated in the Amended Complaint’s version. The Amended Complaint alleges that Major Hargrave ordered Jenkins to get out of roll call and that someone then pushed Jenkins out the roll call room’s door and into the hall with so much force that Jenkins “landed about three feet into the hallway.”⁹⁵ But Jenkins testified, “I left roll call, came out in the hall way. . . . So he didn’t order me to come out of roll call. He ordered me that I can’t go back in roll call.”⁹⁶ Jenkins testified that it was when he was out in the hallway

⁸⁵ 250 N.L.R.B. 1083 (1980), *enforced*, 662 F.2d 899 (1st Cir. 1981), *cert. denied*, 455 U.S. 989 (1982).

⁸⁶ *AFSCME, AFL-CIO, Council 4, Local 2405 v. City of Norwalk*, 113 A.3d 430, 439 (Conn. App. 2015).

⁸⁷ *FOP/MPD Labor Comm. v. MPD*, 63 D.C. Reg. 4589, Slip Op. No. 1563 at 6-7, PERB Case No. 11-U-20 (2016).

⁸⁸ *Id.* at 6.

⁸⁹ Report 22.

⁹⁰ Tr. 43, 47-49, 57, 60.

⁹¹ Tr. 75.

⁹² Tr. 44, 55, 76; Complaint’s Ex. D, F (employee reports of significant incident/extraordinary circumstances); Complainant’s Ex. G (notice of proposed suspension of Jenkins).

⁹³ D.C. Official Code § 1-617.06(a)(2).

⁹⁴ Report 22-23.

⁹⁵ Am. Complaint 12.

⁹⁶ Tr. 42-43. *See also* Tr. 63:9-11.

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that someone pushed him.⁹⁷ He twice denied that this conflict occurred in roll call as alleged in the Amended Complaint.⁹⁸ There are also divergent versions of the incident in Johnson's testimony,⁹⁹ her incident report,¹⁰⁰ the other incident reports,¹⁰¹ and the proposed suspension.¹⁰² Jenkins did not sustain his burden of proof that the Department violated the CMPA by physically removing him from the roll call room.

c. Proposed Suspension of Jenkins

The Amended Complaint alleges that Jenkins received advance written notice of a proposed suspension.¹⁰³ The record reflects that the Department proposed suspending Jenkins for insubordination, the specification being that after Major Hargrave ordered Jenkins to leave the roll call, Jenkins argued with Hargrave and only complied after repeated orders.¹⁰⁴ A proposed suspension can interfere with, coerce, or restrain an employee in the exercise of rights protected by the CMPA.¹⁰⁵ We find that the proposed suspension in question restrained Jenkins in his protected right to assist a labor organization.

The Department contends that because of Jenkins's disruptive behavior and refusal to obey Hargrave's order to leave the roll call, the Department was justified in suspending him for insubordination. Again using a *Wright Line* argument, the Department in its sixth exception objects to the Hearing Examiner's finding that the suspension was an unfair labor practice. Citing the elements of a complainant's *prima facie* case under the mixed-motive analysis, the Department points out that in finding the suspension to be an unfair labor practice, the Hearing Examiner made no factual finding or legal conclusion on one of the elements of a *prima facie* case, namely, anti-union or retaliatory animus.¹⁰⁶ For that reason, the Department claims that the Hearing Examiner's conclusion was unlawful, unsupported by the facts, and inconsistent with the Board's precedent.¹⁰⁷

This *Wright Line* argument fails as well because the *Wright Line* test does not apply to Jenkins's proposed suspension:

⁹⁷ Jenkins testified that he was going to go to the warden's office. As he was about to do so, Major Hargrave grabbed his arm and twisted it. Another person came from behind and pushed him into the wall of the hallway. Tr. 44, 55-56, 69.

⁹⁸ "We wasn't in roll call, we was in the hallway." Tr. 44. "It was in the hallway, not roll call." Tr. 56.

⁹⁹ Tr. 76-77, 83.

¹⁰⁰ Complainant's Ex. F.

¹⁰¹ Complainant's Ex. D.

¹⁰² Complainant's Ex. G.

¹⁰³ Am. Compl. ¶ 19.

¹⁰⁴ Complainant's Ex. G.

¹⁰⁵ *MPD v. FOP/MPD Labor Comm.*, 62 D.C. Reg. 14601, Slip Op. No. 1533 at 2 n.4, PERB Case No. 10-U-14 (2015).

¹⁰⁶ Exceptions 9 (citing *FOP/MPD Labor Comm. v. MPD*, 60 D.C. Reg. 12080, Slip Op. No. 1403 at 2, PERB Case No. 08-U-26 (2013)).

¹⁰⁷ Exceptions 9.

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[T]he Wright Line standard does not apply where, as here, there is no dispute that the employer took action against the employee for conduct that occurred while the employee was engaged in protected activity. When an employee is disciplined or discharged for conduct that is part of the *res gestae* of protected concerted activities, the pertinent question is whether the conduct is sufficiently egregious or opprobrious to remove it from the protection of the Act.¹⁰⁸

The Board considered such a fact pattern *Fraternal Order of Police/Department of Corrections Labor Committee (on behalf of Green, Dupree, and Durant) v. Department of Corrections*,¹⁰⁹ where the Department of Corrections removed service weapons from two employees who were union officials, William Dupree and Earnest Durant, for their threatening behavior while discussing labor-management issues.¹¹⁰ The hearing examiner's report and recommendation in the case, which the Board adopted, determined that the two employees were engaged in protected union activity at the time, namely, complaining to management about what they regarded as a unilateral change in working conditions.¹¹¹ The Board said that the hearing examiner "identified the relevant issue as being *whether the behavior exhibited by Dupree and Durant was so extreme as to deprive them of the protections of D.C. Code 1-617.04(a)* (2001 ed.)."¹¹² As the Board had not adopted a test for evaluating whether an employee's behavior cost him the protection of the CMPA, the hearing examiner borrowed one from a 1979 National Labor Relations Board case, which was whether the misconduct is so violent or of such character as to render the employee unfit for further service.¹¹³

The National Labor Relations Board's test has evolved since then. In *Consumer Power Co. and Michigan State Utility Workers Council*,¹¹⁴ the NLRB held that when an employee is disciplined for conduct that is part of the "res gestae of protected concerted activities," the relevant question is "whether the conduct is so egregious as to take it outside the protection of the Act, or of such a character as to render the employee unfit for further services."¹¹⁵

Instructively, the Federal Labor Relations Authority applied a similar test to analogous facts in *U.S. Air Force Logistics Command, Tinker Air Force Base and AFGE Local 916*.¹¹⁶ In that case, the grievant, a union official, was confronted by his supervisors while he was attempting to serve copies of unfair labor practice charges on the respondents to the charges. The supervisors questioned what he was doing. When he refused to leave the area, he was detained

¹⁰⁸ *Harbor Rail Servs. Co. and Schultz*, No. 25-CA-174952, slip op. at 15, 2017 WL 1548283 (N.L.R.B. Div. of Judges Apr. 28, 2017) (citation omitted), *adopted*, 2017 WL 2544505 (N.L.R.B. June 9, 2017).

¹⁰⁹ 50 D.C. Reg. 5059, Slip Op. No. 698, PERB Case No. 01-U-16 (2003).

¹¹⁰ *Id.* at 3.

¹¹¹ *Id.* at 3-4.

¹¹² *Id.* at 4.

¹¹³ *Id.* 4-5 (citing *Union Fork & Hoe Co. and McKinney*, 241 N.L.R.B. 907, 908 (1979)).

¹¹⁴ 282 N.L.R.B. 130, 132 (1986)

¹¹⁵ *Id.* at 132.

¹¹⁶ 34 F.L.R.A. 385 (1990).

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and security police were called to remove him. When a security police officer arrived, the grievant explained that he was lawfully acting on behalf of the exclusive representative and refused to comply with the officer's instruction to leave the area. After a second officer arrived, the grievant agreed to leave. Management proposed to reprimand the grievant. He then filed a grievance opposing the proposed reprimand. An arbitrator's award held that the grievant attempted to invoke self-help rather than comply with a clear order and comply later. The award held that the reprimand was just and proper.¹¹⁷

On appeal, the FLRA found that because the grievant failed to comply with a clear order, his refusal to leave was insubordination. Nonetheless, the FLRA held that the award was contrary to the statutory right of employees to engage in union activity without fear of penalty or reprisal:

Because the grievant was disciplined for activities he performed on behalf of the Union, the issue is not merely whether the grievant was insubordinate. It must be determined whether the grievant's actions constituted flagrant misconduct: whether the actions were "of such an outrageous and insubordinate nature to remove them from the protection of the Statute[.]" Federal Aviation Administration, St. Louis Tower, Bridgeton, Missouri, 6 FLRA 678, 687 (1981).

In our view, the grievant's actions were not of such an outrageous and insubordinate nature so as to remove him from the protection of the Statute. The grievant explained to the supervisors and security officers who questioned him that he was engaged in serving unfair labor practice charges, an activity protected by the Statute. There is no basis in the record on which to conclude that the grievant was impolite, antagonistic, or disrespectful in his refusal to leave the work area. Although we do not condone the grievant's conduct, we are not persuaded that the grievant's refusal to immediately obey the order to depart was so insubordinate as to constitute flagrant misconduct.¹¹⁸

In the present case, Jenkins was similarly insubordinate in initially refusing an order to leave the area. The Department bears the burden of persuasion on the issue of whether Jenkins's insubordinate actions were so extreme, egregious, or outrageous as to deprive them of the protections of the CMPA.¹¹⁹ In this regard, the Department's witness testified:

[Major Hargrave] asked him several times to step out. . . . Mr. Johnson kept asking why, why, why. . . . And at one point, we

¹¹⁷ *Id.* at 386-87.

¹¹⁸ *Id.* at 390 (citation omitted).

¹¹⁹ *See Caterpillar Tractor Co. v. Wagner*, 276 N.L.R.B. 1323, 1332 (1985).

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stopped the presentation because there was a disruption of roll call. And two officers, I believe it was Ms. Wanda Watkins-Pitt and Mr. Barnes, held Mr. Jenkins by the arm and walked him out.¹²⁰

The notice of proposed suspension written by Major Hargrave states,

I summoned you to exit the roll call and you stated, “Why, I have a right to address the staff”. I then ordered you to leave the roll call and that you would not be allowed to address the 4:00 to 12:00 shift staff without the pre-approval of the Shift Commander. You continued to argue with me as I held the door open, and you only complied after repeated orders given by me.¹²¹

Like the FLRA, we do not condone Jenkins’s failure to obey an order promptly, although the order in question, it must be pointed out, was an unfair labor practice. Jenkins’s response in asking why, asserting his right to be at the roll call, and not leaving until after repeated orders was at least civil. It was certainly not profane, and it was not extreme, egregious, or outrageous. The Department did not sustain its burden of persuasion on this point. As a result, we find that issuing a proposed suspension for Jenkins’s conduct while engaged in protected activity was an unfair labor practice.

ORDER

IT IS HEREBY ORDERED THAT:

1. By agreement of the parties, the complaint of Stephanie McKinnon is dismissed without prejudice.
2. The Department shall cease and desist from interfering with, restraining, or coercing Tyrone Jenkins in the exercise of his rights guaranteed by the Comprehensive Merit Personnel Act.
3. The Department shall cease and desist from informing Jenkins that he will be reprimanded for giving advice to an employee that he represented as vice chairman of the Union.
4. The Department shall cease and desist from issuing a memorandum to Jenkins implying that he had violated certain policies in representing an employee at an interview. The Department shall remove from Jenkins’s personnel file any copy of the March 18, 2015 memorandum that the Department issued to Jenkins.

¹²⁰ Tr. 76-77.

¹²¹ Complainant’s Ex. G.

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5. The Department shall cease and desist from ordering Jenkins and other similarly situated employees to exit roll call meetings of unit employees that he and they are authorized to attend.
6. The Department shall cease and desist from proposing to suspend Jenkins for his acts and omissions on April 2, 2015, and from taking any steps to implement the proposed suspension.
7. The Department shall purge from its records, including Jenkins's personnel file, all references of record to a suspension of Jenkins for his acts and omissions on April 2, 2015.
8. The Department shall rescind the said suspension and make Jenkins whole in accordance with applicable law for any benefits lost due to the suspension.
9. The Department shall conspicuously post where notices to employees are normally posted two (2) notices that the Board will furnish to the Department in each of the Department's buildings, specifically including the D.C. Jail. The notice shall be posted within fourteen (14) days from Department's receipt of the notice and shall remain posted for thirty (30) consecutive days.
10. Within thirty (30) days of the issuance of this order, the Department shall advise the Board of the actions that have been taken to implement this order.
11. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons
Washington, D.C.

January 18, 2018

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 15-U-31 is being transmitted by File & ServeXpress to the following parties on this the 31st day of January 2018.

Kevin Stokes
Office of Labor Relations and Collective Bargaining
441 4th St. NW, suite 820 North
Washington, D.C. 20001

Tyrone Jenkins
1901 D Street SE
Washington, D.C. 20003

/s/ Sheryl V. Harrington
Administrative Assistant



1100 4th Street S.W.
Suite E630
Washington, D.C. 20024
Business: (202) 727-1822
Fax: (202) 727-9116
Email: perb@dc.gov

NOTICE

TO ALL EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS, THIS NOTICE IS POSTED BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 1652, PERB CASE NO. 15-U-31 (JAN. 18, 2018).

WE HEREBY NOTIFY our employees that the Public Employee Relations Board has found that we violated the law and has ordered us to post this notice.

WE SHALL cease and desist from interfering with, restraining, or coercing Tyrone Jenkins in the exercise of his rights guaranteed by the Comprehensive Merit Personnel Act, D.C. Official Code § 1-617.04(a).

WE SHALL cease and desist from informing Jenkins that he will be reprimanded for giving advice to an employee that he represented as vice chairman of the Union.

WE SHALL cease and desist from issuing a memorandum to Jenkins implying that he had violated certain policies in representing an employee at an interview.

WE SHALL cease and desist from ordering Jenkins and other similarly situated employees to exit roll call meetings of unit employees that he and they are authorized to attend.

WE SHALL cease and desist from proposing to suspend Jenkins for his acts and omissions on April 2, 2015, and from taking any steps to implement the proposed suspension.

District of Columbia Department of Corrections

Date: _____ By: _____

This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, whose address is: 1100 4th Street SW, Suite E630; Washington, D.C. 20024. Phone: (202) 727-1822.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.**

January 18, 2018

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

FORMAL CASE NO. 1017, IN THE MATTER OF THE DEVELOPMENT AND DESIGNATION OF STANDARD OFFER SERVICE IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to section 34-802 of the District of Columbia Official Code and in accordance with section 2-505 of the District of Columbia Official Code,¹ of its final tariff action to approve the Potomac Electric Power Company’s (“Pepco” or “Company”) tariff amendment that updates the Company’s Rate Schedules for Electric Service in the District of Columbia.² The Commission issued a Notice of Proposed Tariff (“NOPT”), which was published in the *D.C. Register* on February 16, 2018, giving notice of the Commission’s intent to act on Pepco’s proposed tariff amendments.³ No comments were received on the NOPT.

2. Pepco’s proposed tariff amendment updates the retail transmission rates included in the Rider Standard Offer Service “to reflect the current Federal Energy Regulatory Commission (‘FERC’) approved wholesale transmission rates, which went into effect [on] June 1, 2017.”⁴ Pepco states that the “updated Network Integrated Transmission Service rate is based on the data in the 2016 FERC Form 1 for Pepco, which was filed with the FERC on April 17, 2017.”⁵ According to Pepco, the filed wholesale transmission rate for the Pepco Zone effective June 1, 2017 is \$25,229 per megawatt-year for Network Integrated Transmission Service, which is currently reflected in Attachment H-9 of the PJM Open Access Transmission Tariff.⁶ Net of the Schedule 12 Transmission Enhancement Charges due to projects in the Pepco Zone, the rate is \$23,727 per megawatt-year, as is shown in Attachment E.⁷ According to Pepco, the load in the Pepco Zone is responsible for Schedule 12 Transmission Enhancement Charges

¹ D.C. Official Code §§ 2-505 and 34-802 (2010 Repl.).

² *Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia* (“*Formal Case No. 1017*”), Letter from Dennis P. Jamouneau, Assistant General Counsel, Potomac Electric Power Company, to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, filed November 16, 2017 (“Pepco November 16, 2017 Letter”). Pepco initially filed the proposed tariff on October 10, 2017. *Formal Case No. 1017*, Letter from Dennis P. Jamouneau, Assistant General Counsel, Potomac Electric Power Company, to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, filed October 10, 2017 (“Pepco October 10, 2017 Letter”). Pepco updated its October 10, 2017 filing “to reflect the consolidation of the Residential AE and R-TM classes into the Residential class, pursuant to Order No. 18846, in Formal Case No. 1139.” Pepco November 16, 2017 Letter.

³ 65 *D.C. Register* 1769-1717 (February 16, 2018).

⁴ Pepco November 16, 2017 Letter.

⁵ Pepco November 16, 2017 Letter.

⁶ Pepco November 16, 2017 Letter.

⁷ Pepco October 10, 2017 Letter, Attachment E. *See also*, Pepco November 16, 2017 Letter, Attachment E.

due to transmission projects outside the Pepco Zone and the rate for these projects is \$5,504 per megawatt-year.⁸ Combining these two rates (\$23,727 and \$5,504) results in an overall retail transmission rate for load in the Pepco Zone of \$29,231.⁹

3. After calculating the retail transmission revenue requirement, Pepco has reflected the revised retail rates for the Transmission Service Charge for each rate class on its revised tariff pages.¹⁰

4. Pepco proposes to amend the following thirteen (13) tariff pages:

**ELECTRICITY TARIFF, P.S.C.-D.C. No. 1
Ninety-First Revised Page No. R-1
Superseding Ninetieth Revised Page No. R-1**

**P.S.C.-D.C. No. 1
Ninety-First Revised Page No. R-2
Superseding Ninetieth Revised Page No. R-2**

**P.S.C.-D.C. No. 1
Eighty-Fourth Revised Page No. R-2.1
Superseding Eighty-Third Revised Page No. R-2.1**

**P.S.C.-D.C. No. 1
Sixtieth Revised Page No. R-2.2
Superseding Fifty-Ninth Revised Page No. R-2.2**

**P.S.C.-D.C. No. 1
Twenty-Eighth Revised Page No. R-41
Superseding Twenty-Seventh Revised Page No. R-41**

**P.S.C.-D.C. No. 1
Twenty-Seventh Revised Page No. R-41.1
Superseding Twenty-Sixth Revised Page No. R-41.1**

**P.S.C.-D.C. No. 1
Twenty-Seventh Revised Page No. R-41.2**

⁸ Pepco October 10, 2017 Letter, Attachment D. *See also*, Pepco November 16, 2017 Letter, Attachment D.

⁹ Pepco October 10, 2017 Letter, Attachments A, D & E. *See also*, Pepco November 16, 2017 Letter, Attachments A, D & E.

¹⁰ Pepco October 10, 2017 Letter, Attachment A. Pepco indicates that Attachment A also shows the “corresponding retail transmission revenue requirements.” Pepco indicates that Attachment B provides the “Proposed Rider ‘SOS’ containing the revised retail rates for Transmission Service” as well as “the updated Rider ‘SOS’ showing additions and deletions from the current Rider ‘SOS.’” Finally, Pepco indicates that Attachment C provides “[w]orkpapers showing the details of the rate design calculations.” *See also*, Pepco November 16, 2017 Letter, Attachment C.

Superseding Twenty-Sixth Revised Page No. R-41.2

P.S.C.-D.C. No. 1

Twenty-Seventh Revised Page No. R-41.3

Superseding Twenty-Sixth Revised Page No. R-41.3

P.S.C.-D.C. No. 1

Twenty-Seventh Revised Page No. R-41.4

Superseding Twenty-Sixth Revised Page No. R-41.4

P.S.C.-D.C. No. 1

Twenty-Seventh Revised Page No. R-41.5

Superseding Twenty-Sixth Revised Page No. R-41.5

P.S.C.-D.C. No. 1

Twenty-Eighth Revised Page No. R-41.6

Superseding Twenty-Seventh Revised Page No. R-41.6

P.S.C.-D.C. No. 1

Twenty-Seventh Revised Page No. R-41.7

Superseding Twenty-Sixth Revised Page No. R-41.7

P.S.C.-D.C. No. 1

Twenty-Seventh Revised Page No. R-41.8

Superseding Twenty-Sixth Revised Page No. R-41.8

5. The Commission, at its regularly scheduled open meeting held on April 4, 2018, took action approving Pepco’s proposed tariff amendment that updates the Company’s Rate Schedules for Electric Service in the District of Columbia by revising the Company’s retail transmission rates, for Rider Standard Offer Service, consistent with the current FERC approved wholesale transmission rates. This amendment will become effective upon publication of this Notice of Final Tariff in the *D.C. Register* and shall be reflected in the billing cycle beginning May 1, 2018.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFF

GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C.**No. 3**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to D.C. Code § 34-802 and in accordance with D.C. Code § 2-505,¹ of its intent to act upon the proposed Rights-of-Way (ROW) Surcharge Update of Washington Gas Light Company (WGL or Company)² in not less than thirty (30) days after the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.

2. The ROW Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. On March 23, 2018, pursuant to D.C. Code § 10-1141.06,³ WGL filed a Surcharge Update to revise the ROW Current Factor.⁴ In the Surcharge Update, WGL sets forth the process to be used to recover from its customers the D.C. ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3**Section 22****3rd Revised Page 56**

3. WGL's Surcharge Update indicates the ROW Current Factor is 0.0321 with the ROW Reconciliation Factor of 0.0042 for the period of June 2017 through May 2018, which yields a Net Factor of 0.0363.⁵ In addition, WGL expresses its intent to collect the surcharge beginning with the April 2018 billing cycle.⁶ The Company has a

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

² *GT00-2, In the Matter of Washington Gas Light Company's Rights-of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3, (GT00-2) Rights-of-Way Fee Surcharge Filing of Washington Gas Light Company (Surcharge Update), filed March 23, 2018.*

³ D.C. Code, § 10-1141.06 (2001 Ed.) states that, "Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

⁴ *GT00-2, Surcharge Update at 1.*

⁵ *Id.* at 1.

⁶ *Id.* at 1.

statutory right to implement its filed surcharges. However, if the Commission discovers any inaccuracies in the calculation of the proposed surcharge, WGL could be subject to reconciliation of the surcharges.

4. This Surcharge Update may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's website at www.dcpssc.org. Once at the website, open the "eDocket System" tab, click on "Search Current Dockets" and input "Gas Tariffs-GT" and "00-2" in the "Select Case Number" field. Copies of the tariff pages and attachments are available, upon request, at a per page reproduction fee.

5. Comments on the Surcharge Update must be made in writing to Brinda Westbrook-Sedgwick, at the above address, at psc-commissionsecretary@dc.gov or by clicking on the following link:

<http://edocket.dcpssc.org/comments/submitpubliccomments.asp>

Comments must be received within thirty (30) days of the date of publication of this NOPT in the *D.C. Register*. Once the comment period has expired, the Commission will take final action on WGL's Surcharge Update. Persons with questions concerning this NOPT should call (202) 626-5150.

DISTRICT OF COLUMBIA SENTENCING COMMISSION**NOTICE OF PUBLIC MEETING**

The Commission meeting will be held on Tuesday, April 10, 2018 at 5:00 p.m. The meeting will be held at 441 4th Street, N.W. Suite 430S Washington, DC 20001. Below is the planned agenda for the meeting. The final agenda will be posted on the agency's website at <http://sentencing.dc.gov>

For additional information, please contact: Mia Hebb, Staff Assistant, at (202) 727-8822 or email mia.hebb@dc.gov

Meeting Agenda

1. Review and Approval of the Minutes from the March 20, 2018 Meeting - Action Item, Judge Lee.
2. Continued Discussion of Criminal History Issues Identified at Retreat – Participatory - Judge Lee, Barb Tombs-Souvey, and Linden Fry.
 - a. Further Discussion on Double Counting Offenses.
 - b. Review of Suggested Approaches.
 - c. Action by the Commission.
3. Potential Modification of Points Assigned to Prior Offenses by Offense Severity Level – Participatory- Judge Lee, Mehmet Ergun, and Barb Tombs-Souvey.
4. Prioritization of Criminal History Related Issues.
5. Sentencing Guideline Manual Revision Schedule – Informational Item, Linden Fry.
6. Schedule Next Meeting – May 22, 2018.
7. Adjourn.

D.C. SENTENCING COMMISSION**PUBLIC MEETING NOTICE**

The D.C. Sentencing Commission hereby gives notice that the Commission meeting scheduled for Tuesday, April 17, 2018, has been rescheduled to Tuesday, April 10, 2018 at 5:00pm. The meeting will be held at One Judiciary Square, 441 4th Street, N.W. Suite 430S, Washington, DC 20001.

Inquiries concerning the meeting may be addressed to Mia Hebb, Staff Assistant, at (202) 727-8822 or Mia.Hebb@dc.gov.

TWO RIVERS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Athletic Resilient Flooring**

Two Rivers PCS is soliciting proposals from qualified and experienced flooring installation companies to provide the full replacement of a 60'x55' indoor resilient athletic surface for school gymnasium. To request a copy of the RFP, email procurement@tworiverspcs.org. Proposals are due by May 1, 2018.

School Uniforms

Two Rivers PCS is soliciting proposals/price quotes from custom apparel companies to produce school uniform tops. To request a copy of the RFP, email procurement@tworiverspcs.org. Proposals/quotes are due by May 1, 2018.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Audit Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Thursday, April 26, 2018 at 9:30 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.dcwater.com.

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

DRAFT AGENDA

- | | | |
|----|---|------------------|
| 1. | Call to Order | Chairman |
| 2. | Summary of Internal Audit Activity -
Internal Audit Status | Internal Auditor |
| 3. | Executive Session | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

DC Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) DC Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, April 24, 2018 at 9:30 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 lmanley@dewater.com.

DRAFT AGENDA

- | | | |
|----|---------------------|-------------------------|
| 1. | Call to Order | Committee Chairperson |
| 2. | Monthly Updates | Chief Financial Officer |
| 3. | Committee Work plan | Chief Financial Officer |
| 4. | Other Business | Chief Financial Officer |
| 5. | Executive Session | Committee Chairperson |
| 6. | Adjournment | Committee Chairperson |

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, April 26, 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

- | | |
|---|-----------------------|
| 1. Call to Order | Committee Chairperson |
| 2. March, 2018 Financial Report | Committee Chairperson |
| 3. Agenda for May, 2018 Committee Meeting | Committee Chairperson |
| 4. Adjournment | Committee Chairperson |

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

Application No. 19169-A of Birchington, LLC, pursuant to 11 DCMR Subtitle Y, § 705.1, for a two-year time extension of BZA Order No. 19169 approving variances from the rear yard requirements under § 774.1, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1, to construct a hotel and apartment building in the DD/DD-HPA/C-2-C District (now D-4-R)¹ at premises 303-317 K Street N.W. (Square 526, Lots 20, 21, 804, 805, 824, 825, and 829).

HEARING DATE (Case No. 19169):	February 6, 2016
DECISION DATE (Case No. 19169):	February 23, 2016
ORDER ISSUANCE DATE (Order No. 19169):	February 29, 2016
TIME EXTENSION DECISION:	March 28, 2018

**SUMMARY ORDER ON MOTION TO EXTEND
THE VALIDITY OF BZA ORDER NO. 19169**

The Underlying BZA Order

On February 23, 2016, the Board of Zoning Adjustment (the "Board") approved the Applicant's² request pursuant to the 1958 Zoning Regulations³ under 11 DCMR § 3103.2, for variances from the rear yard requirements under § 774.1, and the off-street parking requirements under § 2101.1, to construct a hotel and apartment building in the DD/DD-HPA/C-2-C (now D-4-R) District at premises 303-317 K Street N.W. (Square 526, Lots 20, 21, 804, 805, 824, 825, and 829). The Board issued its written order ("Order") on February 29, 2016. Pursuant to 11 DCMR § 3125.9 (now Subtitle Y § 604.11 of the 2016 Regulations), the Order became final on February 29, 2016 and took effect 10 days later. Under the Order and pursuant to 11 DCMR § 3130 (now Subtitle Y § 702.1 of the 2016 Regulations), the Order was valid for two years from the time it was issued - until February 29, 2018.

¹ The zone name has changed as a result of the update of the zoning regulations as described in footnote 3. New zone names went into effect on September 6, 2016. The zone name of the property was DD/DD-HPA/C-2-C at the time of the original approval and is now D-4-R.

² Birchington, LLC, the Applicant for the time extension herein, is the successor in interest to the original Applicant in Case No. 19169, which was 311 K Street, LLC.

³ This and all other references to the relief granted in Order No. 19169 are to provisions that were in effect the date the Application was heard and decided by the Board of Zoning Adjustment (the "1958 Regulations"), but which were repealed as of September 6, 2016 and replaced by new text (the "2016 Regulations"). The repeal of the 1958 Regulations has no effect on the validity of the Board's original decision or the validity of Order No. 19169.

Motion to Extend Validity of the Order Pursuant to 11 DCMR Subtitle Y § 705.1

On February 13, 2018, the Applicant submitted an application for a time extension requesting that the Board grant a two-year extension of Order No. 19169. This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations of 2016, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.1(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.1(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.1(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

The Board finds that the motion has met the criteria of Subtitle Y § 705.1 to extend the validity of the underlying order. Pursuant to Subtitle Y § 705.1(a), the record reflects that the Applicant served the only party to the original application, Advisory Neighborhood Commission ("ANC") 6E, as well as the Office of Planning. (Exhibit 3.) ANC 6E submitted a report, dated March 19, 2018, in support of the time extension request. The ANC's report indicated that at a duly noticed and scheduled public meeting on March 6, 2018, at which a quorum was present, the ANC voted 5-0-0 to support the Applicant's Request for Extension, raising no issues or concerns. (Exhibit 6.) The Office of Planning ("OP") submitted a report, dated March 16, 2018, recommending approval of the request for the time extension. (Exhibit 5.)

As required by Subtitle Y § 705.1(b), the Applicant demonstrated that there has been no substantial change in any of the material facts upon which the Board based its original approval in Order No. 19169. There have also been no substantive changes to the Zone District classification applicable to the Site or to the Comprehensive Plan affecting the Site since the issuance of the Board's order that would affect the application.

To meet the burden of proof for good cause required under Subtitle Y § 705.1(c), the Applicant provided a statement and other evidence regarding factors causing a delay in obtaining a building permit. (Exhibit 3.) The good cause basis for the Request was the Applicant's inability to obtain sufficient financing due to economic and market conditions beyond its control, pursuant to Subtitle Y § 705(c)(1). The Applicant submitted exhibits detailing the softening of the hotel market during 2016-2017 due to the rapid increase in new hotel rooms and the decreased availability of mortgage backed securities. The Applicant documented how the combination of a

rapid increase in new hotel rooms in 2016-2017 and the decreased availability of commercial mortgage backed securities led to difficulties in financing the project, thus causing a delay in completing the project. The property was purchased by a new owner in December 2017 and the Applicant states that financing has now been obtained. (Exhibit 3.)

Given the totality of the conditions and circumstances described above and after reviewing the information that was provided, the Board finds that the Applicant satisfied the “good cause” requirement under Subtitle Y § 705.1(c), specifically meeting the criteria for Subtitle Y § 705.1(c)(1). The Board finds that the delay in securing the necessary financing to purchase the Property is beyond the Applicant’s reasonable control and that the Applicant demonstrated that it has acted diligently, prudently, and in good faith to proceed towards the implementation of the Order.

Having given the written reports of ANC 6E and OP great weight, the Board concludes that extension of the approved relief is appropriate under the current circumstances and that the Applicant has met the burden of proof for a time extension under Subtitle Y § 705.1.

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.

Pursuant to 11 DCMR Subtitle Y § 702, the Board of Zoning Adjustment hereby **ORDERS APPROVAL** of a two-year time extension of Order No. 19169, which Order shall be valid until **February 29, 2020**, within which time the Applicant must file plans for the proposed project with the Department of Consumer and Regulatory Affairs for the purpose of securing a building permit.

VOTE: 5-0-0 (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Robert E. Miller 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: March 29, 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. 19169-A
PAGE NO. 3**

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

Application No. 19593 of Edward and Naomi Griffin, as amended,¹ pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1 and from the nonconforming structure requirements of Subtitle C § 202.2, to enclose a rear, third floor deck in an existing one-family dwelling in the RF-1 Zone at premises 1226 North Carolina Avenue N.E. (Square 1012, Lot 122).

HEARING DATES: November 1, 2017; December 13, 2017; January 31, 2018; March 7, 2018²

DECISION DATE: March 21 and March 28, 2018³

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 73.) 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") 6A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application.

¹ The original application was accompanied by a memorandum from the Zoning Administrator, dated July 5, 2017, indicating that variance relief is required for the "existing non-conforming structure which exceeds the maximum lot occupancy." (Exhibit 6.) The Applicant subsequently revised it plans to reduce the lot occupancy to what is permitted by special exception (Exhibit 43) and amended the relief accordingly. (Exhibit 73.) The caption has been revised.

² The hearing was scheduled for November 1, 2017 and administratively postponed to December 13, 2017. At the December 13 hearing, the Board granted the Opposition Party's motion to postpone the case and continued the hearing to January 31, 2018. The Board further postponed the hearing to March 7, 2018 at the Applicant's request.

³ The case was scheduled for decision on March 21, 2018; however, that meeting and hearing date was cancelled due to inclement weather. The decision was rescheduled for March 28, 2018.

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 March 8, 2018, at which a quorum was present, the ANC voted 6-0 to support the application, raising no issues or concerns. (Exhibit 76.)

The Office of Planning ("OP") submitted two reports to the record, both recommending approval of the application. (Exhibit 49 (Original); Exhibit 69 (Supplemental).) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 32.)

At the public hearing on December 13, 2017, the Board granted party status in opposition to Charlene Patton, represented by Denise Pitts. (Exhibit 45.) The Opposition Party did not appear at the continued hearing on March 7, 2018 and, in advance of the Board's decision, filed a statement to the record withdrawing her party status. (Exhibit 78.) The Capitol Hill Restoration Society submitted a letter of support to the record. (Exhibit 34.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1 and from the nonconforming structure requirements of Subtitle C § 202.2, to enclose a rear, third floor deck in an existing one-family dwelling in the RF-1 Zone. Based on the withdrawal of party status from the neighbor in opposition, 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 C § 202.2, and Subtitle E §§ 5201 and 304.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 43.**

VOTE: 3-0-2 (Carlton E. Hart, Lesylleé M. White, and Peter A. Shapiro (by absentee vote) to Approve; Frederick L. Hill and Lorna L. John not participating, not voting.)

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. 19593

PAGE NO. 2

FINAL DATE OF ORDER: April 2, 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. 19593
PAGE NO. 3**

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

Application No. 19690 of 2916 P Street LLC, as amended,¹ pursuant to 11 DCMR Subtitle X, Chapter 10, for a use variance from the nonconforming use requirements of Subtitle C § 204.1, to construct a rear and third-story addition to an existing four-unit apartment house in the R-3 Zone at premises 2916 P Street S.E. (Square 5547, Lots 808 and 809).

HEARING DATES: February 21, 2018; March 28, 2018²
DECISION DATE: March 28, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 14 (original) and Exhibit 35 (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") 7B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7B, 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 September 21, 2017, at which a quorum was present, the ANC voted 3-1 to support the application. (Exhibit 4.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (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 32.)

¹ The Applicant amended the self-certified application (Exhibit 35) by changing the original request for an area variance under Subtitle C § 204.1 (Exhibit 14) to a use variance from Subtitle C § 204.1 based on advice from the Zoning Administrator. (Exhibit 34A.)

² The case was originally scheduled for the hearing of February 21, 2018 at the request of the Applicant. (Exhibit 31.) The Board granted the request for a postponement and scheduled the case for the public hearing of March 28, 2018. (Exhibit 33.)

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 a use variance from the nonconforming use requirements of Subtitle C § 204.1, to construct a rear and third-story addition to an existing four-unit apartment house in the R-3 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 variances from 11 DCMR Subtitle C § 204.1, 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 an undue hardship 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.

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 11.**

VOTE: **5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Robert E. Miller 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: March 30, 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.

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

Application No. 19720 of Equilibrium 465 Mellon LLC, pursuant to 11 DCMR Subtitle X, Chapter 10, for a use variance from the nonconforming use requirements of Subtitle C § 204.1, to add two apartments to an existing 10-unit apartment house in the R-3 Zone at premises 465 Mellon Street, S.E. (Square 5996, Lot 34).

HEARING DATE: March 28, 2018

DECISION DATE: March 28, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 6.) 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") 8C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8C, which is automatically a party to this application. The ANC did not submit a report related to the application. Counsel for the Applicant stated that numerous attempts were made to contact the Chairperson of the ANC to have review of the application placed on the ANC meeting agenda, but those efforts were unsuccessful. In communicating with the Single Member District Commissioner, the Applicant was referred back to the Chairperson. Consequently, there was no review of the application by the ANC.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 33.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 32.)

One resident of the subject building – 465 Mellon Street, S.E. – testified at the hearing that she wanted to have her ANC representatives assess the application and the impact of the proposal on the current residents. She raised concerns about the owner's maintenance of the property and the timeliness of renovations at the site.

In terms of ANC review, the Board noted the Applicant's numerous attempts to reach the ANC to make a presentation of the zoning application, and the fact that these attempts went unresponded to. Regarding maintenance of the site and the renovations, the Applicant addressed these matters at the hearing and the Board encouraged the Applicant to discuss the concerns with the resident.

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 a use variance from the nonconforming use requirements under Subtitle C § 204.1, to add two apartments to an existing 10-unit apartment house in the R-3 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 averse to any party.

Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that in seeking a variance from 11 DCMR Subtitle C § 204.1, 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 an undue hardship 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.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 12A1-12A2 – ARCHITECTURAL PLANS (PARTS 1 & 2).**

VOTE: 5-0-0 (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Robert E. Miller 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: April 2, 2018

BZA APPLICATION NO. 19720

PAGE NO. 2

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

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-03J(1)**

Z.C Case No. 11-03J

Wharf Phase 3 REIT Leaseholder, LLC

**(Second-Stage PUD and Modification of Significance to First-Stage PUD @
Southwest Waterfront, Phase 2 – Overall Plan Elements, Parcel 10, Water Building 3, M
Street Landing, The Terrace, Wharf Marina, and Adjacent Spaces)**

December 7, 2017

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held public hearings on November 2, November 6, and November 9, 2017, to consider an application for a second-stage planned unit development (“PUD”) and a modification of significance to a first-stage PUD (together, the “Application”) filed by Wharf Phase 3 REIT Leaseholder, LLC (“Applicant”) on behalf of the District of Columbia Office of the Deputy Mayor for Planning and Economic Development (“DMPED”). The Application consists of Phase 2 of the Southwest Waterfront (“Wharf”) redevelopment project (“Phase 2 PUD”), which is located on Lots 878, 881, 887, 888, and 921 of Square 473. The Commission approved the first-stage PUD application for the Wharf project pursuant to Z.C. Order No. 11-03 (*dated* October 17, 2011, *effective* December 16, 2011) (“first-stage PUD”). The Phase 2 PUD includes the primary landside buildings and structures located on Parcels 6-10, two below-grade parking structures, three waterside buildings known as Water Buildings (“WB”) 1 and 2¹, and the completion of the Wharf Marina. The Phase 2 PUD also includes various landside and waterside accessory structures and kiosks, public areas and open spaces, and improvements to public and private streets and alleys. The Commission considered the Application in accordance with the first-stage PUD and Subtitle X, Chapter 3 and Subtitle Z of the 2016 Zoning Regulations of the District of Columbia (“ZR16”), Title 11 of the District of Columbia Municipal Regulations (“DCMR”).² Due to the number of buildings and other development components contained in the Phase 2 PUD, and the breadth of information contained in the case record, the Commission divided the Phase 2 PUD into three segments that generally correspond to the organization of the proposed plans submitted by the Applicant, as follows: (i) Phase 2 PUD master plan elements, Parcel 10, Water Building 3, M Street Landing, The Terrace, and Wharf Marina; (ii) Parcels 8 and 9, Water Building 2, The Grove, and Marina Way; and (iii) Parcels 6 and 7, The Oculus, and Water Building 1. Each of the aforementioned segments were considered by the Commission at separate hearings, which were conducted in accordance with the contested case provisions of Subtitle Z, Chapter 4 of ZR16. Upon a motion made by the Applicant, the Commission granted a request to deliberate and vote on each segment separately, and issue separate orders accordingly. For the reasons stated below, the Commission hereby **APPROVES** this segment of the Application for Overall Plan Elements, Parcel 10, M Street Landing, The Terrace, Wharf Marina, and Adjacent Spaces (“Parcel 10 PUD”).

¹ Originally, the Phase 2 PUD application proposed three water buildings but the project design changed during negotiations with various opposition parties and ultimately Water Building 3 was eliminated from the overall project.

² Pursuant to 11-A DCMR § 102.3(a), the Southwest Waterfront redevelopment project is a vested project under the 1958 Zoning Regulations as to permitted development standards and use permissions. However, with respect to procedural requirements, the Application was processed by the Commission and the Office of Zoning in accordance with the procedural requirements of ZR16. (*See* Notice of Intent at Exhibit 2G and Notice of Public Hearing at Exhibit 17.)

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On May 12, 2017, the Applicant filed the Application with the Commission for review and approval of a second-stage PUD and a modification of significance to an approved first-stage PUD (Z.C. Order No. 11-03) for the Phase 2 PUD. (Exhibit [“Ex”] 1-2C27.) The Phase 2 PUD is located on Lots 878, 881, 887, 888, and 921 of Square 473 (“Property”), and consists of the primary landside buildings and structures located on Parcels 6-10 of the Wharf project, two below-grade parking structures, two waterside buildings known as WB 1 and 2, and the completion of the Wharf Marina. The Phase 2 PUD also includes various landside and waterside accessory structures and kiosks, public areas and open spaces, and improvements to public and private streets and alleys. The Applicant intends to redevelop the Property generally consistent with the development parameters of the first-stage PUD Order as they relate to building height, number of stories, and density. As part of the Application, the Applicant is requesting to modify the first-stage PUD to permit a hotel use on Parcel 8.

2. By report dated July 14, 2017, the Office of Planning (“OP”) recommended that the Application be set down for a public hearing. (Ex. 10.) As part of its report, OP recommended that the Applicant amend the Application to include a request for first-stage PUD modification for the layout of the piers, docks, and water buildings in Wharf Marina. At its public meeting held on July 24, 2017, the Commission voted to schedule a public hearing on the Application. At that same meeting, the Commission divided the Phase 2 PUD into three segments that generally correspond to the organization of the proposed plans submitted by the Applicant due to the number of buildings and other development components contained in the Phase 2 PUD and the breadth of information contained in the case record. Each of the aforementioned segments were considered by the Commission at separate hearings, as follows:

Hearing Date	Topics
November 2, 2017	Overall Plan Elements / Volume C (Master Plan, Parcel 10, Water Building 3 ³ , M Street Landing, The Terrace, and Wharf Marina)
November 6, 2017	Volume B (Parcel 8, Parcel 9, Water Building 2, The Grove, and Marina Way)
November 9, 2017	Volume A (Parcel 6, Parcel 7, Water Building 1, and The Oculus)

3. On August 4, 2017, the Applicant submitted a prehearing statement, which responded to issues raised by the Commission and OP at the setdown meeting. (Ex. 12, 13.) As part of its prehearing statement, the Applicant amended the Application to include the layout of the piers, docks, and water buildings in Wharf Marina in its request to modify the first-stage PUD. On October 4, 2017, the Applicant submitted its Comprehensive Transportation Review (“CTR”). (Ex. 20.) On October 13, 2017, the Applicant submitted

³ WB 3 was discussed at the November 2nd hearing but ultimately removed from the overall project.

a supplemental prehearing statement, which included a full set of revised architectural plans and drawings (“Plans and Drawings”) and additional responses to issues raised by the Commission and OP at the setdown meeting. (Ex. 21.)

4. A description of the Phase 2 PUD and the notice of public hearing for the Application were published in the *D.C. Register* on September 1, 2017. The notice of public hearing was mailed to all property owners within 200 feet of the Property, based upon a listing of property owners obtained from the District of Columbia Office of Tax and Revenue (“OTR”) at the time of issuing the Notice of Intent for the Application, as well as to Advisory Neighborhood Commission (“ANC”) 6D.
5. At its October 16, 2017, regularly scheduled meeting, which was duly noticed and at which a quorum was present, ANC 6D voted 5-0-0 to oppose the Application for a variety of reasons, which are set forth in the ANC’s report dated October 26, 2017. (Ex. 32.) As described in this Order, the Applicant submitted additional information to the record based on further negotiations with the ANC, and more specifically the ANC’s Negotiation Team which was authorized by the full ANC to negotiate on behalf of, and represent the official position of, the ANC with respect to the Phase 2 PUD (“ANC Agreement”). (Ex. 38.)⁴ Based upon the conditions set forth in the ANC Agreement, at the public hearing held on November 2, 2017, ANC Chairman Andy Litsky testified that the ANC Negotiation Team, on behalf of the full ANC, formally supports the Application. (Ex. 49.)
6. On October 18, 2017, the Gangplank Slipholders Association (“GPSA”) submitted a request for party status in opposition to the Application. (Ex. 23.) GPSA’s party status request noted that it supported the project with reservations about excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and liveboard access to existing parking and loading areas. (Ex. 23, p. 2.)
7. On October 19, 2017, the Tiber Island Condominium (“Tiber Island Condo”) submitted a request for party status in opposition to the Application. (Ex. 25.) Tiber Island Condo’s party status request also stated that it supported the project with reservations about excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and the removal of existing Zone 6 parking areas and associated loading areas currently used by its residents. (Ex. 25, p. 2.) At the public hearing on November 2, 2017, Mr. Richard Brown, President of the Tiber Island Condominium, testified that Tiber Island Condo was actually in support of the Phase 2 PUD, but that they wanted to flag a concern about parking and traffic along 6th Street and M Place, S.W., as some of their townhouses face those streets. (Transcript [“Tr.”] November 2, 2017, p. 156.)

⁴ At its October 16, 2017, public meeting, ANC 6D voted to authorize the ANC 6D Negotiation Team to continue to meet with the Applicant and other parties to discuss their issues and attempt to work toward effective solutions to any outstanding issues. The ANC Negotiation Team is comprised of Commissioner Ronald Collins (6D03), Commissioner Gail Fast (6D01), and Commissioner Andy Litsky, Chairman (6D04).

8. On October 19, 2017, 525 Water, a Condominium Unit Owners Association (“525 Water”), submitted a request for party status in support of the Application. (Ex. 24.)
9. On October 19, 2017, Tiber Island Cooperative Homes, Inc. (“Tiber Island Co-Op”) submitted a request for party status in support of the Application. (Ex. 26.)
10. The Applicant did not object to any of the requests submitted for party status either in advance of the public hearing pursuant to 11-Z DCMR § 404.9, or at the public hearing. At the beginning of the public hearing on November 2, 2017, the Commission granted all four requests for party status.
11. In addition to the parties in support, the Commission received letters in support of the Application from the Riverside Baptist Church, the International Spy Museum, the Disabled American Veterans, the Edgewater Condominium Association, Waterfront Village, and the Waterfront Gateway Neighborhood Association. (Ex. 37, 51, 53, 59, 61, 62.) In addition to the parties in opposition, the Commission received letters in opposition to the Application from MANNA and Ms. Judy Yang, a resident of 525 Water Street, S.W., the condominium building located on Parcel 11 within the PUD Site, and also received a variety of emails and letters from individuals expressing their concerns neither in support of or in opposition to the Application. (Ex. 41, 31, 22, 60, 63, 64, 66, 69.)
12. The Commission received comments on the Application from the following District agencies: D.C. Public Library, Fire and Emergency Medical Service (“FEMS”), Metropolitan Police Department (“MPD”), Department of Employment Services (“DOES”), and Court Services and Offender Supervision Agency (“CSOSA”). (Ex. 79, 80, 81, 85, 87.)
13. On November 2, 6, and 9, 2017, the Commission held public hearings to consider the second-stage PUD and modification to the first-stage PUD. The focus of the hearing on November 2nd was the Parcel 10 PUD. The parties to the Application were the Applicant, ANC 6D, GPSA, Tiber Island Condo, 525 Water, and Tiber Island Co-Op.

November 2nd Public Hearing

14. At the public hearing on November 2, 2017, the Applicant presented nine witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC/PN Hoffman; Hilary Bertsch, Perkins Eastman DC, PLLC; Robert Schiesel, Gorove/Slade Associates, Inc.; Morris Adjmi, Morris Adjmi Architects; Hiroshi Jacobs, STUDIOS Architecture; Nate Trevethan, Michael Van Valkenburgh Associates; Paul Josey, Wolf Josey Landscape Architects; and Jessica McIntyre, Moffatt & Nichol. Based upon their professional experience and qualifications, Ms. Bertsch, Mr. Adjmi, and Mr. Jacobs were recognized as experts in architecture; Messrs. Trevethan and Josey as experts in landscape architecture; Mr. Schiesel as an expert in transportation engineering and planning; and Ms. McIntyre as an expert in marina design and engineering.

15. Matthew Jesick, Development Review Specialist at OP, testified in support of the Application, and specifically the Parcel 10 PUD, with certain comments and conditions. Aaron Zimmerman and Jamie Henson, Transportation Planners at the District Department of Transportation (“DDOT”), testified in support of the Application, subject to conditions recommended by DDOT and agreed to by the Applicant.
16. Willie Beale, Paula Van Lare, and Michael Brown testified in support of the Application. Michael Nobel, Ed Lazere, Gary Blumenthal, William Shickler, and Chris Otten testified in opposition to the Application.

November 6th Public Hearing

17. At the public hearing on November 6, 2017, the Applicant presented eight witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC/PN Hoffman; Elinor Bacon, Wharf Phase 3 REIT Leaseholder LLC/E.R. Bacon Development; Christian Bailey, ODA; Jay Bargmann, Rafael Vinoly Architects PC; Paul Josey, Wolf Josey Landscape Architects; Sital Patel, S9 Architecture; and Shane Dettman, Holland & Knight LLP. Based upon their professional experience and qualifications, Mr. Bailey, Mr. Bargmann and Mr. Patel were recognized as experts in architecture; Mr. Dettman was recognized as an expert in zoning and land use planning; and Mr. Josey having previously been recognized as an expert in landscape architecture at the November 2nd public hearing.
18. Matthew Jesick, Development Review Specialist at OP, testified in support of the Application, and specifically the Parcel 8/9 PUD, with certain comments and conditions.
19. Dida El-Sourady and John McLaughlin testified in opposition to the Application.

November 9th Public Hearing

20. At the public hearing on November 9, 2017, the Applicant presented seven witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC/PN Hoffman; Elinor Bacon, E.R. Bacon Development; William Sharples, SHoP Architects PC; Matthias Hollwich, Hollwich Kushner; Faye Harwell, Rhodeside & Harwell; and Shane Dettman, Holland & Knight LLP. Based upon their professional experience and qualifications, Mr. Sharples and Mr. Hollwich were recognized as experts in architecture; Ms. Harwell was recognized as an expert in landscape architecture; and Mr. Dettman was previously recognized as an expert in zoning and land use planning.
21. Matthew Jesick, Development Review Specialist at OP, testified in support of the Application, and specifically the Parcel 6/7 PUD, with certain comments and conditions. Aaron Zimmerman, Transportation Planner at DDOT, also testified in support of the Application.
22. Steve Lanning testified in opposition to the Application.

23. At the conclusion of the November 9th public hearing, the Commission requested the Applicant to file its post-hearing submission and rebuttal on November 22, 2017. The Commission also requested GPSA to submit the results of its vote on the revised Letter Agreement that it was negotiating with the Applicant by November 30, 2017. The Commission scheduled a special public meeting for December 7, 2017, to consider final action; and the Commission requested that the Applicant respond, as needed, to GPSA's November 30th submission by noon on December 7th.

Post-hearing Filings, Motions, Actions

24. On November 16, 2017, the Applicant filed a motion requesting the Commission to separate its deliberation and decision on the Application into three separate actions, consistent with the Commission's decision and issuance of orders for the second-stage PUD application for Parcels 2, 3, 4, and 11 of the Wharf project. (Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4); Ex. 76.) In its motion, the Applicant stated that separating the deliberation and decision on the Application into three separate actions is also consistent with the Commission's decision to hold multiple hearings on the Phase 2 PUD due to the number of buildings and other development components, and the breadth of information contained in the case record.
25. On November 20, 2017, ANC 6D submitted a response in opposition to the Applicant's motion noting that the request to separate the deliberation and decision seemed unnecessary and could inadvertently result in all contested issues not being fully resolved because of case deliberations occurring piecemeal as opposed to simultaneous for the entire application. (Ex. 77.)
26. On November 20, 2017, OP filed a motion to reopen the record to allow comments from both the DC Public Library and FEMS after the public hearings into the record. (Ex. 78.)
27. On November 22, 2017, the Applicant filed its rebuttal testimony and its post-hearing submission refuting various aspects of the contested issues that were raised by the parties in the three public hearings. (Ex. 82.)
28. On November 22, 2017, the Applicant filed a motion to extend the deadline for submission of draft findings of fact and conclusions of law from November 27th until November 29th after the Commission was scheduled to consider the Applicant's motion to separate its deliberation and decision on the Application into three separate actions. (Ex. 84.)
29. On November 27, 2017, the Commission granted the Applicant's motion to separate its deliberation and decision on the Application into three separate actions after the Applicant's counsel explained that allowing three orders in the case would avoid a situation where the entire project was delayed in the event of a party appealing one building or component of the project. The Commission also granted the motion to extend

the deadline for submission of draft findings of fact and conclusions of law to November 29th.

30. On November 29, 2017, the Applicant filed its draft findings of fact and conclusions of law for the Parcel 10 PUD. (Ex. 88.) On December 1, 2017, the Applicant filed revised draft findings of fact and conclusions of law for the Parcel 10 PUD to include additional transportation mitigation measures that were previously recommended by OP and accepted by the Applicant, but inadvertently omitted from the Applicant's initial submission. (Ex. 93A1.)
31. On November 30, 2017, GPSA submitted a statement on the status of negotiations with the Applicant on the revised Letter Agreement ("GPSA Status"), as well as proposed findings of fact and conclusions of law. (Ex. 91, 92.) On December 4, 2017, the Applicant submitted a response to the GPSA Status ("Status Response"). (Ex. 94.)
32. On December 5, 2017, OP submitted a post-hearing memorandum containing responses to the Applicant's post-hearing submission. Specifically, Exhibit 82T contained a labeling error where the word "enclosure" appears on Sheets 2.24 and 2.25 of the plans, and revisions to the minor design flexibility language to appear in the final orders for Parcel 6/7 and Parcel 8/9 were suggested. (Ex. 95.) On December 6, 2018, the Applicant filed a motion to reopen the record to submit a response to OP's post-hearing memorandum. (Ex. 96.) The Applicant's motion was granted and the Applicant submitted Exhibit 96A to correct the labeling error and accepted OP's suggested revisions to the minor design flexibility language.
33. On December 7, 2017, GPSA submitted a motion to reopen the record to submit a second statement on the status of negotiations with the Applicant on the revised Letter Agreement ("GPSA Second Status"), to which the Applicant submitted a response on that same day (Ex. 97A, 98).
34. At a special public meeting held on December 7, 2017, the Commission took final action to approve the Parcel 10 PUD. During the meeting, the Applicant confirmed that its intent is to provide continuity of amenities/services to the liveaboard slipholders during construction in a fenced, access-controlled location along the water's edge within the confines of security for the marina as shown in Modified Option B. (Ex. 94B, Attachment 2, Transition Plan, Sheets 5-8 of the Construction Sequencing Plan.) The Commission's final approval was conditioned on the amendment of Modified Option B, as necessary, to document the parties' final agreement on the exact location of interim liveaboard amenities/services during construction.

The Applicant and Development Team

35. The master developer of the overall Southwest Waterfront redevelopment project is Hoffman-Struever Waterfront, LLC, doing business as Hoffman-Madison Waterfront, LLC ("Hoffman-Madison"). The Applicant for the Parcel 10 PUD is Wharf Phase 3 REIT Leaseholder, LLC, an affiliate of Hoffman-Madison, which is processing the

Application on behalf of the Office of Deputy Mayor for Planning and Economic Development. The Applicant's team includes the District-based Certified Local, Small, and Disadvantaged Business Enterprises of E.R. Bacon Development, Paramount Development, and Triden Development, as well as District-based and CBE-certified CityPartners.

The Southwest Waterfront Redevelopment Project

36. The Southwest Waterfront redevelopment project is a public-private partnership between the District of Columbia and Hoffman-Struever Waterfront, LLC, which entered into a land disposition agreement ("LDA") for redevelopment of the Southwest Waterfront, which is generally bounded by the Washington Channel of the Potomac River and Maine Avenue between 6th and 11th Streets, S.W., and consists of approximately 991,113 square feet of land area (22.75 acres) and approximately 167,393 square feet of piers and docks in the adjacent riparian area (the "PUD Site").
37. The primary objective of the Southwest Waterfront redevelopment project is to reunite the city with the water's edge and activate it with a mix of uses and year-round activity. This objective will be achieved by integrating the city's unique urban qualities, such as dynamic parks and open spaces that are defined by consistent street walls, with aspects that recall the character of the thriving commercial warehouse district and maritime activities that once lined the Washington Channel and connected the upland city streets to the maritime edge.

Overview of the Southwest Waterfront PUD

38. The Southwest Waterfront PUD will provide a mix of uses to ensure an active waterfront throughout the year, day and night. Rather than a collection of individual projects, the overall redevelopment has been designed as a series of "places" that integrate architecture and landscape design to create inviting and memorable public environments. There will be a variety of gathering places to cater to every interest, ranging from actively programmed places to simple promenades and parks for passive enjoyment of the water and its environs.
39. The design of the waterside development has been fully integrated with the landside development, and will include four new public-use piers along the Washington Channel. The District Pier, the largest of the piers, is intended to be the primary waterside entrance to the project and the host for the District's waterside events. Several new tour boats, tall ships, and maritime vessels, such as water taxis, will be added to the existing recreational maritime activities to provide increased activity and several more options for the public to use the waterfront and engage in water sports and activities. The waterside development will extend to the limits of the Washington Channel's federal navigational channel.

Previous PUD Approvals

40. Pursuant to Z.C. Order No. 11-03, the Commission approved the first-stage PUD for the Southwest Waterfront redevelopment project.
41. Since approving the first-stage PUD, the Commission has approved a second-stage PUD application for Parcels 2, 3, 4, and 11; the Capital Yacht Club; and the public open spaces known as the Wharf, Transit Pier, District Pier, Yacht Club Piazza, the Mews, Jazz Alley, 7th Street Park and Waterfront Park; as well as temporary uses on Parcel 1 (Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4)). The Commission has also approved second-stage PUDs for Parcel 5 (Z.C. Order No. 11-03B); Parcel 1, Market Shed, and Market Square (Z.C. Order No. 11-03C); 7th Street Recreation Pier (Z.C. Order No. 11-03E); and Pier 4, which also included a first-stage PUD modification (Z.C. Order No. 11-03F). The Commission has also approved minor modifications or modifications of consequence to previously approved plans for Parcel 5 (Z.C. Order Nos. 11-03D and 11-03I), Parcel 3A (Z.C. Order No. 11-03G), and Parcel 4 (Z.C. Order No. 11-03H).

Approved First-Stage PUD Development Parameters

42. As part of the first-stage PUD, the Commission approved the overall parameters for the redevelopment of the PUD Site. The first-stage PUD authorizes a maximum landside density of 3.87 FAR, excluding private rights-of-way, and a maximum waterside density of 0.68 FAR. (*See* Z.C. Order No. 11-03, Condition Nos. A-1 and A-2.) Development parameters pertaining to building height, parking, and loading were also included in the first-stage PUD.
43. The first-stage PUD divides the landside portion of the PUD Site into 11 primary building parcels, a number of smaller landside and waterside structures, four major plazas, one large park, a waterfront promenade/shared space, and public and private piers. The waterside development includes club buildings for the marinas, buildings on existing Piers 3 and 4, and other minor waterside buildings and facilities. The approved parks also include smaller retail structures and pavilions.
44. Regarding building heights, the Commission approved a maximum height of 130 feet for Parcels 1-9, with the exception of Parcel 5, which the Commission approved at a maximum height of 110 feet. The Commission approved maximum building heights for Parcels 10 and 11 at 60 feet and 45 feet, respectively. Finally, the Commission approved a maximum building height of 45 feet on Pier 4.
45. With respect to parking facilities, the Commission approved the construction of one or more below grade parking structures that would provide approximately 2,100-2,650 parking spaces on two to three levels. The Commission required the Applicant to provide parking or storage for approximately 1,500-2,200 bicycles and sufficient loading facilities to accommodate the mix of uses on the PUD Site. Pursuant to Z.C. Order No. 11-03, the precise amount of parking and loading facilities required for each second-stage PUD application shall be specified by the Commission in each second-stage order.

46. As part of the first-stage PUD approval, the Commission approved the phased redevelopment of the PUD Site, with the last second-stage PUD application required to be filed no later than December 31, 2024.

The Phase 2 PUD

47. The landside portion of the Phase 2 PUD is located on Record Lot 89 of Square 473, and includes Assessment & Taxation (“A&T”) Lots 878, 881, and 921, which collectively comprise approximately 322,738 square feet of land area. The waterside portion of the Phase 2 PUD includes A&T Lots 887 and 888, which collectively comprise approximately 666,683 square feet of riparian area.
48. The landside portion of the Phase 2 PUD includes primary buildings on Parcels 6/7 (“Parcel 6/7 Building”), Parcel 8 (“Parcel 8 Building”), Parcel 9 (“Parcel 9 Building”), and Parcel 10 (“Parcel 10, Building”). The landside portion of the Phase 2 PUD also includes two new below-grade parking garages, and several new open spaces and thoroughfares such as M Street Landing, The Grove, The Terrace, The Oculus, Maine Avenue, the Wharf, Marina Way, and the Mews.
49. The waterside portion of the Phase 2 PUD includes two new water buildings, Water Building 1 and Water Building 2. In addition, the waterside portion of the Phase 2 PUD includes construction of the remaining portions of Wharf Marina, as well as the construction of a number of kiosks along the Wharf.
50. In addition to requesting second-stage PUD approval for the landside and waterside components noted above, the Phase 2 PUD also includes a modification to the first-stage PUD to permit a hotel use on Parcel 8 and to accommodate changes that have been made to the configuration of the piers, docks, and water buildings within Wharf Marina.

First-Stage PUD Modification

51. Pursuant to the first-stage PUD, the mix of uses approved for Parcel 8 includes either residential or office use above ground-floor retail. As described below, the proposed Parcel 8 Building includes residential and hotel uses above ground-floor retail. As such, the Applicant is requesting to modify the first-stage PUD to add hotel (lodging) as an approved use on Parcel 8.
52. In response to a recommendation by OP at setdown, the Applicant amended the Application to include the proposed layout and configuration of piers, docks, and water buildings in Wharf Marina. Since approval of the first-stage PUD, the Applicant has had to make adjustments to the design of Wharf Marina in response to requirements of the United States Army Corps of Engineers (“USACE”), which must issue a permit for the Applicant to carry out the waterside component of the Southwest Waterfront PUD, previously approved changes to the use on Pier 4, and the plan for transitioning GPSA liveboard vessels.

The Parcel 10 PUD

Landside Development

Parcel 10 Building

53. As initially proposed by the Applicant, the Parcel 10 Building contained approximately 76,838 GFA, of which approximately 60,143 GFA was devoted to office uses, and approximately 16,695 GFA was devoted to retail and service uses. Consistent with the first-stage PUD, the maximum height of the Parcel 10 Building was 60 feet, not including the penthouse. The maximum height of the penthouse was 14 feet for the portion devoted to penthouse habitable space, and 18 feet, six inches for the portion devoted to penthouse mechanical space and screen walls enclosing mechanical equipment. As discussed below, in response to comments and concerns expressed at the hearing on November 2nd, the Applicant subsequently modified the design of the Parcel 10 Building
54. The general massing of the Parcel 10 Building is a series of stacked and rotated geometric forms. At the ground floor, the building has a one-story rectangular podium that contains retail and services uses; integrated outdoor seat steps; and public restrooms that were added at the request of the ANC. The podium-level also includes the main entrance to the Parcel 10 Building located at the eastern corner of the building near the intersection of Water Street and M Place. An entrance ramp to below-grade parking and the building's loading facilities are located along Water Street.
55. Above the podium-level, the Parcel 10 Building has three stories devoted to office uses. The three upper-stories are set apart from the rectangular podium due to their square shape and 45-degree rotation relative to the orientation of the podium to further differentiate the office floors from the retail podium, the second floor is recessed from the third and fourth floors. The rotation of the upper floors results in the main elevation of the building being oriented perpendicular to the Wharf, and the building cantilevering over Water Street, a 57-foot private right-of-way between Parcels 10 and 11, beyond the podium of the building by approximately 29 feet, eight inches.
56. The penthouse of the Parcel 10 Building will contain office space, mechanical space, and screen walls enclosing mechanical equipment, all of which will be provided as a single enclosure as required under the Zoning Regulations. The remainder of the roof level will contain an outdoor roof terrace. The penthouse will meet all required setbacks, as will all guardrails.
57. At the podium-level, the primary exterior materials consist of glass storefront with natural stone, terracotta, or precast concrete cladding, or other similar cladding material. The remaining floors and penthouse of the Parcel 10 Building will be enclosed with a framed-glass wall system and/or structurally-glazed wall system.

58. In response to concerns expressed by 525 Water, the ANC, the Commission, and Ms. Judy Yang regarding the proximity of the Parcel 10 Building cantilever over Water Street to the condominium building on Parcel 11, the Applicant revised the Parcel 10 Building plans by reducing the extent to which the building cantilevers over Water Street from approximately 29 feet, eight inches to approximately 10 feet, one inch, thereby substantially increasing the distance between the Parcel 10 and Parcel 11 Buildings. The revised plans for the Parcel 10 Building were presented to the Commission at the hearing on November 9, 2017, and submitted by the Applicant as part of its post-hearing submission (“Revised Parcel 10 Building Plans and Drawings”). (Ex. 82J1-82J3.)
59. At the public hearing on November 9, 2017, 525 Water testified in support of the revised design of the Parcel 10 Building, as well as the rest of the Phase 2 PUD.

Waterside Development

Wharf Marina

60. As part of the Parcel 10 PUD, the Applicant will construct new marina docks and piers in accordance with the approved permit issued by the United States Army Corps of Engineers (“USACE”). The proposed waterside infrastructure will be constructed between the 7th Street Recreational Pier and Pier 4, thus completing the construction of Wharf Marina (Ex. 94B, Attachment 2, Construction Sequencing Plan, Sheet 11 (“Wharf Final Plan”). Included in this phase is the construction of approximately 1,000 linear feet of replacement bulkhead on the waterside face of the existing bulkhead and the installation of approximately 1,240 linear feet of timber fendering. In addition, the Applicant will carry out construction of the remaining portion of Wharf Marina including: V, W, X, and Y docks. The marina will be comprised of floating concrete and timber structures and include a maritime fuel dock. The Applicant has requested flexibility to vary the sequencing and timing of construction of Wharf Marina component, including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures, as shown in the diagrams included in Ex. 94B, Attachment 2, Construction Sequencing Plan, Sheets 1-11. The Commission finds this flexibility to be reasonable given the various boat movements required to complete construction of Wharf Marina, and the first-stage PUD requirement that the Applicant provide for a liveaboard community with provisions for reasonable continuity of services, utilities, and amenities during construction for the existing liveaboard slipholders.

Open Spaces and Thoroughfares

M Street Landing

61. As shown in the portion of the Plans and Drawings found at Exhibit 21AC3-21AC5, as amended by Exhibit 82M, M Street Landing is an approximately 1.8 acre landscaped plaza located at the eastern end of the Southwest Waterfront PUD between Parcels 9 and 10.

62. M Street Landing derives its definition from the buildings on Parcels 9 and 10, WB2, and Arena Stage. The landscape design utilizes a combination of planting, water, and pavement to define a collection of curvilinear planted landforms that define and enclose several seating areas while allowing for flexible uses such as farmer's market stalls, movable café tables and chairs, concessions, events, and performances. The organization of the planted landforms creates a number of outdoor "rooms" that have benches and are surrounded with shade trees to shield visitors from winter wind and summer sun. The primary "room" of M Street Landing is "Fountain Plaza," which contains a large, interactive fountain. Along the west, the landscape extends along the edge of the Wharf and creates a buffer between M Street Landing and the shared space of the Wharf. The landscape also extends to the seat steps that are integrated into the podium of the Parcel 10 Building, creating another outdoor room within the landscape that can accommodate small gatherings and programming.

The Terrace

63. As shown in the portion of the Plans and Drawings found at Exhibits 21AC5-21AC7, as amended by Exhibit 82O, The Terrace is located within Waterfront Park immediately adjacent to the Parcel 10 Building. Consistent with the first-stage PUD, The Terrace and its associated raised lawn area will help transition from the more active urban parks, plazas and buildings along the Wharf, to the more passive Waterfront Park and existing residential neighborhoods of Southwest. The design of the hardscaped portion of this open space can accommodate outdoor seating and dining by adjacent retail and service uses within the ground floor of the Parcel 10 Building. It will also provide access to a public elevator located within the ground floor of the Parcel 10 Building that will connect visitors from the below-grade parking to, among other things, the Wharf, Wharf Marina docks, open spaces, and cruise ship operations at Pier 4.
64. The raised lawn adjacent to the hardscaped portion of The Terrace is situated to take advantage of several framed vistas across the Washington Channel and toward the Potomac River. Accessible pathways connect to the central lawn area of Waterfront Park, local streets, neighborhood walks, and the Wharf along the water's edge. Continuing the language of Waterfront Park, the plantings, paving, seat walls, and site structures within The Terrace utilize local materials and native plant species to evoke the various natural environments of the region.

Parking and Loading Facilities

65. Pursuant to the approved first-stage PUD, the Southwest Waterfront redevelopment project "shall include one or more below-grade parking structure(s) on two or three levels providing parking spaces for approximately 2,100-2,650 vehicles. The project shall also include parking or storage for 1,500-2,200 bicycles on-site." (See Order No. 11-03, Condition A.4.)
66. Phase 1 of the Southwest Waterfront PUD, currently includes a single below-grade parking garage below Parcels 1-5 that contains approximately 1,483 vehicle parking

- spaces (“Garage 1”). Phase 1 also contains parking and storage for approximately 1,192 bicycles located at grade and within Garage 1.
67. As shown in Exhibit 21A2, Sheets 1.19-1.20, the Applicant will construct two additional below-grade parking garages (“Garage 2” and “Garage 3”). Each garage will contain two levels, with the footprint of the second level in both garages being significantly smaller due to the presence of the Metrorail green line. Collectively, the garages will contain approximately 844 vehicle parking spaces, for a total of approximately 2,327 vehicle parking spaces within the full Southwest Waterfront PUD. In addition, approximately 610 long-term bicycle parking spaces and approximately 130 short-term bicycle parking spaces will be provided at grade and within Garages 2 and 3. (Ex. 21A2, Sheets 1.19-1.20, 1.24.)
68. Garage 2 will be located below Parcels 6-8, and will be accessible via ramps located along the east side of the Parcel 7 Building and the east side of the Parcel 8 Building. (Ex. 21A2, Sheet 1.25.) Garage 3 will be located below Parcels 9 and 10 and M Street Landing, and will be accessible from a ramp located in the podium level of the Parcel 10 Building along Water Street, S.W. Residents of the Parcel 9 Building will also be able to access Garage 3 using two vehicle lifts within the ground floor of the Parcel 9 Building. Parking spaces within Garages 2 and 3 will be used by the occupants, residents, and visitors of the primary buildings within the Phase 2 PUD, and will also include general use public parking. Parking for marina uses will also be available in Garages 2 and 3.
69. Loading facilities for the buildings located on Parcels 6-10 will be located within each building. (Ex. 21A2, Sheet 1.25.) Loading facilities have been carefully located along mews streets and private streets or alleys to minimize impact on the pedestrian environment while providing adequate space for managed on-site loading and service needs. Consistent with the approved first-stage PUD, due to access constraints the loading facilities for the Parcel 10 Building are located along Water Street, S.W., a private street within the boundary of the Southwest Waterfront PUD. Truck size and loading hours will be carefully managed on-site to facilitate the operational and programmatic needs of the individual buildings through a comprehensive loading and curbside management plan that is tailored to the expected loading demand for the Phase 2 PUD and coordinated with all other transportation aspects of the Southwest Waterfront redevelopment project.
70. Bicycle racks will be distributed throughout the Phase 2 PUD for convenient access, with a primary focus on locations adjacent to the dedicated bicycle facility on Maine Avenue, S.W. (Ex. 21A2, Sheet 1.24.) This approach to bike parking is intended to encourage visitors to park bicycles on the perimeter of the PUD Site and experience the PUD Site as a pedestrian, but does not preclude full access and available bicycle parking within the PUD Site. Similar to Phase 1, in addition to the bicycle parking and storage located within Garages 2 and 3, additional bicycle parking and amenities will be located at grade throughout the Phase 2 PUD. These facilities are designed as high-quality street furniture, will be incorporated into the surrounding urban design, and will contribute to the project’s sense of place. Furthermore, the Applicant is funding the installation of a new

Capital Bikeshare station within M Street Landing and Waterfront Park, which is in addition to the two Capital Bikeshare stations the Applicant has already installed or relocated as part of Phase 1 of the Southwest Waterfront PUD. (Ex. 21A2, Sheet 1.24.)

71. The Applicant will implement the Transportation Demand Management (“TDM”) Plan and the TDM Performance Monitoring Plan that were prepared for the Phase 2 PUD. (Ex. 67C, 67B.) The TDM Plan and TDM Performance Monitoring Plan incorporate, and update where necessary, all of the TDM strategies, conditions, and monitoring requirements that were approved as part of the first-stage PUD, and previous second-stage PUD approvals. Further, the TDM Plan and TDM Performance Monitoring Plan were developed in coordination with DDOT which, as discussed below, has no objection to the Phase 2 PUD.
72. The Applicant will implement specific restrictions and guidelines on loading operations to offset any potential impacts from the loading activities of the Phase 2 PUD, as set forth in the Loading Management Plan (“LMP”) included at Page 38 of the Comprehensive Transportation Review (“CTR”) Report. (Ex. 20A.)

Zoning Flexibility

73. The Applicant requests flexibility to adjust the number of loading berths, loading platforms, and service delivery spaces provided for all of the buildings included in the Phase 2 PUD. Because the first stage application was approved prior to repeal of the 1958 version of the Zoning Regulations (“ZR58”) on September 6, 2016, the entire PUD is considered a vested project pursuant to 11-A DCMR § 102, and therefore is subject to the area and use requirements of ZR58.
74. Pursuant to § 2201.1 of ZR58, the Applicant is required to provide one loading berth at 55 feet deep, 11 loading berths at 30 feet deep, six service delivery spaces, 11 loading platforms at 100 square feet, and one loading platform at 200 square feet for the Phase 2 PUD. The Applicant proposes to provide nine loading berths at 30 feet deep, five service delivery spaces, 11 loading platforms at 100 square feet, and one loading platform at 200 square feet, thus necessitating flexibility from § 2201.1. The Commission hereby approves this area of zoning flexibility for the reasons stated below.
75. The Commission finds that not providing the one required 55-foot-deep loading berth will not result in any adverse impacts. Under ZR58, certain buildings are required to provide one or more 55-foot loading berths; however, under ZR16 there is no requirement to provide a 55-foot loading berth. Rather, ZR16 simply requires all loading berths to have a minimum depth of 30 feet. This change is primarily because deliveries by large trucks have become increasingly rare for many land uses in the District. Property owners are more commonly relying on smaller trucks and delivery vans, which are easier to maneuver within the city’s system of streets and alleys. In addition, designing for large vehicle loading berths requires wider roads and curb cuts, and larger turning radii at intersections and entrances to alleys, all of which have negative impacts on the pedestrian environment, bicycle travel, and traffic congestion.

76. The Commission concludes that the Applicant has addressed these considerations by developing a coordinated overall loading plan for the Phase 2 PUD based on the overall mix of uses and anticipated site-wide pedestrian, bicycle, and vehicular circulation. This approach has allowed the Applicant to eliminate redundancies and increase efficiency with respect to circulation and maneuverability. The Applicant worked closely with DDOT on preparing an effective loading management plan that is tailored to the expected loading demand for the Phase 2 PUD and coordinated with all other transportation aspects of the Southwest Waterfront redevelopment project. Therefore, the Commission finds that flexibility from the loading requirements of § 2201.1 of ZR58 is appropriate in this case.
77. The Applicant requests flexibility from the requirements of § 2517 of ZR58 to allow the construction of two or more principal buildings or structures on a single subdivided lot that is located within 25 feet of a residential zone district. The Commission notes that it has previously granted this flexibility for Phase 1 of the Southwest Waterfront PUD, and finds that granting this same flexibility for the Phase 2 PUD is necessary and appropriate. The landside portion of the Phase 2 PUD is comprised of a single lot of record, within which several tax lots will be created for each of the proposed primary buildings and structures. Each of the proposed primary buildings and structures is consistent with the development and use parameters established under the first-stage PUD, and with the development standards and use permissions under ZR58, as applicable.

Design Flexibility

78. The Applicant requests the following areas of design flexibility for the Parcel 10 PUD:
- a. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
 - b. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, and any other changes that otherwise do not significantly alter the exterior design to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or other applicable approvals. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building;
 - c. To vary the final selection of exterior building materials within the color ranges of the material types shown in Exhibit 82J3, Sheet 1.28 and 21AC3, Sheet 2.15 based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building;

- d. To vary the final selection of landscaping materials utilized based on availability at the time of construction;
- e. To vary the final design of retail frontages of the Parcel 10 Building, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in Exhibit 82J3, Sheet 1.23;
- f. To vary the design and location of upper-level building signage located above the first-story of the Parcel 10 Building within the limits of the potential tenant signage zones shown in the Exhibit 82J3, Sheet 1.23, and in accordance with the District of Columbia sign regulations in effect at the time of permitting;
- g. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown in Exhibit 21A2, Sheets 1.19–1.20, 1.24, and the total number of vehicle and bicycle parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and
- h. To vary the sequencing and timing of construction of Wharf Marina, including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures, as shown in Exhibit 94B, Attachment 2, Construction Sequencing Plan, Sheets 1-11.

Public Benefits and Amenities

- 79. As noted in the first-stage PUD approval, the Commission finds that the overall Southwest Waterfront PUD will provide an exceptional number and level of public benefits and project amenities including, but not limited to: (i) the creation of a new mixed-income, mixed-use community that reactivates the Southwest Waterfront; (ii) substantial affordable, workforce, and market-rate housing opportunities; (iii) multi-modal transportation improvements; (iv) environmental benefits including vastly improved storm water management; and (v) improvements to the Maine Avenue Fish Market and connections to Banneker Overlook and 10th Street, S.W. (See Z.C. Case No. 11-03, Ex. 60; Z.C. Order No. 11-03, pp. 13-16.)
- 80. Pursuant to Z.C. Order No. 11-03, Condition C(3), the Applicant was required to provide a detailed implementation plan for the public benefits and project amenities with each second-stage PUD application. The implementation plans are required to identify the benefits and amenities proposed for the particular second-stage PUD application, the benefits and amenities already implemented, and the benefits and amenities yet to be implemented. In fulfillment of this requirement, the Applicant submitted a Public Benefits and Amenities Implementation Chart. (Ex. 2E.) The Commission has reviewed

the information provided at Exhibit 2E and finds that it satisfies the condition of the first-stage PUD.

Office of Planning Report

81. By report dated October 27, 2017, OP stated that it “can recommend approval of the Application,” once certain items are resolved and subject to certain conditions (“OP Report”). (Ex. 33, p. 1.) Despite the outstanding issues, OP noted that the “proposed first stage modifications are not inconsistent with the Comprehensive Plan and with those changes, the proposed second stage application is not inconsistent with the first-stage PUD approval, the Comprehensive Plan, or the Zoning Regulations.” OP stated that it “strongly supports the current overall site plan and building design.” (Ex. 33, pp. 1-2.)
82. In addition, the OP Report states that the project would further a number of the Comprehensive Plan’s Guiding Principles and major policies from the Land Use, Transportation, Economic Development, and Urban Design Citywide Elements, and the Lower Anacostia Waterfront/Near Southwest Area Element. OP found that the application was not inconsistent with the Comprehensive Plan’s Generalized Policy Map or the Future Land Use Map, and that it was consistent with the Development Plan & Anacostia Waterfront Initiative Vision for the Southwest Waterfront (the “SWW Plan”). (Ex. 33, p. 17.) A complete listing of relevant policies and excerpts from the Comprehensive Plan were provided in Attachment 1 of the OP Report.
83. OP also recommended specific conditions applicable to the Parcel 6/7 Building and The Oculus, which are not part of the Parcel 10 PUD. Those conditions are included and addressed in the companion order for the Parcel 6/7 PUD. (*See* Z.C. Order No. 11-03J(3).)
84. In its report, OP also requested that the Applicant respond to, or provide further information, regarding the following items as they relate to the Application:
 - a. Refine the proposed types of tenant signage;
 - b. Obtain written confirmation from DHCD as to whether the penthouse on WB1 would require a contribution to the Housing Production Trust Fund;
 - c. Refine the flexibility language regarding exterior building designs;
 - d. Provide additional information on project phasing, interim uses, and proposed timelines;
 - e. Clarify the design details of WB1, including the materials for the piers or piles and the top of the penthouse roof; and

- f. Ensure that any interim use is set back a minimum of 60 feet from the bulkhead line to correspond to other buildings' setbacks and maintain views and accessibility down the Wharf. (Ex. 33, pp. 16-17.)
85. On November 6, 2017, the Applicant submitted responses to each of the outstanding items listed above and identified in the OP Report, as well as summarized its responses at the hearing held on that same day. The Commission finds the Applicant's responses to be satisfactory. (Ex. 55A.)
86. As it relates to the Application, OP did not object to the areas of zoning flexibility requested by the Applicant. (Ex. 33, p. 18.) OP provided several comments and recommended changes to the Applicant's requested language for non-zoning/minor design flexibility, which the Applicant addressed in the form of a final list of requested flexibility that was included in its post-hearing submission. (Ex. 82X.)
87. With respect to public benefits and amenities, the OP Report states that: (i) the benefits proffered with the Phase 2 PUD are consistent with the first-stage PUD approval; (ii) the benefits approved in the first-stage PUD apply to the Phase 2 PUD; and (iii) the benefits remain commensurate with the amount of flexibility gained through the PUD, including the relatively minor additional flexibility requested through the Phase 2 PUD. (Ex. 33, p. 23.)
88. The Applicant agreed to include a condition requiring a minimum of 60 feet from the bulkhead for interim uses constructed.
89. Based on the analysis provided in the OP Report, and the Applicant's responses thereto, the Commission finds the first-stage PUD modification to be consistent with the overall intent of the Commission's approval of the original first-stage PUD, and further finds the second-stage PUD to be not inconsistent with the Comprehensive Plan, including the Generalized Policy Map and Future Land Use Map, and consistent with the Zoning Regulations and development parameters of the first-stage PUD.

DDOT Report

90. DDOT submitted a report dated October 23, 2017, noting that it had no objection to the Application so long as the Applicant implements the following mitigation measures: (Ex. 27.)
- a. Expand the existing TDM Performance Monitoring Plan that was approved as part of the first-stage PUD; (Ex. 67C)
- b. Implement the proposed TDM plan for the life of the project, unless otherwise noted; (Ex. 67B)
- c. Implement the proposed LMP for the life of the project; (included in Ex. 20A)

- d. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.; and
 - e. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment.
91. DDOT also stated no objection to approval of the Application with the additional conditions listed at Exhibit 27, pp. 4-5 to adequately mitigate site-generated traffic.
 92. With respect to loading, DDOT expressed no objection to the Applicant's request for loading flexibility, so long as the Applicant implements the LMP included in Exhibit. 20A.
 93. At the public hearing on November 2, 2017, Mr. Robert Schiesel, the Applicant's expert in transportation engineering and planning, testified that the Applicant was in general agreement with the additional mitigation measures and conditions contained in the DDOT report, and that the Applicant and DDOT were still discussing specific details regarding the scope and implementation timeline of some of the mitigation measures.
 94. On November 9, 2017, the Applicant submitted its response to the DDOT report, as well as its final TDM Plan and TDM Performance Monitoring Plan which incorporate the additional TDM elements requested by DDOT. (Ex. 67A, 67B, 67C.) In addition, in its response to DDOT's report, the Applicant committed to implementing the following additional traffic and pedestrian mitigation measures:
 - a. Fund and construct the removal of the channelized southbound right-turn lane on 6th Street, S.W., subject to DDOT approval, to improve pedestrian safety and accessibility along this critical walking path from the Waterfront Metrorail Station to the Wharf. The scope of this mitigation measure shall be limited only to the northwest corner of the intersection and include moving the traffic signal pole, increasing the curb radius on the corner, constructing new curb ramps, striping new crosswalks to connect with the new curb ramps, and restoring the former channelized lane to a combination of sidewalk and green space;
 - b. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.;
 - c. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment;
 - d. Stripe the missing crosswalk across the southern leg of the intersection of 6th Street and Maine Avenue, S.W.;
 - e. Upgrade the curb ramps on the northwest corner of the intersection of 7th Street and Maine Avenue, S.W., as identified in the CTR, if not already completed by others; and

- f. Stripe a crosswalk and construct curb ramps on M Place, S.W. (i.e., the curved portion of 6th Street, S.W.) to create a safe pedestrian crossing from the sidewalk connecting the Titanic Memorial to Parcel 11.
95. At the public hearing on November 9, 2017, DDOT acknowledged the Applicant's submission of the final TDM Plan and TDM Performance Monitoring Plan, and confirmed that these documents are consistent with the discussions and agreements established with the Applicant, and reiterated that it had no objection to the Application.
96. Based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan, the Commission finds that any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.

U.S. Commission of Fine Arts

97. At its public meeting held on July 27, 2017, the U.S. Commission of Fine Arts ("CFA") reviewed and granted concept approval for WB2, WB3, the Parcel 9 Building, the Parcel 10 Building, M Street Landing, The Terrace, Marina Way, as well as extensions of the Phase 1 designs for the Maine Avenue streetscape and the Wharf. (Ex. 21B.)
98. At its public meeting held on September 29, 2017, CFA reviewed and granted concept approval for the Parcel 6/7 Building, the Parcel 8 Building, The Grove, as well as extensions of the Phase 1 designs for the Maine Avenue streetscape and the Wharf. (Ex. 21B.)
99. At its public meeting held on October 27, 2017, CFA reviewed and granted concept approval for WB1, and revised designs for M Street Landing, The Grove, and The Terrace. (Ex. 48.)

ANC Report

100. At its October 16, 2017, regularly scheduled meeting, which was duly noticed and at which a quorum was present, ANC 6D voted 5-0-0 to oppose the Application due to outstanding issues related to transportation, construction management, the interests of the GPSA, the design and use of The Terrace, accommodation of non-profit boating associations, availability of public restrooms, and paving along the Wharf. The ANC submitted a report documenting its vote on October 26, 2017. (Ex. 32.) In its report, the ANC raised particular concerns regarding the need to restrict motorcoaches from accessing, loading, parking, or circulating through Waterfront Park, or along private segments of Water Street, S.W. and M Place, S.W.
101. Following the ANC's public meeting, the Applicant worked with the ANC Negotiation Team, which was authorized by the full ANC to negotiate on behalf of, and represent the official position of, the ANC with respect to the Phase 2 PUD, to resolve the issues stated

in the ANC report. The outcome of those discussions, and the conditions agreed upon by the Applicant and the ANC, are set forth in the ANC Agreement submitted on November 2, 2017. (Ex. 38.). At the public hearing on November 2, 2017, ANC 6D Chairman Andy Litsky testified that ANC 6D formally supported the Application, subject to the conditions set forth in Exhibit 38.

102. Regarding motorcoaches, as part of the ANC Agreement the Applicant has committed to prohibit full-sized motorcoach buses (as defined in 24 DCMR § 3599.1 as a motor vehicle with a seating capacity of more than 25 passengers, exclusive of the driver, that is used for the transportation of passengers) from accessing, parking, loading, or circulating through Waterfront Park, or along the private segments of Water Street, S.W. and M Place, S.W., as shown in the diagram included in Exhibit 38AG. Further the Applicant has committed to install signage (subject to applicable permit requirements), or utilize other methods as reasonably necessary and allowable, to notify the operators/drivers of motorcoach buses of the traffic restriction. The Commission notes that in connection with these efforts, DDOT has added 6th Street, S.W. to the DDOT Truck and Bus Through Routes and Restrictions Map. The Commission finds that the Applicant's commitments appropriately address the ANC's concerns regarding motorcoaches accessing, parking, loading, or circulating through Waterfront Park, or along the private segments of Water Street, S.W. and M Place, S.W.
103. As part of its post-hearing submission, the Applicant addressed two outstanding questions raised by the ANC at the November 2nd and 6th hearings related to café/restaurant seating along the Wharf and the use and programming of the Terrace.
104. Regarding seating along the Wharf, the Applicant provided specific details regarding the general cross-section of the Wharf, consisting of a 20-foot café zone, a 20-foot mixed vehicular/pedestrian zone, and a 20-foot pedestrian only zone. The Applicant also described the extent of café/restaurant seating along the Wharf, as depicted in the Site Furnishings: Seating diagram contained in the Plans and Drawings at Exhibit 21A3, Sheet 2.5. Consistent with the Applicant's testimony, the post-hearing submission states that within the café zone the Applicant will incorporate a visual or tactile measure at the edge of the seating area to prevent seating from encroaching into the pedestrian circulation area. The Commission finds this information adequately addresses the questions raised at the public hearing regarding pedestrian circulation along the Wharf relative to the placement of café seating.
105. Further, the Commission finds that the information provided by the Applicant in its post-hearing submission clearly shows that once the area of the Terrace, which was previously occupied by the Maine Lobsterman Memorial, became part of the PUD Site and Waterfront Park it was always envisioned to be partially hardscaped and used for café seating.
106. The Applicant also provided information regarding the proposed design and use of The Terrace, which is a portion of Waterfront Park that will be reconstructed as part of the Parcel 10 PUD. At the November 2nd hearing, the ANC stated that it supported the design

of The Terrace; however, it did not support the notion that The Terrace should be used for special events since this area is within Waterfront Park, which was provided as a community amenity as part of the first-stage PUD.

107. Furthermore, the information provided by the Applicant demonstrates that at least a portion of Waterfront Park has always been contemplated for occasional events. The Commission further finds the proposed design and use of The Terrace to be consistent with the first-stage PUD, and does not see that occasional events will in any way remove this area from the larger Waterfront Park amenity, nor make it any less accessible for general public use and enjoyment.

525 Water Street Condominium

108. In its written request for party status in support of the Application, 525 Water expressed concerns related to the design of the Parcel 10 Building, and specifically the proximity of the Parcel 10 Building cantilever over Water Street to the condominium building on Parcel 11 and the location of the building's loading facilities and parking garage access along Water Street, S.W. 525 Water also expressed concerns over the ability of the motorcoach pick-up/drop-off area along Maine Avenue to accommodate expected demand, the potential for motorcoaches and tour buses to park within residential areas, accommodation of ride sharing services pick-up and drop-off, signage, and Wharf paving.
109. As described above, in response to 525 Water's concerns regarding the Parcel 10 Building cantilever, the Applicant revised the Parcel 10 Building plans by substantially reducing the extent to which the building cantilevered over Water Street, thereby substantially increasing the distance between the Parcel 10 and Parcel 11 Buildings. (Ex. 82J1-82J3.)
110. On November 9, 2017, the Applicant provided Mr. Brad Neilley, authorized representative of 525 Water, information regarding the access constraints that require location of the Parcel 10 Building parking and loading facilities on Water Street, S.W., and reviewed the design revisions made to the Parcel 10 Building cantilever over Water Street, S.W.
111. At the public hearing on November 9, 2017, 525 Water testified that it had a better understanding of the limitations of moving the Parcel 10 Building parking and loading access to a different location. Further, 525 Water testified in support of the revised design of the Parcel 10 Building, as well as the rest of the Phase 2 PUD.
112. Regarding the location of the Parcel 10 Building parking and loading access, the Commission finds the location of these facilities to be consistent with the approved first-stage PUD, which involved a thorough transportation analysis conducted by the Applicant. The Commission further finds that based upon the updated CTR prepared by the Applicant for the Phase 2 PUD, Water Street, S.W. will provide sufficient access and

maneuverability to maintain safe circulation and maneuverability along Water Street, S.W.

113. Regarding the Parcel 10 Building cantilever over Water Street, S.W, the Commission finds that the revised Parcel 10 Building plans successfully address the concerns expressed by the Commission, and those of 525 Water and the ANC. (Ex. 82J1-82J3.) The revised design significantly increases the distance between the Parcel 10 and 11 Buildings, and maintains the visual openness of Water Street, S.W. from Maine Avenue, S.W. towards the waterfront.
114. As to those other issues raised by 525 Water regarding the motorcoach pick-up/drop-off area along Maine Avenue, motorcoach and tour buses parking within residential areas, accommodation of ride sharing services, signage, and Wharf paving, the Commission finds that these issues are adequately addressed and resolved through the Applicant's responses to the ANC Report, and the conditions imposed upon the Applicant through the ANC Agreement, which are incorporated as conditions to this Order.

Tiber Island Cooperative Homes

115. In its written request for party status in support of the Application, Tiber Island Co-Op expressed concerns regarding construction-related impacts such as traffic disruption and noise. It also expressed post-construction concerns regarding traffic, parking, noise, emissions, and the potential for motorcoaches and tour buses to park in residential areas.
116. At the public hearing on November 2, 2017, Tiber Island Co-Op testified in support of the Application. As part of its testimony, Tiber Island Co-Op stated that its main concern is the long-term management of buses, and requested a commitment that 6th and Water Streets, S.W. will remain off-limits to these types of vehicles.
117. Tiber Island Co-Op did not attend the public hearings held on November 6 and 9, 2017.
118. The Commission finds that many of the construction-related and post-construction concerns expressed by Tiber Island Co-Op will be adequately addressed and mitigated by the conditions imposed upon the Applicant under the ANC Agreement, and specifically those conditions included in the Construction Management Plan and Timeline, Motorcoach Loading and Curbside Management Plan, and the Motorcoach Operations Flow Plan included as part of the ANC Agreement. (Ex/ 38AA, 38AH, 38AI.)
119. Regarding traffic and parking, as stated above the Commission finds that based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan, any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.
120. Regarding noise, the Commission finds that the uses established as part of the Parcel 10 PUD are generally consistent with those approved within the first-stage PUD, and are

also consistent with the public-oriented activities of the Wharf and other open spaces. Thus, noises generated by the Parcel 10 PUD will be comparable to those that already exist within the PUD Site. The Commission further finds that the overall site plan of the Southwest Waterfront PUD is specifically designed such that the major open spaces and lower-scale development are located at the east end of the PUD Site to provide a buffer from the existing residential neighborhood, with the larger entertainment-type uses located toward the west end of the PUD Site. In addition, the Commission finds that the Applicant, and any other resident, business, and retail or service operator within the PUD Site, both during and after construction, will be required to comply with the requirements of the existing D.C. Noise Control Act. Based on these factors, the Commission finds that any noise-related impacts caused by the Parcel 10 PUD will be mitigated.

Gangplank Slipholders Association

121. In its written request for party status, GPSA stated that it supported the project with reservations regarding excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and liveboard access to existing parking and loading areas. (Ex. 23, p. 2.)
122. At the November 2, 2017 public hearing, GPSA testified that it had concerns including safety, noise, ingress and egress, continuity of services and facilities, and parking and loading during construction. GPSA also expressed post-construction concerns regarding sustainability of the existing liveboards, affordability of slip and liveboard fees, and continuity of services.
123. GPSA did not provide any direct testimony at the public hearing held on November 6, 2017.
124. At the November 9, 2017, public hearing, GPSA reiterated its primary concerns regarding affordability, accessibility, livability, and sustainability of the existing liveboards. Laura Cox, a resident of the Gangplank Marina, also provided testimony regarding her concern over displacement and housing affordability.
125. The Applicant, in response to the issues raised by GPSA relating to affordability, accessibility, livability and sustainability, submitted two options to GPSA, "Option A" and "Option B," for consideration and formal vote by GPSA. As part of its post-hearing submission, the Applicant included copies of Options A and B, including all related exhibits. (Ex. 82A1 – 82B2.)
126. In direct response to GPSA's and the Commission's concerns regarding affordability, the Applicant developed Option B, which still provides for new state of the art docks and improved shower, locker, mail and laundry facilities from what exists today, while providing discounted slip and liveboard fees of up to a potential of 75% off of market rate to income qualifying existing slipholders that are District residents, subject to certain conditions.

127. In its post-hearing submission, the Applicant stated that it is agreeable to either Option A or Option B; however, out of necessity, providing Option B results in a need to adjust the level of amenities that can be provided to GPSA. The new amenities provided in both Option A and Option B will exceed the requirements under the existing 2012 Letter Agreement between the Applicant and GPSA, and are an upgrade over existing facilities available to liveaboard slipholders. (Ex. 57.) Option A would provide these same amenities within WB3, while also providing additional luxury amenities including a multi-purpose club room, a shared kitchen and dining room, co-work or work-from-home facilities, and improved common exterior gathering areas and balconies. Under Option B, WB3 would be removed from the Parcel 10 PUD proposed plans due to the deep slip and liveaboard fee subsidies offered, and an adjusted program of upgraded amenities would be provided within WB2. In both Option A and Option B, the dock and gangway facilities would be significantly upgraded in terms of dock quality and material, dock width, level of utility and pump out service, availability of dock boxes and storage, enhanced lighting and safety features, and wider more accessible gangway facilities.
128. In its November 30, 2017, submission to the Commission (“GPSA Status”), GPSA stated that at a meeting held on November 17, 2017, its membership voted to not accept either Option A or Option B of the revised Letter Agreement proposed by the Applicant. GPSA submitted to the Applicant 10 key points that required additional discussion, or clarification by the Applicant in order to move forward with reaching an agreement. On November 29, 2017, the Applicant submitted to GPSA a response to each of the 10 key points. According to the GPSA Status, at a follow up meeting between GPSA and the Applicant, GPSA “asked for specific compromise elements of the Option B plan related to affordability be adapted to the Option A plan in the hope of arriving at a whole and mutually acceptable agreement that retained the construction of WB3.” (Ex. 91, p. 3.)
129. On December 4, 2017, the Applicant submitted a response to the GPSA Status (“Status Response”). As part of the Status Response, the Applicant submitted a modified Option B (“Modified Option B”) and an “Option C” to the revised Letter Agreement with GPSA. (Ex. 94, 94B, 94C.)
130. On December 7, 2017, GPSA submitted a second statement on the status of negotiations with the Applicant on the revised Letter Agreement (“GPSA Second Status”), in which it agreed to Modified Option B “if the Applicant ensures reasonable continuity of services, utilities, and amenities, including availability of showers, bathrooms, and laundry services are available within the confines of the marina during construction for the existing liveaboard slipholders.” (Ex. 97A, p. 2.)
131. On December 7, 2017, the Applicant submitted its response to the GPSA Second Status stating that in light of GPSA’s acceptance of Modified Option B, the Applicant is prepared to implement Modified Option B of the revised Letter Agreement. (Ex. 98B.) As such, the Applicant requested the Commission to approve the Parcel 10 PUD with a condition that the Applicant construct/implement Modified Option B, as thoroughly described in the revised Letter Agreement contained in the case record. (Ex. 94B.)

132. Under Modified Option B, during construction of the Phase 2 PUD the Applicant will provide the following relative to affordability, parking, and loading/unloading:
- a. Limit GPSA slip and liveboard fee annual increases for an established list of “Existing Liveboards,” a defined term within the agreement between the Applicant and GPSA, to the Consumer Price Index (“CPI”) until completion of construction of identified components of the Phase 2 PUD. This capped rate increase is exclusively for the established Existing Liveboards and is not transferable to a future licensee or liveboard slipholder;
 - b. Facilitate access to parking to an established list of “Active Parkers,” a defined term within the agreement between the Applicant and GPSA, generally in accordance with the terms described in the section entitled Transition Period Parking; and (Ex. 94B.)
 - c. Provide access to accessible parking and loading/unloading spaces generally in accordance with the terms described in the section entitled Transition Period Parking. (Ex. 94B.)
133. Under Modified Option B, upon completion of identified components of the Phase 2 PUD, the Applicant will provide the following relative to affordability, parking, and loading/unloading:
- a. Make available a Median Family Income (“MFI”) slip and liveboard fee program to an established list of Existing Liveboards that make between 30% and 120% MFI that remain in good standing for as long as they income qualify and remain in Wharf Marina;
 - b. Provide a phase in to market rate period for all other Existing Liveboards that have incomes in excess of 120% MFI;
 - c. Provide access to permanent parking to an established list of Active Parkers generally in accordance with the terms described in the section entitled Permanent Parking; and (Ex. 94B.)
 - d. Provide access to accessible parking and loading/unloading spaces generally in accordance with the terms described in the section entitled Transition Period Parking. (Ex. 94B.)
134. Similar to the initial Option B, due to the deep slip and liveboard fee subsidies offered under Modified Option B, WB3 would be removed from the Parcel 10 PUD proposed plans and an adjusted program of upgraded amenities would be provided within WB2. The dock and gangway facilities would also be upgraded in terms of dock quality and material, dock width, level of utility and pump out service, availability of dock boxes and storage, enhanced lighting and safety features, and wider more accessible gangway facilities.

135. At the December 7, 2017, special public meeting held by the Commission, GPSA stated that it continued to have concerns regarding the need for continuity of services during construction of the Phase 2 PUD, and specifically the need to leave the marina to access the interim marina amenities (bathroom, showers, laundry, etc.) that will be provided by the Applicant during construction. (12/07/17 Tr. at p. 22.) In response to GPSA's stated concerns regarding continuity of services, and the need for security relative to the access and location of the interim marina amenities, the Applicant confirmed that the interim amenities will be fenced, accessed-controlled, and located along the water's edge within the confines of the security for the marina.
136. The Commission notes that it has had to assess similar concerns raised by GPSA relative to the Southwest Waterfront PUD in past proceedings. Specifically, during its review of the second-stage PUD for Parcels 2, 3, 4, and 11, and related adjacent spaces and waterside development, GPSA testified in opposition raising similar concerns regarding affordability, accessibility, livability, and sustainability. (Z.C. Case No. 11-03A.) During those proceedings, GPSA expressed concern regarding, among other things, the status of liveboards and mechanisms to assure their protection, transfer of liveboard status, a transition plan that addresses boat movement as well as livability and affordability, increases in fees and changes in marina slipholder requirements, and continuity of services. (*See* Z.C. Order No. 11-03A(1), Findings of Fact Nos. 97-103.) In the end, the Commission found that it was left to balance the clear rights of the Applicant to cancel the slipholders license in order to proceed with development against the first-stage PUD requirement that the Applicant provide for a liveboard community with provisions for reasonable continuity of services, utilities, and amenities during construction for the existing liveboard slipholders. The Commission finds that it must balance the same rights and requirements in this proceeding.
137. Regarding affordability and sustainability, the Commission finds that the fee program structure offered under Modified Option B to be an acceptable response to the concerns raised by GPSA, and that it addresses the Commission's stated concerns regarding affordability, and the Commission's interest in sustaining a liveboard community at the Southwest waterfront.
138. Regarding livability and accessibility, the Commission finds that Modified Option B provides superior amenities to what are currently provided at the marina for the liveboard population, including new and improved shower, bathroom, laundry, and mail/package facilities within WB2, as well as new and improved docks, gangways, and utility services, and that the location of the new and improved amenities within WB2 is acceptable with respect to accessibility and security. The Commission further finds that Modified Option B addresses GPSA's concerns regarding interim and permanent parking and loading.
139. Regarding continuity of services during construction of the Phase 2 PUD, the Applicant has submitted a detailed transition plan, which is included as Attachment 2 to Modified Option B ("Transition Plan"), which describes in narrative and graphic format the

intended sequencing and timing of construction of Wharf Marina, including associated bulkhead, piers, docks, fueling station(s), and other related temporary and permanent buildings and structures. The Commission finds that the Transition Plan provides for the reasonable continuation of services and utilities, and amenities during construction of the Phase 2 PUD. (Ex. 94B, Attachment 2.)

140. Regarding the location and security of the interim marina amenities, the Commission finds the following:
- a. Sheets 5-8 of the Construction Sequencing Plan diagrams included in the Transition Plan show that the interim marina amenities will be located within the area of the Terrace adjacent to the Parcel 10 Building, and in close proximity to the existing gangway entrance to Z-Dock; (*Id.*)
 - b. Page 3 of the Transition Plan states that the interim marina amenities “will be established in a secured access area within the to-be-rebuilt area known as the Terrace,” and that “[a]ccess to the Interim Amenities will be from the existing promenade generally proximate to the current gangway entrance to Z-Dock”; and (*Id.* at 2.)
 - c. The statements made by the Applicant at the December 7, 2017, special public meeting that the interim marina amenities will be fenced, accessed-controlled, and located along the water’s edge within the confines of the security for the marina clarify what is described and shown in the Transition Plan, and address the outstanding concerns expressed by GPSA regarding to the location and security of the interim marina amenities during construction of the Phase 2 PUD.
141. Based upon the contents of the Transition Plan, as clarified by the statements made by the Applicant at the December 7, 2017 public meeting, the Commission finds that the Transition Plan satisfies the first-stage PUD requirement that the Applicant provide for a liveaboard community during construction with provisions for reasonable continuity of services, utilities, and amenities during construction for the existing liveaboard slipholders. (Ex. 94B, Attachment 2.)
142. The Commission further finds that Modified Option B to the revised Letter Agreement, which, as reflected in the record for this case, has been agreed to by both the Applicant and GPSA, effectively balances the issues of affordability, accessibility, livability, and sustainability that were of utmost concern to GPSA. (Ex. 94B.)

Tiber Island Condominium

143. In its written request for party status in opposition to the Application, which also express support for the project, Tiber Island Condo expressed reservations regarding excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and the removal of

existing Zone 6 reserved parking areas and associated loading areas currently used by its residents. (Ex. 25, p. 2.)

144. At the public hearing on November 2, 2017, Tiber Island Condo testified that it was actually in support of the Phase 2 PUD, but wanted to flag a concern about parking and traffic along 6th Street and M Place, S.W., as some of their townhouses face those streets (11/02/17 Tr., p. 156.)
145. Tiber Island Condo did not attend the public hearings held on November 6 and 9, 2017.
146. As previously stated, the Commission finds that many of the construction-related and post-construction concerns expressed by Tiber Island Condo will be adequately addressed and mitigated by the conditions imposed upon the Applicant under the ANC Agreement.
147. Regarding traffic and parking, the Commission notes that there is nothing in the record for this case, and to the best of its knowledge in any of the case records for prior approvals for the Southwest Waterfront PUD, that any existing Zone 6 reserved parking has been permanently removed from public streets surrounding the PUD Site. Notwithstanding, the Commission finds that the Applicant's commitment contained in the ANC Agreement that it will not request DDOT or any other District agency to provide Residential Parking Permits ("RPP") to residents in any buildings constructed in the Phase 2 PUD, and that it will place information about RPP ineligibility in any rental or sales documents, will adequately mitigate any potential for adverse impacts to Zone 6 parking areas. Further, the Commission reiterates its finding that based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.

Other Contested Issues

148. In addition to the issues raised by the parties and the ANC, several non-party individuals and organizations testified at the public hearings on November 2nd, 6th, and 9th in opposition to the Application. Representatives from the D.C. Fiscal Policy Institute, UNITE HERE Local 25 ("UHL"), the DC/Baltimore Building Trades Organizing Committee, and the Laborers International Union of North America ("LIUNA") all testified that the Wharf project has failed to create quality jobs or other benefits for District residents, noting that while there are requirements for the Applicant to hire District residents there are no requirements for ensuring those jobs come with good wages and benefits. (Ex. 45, 50, 44, 71.) These organizations also claimed in their testimony that the Wharf project, and specifically the requested first-stage PUD modification, is inconsistent with the Comprehensive Plan, including, among others, ED 4.2.7– Living Wage Jobs, and stated that the project cannot be lawfully approved if found to be inconsistent with the Comprehensive Plan.

149. Mr. Chris Otten, representing DC for Reasonable Development: SW Planning and Safety Group (“DC4RD”), also testified in opposition to the Application at the November 2nd hearing (Ex. 43). The issues raised by DC4RD were unsubstantiated generalized grievances, not specific to any particular portion of the Parcel 10 PUD or Phase 2 PUD, relating to environmental impacts and flooding, impacts to local public facilities, impacts to emergency response times, lack of affordable housing, gentrification, displacement, destabilization of property values, and funding of project-related infrastructure costs. Further, DC4RD included in its written testimony a listing of several Comprehensive Plan policies that are applicable to the project, though not making any claim that the project is inconsistent with these policies. Similar comments to those raised by DC4RD were also raised at the November 2nd hearing by Mr. William Shickler, and in several comments submitted to the record by individuals. (Ex. 46, 60, 64, 66, 69.)
150. The Commission points this out, not to shift the burden of proof from the Applicant, but to state that this or any other Applicant is not obligated to respond to such assertions. For a party or witness to raise issue for which a response is required, the party or witness must have some factual basis for the claim and draw a nexus between the claimed deficiency and the current application. None of the parties or witnesses did so with respect to these issues.
151. Nevertheless, at the hearing on November 9th, and in its post-hearing submission, the Applicant provided detailed rebuttal to each of the issues described above.
152. Regarding the issue of consistency with the Comprehensive Plan, as stated in the provisions of the Zoning Regulations governing PUD applications, “[t]he first-stage application involves a general review of the site’s suitability as a PUD and any related map amendment, ...and the compatibility of the proposed development with the Comprehensive Plan,...” (emphasis added) (11-X DCMR § 302.2). Further, these same provisions state “[i]f the Zoning Commission finds the application to be in accordance with the intent and purpose of ...the first-stage approval, the Zoning Commission shall grant approval to the second-stage application, ...” (emphasis added). As such, as required under the Zoning Regulations the Commission finds that it has already determined that the Southwest Waterfront PUD is not inconsistent with the Comprehensive Plan as part of its review and approval of the first-stage PUD (Z.C. Order No. 11-03). In addition, the Commission further finds that based upon the OP Report, the Applicant’s initial application statement, and the rebuttal testimony provided by Shane Dettman, the Applicant’s expert in zoning and land use, the requested first-stage PUD modification to allow a hotel use on Parcel 8 is also not inconsistent with the approved first-stage PUD. (Ex. 2.)
153. Notwithstanding the fact that the Commission has already determined the entire Southwest Waterfront PUD to be not inconsistent with the Comprehensive Plan, out of an abundance of caution, the Applicant provided an extensive analysis of the project’s consistency with the Comprehensive Plan policies cited by DC4RD and other opposing organizations. (Ex. 82.) Based upon this additional information, the Commission reconfirms its prior finding in the first-stage PUD that the Parcel 10 PUD and Phase 2

PUD and not inconsistent with the Comprehensive Plan, including those policies specifically referred to in the testimony provided by DC4RD and the other organizations referred to above.

154. Specifically, as to the issue concerning jobs, wages, and benefits, the Commission as part of its first-stage approval recognized the PUD's Training and Employment Opportunities as a public benefit of the PUD, and there is nothing in the testimony presented to cause the Commission to revisit the finding. (Z.C. Order No. 11-03, p. 13.) Similarly, as noted by UHL and LIUNA, the Commission does not have the power to mandate the Applicant to sign a project labor agreement ("PLA") for the project or dictate anything about labor organizing at the project, and cannot disapprove the project if the Applicant does not wish to enter into any kind of labor-related agreement including a PLA or labor peace agreement ("LPA"). Further, the Commission does not have any authority to dictate wages for any particular job, or what benefits are provided. These are issues that reside with the D.C. Council and/or other District agencies. Rather, the Commission is required to ensure that the project is not inconsistent with the Comprehensive Plan, including the Economic Development Element policy ED 4.2.7: Living Wage Jobs cited by UHL, LIUNA, and others. Based upon the testimony provided by Elinor Bacon and Mr. Dettman, the Commission finds the project to be not inconsistent with this particular policy. As it relates to the Commission's review, the focus of this policy is on attracting "living wage jobs that provide employment opportunities for unskilled and semi-skilled workers." Approval of the Parcel 10 PUD, and overall Phase 2 PUD, will do exactly that through the numerous job opportunities created both during and after construction. Through the Applicant's extensive hiring and workforce development efforts, District residents will be afforded ample access to take advantage of these opportunities. These efforts are reflected in the comments submitted to the record by the D.C. Department of Employment Services ("DOES") and the Court Services and Offender Supervision Agency ("CSOSA"). (Ex. 86, 87.)
155. At the public hearing on November 2, 2017, DC4RD made several unsubstantiated claims that the Wharf project will cause displacement, gentrification, and destabilize property values in the surrounding area, and that the Phase 2 PUD will only make things worse. DC4RD did not submit any information or analysis to substantiate these generalized claims. In contrast, in direct response to a question by the Commission, the Applicant testified that the project has not, and will not directly displace any existing residents within the PUD Site. Further, as part of its post-hearing submission the Applicant provided specific information in support of a finding that the project will not cause displacement, gentrification, or destabilize property values due to the significant affordable housing, District resident hiring, and workforce development programs that are required under the first-stage PUD, and the numerous programs offered by the District to help control increases in property values and assist homeowners and renters to remain where they live. Based on this information, the Commission finds there is no evidence to support DC4RD generalized claim that the project will cause displacement, gentrification, and destabilize property values in the surrounding area.

156. At the public hearing held on November 2, 2017, Mr. William Shickler testified that “an actual real environmental impact study has not been conducted” for the project at both the District and federal levels. This same claim was made by DC4RD and a number of persons who have submitted comments to the record. Further, these persons and organizations claim that the project will cause adverse flooding impacts and that the first-floor of the building within the project will flood and cause additional impacts on the community.
157. At the public hearing on November 9th, Mr. Dettman testified that the potential environmental impacts of the entire Southwest Waterfront PUD have been exhaustively analyzed at both the District and federal levels, as has the potential for the project to cause adverse flooding impact. The Applicant supplemented Mr. Dettman’s testimony regarding environmental impacts and flooding as part of its post-hearing submission which included copies of the District and federal environmental impact analyses for the project. Further, the Applicant’s post-hearing submission included information from the first-stage PUD approval where the Commission specifically found that the project would create numerous environmental benefits and amenities, and that the project was fully consistent with the Comprehensive Plan policies contained within the Environmental Protection Element. (*See* Z.C. Order No. 11-03, Findings of Fact Nos. 50(e) and 72.) As required by § 2403.3 of ZR58, based upon the information provided by the Applicant, the Commission finds that the any environmental impacts caused by the project will be favorable, capable of being mitigated, or acceptable given the quality of public benefits provided.
158. Regarding impacts to local public facilities, DC4RD claims that the capacity of community facilities such as local schools, libraries, recreation centers, senior centers, fire/police stations and associated emergency response time, hospitals, and refuse removal “will be burdened by the new residents being brought into the community by these PUD and project approvals.” (Ex. 43.) In response, as part of its post-hearing submission the Applicant provided detailed information regarding the capacity of existing public schools, libraries, recreation centers, and fire stations in the surrounding area, including information on recent and proposed expansions and modernizations of these facilities. The Applicant also provided information regarding the District’s ongoing focus on emergency response times. Based on this information, the Applicant states that the project will not have an adverse impact on local public facilities. In addition to the information submitted by the Applicant related to local public facilities, several District agencies submitted comments to the record that relate to DC4RD’s claims regarding impacts to local public facilities and emergency response times, all of which express no objection. These agencies include: D.C. Public Library, D.C. Fire and Emergency Management Service (“FEMS”), and the D.C. Municipal Police Department (“MPD”). (Ex. 79, 80, 81, 85.) Based upon the information submitted by the Applicant, and the comments submitted by relevant District agencies, the Commission finds that the project will not have an adverse impact on local public facilities and emergency response times.
159. Regarding infrastructure costs, DC4RD claims that the costs of public infrastructure upgrades that have, and will be completed to support the project have been borne by

District residents. In rebuttal, the Applicant provided information in its post-hearing submission demonstrating that the public infrastructure upgrades required or related to the project will not be borne by District residents, but rather are funded through Tax Increment Financing (“TIF”) and Payment in Lieu of Taxes (“PILOT”) bond funding approved by the D.C. Council specifically for the redevelopment of the Southwest Waterfront (“Southwest TIF/PILOT”), and which can only be used to construct the publicly owned infrastructure located within or adjacent to the area of the project. The information provided by the Applicant clearly states that the upfront public funding provided through the Southwest TIF/PILOT solely for public infrastructure upgrades and improvements will be fully repaid through increases in property and sales taxes that would otherwise not be generated without the Wharf project, without increasing the tax burden on District residents in general. In addition, the information states that to further protect the District and District residents, the D.C. Council also established the Southwest Waterfront Special Assessment District, under which a special assessment would be placed on designated properties within the project should there be any shortfall in expected tax revenues needed to meet the obligation for the Southwest TIF/PILOT. The Commission finds that the Applicant has adequately addressed this issue.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider and approve the Parcel 10 PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions that would otherwise require approval by the District of Columbia Board of Zoning Adjustment.
3. The PUD Site meets the minimum area requirements of 11 DCMR § 2401.1.
4. Development of the Parcel 10 PUD in accordance with the plans approved by this Order, carries out the purposes of Chapter 24 of the 1958 Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The Parcel 10 PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the PUD guidelines; the approved development

parameters of the first-stage PUD; and the authority vested in the Commission to grant deviations therefrom.

6. The Parcel 10 PUD is substantially in accordance with the elements, guidelines, and conditions of the first-stage PUD, as modified by this Order; and therefore, should be approved. Pursuant to 11 DCMR § 2408.6, if the Commission finds the Parcel 10 PUD to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage PUD approval, the Commission shall approve the Parcel 10 PUD, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. As set forth above, the Commission so finds.
7. The Parcel 10 PUD can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
8. The Applicant's requests for zoning flexibility from those standards, requirements, and limitations of ZR58 that are specifically prescribed in this Order, are consistent with the Comprehensive Plan, and the flexibility requested for certain design aspects of the Parcel 10 PUD are appropriate. Moreover, the project benefits and amenities approved as part of the first-stage PUD are reasonable trade-offs for the requested flexibility.
9. Ordinarily the Commission's approval of a second stage PUD remains valid for two years, during which time an application for a building permit to construct the PUD must be filed. Construction must be within three years of the order's effective date. The Applicant has requested two vesting periods, the first for the garages 2 and 3, and the second for the remainder of the Phase 2 PUD. That second period will be triggered when C of O's are issued for the garages. Given the scale of this project, the uncertainties inherent in its development, and the fact that this application could have been filed as late as 2024, the Commission finds the proposed staggered vesting to be appropriate.
10. Approval of the Parcel 10 PUD is appropriate because the proposed development is not inconsistent with the Comprehensive Plan for the National Capital. In addition, the proposed development will promote the orderly development of the PUD Site in conformity with the entirety of the Zone Plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
11. 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 and its oral testimony at the public hearing. As explained in this decision, the Commission finds OP's recommendation to grant the Application persuasive.
12. 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. Although the ANC originally voted to oppose the Application the Commission notes that the ANC later testified that most of its issues and concerns were

resolved through the ANC Agreement and the Applicant's agreement to the conditions contained therein. (Ex. 38.) The ANC raised issues at the November 2nd and 6th hearings related to café/restaurant seating along the Wharf and allowing special events programming in the Terrace area. Although such oral testimony is not entitled to great weight unless subsequently ratified in writing by an ANC, the Commission had already responded to these concerns by noting that the Applicant's incorporation of a visual or tactile measure at the edge of the seating area will prevent the seating from encroaching into the pedestrian circulation area. Further the Commission found that the proposed design and use of the Terrace to be consistent with the first-stage PUD, and that occasional events will not in any way remove this area from the larger Waterfront Park amenity, nor make it any less accessible for general public use and enjoyment.

13. The Application 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 Parcel 10 PUD within the Southwest Waterfront redevelopment project, subject to the guidelines, conditions and standards set forth below.

A. Project Development

1. The Parcel 10 PUD shall be developed in accordance with the plans and drawings submitted by the Applicant on October 13, 2017 (Ex. 21A1-21A4, 21AC1-21AC10), as modified by the plans and drawings submitted on November 22, 2017 (Ex. 82J-82M, 82O), and by Exhibit 94B, Attachment 2, Construction Sequencing Plan, Sheet 11 (together, the "Wharf Final Plan"), as further modified by the guidelines, conditions, and standards herein.
2. Any interim improvements constructed on the landside portion of the Phase II PUD shall be set back a minimum of 60 feet from the bulkhead line to match existing and proposed buildings, and to maintain views along the Wharf.
3. The Applicant shall have flexibility with the design of the Parcel 10 PUD in the following areas:
 - a. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
 - b. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight,

- architectural embellishments and trim, venting, window mullions and spacing, and any other changes that otherwise do not significantly alter the exterior design to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or other applicable approvals. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building;
- c. To vary the final selection of exterior building materials within the color ranges of the material types shown in Exhibit 82J3, Sheet 1.28 and Exhibit 21AC3, Sheet 2.15 based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building;
 - d. To vary the final selection of landscaping materials utilized based on availability at the time of construction;
 - e. To vary the final design of retail frontages of the Parcel 10 Building, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in Exhibit 82J3, Sheet 1.23;
 - f. To vary the design and location of upper-level building signage located above the first-story of the Parcel 10 Building within the limits of the potential tenant signage zones shown in the Exhibit 82J3, Sheet 1.23, and in accordance with the District of Columbia sign regulations in effect at the time of permitting;
 - g. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown on the Exhibit 21A2, Sheets 1.19-1.20, 1.24, and the total number of vehicle and bicycle parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and
 - h. To vary the sequencing and timing of construction of Wharf Marina, including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures, as shown in Exhibit 94B, Attachment 2, Construction Sequencing Plan, Sheets 1-11.
4. Beginning on the effective date of this Order, and ending upon completion of construction of the Phase 2 PUD, as that term is defined by Condition A.6., the Applicant shall implement the Transition Plan, as shown and described in Exhibit

94B, Attachment 2, as supplemented by the Applicant at the December 7, 2017 public meeting to clarify that:

- a. The interim marina amenities as described in the Transition Plan shall be:
 - i. Located within the to-be-rebuilt area of the Terrace, as generally depicted on Sheets 5-8 of the Construction Sequencing Plan diagrams included in the Transition Plan;
 - ii. Located along the water's edge proximate to the current gangway entrance to Z-Dock; and
 - iii. Fenced and accessed-controlled within the confines of the security for the marina;
 - b. The current gangway entrance to the marina shall be within the same fenced, secured and access-controlled area; and
 - c. The Applicant shall administer GPSA slip and liveaboard fee increases, and facilitate access to parking (including accessible parking) and loading/unloading spaces in accordance with the relevant terms described in Modified Option B to the revised Letter Agreement. (Ex. 94B.)
5. Upon completion of construction of the Phase 2 PUD as that term is defined by Condition A.6., the Applicant shall administer GPSA slip and liveaboard fees, and provide access to parking (including accessible parking) and loading/unloading spaces in accordance with the relevant terms described in Modified Option B to the revised Letter Agreement. (Ex. 94B.)
 6. For purposes of Conditions A.4 and A.5, the term "completion of construction of the Phase 2 PUD" shall mean the latter of the commencement of Garage 3 operation, the substantial completion of the public spaces between Parcels 9 and 10, or the opening of the maritime components of WB2.
 7. Nothing in conditions A.4 through A.6 shall be deemed to prohibit the Applicant from providing greater quality or quantity of facilities or deeper levels of affordability than mandated herein.

B. Public Benefits

1. **Prior to issuance of a certificate of occupancy**, the Applicant shall establish the Project Association for the Southwest Waterfront PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks and signage within the PUD Site. Additionally, the Project Association will be responsible for programming and staging events within the PUD Site. The Project Association will fund

maintenance and programming elements of the common elements of the Southwest Waterfront PUD through a Common Area Maintenance (“CAM”) assessment charge to each development component within the Southwest Waterfront PUD. The Applicant shall create, manage and operate the Project Association during the "developer control period," which begins on the effective date of the Declaration of Covenants between the District of Columbia and the Applicant and ends five years after issuance, or deemed issuance, of the last certificate of completion for all portions of the Southwest Waterfront PUD, and unit certificates of completion for each residential condominium unit.

2. **During construction of the Southwest Waterfront PUD**, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the Southwest Waterfront PUD. Prior to issuance of a building permit for construction of the Parcel 10 PUD, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trades Foundation, and other training and job placement organizations to maximize participation by District residents in the training and apprenticeship opportunities in the overall Southwest Waterfront PUD.
3. **During the life of the project**, the Applicant shall abide by the executed CBE Agreement with the Department of Small and Local Business Development to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the overall Southwest Waterfront PUD. (Z.C. Case No. 11-03; Ex. No. 4-J) The Applicant shall comply with the LDA requirement to lease 20% of the retail space throughout the Wharf to “unique” and/or “local” businesses, which will include CBEs.

C. Transportation Mitigation

1. **For the life of the Project**, the Applicant shall abide by TDM Plan and the TDM Performance Monitoring Plan contained in the case record as Exhibits 67B and 67C, respectively.
2. **For the life of the Project**, the Applicant shall comply with the LMP set forth in the Applicant’s CTR (Ex. 20A1-20A2) as follows:
 - a. A loading dock manager will be designated by the building management for each building. The dock manager will coordinate with vendors and tenants to schedule deliveries and will be on duty during delivery hours;

- b. All tenants will be required to schedule deliveries that utilize the loading docks – defined here as any loading operation conducted using a truck 20 feet in length or larger;
 - c. Truck traffic will be prohibited from standing or parking on Maine Avenue with the exception of designated loading/unloading zones. Vehicles that are not accommodated in the on-site loading dock will need to park in an accepted large vehicle lot like the ones listed in the DDOT document entitled “Important Information for Charter Bus and Motorcoach Operators”;
 - d. A representative of the Operations Manager will supervise all deliveries to the loading area. This loading manager will monitor vehicle, bicycle, and pedestrian traffic on the internal streets during loading ingress and egress and direct truck movements to minimize conflicts;
 - e. Delivery trucks will not be permitted to maneuver during peak periods when traffic volumes are highest or at times that would conflict with trash collection. Peak periods are defined as weekdays (excluding holidays) from 7:00-9:00 a.m. and 4:00-6:00 p.m.; and
 - f. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, § 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.
3. The Applicant shall fund and construct the removal of the channelized southbound right-turn lane on 6th Street, S.W., subject to DDOT approval, to improve pedestrian safety and accessibility along this critical walking path from the Waterfront Metrorail Station to the Wharf. The scope of this mitigation measure shall be limited only to the northwest corner of the intersection and include moving the traffic signal pole, increasing the curb radius on the corner, constructing new curb ramps, striping new crosswalks to connect with the new curb ramps, and restoring the former channelized lane to a combination of sidewalk and green space, subject to DDOT public space review.
 4. The Applicant shall fund and construct the following improvements in the vicinity of the PUD Site, subject to DDOT approval:
 - a. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.;
 - b. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment;

- c. Stripe the missing crosswalk across the southern leg of the intersection of 6th Street and Maine Avenue, S.W.;
- d. Upgrade the curb ramps on the northwest corner of the intersection of 7th Street and Maine Avenue, S.W., as identified in the CTR, if not already completed by others; and
- e. Stripe a crosswalk and construct curb ramps, subject to DDOT approval, on M Place, S.W. (i.e., the curved portion of 6th Street S.W.) to create a safe pedestrian crossing from the sidewalk connecting the Titanic Memorial to Parcel 11.

D. Miscellaneous

1. No building permit shall be issued for the Parcel 10 PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The validity of the Commission's final approval shall be valid for a period of two years from the effective date of this Order. Within such time, an application for a building permit must be filed for construction of Garages 2 and 3 ("Garages"), as shown in Exhibit 21A2, Sheets 1.19 and 1.20. Construction of the Garages shall begin within three years of the effective date of this Order. Within two years of completion of the Garages, as demonstrated by the issuance of certificates of occupancy, the Applicant shall apply for a building permit for construction of the remainder of the Phase 2 PUD. The Applicant shall commence construction of the Phase 2 PUD within three years of the completion of the Garages.
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.

On December 7, 2017, upon the motion of Commissioner Shapiro, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its Special Public Meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull).

In accordance with the provision of 11 DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*, that is on April 13, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-03J(2)
Z.C Case No. 11-03J
Wharf Phase 3 REIT Leaseholder, LLC
(Second-Stage PUD and Modification of Significance to First-Stage PUD
@ Southwest Waterfront, Phase 2 – Parcel 8, Parcel 9, Water Building 2, The Grove,
Marina Way, and Adjacent Spaces)
December 7, 2018

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held public hearings on November 2, November 6, and November 9, 2017, to consider an application for a second-stage planned unit development (“PUD”) and a modification of significance to a first-stage PUD (together, the “Application”) filed by Wharf Phase 3 REIT Leaseholder, LLC (“Applicant”) on behalf of the District of Columbia Office of the Deputy Mayor for Planning and Economic Development (“DMPED”). The Application consists of Phase 2 of the Southwest Waterfront (“Wharf”) redevelopment project (“Phase 2 PUD”) which is located on Lots 878, 881, 887, 888, and 921 of Square 473. The Commission approved the first-stage PUD application for the Wharf project pursuant to Z.C. Order No. 11-03 (*dated* October 17, 2011, *effective* December 16, 2011) (“first-stage PUD”). The Phase 2 PUD includes the primary landside buildings and structures located on Parcels 6-10, two below-grade parking structures, three waterside buildings known as Water Buildings (“WB”) 1 and 2¹, and the completion of the Wharf Marina. The Phase 2 PUD also includes various landside and waterside accessory structures and kiosks, public areas and open spaces, and improvements to public and private streets and alleys. The Commission considered the Application in accordance with the first-stage PUD and Subtitle X, Chapter 3 and Subtitle Z of the 2016 Zoning Regulations of the District of Columbia (“ZR16”), Title 11 of the District of Columbia Municipal Regulations (“DCMR”).² Due to the number of buildings and other development components contained in the Phase 2 PUD, and the breadth of information contained in the case record, the Commission divided the Phase 2 PUD into three segments that generally correspond to the organization of the proposed plans submitted by the Applicant, as follows: (i) Phase 2 PUD master plan elements, Parcel 10, Water Building 3, M Street Landing, The Terrace, and Wharf Marina; (ii) Parcels 8 and 9, Water Building 2, The Grove, and Marina Way; and (iii) Parcels 6 and 7, The Oculus, and Water Building 1. Each of the aforementioned segments were considered by the Commission at separate hearings, which were conducted in accordance with the contested case provisions of Subtitle Z, Chapter 4 of ZR16. Upon a motion made by the Applicant, the Commission granted a request to deliberate and vote on each segment separately, and issue separate orders accordingly. For the reasons stated below, the Commission hereby **APPROVES** this segment of the Application for Parcel 8, Parcel 9, Water Building 2, The Grove, Marina Way, and Adjacent Spaces (“Parcel 8/9 PUD”).

¹ Originally, the Phase 2 PUD application proposed three water buildings but the project design changed during negotiations with various opposition parties and ultimately Water Building 3 was eliminated from the overall project.

² Pursuant to 11-A DCMR § 102.3(a), the Southwest Waterfront redevelopment project is a vested project under the 1958 Zoning Regulations as to permitted development standards and use permissions. However, with respect to procedural requirements, the Application was processed by the Commission and the Office of Zoning in accordance with the procedural requirements of ZR16. (*See* Notice of Intent at Exhibit 2G and Notice of Public Hearing at Exhibit 17.)

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On May 12, 2017, the Applicant filed the Application with the Commission for review and approval of a second-stage PUD and a modification of significance to an approved first-stage PUD (Z.C. Order No. 11-03) for the Phase 2 PUD. (Exhibit [“Ex”] 1-2C27). The Phase 2 PUD is located on Lots 878, 881, 887, 888, and 921 of Square 473 (“Property”), and consists of the primary landside buildings and structures located on Parcels 6-10 of the Wharf project, two below-grade parking structures, two waterside buildings known as WB 1 and 2, and the completion of the Wharf Marina. The Phase 2 PUD also includes various landside and waterside accessory structures and kiosks, public areas and open spaces, and improvements to public and private streets and alleys. The Applicant intends to redevelop the Property generally consistent with the development parameters of the first-stage PUD Order as they relate to building height, number of stories, and density. As part of the Application, the Applicant is requesting to modify the first-stage PUD to permit a hotel use on Parcel 8.

2. By report dated July 14, 2017, the Office of Planning (“OP”) recommended that the Application be set down for a public hearing. (Ex. 10.) As part of its report, OP recommended that the Applicant amend the Application to include a request for first-stage PUD modification for the layout of the piers, docks, and water buildings in Wharf Marina. At its public meeting held on July 24, 2017, the Commission voted to schedule a public hearing on the Application. At that same meeting, the Commission divided the Phase 2 PUD into three segments that generally correspond to the organization of the proposed plans submitted by the Applicant due to the number of buildings and other development components contained in the Phase 2 PUD and the breadth of information contained in the case record. Each of the aforementioned segments were considered by the Commission at separate hearings, as follows:

Hearing Date	Topics
November 2, 2017	Overall Plan Elements / Volume C (Master Plan, Parcel 10, Water Building 3 ³ , M Street Landing, The Terrace, and Wharf Marina)
November 6, 2017	Volume B (Parcel 8, Parcel 9, Water Building 2, The Grove, and Marina Way)
November 9, 2017	Volume A (Parcel 6, Parcel 7, Water Building 1, and The Oculus)

3. On August 4, 2017, the Applicant submitted a prehearing statement, which responded to issues raised by the Commission and OP at the setdown meeting. (Ex. 12, 13.) As part of its prehearing statement, the Applicant amended the Application to include the layout of the piers, docks, and water buildings in Wharf Marina in its request to modify the first-stage PUD. On October 4, 2017, the Applicant submitted its Comprehensive Transportation Review (“CTR”). (Ex. 20.) On October 13, 2017, the Applicant submitted

³ Water Building 3 was discussed at the November 2nd hearing but ultimately removed from the overall project.

a supplemental prehearing statement, which included a full set of revised architectural plans and drawings (“Plans and Drawings”) and additional responses to issues raised by the Commission and OP at the setdown meeting. (Ex. 21.)

4. A description of the Phase 2 PUD and the notice of public hearing for the Application were published in the *D.C. Register* on September 1, 2017. The notice of public hearing was mailed to all property owners within 200 feet of the Property, based upon a listing of property owners obtained from the District of Columbia Office of Tax and Revenue (“OTR”) at the time of issuing the Notice of Intent for the Application, as well as to Advisory Neighborhood Commission (“ANC”) 6D.
5. At its October 16, 2017, regularly scheduled meeting, which was duly noticed and at which a quorum was present, ANC 6D voted 5-0-0 to oppose the Application for a variety of reasons, which are set forth in the ANC’s report dated October 26, 2017. (Ex. 32.) As described in this Order, the Applicant submitted additional information to the record based on further negotiations with the ANC, and more specifically the ANC’s Negotiation Team which was authorized by the full ANC to negotiate on behalf of, and represent the official position of, the ANC with respect to the Phase 2 PUD (the “ANC Agreement”). (Ex. 38.)⁴ Based upon the conditions set forth in the ANC Agreement, at the public hearing held on November 2, 2017, ANC Chairman Andy Litsky testified that the ANC Negotiation Team, on behalf of the full ANC, formally supports the Application. (Ex. 49.)
6. On October 18, 2017, the Gangplank Slipholders Association (“GPSA”) submitted a request for party status in opposition to the Application. (Ex. 23.) GPSA’s party status request noted that it supported the project with reservations about excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and liveboard access to existing parking and loading areas. (Ex. 23, p. 2.)
7. On October 19, 2017, the Tiber Island Condominium (“Tiber Island Condo”) submitted a request for party status in opposition to the Application. (Ex. 25.) Tiber Island Condo’s party status request also stated that it supported the project with reservations about excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and the removal of existing Zone 6 parking areas and associated loading areas currently used by its residents. (Ex. 25, p. 2.) At the public hearing on November 2, 2017, Mr. Richard Brown, President of the Tiber Island Condominium, testified that Tiber Island Condo was actually in support of the Phase 2 PUD, but that they wanted to flag a concern about parking and traffic along 6th Street and M Place, S.W., as some of their townhouses face those streets (Transcript [“Tr.”] November 2, 2017, p. 156.)

⁴ At its October 16, 2017, public meeting, ANC 6D voted to authorize the ANC 6D Negotiation Team to continue to meet with the Applicant and other parties to discuss their issues and attempt to work toward effective solutions to any outstanding issues. The ANC Negotiation Team is comprised of Commissioner Ronald Collins (6D03), Commissioner Gail Fast (6D01), and Commissioner Andy Litsky, Chairman (6D04).

8. On October 19, 2017, 525 Water, a Condominium Unit Owners Association (“525 Water”) submitted a request for party status in support of the Application. (Ex. 24.)
9. On October 19, 2017, Tiber Island Cooperative Homes, Inc. (“Tiber Island Co-Op”) submitted a request for party status in support of the Application. (Ex. 26.)
10. The Applicant did not object to any of the requests submitted for party status either in advance of the public hearing pursuant to 11-Z DCMR § 404.9, or at the public hearing. At the beginning of the public hearing on November 2, 2017, the Commission granted all four requests for party status.
11. In addition to the parties in support, the Commission received letters in support of the Application from the Riverside Baptist Church, the International Spy Museum, the Disabled American Veterans, the Edgewater Condominium Association, Waterfront Village, and the Waterfront Gateway Neighborhood Association. (Ex. 37, 51, 53, 59, 61, 62.) In addition to the parties in opposition, the Commission received letters in opposition to the Application from MANNA and Ms. Judy Yang, a resident of 525 Water Street, S.W., the condominium building located on Parcel 11 within the PUD Site, and also received a variety of emails and letters from individuals expressing their concerns neither in support of or in opposition to the Application (Ex. 41, 31, 22, 60, 63, 64, 66, 69).
12. The Commission received comments on the Application from the following District agencies: D.C. Public Library, Fire and Emergency Medical Service (“FEMS”), Metropolitan Police Department (“MPD”), Department of Employment Services (“DOES”), and Court Services and Offender Supervision Agency (“CSOSA”). (Ex. 79, 80, 81, 85, 87, 86.)
13. On November 2, 6, and 9, 2017, the Commission held public hearings to consider the second-stage PUD and modification to the first-stage PUD. The focus of the hearing on November 2nd was the Parcel 8/9 PUD. The parties to the Application were the Applicant, ANC 6D, GPSA, Tiber Island Condo, 525 Water, and Tiber Island Co-Op.

November 2nd Public Hearing

14. At the public hearing on November 2, 2017, the Applicant presented nine witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC/PN Hoffman; Hilary Bertsch, Perkins Eastman DC, PLLC; Robert Schiesel, Gorove/Slade Associates, Inc.; Morris Adjmi, Morris Adjmi Architects; Hiroshi Jacobs, STUDIOS Architecture; Nate Trevethan, Michael Van Valkenburgh Associates; Paul Josey, Wolf Josey Landscape Architects; and Jessica McIntyre, Moffatt & Nichol. Based upon their professional experience and qualifications, Ms. Bertsch, Mr. Adjmi, and Mr. Jacobs were recognized as experts in architecture; Messrs. Trevethan and Josey as experts in landscape architecture; Mr. Schiesel as an expert in transportation engineering and planning; and Ms. McIntyre as an expert in marina design and engineering.

15. Matthew Jesick, Development Review Specialist at OP testified in support of the Application, and specifically the Parcel 10 PUD, with certain comments and conditions. Aaron Zimmerman and Jamie Henson, Transportation Planners at the District Department of Transportation (“DDOT”) testified in support of the Application, subject to conditions recommended by DDOT and agreed to by the Applicant.
16. Willie Beale, Paula Van Lare, and Michael Brown testified in support of the Application. Michael Nobel, Ed Lazere, Gary Blumenthal, William Shickler, and Chris Otten testified in opposition to the Application.

November 6th Public Hearing

17. At the public hearing on November 6, 2017, the Applicant presented eight witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC/PN Hoffman; Elinor Bacon, Wharf Phase 3 REIT Leaseholder LLC/E.R. Bacon Development; Christian Bailey, ODA; Jay Bargmann, Rafael Vinoly Architects PC; Paul Josey, Wolf Josey Landscape Architects; Sital Patel, S9 Architecture; and Shane Dettman, Holland & Knight LLP. Based upon their professional experience and qualifications, Mr. Bailey, Mr. Bargmann and Mr. Patel were recognized as experts in architecture; Mr. Dettman was recognized as an expert in zoning and land use planning; and Mr. Josey having previously been recognized as an expert in landscape architecture at the November 2nd public hearing.
18. Matthew Jesick, Development Review Specialist at OP, testified in support of the Application, and specifically the Parcel 8/9, with certain comments and conditions.
19. Dida El-Sourady and John McLaughlin testified in opposition to the Application.

November 9th Public Hearing

20. At the public hearing on November 9, 2017, the Applicant presented seven witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC / PN Hoffman; Elinor Bacon, E.R. Bacon Development; William Sharples, SHoP Architects PC; Matthias Hollwich, Hollwich Kushner; Faye Harwell, Rhodeside & Harwell; and Shane Dettman, Holland & Knight LLP. Based upon their professional experience and qualifications, Mr. Sharples and Mr. Hollwich were recognized as experts in architecture; Ms. Harwell was recognized as an expert in landscape architecture; and Mr. Dettman was previously recognized as an expert in zoning and land use planning.
21. Matthew Jesick, Development Review Specialist at OP, testified in support of the Application, and specifically the Parcel 6/7 PUD, with certain comments and conditions. Aaron Zimmerman, Transportation Planner at DDOT, also testified in support of the Application.
22. Steve Lanning testified in opposition to the Application.

23. At the conclusion of the November 9th public hearing, the Commission requested the Applicant to file its post-hearing submission and rebuttal on November 22, 2017. The Commission also requested GPSA to submit the results of its vote on the revised Letter Agreement that it was negotiating with the Applicant by November 30, 2017. The Commission scheduled a special public meeting for December 7, 2017, to consider final action; and the Commission requested that the Applicant respond, as needed, to GPSA's November 30th submission by noon on December 7th.

Post-hearing Filings, Motions, Actions

24. On November 16, 2017, the Applicant filed a motion requesting the Commission to separate its deliberation and decision on the Application into three separate actions, consistent with the Commission's decision and issuance of orders for the second-stage PUD application for Parcels 2, 3, 4, and 11 of the Wharf project (Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4)). (Ex. 76.) In its motion the Applicant stated that separating the deliberation and decision on the Application into three separate actions is also consistent with the Commission's decision to hold multiple hearings on the Phase 2 PUD due to the number of buildings and other development components, and the breadth of information contained in the case record.
25. On November 20, 2017, ANC 6D submitted a response in opposition to the Applicant's motion noting that the request to separate the deliberation and decision seemed unnecessary and could inadvertently result in all contested issues not being fully resolved because of case deliberations occurring piecemeal as opposed to simultaneous for the entire application. (Ex. 77.)
26. On November 20, 2017, OP filed a motion to reopen the record to allow comments from both the DC Public Library and the DC Fire and Emergency Medical Service Department received after the public hearings into the record. (Ex. 78.)
27. On November 22, 2017, the Applicant filed its rebuttal testimony and its post-hearing submission refuting various aspects of the contested issues that were raised by the parties in the three public hearings (Ex. 82).
28. On November 22, 2017, the Applicant filed a motion to extend the deadline for submission of draft findings of fact and conclusions of law from November 27th until November 29th after the Commission was scheduled to consider the Applicant's motion to separate its deliberation and decision on the Application into three separate actions. (Ex. 84.)
29. On November 27, 2017, the Commission granted the Applicant's motion to separate its deliberation and decision on the Application into three separate actions after the Applicant's counsel explained that allowing three orders in the case would avoid a situation where the entire project was delayed in the event a party appealing one building or component of the project. The Commission granted the motion to extend the deadline for submission of draft findings of fact and conclusions of law to November 29th.

30. On November 29, 2017, the Applicant filed its draft findings of fact and conclusions of law for the Parcel 8/9 PUD. (Ex. 90.) On December 1, 2017, the Applicant filed revised draft findings of fact and conclusions of law for the Parcel 8/9 PUD to include additional transportation mitigation measures that were previously recommended by OP and accepted by the Applicant, but inadvertently omitted from the Applicant's initial submission. (Ex. 93A2.)
31. On November 30, 2017, GPSA submitted a statement on the status of negotiations with the Applicant on the revised Letter Agreement ("GPSA Status"), as well as proposed findings of fact and conclusions of law (Ex. 91, 92). On December 4, 2017, the Applicant submitted a response to the GPSA Status ("Status Response"). (Ex. 94).
32. On December 5, 2017, OP submitted a post-hearing memorandum containing responses to the Applicant's post-hearing submission. Specifically, Exhibit 82T contained a labeling error where the word "enclosure" appears on Sheets 2.24 and 2.25 of the plans, and revisions to the minor design flexibility language to appear in the final orders for Parcel 6/7 and Parcel 8/9 were suggested. (Ex. 95.) On December 6, 2018, the Applicant filed a motion to reopen the record to submit a response to OP's post-hearing memorandum. (Ex. 96.) The Applicant's motion was granted and the Applicant submitted Exhibit 96A to correct the labeling error and accepted OP's suggested revisions to the minor design flexibility language.
33. On December 7, 2017, GPSA submitted a motion to reopen the record to submit a second statement on the status of negotiations with the Applicant on the revised Letter Agreement ("GPSA Second Status"), to which the Applicant submitted a response on that same day. (Ex. 97A, 98.)
34. At a special public meeting held on December 7, 2017, the Commission took final action to approve the Phase 2 PUD. During the meeting, the Applicant confirmed that its intent is to provide continuity of amenities/services to the liveaboard population during construction in a fenced, access-controlled location along the water's edge within the confines of security for the marina as shown in Modified Option B. (Ex. 94B, Attachment 2 "Transition Plan", Sheets 5-8 of the Construction Sequencing Plan.) The Commission's final approval was conditioned on the amendment of Modified Option B, as necessary, to document the parties' final agreement on the exact location of interim liveaboard amenities/services during construction.

The Applicant and Development Team

35. The master developer of the overall Southwest Waterfront redevelopment project is Hoffman-Struever Waterfront, LLC, doing business as Hoffman-Madison Waterfront, LLC ("Hoffman-Madison"). The Applicant for the Phase 2 PUD is Wharf Phase 3 REIT Leaseholder LLC, an affiliate of Hoffman-Madison, which is processing the Application on behalf of the Office of Deputy Mayor for Planning and Economic Development. The Applicant's team includes the District-based Certified Local, Small, and Disadvantaged Business Enterprises of E.R. Bacon Development, Paramount Development, and Triden Development, as well as District-based and CBE-certified CityPartners.

The Southwest Waterfront Redevelopment Project

36. The Southwest Waterfront redevelopment project is a public-private partnership between the District of Columbia and Hoffman-Struever Waterfront, LLC, which entered into a land disposition agreement (“LDA”) for redevelopment of the Southwest Waterfront, which is generally bounded by the Washington Channel of the Potomac River and Maine Avenue between 6th and 11th Streets, S.W., and consists of approximately 991,113 square feet of land area (22.75 acres) and approximately 167,393 square feet of piers and docks in the adjacent riparian area (the “PUD Site”).
37. The primary objective of the Southwest Waterfront redevelopment project is to reunite the city with the water’s edge and activate it with a mix of uses and year-round activity. This objective will be achieved by integrating the city’s unique urban qualities, such as dynamic parks and open spaces that are defined by consistent street walls, with aspects that recall the character of the thriving commercial warehouse district and maritime activities that once lined the Washington Channel and connected the upland city streets to the maritime edge.

Overview of the Southwest Waterfront PUD

38. The Southwest Waterfront PUD will provide a mix of uses to ensure an active waterfront throughout the year, day and night. Rather than a collection of individual projects, the overall redevelopment has been designed as a series of “places” that integrate architecture and landscape design to create inviting and memorable public environments. There will be a variety of gathering places to cater to every interest, ranging from actively programmed places to simple promenades and parks for passive enjoyment of the water and its environs.
39. The design of the waterside development has been fully integrated with the landside development, and will include four new public-use piers along the Washington Channel. The District Pier, the largest of the piers, is intended to be the primary waterside entrance to the project and the host for the District’s waterside events. Several new tour boats, tall ships, and maritime vessels, such as water taxis, will be added to the existing recreational maritime activities to provide increased activity and several more options for the public to use the waterfront and engage in water sports and activities. The waterside development will extend to the limits of the Washington Channel’s federal navigational channel.

Previous PUD Approvals

40. Pursuant to Z.C. Order No. 11-03, the Commission approved the first-stage PUD for the Southwest Waterfront redevelopment project.
41. Since approving the first-stage PUD, the Commission has approved a second-stage PUD application for Parcels 2, 3, 4, and 11, the Capital Yacht Club, and the public open spaces known as the Wharf, Transit Pier, District Pier, Yacht Club Piazza, the Mews, Jazz Alley,

7th Street Park and Waterfront Park, as well as temporary uses on Parcel 1 (Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4)). The Commission has also approved second-stage PUDs for Parcel 5 (Z.C. Order No. 11-03B); Parcel 1, Market Shed, and Market Square (Z.C. Order No. 11-03C); 7th Street Recreation Pier (Z.C. Order No. 11-03E); and Pier 4, which also included a first-stage PUD modification (Z.C. Order No. 11-03F). The Commission has also approved minor modifications or modifications of consequence to previously approved plans for Parcel 5 (Z.C. Order Nos. 11-03D and 11-03I), Parcel 3A (Z.C. Order No. 11-03G), and Parcel 4 (Z.C. Order No. 11-03H).

Approved First-Stage PUD Development Parameters

42. As part of the first-stage PUD, the Commission approved the overall parameters for the redevelopment of the PUD Site. The first-stage PUD authorizes a maximum landside density of 3.87 FAR, excluding private rights-of-way, and a maximum waterside density of 0.68 FAR. (*See* Z.C. Order No. 11-03, Condition Nos. A-1 and A-2. Development parameters pertaining to building height, parking, and loading were also included in the first-stage PUD.)
43. The first-stage PUD divides the landside portion of the PUD Site into 11 primary building parcels, a number of smaller landside and waterside structures, four major plazas, one large park, a waterfront promenade/shared space, and public and private piers. The waterside development includes club buildings for the marinas, buildings on existing Piers 3 and 4, and other minor waterside buildings and facilities. The approved parks also include smaller retail structures and pavilions.
44. Regarding building heights, the Commission approved a maximum height of 130 feet for Parcels 1-9, with the exception of Parcel 5, which the Commission approved at a maximum height of 110 feet. The Commission approved maximum building heights for Parcels 10 and 11 at 60 feet and 45 feet, respectively. Finally, the Commission approved a maximum building height of 45 feet on Pier 4.
45. With respect to parking facilities, the Commission approved the construction of one or more below grade parking structures that would provide approximately 2,100-2,650 parking spaces on two to three levels. The Commission required the Applicant to provide parking or storage for approximately 1,500-2,200 bicycles and sufficient loading facilities to accommodate the mix of uses on the PUD Site. Pursuant to Z.C. Order No. 11-03, the precise amount of parking and loading facilities required for each second-stage PUD application shall be specified by the Commission in each second-stage order.
46. As part of the first-stage PUD approval, the Commission approved the phased redevelopment of the PUD Site, with the last second-stage PUD application required to be filed no later than December 31, 2024.

The Phase 2 PUD

47. The landside portion of the Phase 2 PUD is located on Record Lot 89 of Square 473, and includes Assessment & Taxation (“A&T”) Lots 878, 881, and 921, which collectively

comprise approximately 322,738 square feet of land area. The waterside portion of the Phase 2 PUD includes A&T Lots 887 and 888, which collectively comprise approximately 666,683 square feet of riparian area.

48. The landside portion of the Phase 2 PUD includes primary buildings on Parcels 6/7 (“Parcel 6/7 Building”), Parcel 8 (“Parcel 8 Building”), Parcel 9 (“Parcel 9 Building”), and Parcel 10 (“Parcel 10, Building”). The landside portion of the Phase 2 PUD also includes two new below-grade parking garages, and several new open spaces and thoroughfares such as M Street Landing, The Grove, The Terrace, The Oculus, Maine Avenue, the Wharf, Marina Way, and the Mews.
49. The waterside portion of the Phase 2 PUD includes two new water buildings, Water Building 1 and Water Building 2. In addition, the waterside portion of the Phase 2 PUD includes construction of the remaining portions of Wharf Marina, as well as the construction of a number of kiosks along the Wharf.
50. In addition to requesting second-stage PUD approval for the landside and waterside components noted above, the Phase 2 PUD also includes a modification to the first-stage PUD to permit a hotel use on Parcel 8 and to accommodate changes that have been made to the configuration of the piers, docks, and water buildings within Wharf Marina.

First-Stage PUD Modification

51. Pursuant to the first-stage PUD, the mix of uses approved for Parcel 8 includes either residential or office use above ground-floor retail. As described below, the proposed Parcel 8 Building includes residential and hotel uses above ground-floor retail. As such, the Applicant is requesting to modify the first-stage PUD to add hotel (lodging) as an approved use on Parcel 8.
52. In response to a recommendation by OP at setdown, the Applicant amended the Application to include the proposed layout and configuration of piers, docks, and water buildings in Wharf Marina. Since approval of the first-stage PUD, the Applicant has had to make adjustments to the design of Wharf Marina in response to requirements of the United States Army Corps of Engineers (“USACE”), which must issue a permit for the Applicant to carry out the waterside component of the Southwest Waterfront PUD, previously approved changes to the use on Pier 4, and the plan for transitioning GPSA liveboard vessels.

The Parcel 8/9 PUD

Landside Development

Parcel 8 Building

53. As shown in the portion of the Plans and Drawings found at Exhibit 21AB1-21AB3, as amended by Exhibits 82Q, 82R, and 82S, the Parcel 8 Building will contain approximately 376,134 GFA, of which approximately 23,005 GFA will be devoted to

retail and service uses, approximately 270,613 GFA will be devoted to residential apartment uses, and approximately 82,516 GFA will be devoted to hotel uses. As stated, the Applicant is requesting a modification to the first-stage PUD to permit a hotel use on Parcel 8. The maximum height of the Parcel 8 Building is 130 feet, not including the penthouse. The maximum height of the penthouse is 20 feet.

54. The general massing and program of the Parcel 8 Building consists of a one-story retail base with a “U-shaped” mass above that is comprised of three bars forming a courtyard that opens towards the Wharf and Washington Channel. The three bars composing the “U-shaped” massing of the building will contain residential and hotel uses. The north bar, along Maine Avenue, and the east bar, adjacent to Parcel 9, will contain residential use, including a substantial amount of affordable and workforce housing. The massing of the east bar steps away from the Wharf at each successive floor creating a series of outdoor terraces. The massing of the west bar, which contains the proposed hotel use, cantilevers at every other successive level toward the waterfront.
55. Consistent with how the Parcel 8 Building is described in the approved first-stage PUD, the ground-floor of the building will contain a partially “covered alley,” referred to as Water Street, that will permit pedestrian and vehicular circulation. The covered alley divides the ground floor into two parts. The main part of the ground floor contains a substantial amount of retail space along Maine Avenue, which may connect to lower-level retail within a portion of the below-grade garage, and along the covered alley and fronting on “The Grove.” The residential and hotel lobbies are also located in the main part of the ground floor. Finally, an access ramp to below-grade parking will be located along the east side of the Parcel 8 Building ground-floor, and the loading area for the building will be located along the west side of the ground-floor. The smaller part of the ground floor, located south of Water Street, will be primarily reserved for retail and services uses.
56. Floors 2-12 of the Parcel 8 Building will contain residential and hotel uses. As stated, the residential portion of the Parcel 8 Building will occupy the east and north bars of the building. The proposed residential units will comprise a range of dwelling types at various sizes that will be devoted to a mix of income levels. As shown in “Affordable & Workforce Housing Summary” chart submitted by the Applicant, the Parcel 8 Building will contain approximately 56,442 GFA of affordable housing devoted to 30% median family income (“MFI”) households and 60% MFI households, and approximately 72,158 GFA of workforce housing devoted to 100% MFI and 120% MFI households (Ex. 21A3, Sheet 3.1-21A4, Sheets 3.2-3.3.)
57. As stated, the hotel portion of the building will occupy the west bar of the Parcel 8 Building, as currently proposed, the hotel is expected to contain approximately 117 guest rooms. A hotel flag/operator for the proposed hotel use has not yet been identified; and therefore, the Applicant is requesting flexibility to vary the number of hotel rooms.
58. The Parcel 8 Building penthouse will contain penthouse habitable space devoted to residential uses and hotel amenities, enclosed penthouse mechanical space, and screened mechanical equipment, all of which will be contained within a single enclosure as

required under the Zoning Regulations. The residential portion of the penthouse will contain one story of habitable space, portions of which will include mezzanines, and a second story containing mechanical space and have a maximum height of 20 feet above the level of the roof. The hotel portion of the penthouse will contain one story of habitable space devoted to hotel amenities and will primarily have a maximum height of 20 feet above the level of the roof. In addition, the hotel portion of the penthouse may include a bar, restaurant, or lounge use, which are uses only permitted in a penthouse by special exception. The Applicant is requesting the necessary flexibility to allow these uses in the hotel penthouse. Both the residential and hotel portions of the penthouse will meet required setbacks, as will all guardrails.

59. The exterior materials for the residential and hotel portions of the Parcel 8 Building primarily consist of glass, solid metal panels, and perforated metal panels. The residential portion of the building maximizes transparency through use of a glass façade system that is accented with solid metal panels and perforated metal panels that provide privacy between outdoor terraces. The hotel portion of the building will maximize views through use of a glass façade system while simultaneously providing a degree of privacy using solid metal panels. The penthouse will primarily be enclosed with a glass façade system.
60. At setdown, the Commission inquired whether the Parcel 8 Building penthouse, and specifically the portion(s) containing two enclosed stories (one habitable and one mechanical), was in compliance with the 1910 Height of Buildings Act (“Height Act”), as amended, which permits human occupancy within a penthouse which is erected to a height of one story of 20 feet or less above the level of the roof. As part of its supplemental prehearing statement, the Applicant responded to the Commission’s inquiry stating that based upon research of: (i) the legislative history of the recent amendment to the Height Act, (ii) review of related House and Senate Committee reports and hearing transcripts, (iii) the Congressional Record, (iv) the final Height Master Plan recommendation prepared by the National Capital Planning Commission (“NCPC”), and (v) the manner in which mechanical penthouses were regulated under the Height Act prior to the recent amendment allowing for human occupancy in a penthouse, the Parcel 8 Building penthouse was in compliance with the Height Act as the one story limitation under the Height Act only applies to human occupancy penthouses (penthouse habitable space). (Ex. 21.)
61. The Applicant further stated that, “assuming all required setbacks are met, to interpret the Height Act amendment as allowing a 20-foot penthouse consisting of unenclosed mechanical equipment (“open to the sky”) on top of one story of habitable space, while not allowing the same 20-foot penthouse because the mechanical equipment has a roof, would end in a somewhat incongruous result since in both instances the 20-foot penthouse would be the same structure and would practically have the same aesthetic.”
62. The Applicant also stated that “to read the amended Height Act to allow mechanical equipment on top of a story of habitable space only when it is open to the sky would be contrary to Congresses’ intent for amending the Height Act – to provide benefit to the District and its residents (economic, housing) – as it would significantly reduce one’s ability to provide penthouse habitable space where there is an absolute need for enclosed

mechanical space. This is particularly true in instances of highly-sculpted buildings where roof space is limited, such as with the proposed Parcel 8 Building.”

63. The Applicant stated that on September 7, 2017, it met with the Zoning Administrator (“ZA”) to review the proposed Parcel 8 Building penthouse and the results of its research on the recent Height Act amendment. Upon review, the ZA concurred that the proposed penthouse complies with the Height Act, including those portions of the penthouse that have a maximum height of 20 feet and contain one story of penthouse mechanical space above one story of habitable space.
64. At the November 6, 2017, public hearing, the Commission accepted the Applicant’s rationale regarding compliance of the Parcel 8 Building penthouse with the Height Act noting that the presence of a roof over a penthouse constructed to the maximum permitted height of 20 feet lacks any change in physical appearance compared to a penthouse without a roof that constructed to the same height.

Parcel 9 Building

65. As shown in the portion of the Plans and Drawings found at Exhibit 21AB4-21AB6, as amended by Exhibit 82T, the Parcel 9 Building will contain approximately 230,751 GFA, of which approximately 14,844 GFA will be devoted to retail and service uses, and approximately 215,907 GFA will be devoted to residential uses. The maximum height of the Parcel 9 Building is 130 feet, not including the penthouse. The maximum height of the penthouse is 20 feet.
66. The general form of the Parcel 9 Building is arced, with the curved portion of the building oriented eastward. The ground floor contains retail and residential lobby space, as well as loading, and other back of house facilities. Floors 2-12 of the building contains residential uses. The footprint of floors 2-3 generally follows that of the arcing ground floor with a large open court opening toward the west. Floors 2-3 also project slightly beyond the extent of the ground floor along the east while maintaining the curved alignment along that facade. Above the third floor, the building massing becomes more crescent-like, and steps back at each successive level while maintaining a more consistent façade along the interior backside of the building.
67. The Parcel 9 Building penthouse will contain habitable residential space, mechanical space, and screen walls enclosing mechanical equipment, all of which will be provided as a single enclosure as required under the Zoning Regulations. The footprint of the penthouse will follow the general curved form of the building. To further integrate the penthouse with the building design, and minimize the massing of the penthouse, the height of the penthouse roof gradually slopes upward from Maine Avenue towards the waterfront and the east façade of the penthouse is sloped. To allow the variable penthouse height and angled façade, the Applicant has requested flexibility to allow multiple heights of penthouse habitable space, penthouse mechanical space, and screening walls, and to allow penthouse walls with a slope that exceeds 20% from vertical. Notwithstanding this requested flexibility, the penthouse will satisfy all applicable setback requirements, as

will all guardrails, as measured from the edge of the roof upon which the penthouse is located.

68. The Parcel 9 Building's primary exterior materials consist of concrete and multiple types of glass enclosure including, but not limited to, glazed storefront, faceted glass panel, glazed curtain wall system, and laminated glass. The terraces themselves will consist of resinous flooring, or similar material, or an extensive green roof system. Similar materials are proposed for the penthouse level.

Waterside Development

Water Building 2

69. As shown in the portion of the Plans and Drawings found at Exhibit 21AB6-21AB7, as amended by Exhibit 82P and further amended by Exhibit 94B, Attachment 6, Water Building 2 ("WB2") will contain approximately 16,585 GFA, of which approximately 14,100 GFA will be devoted to retail and service uses, and approximately 2,485 GFA will be devoted to maritime services uses. WB2 will provide marina liveaboard slipholders with the following amenities/services: management (back of house, shop, or other working areas), 24/7 security, mail boxes, package delivery/receipt, laundry, showers, and restrooms. The maximum height of WB2 is approximately 34 feet, not including the penthouse. The maximum height of the penthouse is approximately six feet.
70. WB2 is located along the waterside of the Wharf promenade and adjacent to the Parcel 8 Building. The design of the building reflects a modern interpretation of a utilitarian pier building while utilizing materials that are traditional to such structures, and is also influenced by nearby open spaces such as M Street Landing and The Grove.
71. The general massing of WB2 reflects the different programmatic uses contained within and is arranged to capture the most prominent views along the Washington Channel. The massing is composed of an extruded rectangular volume that is broken into two parts that take advantage of views of the Washington Channel, Wharf Marina, and East Potomac Park. The two parts of the building massing also inform the articulation and materiality of the building facades, with the part located along the Wharf being more refined and the part overlooking Wharf Marina more casual.
72. WB2 contains two floors. The first floor contains retail and service uses that are located closer to the Wharf, and building support and maritime service uses located closer to Wharf Marina. The second floor of the building will be devoted to retail/service uses, and will also include multiple outdoor terraces that overlook the Wharf and the Washington Channel. The roof level will contain a penthouse containing screened mechanical equipment and an expansive green roof system.
73. The primary exterior materials of WB2 include wood and galvanized metal.

Open Spaces and Thoroughfares

The Grove

74. As shown in the portion of the Plans and Drawings found at Exhibit 21AB8, The Grove is an open space located adjacent to the Wharf, within a plaza defined by the Parcel 6/7 Building and Parcel 8 Building. The primary defining element of this open space is a grove of canopy trees that is raised slightly above grade and surrounded by seat walls and steps. The arrangement of the trees, which will be planted in crushed stone paving, is intended to provide a relatively uniform canopy resulting in a shady respite for informal arrangements of movable tables and chairs. A portion of the perimeter of The Grove is defined by a collection of smaller paved terraces that can be used for outdoor seating and dining by adjacent retail and service uses.

The Wharf and Maine Avenue

75. As part of the Parcel 8/9 PUD, a remaining portion of the Wharf will be constructed. Consistent with the first-stage PUD, and with the portions of the Wharf that have already been constructed, the Wharf will continue to be, first and foremost, a pedestrian environment adjacent to the Washington Channel, that also can operate to allow for low-speed, low-volume vehicular access to business fronts, restaurants, elderly and disabled passenger drop off, and valet parking along the water's edge. The Wharf will be a flexible environment that can be closed periodically for special events and certain nights and weekends to emphasize and enhance the pedestrian experience while still maintaining emergency access.
76. As shown in the portion of the Plans and Drawings found at Exhibit 21AB7-21AB8, the portion of the Wharf that will be constructed as part of the Parcel 8/9 PUD will be generally consistent in design with other sections of the Wharf that have previously been approved by the Commission.
77. As part of the Parcel 8/9 PUD, a remaining portion of Maine Avenue, S.W. will be reconstructed in a manner that is generally consistent with the streetscape design that has been previously approved by the Commission, with the exception that the buildings along Maine Avenue included in the Parcel 8/9 PUD have been set back an additional five feet to provide even greater sidewalk width, compared to those included in Phase 1 of the Southwest Waterfront PUD.
78. As described in the first-stage PUD, Maine Avenue along the length of the Southwest Waterfront redevelopment project is envisioned to be an urban, tree-lined boulevard that provides generous pedestrian circulation space; accommodates multiple modes of transportation; provides safe and convenient loading and curbside management; and incorporates LID strategies that contribute to stormwater management. In addition, the proposed improvements along Maine Avenue include the continued motorcoach loading and unloading operation that currently exist which, as discussed below, will be operated, managed, and monitored in accordance with the ANC Agreement. (Ex. 38.)

79. As shown in the portion of the Plans and Drawings found at Exhibit 21AB9 similar to the Wharf, Maine Avenue has been designed to incorporate a Low Impact Development (“LID”) planting zone that collects stormwater from the sidewalk and contributes to the sites overall stormwater management plan. Additionally, the surface of the bicycle lane is a permeable surface that helps reduce runoff, and help provide water to the critical root zone of the street trees along Maine Avenue. Permeable cobbles are placed between planting areas to provide for additional stormwater capture and treatment as well as locations for café seating. Finally, two rows of newly planted trees are proposed with continuous soil trenches to provide tree canopy cover, and significant efforts will be made to preserve existing “heritage trees.”

Marina Way

80. As shown in the portion of the Plans and Drawings found at Exhibit 21AB8, Marina Way is a shared use street between Parcels 8 and 9. While this thoroughfare provides access to parking and loading for the Parcel 8 and 9 Buildings, its primary function is as a pedestrian street designed with a single row of on-street parking/loading, wide sidewalks on both sides that provide pedestrian access to the retail and service uses within the portions of the ground floors of the Parcel 8 and 9 Buildings fronting along Marina Way.

The Mews

81. As shown in the portion of the Plans and Drawings found at Exhibit 21AB8, the interstitial spaces between and within the buildings on Parcels 6, 7, and 8 are designed as private mews streets or alleys. These connectors will not only provide primary entrances for access to parking and loading/service areas, but are also intended to be low-speed, curbsless pedestrian-dominated environments that support unique retail, restaurants, and entertainment opportunities.
82. The mews streets that are oriented perpendicular to Maine Avenue and provide a small scale street grid within the PUD Site, increase site porosity, and provide an enhanced number of viewsheds from Maine Avenue to the Washington Channel. These smaller visual connections combined with the enhanced views from the primary open spaces of the Southwest Waterfront PUD will provide unprecedented linkages between the Washington Channel and the Southwest neighborhood.
83. The mews streets that are parallel to the Washington Channel and run through Parcels 6, 7, and 8 provide additional options for circulation and exploration through the PUD Site, and provide shelter and protection from the elements.
84. The mews streets are designed to be flexible in nature so as to facilitate vehicular access and loading, and at other times be primarily pedestrian in nature and filled with café tables and spill-over retail and entertainment. Loading areas and vehicular/bicycle parking garage entries are primarily provided off of the mews streets; however, these private rights-of-way have also been carefully designed to provide required vehicular circulation while minimizing impacts on the pedestrian experience.

Parking and Loading Facilities

85. Pursuant to the approved first-stage PUD, the Southwest Waterfront redevelopment project “shall include one or more below-grade parking structure(s) on two or three levels providing parking spaces for approximately 2,100-2,650 vehicles. The project shall also include parking or storage for 1,500-2,200 bicycles on-site.” (See Order No. 11-03, Condition A.4.)
86. Phase 1 of the Southwest Waterfront PUD, currently includes a single below-grade parking garage below Parcels 1-5 that contains approximately 1,483 vehicle parking spaces (“Garage 1”). Phase 1 also contains parking and storage for approximately 1,192 bicycles located at grade and within Garage 1.
87. As shown in Exhibit 21A2, Sheets 1.19-1.20, the Applicant will construct two additional below-grade parking garages (“Garage 2” and “Garage 3”). Each garage will contain two levels, with the footprint of the second level in both garages being significantly smaller due to the presence of the Metrorail green line. Collectively, the garages will contain approximately 844 vehicle parking spaces, for a total of approximately 2,327 vehicle parking spaces within the full Southwest Waterfront PUD. In addition, approximately 610 long-term bicycle parking spaces and approximately 130 short-term bicycle parking spaces will be provided at grade and within Garages 2 and 3. (Ex. 21A2, Sheets 1.19 – 1.20, 1.24.)
88. Garage 2 will be located below Parcels 6-8, and will be accessible via ramps located along the east side of the Parcel 7 Building and the east side of the Parcel 8 Building. (Ex. 21A2, Sheet 1.25.) Garage 3 will be located below Parcels 9 and 10 and M Street Landing, and will be accessible from a ramp located in the podium level of the Parcel 10 Building along Water Street, S.W. Residents of the Parcel 9 Building will also be able to access Garage 3 using two vehicle lifts within the ground floor of the Parcel 9 Building. Parking spaces within Garages 2 and 3 will be used by the occupants, residents, and visitors of the primary buildings within the Phase 2 PUD, and will also include general use public parking. Parking for marina uses will also be available in Garages 2 and 3.
89. Loading facilities for the buildings located on Parcels 6-10 will be located within each building. (Ex. 21A2, Sheet 1.25.) Loading facilities have been carefully located along mews streets and private streets or alleys to minimize impact on the pedestrian environment while providing adequate space for managed on-site loading and service needs. Consistent with the approved first-stage PUD, due to access constraints the loading facilities for the Parcel 10 Building are located along Water Street, S.W., a private street within the boundary of the Southwest Waterfront PUD. Truck size and loading hours will be carefully managed on-site to facilitate the operational and programmatic needs of the individual buildings through a comprehensive loading and curbside management plan that is tailored to the expected loading demand for the Phase 2 PUD and coordinated with all other transportation aspects of the Southwest Waterfront redevelopment project.

90. Bicycle racks will be distributed throughout the Phase 2 PUD for convenient access, with a primary focus on locations adjacent to the dedicated bicycle facility on Maine Avenue, S.W. (Ex. 21A2, Sheet 1.24.) This approach to bike parking is intended to encourage visitors to park bicycles on the perimeter of the PUD Site and experience the PUD Site as a pedestrian, but does not preclude full access and available bicycle parking within the PUD Site. Similar to Phase 1, in addition to the bicycle parking and storage located within Garages 2 and 3, additional bicycle parking and amenities will be located at grade throughout the Phase 2 PUD. These facilities are designed as high-quality street furniture, will be incorporated into the surrounding urban design, and will contribute to the project's sense of place. Furthermore, the Applicant is funding the installation of a new Capital Bikeshare station within M Street Landing and Waterfront Park, which is in addition to the two Capital Bikeshare stations the Applicant has already installed or relocated as part of Phase 1 of the Southwest Waterfront PUD. (Ex. 21A2, Sheet 1.24.)
91. The Applicant will implement the Transportation Demand Management ("TDM") Plan and the TDM Performance Monitoring Plan that were prepared for the Phase 2 PUD. (Ex. 67B, 67C.) The TDM Plan and TDM Performance Monitoring Plan incorporate, and update where necessary, all of the TDM strategies, conditions, and monitoring requirements that were approved as part of the first-stage PUD, and previous second-stage PUD approvals. Further, the TDM Plan and TDM Performance Monitoring Plan were developed in coordination with DDOT which, as discussed below, has no objection to the Phase 2 PUD.
92. The Applicant will implement specific restrictions and guidelines on loading operations to offset any potential impacts from the loading activities of the Phase 2 PUD, as set forth in the Loading Management Plan ("LMP") included at Page 38 of the Comprehensive Transportation Review ("CTR") Report. (Ex. 20A.)

Zoning Flexibility

93. The Applicant requests flexibility to adjust the number of loading berths, loading platforms, and service delivery spaces provided for all of the buildings included in the Phase 2 PUD. Because the first stage application was approved prior to repeal of the 1958 version of the Zoning Regulations ("ZR58") on September 6, 2016, the entire PUD is considered a vested project pursuant to 11-A DCMR § 102, and therefore is subject to the area and use requirements of ZR58.
94. Pursuant to § 2201.1 of ZR58, the Applicant is required to provide one loading berth at 55 feet deep, 11 loading berths at 30 feet deep, six service delivery spaces, 11 loading platforms at 100 square feet, and one loading platform at 200 square feet for the Phase 2 PUD. The Applicant proposes to provide nine loading berths at 30 feet deep, five service delivery spaces, 11 loading platforms at 100 square feet, and one loading platform at 200 square feet, thus necessitating flexibility from § 2201.1. The Commission hereby approves this area of zoning flexibility for the reasons stated below.
95. The Commission finds that not providing the one required 55-foot deep loading berth will not result in any adverse impacts. Under ZR58, certain buildings are required to provide

one or more 55-foot loading berths; however, under ZR16 there is no requirement to provide a 55-foot loading berth. Rather, ZR16 simply requires all loading berths to have a minimum depth of 30 feet. This change is primarily because deliveries by large trucks have become increasingly rare for many land uses in the District. Property owners are more commonly relying on smaller trucks and delivery vans, which are easier to maneuver within the city's system of streets and alleys. In addition, designing for large vehicle loading berths requires wider roads and curb cuts, and larger turning radii at intersections and entrances to alleys, all of which have negative impacts on the pedestrian environment, bicycle travel, and traffic congestion.

96. The Commission concludes that the Applicant has addressed these considerations by developing a coordinated overall loading plan for the Phase 2 PUD based on the overall mix of uses and anticipated site-wide pedestrian, bicycle, and vehicular circulation. This approach has allowed the Applicant to eliminate redundancies and increase efficiency with respect to circulation and maneuverability. The Applicant worked closely with DDOT on preparing an effective loading management plan that is tailored to the expected loading demand for the Phase 2 PUD and coordinated with all other transportation aspects of the Southwest Waterfront redevelopment project. Therefore, the Commission finds that flexibility from the loading requirements of § 2201.1 of ZR58 is appropriate in this case.
97. The Applicant requests flexibility from the requirements of § 411.4(c) of ZR58 to allow bar, restaurant, and/or lounge uses within the Parcel 8 Building penthouse and on the penthouse terrace as shown in the portion of the Plans and Drawings found at Exhibit 21AB3, as amended by Exhibit 82Q-82S.
98. The Commission finds the Applicant's request for flexibility to allow bar, restaurant, and/or lounge uses within the Parcel 8 Building penthouse to be appropriate. As part of its post-hearing submission, the Applicant provided additional information regarding the design and operation of the potential bar, restaurant, and/or lounge uses, as well as information regarding the relationship of the proposed use to the surrounding context. (Ex. 82.) Based upon this information, the Commission finds that a bar, restaurant, and/or lounge use within the Parcel 8 Building penthouse, as depicted in the plans found at Exhibits 21AB3 and 82Q 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 Maps.
99. The Applicant requests flexibility from the requirements of § 411.9 and 411.10 of ZR58 for the Parcel 9 Building to allow multiple heights of penthouse habitable space, penthouse mechanical space, and screening walls; and to allow penthouse walls with a slope that exceeds 20% from vertical (Ex. 21AB5, Sheets 2.20-2.25.)
100. The Commission finds that granting the requested flexibility to allow the Parcel 9 Building penthouse to have multiple heights of penthouse habitable space, penthouse mechanical space, and screening walls; and to allow the penthouse walls to have a slope that exceeds 20% from vertical is necessary and appropriate in order for the penthouse to satisfy the applicable setback requirements and to advance the unique design aesthetic of

the building. The Commission further finds that granting this flexibility 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 Maps.

101. The Applicant requests flexibility from the requirements of § 2517 of ZR58 to allow the construction of two or more principal buildings or structures on a single subdivided lot that is located within 25 feet of a residential zone district. The Commission notes that it has previously granted this flexibility for Phase 1 of the Southwest Waterfront PUD, and finds that granting this same flexibility for the Phase 2 PUD is necessary and appropriate. The landside portion of the Phase 2 PUD is comprised of a single lot of record, within which several tax lots will be created for each of the proposed primary buildings and structures. Each of the proposed primary buildings and structures is consistent with the development and use parameters established under the first-stage PUD, and with the development standards and use permissions under ZR58, as applicable.

Design Flexibility

102. The Applicant requests the following areas of design flexibility for the Parcel 8/9 PUD:
- a. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
 - b. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, and any other changes that otherwise do not significantly alter the exterior design to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or other applicable approvals. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building;
 - c. To vary the final selection of exterior building materials within the color ranges of the material types shown in the Exhibit 21AB3 and 21AB5-21AB6, based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building;
 - d. To vary the final selection of landscaping materials utilized based on availability at the time of construction;
 - e. To provide a range in the number of residential dwelling units within the Parcel 8 Building and the Parcel 9 Building by plus or minus 10% from the number depicted in Exhibits 21AB1-21AB13, provided that the proportion of 30% MFI units to total units, and the proportion of 60% MFI units to total units, is not

reduced below what is shown on Sheets 3.2 and 3.3 of Exhibit 21A4, and provided that all minimum market-rate, workforce and affordable housing requirements under the Z.C. Order No. 11-03 are satisfied;

- f. To vary the number and location of market-rate and workforce housing units within the redevelopment project provided the minimum amount of gross floor area required for market-rate and workforce housing under the Z.C. Order No. 11-03 is provided;
- g. To vary the number and location of 30%, 60%, 100%, and 120% MFI units, provided that:
 - i. The minimum amount of gross floor area required under Z.C. Order No. 11-03 for each income range is provided;
 - ii. All 30% MFI units shall be on floors 3-9, with no more than seven of these unit types on any of those floors and no fewer than two of these unit types on any of these floors. No fewer than eight of the 30% MFI units shall be two-bedroom units;
 - iii. All 60% MFI units shall be on floors 3-9, with no more than five of these unit types on any of those floors and no fewer than two of these unit types on any of those floors. No fewer than seven of the 60% MFI units shall be two-bedroom units; and
 - (iv) the proportion of affordable studio, efficiency, and one-bedroom units to all affordable units throughout the redevelopment project will not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units throughout the redevelopment project; and
- h. To vary the number of hotel guestrooms in the Parcel 8 Building by plus or minus 15%;
- i. To vary the final design of retail frontages, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in Exhibits 21AB3 and 82T;
- j. To vary the design and location of upper-level building signage located above the first-story of the Parcel 8 Building within the limits of the potential tenant signage zones shown in Ex 21AB3, and in accordance with the District of Columbia sign regulations in effect at the time of permitting;
- k. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown on the Exhibit 21A2, Sheets 1.19-1.20, 1.24, and the total number of vehicle and bicycle

parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and

1. To vary the sequencing and timing of construction of Wharf Marina including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures, as shown in Exhibit 94B, Attachment 2, Construction Sequencing Plan, Sheets 1-11.

Public Benefits and Amenities

103. As noted in the first-stage PUD approval, the Commission finds that the overall Southwest Waterfront PUD will provide an exceptional number and level of public benefits and project amenities including, but not limited to: (i) the creation of a new mixed-income, mixed-use community that reactivates the Southwest Waterfront; (ii) substantial affordable, workforce, and market-rate housing opportunities; (iii) multi-modal transportation improvements; (iv) environmental benefits including vastly improved storm water management; and (v) improvements to the Maine Avenue Fish Market and connections to Banneker Overlook and 10th Street, S.W. (*See* Z.C. Case No. 11-03, Ex. 60; Z.C. Order No. 11-03 at 13-16.)
104. Pursuant to Z.C. Order No. 11-03, Condition C(3), the Applicant was required to provide a detailed implementation plan for the public benefits and project amenities with each second-stage PUD application. The implementation plans are required to identify the benefits and amenities proposed for the particular second-stage PUD application, the benefits and amenities already implemented, and the benefits and amenities yet to be implemented. In fulfillment of this requirement, the Applicant submitted a Public Benefits and Amenities Implementation Chart. (Ex. 2E.) The Commission has reviewed the information provided and finds that it satisfies the condition of the first-stage PUD.

Office of Planning Report

105. By report dated October 27, 2017 (Ex. 33), OP stated that it “can recommend approval of the application,” once certain items are resolved and subject to certain conditions. (Ex. 33, p. 1) (“OP Report”). Despite the outstanding issues, OP noted that the “proposed first stage modifications are not inconsistent with the Comprehensive Plan and with those changes, the proposed second stage application is not inconsistent with the first stage PUD approval, the Comprehensive Plan, or the Zoning Regulations.” OP stated that it “strongly supports the current overall site plan and building design.” (Ex. 33, pp. 1-2.)
106. In addition, the OP Report states that the project would further a number of the Comprehensive Plan’s Guiding Principles and major policies from the Land Use, Transportation, Economic Development, and Urban Design Citywide Elements, and the Lower Anacostia Waterfront/Near Southwest Area Element. OP found that the application was not inconsistent with the Comprehensive Plan’s Generalized Policy Map or the Future Land Use Map, and that it was consistent with the Development Plan & Anacostia Waterfront Initiative Vision for the Southwest Waterfront (the “SWW Plan”).

- (Ex. 33, p. 17.) A complete listing of relevant policies and excerpts from the Comprehensive Plan were provided in Attachment 1 of the OP Report.
107. OP also recommended specific conditions applicable to the Parcel 6/7 Building and The Oculus, which are not part of the Parcel 8/9 PUD. Those conditions are included and addressed in the companion order for the Parcel 6/7 PUD (*See* Z.C. Order No. 11-03J(3).)
108. In its report, OP also requested that the Applicant respond to, or provide further information, regarding the following items as they relate to the Application:
- a. Refine the proposed types of tenant signage;
 - b. Obtain written confirmation from DHCD as to whether the penthouse on WB1 would require a contribution to the Housing Production Trust Fund;
 - c. Refine the flexibility language regarding exterior building designs;
 - d. Provide additional information on project phasing, interim uses, and proposed timelines;
 - e. Clarify the design details of WB1, including the materials for the piers or piles and the top of the penthouse roof; and
 - f. Ensure that any interim use is set back a minimum of 60 feet from the bulkhead line to correspond to other buildings' setbacks and maintain views and accessibility down the Wharf. (Ex. 33, pp. 16-17.)
109. On November 6, 2017, the Applicant submitted responses to each of the outstanding items listed above and identified in the OP Report, as well as summarized its responses at the hearing held on that same day. (Ex. 55A.) The Commission finds the Applicant's responses to be satisfactory.
110. As it relates to the Application, OP did not object to the areas of zoning flexibility requested by the Applicant. (Ex. 33, p. 18.) OP provided several comments and recommended changes to the Applicant's requested language for non-zoning/minor design flexibility, which the Applicant addressed in the form of a final list of requested flexibility that was included in its post-hearing submission. (Ex. 82X.)
111. With respect to public benefits and amenities, the OP Report states that: (i) the benefits proffered with the Phase 2 PUD are consistent with the first-stage PUD approval; (ii) the benefits approved in the first-stage PUD apply to the Phase 2 PUD; and (iii) the benefits remain commensurate with the amount of flexibility gained through the PUD, including the relatively minor additional flexibility requested through the Phase 2 PUD. (Ex. 33, p. 23.)
112. The Applicant agreed to include a condition requiring a minimum of 60 feet from the bulkhead for interim uses constructed.

113. Based on the analysis provided in the OP Report, and the Applicant's responses thereto, the Commission finds the first-stage PUD modification to be consistent with the overall intent of the Commission's approval of the original first-stage PUD, and further finds the second-stage PUD to be not inconsistent with the Comprehensive Plan, including the Generalized Policy Map and Future Land Use Map, and consistent with the Zoning Regulations and development parameters of the first-stage PUD.

DDOT Report

114. DDOT submitted a report dated October 23, 2017, noting that it had no objection to the Application so long as the Applicant implements the following mitigation measures: (Ex. 27.)
- a. Expand the existing TDM Performance Monitoring Plan that was approved as part of the first-stage PUD; (Ex. 67C)
 - b. Implement the proposed TDM plan for the life of the project, unless otherwise noted; (Ex. 67B)
 - c. Implement the proposed LMP for the life of the project (included in Exhibit. 20A);
 - d. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.; and
 - e. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment.
115. DDOT also stated no objection to approval of the Application with the additional conditions listed at Exhibit 27, pages 4-5 to adequately mitigate site-generated traffic.
116. With respect to loading, DDOT expressed no objection to the Applicant's request for loading flexibility, so long as the Applicant implements the LMP included in Exhibit 20A.
117. At the public hearing on November 2, 2017, Mr. Robert Schiesel, the Applicant's expert in transportation engineering and planning, testified that the Applicant was in general agreement with the additional mitigation measures and conditions contained in the DDOT report, and that the Applicant and DDOT were still discussing specific details regarding the scope and implementation timeline of some of the mitigation measures.
118. On November 9, 2017, the Applicant submitted its response to the DDOT report, as well as its final TDM Plan and TDM Performance Monitoring Plan, which incorporate the additional TDM elements requested by DDOT. (Ex. 67A, 67B, 67C.) In addition, in its response to DDOT's report, the Applicant committed to implementing the following additional traffic and pedestrian mitigation measures:

- a. Fund and construct the removal of the channelized southbound right-turn lane on 6th Street S.W., subject to DDOT approval, to improve pedestrian safety and accessibility along this critical walking path from the Waterfront Metrorail Station to the Wharf. The scope of this mitigation measure shall be limited only to the northwest corner of the intersection and include moving the traffic signal pole, increasing the curb radius on the corner, constructing new curb ramps, striping new crosswalks to connect with the new curb ramps, and restoring the former channelized lane to a combination of sidewalk and green space, subject to DDOT public space review;
 - b. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.;
 - c. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment;
 - d. Stripe the missing crosswalk across the southern leg of the intersection of 6th Street and Maine Avenue, S.W.;
 - e. Upgrade the curb ramps on the northwest corner of the intersection of 7th Street and Maine Avenue S.W., as identified in the CTR, if not already completed by others; and
 - f. Stripe a crosswalk and construct curb ramps on M Place, S.W. (i.e., the curved portion of 6th Street, S.W.) to create a safe pedestrian crossing from the sidewalk connecting the Titanic Memorial to Parcel 11.
119. At the public hearing on November 9, 2017, DDOT acknowledged the Applicant's submission of the final TDM Plan and TDM Performance Monitoring Plan, and confirmed that these documents are consistent with the discussions and agreements established with the Applicant, and reiterated that it had no objection to the Application.
120. Based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan, the Commission finds that any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.

U.S. Commission of Fine Arts

121. At its public meeting held on July 27, 2017, the U.S. Commission of Fine Arts ("CFA") reviewed and granted concept approval for WB2, WB3, the Parcel 9 Building, the Parcel 10 Building, M Street Landing, The Terrace, Marina Way, as well as extensions of the Phase 1 designs for the Maine Avenue streetscape and the Wharf. (Ex. 21B.)
122. At its public meeting held on September 29, 2017, CFA reviewed and granted concept approval for the Parcel 6/7 Building, the Parcel 8 Building, The Grove, as well as

extensions of the Phase 1 designs for the Maine Avenue streetscape and the Wharf. (Ex. 21B.)

123. At its public meeting held on October 27, 2017, CFA reviewed and granted concept approval for WB1, and revised designs for M Street Landing, The Grove, and The Terrace. (Ex. 48.)

ANC Report

124. At its October 16, 2017, regularly scheduled meeting, which was duly noticed and at which a quorum was present, ANC 6D voted 5-0-0 to oppose the Application due to outstanding issues related to transportation, construction management, the interests of the GPSA, the design and use of The Terrace, accommodation of non-profit boating associations, availability of public restrooms, and paving along the Wharf. The ANC submitted a report documenting its vote on October 26, 2017. (Ex. 32.) In its report, the ANC raised particular concerns regarding the need to restrict motorcoaches from accessing, loading, parking, or circulating through Waterfront Park, or along private segments of Water Street, S.W. and M Place, S.W.
125. Following the ANC's public meeting, the Applicant worked with the ANC Negotiation Team, which was authorized by the full ANC to negotiate on behalf of, and represent the official position of, the ANC with respect to the Phase 2 PUD, to resolve the issues stated in the ANC report. The outcome of those discussions, and the conditions agreed upon by the Applicant and the ANC, are set forth in the ANC Agreement submitted on November 2, 2017. (Ex. 38.) At the public hearing on November 2, 2017, ANC 6D Chairman Andy Litsky testified that ANC 6D formally supported the Application, subject to the conditions set forth in Exhibit 38.
126. Regarding motorcoaches, as part of the ANC Agreement the Applicant has committed to prohibit full-sized motorcoach buses (as defined in 24 DCMR § 3599.1 as a motor vehicle with a seating capacity of more than 25 passengers, exclusive of the driver, that is used for the transportation of passengers) from accessing, parking, loading, or circulating through Waterfront Park, or along the private segments of Water Street, S.W. and M Place, S.W., as shown in the diagram included in Exhibit 38AG. Further the Applicant has committed to install signage (subject to applicable permit requirements), or utilize other methods as reasonably necessary and allowable, to notify the operators/drivers of motorcoach buses of the traffic restriction. The Commission notes that in connection with these efforts, DDOT has added 6th Street, S.W. to the DDOT Truck and Bus Through Routes and Restrictions Map. The Commission finds that the Applicant's commitments appropriately address the ANC's concerns regarding motorcoaches accessing, parking, loading, or circulating through Waterfront Park, or along the private segments of Water Street, S.W. and M Place, S.W.
127. As part of its post-hearing submission, the Applicant addressed two outstanding questions raised by the ANC at the November 2nd and 6th hearings related to café/restaurant seating along the Wharf and the use and programming of The Terrace.

128. Regarding seating along the Wharf, the Applicant provided specific details regarding the general cross-section of the Wharf, consisting of a 20-foot café zone, a 20-foot mixed vehicular/pedestrian zone, and a 20-foot pedestrian only zone. The Applicant also described the extent of café/restaurant seating along the Wharf, as depicted in the Site Furnishings: Seating diagram contained in the Plans and Drawings at Exhibit 21A3, Sheet 2.5. Consistent with the Applicant's testimony, the post-hearing submission states that within the café zone the Applicant will incorporate a visual or tactile measure at the edge of the seating area to prevent seating from encroaching into the pedestrian circulation area. The Commission finds this information adequately addresses the questions raised at the public hearing regarding pedestrian circulation along the Wharf relative to the placement of café seating.
129. Further, the Commission finds that the information provided by the Applicant in its post-hearing submission clearly shows that once the area of the Terrace, which was previously occupied by the Maine Lobsterman Memorial, became part of the PUD Site and Waterfront Park it was always envisioned to be partially hardscaped and used for café seating.
130. The Applicant also provided information regarding the proposed design and use of The Terrace, which is a portion of Waterfront Park that will be reconstructed as part of the Phase 2 PUD. At the November 2nd hearing, the ANC stated that it supported the design of The Terrace; however, it did not support the notion that The Terrace should be used for special events since this area is within Waterfront Park, which was provided as a community amenity as part of the first-stage PUD.
131. Furthermore, the information provided by the Applicant demonstrates that at least a portion of Waterfront Park has always been contemplated for occasional events. The Commission further finds the proposed design and use of The Terrace to be consistent with the first-stage PUD, and does not see that occasional events will in any way remove this area from the larger Waterfront Park amenity, nor make it any less accessible for general public use and enjoyment.

525 Water Street Condominium

132. In its written request for party status in support of the Application, 525 Water expressed concerns related to the design of the Parcel 10 Building, and specifically the proximity of the Parcel 10 Building cantilever over Water Street to the condominium building on Parcel 11 and the location of the building's loading facilities and parking garage access along Water Street, S.W. 525 Water also expressed concerns over the ability of the motorcoach pick-up/drop-off area along Maine Avenue to accommodate expected demand, the potential for motorcoaches and tour buses to park within residential areas, accommodation of ride sharing services pick-up and drop-off, signage, and Wharf paving.
133. In response to 525 Water's concerns regarding the Parcel 10 Building cantilever, the Applicant revised the Parcel 10 Building plans by substantially reducing the extent to

- which the building cantilevered over Water Street, thereby substantially increasing the distance between the Parcel 10 and Parcel 11 Buildings. (Ex. 82J1- 82J3.)
134. On November 9, 2017, the Applicant provided Mr. Brad Neilley, authorized representative of 525 Water, information regarding the access constraints that require location of the Parcel 10 Building parking and loading facilities on Water Street, SW, and reviewed the design revisions made to the Parcel 10 Building cantilever over Water Street, S.W.
 135. At the public hearing on November 9, 2017, 525 Water testified that it had a better understanding of the limitations of moving the Parcel 10 Building parking and loading access to a different location. Further, 525 Water testified in support of the revised design of the Parcel 10 Building, as well as the rest of the Phase 2 PUD.
 136. Regarding the location of the Parcel 10 Building parking and loading access, the Commission finds the location of these facilities to be consistent with the approved first-stage PUD, which involved a thorough transportation analysis conducted by the Applicant. The Commission further finds that based upon the updated CTR prepared by the Applicant for the Phase 2 PUD, Water Street, S.W. will provide sufficient access and maneuverability to maintain safe circulation and maneuverability along Water Street, S.W.
 137. Regarding the Parcel 10 Building cantilever over Water Street, S.W., the Commission finds that the revised Parcel 10 Building plans successfully address the concerns expressed by the Commission, and those of 525 Water and the ANC. (Ex. 82J1-82J3.) The revised design significantly increases the distance between the Parcel 10 and 11 Buildings, and maintains the visual openness of Water Street, S.W. from Maine Avenue, S.W. towards the waterfront.
 138. As to those other issues raised by 525 Water regarding the motorcoach pick-up/drop-off area along Maine Avenue, motorcoach and tour buses parking within residential areas, accommodation of ride sharing services, signage, and Wharf paving, the Commission finds that these issues are adequately addressed and resolved through the Applicant's responses to the ANC Report, and the conditions imposed upon the Applicant through the ANC Agreement, which are incorporated as conditions to this Order.

Tiber Island Cooperative Homes

139. In its written request for party status in support of the Application, Tiber Island Co-Op expressed concerns regarding construction-related impacts such as traffic disruption and noise. It also expressed post-construction concerns regarding traffic, parking, noise, emissions, and the potential for motorcoaches and tour buses to park in residential areas.
140. At the public hearing on November 2, 2017, Tiber Island Co-Op testified in support of the Application. As part of its testimony, Tiber Island Co-Op stated that its main concern is the long-term management of buses, and requested a commitment that 6th and Water Streets, S.W. will remain off-limits to these types of vehicles.

141. Tiber Island Co-Op did not attend the public hearings held on November 6 and 9, 2017.
142. The Commission finds that many of the construction-related and post-construction concerns expressed by Tiber Island Co-Op will be adequately addressed and mitigated by the conditions imposed upon the Applicant under the ANC Agreement, and specifically those conditions included in the Construction Management Plan and Timeline, Motorcoach Loading and Curbside Management Plan, and the Motorcoach Operations Flow Plan included as part of the ANC Agreement. (Ex. 38AA, 28AH, 38A1.)
143. Regarding traffic and parking, as stated above the Commission finds that based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan, any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.
144. Regarding noise, the Commission finds that the uses established as part of the Parcel 8/9 PUD, including the hotel use proposed on Parcel 8 as part of the Applicant's first-stage PUD modification, are generally consistent with those approved within the first-stage PUD, and are also consistent with the public-oriented activities of the Wharf and other open spaces. Thus, noises generated by the Parcel 8/9 PUD will be comparable to those that already exist within the PUD Site. The Commission further finds that the overall site plan of the Southwest Waterfront PUD is specifically designed such that the major open spaces and lower-scale development are located at the east end of the PUD Site to provide a buffer from the existing residential neighborhood, with the larger entertainment-type uses located toward the west end of the PUD Site. In addition, the Commission finds that the Applicant, and any other resident, business, and retail or service operator within the PUD Site, both during and after construction, will be required to comply with the requirements of the existing D.C. Noise Control Act. Based on these factors, the Commission finds that any noise-related impacts caused by the Parcel 8/9 PUD will be mitigated.

Gangplank Slipholders Association

145. In its written request for party status, GPSA stated that it supported the project with reservations regarding excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and liveboard access to existing parking and loading areas. (Ex. 23, p. 2.)
146. At the November 2, 2017 public hearing, GPSA testified that it had concerns including safety, noise, ingress and egress, continuity of services and facilities, and parking and loading during construction. GPSA also expressed post-construction concerns regarding sustainability of the existing liveboards, affordability of slip and liveboard fees, and continuity of services.
147. GPSA did not provide any direct testimony at the public hearing held on November 6, 2017.

148. At the November 9, 2017, public hearing, GPSA reiterated its primary concerns regarding affordability, accessibility, livability, and sustainability of the existing liveaboards. Laura Cox, a resident of the Gangplank Marina, also provided testimony regarding her concern over displacement and housing affordability. These issues, and the Commission's findings on these issues, are contained in the companion Zoning Commission order for the Parcel 10 PUD (*See* Z.C. Order No. 11-03J(1)).

Tiber Island Condominium

149. In its written request for party status in opposition to the Application, which also express support for the project, Tiber Island Condo expressed reservations regarding excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and the removal of existing Zone 6 reserved parking areas and associated loading areas currently used by its residents. (Ex. 25, p. 2.)
150. At the public hearing on November 2, 2017, Tiber Island Condo testified that it was actually in support of the Phase 2 PUD, but wanted to flag a concern about parking and traffic along 6th Street and M Place, S.W., as some of their townhouses face those streets. (11/02/17 Tr., p. 156.)
151. Tiber Island Condo did not attend the public hearings held on November 6 and 9, 2017.
152. As previously stated, the Commission finds that many of the construction-related and post-construction concerns expressed by Tiber Island Condo will be adequately addressed and mitigated by the conditions imposed upon the Applicant under the ANC Agreement.
153. Regarding traffic and parking, the Commission notes that there is nothing in the record for this case, and to the best of its knowledge in any of the case records for prior approvals for the Southwest Waterfront PUD, that any existing Zone 6 reserved parking has been permanently removed from public streets surrounding the PUD Site. Notwithstanding, the Commission finds that the Applicant's commitment contained in the ANC Agreement that it will not request DDOT or any other District agency to provide Residential Parking Permits ("RPP") to residents in any buildings constructed in the Phase 2 PUD, and that it will place information about RPP ineligibility in any rental or sales documents, will adequately mitigate any potential for adverse impacts to Zone 6 parking areas. Further, the Commission reiterates its finding that based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.

Other Contested Issues

154. In addition to the issues raised by the parties and the ANC, several non-party individuals and organizations testified at the public hearings on November 2nd, 6th, and 9th in

opposition to the Application. Representatives from the D.C. Fiscal Policy Institute, UNITE HERE Local 25 (“UHL”), the DC/Baltimore Building Trades Organizing Committee, and the Laborers International Union of North America (“LIUNA”) all testified that the Wharf project has failed to create quality jobs or other benefits for District residents, noting that while there are requirements for the Applicant to hire District residents there are no requirements for ensuring those jobs come with good wages and benefits. (Ex. 45, 50, 44, 71.) These organizations also claimed in their testimony that the Wharf project, and specifically the requested first-stage PUD modification, is inconsistent with the Comprehensive Plan, including, among others, ED 4.2.7 – Living Wage Jobs, and stated that the project cannot be lawfully approved if found to be inconsistent with the Comprehensive Plan.

155. Mr. Chris Otten, representing DC for Reasonable Development: SW Planning and Safety Group (“DC4RD”), also testified in opposition to the Application at the November 2nd hearing. (Ex. 43.) The issues raised by DC4RD were unsubstantiated generalized grievances, not specific to any particular portion of the Parcel 8/9 PUD or Phase 2 PUD, relating to environmental impacts and flooding, impacts to local public facilities, impacts to emergency response times, lack of affordable housing, gentrification, displacement, destabilization of property values, and funding of project-related infrastructure costs. Further, DC4RD included in its written testimony a listing of several Comprehensive Plan policies that are applicable to the project, though not making any claim that the project is inconsistent with these policies. Similar comments to those raised by DC4RD were also raised at the November 2nd hearing by Mr. William Shickler, and in several comments submitted to the record by individuals. (Ex. 46, 60, 64, 66, 69.)
156. The Commission points this out, not to shift the burden of proof from the Applicant, but to state that this or any other Applicant is not obligated to respond to such assertions. For a party or witness to raise issue for which a response is required, the party or witness must have some factual basis for the claim and draw a nexus between the claimed deficiency and the current application. None of the parties or witnesses did so with respect to these issues.
157. Nevertheless, at the hearing on November 9th, and in its post-hearing submission, the Applicant provided detailed rebuttal to each of the issues described above.
158. Regarding the issue of consistency with the Comprehensive Plan, as stated in the provisions of the Zoning Regulations governing PUD applications, “[t]he first-stage application involves a general review of the site’s suitability as a PUD and any related map amendment,...and the compatibility of the proposed development with the Comprehensive Plan,...” (emphasis added) (11-X DCMR § 302.2). Further, these same provisions state “[i]f the Zoning Commission finds the application to be in accordance with the intent and purpose of...the first-stage approval, the Zoning Commission shall grant approval to the second-stage application,...” (emphasis added). As such, as required under the Zoning Regulations the Commission finds that it has already determined that the Southwest Waterfront PUD is not inconsistent with the Comprehensive Plan as part of its review and approval of the first-stage PUD (Z.C. Order No. 11-03). In addition, the Commission further finds that based upon the OP Report, the Applicant’s initial

application statement (Ex. 2), and the rebuttal testimony provided by Shane Dettman, the Applicant's expert in zoning and land use, the requested first-stage PUD modification to allow a hotel use on Parcel 8 is also not inconsistent with the approved first-stage PUD.

159. Notwithstanding the fact that the Commission has already determined the entire Southwest Waterfront PUD to be not inconsistent with the Comprehensive Plan, out of an abundance of caution, the Applicant provided an extensive analysis of the project's consistency with the Comprehensive Plan policies cited by DC4RD and other opposing organizations. (Ex. 82.) Based upon this additional information, the Commission reconfirms its prior finding in the first-stage PUD that the Parcel 8/9 PUD and Phase 2 PUD are not inconsistent with the Comprehensive Plan, including those policies specifically referred to in the testimony provided by DC4RD and the other organizations referred to above.
160. Specifically, as to the issue concerning jobs, wages, and benefits, the Commission as part of its First Stage approval recognized the PUD's Training and Employment Opportunities as a public benefit of the PUD (Z.C. Order No. 11-03 at 13), and there is nothing in the testimony presented to cause the Commission to revisit the finding. Similarly, as noted by UHL and LIUNA, the Commission does not have the power to mandate the Applicant to sign a project labor agreement ("PLA") for the project or dictate anything about labor organizing at the project, and cannot disapprove the project if the Applicant does not wish to enter into any kind of labor-related agreement including a PLA or labor peace agreement ("LPA"). Further, the Commission does not have any authority to dictate wages for any particular job, or what benefits are provided. These are issues that reside with the D.C. Council and/or other District agencies. Rather, the Commission is required to ensure that the project is not inconsistent with the Comprehensive Plan, including the Economic Development Element policy ED 4.2.7: Living Wage Jobs cited by UHL, LIUNA, and others. Based upon the testimony provided by Elinor Bacon and Mr. Dettman, the Commission finds the project to be not inconsistent with this particular policy. As it relates to the Commission's review, the focus of this policy is on attracting "living wage jobs that provide employment opportunities for unskilled and semi-skilled workers." Approval of the Parcel 8/9 PUD, and overall Phase 2 PUD, will do exactly that through the numerous job opportunities created both during and after construction. Through the Applicant's extensive hiring and workforce development efforts, District residents will be afforded ample access to take advantage of these opportunities. These efforts are reflected in the comments submitted to the record by the D.C. Department of Employment Services ("DOES") and the Court Services and Offender Supervision Agency ("CSOSA"). (Ex. 87, 86.)
161. At the public hearing on November 2, 2017, DC4RD made several unsubstantiated claims that the Wharf project will cause displacement, gentrification, and destabilize property values in the surrounding area, and that the Phase 2 PUD will only make things worse. DC4RD did not submit any information or analysis to substantiate these generalized claims. In contrast, in direct response to a question by the Commission, the Applicant testified that the project has not, and will not directly displace any existing residents within the PUD Site. Further, as part of its post-hearing submission the Applicant provided specific information in support of a finding that the project will not

cause displacement, gentrification, or destabilize property values due to the significant affordable housing, District resident hiring, and workforce development programs that are required under the first-stage PUD, and the numerous programs offered by the District to help control increases in property values and assist homeowners and renters to remain where they live. Based on this information, the Commission finds there is no evidence to support DC4RD generalized claim that the project will cause displacement, gentrification, and destabilize property values in the surrounding area.

162. At the public hearing held on November 2, 2017, Mr. William Shickler testified that “an actual real environmental impact study has not been conducted” for the project at both the District and federal levels. This same claim was made by DC4RD and a number of persons who have submitted comments to the record. Further, these persons and organizations claim that the project will cause adverse flooding impacts and that the first-floor of the building within the project will flood and cause additional impacts on the community.
163. At the public hearing on November 9th, Mr. Dettman testified that the potential environmental impacts of the entire Southwest Waterfront PUD have been exhaustively analyzed at both the District and federal levels, as has the potential for the project to cause adverse flooding impact. The Applicant supplemented Mr. Dettman’s testimony regarding environmental impacts and flooding as part of its post-hearing submission which included copies of the District and federal environmental impact analyses for the project. Further, the Applicant’s post-hearing submission included information from the first-stage PUD approval where the Commission specifically found that the project would create numerous environmental benefits and amenities, and that the project was fully consistent with the Comprehensive Plan policies contained within the Environmental Protection Element. (*See* Z.C. Order No. 11-03, Findings of Fact Nos. 50(e), 72.) As required by § 2403.3 of ZR58, based upon the information provided by the Applicant the Commission finds that the any environmental impacts caused by the project will be favorable, capable of being mitigated, or acceptable given the quality of public benefits provided.
164. Regarding impacts to local public facilities, DC4RD claims that the capacity of community facilities such as local schools, libraries, recreation centers, senior centers, fire/police stations and associated emergency response time, hospitals, and refuse removal “will be burdened by the new residents being brought into the community by these PUD and project approvals.” (Ex. 43.) In response, as part of its post-hearing submission the Applicant provided detailed information regarding the capacity of existing public schools, libraries, recreation centers, and fire stations in the surrounding area, including information on recent and proposed expansions and modernizations of these facilities. The Applicant also provided information regarding the District’s ongoing focus on emergency response times. Based on this information, the Applicant states that the project will not have an adverse impact on local public facilities. In addition to the information submitted by the Applicant related to local public facilities, several District agencies submitted comments to the record that relate to DC4RD’s claims regarding impacts to local public facilities and emergency response times, all of which express no objection. These agencies include: D.C. Public Library, D.C. Fire and Emergency

Management Service (“FEMS”), and the D.C. Municipal Police Department (“MPD”). (Ex. 79, 80, 81, 85.) Based upon the information submitted by the Applicant, and the comments submitted by relevant District agencies, the Commission finds that the project will not have an adverse impact on local public facilities and emergency response times.

165. Regarding infrastructure costs, DC4RD claims that the costs of public infrastructure upgrades that have, and will be completed to support the project have been borne by District residents. In rebuttal, the Applicant provided information in its post-hearing submission demonstrating that the public infrastructure upgrades required or related to the project will not be borne by District residents, but rather are funded through Tax Increment Financing (“TIF”) and Payment in Lieu of Taxes (“PILOT”) bond funding approved by the D.C. Council specifically for the redevelopment of the Southwest Waterfront (“Southwest TIF/PILOT”), and which can only be used to construct the publicly owned infrastructure located within or adjacent to the area of the project. The information provided by the Applicant clearly states that the upfront public funding provided through the Southwest TIF/PILOT solely for public infrastructure upgrades and improvements will be fully repaid through increases in property and sales taxes that would otherwise not be generated without the Wharf project, without increasing the tax burden on District residents in general. In addition, the information states that to further protect the District and District residents, the D.C. Council also established the Southwest Waterfront Special Assessment District, under which a special assessment would be placed on designated properties within the project should there be any shortfall in expected tax revenues needed to meet the obligation for the Southwest TIF/PILOT. The Commission finds that the Applicant has adequately addressed this issue.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider and approve the Parcel 8/9 PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions that would otherwise require approval by the District of Columbia Board of Zoning Adjustment.
3. The PUD Site meets the minimum area requirements of 11 DCMR § 2401.1.
4. Development of the Parcel 8/9 PUD in accordance with the plans approved by this Order, carries out the purposes of Chapter 24 of the 1958 Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more

- attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The Parcel 8/9 PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the PUD guidelines; the approved development parameters of the first-stage PUD; and the authority vested in the Commission to grant deviations therefrom.
 6. The Parcel 8/9 PUD is substantially in accordance with the elements, guidelines, and conditions of the first-stage PUD, as modified by this Order; and therefore, should be approved. Pursuant to 11 DCMR § 2408.6, if the Commission finds the Parcel 8/9 PUD to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage PUD approval, the Commission shall approve the Parcel 8/9 PUD, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. As set forth above, the Commission so finds.
 7. The Parcel 8/9 PUD can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
 8. The Applicant's requests for zoning flexibility from those standards, requirements, and limitations of ZR58 that are specifically prescribed in this Order, are consistent with the Comprehensive Plan, and the flexibility requested for certain design aspects of the Parcel 8/9 PUD are appropriate. Moreover, the project benefits and amenities approved as part of the first-stage PUD are reasonable trade-offs for the requested flexibility.
 9. Ordinarily the Commission's approval of a second stage PUD remains valid for two years, during which time an application for a building permit to construct the PUD must be filed. Construction must be within three years of the order's effective date. The Applicant has requested two vesting periods, the first for the garages 2 and 3, and the second for the remainder of the Phase 2 PUD. That second period will be triggered when certificates of occupancy are issued for the garages. Given the scale of this project, the uncertainties inherent in its development, and the fact that this application could have been filed as late as 2024, the Commission finds the proposed staggered vesting to be appropriate.
 10. Approval of the Parcel 8/9 PUD is appropriate because the proposed development is not inconsistent with the Comprehensive Plan for the National Capital. In addition, the proposed development will promote the orderly development of the PUD Site in conformity with the entirety of the Zone Plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
 11. 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 and its oral testimony at the public hearing. As explained in this decision, the Commission finds OP's recommendation to grant the Application persuasive.

12. 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 issues and concerns raised in the written report of the affected ANC. Although the ANC originally voted to oppose the Application the Commission notes that the ANC later testified that most of its issues and concerns were resolved through the ANC Agreement and the Applicant's agreement to the conditions contained therein. (Ex. 38.) The ANC raised issues at the November 2nd and 6th hearings related to café/restaurant seating along the Wharf and allowing special events programming in the Terrace area. Although such oral testimony is not entitled to great weight unless subsequently ratified in writing by an ANC, the Commission had already responded to these concerns by noting that the Applicant's incorporation of a visual or tactile measure at the edge of the seating area will prevent the seating from encroaching into the pedestrian circulation area. Further the Commission found that the proposed design and use of the Terrace to be consistent with the first-stage PUD, and that occasional events will not in any way remove this area from the larger Waterfront Park amenity, nor make it any less accessible for general public use and enjoyment.
13. The Application 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 Parcel 8/9 PUD within the Southwest Waterfront redevelopment project, subject to the guidelines, conditions and standards set forth below.

A. Project Development

1. The Parcel 8/9 PUD shall be developed in accordance with the plans and drawings submitted by the Applicant on October 13, 2017, as marked as Exhibits 21AB1-21AB13 in the case record, as modified by the plans and drawings submitted on November 22, 2017 (Exhibits 82P-82T) and by Exhibit 94B, Attachment 2, Construction Sequencing Plan, Sheet 11 ("Wharf Final Plan"), as further modified by the guidelines, conditions, and standards herein.
2. Any interim improvements constructed on the landside portion of the Phase II PUD shall be set back a minimum of 60 feet from the bulkhead line to match existing and proposed buildings, and to maintain views along the Wharf.
3. The Applicant shall have flexibility with the design of the Parcel 8/9 PUD in the following areas:
 - a. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and

mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;

- b. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, and any other changes that otherwise do not significantly alter the exterior design to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or other applicable approvals. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building;
- c. To vary the final selection of exterior building materials within the color ranges of the material types shown in the Exhibits 21AB3 and 21AB5-21AB6, based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building;
- d. To vary the final selection of landscaping materials utilized based on availability at the time of construction;
- e. To provide a range in the number of residential dwelling units within the Parcel 8 Building and the Parcel 9 Building by plus or minus 10% from the number depicted in Exhibits 21AB1-21AB13, provided that the proportion of 30% MFI units to total units, and the proportion of 60% MFI units to total units, is not reduced below what is shown on Sheets 3.2 and 3.3 of Exhibit 21A4, and provided that all minimum market-rate, workforce and affordable housing requirements under the Z.C. Order No. 11-03 are satisfied;
- f. To vary the number and location of market-rate and workforce housing units within the redevelopment project provided the minimum amount of gross floor area required for market-rate and workforce housing under the Z.C. Order No. 11-03 is provided;
- g. To vary the number and location of 30%, 60%, 100%, and 120% MFI units, provided that:
 - i. The minimum amount of gross floor area required under Z.C. Order No. 11-03 for each income range is provided;
 - ii. All 30% MFI units shall be on floors 3-9, with no more than seven of these unit types on any of those floors and no fewer than two of these unit types on any of these floors. No fewer than eight of the 30% MFI units shall be two-bedroom units;

- iii. All 60% MFI units shall be on floors 3-9, with no more than five of these unit types on any of those floors and no fewer than two of these unit types on any of those floors. No fewer than seven of the 60% MFI units shall be two-bedroom units;
- iv. The proportion of affordable studio, efficiency, and one-bedroom units to all affordable units throughout the redevelopment project will not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units throughout the redevelopment project;
- h. To vary the number of hotel guestrooms in the Parcel 8 Building by plus or minus 15%;
- i. To vary the final design of retail frontages, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in Exhibits 21AB3 and 82T;
- j. To vary the design and location of upper-level building signage located above the first-story of the Parcel 8 Building within the limits of the potential tenant signage zones shown in Exhibit 21AB3, and in accordance with the District of Columbia sign regulations in effect at the time of permitting;
- k. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown on the Exhibit 21A2, Sheets 1.19-1.20, 1.24, and the total number of vehicle and bicycle parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and
- l. To vary the sequencing and timing of construction of Wharf Marina, including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures as shown in Exhibit. 94B, Attachment 2, Construction Sequencing Plan, Sheets 1-11.

B. Public Benefits

- 1. **Prior to issuance of a certificate of occupancy**, the Applicant shall establish the Project Association for the Southwest Waterfront PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks and signage within the PUD Site. Additionally, the Project Association will be responsible for programming and staging events within the PUD Site. The Project Association will fund

maintenance and programming elements of the common elements of the Southwest Waterfront PUD through a Common Area Maintenance (“CAM”) assessment charge to each development component within the Southwest Waterfront PUD. The Applicant shall create, manage and operate the Project Association during the "developer control period," which begins on the effective date of the Declaration of Covenants between the District of Columbia and the Applicant and ends five years after issuance, or deemed issuance, of the last certificate of completion for all portions of the Southwest Waterfront PUD, and unit certificates of completion for each residential condominium unit.

2. **During construction of the Southwest Waterfront PUD**, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the Southwest Waterfront PUD. Prior to issuance of a building permit for construction of the Parcel 8/9 PUD, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trades Foundation, and other training and job placement organizations to maximize participation by District residents in the training and apprenticeship opportunities in the overall Southwest Waterfront PUD.
3. **During the life of the project**, the Applicant shall abide by the executed CBE Agreement with the Department of Small and Local Business Development to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the overall Southwest Waterfront PUD. (Z.C. Case No. 11-03, Ex. No. 4-J.) The Applicant shall comply with the LDA requirement to lease 20% of the retail space throughout the Wharf to “unique” and/or “local” businesses, which will include CBEs.

C. **Transportation Mitigation**

1. **For the life of the Project**, the Applicant shall abide by TDM Plan and the TDM Performance Monitoring Plan contained in the case record as Exhibits 67B and 67C, respectively.
2. **For the life of the Project**, the Applicant shall comply with the LMP set forth in the Applicant’s CTR as follows: (Ex. 20A.)
 - a. A loading dock manager will be designated by the building management for each building. The dock manager will coordinate with vendors and tenants to schedule deliveries and will be on duty during delivery hours;

- b. All tenants will be required to schedule deliveries that utilize the loading docks – defined here as any loading operation conducted using a truck 20 feet in length or larger;
 - c. Truck traffic will be prohibited from standing or parking on Maine Avenue with the exception of designated loading/unloading zones. Vehicles that are not accommodated in the on-site loading dock will need to park in an accepted large vehicle lot like the ones listed in the DDOT document entitled “Important Information for Charter Bus and Motorcoach Operators”;
 - d. A representative of the Operations Manager will supervise all deliveries to the loading area. This loading manager will monitor vehicle, bicycle, and pedestrian traffic on the internal streets during loading ingress and egress and direct truck movements to minimize conflicts;
 - e. Delivery trucks will not be permitted to maneuver during peak periods when traffic volumes are highest or at times that would conflict with trash collection. Peak periods are defined as weekdays (excluding holidays) from 7:00 a.m.-9:00 a.m. and 4:00 p.m.-6:00 p.m.; and
 - f. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, § 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.
3. The Applicant shall fund and construct the removal of the channelized southbound right-turn lane on 6th Street, S.W., subject to DDOT approval, to improve pedestrian safety and accessibility along this critical walking path from the Waterfront Metrorail Station to the Wharf. The scope of this mitigation measure shall be limited only to the northwest corner of the intersection and include moving the traffic signal pole, increasing the curb radius on the corner, constructing new curb ramps, striping new crosswalks to connect with the new curb ramps, and restoring the former channelized lane to a combination of sidewalk and green space, subject to DDOT public space review.
 4. The Applicant shall fund and construct the following improvements in the vicinity of the PUD Site, subject to DDOT approval:
 - a. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.;
 - b. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment; and

- c. Stripe the missing crosswalk across the southern leg of the intersection of 6th Street and Maine Avenue, S.W.; and
- d. Upgrade the curb ramps on the northwest corner of the intersection of 7th Street and Maine Avenue, S.W., as identified in the CTR, if not already completed by others; and
- e. Stripe a crosswalk and construct curb ramps on M Place SW (i.e., the curved portion of 6th Street, S.W.) to create a safe pedestrian crossing from the sidewalk connecting the Titanic Memorial to Parcel 11.

D. Miscellaneous

1. No building permit shall be issued for the Parcel 8/9 PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The validity of the Commission's final approval shall be valid for a period of two years from the effective date of this Order. Within such time, an application for a building permit must be filed for construction of Garages 2 and 3 ("Garages"), as shown in Exhibit 21A2, Sheets 1.19 and 1.20. Construction of the Garages shall begin within three years of the effective date of this Order. Within two years of completion of the Garages, as demonstrated by the issuance of certificates of occupancy, the Applicant shall apply for a building permit for construction of the remainder of the Phase 2 PUD. The Applicant shall commence construction of the Phase 2 PUD within three years of the completion of the Garages.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply

shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On December 7, 2017, upon the motion of Commissioner Shapiro, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **5-0-0**.

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on April 13, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-03J(3)**

Z.C Case No. 11-03J

Wharf Phase 3 REIT Leaseholder, LLC

**(Second-Stage PUD and Modification of Significance to First-Stage PUD @ Southwest Waterfront, Phase 2 – Parcel 6 and 7, Water Building 1, The Oculus, and Adjacent Spaces)
December 7, 2018**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held public hearings on November 2, November 6, and November 9, 2017, to consider an application for a second-stage planned unit development (“PUD”) and a modification of significance to a first-stage PUD (together, the “Application”) filed by Wharf Phase 3 REIT Leaseholder, LLC (“Applicant”) on behalf of the District of Columbia Office of the Deputy Mayor for Planning and Economic Development (“DMPED”). The Application consists of Phase 2 of the Southwest Waterfront (“Wharf”) redevelopment project (“Phase 2 PUD”) which is located on Lots 878, 881, 887, 888, and 921 of Square 473. The Commission approved the first-stage PUD application for the Wharf project pursuant to Z.C. Order No. 11-03 (*dated* October 17, 2011, *effective* December 16, 2011) (“first-stage PUD”). The Phase 2 PUD includes the primary landside buildings and structures located on Parcels 6-10, two below-grade parking structures, three waterside buildings known as Water Buildings (“WB”) 1 and 2¹, and the completion of the Wharf Marina. The Phase 2 PUD also includes various landside and waterside accessory structures and kiosks, public areas and open spaces, and improvements to public and private streets and alleys. The Commission considered the Application in accordance with the first-stage PUD and Subtitle X, Chapter 3 and Subtitle Z of the 2016 Zoning Regulations of the District of Columbia (“ZR16”), Title 11 of the District of Columbia Municipal Regulations (“DCMR”).² Due to the number of buildings and other development components contained in the Phase 2 PUD, and the breadth of information contained in the case record, the Commission divided the Phase 2 PUD into three segments that generally correspond to the organization of the proposed plans submitted by the Applicant, as follows: (i) Phase 2 PUD master plan elements, Parcel 10, Water Building 3, M Street Landing, The Terrace, and Wharf Marina; (ii) Parcels 8 and 9, Water Building 2, The Grove, and Marina Way; and (iii) Parcels 6 and 7, The Oculus, and Water Building 1. Each of the aforementioned segments were considered by the Commission at separate hearings, which were conducted in accordance with the contested case provisions of Subtitle Z, Chapter 4 of ZR16. Upon a motion made by the Applicant, the Commission granted a request to deliberate and vote on each segment separately, and issue separate orders accordingly. For the reasons stated below, the Commission hereby **APPROVES** this segment of the Application for Parcel 6, Parcel 7, Water Building 1, The Oculus, and Adjacent Spaces (“Parcel 6/7 PUD”).

¹ Originally, the Phase 2 PUD application proposed three water buildings but the project design changed during negotiations with various opposition parties and ultimately Water Building 3 was eliminated from the overall project.

² Pursuant to 11-A DCMR § 102.3(a), the Southwest Waterfront redevelopment project is a vested project under the 1958 Zoning Regulations as to permitted development standards and use permissions. However, with respect to procedural requirements, the Application was processed by the Commission and the Office of Zoning in accordance with the procedural requirements of ZR16. See Notice of Intent at Exhibit 2G and Notice of Public Hearing at Exhibit 17.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On May 12, 2017, the Applicant filed the Application with the Commission for review and approval of a second-stage PUD and a modification of significance to an approved first-stage PUD (Z.C. Order No. 11-03) for the Phase 2 PUD. (Exhibit [“Ex”] 1-2). The Phase 2 PUD is located on Lots 878, 881, 887, 888, and 921 of Square 473 (“Property”), and consists of the primary landside buildings and structures located on Parcels 6-10 of the Wharf project, two below-grade parking structures, two waterside buildings known as WB 1 and 2, and the completion of the Wharf Marina. The Phase 2 PUD also includes various landside and waterside accessory structures and kiosks, public areas and open spaces, and improvements to public and private streets and alleys. The Applicant intends to redevelop the Property generally consistent with the development parameters of the first-stage PUD Order as they relate to building height, number of stories, and density. As part of the Application, the Applicant is requesting to modify the first-stage PUD to permit a hotel use on Parcel 8.

2. By report dated July 14, 2017, the Office of Planning (“OP”) recommended that the Application be set down for a public hearing. (Ex. 10.) As part of its report, OP recommended that the Applicant amend the Application to include a request for first-stage PUD modification for the layout of the piers, docks, and water buildings in Wharf Marina. At its public meeting held on July 24, 2017, the Commission voted to schedule a public hearing on the Application. At that same meeting, the Commission divided the Phase 2 PUD into three segments that generally correspond to the organization of the proposed plans submitted by the Applicant due to the number of buildings and other development components contained in the Phase 2 PUD and the breadth of information contained in the case record. Each of the aforementioned segments were considered by the Commission at separate hearings, as follows:

Hearing Date	Topics
November 2, 2017	Overall Plan Elements/Volume C (Master Plan, Parcel 10, Water Building 3 ³ , M Street Landing, The Terrace, and Wharf Marina)
November 6, 2017	Volume B (Parcel 8, Parcel 9, Water Building 2, The Grove, and Marina Way)
November 9, 2017	Volume A (Parcel 6, Parcel 7, Water Building 1, and The Oculus)

3. On August 4, 2017, the Applicant submitted a prehearing statement, which responded to issues raised by the Commission and OP at the setdown meeting. (Ex. 12, 13.) As part of its prehearing statement, the Applicant amended the Application to include the layout of the piers, docks, and water buildings in Wharf Marina in its request to modify the first-stage PUD. On October 4, 2017, the Applicant submitted its Comprehensive

³ WB 3 was discussed at the November 2nd hearing but ultimately removed from the overall project.

Transportation Review (“CTR”) (Ex. 20). On October 13, 2017, the Applicant submitted a supplemental prehearing statement, which included a full set of revised architectural plans and drawings (“Plans and Drawings”) and additional responses to issues raised by the Commission and OP at the setdown meeting. (Ex. 21.)

4. A description of the Phase 2 PUD and the notice of public hearing for the Application were published in the *D.C. Register* on September 1, 2017. The notice of public hearing was mailed to all property owners within 200 feet of the Property, based upon a listing of property owners obtained from the District of Columbia Office of Tax and Revenue (“OTR”) at the time of issuing the Notice of Intent for the Application, as well as to Advisory Neighborhood Commission (“ANC”) 6D.
5. At its October 16, 2017, regularly scheduled meeting, which was duly noticed and at which a quorum was present, ANC 6D voted 5-0-0 to oppose the Application for a variety of reasons, which are set forth in the ANC’s report dated October 26, 2017. (Ex. 32.) As described in this Order, the Applicant submitted additional information to the record based on further negotiations with the ANC, and more specifically the ANC’s Negotiation Team which was authorized by the full ANC to negotiate on behalf of, and represent the official position of, the ANC with respect to the Phase 2 PUD (“ANC Agreement”). (Ex. 38.)⁴ Based upon the conditions set forth in the ANC Agreement, at the public hearing held on November 2, 2017, ANC Chairman Andy Litsky testified that the ANC Negotiation Team, on behalf of the full ANC, formally supports the Application. (Ex. 49.)
6. On October 18, 2017, the Gangplank Slipholders Association (“GPSA”) submitted a request for party status in opposition to the Application. (Ex. 23.) GPSA’s party status request noted that it supported the project with reservations about excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and liveboard access to existing parking and loading areas. (Ex. 23, p. 2.)
7. On October 19, 2017, the Tiber Island Condominium (“Tiber Island Condo”) submitted a request for party status in opposition to the Application. (Ex. 25.) Tiber Island Condo’s party status request also stated that it supported the project with reservations about excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and the removal of existing Zone 6 parking areas and associated loading areas currently used by its residents. (Ex. 25, p. 2.) At the public hearing on November 2, 2017, Mr. Richard Brown, President of the Tiber Island Condominium, testified that Tiber Island Condo was actually in support of the Phase 2 PUD, but that they wanted to flag a concern about parking and traffic along 6th Street and M Place, S.W., as some of their townhouses face those streets. (Transcript [“Tr.”] November 2, 2017, p. 156.)

⁴ At its October 16, 2017, public meeting, ANC 6D voted to authorize the ANC 6D Negotiation Team to continue to meet with the Applicant and other parties to discuss their issues and attempt to work toward effective solutions to any outstanding issues. The ANC Negotiation Team is comprised of Commissioner Ronald Collins (6D03), Commissioner Gail Fast (6D01), and Commissioner Andy Litsky, Chairman (6D04).

8. On October 19, 2017, 525 Water, a Condominium Unit Owners Association (“525 Water”) submitted a request for party status in support of the Application. (Ex. 24.)
9. On October 19, 2017, Tiber Island Cooperative Homes, Inc. (“Tiber Island Co-Op”) submitted a request for party status in support of the Application. (Ex. 26.)
10. The Applicant did not object to any of the requests submitted for party status either in advance of the public hearing pursuant to 11-Z DCMR § 404.9, or at the public hearing. At the beginning of the public hearing on November 2, 2017, the Commission granted all four requests for party status.
11. In addition to the parties in support, the Commission received letters in support of the Application from the Riverside Baptist Church, the International Spy Museum, the Disabled American Veterans, the Edgewater Condominium Association, Waterfront Village, and the Waterfront Gateway Neighborhood Association. (Ex. 37, 51, 53, 59, 61, 62.) In addition to the parties in opposition, the Commission received letters in opposition to the Application from MANNA and Ms. Judy Yang, a resident of 525 Water Street, S.W., the condominium building located on Parcel 11 within the PUD Site, and also received a variety of emails and letters from individuals expressing their concerns neither in support of or in opposition to the Application (Ex. 41, 31, 22, 60, 63, 64, 66, 69.)
12. The Commission received comments on the Application from the following District agencies: D.C. Public Library, Fire and Emergency Medical Service (“FEMS”), Metropolitan Police Department (“MPD”), Department of Employment Services (“DOES”), and Court Services and Offender Supervision Agency (“CSOSA”) (Ex. 79, 80, 81, 85, 87, 86.)
13. On November 2, 6, and 9, 2017, the Commission held public hearings to consider the second-stage PUD and modification to the first-stage PUD. The focus of the hearing on November 2nd was the Parcel 6/7 PUD. The parties to the Application were the Applicant, ANC 6D, GPSA, Tiber Island Condo, 525 Water, and Tiber Island Co-Op.

November 2nd Public Hearing

14. At the public hearing on November 2, 2017, the Applicant presented nine witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC/PN Hoffman; Hilary Bertsch, Perkins Eastman DC, PLLC; Robert Schiesel, Gorove/Slade Associates, Inc.; Morris Adjmi, Morris Adjmi Architects; Hiroshi Jacobs, STUDIOS Architecture; Nate Trevethan, Michael Van Valkenburgh Associates; Paul Josey, Wolf Josey Landscape Architects; and Jessica McIntyre, Moffatt & Nichol. Based upon their professional experience and qualifications, Ms. Bertsch, Mr. Adjmi, and Mr. Jacobs were recognized as experts in architecture; Messrs. Trevethan and Josey as experts in landscape architecture; Mr. Schiesel as an expert in transportation engineering and planning; and Ms. McIntyre as an expert in marina design and engineering.

15. Matthew Jesick, Development Review Specialist at OP testified in support of the Application, and specifically the Parcel 10 PUD, with certain comments and conditions. Aaron Zimmerman and Jamie Henson, Transportation Planners at the District Department of Transportation (“DDOT”) testified in support of the Application, subject to conditions recommended by DDOT and agreed to by the Applicant.
16. Willie Beale, Paula Van Lare, and Michael Brown testified in support of the Application. Michael Nobel, Ed Lazere, Gary Blumenthal, William Shickler, and Chris Otten testified in opposition to the Application.

November 6th Public Hearing

17. At the public hearing on November 6, 2017, the Applicant presented eight witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC/PN Hoffman; Elinor Bacon, Wharf Phase 3 REIT Leaseholder LLC / E.R. Bacon Development; Christian Bailey, ODA; Jay Bargmann, Rafael Vinoly Architects PC; Paul Josey, Wolf Josey Landscape Architects; Sital Patel, S9 Architecture; and Shane Dettman, Holland & Knight LLP. Based upon their professional experience and qualifications, Mr. Bailey, Mr. Bargmann and Mr. Patel were recognized as experts in architecture; Mr. Dettman was recognized as an expert in zoning and land use planning; and Mr. Josey having previously been recognized as an expert in landscape architecture at the November 2nd public hearing.
18. Matthew Jesick, Development Review Specialist at OP, testified in support of the Application, and specifically Parcel 8/9 PUD, with certain comments and conditions.
19. Dida El-Sourady and John McLaughlin testified in opposition to the Application.

November 9th Public Hearing

20. At the public hearing on November 9, 2017, the Applicant presented seven witnesses in support of the Application: Shawn Seaman and Matthew Steenhoek, on behalf of Wharf Phase 3 REIT Leaseholder, LLC/PN Hoffman; Elinor Bacon, E.R. Bacon Development; William Sharples, SHoP Architects PC; Matthias Hollwich, Hollwich Kushner; Faye Harwell, Rhodeside & Harwell; and Shane Dettman, Holland & Knight LLP. Based upon their professional experience and qualifications, Mr. Sharples and Mr. Hollwich were recognized as experts in architecture; Ms. Harwell was recognized as an expert in landscape architecture; and Mr. Dettman was previously recognized as an expert in zoning and land use planning.
21. Matthew Jesick, Development Review Specialist at OP, testified in support of the Application, and specifically the Parcel 6/7 PUD, with certain comments and conditions. Aaron Zimmerman, Transportation Planner at DDOT, also testified in support of the Application.

22. Steve Lanning testified in opposition to the Application.
23. At the conclusion of the November 9th public hearing, the Commission requested the Applicant to file its post-hearing submission and rebuttal on November 22, 2017. The Commission also requested GPSA to submit the results of its vote on the revised Letter Agreement that it was negotiating with the Applicant by November 30, 2017. The Commission scheduled a special public meeting for December 7, 2017, to consider final action; and the Commission requested that the Applicant respond, as needed, to GPSA's November 30th submission by noon on December 7th.

Post-hearing Filings, Motions, Actions

24. On November 16, 2017, the Applicant filed a motion requesting the Commission to separate its deliberation and decision on the Application into three separate actions, consistent with the Commission's decision and issuance of orders for the second-stage PUD application for Parcels 2, 3, 4 and 11 of the Wharf project (Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4).) (Ex. 76.) In its motion the Applicant stated that separating the deliberation and decision on the Application into three separate actions is also consistent with the Commission's decision to hold multiple hearings on the Phase 2 PUD due to the number of buildings and other development components, and the breadth of information contained in the case record.
25. On November 20, 2017, ANC 6D submitted a response in opposition to the Applicant's motion noting that the request to separate the deliberation and decision seemed unnecessary and could inadvertently result in all contested issues not being fully resolved because of case deliberations occurring piecemeal as opposed to simultaneous for the entire application. (Ex. 77.)
26. On November 20, 2017, OP filed a motion to reopen the record to allow comments from both the DC Public Library and the DC Fire and Emergency Medical Service Department received after the public hearings into the record. (Ex. 78.)
27. On November 22, 2017, the Applicant filed its rebuttal testimony and its post-hearing submission refuting various aspects of the contested issues that were raised by the parties in the three public hearings. (Ex. 82.)
28. On November 22, 2017, the Applicant filed a motion to extend the deadline for submission of draft findings of fact and conclusions of law from November 27th until November 29th after the Commission was scheduled to consider the Applicant's motion to separate its deliberation and decision on the Application into three separate actions. (Ex. 84.)
29. On November 27, 2017, the Commission granted the Applicant's motion to separate its deliberation and decision on the Application into three separate actions after the Applicant's counsel explained that allowing three orders would avoid a situation where the entire project was delayed in the event of a party appealing one building or

component of the project. The Commission also granted the motion to extend the deadline for submission of draft findings of fact and conclusions of law to November 29th.

30. On November 29, 2017, the Applicant filed its draft findings of fact and conclusions of law for the Parcel 6/7 PUD. (Ex. 89.) On December 1, 2017, the Applicant filed revised draft findings of fact and conclusions of law for the Parcel 6/7 PUD to include additional transportation mitigation measures that were previously recommended by OP and accepted by the Applicant, but inadvertently omitted from the Applicant's initial submission. (Ex. 93A3.)
31. On November 30, 2017, GPSA submitted a statement on the status of negotiations with the Applicant on the revised Letter Agreement ("GPSA Status"), as well as proposed findings of fact and conclusions of law. (Ex. 91, 92.) On December 4, 2017, the Applicant submitted a response to the GPSA Status ("Status Response"). (Ex. 91, 94.)
32. On December 5, 2017, OP submitted a post-hearing memorandum containing responses to the Applicant's post-hearing submission. Specifically, Exhibit 82T contained a labeling error where the word "enclosure" appears on Sheets 2.24 and 2.25 of the plans, and revisions to the minor design flexibility language to appear in the final orders for Parcel 6/7 and Parcel 8/9 were suggested. (Ex. 95.) On December 6, 2018, the Applicant filed a motion to reopen the record to submit a response to OP's post-hearing memorandum. (Ex. 96.) The Applicant's motion was granted and the Applicant submitted Exhibit 96A to correct the labeling error and accepted OP's suggested revisions to the minor design flexibility language.
33. On December 7, 2017, GPSA submitted a motion to reopen the record to submit a second statement on the status of negotiations with the Applicant on the revised Letter Agreement ("GPSA Second Status"), to which the Applicant submitted a response on that same day. (Ex. 97A, 98.)
34. At a special public meeting held on December 7, 2017, the Commission took final action to approve the Phase 2 PUD, by a vote of 5-0-0. During the meeting, the Applicant confirmed that its intent is to provide continuity of amenities/services to the liveboard population during construction in a fenced, access-controlled location along the water's edge within the confines of security for the marina as shown in Modified Option B. (Ex. 94B, Attachment 2 "Transition Plan", Sheets 5-8 of the Construction Sequencing Plan.) The Commission's final approval was conditioned on the amendment of Modified Option B, as necessary, to document the parties' final agreement on the exact location of interim liveboard amenities/services during construction.

The Applicant and Development Team

35. The master developer of the overall Southwest Waterfront redevelopment project is Hoffman-Struever Waterfront, LLC, doing business as Hoffman-Madison Waterfront, LLC ("Hoffman-Madison"). The Applicant for the Phase 2 PUD is Wharf Phase 3 REIT

Leaseholder, LLC, an affiliate of Hoffman-Madison, which is processing the Application on behalf of the Office of Deputy Mayor for Planning and Economic Development. The Applicant's team includes the District-based Certified Local, Small, and Disadvantaged Business Enterprises of E.R. Bacon Development, Paramount Development, and Triden Development, as well as District-based and CBE-certified CityPartners.

The Southwest Waterfront Redevelopment Project

36. The Southwest Waterfront redevelopment project is a public-private partnership between the District of Columbia and Hoffman-Struever Waterfront, LLC, which entered into a land disposition agreement ("LDA") for redevelopment of the Southwest Waterfront, which is generally bounded by the Washington Channel of the Potomac River and Maine Avenue between 6th and 11th Streets, S.W., and consists of approximately 991,113 square feet of land area (22.75 acres) and approximately 167,393 square feet of piers and docks in the adjacent riparian area (the "PUD Site").
37. The primary objective of the Southwest Waterfront redevelopment project is to reunite the city with the water's edge and activate it with a mix of uses and year-round activity. This objective will be achieved by integrating the city's unique urban qualities, such as dynamic parks and open spaces that are defined by consistent street walls, with aspects that recall the character of the thriving commercial warehouse district and maritime activities that once lined the Washington Channel and connected the upland city streets to the maritime edge.

Overview of the Southwest Waterfront PUD

38. The Southwest Waterfront PUD will provide a mix of uses to ensure an active waterfront throughout the year, day and night. Rather than a collection of individual projects, the overall redevelopment has been designed as a series of "places" that integrate architecture and landscape design to create inviting and memorable public environments. There will be a variety of gathering places to cater to every interest, ranging from actively programmed places to simple promenades and parks for passive enjoyment of the water and its environs.
39. The design of the waterside development has been fully integrated with the landside development, and will include four new public-use piers along the Washington Channel. The District Pier, the largest of the piers, is intended to be the primary waterside entrance to the project and the host for the District's waterside events. Several new tour boats, tall ships, and maritime vessels, such as water taxis, will be added to the existing recreational maritime activities to provide increased activity and several more options for the public to use the waterfront and engage in water sports and activities. The waterside development will extend to the limits of the Washington Channel's federal navigational channel.

Previous PUD Approvals

40. Pursuant to Z.C. Order No. 11-03, the Commission approved the first-stage PUD for the Southwest Waterfront redevelopment project.
41. Since approving the first-stage PUD, the Commission has approved a second-stage PUD application for Parcels 2, 3, 4, and 11, the Capital Yacht Club, and the public open spaces known as the Wharf, Transit Pier, District Pier, Yacht Club Piazza, the Mews, Jazz Alley, 7th Street Park and Waterfront Park, as well as temporary uses on Parcel 1 (Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4).) The Commission has also approved second-stage PUDs for Parcel 5 (Z.C. Order No. 11-03B); Parcel 1, Market Shed, and Market Square (Z.C. Order No. 11-03C); 7th Street Recreation Pier (Z.C. Order No. 11-03E); and Pier 4, which also included a first-stage PUD modification (Z.C. Order No. 11-03F). The Commission has also approved minor modifications or modifications of consequence to previously approved plans for Parcel 5 (Z.C. Order Nos. 11-03D and 11-03I), Parcel 3A (Z.C. Order No. 11-03G), and Parcel 4 (Z.C. Order No. 11-03H).

Approved First-Stage PUD Development Parameters

42. As part of the first-stage PUD, the Commission approved the overall parameters for the redevelopment of the PUD Site. The first-stage PUD authorizes a maximum landside density of 3.87 FAR, excluding private rights-of-way, and a maximum waterside density of 0.68 FAR. (*See* Z.C. Order No. 11-03, Condition Nos. A-1 and A-2. Development parameters pertaining to building height, parking, and loading were also included in the first-stage PUD.)
43. The first-stage PUD divides the landside portion of the PUD Site into 11 primary building parcels, a number of smaller landside and waterside structures, four major plazas, one large park, a waterfront promenade/shared space, and public and private piers. The waterside development includes club buildings for the marinas, buildings on existing Piers 3 and 4, and other minor waterside buildings and facilities. The approved parks also include smaller retail structures and pavilions.
44. Regarding building heights, the Commission approved a maximum height of 130 feet for Parcels 1-9, with the exception of Parcel 5, which the Commission approved at a maximum height of 110 feet. The Commission approved maximum building heights for Parcels 10 and 11 at 60 feet and 45 feet, respectively. Finally, the Commission approved a maximum building height of 45 feet on Pier 4.
45. With respect to parking facilities, the Commission approved the construction of one or more below grade parking structures that would provide approximately 2,100-2,650 parking spaces on two to three levels. The Commission required the Applicant to provide parking or storage for approximately 1,500-2,200 bicycles and sufficient loading facilities to accommodate the mix of uses on the PUD Site. Pursuant to Z.C. Order No. 11-03, the precise amount of parking and loading facilities required for each second-stage PUD application shall be specified by the Commission in each second-stage order.

46. As part of the first-stage PUD approval, the Commission approved the phased redevelopment of the PUD Site, with the last second-stage PUD application required to be filed no later than December 31, 2024.

The Phase 2 PUD

47. The landside portion of the Phase 2 PUD is located on Record Lot 89 of Square 473, and includes Assessment & Taxation (“A&T”) Lots 878, 881, and 921, which collectively comprise approximately 322,738 square feet of land area. The waterside portion of the Phase 2 PUD includes A&T Lots 887 and 888, which collectively comprise approximately 666,683 square feet of riparian area.
48. The landside portion of the Phase 2 PUD includes primary buildings on Parcels 6/7 (“Parcel 6/7 Building”), Parcel 8 (“Parcel 8 Building”), Parcel 9 (“Parcel 9 Building”), and Parcel 10 (“Parcel 10, Building”). The landside portion of the Phase 2 PUD also includes two new below-grade parking garages, and several new open spaces and thoroughfares such as M Street Landing, The Grove, The Terrace, The Oculus, Maine Avenue, the Wharf, Marina Way, and the Mews.
49. The waterside portion of the Phase 2 PUD includes two new water buildings, Water Building 1 and Water Building 2. In addition, the waterside portion of the Phase 2 PUD includes construction of the remaining portions of Wharf Marina, as well as the construction of a number of kiosks along the Wharf.
50. In addition to requesting second-stage PUD approval for the landside and waterside components noted above, the Phase 2 PUD also includes a modification to the first-stage PUD to permit a hotel use on Parcel 8 and to accommodate changes that have been made to the configuration of the piers, docks, and water buildings within Wharf Marina.

First-Stage PUD Modification

51. Pursuant to the first-stage PUD, the mix of uses approved for Parcel 8 includes either residential or office use above ground-floor retail. As described below, the proposed Parcel 8 Building includes residential and hotel uses above ground-floor retail. As such, the Applicant is requesting to modify the first-stage PUD to add hotel (lodging) as an approved use on Parcel 8.
52. In response to a recommendation by OP at setdown, the Applicant amended the Application to include the proposed layout and configuration of piers, docks, and water buildings in Wharf Marina. Since approval of the first-stage PUD, the Applicant has had to make adjustments to the design of Wharf Marina in response to requirements of the United States Army Corps of Engineers (“USACE”), which must issue a permit for the Applicant to carry out the waterside component of the Southwest Waterfront PUD, previously approved changes to the use on Pier 4, and the plan for transitioning GPSA liveboard vessels.

The Parcel 6/7 PUD

Landside Development

Parcel 6/7 Building

53. As shown in the portion of the Plans and Drawings found at Exhibits 21AA1-21AA3, as amended by Exhibit 82U, the Parcel 6/7 Building will contain approximately 505,516 square feet of gross floor area (“GFA”), of which approximately 34,069 GFA will be devoted to retail and service uses and approximately 471,447 GFA will be devoted to office uses. The maximum height of the Parcel 6/7 Building is 130 feet, not including the penthouse. The maximum height of the penthouse is 20 feet.
54. The Parcel 6/7 Building’s general massing and program is composed of two office towers connected by a “belt-level” at the second floor. The office towers rise above a ground floor retail, lobby, and service level that is divided into four sections by a north-south pedestrian thoroughfare connecting Maine Avenue and the Wharf and an east-west service thoroughfare connecting 7th Street Park and The Grove. The thoroughfares intersect below an open air portion of the second-floor belt-level that connects the office towers below an open space called “The Oculus.”
55. The ground floor of the Parcel 6/7 Building contains substantial retail space that will provide active retail frontages on all four sides of the building, as well as along the thoroughfares that pass through the ground floor. Two lobby areas that serve the upper-level office uses are also located on the ground floor. The ground floor will also include an access ramp to below-grade parking and a loading area along the private alley between Parcels 7 and 8. A second loading area will be located along the portion of the east-west service thoroughfare between 7th Street Park and the north-south thoroughfare.
56. The second-floor of the Parcel 6/7 Building is a belt-level that contains office space and will connect the two office towers that rise above. The form of the second level relates to the form of the ground and upper levels of the building, albeit much more pronounced, which creates generous outdoor terraces, lends further definition to the active ground-floor level, and establishes a unique massing for the office towers. On floors 3-10 of the Parcel 6/7 Building, the two office towers extend beyond the envelope of the second floor belt-level.
57. The penthouse of the Parcel 6/7 Building will contain habitable office space, mechanical space, and screen walls enclosing mechanical equipment, all of which will be provided as a single enclosure as required under the Zoning Regulations. Approximately 21,000 square feet of penthouse roof area is planned to be reserved for solar panels. While not required, the solar panels will be setback from the edge of the penthouse roof a distance at least equal to their highest point above the penthouse roof and screened. The combined height of the penthouse and solar panels will satisfy all applicable setback requirements,

as will all guardrails, as measured from the edge of the roof upon which the penthouse is located. The penthouse is surrounded by an outdoor terrace and green roof.

58. The exterior materials of the Parcel 6/7 Building primarily consist of glass façade that is accented with various other wood, stone, and metal materials. At the ground-floor, a glass storefront system will maximize views into the active retail spaces and be accented with a palette of metal panel, stone, and masonry materials and paving. The upper-level office floors will primarily be clad in a glass façade and accented with wood and metal panel materials that complement the materials used on the ground floor. The outdoor terraces will also be paved with wood and pavers. Finally, the penthouse will be primarily clad in glass and metal panel. The penthouse terrace will be paved with pavers and wood planks.
59. As discussed below, in its hearing report OP recommended specific conditions related to the design, materials, and lighting of The Oculus soffit and the glass façade of the office towers. As a way to balance OP's goal of ensuring that these characteristic elements of the Parcel 6/7 Building are maintained while providing a reasonable degree of flexibility to accommodate refinements to these elements that may be required during design development and fabrication, the Applicant has included OP's recommended conditions into its list of requested flexibility in a manner that will preserve the aesthetic intent of the building.

Waterside Development

Water Building 1

60. As shown in the portion of the Plans and Drawings found at Exhibits 21AA3-21AA5, as amended by Exhibits 82V-82W, WB1 will contain approximately 11,886 GFA, of which approximately 11,033 GFA will be devoted to retail and service uses, and approximately 853 GFA will be devoted to maritime services uses. The maximum height of WB1 is approximately 34 feet, not including the penthouse. The maximum height of the penthouse is approximately 12 feet.
61. WB1 is located along the waterside of the Wharf and adjacent to the Parcel 6/7 Building. The design of the building takes cues from the design of the Wharf promenade and bulkhead that extends the length of the Southwest Waterfront redevelopment project. WB1 will be constructed on piers/piles adjacent to the Wharf; and therefore will not protrude into the pedestrian zone of the Wharf.
62. The WB1 site extends out from the bulkhead and reads as an extended pier band/extension of the Wharf. The extended pier band is split into two and lifted up to create the general volume of space within which the building program will be located. To support the roof, an angular system of trusses is utilized along the outer edge of the bands which unifies the upper and lower pier bands. The interior space of the building is established using a simple glass façade that is recessed from the outer edges of the pier bands and trusses.

63. WB1 contains two floors of retail and service and maritime service uses, as well as a penthouse level. The first floor contains both retail and service and maritime service uses, and the second floor contains only retail and service uses. At the roof level, WB1 contains a large outdoor terrace that will be used for retail and service purposes. WB1 also contains a modest penthouse that will provide restrooms and storage space to support the roof level terrace, as well as required penthouse mechanical space and elevator access. The penthouse will meet all required setbacks, as will all guardrails.
64. The primary exterior materials of WB1 including the penthouse, will consist of painted steel, framed-glass wall system, and metal panel.

Open Spaces and Thoroughfares

The Wharf and Maine Avenue

65. As part of the Parcel 6/7 PUD, a remaining portion of the Wharf will be constructed. Consistent with the first-stage PUD, and with the portions of the Wharf that have already been constructed, the Wharf will continue to be, first and foremost, a pedestrian environment adjacent to the Washington Channel, that also can operate to allow for low-speed, low-volume vehicular access to business fronts, restaurants, elderly and disabled passenger drop off, and valet parking along the water's edge. The Wharf will be a flexible environment that can be closed periodically for special events and certain nights and weekends to emphasize and enhance the pedestrian experience while still maintaining emergency access.
66. As shown in the portion of the Plans and Drawings found at Exhibit 21AA5, the portion of the Wharf that will be constructed as part of the Parcel 6/7 PUD will be generally consistent in design with other sections of the Wharf that have previously been approved by the Commission.
67. As part of the Parcel 6/7 PUD, a remaining portion of Maine Avenue, S.W. will be reconstructed in a manner that is generally consistent with the streetscape design that has been previously approved by the Commission, with the exception that the buildings along Maine Avenue included in the Parcel 6/7 PUD have been set back an additional five feet to provide even greater sidewalk width, compared to those included in Phase 1 of the Southwest Waterfront PUD.
68. As described in the first-stage PUD, Maine Avenue along the length of the Southwest Waterfront redevelopment project is envisioned to be an urban, tree-lined boulevard that provides generous pedestrian circulation space; accommodates multiple modes of transportation; provides safe and convenient loading and curbside management; and incorporates LID strategies that contribute to stormwater management. In addition, the proposed improvements along Maine Avenue include the continued motorcoach loading and unloading operation that currently exists which, as discussed below, will be operated, managed, and monitored in accordance with the ANC Agreement. (Ex. 38.)

69. As shown in the portion of the Plans and Drawings found at Exhibit 21AA6, similar to the Wharf, Maine Avenue has been designed to incorporate a Low Impact Development (“LID”) planting zone that collects stormwater from the sidewalk and contributes to the sites overall stormwater management plan. Additionally, the surface of the bicycle lane is a permeable surface that helps reduce runoff, and help provide water to the critical root zone of the street trees along Maine Avenue. Permeable cobbles are placed between planting areas to provide for additional stormwater capture and treatment as well as locations for café seating. Finally, two rows of newly planted trees are proposed with continuous soil trenches to provide tree canopy cover, and significant efforts will be made to preserve existing “heritage trees.”

The Mews

70. As shown in the portion of the Plans and Drawings found at Exhibit 21AB8, the interstitial spaces between and within the buildings on Parcels 6, 7, and 8 are designed as private mews streets or alleys. These connectors will not only provide primary entrances for access to parking and loading/service areas, but are also intended to be low-speed, curbless pedestrian-dominated environments that support unique retail, restaurants, and entertainment opportunities.
71. The mews streets that are oriented perpendicular to Maine Avenue and provide a small scale street grid within the PUD Site, increase site porosity, and provide an enhanced number of viewsheds from Maine Avenue to the Washington Channel. These smaller visual connections combined with the enhanced views from the primary open spaces of the Southwest Waterfront PUD will provide unprecedented linkages between the Washington Channel and the Southwest neighborhood.
72. The mews streets that are parallel to the Washington Channel and run through Parcels 6, 7, and 8 provide additional options for circulation and exploration through the PUD Site, and provide shelter and protection from the elements.
73. The mews streets are designed to be flexible in nature so as to facilitate vehicular access and loading, and at other times be primarily pedestrian in nature and filled with café tables and spill-over retail and entertainment. Loading areas and vehicular/bicycle parking garage entries are primarily provided off of the mews streets; however, these private rights-of-way have also been carefully designed to provide required vehicular circulation while minimizing impacts on the pedestrian experience.

Parking and Loading Facilities

74. Pursuant to the approved first-stage PUD, the Southwest Waterfront redevelopment project “shall include one or more below-grade parking structure(s) on two or three levels providing parking spaces for approximately 2,100-2,650 vehicles. The project shall also include parking or storage for 1,500-2,200 bicycles on-site.” (*See* Z.C. Order No. 11-03, Condition A.4.)

75. Phase 1 of the Southwest Waterfront PUD, currently includes a single below-grade parking garage below Parcels 1-5 that contains approximately 1,483 vehicle parking spaces (“Garage 1”). Phase 1 also contains parking and storage for approximately 1,192 bicycles located at grade and within Garage 1.
76. As shown in Exhibit 21A2, Sheets 1.19-1.20, the Applicant will construct two additional below-grade parking garages (“Garage 2” and “Garage 3”). Each garage will contain two levels, with the footprint of the second level in both garages being significantly smaller due to the presence of the Metrorail green line. Collectively, the garages will contain approximately 844 vehicle parking spaces, for a total of approximately 2,327 vehicle parking spaces within the full Southwest Waterfront PUD. In addition, approximately 610 long-term bicycle parking spaces and approximately 130 short-term bicycle parking spaces will be provided at grade and within Garages 2 and 3 (Ex. 21A2, Sheets 1.19-1.20, 1.24.)
77. Garage 2 will be located below Parcels 6-8, and will be accessible via ramps located along the east side of the Parcel 7 Building and the east side of the Parcel 8 Building. (Ex. 21A2, Sheet 1.25.) Garage 3 will be located below Parcels 9 and 10 and M Street Landing, and will be accessible from a ramp located in the podium level of the Parcel 10 Building along Water Street, S.W. Residents of the Parcel 9 Building will also be able to access Garage 3 using two vehicle lifts within the ground floor of the Parcel 9 Building. Parking spaces within Garages 2 and 3 will be used by the occupants, residents, and visitors of the primary buildings within the Phase 2 PUD, and will also include general use public parking. Parking for marina uses will also be available in Garages 2 and 3.
78. Loading facilities for the buildings located on Parcels 6-10 will be located within each building. (Ex. 21A2, Sheet 1.25.) Loading facilities have been carefully located along mews streets and private streets or alleys to minimize impact on the pedestrian environment while providing adequate space for managed on-site loading and service needs. Consistent with the approved first-stage PUD, due to access constraints the loading facilities for the Parcel 10 Building are located along Water Street, S.W., a private street within the boundary of the Southwest Waterfront PUD. Truck size and loading hours will be carefully managed on-site to facilitate the operational and programmatic needs of the individual buildings through a comprehensive loading and curbside management plan that is tailored to the expected loading demand for the Phase 2 PUD and coordinated with all other transportation aspects of the Southwest Waterfront redevelopment project.
79. Bicycle racks will be distributed throughout the Phase 2 PUD for convenient access, with a primary focus on locations adjacent to the dedicated bicycle facility on Maine Avenue, S.W. (Ex. 21A2, Sheet 1.24.) This approach to bike parking is intended to encourage visitors to park bicycles on the perimeter of the PUD Site and experience the PUD Site as a pedestrian, but does not preclude full access and available bicycle parking within the PUD Site. Similar to Phase 1, in addition to the bicycle parking and storage located within Garages 2 and 3, additional bicycle parking and amenities will be located at grade throughout the Phase 2 PUD. These facilities are designed as high-quality street furniture,

will be incorporated into the surrounding urban design, and will contribute to the project's sense of place. Furthermore, the Applicant is funding the installation of a new Capital Bikeshare station within M Street Landing and Waterfront Park, which is in addition to the two Capital Bikeshare stations the Applicant has already installed or relocated as part of Phase 1 of the Southwest Waterfront PUD. (Ex. 21A2, Sheet 1.24.)

80. The Applicant will implement the Transportation Demand Management ("TDM") Plan and the TDM Performance Monitoring Plan that were prepared for the Phase 2 PUD. (Ex. 67B, 67C.) The TDM Plan and TDM Performance Monitoring Plan incorporate, and update where necessary, all of the TDM strategies, conditions, and monitoring requirements that were approved as part of the first-stage PUD, and previous second-stage PUD approvals. Further, the TDM Plan and TDM Performance Monitoring Plan were developed in coordination with DDOT which, as discussed below, has no objection to the Phase 2 PUD.
81. The Applicant will implement specific restrictions and guidelines on loading operations to offset any potential impacts from the loading activities of the Phase 2 PUD, as set forth in the Loading Management Plan ("LMP") included at Page 38 of the Comprehensive Transportation Review ("CTR") Report. (Ex. 20A.)

Zoning Flexibility

82. The Applicant requests flexibility to adjust the number of loading berths, loading platforms, and service delivery spaces provided for all of the buildings included in the Phase 2 PUD. Because the first stage application was approved prior to repeal of the 1958 version of the Zoning Regulations ("ZR58") on September 6, 2016, the entire PUD is considered a vested project pursuant to 11-A DCMR § 102, and therefore is subject to the area and use requirements of ZR58.
83. Pursuant to § 2201.1 of ZR58, the Applicant is required to provide one loading berth at 55 feet deep, 11 loading berths at 30 feet deep, six service delivery spaces, 11 loading platforms at 100 square feet, and one loading platform at 200 square feet for the Phase 2 PUD. The Applicant proposes to provide nine loading berths at 30 feet deep, five service delivery spaces, 11 loading platforms at 100 square feet, and one loading platform at 200 square feet, thus necessitating flexibility from § 2201.1. The Commission hereby approves this area of zoning flexibility for the reasons stated below.
84. The Commission finds that not providing the one required 55-foot deep loading berth will not result in any adverse impacts. Under ZR58, certain buildings are required to provide one or more 55-foot loading berths; however, under the ZR16 there is no requirement to provide a 55-foot loading berth. Rather, ZR16 simply requires all loading berths to have a minimum depth of 30 feet. This change is primarily because deliveries by large trucks have become increasingly rare for many land uses in the District. Property owners are more commonly relying on smaller trucks and delivery vans, which are easier to maneuver within the city's system of streets and alleys. In addition, designing for large vehicle loading berths requires wider roads and curb cuts, and larger turning radii at

intersections and entrances to alleys, all of which have negative impacts on the pedestrian environment, bicycle travel, and traffic congestion.

85. The Commission concludes that the Applicant has addressed these considerations by developing a coordinated overall loading plan for the Phase 2 PUD based on the overall mix of uses and anticipated site-wide pedestrian, bicycle, and vehicular circulation. This approach has allowed the Applicant to eliminate redundancies and increase efficiency with respect to circulation and maneuverability. The Applicant worked closely with DDOT on preparing an effective loading management plan that is tailored to the expected loading demand for the Phase 2 PUD and coordinated with all other transportation aspects of the Southwest Waterfront redevelopment project. Therefore, the Commission finds that flexibility from the loading requirements of § 2201.1 of ZR58 is appropriate in this case.
86. The Applicant requests flexibility from the requirements of § 2517 of ZR58 to allow the construction of two or more principal buildings or structures on a single subdivided lot that is located within 25 feet of a residential zone district. The Commission notes that it has previously granted this flexibility for Phase 1 of the Southwest Waterfront PUD, and finds that granting this same flexibility for the Phase 2 PUD is necessary and appropriate. The landside portion of the Phase 2 PUD is comprised of a single lot of record, within which several tax lots will be created for each of the proposed primary buildings and structures. Each of the proposed primary buildings and structures is consistent with the development and use parameters established under the first-stage PUD, and with the development standards and use permissions under ZR58, as applicable.

Design Flexibility

87. The Applicant requests the following areas of design flexibility for the Parcel 6/7 PUD:
- a. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
 - b. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, and any other changes that otherwise do not significantly alter the exterior design to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or other applicable approvals. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building;
 - c. To vary the final selection of exterior building materials within the color ranges of the material types shown in the Exhibit 82, Sheet 2.13 and 21AA3, Sheets 1.32-1.33 based on availability at the time of construction. Any such variations shall

not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building;

- d. Notwithstanding the flexibility granted in items b and c above, the Oculus of the Parcel 6/7 Building shall be constructed in a manner that is: (i) similar in character with the precedents shown in Exhibit 21AA3, Sheet 1.37 (Oculus Soffit Cladding), including a faceted surface with three dimensional relief; (ii) consistent with the aesthetic intent of the ceiling panels shown in Exhibit 21AA3, Sheet 1.33 (Parcel 6+7: Retail Material Palette), including the gold-bronze color; (iii) consistent with an integrated lighting solution consistent with the intent shown in Exhibit 21AA3, Sheet 1.33 (Parcel 6+7: Retail Material Palette);
- e. Notwithstanding the flexibility granted in items b and c above, the façade of the office portion of the Parcel 6/7 Building shall be constructed in accordance with the plans shown in Exhibit 21A with the following design flexibility: (i) glass panels shall tilt outward in a manner that is consistent with the intent of that shown in Exhibit 21AA3, Sheet 1.41; and (ii) the corners of the building shall be maintained and consist of curved glass expression as shown in Exhibit 21AA3, Sheet 1.41. Minor variations to the radius of the corner shall be permitted provided the exterior configuration, appearance, proportions, and general design intent of the building is maintained;
- f. To vary the final selection of landscaping materials utilized based on availability at the time of construction;
- g. To vary the final design of retail frontages, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in the Exhibit 21AA2, Sheets 1.14, 1.15, and 2.17;
- h. To vary the design and location of upper-level building signage located above the first-story within the limits of the potential tenant signage zones shown in Exhibit 21AA2, Sheets 1.14, 1.15, and 2.17, and in accordance with the District of Columbia sign regulations in effect at the time of permitting;
- i. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown on Exhibit 21A2, Sheets 1.19-1.20, 1.24, and the total number of vehicle and bicycle parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and
- j. To vary the sequencing and timing of construction of Wharf Marina, including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures, as shown in Exhibit 94B, Attachment 2, Construction Sequencing Plan, Sheets 1-11.

Public Benefits and Amenities

88. As noted in the first-stage PUD approval, the Commission finds that the overall Southwest Waterfront PUD will provide an exceptional number and level of public benefits and project amenities including, but not limited to: (i) the creation of a new mixed-income, mixed-use community that reactivates the Southwest Waterfront; (ii) substantial affordable, workforce, and market-rate housing opportunities; (iii) multi-modal transportation improvements; (iv) environmental benefits including vastly improved storm water management; and (v) improvements to the Maine Avenue Fish Market and connections to Banneker Overlook and 10th Street, S.W. (*See* Z.C. Case No. 11-03, Ex. 60; Z.C. Order No. 11-03, pp. 13-16.)
89. Pursuant to Z.C. Order No. 11-03, Condition C(3), the Applicant was required to provide a detailed implementation plan for the public benefits and project amenities with each second-stage PUD application. The implementation plans are required to identify the benefits and amenities proposed for the particular second-stage PUD application, the benefits and amenities already implemented, and the benefits and amenities yet to be implemented. In fulfillment of this requirement, the Applicant submitted a Public Benefits and Amenities Implementation Chart. (Ex. 2E.) The Commission has reviewed the information provided and finds that it satisfies the condition of the first-stage PUD.

Office of Planning Report

90. By report dated October 27, 2017, OP stated that it “can recommend approval of the application,” once certain items are resolved and subject to certain conditions (“OP Report”). (Ex. 33, p. 1.) Despite the outstanding issues, OP noted that the “proposed first stage modifications are not inconsistent with the Comprehensive Plan and with those changes, the proposed second stage application is not inconsistent with the first stage PUD approval, the Comprehensive Plan, or the Zoning Regulations.” OP stated that it “strongly supports the current overall site plan and building design.” (Ex. 33, pp. 1-2.)
91. In addition, the OP Report states that the project would further a number of the Comprehensive Plan’s Guiding Principles and major policies from the Land Use, Transportation, Economic Development, and Urban Design Citywide Elements, and the Lower Anacostia Waterfront/Near Southwest Area Element. OP found that the application was not inconsistent with the Comprehensive Plan’s Generalized Policy Map or the Future Land Use Map, and that it was consistent with the Development Plan & Anacostia Waterfront Initiative Vision for the Southwest Waterfront (“SWW Plan”). (Ex. 33, p. 17.) A complete listing of relevant policies and excerpts from the Comprehensive Plan were provided in Attachment 1 of the OP Report.
92. OP recommended the following conditions with respect to the Parcel 6/7 Building and The Oculus:
- a. The Oculus soffit shall be constructed as shown in Exhibit 21A, including:

- i. Faceted surface with three-dimensional relief similar to the precedents indicated in Volume A, Sheet 1.37, Oculus Soffit Cladding;
 - ii. Perforated aluminum panels with a color similar to the gold/bronze tone indicated in Volume A, Sheet 1.33, the Material Palette; and
 - iii. Pinpoint lighting, as shown in Volume A, Sheet 1.33, the Material Palette; and
 - b. The “Office Façade” portion of the façade shall be constructed as shown in Exhibit 21A, including:
 - i. Glass shall tilt in as shown in the section drawing on the right side of Sheet 1.41 in Volume A;
 - ii. At the base of each tilted glass pane, the minimum dimension from the face of the glass to the edge of the mullion shall be 12 inches, as shown on the detail drawing supplied to OP and attached to this report at Exhibit 2; and
 - iii. At the rounded corners of the buildings the glass shall be curved, as shown in Volume A, Sheet. 1.41, in the rendering. (Ex. 33, p. 2.)
93. As stated above, as a way to balance OP’s goal of ensuring that characteristic elements of the Parcel 6/7 Building such as the Oculus soffit and the design of the office façade are maintained while providing a reasonable degree of flexibility to accommodate refinements to these elements that may be required during design development and fabrication, the Applicant has included OP’s recommended conditions into its list of requested flexibility in a manner that will preserve the aesthetic intent of the building. The Commission finds this to be a reasonable approach to accommodating OP’s proposed conditions regarding the Parcel 6/7 Building.
94. In its report, OP also requested that the Applicant respond to, or provide further information, regarding the following items as they relate to the Application:
 - a. Refine the proposed types of tenant signage;
 - b. Obtain written confirmation from DHCD as to whether the penthouse on WB1 would require a contribution to the Housing Production Trust Fund;
 - c. Refine the flexibility language regarding exterior building designs;
 - d. Provide additional information on project phasing, interim uses, and proposed timelines;

- e. Clarify the design details of WB1, including the materials for the piers or piles and the top of the penthouse roof; and
 - f. Ensure that any interim use is set back a minimum of 60 feet from the bulkhead line to correspond to other buildings' setbacks and maintain views and accessibility down the Wharf. (Ex. 33, pp. 16-17.)
95. On November 6, 2017, the Applicant submitted responses to each of the outstanding items listed above and identified in the OP Report, as well as summarized its responses at the hearing held on that same day. The Commission finds the Applicant's responses to be satisfactory. (Ex. 55.)
96. As it relates to the Application, OP did not object to the areas of zoning flexibility requested by the Applicant. (Ex. 33, p. 18.) OP provided several comments and recommended changes to the Applicant's requested language for non-zoning/minor design flexibility, which the Applicant addressed in the form of a final list of requested flexibility that was included in its post-hearing submission. (Ex. 82X.)
97. With respect to public benefits and amenities, the OP Report states that (i) the benefits proffered with the Phase 2 PUD are consistent with the first-stage PUD approval; (ii) the benefits approved in the first-stage PUD apply to the Phase 2 PUD; and (iii) the benefits remain commensurate with the amount of flexibility gained through the PUD, including the relatively minor additional flexibility requested through the Phase 2 PUD. (Ex. 33, p. 23.)
98. The Applicant agreed to include a condition requiring a minimum of 60 feet from the bulkhead for interim uses constructed.
99. Based on the analysis provided in the OP Report, and the Applicant's responses thereto, the Commission finds the first-stage PUD modification to be consistent with the overall intent of the Commission's approval of the original first-stage PUD, and further finds the second-stage PUD to be not inconsistent with the Comprehensive Plan, including the Generalized Policy Map and Future Land Use Map, and consistent with the Zoning Regulations and development parameters of the first-stage PUD.

DDOT Report

100. DDOT submitted a report dated October 23, 2017, noting that it had no objection to the Application so long as the Applicant implements the following mitigation measures: (Ex. 27.)
- a. Expand the existing TDM Performance Monitoring Plan that was approved as part of the first-stage PUD; (Ex. 67C.)
 - b. Implement the proposed TDM plan for the life of the project, unless otherwise noted; (Ex. 67B.)

- c. Implement the proposed LMP for the life of the project (included in Exhibit 20A);
 - d. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.; and
 - e. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment.
101. DDOT also stated no objection to approval of the Application with the additional conditions listed at Exhibit 27, pages 4-5 to adequately mitigate site-generated traffic.
102. With respect to loading, DDOT expressed no objection to the Applicant's request for loading flexibility, so long as the Applicant implements the LMP included in Exhibit 20A.
103. At the public hearing on November 2, 2017, Mr. Robert Schiesel, the Applicant's expert in transportation engineering and planning, testified that the Applicant was in general agreement with the additional mitigation measures and conditions contained in the DDOT report, and that the Applicant and DDOT were still discussing specific details regarding the scope and implementation timeline of some of the mitigation measures.
104. On November 9, 2017, the Applicant submitted its response to the DDOT report, as well as its final TDM Plan and TDM Performance Monitoring Plan which incorporate the additional TDM elements requested by DDOT. (Ex. 67A, 67B, 67C.) In addition, in its response to DDOT's report, the Applicant committed to implementing the following additional traffic and pedestrian mitigation measures:
- a. Fund and construct the removal of the channelized southbound right-turn lane on 6th Street, S.W., subject to DDOT approval, to improve pedestrian safety and accessibility along this critical walking path from the Waterfront Metrorail Station to the Wharf. The scope of this mitigation measure shall be limited only to the northwest corner of the intersection and include moving the traffic signal pole, increasing the curb radius on the corner, constructing new curb ramps, striping new crosswalks to connect with the new curb ramps, and restoring the former channelized lane to a combination of sidewalk and green space, subject to DDOT public space review;
 - b. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.;
 - c. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment;
 - d. Stripe the missing crosswalk across the southern leg of the intersection of 6th Street and Maine Avenue, S.W.;

- e. Upgrade the curb ramps on the northwest corner of the intersection of 7th Street and Maine Avenue, S.W., as identified in the CTR, if not already completed by others; and
 - f. Stripe a crosswalk and construct curb ramps on M Place S.W. (i.e., the curved portion of 6th Street, S.W.) to create a safe pedestrian crossing from the sidewalk connecting the Titanic Memorial to Parcel 11.
105. At the public hearing on November 9, 2017, DDOT acknowledged the Applicant's submission of the final TDM Plan and TDM Performance Monitoring Plan, and confirmed that these documents are consistent with the discussions and agreements established with the Applicant, and reiterated that it had no objection to the Application.
106. Based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan, the Commission finds that any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.

U.S. Commission of Fine Arts

107. At its public meeting held on July 27, 2017, the U.S. Commission of Fine Arts ("CFA") reviewed and granted concept approval for WB2, WB3, the Parcel 9 Building, the Parcel 10 Building, M Street Landing, The Terrace, Marina Way, as well as extensions of the Phase 1 designs for the Maine Avenue streetscape and the Wharf. (Ex. 21B.)
108. At its public meeting held on September 29, 2017, CFA reviewed and granted concept approval for the Parcel 6/7 Building, the Parcel 8 Building, The Grove, as well as extensions of the Phase 1 designs for the Maine Avenue streetscape and the Wharf. (Ex. 21B.)
109. At its public meeting held on October 27, 2017, CFA reviewed and granted concept approval for WB1, and revised designs for M Street Landing, The Grove, and The Terrace. (Ex. 48.)

ANC Report

110. At its October 16, 2017, regularly scheduled meeting, which was duly noticed and at which a quorum was present, ANC 6D voted 5-0-0 to oppose the Application due to outstanding issues related to transportation, construction management, the interests of the GPSA, the design and use of The Terrace, accommodation of non-profit boating associations, availability of public restrooms, and paving along the Wharf. The ANC submitted a report documenting its vote on October 26, 2017. (Ex. 32.) In its report, the ANC raised particular concerns regarding the need to restrict motorcoaches from accessing, loading, parking, or circulating through Waterfront Park, or along private segments of Water Street, S.W. and M Place, S.W.

111. Following the ANC's public meeting, the Applicant worked with the ANC Negotiation Team, which was authorized by the full ANC to negotiate on behalf of, and represent the official position of, the ANC with respect to the Phase 2 PUD, to resolve the issues stated in the ANC report. The outcome of those discussions, and the conditions agreed upon by the Applicant and the ANC, are set forth in the ANC Agreement submitted on November 2, 2017. (Ex. 38.) At the public hearing on November 2, 2017, ANC 6D Chairman Andy Litsky testified that ANC 6D formally supported the Application, subject to the conditions set forth in Exhibit 38.
112. Regarding motorcoaches, as part of the ANC Agreement the Applicant has committed to prohibit full-sized motorcoach buses (as defined in 24 DCMR § 3599.1 as a motor vehicle with a seating capacity of more than 25 passengers, exclusive of the driver, that is used for the transportation of passengers) from accessing, parking, loading, or circulating through Waterfront Park, or along the private segments of Water Street, S.W. and M Place, S.W., as shown in the diagram included in Exhibit 38AG. Further the Applicant has committed to install signage (subject to applicable permit requirements), or utilize other methods as reasonably necessary and allowable, to notify the operators/drivers of motorcoach buses of the traffic restriction. The Commission notes that in connection with these efforts, DDOT has added 6th Street, S.W. to the DDOT Truck and Bus Through Routes and Restrictions Map. The Commission finds that the Applicant's commitments appropriately address the ANC's concerns regarding motorcoaches accessing, parking, loading, or circulating through Waterfront Park, or along the private segments of Water Street, S.W. and M Place, S.W.
113. As part of its post-hearing submission, the Applicant addressed two outstanding questions raised by the ANC at the November 2nd and 6th hearings related to café/restaurant seating along the Wharf and the use and programming of the Terrace.
114. Regarding seating along the Wharf, the Applicant provided specific details regarding the general cross-section of the Wharf, consisting of a 20-foot café zone, a 20-foot mixed vehicular/pedestrian zone, and a 20-foot pedestrian only zone. The Applicant also described the extent of café/restaurant seating along the Wharf, as depicted in the Site Furnishings: Seating diagram contained in the Plans and Drawings at Exhibit 21A3, Sheet 2.5. Consistent with the Applicant's testimony, the post-hearing submission states that within the café zone the Applicant will incorporate a visual or tactile measure at the edge of the seating area to prevent seating from encroaching into the pedestrian circulation area. The Commission finds this information adequately addresses the questions raised at the public hearing regarding pedestrian circulation along the Wharf relative to the placement of café seating.
115. Further, the Commission finds that the information provided by the Applicant in its post-hearing submission clearly shows that once the area of the Terrace, which was previously occupied by the Maine Lobsterman Memorial, became part of the PUD Site and Waterfront Park it was always envisioned to be partially hardscaped and used for café seating.

116. The Applicant also provided information regarding the proposed design and use of The Terrace, which is a portion of Waterfront Park that will be reconstructed as part of the Phase 2 PUD. At the November 2nd hearing, the ANC stated that it supported the design of The Terrace; however, it did not support the notion that The Terrace should be used for special events since this area is within Waterfront Park, which was provided as a community amenity as part of the first-stage PUD.
117. Furthermore, the information provided by the Applicant demonstrates that at least a portion of Waterfront Park has always been contemplated for occasional events. The Commission further finds the proposed design and use of The Terrace to be consistent with the first-stage PUD, and does not see that occasional events will in any way remove this area from the larger Waterfront Park amenity, nor make it any less accessible for general public use and enjoyment.

525 Water Street Condominium

118. In its written request for party status in support of the Application, 525 Water expressed concerns related to the design of the Parcel 10 Building, and specifically the proximity of the Parcel 10 Building cantilever over Water Street to the condominium building on Parcel 11 and the location of the building's loading facilities and parking garage access along Water Street, S.W. 525 Water also expressed concerns over the ability of the motorcoach pick-up/drop-off area along Maine Avenue to accommodate expected demand, the potential for motorcoaches and tour buses to park within residential areas, accommodation of ride sharing services pick-up and drop-off, signage, and Wharf paving.
119. In response to 525 Water's concerns regarding the Parcel 10 Building cantilever, the Applicant revised the Parcel 10 Building plans by substantially reducing the extent to which the building cantilevered over Water Street, thereby substantially increasing the distance between the Parcel 10 and Parcel 11 Buildings. (Ex. 82J1-82J3.)
120. On November 9, 2017, the Applicant provided Mr. Brad Neilley, authorized representative of 525 Water, information regarding the access constraints that require location of the Parcel 10 Building parking and loading facilities on Water Street, S.W., and reviewed the design revisions made to the Parcel 10 Building cantilever over Water Street, S.W.
121. At the public hearing on November 9, 2017, 525 Water testified that it had a better understanding of the limitations of moving the Parcel 10 Building parking and loading access to a different location. Further, 525 Water testified in support of the revised design of the Parcel 10 Building, as well as the rest of the Phase 2 PUD.
122. Regarding the location of the Parcel 10 Building parking and loading access, the Commission finds the location of these facilities to be consistent with the approved first-stage PUD, which involved a thorough transportation analysis conducted by the

Applicant. The Commission further finds that based upon the updated CTR prepared by the Applicant for the Phase 2 PUD, Water Street, S.W. will provide sufficient access and maneuverability to maintain safe circulation and maneuverability along Water Street, S.W.

123. Regarding the Parcel 10 Building cantilever over Water Street, SW, the Commission finds that the revised Parcel 10 Building plans (Exhibits 82J-82J3) successfully address the concerns expressed by the Commission, and those of 525 Water and the ANC. The revised design significantly increases the distance between the Parcel 10 and 11 Buildings, and maintains the visual openness of Water Street, S.W. from Maine Avenue, S.W. towards the waterfront.
124. As to those other issues raised by 525 Water regarding the motorcoach pick-up/drop-off area along Maine Avenue, motorcoach and tour buses parking within residential areas, accommodation of ride sharing services, signage, and Wharf paving, the Commission finds that these issues are adequately addressed and resolved through the Applicant's responses to the ANC Report, and the conditions imposed upon the Applicant through the ANC Agreement, which are incorporated as conditions to this Order.

Tiber Island Cooperative Homes

125. In its written request for party status in support of the Application, Tiber Island Co-Op expressed concerns regarding construction-related impacts such as traffic disruption and noise. It also expressed post-construction concerns regarding traffic, parking, noise, emissions, and the potential for motorcoaches and tour buses to park in residential areas.
126. At the public hearing on November 2, 2017, Tiber Island Co-Op testified in support of the Application. As part of its testimony, Tiber Island Co-Op stated that its main concern is the long-term management of buses, and requested a commitment that 6th and Water Streets, S.W. will remain off-limits to these types of vehicles.
127. Tiber Island Co-Op did not attend the public hearings held on November 6 and 9, 2017.
128. The Commission finds that many of the construction-related and post-construction concerns expressed by Tiber Island Co-Op will be adequately addressed and mitigated by the conditions imposed upon the Applicant under the ANC Agreement, and specifically those conditions included in the Construction Management Plan and Timeline, Motorcoach Loading and Curbside Management Plan, and the Motorcoach Operations Flow Plan included as part of the ANC Agreement. (Ex. 38AA, 38AH, 38A1.)
129. Regarding traffic and parking, as stated above the Commission finds that based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan, any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.

130. Regarding noise, the Commission finds that the uses established as part of the Parcel 6/7 PUD are generally consistent with those approved within the first-stage PUD, and are also consistent with the public-oriented activities of the Wharf and other open spaces. Thus, noises generated by the Parcel 6/7 PUD will be comparable to those that already exist within the PUD Site. The Commission further finds that the overall site plan of the Southwest Waterfront PUD is specifically designed such that the major open spaces and lower-scale development are located at the east end of the PUD Site to provide a buffer from the existing residential neighborhood, with the larger entertainment-type uses located toward the west end of the PUD Site. In addition, the Commission finds that the Applicant, and any other resident, business, and retail or service operator within the PUD Site, both during and after construction, will be required to comply with the requirements of the existing D.C. Noise Control Act. Based on these factors, the Commission finds that any noise-related impacts caused by the Parcel 6/7 PUD will be mitigated.

Gangplank Slipholders Association

131. In its written request for party status, GPSA stated that it supported the project with reservations regarding excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and liveboard access to existing parking and loading areas. (Ex. 23, p. 2.)
132. At the November 2, 2017 public hearing, GPSA testified that it had concerns including safety, noise, ingress and egress, continuity of services and facilities, and parking and loading during construction. GPSA also expressed post-construction concerns regarding sustainability of the existing liveboards, affordability of slip and liveboard fees, and continuity of services.
133. GPSA did not provide any direct testimony at the public hearing held on November 6, 2017.
134. At the November 9, 2017, public hearing, GPSA reiterated its primary concerns regarding affordability, accessibility, livability, and sustainability of the existing liveboards. Laura Cox, a resident of the Gangplank Marina also provided testimony regarding her concern over displacement and housing affordability. These issues, and the Commission's findings on these issues, are contained in the companion Zoning Commission order for the Parcel 10 PUD. (*See* Z.C. Order No. 11-03J(1).)

Tiber Island Condominium

135. In its written request for party status in opposition to the Application, which also express support for the project, Tiber Island Condo expressed reservations regarding excessive light and noise, construction debris, public foot and vehicular traffic, long-term community sustainability, safe and secure access during construction, and the removal of existing Zone 6 reserved parking areas and associated loading areas currently used by its residents. (Ex. 25, p. 2.)

136. At the public hearing on November 2, 2017, Tiber Island Condo testified that it was actually in support of the Phase 2 PUD, but wanted to flag a concern about parking and traffic along 6th Street and M Place, S.W., as some of their townhouses face those streets. (11/02/17 Tr., p. 156.)
137. Tiber Island Condo did not attend the public hearings held on November 6 and 9, 2017.
138. As previously stated, the Commission finds that many of the construction-related and post-construction concerns expressed by Tiber Island Condo will be adequately addressed and mitigated by the conditions imposed upon the Applicant under the ANC Agreement.
139. Regarding traffic and parking, the Commission notes that there is nothing in the record for this case, and to the best of its knowledge in any of the case records for prior approvals for the Southwest Waterfront PUD, that any existing Zone 6 reserved parking has been permanently removed from public streets surrounding the PUD Site. Notwithstanding, the Commission finds that the Applicant's commitment contained in the ANC Agreement that it will not request DDOT or any other District agency to provide Residential Parking Permits ("RPP") to residents in any buildings constructed in the Phase 2 PUD, and that it will place information about RPP ineligibility in any rental or sales documents, will adequately mitigate any potential for adverse impacts to Zone 6 parking areas. Further, the Commission reiterates its finding that based on the analysis included in the DDOT report, including implementation of DDOT's stated conditions, TDM measures, and the Loading Management Plan any potential adverse transportation impacts that may arise out of the Phase 2 PUD can be detected, monitored, and addressed quickly and efficiently.

Other Contested Issues

140. In addition to the issues raised by the parties and the ANC, several non-party individuals and organizations testified at the public hearings on November 2nd, 6th, and 9th in opposition to the Application. Representatives from the D.C. Fiscal Policy Institute, UNITE HERE Local 25 ("UHL"), the DC/Baltimore Building Trades Organizing Committee, and the Laborers International Union of North America ("LIUNA") all testified that the Wharf project has failed to create quality jobs or other benefits for District residents, noting that while there are requirements for the Applicant to hire District residents there are no requirements for ensuring those jobs come with good wages and benefits. (Ex. 45, 50, 44, 71.) These organizations also claimed in their testimony that the Wharf project, and specifically the requested first-stage PUD modification, is inconsistent with the Comprehensive Plan, including, among others, ED 4.2.7 – Living Wage Jobs, and stated that the project cannot be lawfully approved if found to be inconsistent with the Comprehensive Plan.
141. Mr. Chris Otten, representing DC for Reasonable Development: SW Planning and Safety Group ("DC4RD"), also testified in opposition to the Application at the November 2nd hearing. (Ex. 43.) The issues raised by DC4RD were unsubstantiated generalized grievances, not specific to any particular portion of the Parcel 6/7 PUD or Phase 2 PUD,

relating to environmental impacts and flooding, impacts to local public facilities, impacts to emergency response times, lack of affordable housing, gentrification, displacement, destabilization of property values, and funding of project-related infrastructure costs. Further, DC4RD included in its written testimony a listing of several Comprehensive Plan policies that are applicable to the project, though not making any claim that the project is inconsistent with these policies. Similar comments to those raised by DC4RD were also raised at the November 2nd hearing by Mr. William Shickler, and in several comments submitted to the record by individuals. (Ex. 46, 60, 64, 66, 69.)

142. The Commission points this out, not to shift the burden of proof from the Applicant, but to state that this or any other Applicant is not obligated to respond to such assertions. For a party or witness to raise issue for which a response is required, the party or witness must have some factual basis for the claim and draw a nexus between the claimed deficiency and the current application. None of the parties or witnesses did so with respect to these issues.
143. Nevertheless, at the hearing on November 9th, and in its post-hearing submission, the Applicant provided detailed rebuttal to each of the issues described above.
144. Regarding the issue of consistency with the Comprehensive Plan, as stated in the provisions of the Zoning Regulations governing PUD applications, “[t]he first-stage application involves a general review of the site’s suitability as a PUD and any related map amendment,...and the compatibility of the proposed development with the Comprehensive Plan,...” (emphasis added) (11-X DCMR § 302.2). Further, these same provisions state “[i]f the Zoning Commission finds the application to be in accordance with the intent and purpose of...the first-stage approval, the Zoning Commission shall grant approval to the second-stage application,...” (emphasis added). As such, as required under the Zoning Regulations the Commission finds that it has already determined that the Southwest Waterfront PUD is not inconsistent with the Comprehensive Plan as part of its review and approval of the first-stage PUD (Z.C. Order No. 11-03). In addition, the Commission further finds that based upon the OP Report, the Applicant’s initial application statement, and the rebuttal testimony provided by Shane Dettman, the Applicant’s expert in zoning and land use, the requested first-stage PUD modification to allow a hotel use on Parcel 8 is also not inconsistent with the approved first-stage PUD. (Ex. 2.)
145. Notwithstanding the fact that the Commission has already determined the entire Southwest Waterfront PUD to be not inconsistent with the Comprehensive Plan, out of an abundance of caution, the Applicant provided an extensive analysis of the project’s consistency with the Comprehensive Plan policies cited by DC4RD and other opposing organizations. (Ex. 82.) Based upon this additional information, the Commission reconfirms its prior finding in the first-stage PUD that the Parcel 6/7 PUD and Phase 2 PUD and not inconsistent with the Comprehensive Plan, including those policies specifically referred to in the testimony provided by DC4RD and the other organizations referred to above.

146. Specifically, as to the issue concerning jobs, wages, and benefits, the Commission as part of its First Stage approval recognized the PUD's Training and Employment Opportunities as a public benefit of the PUD, and there is nothing in the testimony presented to cause the Commission to revisit the finding. (Z.C. Order No. 11-03, p. 13.) Similarly, as noted by UHL and LIUNA, the Commission does not have the power to mandate the Applicant to sign a project labor agreement ("PLA") for the project or dictate anything about labor organizing at the project, and cannot disapprove the project if the Applicant does not wish to enter into any kind of labor-related agreement including a PLA or labor peace agreement ("LPA"). Further, the Commission does not have any authority to dictate wages for any particular job, or what benefits are provided. These are issues that reside with the D.C. Council and/or other District agencies. Rather, the Commission is required to ensure that the project is not inconsistent with the Comprehensive Plan, including the Economic Development Element policy ED 4.2.7: Living Wage Jobs cited by UHL, LIUNA, and others. Based upon the testimony provided by Elinor Bacon and Mr. Dettman, the Commission finds the project to be not inconsistent with this particular policy. As it relates to the Commission's review, the focus of this policy is on attracting "living wage jobs that provide employment opportunities for unskilled and semi-skilled workers." Approval of the Parcel 6/7 PUD, and overall Phase 2 PUD, will do exactly that through the numerous job opportunities created both during and after construction. Through the Applicant's extensive hiring and workforce development efforts, District residents will be afforded ample access to take advantage of these opportunities. These efforts are reflected in the comments submitted to the record by the D.C. Department of Employment Services ("DOES") and the Court Services and Offender Supervision Agency ("CSOSA"). (Ex. 87, 86.)
147. At the public hearing on November 2, 2017, DC4RD made several unsubstantiated claims that the Wharf project will cause displacement, gentrification, and destabilize property values in the surrounding area, and that the Phase 2 PUD will only make things worse. DC4RD did not submit any information or analysis to substantiate these generalized claims. In contrast, in direct response to a question by the Commission, the Applicant testified that the project has not, and will not directly displace any existing residents within the PUD Site. Further, as part of its post-hearing submission the Applicant provided specific information in support of a finding that the project will not cause displacement, gentrification, or destabilize property values due to the significant affordable housing, District resident hiring, and workforce development programs that are required under the first-stage PUD, and the numerous programs offered by the District to help control increases in property values and assist homeowners and renters to remain where they live. Based on this information, the Commission finds there is no evidence to support DC4RD generalized claim that the project will cause displacement, gentrification, and destabilize property values in the surrounding area.
148. At the public hearing held on November 2, 2017, Mr. William Shickler testified that "an actual real environmental impact study has not been conducted" for the project at both the District and federal levels. This same claim was made by DC4RD and a number of persons who have submitted comments to the record. Further, these persons and organizations claim that the project will cause adverse flooding impacts and that the first-

floor of the building within the project will flood and cause additional impacts on the community.

149. At the public hearing on November 9th, Mr. Dettman testified that the potential environmental impacts of the entire Southwest Waterfront PUD have been exhaustively analyzed at both the District and federal levels, as has the potential for the project to cause adverse flooding impact. The Applicant supplemented Mr. Dettman's testimony regarding environmental impacts and flooding as part of its post-hearing submission which included copies of the District and federal environmental impact analyses for the project. Further, the Applicant's post-hearing submission included information from the first-stage PUD approval where the Commission specifically found that the project would create numerous environmental benefits and amenities, and that the project was fully consistent with the Comprehensive Plan policies contained within the Environmental Protection Element. (*See* Z.C. Order No. 11-03, Findings of Fact Nos. 50(e), 72.) As required by § 2403.3 of ZR58, based upon the information provided by the Applicant the Commission finds that the any environmental impacts caused by the project will be favorable, capable of being mitigated, or acceptable given the quality of public benefits provided.
150. Regarding impacts to local public facilities, DC4RD claims that the capacity of community facilities such as local schools, libraries, recreation centers, senior centers, fire/police stations and associated emergency response time, hospitals, and refuse removal "will be burdened by the new residents being brought into the community by these PUD and project approvals." (Ex. 43.) In response, as part of its post-hearing submission the Applicant provided detailed information regarding the capacity of existing public schools, libraries, recreation centers, and fire stations in the surrounding area, including information on recent and proposed expansions and modernizations of these facilities. The Applicant also provided information regarding the District's ongoing focus on emergency response times. Based on this information, the Applicant states that the project will not have an adverse impact on local public facilities. In addition to the information submitted by the Applicant related to local public facilities, several District agencies submitted comments to the record that relate to DC4RD's claims regarding impacts to local public facilities and emergency response times, all of which express no objection. These agencies include: D.C. Public Library, D.C. Fire and Emergency Management Service ("FEMS"), and the D.C. Municipal Police Department ("MPD"). (Ex. 79, 80, 81, 85.) Based upon the information submitted by the Applicant, and the comments submitted by relevant District agencies, the Commission finds that the project will not have an adverse impact on local public facilities and emergency response times.
151. Regarding infrastructure costs, DC4RD claims that the costs of public infrastructure upgrades that have, and will be completed to support the project have been borne by District residents. In rebuttal, the Applicant provided information in its post-hearing submission demonstrating that the public infrastructure upgrades required or related to the project will not be borne by District residents, but rather are funded through Tax Increment Financing ("TIF") and Payment in Lieu of Taxes ("PILOT") bond funding approved by the D.C. Council specifically for the redevelopment of the Southwest

Waterfront (“Southwest TIF/PILOT”), and which can only be used to construct the publicly owned infrastructure located within or adjacent to the area of the project. The information provided by the Applicant clearly states that the upfront public funding provided through the Southwest TIF/PILOT solely for public infrastructure upgrades and improvements will be fully repaid through increases in property and sales taxes that would otherwise not be generated without the Wharf project, without increasing the tax burden on District residents in general. In addition, the information states that to further protect the District and District residents, the D.C. Council also established the Southwest Waterfront Special Assessment District, under which a special assessment would be placed on designated properties within the project should there be any shortfall in expected tax revenues needed to meet the obligation for the Southwest TIF/PILOT. The Commission finds that the Applicant has adequately addressed this issue.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider and approve the Parcel 6/7 PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions that would otherwise require approval by the District of Columbia Board of Zoning Adjustment.
3. The PUD Site meets the minimum area requirements of 11 DCMR § 2401.1.
4. Development of the Parcel 6/7 PUD in accordance with the plans approved by this Order, carries out the purposes of Chapter 24 of the 1958 Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The Parcel 6/7 PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the PUD guidelines; the approved development parameters of the first-stage PUD; and the authority vested in the Commission to grant deviations therefrom.
6. The Parcel 6/7 PUD is substantially in accordance with the elements, guidelines, and conditions of the first-stage PUD, as modified by this Order; and therefore, should be approved. Pursuant to 11 DCMR § 2408.6, if the Commission finds the Parcel 6/7 PUD to be in accordance with the intent and purpose of the Zoning Regulations, the PUD

process, and the first-stage PUD approval, the Commission shall approve the Parcel 6/7 PUD, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. As set forth above, the Commission so finds.

7. The Parcel 6/7 PUD can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
8. The Applicant's requests for zoning flexibility from those standards, requirements, and limitations of ZR58 that are specifically prescribed in this Order, are consistent with the Comprehensive Plan, and the flexibility requested for certain design aspects of the Parcel 6/7 PUD are appropriate. Moreover, the project benefits and amenities approved as part of the first-stage PUD are reasonable trade-offs for the requested flexibility.
9. Ordinarily, the Zoning Commission's approval of a second stage PUD remains valid for two years, during which time an application for a building permit to construct the PUD must be filed. Construction must be within three years of the order's effective date. The Applicant has requested two vesting periods, the first for the garages 2 and 3, and the second for the remainder of the Phase 2 PUD. That second period will be triggered when Certificates of Occupancy are issued for the garages. Given the scale of this project, the uncertainties inherent in its development, and the fact that this application could have been filed as late as 2024, the Commission finds the proposed staggered vesting to be appropriate.
10. Approval of the Parcel 6/7 PUD is appropriate because the proposed development is not inconsistent with the Comprehensive Plan for the National Capital. In addition, the proposed development will promote the orderly development of the PUD Site in conformity with the entirety of the Zone Plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
11. 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 and its oral testimony at the public hearing. As explained in this decision, the Commission finds OP's recommendation to grant the Application persuasive, and is satisfied that the flexibility requested by the Applicant regarding the design, materials, and lighting of The Oculus soffit and the glass façade of the office towers preserves OP's goal of ensuring that these characteristic elements of the Parcel 6/7 Building are maintained while providing the Applicant a reasonable degree of flexibility to accommodate refinements to these elements that may be required during design development and fabrication.
12. 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. Although the ANC originally voted to oppose the Application the Commission notes that the ANC later testified that most of its issues and concerns were resolved through the ANC Agreement and the Applicant's agreement to the conditions

contained therein. (Ex. 38). The ANC raised issues at the November 2nd and 6th hearings related to café/restaurant seating along the Wharf and allowing special events programming in the Terrace area. Although such oral testimony is not entitled to great weight unless subsequently ratified in writing by an ANC, the Commission had already responded to these concerns by noting that the Applicant's incorporation of a visual or tactile measure at the edge of the seating area will prevent the seating from encroaching into the pedestrian circulation area. Further the Commission found that the proposed design and use of the Terrace to be consistent with the first-stage PUD, and that occasional events will not in any way remove this area from the larger Waterfront Park amenity, nor make it any less accessible for general public use and enjoyment.

13. The Application 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 Parcel 6/7 PUD within the Southwest Waterfront redevelopment project, subject to the guidelines, conditions and standards set forth below.

A. Project Development

1. The Parcel 6/7 PUD shall be developed in accordance with the plans and drawings submitted by the Applicant on October 13, 2017, as marked as Exhibits 21AA1-21AA8 in the case record, as modified by the plans and drawings submitted on November 22, 2017 (Exhibits 82U-82W) and by Ex. 94B, Attachment 2, Construction Sequencing Plan, Sheet 11 (Wharf Final Plan), as further modified by the guidelines, conditions and standards herein.
2. Any interim improvements constructed on the landside portion of the Phase II PUD shall be set back a minimum of 60 feet from the bulkhead line to match existing and proposed buildings, and to maintain views along the Wharf.
3. The Applicant shall have flexibility with the design of the Parcel 6/7 PUD in the following areas:
 - a. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
 - b. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and

spacing, and any other changes that otherwise do not significantly alter the exterior design to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or other applicable approvals. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building;

- c. To vary the final selection of exterior building materials within the color ranges of the material types shown in Exhibit 82W, Sheet 2.13 and Exhibit 21AA3, Sheets 1.32-1.33 based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building;
- d. Notwithstanding the flexibility granted in items b and c above, the Oculus of the Parcel 6/7 Building shall be constructed in a manner that is: (i) similar in character with the precedents shown in Exhibit 21AA3, Sheet 1.37 (Oculus Soffit Cladding), including a faceted surface with three dimensional relief; (ii) consistent with the aesthetic intent of the ceiling panels shown in Exhibit 21AA3, Sheet 1.33 (Parcel 6 and 7: Retail Material Palette), including the gold-bronze color; (iii) consistent with an integrated lighting solution consistent with the intent shown in Exhibit 21AA3, Sheet 1.33 (Parcel 6 and 7: Retail Material Palette);
- e. Notwithstanding the flexibility granted in items b and c above, the façade of the office portion of the Parcel 6/7 Building shall be constructed in accordance with the plans shown in Exhibit 21AA1-21AA8 with the following design flexibility: (i) glass panels shall tilt outward in a manner that is consistent with the intent of that shown in Exhibit 21AA3, Sheet 1.41; (ii) the corners of the building shall be maintained and consist of curved glass expression as shown in Exhibit 21AA3, Sheet 1.41. Minor variations to the radius of the corner shall be permitted provided the exterior configuration, appearance, proportions, and general design intent of the building is maintained;
- f. To vary the final selection of landscaping materials utilized based on availability at the time of construction;
- g. To vary the final design of retail frontages, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in Exhibit 21AA2, Sheets 1.14 and 1.15 and Exhibit 21AA5, Sheet 2.17;
- h. To vary the design and location of upper-level building signage located above the first-story within the limits of the potential tenant signage zones

shown in Exhibit 21AA2, Sheets 1.14 and 1.15 and Exhibit 21AA5, Sheet 2.17, and in accordance with the District of Columbia sign regulations in effect at the time of permitting;

- i. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown on Exhibit 21A2, Sheets 1.19-1.20 and 1.24, and the total number of vehicle and bicycle parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and
- j. To vary the sequencing and timing of construction of Wharf Marina, including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures, as shown in Exhibit 94B, Attachment 2, Construction Sequencing Plan, Sheets 1-11.

B. Public Benefits

1. **Prior to issuance of a certificate of occupancy**, the Applicant shall establish the Project Association for the Southwest Waterfront PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks and signage within the PUD Site. Additionally, the Project Association will be responsible for programming and staging events within the PUD Site. The Project Association will fund maintenance and programming elements of the common elements of the Southwest Waterfront PUD through a Common Area Maintenance (CAM) assessment charge to each development component within the Southwest Waterfront PUD. The Applicant shall create, manage and operate the Project Association during the "developer control period," which begins on the effective date of the Declaration of Covenants between the District of Columbia and the Applicant and ends five years after issuance, or deemed issuance, of the last certificate of completion for all portions of the Southwest Waterfront PUD, and unit certificates of completion for each residential condominium unit.
2. **During construction of the Southwest Waterfront PUD**, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the Southwest Waterfront PUD. Prior to issuance of a building permit for construction of the Parcel 6/7 PUD, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trades Foundation, and other training and job placement organizations to maximize participation by District residents in the training and apprenticeship opportunities in the overall Southwest Waterfront PUD.

3. *During the life of the project*, the Applicant shall abide by the executed CBE Agreement with the Department of Small and Local Business Development to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the overall Southwest Waterfront PUD. (Z.C. Case No. 11-03, Ex. 4J) The Applicant shall comply with the LDA requirement to lease 20% of the retail space throughout the Wharf to “unique” and/or “local” businesses, which will include CBEs.

C. Transportation Mitigation

1. *For the life of the Project*, the Applicant shall abide by TDM Plan and the TDM Performance Monitoring Plan contained in the case record as Exhibits 67B and 67C, respectively.
2. *For the life of the Project*, the Applicant shall comply with the LMP set forth in the Applicant’s CTR as follows: (Ex. 20A.)
 - a. A loading dock manager will be designated by the building management for each building. The dock manager will coordinate with vendors and tenants to schedule deliveries and will be on duty during delivery hours.
 - b. All tenants will be required to schedule deliveries that utilize the loading docks – defined here as any loading operation conducted using a truck 20 feet in length or larger.
 - c. Truck traffic will be prohibited from standing or parking on Maine Avenue with the exception of designated loading/unloading zones. Vehicles that are not accommodated in the on-site loading dock will need to park in an accepted large vehicle lot like the ones listed in the DDOT document entitled “Important Information for Charter Bus and Motorcoach Operators.”
 - d. A representative of the Operations Manager will supervise all deliveries to the loading area. This loading manager will monitor vehicle, bicycle, and pedestrian traffic on the internal streets during loading ingress and egress and direct truck movements to minimize conflicts.
 - e. Delivery trucks will not be permitted to maneuver during peak periods when traffic volumes are highest or at times that would conflict with trash collection. Peak periods are defined as weekdays (excluding holidays) from 7:00 a.m.-9:00 a.m. and 4:00 p.m.-6:00 p.m.
 - f. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited

to DCMR 20 – Chapter 9, § 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.

3. The Applicant shall fund and construct the removal of the channelized southbound right-turn lane on 6th Street S.W., subject to DDOT approval, to improve pedestrian safety and accessibility along this critical walking path from the Waterfront Metrorail Station to the Wharf. The scope of this mitigation measure shall be limited only to the northwest corner of the intersection and include moving the traffic signal pole, increasing the curb radius on the corner, constructing new curb ramps, striping new crosswalks to connect with the new curb ramps, and restoring the former channelized lane to a combination of sidewalk and green space, subject to DDOT public space review.
4. The Applicant shall fund and construct the following improvements in the vicinity of the PUD Site, subject to DDOT approval:
 - a. Fund and construct a new traffic signal at the intersection of Maine Avenue and Marina Way, S.W.;
 - b. Fund and construct dual southbound left turn lanes on 9th Street at Maine Avenue, S.W. and any necessary changes to the traffic signal equipment;
 - c. Stripe the missing crosswalk across the southern leg of the intersection of 6th Street and Maine Avenue, S.W.;
 - d. Upgrade the curb ramps on the northwest corner of the intersection of 7th Street and Maine Avenue, S.W., as identified in the CTR, if not already completed by others; and
 - e. Stripe a crosswalk and construct curb ramps, subject to DDOT approval, on M Place, S.W. (i.e., the curved portion of 6th Street, S.W.) to create a safe pedestrian crossing from the sidewalk connecting the Titanic Memorial to Parcel 11.

D. Miscellaneous

1. No building permit shall be issued for the Parcel 6/7 PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

2. The validity of the Commission's final approval shall be valid for a period of two years from the effective date of this Order. Within such time, an application for a building permit must be filed for construction of Garages 2 and 3 ("Garages"), as shown in Exhibit 21A2, Sheets 1.19 and 1.20. Construction of the Garages shall begin within three years of the effective date of this Order. Within two years of completion of the Garages, as demonstrated by the issuance of certificates of occupancy, the Applicant shall apply for a building permit for construction of the remainder of the Phase 2 PUD. The Applicant shall commence construction of the Phase 2 PUD within three years of the completion of the Garages.
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 and expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On December 7, 2017, upon the motion of Commissioner Shapiro, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **5-0-0**.

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on April 13, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 14-18A
Z.C. Case No. 14-18A
Mid-City Financial Corporation
(Second-Stage Approval for a PUD and Modification of an
Approved First-Stage PUD @ Square 3953, Lots 1-3)
May 22, 2017

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held public hearings on February 23 and March 16, 2017 to consider an application from Mid-City Financial Corporation (“Applicant”) for second-stage approval of a planned unit development and modification of an approved first-stage planned unit development (collectively, the “PUD”). The Commission considered the application pursuant to Title 11 of the District of Columbia Municipal Regulations (“Zoning Regulations”), Subtitles X and Z. The public hearing was conducted in accordance with the provisions of Chapter 4 of Subtitle Z of the Zoning Regulations. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

PUD History, Application, and Hearings

1. The property that is the subject of this PUD includes Lots 1-3 in Square 3953 (“Property” or “Block 7”) of the Brookland Manor apartment complex in the Brentwood neighborhood of Ward 5. (Exhibit [“Ex.”] 1H.) The Property is a contiguous block bounded by Saratoga Avenue, N.E. to the north, 14th Street, N.E. to the east, a 16-foot-wide public alley to the south, and Brentwood Road, N.E. to the west. (*Id.*) The Property is approximately 111,807 square feet (2.62 acres) in area. (Ex. 24E at G07.) The Applicant proposes to redevelop Block 7 with: (i) a four-story apartment building containing approximately 131 units with associated ground-floor level amenity space and 68 below-grade parking spaces (“Building A”), and (ii) a four-story residential building containing approximately 200 seniors-only independent living units with associated ground-floor level amenity space and 48 below-grade parking spaces (“Building B” and together with Building A, the “Project”). (*Id.*)
2. In an order effective as of November 6, 2015, the Commission approved the first-stage PUD application in Z.C. Order No. 14-18 (“First-Stage Order”). The First-Stage Order also granted a PUD-related map amendment for the property to the R-5-A zone, which became the RA-1 Zone District effective September 6, 2016.¹
3. On August 4, 2016, the Applicant delivered a notice of its intent to file a zoning application to all owners of property within 200 feet of the perimeter of the Property as well as to Advisory Neighborhood Commissions (“ANC”) 5B and 5C. (Ex. 1C.) The Applicant filed the Application for this PUD on September 22, 2016, and the Application was accepted as complete by the Office of Zoning on September 28, 2016. (Ex. 2, 4.) The Applicant certified the Application satisfied the PUD filing requirements. (Ex. 1D, 12C.)

¹ Because the First-Stage Order became effective prior to that date, the R-5-A designation remains for the Property.

The Office of Zoning referred the Application to the ANCs, the Councilmember for Ward 5, and the District Office of Planning (“OP”), and notice of the filing of the Application was published in the *D.C. Register*. (Ex. 5-9.) The notice mailed to ANC 5C was returned as undeliverable. (Ex. 11.)

4. On November 4, 2016, OP delivered a report (“OP Setdown Report”) on the Application recommending that the Commission set it down for public hearing and requesting additional information from the Applicant. (Ex. 10.)
5. At a public meeting on November 14, 2016 (“Setdown”), OP presented the OP Setdown Report. (November 14, 2016 Transcript [“Tr. 1”] of the Commission’s Regular Public Meeting at 39-41.) At that time, the Commission requested additional information from the Applicant. The Commission confirmed that ANC 5C received actual notice of the Application. (*Id.* at 45.)
6. On December 8, 2016, the Applicant filed its pre-hearing statement (“PHS”), which included updated plans and information in response to the requests from OP and the Commission. (Ex. 12.) On January 24, 2017, the Applicant filed an initial comprehensive transportation review for the Project, which review was supplemented by that certain technical memorandum dated February 10, 2017 (collectively, the “CTR”). (Ex. 19-20, 40 at 15.)
7. Notice of the public hearing for Z.C. Case No. 14-18A was published in the *D.C. Register* on December 30, 2016 (64 *D.C. Reg.* 65395) and was mailed to the ANC and to owners of property within 200 feet of the Property. (Ex. 14-16.) On January 13, 2017, the Applicant posted notice of the public hearing at the Property. (Ex. 17.) On February 17, 2017, the Applicant filed an affidavit describing the maintenance of such posted notice. (Ex. 62.)
8. OP requested comments on the Project from District agencies and received comments from the District Department of Energy and the Environment (“DOEE”), the District Department of Transportation (“DDOT”), DC Water, the Department of Housing and Community Development (“DHCD”), and the Fire and Emergency Medical Services Department (“FEMS”). (Ex. 34 at 16.) DOEE and DDOT provided written comments separately. (*Id.*)
9. On February 3, 2017, the Applicant filed a supplemental statement (“20-Day Statement”) providing additional information requested from OP, attaching letters in support, and providing an updated set of architectural plans, drawings, and renderings. (Ex. 24.)
10. Prior to the public hearing, OP, DOEE, DDOT, and the Urban Forestry Administration (“UFA”) each submitted a final report (respectively, the “OP Final Report,” “DOEE Report,” “DDOT Report,” and “UFA Report”). (Ex. 33-35, 40-41.) DDOT requested, and the Commission granted, a waiver from the requirement that DDOT file its report 10 days before the public hearing. (Ex. 35.)

11. The ANCs are automatically a party to this proceeding. (11-Z DCMR § 403.5(b).) Neither ANC filed a report on this Application.
12. On February 9, 2017, the Brookland Manor/Brentwood Village Residents Association (“Association”) filed a request for party status in opposition to the Application. (Ex. 30.) No other requests for party status were filed.
13. On February 16, 2017, the Applicant filed a response to the Association’s request for party status and objected to the scope of the Association’s proposed testimony. (Ex. 38.)
14. On February 23, 2017, the Commission conducted a public hearing on the Application, which was held in accordance with Subtitle Z of the Zoning Regulations. (February 23, 2017 Transcript [“Tr. 2”] of the Commission’s Public Hearing of Case No. 14-18A at 3.) On behalf of the Applicant, the Commission accepted Sarah Alexander, a Ward 5 resident, as an expert in architecture and Robert Schiesel as an expert in traffic engineering. (Tr. 2 at 5-6, 20.)
15. As a preliminary matter prior to the Applicant’s testimony, the Commission voted to grant the Association party status and discussed the appropriate scope for the Association’s testimony. (*Id.* at 7-12.) The Commission requested that the Association’s presentation focus on the Application, but the Commission noted that persons or organizations providing testimony in opposition to the Project would not have their testimony limited. (*Id.* at 11.) The Commission denied the Applicant’s request to limit the Association’s testimony. (*Id.* at 12.)
16. At the hearing, the Applicant provided testimony from Ms. Alexander and Mr. Schiesel. (Tr. 2 at 20-35.) ANC 5C and the Association each cross-examined the Applicant’s testimony. (Tr. 2 at 58-89.)
17. OP presented its report at the hearing. (Tr. 2 at 90-92.) DDOT rested on the record. (*Id.* at 93.) The Association cross-examined OP. (*Id.* at 93-98.)
18. At the hearing, 12 persons or organizations spoke in support of the Application. (Tr. 2 at 100-26.) Neither the ANC nor the Association cross-examined those speaking in support of the Application. (*Id.* at 126.)
19. At the February 23 hearing, the Association presented its testimony. (Tr. 2 at 129-64.) The Applicant did not cross-examine the Association. (*Id.* at 164.) The ANC did cross-examine the Association. (*Id.* at 164-66.)
20. One person spoke in opposition to the Application at the February 23, 2017 hearing, which was continued to March 16, 2017. (*Id.* at 166-75.) On March 16, 2017, the Commission resumed the public hearing on the Application to hear opposition testimony. (March 16, 2017 Transcript [“Tr. 3”] of the Commission’s Public Hearing of Case No. 14-18A at 3.) Neither the Applicant nor the ANC cross-examined any persons or organizations speaking in opposition to the Application. (*Id.*) Commissioner Shapiro confirmed he had reviewed the entire record prior to his involvement in the March 16,

2017 hearing. (May 22, 2017 Transcript [“Tr. 4”] of the Commission’s Regular Public Meeting at 17.) Opposition testimony was heard at the March 16, 2017 hearing. (Tr. 3 at 3.) At the conclusion of the opposition testimony on March 16, 2017, the Applicant provided closing remarks. (*Id.* at 134.) Upon conclusion of the Applicant’s closing statement, the Commission closed the record, with the exception pursuant to 11-Z DCMR § 602.1, of items requested from the Applicant, the ANC, and the Association, including information about possible displacement caused by the Project. (Tr. 3 at 135-144.).

Post-hearing Submissions and Actions

21. On April 10, 2017, the Applicant filed a written post-hearing submission (“Post-Hearing Submission”) in response to items requested by the Commission (also included were several attachments) and a draft order. (Ex. 179-179F4, 180-181.) One of the attachments to the Post-Hearing Submission was a report entitled “Analysis of Potential Impact of the RIA Development on Gentrification, Destabilization of Property Values, Displacement, and Employment” prepared by Leonard Bogorad (“Bogorad Report”). (Ex. 179D.)
22. On April 18, 2017, the Association filed a draft order, and a response to the Applicant’s Post-Hearing Submission. (Ex. 182, 183.)
23. On April 18, 2017, the Association filed a motion to strike the Bogorad report. (Ex. 184.) As basis for the motion, the Association stated that it had a right to cross-examine and question the Applicant on the contents of the report. The Association did not address the substance of the Bogorad report in its response to the Post-Hearing Submission. Instead, the response repeated the arguments the Association made in its motion to strike. (Ex. 183.)
24. On April 21, 2017, the Applicant filed an opposition to the Association’s motion to strike the Bogorad report. (Ex.185.)
25. At a public meeting on April 24, 2017, the Commission denied the Association’s motion to strike the Bogorad Report. The Commission denied the motion because it left the record open for the report pursuant to 11-Z DCMR § 602, which explicitly authorizes the Commission to leave the record open for specific information and reports, does not permit cross-examination, but provides instead that the other parties are allowed to respond to the information submitted after the hearing. (11-Z DCMR § 602.3.) The Association had an opportunity to respond to the report, and did in fact respond to the report, but did not to address the substance contained within the report. At the April 24, 2017 public meeting, the Commission also requested further information from the Applicant, and directed the Applicant to submit its list of final proffers and draft conditions pursuant to 11-X DCMR § 308, with the submission deadlines beginning from the date of that meeting.
26. On April 26, 2017, the Applicant provided its list of final proffers and draft conditions pursuant to 11-X DCMR § 308.8. (Ex. 186.)

27. On May 3, 2017, the Association filed a response to the Applicant's list of final proffers and draft conditions pursuant to 11-X DCMR § 308.8. (Ex. 187.)
28. On May 5, 2017, the Applicant filed a motion to strike the Association's response to the Applicant's list of final proffers and draft conditions because it was prematurely filed and because it contained irrelevant information. (Ex. 188.)
29. On May 8, 2017, the Applicant submitted a supplemental post-hearing submission responding to the Commission's request for further information. (Ex. 189.)
30. On May 10, 2017, the Applicant filed its revised list of proffers and conditions pursuant to § 308.12. (Ex. 190.)
31. On May 15, 2017, the Association filed its response to the Applicant's supplemental post-hearing submission. (Ex. 191.)
32. Because the First-Stage Order also granted the PUD-Related Map amendments, this application involved no zoning map amendments and therefore there was no need for a proposed action vote or referral to the National Capital Planning Commission. (11-Z DCMR § 603.4.)
33. At its public meeting on May 22, 2017, the Commission considered the Applicant's motion to strike the Association's response to the Applicant's list of final proffers and draft conditions, and denied the Applicant's motion to strike because it believed it could adequately discern between relevant and irrelevant information. The Commission then considered the entire record, and approved the Application. (Tr. 4 at 37-38.)

First-Stage Order and the RIA² Development

34. This Application is the first of what the Applicant anticipates will be at least four second-stage PUD applications arising out of the First-Stage Order. (Ex. 1 at 6.) The First-Stage Order established the framework for the comprehensive redevelopment of the Brookland Manor apartment complex and the adjacent Brentwood Village Shopping Center (collectively, the "RIA Site"). (*Id.*)
35. The RIA Site is located at the intersection of Rhode Island Avenue, N.E. and Montana Avenue, N.E. and is generally bounded by Rhode Island Avenue, N.E. to the north, Montana Avenue, N.E. to the east, Downing Street, N.E./14th Street, N.E./Saratoga

² The Applicant stated that it worked with a consultant and Brookland Manor residents to develop the new RIA name for Brookland Manor to signal a shift away from problems that have plagued Brookland Manor and the Brentwood Village Shopping Center in the past and towards a new and better future for residents and the community. (Ex. 179 at 11.)

Avenue, N.E. to the south, and Brentwood Road, N.E. to the west.³ (Ex. 1F; Findings of Fact [“FF”] ¶ 1.) The RIA Site was previously zoned C-2-A and R-5-A. (*Id.*)

36. The RIA Site consists of approximately 20 acres and includes the Brookland Manor apartment complex and the recently demolished Brentwood Village Shopping Center. (*Id.*; Ex. 179 at 12.) The sprawling Brookland Manor apartment complex currently includes nineteen garden apartment buildings, ranging in height from two-four stories, and is spread over approximately 18 acres of land. (Ex. 1 at 6.) The 535-unit apartment complex was built as a planned community as part of the Garden City movement of the 1930-1940’s. (*Id.*)
37. The First-Stage Order approved a total of approximately 1,760 residential units and approximately 181,000 square feet of new retail and commercial development for the RIA Site. (Ex. 1F; FF ¶ 10.) For context, Blocks 1, 2, and 3 of the RIA Site will be improved with mixed-use buildings with retail and apartment uses. (*Id.* at 29-40.) The maximum height of these buildings will be 65 feet, and each block is proposed to have a maximum floor area ratio (“FAR”) of 3.0. (*Id.*) Blocks 5 and 6 of the RIA Site do not include ground-floor retail uses. (*Id.*) Blocks 5 and 6 will include 60-foot-tall multi-family residential buildings, with a maximum FAR of 3.0. (*Id.*) Blocks 4 and 7 will include a mix of apartments, row houses, and flats with maximum heights of 60 feet and a maximum FAR of 3.0. (*Id.*) Block 8 will include 48 16-foot-wide townhouses. (*Id.*) The total FAR of the redevelopment will be 2.8. (*Id.*)
38. The existing apartment buildings and adjacent former strip shopping center lot suffer from three broad sets of problems that necessitate demolishing the entire complex and redeveloping the entire RIA Site anew: (Ex. 1 at 6.)
 - (a) The existing apartment buildings are now approximately 80 years old and have significant engineering and design features that cannot be easily addressed or fixed. (*Id.*) The low-quality buildings comprising the shopping center similarly came to the end of their useful existence and were demolished in early 2017; (*Id.*; Ex. 179 at 12.)
 - (b) The urban design of the apartment buildings and adjacent public streets and public spaces is obsolete and exacerbate problems of crime and loitering that plague the neighborhood. That is, although ample green space surrounds the nineteen apartment buildings, this green space is highly undefined, creates numerous blind corners and darkened recesses in the buildings, and lacks clear understanding as to ownership or utility. Consequently, these open spaces do not provide the existing residents or their guests with a sense of safety, and there is no readily identifiable “defensible space” in the complex. Furthermore, the existing street configuration does not allow for safe and efficient pedestrian and vehicular access through the property. Internal streets lead to dead ends and do not connect with the surrounding neighborhood. From a contemporary urban design perspective,

³ The RIA Site includes Square 3953, Lots 1-3; Square 3954, Lots 1-5 and Parcel 143/45; Square 4024, Lots 1-4; and Square 4025, Lots 1-7.

these buildings do not provide strong edges along the adjacent streets. Likewise, the adjacent Brentwood Village Shopping Center had become obsolete. It was designed for automobiles rather than pedestrians and no longer provided quality retail or services that support the needs of the nearby residents; and (Ex. 1 at 6-7.)

- (c) The apartment complex includes an intense concentration of low-income residents with only a small number of market rate tenants amongst the existing residential units. Such concentration of poverty is widely regarded as perpetuating cycles of poverty. Other projects that have deconcentrated low-income housing in the District and elsewhere have been celebrated successes for interrupting the self-reinforcing nature of poverty and crime. (*Id.*)
39. The First-Stage Order identified six interrelated objectives to address the three problems identified above. The initial application sought to (i) preserve on a greater than one-for-one basis the number of affordable units currently in the Brookland Manor apartment complex, (ii) create a truly mixed-income community with a wide variety of housing types and sizes, (iii) rectify decades-old urban design mistakes by creating a safer, more inviting and more attractive project that better connects to the surrounding community, (iv) prioritize pedestrian activity and communal and usable green spaces, (v) introduce enhanced retail opportunities including a full-service grocery store, and (vi) be a project representative of community and tenant input and dialogue. (*Id.* at 7.)
40. The instant Application represents the first phase in what will be a multi-year effort to implement these goals and realize the vision of redeveloping the RIA Site. (*Id.* at 8.)

Block 7

41. The Property is located in Ward 5 in the Northeast quadrant of DC, and consists of an elongated block located along the southern border of the RIA Site. The Property is bounded by Saratoga Avenue, N.E. to the north, 14th Street, N.E. to the east, Brentwood Road, N.E. to the west, and a public alley to the south. (Ex. 1G.) Immediately north and east of the Property opposite Saratoga Avenue, N.E. and 14th Street, N.E., respectively, are other apartment buildings that are part of Brookland Manor and that will be redeveloped during later phases pursuant to subsequent second-stage PUD applications under the First-Stage Order. (Ex. 1 at 8.) West of the Property across Brentwood Road, N.E. is the Israel Baptist Church. (*Id.*) South of the Property are two- and three-story apartment buildings fronting on Bryant Street, N.E. and Downing Street, N.E. and separated from the Property by an existing 16-foot-wide public alley (to be expanded to 20 feet as part of the Project). (*Id.*)
42. Three apartment buildings owned by the Applicant and containing 64 total units occupied the Property on the date this Application was filed. (*Id.*) The buildings are generally vacant, and all but one of the residents of these three existing buildings have already been relocated to appropriate and comparable units elsewhere in Brookland Manor. (Ex. 179A.) The one remaining resident will be relocated, at the Applicant's expense, prior to commencement of construction of the Project. (*Id.*)

43. Residential uses, including the other apartments comprising Brookland Manor and lower density apartment buildings and single-family rowhouses, make up the neighborhoods immediately to the north, south, and east of the Property. (Ex. 1 at 15.)
44. The Property has excellent transit and vehicular access, with a Metrorail station and nearly a dozen Metrobus routes in operation nearby. (*Id.*) Rhode Island and New York Avenues, N.E. are both just a couple of blocks from the RIA Site and afford easy access to downtown DC and regional highways. (*Id.*)
45. A future phase of redevelopment of the RIA Site will entail developing the proposed green space at the heart of the RIA Site (the “Community Green”) immediately adjacent to the Property; no work on the Green is proposed in the instant Application. (*Id.*)
46. Pursuant to the First-Stage Order, the Property was approved to be rezoned to the R-5-B Zone District, which is now the RA-2 zone under the Zoning Regulations. (*Id.* at 9.)

The Project

47. The Project includes (i) Building A, a four-story apartment building containing approximately 131 mixed-income units with associated ground-floor level amenity space and 68 below-grade parking spaces, and (ii) Building B, a four-story residential building containing approximately 200 senior-only independent living units with associated ground-floor level amenity space and 48 below-grade parking spaces. (Ex. 24E at G07.) Building A has 169,342 square feet of gross floor area (“GFA”), a maximum height of 49 feet, four inches, and an FAR of 2.97. (*Id.*) Building B has 172,266 square feet of GFA, a maximum height of 51 feet, and an FAR of 3.0. (*Id.*) Block 7 has a total FAR of 2.98 and contains 341,608 square feet of GFA, all of which is devoted to residential uses. (Ex. 1 at 9, 17.) Building A has a lot occupancy of 70% and Building B has a lot occupancy of 73%. (*Id.* at 20.) The lot occupancy of each building exceeds the maximum allowed occupancy under the approved zoning for the Property. (*Id.*) The Applicant therefore seeks relief from the lot occupancy requirements.
48. The rationale for the Project, as the first phase of the overall redevelopment under the First-Stage Order, is to construct (i) a mixed-income multi-family building that can accommodate residents relocated during future phases and the overall redevelopment, and (ii) a senior independent living building, which was a top priority of tenants, community members, the ANCs, and OP as part of the approval of the First-Stage Order. (*Id.* at 16.)
49. A significant objective of the Project is the preservation of existing affordable housing units. As a result, the Project readily achieves—and greatly exceeds—the minimum number of affordable units that would be required under the Zoning Regulations. The Applicant intends to maintain its contract with the HUD through the Section 8 program, and will accordingly comply with the requirements thereunder and in the First-Stage Order with respect to the provision of affordable housing as part of the Project. Of the

Project's 331 units, the Applicant expects that approximately 265 (80.3% of the total) will be affordable upon completion of Block 7. (*Id.* at 23-24.)

50. The Project is anticipated to initially include a minimum of approximately 265 units (80% of the total units delivered as part of this phase) that will be deeply affordable and reserved for occupants eligible to receive assistance through the project based Section 8 contract with the Department of Housing and Urban Development ("HUD") or through a District of Columbia Housing Authority ("DCHA") Housing Choice Voucher ("HCV"). (*Id.*) All of the units (200) in Building B (the senior independent-living building) will be reserved for residents that will be assisted by the project based Section 8 and HCV programs⁴. Approximately 65 of the units in Building A will initially be reserved for other current residents of Brookland Manor. The 65 replacement units in Building A will consist of 25 units that will be reserved as permanently affordable units and at least 40 "temporary" replacement units that will be used to house existing Brookland Manor residents. These temporary replacement units will be used to support the goals of the Applicant's Tenant Relocation Plan, which includes keeping Brookland Manor residents on-site and minimizing the number of times that residents are required to move. (Ex. 12.) As the Applicant undertakes future phases of the overall redevelopment approved pursuant to the First-Stage Order, some affordable units in Building A may be reallocated to other buildings in the RIA development so that the ultimate affordability mix on Block 7 is less than it will be upon initial lease-up. (*Id.*) The Applicant noted that based on timing and phasing considerations for the entire project, it may be necessary to utilize all of Building A (131 units) as replacement housing for the first 8-13 years of occupancy of the building. Therefore, the Applicant requires flexibility as to the total number of temporary replacement units that will be included in the initial lease-up of Building A.
51. Building A contains a mix of studios and 1-, 2-, and 3-bedroom units. (*Id.* at 20.) The Building is proposed to include three studio units of approximately 500 square feet each; 60 one-bedroom/one-bath units ranging in size from 700 to 900 square feet; 50 two-bedroom/two-bath units ranging from 980 to 1,370 square feet; and 18 three-bedroom/two-bath units ranging from 1,180 to 1,400 square feet. Building B contains primarily one-bedroom/one-bath units (192 total, ranging from 570 to 700 square feet) with eight two-bedroom/two-bath units of approximately 850 square feet. The two Buildings have dedicated amenity space for resident and community events. (*Id.* at 21.)
52. Building B has 265 one-bedroom units and many programmatic features characteristic of a seniors-only independent living building and meets or exceeds the requirements of HUD's Section 231 Mortgage Insurance for Rental Housing for the Elderly. Among

⁴ Condition B.1.a.(2) of the First-Stage Order stated that "[o]f all the Section 8 units, 150 to 200 of such units shall be in the Senior Building." This led to considerable confusion in this case, because the Association understood that to mean that 200 out of 373 project based Section 8 units were required to be in the senior building. As the Applicant clarified in this case, all of the units in the senior building will be permanently affordable units, with assistance provided through a combination the project based Section 8 contract and the HCV programs. The HCV program is also commonly referred to as "Section 8" leading to the confusion. There is no requirement that senior building contain 200 of the 373 project based Section 8 units. The Commission is amending Condition B.1.a. of the First-Stage Order to prevent any further confusion.

- these features, Building B contains: (i) a minimum of five percent fully accessible units, (ii) two percent hearing and vision accessible units, (iii) common areas, all of which are ADA-compliant; (iv) multiple elevators, major entrances, and communal laundry facilities on each floor, all designed to reduce walking distance for seniors; (v) first-floor amenity space for health and wellbeing social service programming designed for seniors. (*Id.*)
53. Both Buildings contain segregated garage parking and separate at-grade loading. All vehicular entrances to parking and loading facilities are provided from the rear of the Property along the existing 16-foot-wide public alley that will be improved as part of the Project to become 20 feet wide. Building A contains 68 parking spaces (in excess of the 44 required under the Zoning Regulations), and Building B contains 48 (in excess of the 33 required). Both Buildings contain a single loading berth and a single delivery berth, as required under the Zoning Regulations. (*Id.* at 24.)
54. Building A provides the requisite number of bicycle parking spaces (44 long-term and 7 short-term), but Building B provides only 22 long-term (plus the requisite 10 short-term spaces) bicycle parking spaces. Thus, Building B complies with the short-term bicycle parking requirements—spaces that are most likely to be used by employees or visitors to the Building—but not with the long-term parking requirements (58 such parking spaces are required), which are spaces most likely to be used by residents. The Applicant does not expect that demand for bicycle parking will arise to the level of requiring full build-out of the requisite number of spaces for Building B’s senior residents, and accordingly requests relief from these requirements. (*Id.* at 24-25; Ex. 24.)
55. In response to comments from the District of Columbia Metropolitan Police Department raised during the first-stage PUD process regarding public safety along the walkways and interior courtyards of the future RIA Site, the Project will include the installation of fencing in the courtyard area between the two Buildings to limit access to residents only. (Ex. 1 at 23.) From a broader urban design perspective, the two Buildings exemplify the “eyes on the street” philosophy with windows looking directly onto the public way. The design eliminates the currently existing “pockets” where individuals are not visible from the street and walkways. (*Id.*)
56. The Applicant intends to begin construction of the Project in the first quarter of 2018 and anticipates the Project will take approximately 18-20 months to build. (*Id.* at 15.)

Modifications to the First-Stage Order

57. The Project is consistent with the general parameters established for Block 7 in the First-Stage Order, but differs with respect to height, lot occupancy, building type, gross floor area, the location of the senior building, and the alley configuration. (*Id.* at 25-26.) In addition, the Project requires relief from the Zoning Regulations that was not contemplated in the First-Stage Order. (*Id.* at 27.) Therefore, this Application includes a modification of the First-Stage Order.

58. The First-Stage Order described the approved plans for Block 7 as follows: “Block 7 is proposed to be rezoned to the R-5-A Zone District. Twenty-eight two-over-two residential units are proposed along Brentwood Road, N.E. and Saratoga Avenue, N.E. A five-story building, with a height of approximately 60 feet, and approximately 217,332 square feet of space is also proposed along Saratoga Avenue, N.E. and will have frontage on the [Community Green]. This building is expected to include up to 286 units of housing, with a senior housing component that will consist of approximately 150-200 units. The total amount of density proposed on this Block is 3.0 FAR.” (Ex. 1F; FF ¶ 39.)
59. The elements of the Project that differ from the First-Stage Order include:
- (a) Height. The Project is one story shorter than the maximum approved for Block 7 in the First-Stage Order. The Commission finds that this change accommodates a more harmonious transition between the Project and the existing multi-family buildings to the south of Block 7 and improves the Project’s consistency with the Plan (as hereinafter defined) and reduces its impacts on the surrounding area;
 - (b) Lot Occupancy. To compensate for the reduced height, the Project’s lot occupancy is slightly greater than contemplated under the First-Stage Order. In light of the benefits created by reducing the Project’s height, the Commission finds that the increase in lot area relative to the First-Stage Order is appropriate and necessary and does not create unacceptable impacts on the surrounding area or impair the purposes or intent of the Zoning Regulations. The new Community Green will be located immediately north of Block 7, and as such will offset any concerns about the lot occupancy of the Property. In addition, the Applicant intends to comply with the stormwater and green area ratio requirements, so the change in lot occupancy does not create unacceptable environmental impacts;
 - (c) Building Type and Gross Floor Area. The Project replaces with a single multi-family building the two-over-two building proposed in the First-Stage Order, and the number of units proposed for this Project and the total GFA exceeds the number of units and GFA contemplated for Phase I under the First-Stage Order.⁵ The Commission finds that this modification reduces the impacts of the overall PUD by allowing the Applicant to construct a greater amount of replacement housing in this first phase of the overall redevelopment of the RIA Site in order to reduce resident inconvenience and provide the Applicant with greater flexibility in undertaking future relocation of existing tenants;⁶

⁵ The Applicant noted that one or more future phases of the RIA development will have fewer units and less GFA than previously contemplated in order to remain within the overall parameters approved under the First-Stage Order. (Ex. 1 at 25.)

⁶ In addition, because this first phase of RIA includes neither two-over-two units nor townhouses, the Project does not include any of the 11 townhouse or two-over-two “inclusionary units” (as such term is defined in the Zoning Regulations) contemplated pursuant to Decision Subparagraph B.1.a. of the First-Stage Order. This modification does not relieve the Applicant from ensuring that the overall RIA Site provides, at all times including during and

- (d) Location of Senior Building. The location of the senior building and the two-over-two (now multi-family) building have been swapped to improve the relationship of the building massing to the Community Green while allowing for access to said Green from both buildings. The Commission finds that this modification is beneficial from an overall site design, has no unacceptable impacts, and is not inconsistent with the Plan; and
- (e) Alley and Parking Modifications. The Project includes minor deviations from the previously proposed configuration of the alley separating the Project from its neighbors to the south and from the proposed parking on the block. A north-south alley through Block 7 shown in the plans for the First-Stage Order has been removed. These changes are a result of replacing the two-over-twos (which contemplated above-grade parking under the First-Stage Order) with a more traditional apartment building with below-grade parking. The Commission finds that these modifications have favorable impacts and render the Project more consistent with the Plan.
60. The Commission finds that these proposed modifications, though significant, are consistent with the overall massing, development envelope, policy objectives, character and appropriateness of the First-Stage Order. The Commission further finds that these design and program alterations improve the overall quality of the community in this first phase of RIA as well as the relocation process for existing tenants. Indeed, the modifications will allow the overall redevelopment of the RIA Site to proceed in a more orderly way, will better advance the objectives of the Project approved by the First-Stage Order, and will better protect the interests of residents and neighbors. These modifications are not inconsistent with the Plan, have favorable impacts or impacts that are capable of being mitigated, and do not result in unacceptable impacts on the surrounding area or on the operation of District services and facilities.
61. The Applicant provided detailed information describing the Project's consistency with the Conditions of the First-Stage Order. (Ex. 1 at 26-27.) The Commission finds that the Project satisfies the applicable conditions of the First-Stage Order and is consistent with the specific proposal for Block 7 that the Commission approved in the First-Stage Order, as well as with the Findings and Conclusions of that Order more generally⁷. The Applicant has submitted revised plans that replace those approved in the First-Stage Order for Block 7. (Ex. 24E, 101A, 179F.)

after construction of Block 7, the requisite aggregate number of affordable units to satisfy the other conditions of said Subparagraph B.1.

⁷ In addition to the modifications requested by the Applicant the Commission is amending Condition A.1 of the First-Stage Order to reflect that the Project shall be developed in accordance with the plans as they were amended in supplemented in this case. The Commission is amending Condition B.1.a to clarify that the Applicant is not required to provide 150-200 of the project based Section 8 contract units in the senior building. The Commission is also amending Condition B.2. to include an additional commitment the Applicant made in this case that all tenant relocations will occur on the Property.

Relief and Flexibility Requested

62. The PUD process was created to allow greater flexibility in planning and design than is possible under strict application of the Zoning Regulations. Under 11-X DCMR §§ 303.1, 303.11, and 303.13, the Commission retains discretion to grant flexibility with respect to development standards. As part of this Application, the Applicant requested the Zoning Commission grant flexibility with respect to the lot occupancy requirements for both Buildings A and B and the bicycle parking requirements for Building B (the senior independent living building). The Applicant initially requested, but subsequently withdrew, relief from the penthouse setback requirements on Building B: (Ex. 1 at 28; Ex. 24.)
- (a) Lot Occupancy. Under Subtitle F, § 304.1 of the Zoning Regulations, the maximum lot occupancy is 60% for lots in the RA-2 zone, and the Project proposes to exceed that amount by 11% in the aggregate. (Ex. 24E at G09b.) Therefore, the Project requires flexibility from Subtitle F, § 304.1. The requirement for this lot occupancy relief arises from the reduction in height relative to the maximum approved under the First-Stage Order. The Applicant submitted information demonstrating that the Project satisfied the variance standard with respect to the requested flexibility. (Ex. 24A.) The Applicant also demonstrated that the Project could proceed without relief at the permitted height of 60 feet, but that the lot occupancy relief became necessary at the lower proposed height. (Ex. 24, 24E at G09b.) The Commission's findings above in FF ¶ 59(b) are applicable with respect to this request for relief; and
- (b) Long-Term Bicycle Parking Flexibility (Building B). Pursuant to Subtitle C, § 802.1, long-term bicycle parking spaces must be provided at the rate of one space for each three dwelling units in a residential apartment, except that the rate is reduced to one space for each six units after the first 50 such spaces. The Zoning Regulations do not distinguish age-restricted units from unrestricted units for the bicycle parking requirements. As the Applicant notes, the Zoning Regulations have a vehicle parking requirement that acknowledges that residents of seniors-only buildings are less likely to require car parking, but the bicycle parking requirement does not make this concession. (*Id.* at 30.) The Project includes a slightly higher number of vehicle parking spaces than bicycle parking spaces in Building B in anticipation of its senior residents being less likely than a general population of apartment-dwellers to require bicycle parking. For the 200 units in Building B, the Zoning Regulations would require 58 long-term parking spaces, but the Project proposes 22 such spaces. (Ten additional short-term bicycle parking spaces are provided at Building B.) As a result, Building B requires flexibility from the long-term bicycle parking requirements. The Commission finds that this relief is reasonable and warranted in this circumstance. The relief is not inconsistent with the Plan, given the amount of bicycle parking provided, and the relief will have no unacceptable impacts on surrounding areas or District services and facilities.

63. The Project requires minor flexibility from the lot occupancy requirements and reasonable relief from the long-term bicycle parking requirements in a seniors-only building. In return, the Project provides superior design, efficient usage of the Property, a substantial amount of affordable housing, and robust a package of additional benefits.
64. The requested flexibility with respect to the bicycle parking is mitigated by the transit options proximate to the RIA Site, the expectation that Capital Bikeshare stations will be installed nearby as part of future phases of the redevelopment of the RIA Site, and the age-constrained demographics of the occupants of the building requiring such flexibility.
65. The Commission finds that, overall, the Project conforms to the Zoning Regulations, except for the few items of articulated relief set forth in the immediately foregoing paragraph. Where the Project requires zoning relief, the Commission finds that such relief is either minimal in nature or reasonable in light of the proposed uses and otherwise does not derogate or impair, but rather is in accordance with, the purposes or intent of the Zoning Regulations or Zoning Map.
66. The Applicant also requested flexibility to rebalance affordable units initially provided in Building A to other portions of the RIA Site upon completion of subsequent phases, with the objective of avoiding a permanent disproportional concentration of low income residents in particular buildings. The Commission finds that this requested flexibility is warranted in this instance because of the Project's public benefits and compliance with the PUD evaluation standards.

PUD Evaluation Standards

67. As set forth in Subtitle Z § 304 of the Zoning Regulations, the Commission must evaluate and grant or deny a PUD application according to the standards of such section. The Applicant has the burden of proof to justify the granting of the Application according to such standards. In deciding this PUD Application, the Commission has judged, balanced, and reconciled the relative value of the public benefits project and amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case. As set forth in the immediately succeeding paragraphs, the Commission hereby issues findings that, subject to the Conditions of this Order, the Project:
 - (a) Is not inconsistent with the Comprehensive Plan for the District of Columbia, 10-A DCMR § 100, *et seq.* ("Comprehensive Plan"), and with other adopted public policies and active programs (collectively, the "Plan") related to the Property and the RIA Site as a whole nor with the Zoning Regulations (including the PUD process set forth therein);
 - (b) Does not result in unacceptable project impacts on the surrounding area or on the operation of District services and facilities but instead is either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and

- (c) Includes specific public benefits and amenities, which are not inconsistent with the Plan with respect to the Property and the RIA Site as a whole.

Consistency with the Plan, the Zoning Regulations, and the PUD Process

68. For the following reasons, the Commission finds that, subject to the Conditions of this Order, the Project is not inconsistent with the Comprehensive Plan:

- (a) Future Land Use Map. The Future Land Use Map of the Comprehensive Plan designates the Property as appropriate for Moderate-Density Residential use. The Moderate-Density Residential designation defines neighborhoods where low-rise apartment buildings and other residential uses are to predominate. (10-A DCMR § 225.4.) The Project includes residential uses only with a maximum of four floors. The Commission therefore finds that the Project is not inconsistent with the Future Land Use Map of the Comprehensive Plan;
- (b) Generalized Policy Map. The Generalized Policy Map of the Comprehensive Plan categorizes how different parts of the District may change between 2005 and 2025. The Project is located in the “Neighborhood Conservation Area.” The Commission takes notice that the Comprehensive Plan defines such Areas as generally having little amounts of vacant land but that some new development and reuse opportunities are anticipated. (10-A DCMR § 223.4.) Moreover, “[t]he 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.” (*Id.* § 223.5.) The Project is to be developed on what is effectively a vacant lot, so it is an infill project that avoids any displacement and that redevelops the lot in a manner and scale compatible with prior and surrounding uses and the architectural character of the surrounding area. The Commission therefore finds that the Project is not inconsistent with the Generalized Policy Map of the Comprehensive Plan; and
- (c) District-Wide and Area Elements. As part of the First-Stage Order, the Commission found “that the testimony of the Applicant and OP that the proposed PUD project and rezoning of the [RIA Site] are not inconsistent with the Comprehensive Plan. The Commission has spent considerable time considering how its decisions are to be guided by the various maps, guidelines, policies, and elements that make up the Comprehensive Plan. The Commission has appropriately determined that the Comprehensive Plan provides it with a series of tools that help guide decisions regarding consistency with the Comprehensive Plan. The [Future Land Use Map], the [Generalized Policy Map], or specific elements and policies are not in and of themselves determinative of whether a project or proposed zone district is consistent with the Comprehensive Plan. Rather, the Commission looks at the Comprehensive Plan in its entirety. In this case, the Commission finds that the proposed PUD and related map amendment of the [RIA Site] to the C-2-A and R-5-B Zone Districts is appropriate given the [Future Land Use Map] designation of the [RIA Site] and the project’s satisfaction

of numerous policies enumerated in the Comprehensive Plan. [This finding] is consistent with OP's recommendations to approve the project and the PUD-related Zoning Map amendment." (Ex. 1F at FF ¶ 106.) The Commission devoted twelve pages of the First-Stage Order to enumerating the myriad ways in which the first-stage application was consistent with the Comprehensive Plan. (*See id. at* FF ¶¶ 53-62.) Given the extensive findings in the record, and the clear conclusions of law in the First-Stage Order, and the consistency between the instant Project and the First-Stage Order, the Commission sees no reason to disturb its original findings. The Project is not inconsistent with the Comprehensive Plan.

69. The Commission separately makes findings regarding the Project's consistency with the Plan based on comments from the Association and persons and organizations in opposition. (*See infra* FF ¶ 104.) Other than those specific policies of the Plan addressed below, neither the Applicant, the Association nor any person who provided testimony with respect to this Application presented any evidence of other adopted public policies or active programs related to the Property nor any claims of inconsistency therewith, and the Commission takes no notice thereof. Therefore, for the reasons set forth more fully below the Commission finds that the Project is not inconsistent with the Plan. (*See id.*)
70. This Application is also in compliance with and not inconsistent with the general intent and purpose of the Zoning Regulations. The general intent and purpose of the Zoning Regulations is, *inter alia*, to promote the "public health, safety, morals, convenience, order, prosperity, and general welfare." (11-A DCMR § 101.1.) The Project exemplifies orderly, well-planned development that is undertaken on behalf of the best interests of the residents of the District with respect to the above-cited objectives. The Project complies with all of the specific development standards set forth in the Zoning Regulations, except where flexibility is hereby requested, which flexibility is expressly contemplated as part of the PUD process.
71. 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 § 300.1.) The Project achieves substantial public benefits in a manner far superior to a matter-of-right project. (Ex. 1 at 48.) These benefits simply would not occur but for this PUD, and there is a very real likelihood that none of the deeply affordable housing preserved by this Project would be so-preserved by a matter-of-right development. (Tr. 2 at 111.) For all of the reasons set forth herein, the Project advances these general purposes of the Zoning Regulations and the PUD process.

Project Impacts

72. For the following reasons, the Commission finds that, subject to the Conditions of this Order, the Project does not result in unacceptable project impacts on the surrounding area or on the operation of District services and facilities but instead is either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project:
- (a) Development Period Impacts on Residents and Neighbors.⁸ The Commission finds that the development period impacts for Block 7 on residents and neighbors and more generally are not unacceptable and are capable of being mitigated or acceptable given the quality of public benefits in the Project. The Applicant prepared a tenant relocation plan (“Relocation Plan”) and a construction management plan. (Ex. 1G; Ex. 179 at 2.) The construction management plan was referenced in the First-Stage Order as Exhibit 23E and is replaced with an updated Block 7-specific version in Exhibit B of the Post-Hearing Statement. The Relocation Plan and construction management plan are thorough and reasonable plans to mitigate the Project’s development period impacts. The Commission finds that quality of public benefits in the Project are high and on balance outweigh the impacts on residents and the surrounding area;
 - (b) Housing Impacts. The Commission finds that the Project’s housing impacts are not unacceptable but are instead favorable for the surrounding neighborhoods and the District as a whole because the Project helps address a housing shortage in a manner sympathetic to Brookland Manor residents. The Project delivers 200 units of much needed affordable senior independent-living housing, which is a housing type of particular policy focus in the District. (Ex. 1 at 32.) The provision of such senior housing as part of the Project allows many existing residents of Brookland Manor to remain in the neighborhood and “age in place” in a community with a robust set of social programs, community activities, and strong public transit access. (Ex. 1 at 33.) In addition, the Project will provide approximately 131 additional units of mixed-income housing that facilitate future phases of development of the RIA Site. The immediate impact of the mixed-income units is that they will accommodate the relocation of existing Brookland Manor residents as future phases of the overall RIA Site redevelopment proceed. In the longer term, these units will help mitigate the overall housing shortage in the District as well as the need for affordable units and three-bedroom units. Aside from facilitating future phases of RIA’s development, perhaps the most significant favorable housing impact of Building A over time is the development of a truly mixed-income building where residents of market-rate and affordable units share common spaces and amenities in the spirit of reversing some of the negative impacts of the concentrated poverty affecting Brookland Manor today. As a result,

⁸ Additional findings on the Project’s impact on existing residents of Brookland Manor are provided *infra* at FF ¶¶ 98-108.

the Project has an overall favorable impact on the surrounding area and the District as a whole from a housing perspective;

- (c) Land Use Impacts. The Commission finds that the Project's land use does not result in unacceptable impacts on surrounding neighborhoods. The Project's mix of senior and multi-family uses are entirely appropriate in context given the existing uses on the Property and the nearby multi-family and commercial uses. Block 7 is surrounded exclusively by other multi-family or institutional uses. The nearest single-family uses are more than a block away, and the intervening, existing multi-family uses gently step down in density and height from Block 7 to those single-family streets. (*Id.* at 33.) Given the Project's proximity to Metrorail transit and the busy bus services along Rhode Island Avenue, NE, and given the overall approvals in the First-Stage Order for additional commercial activities on the RIA Site, the density on the Property has positive impacts on the surrounding neighborhoods. The Project helps transform the RIA community, and Brentwood generally, into more of a mixed-use, mixed-income, transit-oriented neighborhood. Accordingly, the overall land use impacts of the Project are not unacceptable and are either favorable or acceptable given the quality of public benefits in the Project;
- (d) Design Impacts. The Project favorably improves upon the existing conditions with respect to the relationship between the buildings, open spaces, and the public realm. The current relationship between the Brookland Manor buildings and the surrounding open spaces and public realm is a source of considerable concern from a public safety perspective. The existing buildings and open spaces form partially-enclosed and semi-obscured areas that create uncomfortable conditions for pedestrians and facilitate illicit outdoor activities. The existing buildings are not strongly oriented toward the street, and as a result, create irregularly shaped open spaces and numerous blind corners and darkened recesses. There is no clear understanding as to the ownership or utility of these open spaces. The Project greatly improves upon these conditions by being oriented along the surrounding streets with definite edges and an unambiguous expression of control over green spaces. The Project's edges are highly designed and integrated into the Buildings' overall function. The proposed courtyards fall into a clear taxonomy, courtyards to the rear of the Buildings are generally private and function as "outdoor rooms." Courtyards to the front of the Buildings serve practical purposes rather than as amorphous in-between spaces. In addition, the Project facilitates the development of future phases of RIA, including the development of the Community Green (which, unlike Brookland Manor's existing green spaces, will become the type of inviting passive recreation area needed in the Brentwood neighborhood), so the Project will have a significantly favorable impact on open space in the neighborhood. The Commission finds that the Project's impact from an open space, urban design, and massing perspective is entirely favorable and not at all unacceptable;

- (e) Land Value Impact. The Applicant commissioned a report to analyze whether the development of Block 7 would result in the destabilization of land values near the Property. (Ex.179 D-1 and D-2 (“RCLCO Report”).) The Commission finds the RCLCO Report uses a sound methodology provides substantial evidence that the Project will not result in any unacceptable impacts on surrounding land values or economic conditions but instead will have largely favorable impacts. The RCLCO Report concludes that “Overall, not only will RIA not add in any significant way to the gentrification that has already been occurring in the surrounding neighborhoods, it will in fact mitigate many of the negative impacts of gentrification and deliver many positive impacts. The [overall RIA] project will provide a significant increase in the total number of housing units, which will help to correct the imbalance between housing demand and supply; support a significant number of jobs at all income levels; provide neighborhood-serving grocery and other retail; and retain very deeply subsidized affordable housing on a significant scale that would otherwise likely be lost if the site were redeveloped by another owner. These are exactly the types of benefits that are vital to offsetting the negative impacts of gentrification.” (*Id.*) The initiation of development activities at Brookland Manor coincide with a reduction in crime within 1000 feet of the community. (Ex. 179E.) The Commission credits the Applicant’s removal of the Brentwood Village Shopping Center, increased neighborhood and property social programming, increased security presence, and greater partnership between the Applicant and MPD to improve safety in and around the property as having a favorable impact on the surrounding area, an impact that is highly likely to continue as the Project proceeds;
- (f) Environmental Impact. The Commission finds the Project’s environmental impacts either acceptable or capable of being mitigated. The Project is designed so as to minimize any adverse environmental impacts that would otherwise result from the construction of this Project. The Project has been designed to achieve high levels of on-site stormwater retention. (*Id.* at 38.) The proposed bio-retention basin planters, green roofs, and permeable pavement are designed to meet or exceed DOEE stormwater management retention and detention requirements, and the requisite inlets and closed pipe system will be designed and constructed in compliance with the standards set by DOEE, DC Water, and DDOT. (*Id.*) The Project will be constructed in full compliance with the District’s Building Code. (*Id.* at 39.) Conformance to code standards will minimize the amounts of energy needed for the heat, ventilation, hot water, electrical distribution, and lighting systems contained in the building. *Id.* The Project will achieve an environmentally sustainable design as evidenced by its compliance with the Green Communities program. (Ex. 12A at G13.) The RIA Site overall will achieve a LEED-ND (Leadership in Energy and Environmental Design for Neighborhood Developments) level of Silver; (Ex. 12.)
- (g) Services and Facilities Impact. The Commission finds that the Project will have an acceptable impact on the District’s services and facilities given the quality of the Project’s and the RIA Site’s overall public benefits. The Project’s increased

demand on water and sanitary services can be met by the existing District water system. (Ex. 1 at 38.) Solid waste and recycling materials generated by the Project will be collected regularly by a private trash collection contractor. (*Id.*) The Project is highly unlikely to have an unacceptable impact on schools in the District given the size of the Project, its mix and type of units, and the capacity for the District's nearby schools to take on additional students because the Project is expected to be occupied primarily by seniors and existing residents of Brookland Manor. (*Id.* at 39.) As a result, there is unlikely to be a material net new impact on the District's school system; and

- (h) Transportation Impact. The Commission finds that this Project's transportation impacts are not unacceptable and are capable of being mitigated subject to the Conditions of this Order. The Applicant has prepared a robust transportation demand management ("TDM") in concert with review and analysis by DDOT. (Ex. 20.) The proposed Project will not have an adverse impact on the public transportation facilities or roadways that it will rely on for service. The Project's vehicular traffic impacts are strongly mitigated by its transit options, and the Project achieves the right balance of mobility. The Property is well-served by transit and vehicular infrastructure, and the Project's relatively small scale will not introduce adverse impacts on either system. The Project contains adequate vehicular and bicycle parking, and such parking has been well-integrated into the design of the Project. The Project makes reasonable accommodations for those who choose to or must drive without interfering with the parking supply of neighboring residents. The Project provides sufficient new off-street parking to serve new residents, but not so much parking as to induce unnecessary driving. The Project's physical form—no new curb cuts, new construction facing the street, on-street parallel parking, a tree-lined streetscape—mitigates traffic impacts by promoting and encouraging active mobility over driving. Improvements to the alley as part of the Project allow the Project to prioritize pedestrian access along each of the main streets surrounding Block 7 and to create a permeable boundary between the Project and the Community Green. The Project has a robust TDM package. Taken together, the Project's transportation elements are sufficient mitigation for the Project's impacts.

73. The Commission finds that the Project's impacts will improve upon, and not injure, the public health, safety, welfare and convenience, especially in light of the Project's public benefits address herein.

Public Benefits

74. The objective of the PUD process is to encourage high-quality development that provides public benefits and amenities by allowing greater flexibility in planning and design than may be possible under matter-of-right zoning. The Project achieves the goals of the PUD process by creating a high-quality residential project with significant housing opportunities and furthering the objectives of the First-Stage Order, with its many benefits and amenities. The Commission finds that, subject to the Conditions of this

Order, the Project includes the following specific public benefits and amenities, which are not inconsistent with the Plan with respect to the Property and the RIA Site as a whole:

- (a) Urban Design, Architecture, and Landscaping. The Commission finds that the Project's urban design, architecture, and landscaping are superior public benefits. The Project incorporates numerous urban design precepts that guide attractive urban design in the District and that represent significant improvements over the existing aesthetic and functional conditions of the existing buildings on the Property. The Commission judges the following elements indicative of superior design and architecture: the two Buildings' strong orientation to the surrounding streets, the prioritization of pedestrians over vehicles, the thoughtful site planning as part of the integrated redevelopment of the RIA Site, the use of open courtyards along the alley to the south, and the high quality of design, materials, and finishes. The Project's superior architecture establishes a baseline for future phases of the RIA Site's redevelopment and helps re-calibrate expectations about the quality of design and architecture for future development nearby;
- (b) Site Planning. The Project's site plan is another superior benefit of the Project. The benefits of the Project's site plan and efficient land utilization are captured in the Project's overall density and absolute number of new residential units provided. At an FAR of just under 3.0, the proposed density is appropriate for the Property given the proximity to transit options while not overbearing the lower density residential neighborhoods to the north, south, and east of the RIA Site. Given the considerable economic development opportunities emerging along Rhode Island Avenue, N.E. and in Northeast DC generally, the transportation options, and the services and stores to become available as a result of the redevelopment of the RIA Site, preserving and replacing a significant number of deeply affordable residential units at this location is a benefit of the Project. (Ex. 1 at 42.) Moreover, the Project represents efficient and thoughtful site planning in the context of the Applicant's plans for the RIA Site generally. The Project is an opportunity to establish a dedicated building for Brookland Manor's senior residents and to provide flexibility to allow other Brookland Manor residents to be relocated to a new building on site during future phases of construction. The Commission finds that taken together these attributes of the Project are reflective of superior site planning and economical and efficient land use;
- (c) Housing and Affordable Housing. The Commission finds that the Project provides housing and affordable housing in excess of the amount possible under a matter-of-right development. The Project provides approximately 331 new residential units (a net of 267 new units), a minimum of 265 of which will be affordable immediately upon completion. The Project's housing and affordable housing are a superior public benefit for the following reasons:
- The District faces a shortage of virtually every kind of housing product, but the need for additional affordable housing in established

neighborhoods, affordable senior housing, and affordable housing near transit is particularly severe. The Project makes a significant contribution of new affordable units on a site that is transit-accessible and well-positioned to take advantage of economic opportunities that emerge in the Brentwood neighborhood in the future;

- The housing proposed as part of the Project exceeds the amount possible through a matter-of-right redevelopment pursuant to the applicable limits in the underlying zone (i.e., the RA-1 zone) by approximately 217,965 square feet;
- The affordable housing proposed substantially exceeds the amount that would be required under the Inclusionary Zoning provisions of the Zoning Regulations. A matter-of-right project on Block 7 constructed pursuant to the Inclusionary Zoning requirements of the Zoning Regulations would be required to provide at most 15,455 square feet of affordable housing if constructed to a theoretical maximum density. (Ex. 1 at 44.) Building B alone will provide 172,266 square feet of affordable housing. (*Id.*) Building A will provide a variable amount of affordable housing, but is anticipated to provide up to 65,192 square feet of affordable housing upon construction; (*Id.*)
- The Project will simultaneously modernize and preserve a significant amount of affordable housing reserved for households eligible to participate in HUD's Section 8 program;
- The Project's proffer of affordable housing is at a deeper level of affordability than is ordinarily required. That is, by reserving a majority of the Project's units for families eligible to participate in the Section 8 program (which generally involves residents earning less than 30% of the area median income), the Project provides housing at a deeper level of affordability than is currently required under the Inclusionary Zoning regulations; and
- The Project includes two types of housing—senior housing, and three bedroom units—that the Zoning Regulations specifically identify as constituting public benefits. The Project includes 200 units of senior housing (with all such units being affordable, and most anticipated to house existing residents of Brookland Manor, allowing them to remain on site as RIA is introduced) and 18 units of three-bedroom housing (with all such three-bedroom units being either affordable or market-rate units).

The Project's housing and affordable housing are superior public benefits and vastly exceed what would be possible through a matter-of-right development;

- (d) Employment Benefits. The Applicant has entered into a First Source Agreement with the District Office of Employment Services (“DOES”) to promote and encourage the hiring of District residents. (Ex. 121.) The Commission finds that such an Agreement constitutes a public benefit. The Commission also finds that the Applicant has a long history of providing job-training and career development opportunities for Brookland Manor residents and that it has committed to providing additional employment and education programs at its expense in an attempt to ensure its residents and Ward 5 residents have job opportunities; (Ex. 179 at 8.)
- (e) Social Service Programs. The Applicant currently provides, and will continue to provide, a number of programs that are designed for all residents, including the children and seniors who live in the community. Existing programs for children living in Brookland Manor include a variety of enrichment activities, such as after school care, tutoring, arts and crafts, community gardening, summer camp, meal programs to ensure that no child goes home hungry, girls’ self-esteem workshops, reading and math tutoring, school supply drives, holiday gifts and a food pantry for families. (Ex. 1 at 45; Ex. 12.) Existing programs for Brookland Manor’s senior residents include brown-bag lunches and other events designed to bring Brookland Manor’s senior community together. (*Id.*) The Applicant has undertaken a survey of the residents to program the amenity space in the new buildings. The Commission adjudges these programs to be a public benefit of this Project. The Commission finds that the Applicant’s long history of providing such programs justifies determining these programs to be a public benefit notwithstanding their ongoing status after the issuance of a certificate of occupancy for the Project;
- (f) Building Space for Special Uses. The Project provides for residents of Block 7 amenity spaces in each of the two Buildings. (*Id.* at 46.) Such resident spaces (“Amenity Spaces”) are depicted in the Approved Plans (as hereinafter defined) and include no less than approximately 4,000 square feet in Building A and no less than approximately 7,000 square feet in Building B. Buildings A and B each provide amenity spaces for special uses including, but not limited to, community educational or social development, promotion of the arts or similar programs. These amenity spaces support the Applicant’s strong commitment to providing services for children and seniors and give residents of the two Buildings safe indoor and outdoor places to gather in community, recreate, and relax. The Commission finds that these amenity spaces are public benefits given the supporting role such spaces play in facilitating the social services and programs described herein;
- (g) Environmental and Sustainable Benefits. The Project complies with the requirements of the Enterprise Green Communities checklist and is part of a master development that will achieve LEED-ND level of Silver. (Ex. 12, 12A.) The Commission finds that these programs constitute public benefits; and

- (h) Uses of Special Value to the Neighborhood or the District of Columbia as a Whole. As part of the First-Stage Order, the Applicant agreed: (i) to ensure that existing qualified Brookland Manor residents, at the time that the redevelopment commences, will have the ability to remain at the new RIA redevelopment; (ii) to manage the onsite relocation of residents to minimize the impact on educational, social, emotional, and employment needs of individuals and families and phase the overall redevelopment (including building out its infrastructure) in a manner that is most efficient; and (iii) and to implement a robust construction management for each phase of the redevelopment, including for this Project.
75. The Commission also finds that the Project's public benefits and amenities enumerated herein: (i) are commendable in number and quality for the foregoing reasons, (ii) are not inconsistent with the Plan because each is an integral part of the Project, which itself is not inconsistent with the Plan, (iii) are tangible, quantifiable, measurable, and, except as noted, generally capable of being completed or arranged prior to the issuance of a certificate of occupancy for the Project, and (iv) benefit the Brookland Manor, Brentwood and Ward 5 neighborhoods, and primarily benefit the areas within the geographic boundaries of ANCs. Moreover, the Commission finds that the foregoing benefits and amenities are possible only through the PUD process and would not be achievable as part of a project developed as a matter of right.

Commission Comments and Questions

76. At Setdown, the Commission requested additional information from the Applicant regarding: (i) the requested zoning relief; (ii) perspective views down the alley to the south of the Project; (iii) improvements along blank walls of Building B; and (iv) proposed materials, including the proposed brick color. (*Id.* at 41-46.)
77. In response to the Commission's questions and comments at Setdown, the Applicant provided: (i) a discussion of the requested zoning relief; (ii) drawings and renderings of the proposed improvements to the alley immediately south of the Property were provided; (iii) revisions to the south elevation of Building B to continue the rusticated texture of the red brick masonry along the entire base of the building including the previously blank courtyard walls; and (iv) a discussion of the rationale for the Project's color palette and the various brick colors that reflects the quality of the new buildings and creates an environment for the enhanced architectural treatment of the buildings that will be constructed in the future as part of this PUD. (Ex. 24A; Ex. 24E at A14b and A14c; Ex. 12.)
78. The Applicant also provided the following changes to the Project: (i) Juliet balconies were added to the third floor of Building B's north and west elevations; (ii) minor bay projections were added to the fourth floor of Building B's north and west elevations to correspond with bay projections below; (iii) cornice was added to the top of bays on Building A's north and east elevations; and (iv) Building A's east elevation was revised with additional balconies to create repetition of bays along the east façade. (Ex. 24.)

79. At the public hearing, the Commission asked questions regarding: (a) the requested long-term bicycle parking relief; (b) the layout of the units in Building A that will be affordable on a temporary basis upon completion of construction; (c) the color of the red brick on Building B; (d) the dimensions of the siding at the rear of the Project; (e) precedential images for the RFP concrete; (f) whether the cornice could be extended to the rear of Building A; (g) whether horn beams are an appropriate planting choice; (h) the monitoring procedures for the Applicant's proposed First Source Employment Agreement; (i) whether the Applicant had anyone on its team with a strong connection to the neighborhood; (j) renderings showing the Project in context with the existing houses on Bryant Street, N.E.; (k) the proposed "RIA" name; and (l) an updated Relocation Plan. (Tr. 2 at 36-57.)
80. Following opposition testimony, the Commission asked for information regarding: (m) allegations from residents regarding the private security service at Brookland Manor; (n) information regarding displacement and a "one-pager" on the details of the Relocation Plan; (o) the on-site relocation process for existing residents of Brookland Manor; (p) a construction mitigation plan; (q) changes to the Relocation Plan to accommodate resident families that contain one or more seniors with adult children or with grandchildren; (r) whether any seniors have been evicted from Brookland Manor; (s) the Applicant's proposal for accommodating families that cannot be accommodated in a three-bedroom or smaller unit; and (t) the Applicant's commitment to voucher holder residents. The Commission also requested that (u) the Applicant meet with the Association. (Tr. 2 at 173; Tr. 3 at 29, 90, 132-142, 143.)
81. The Applicant has responded completely to the Commission's questions, comments, and concerns raised at the public hearings as filed in the Post-Hearing Submission. In sum, the Commission finds that the Applicant has thoroughly addressed its comments and provided, in response to the Commission's questions, answers that are supported by substantial evidence. Moreover, the Commission finds that the Applicant's changes to the Project resulting from the Commission's comments improve the Project:
- (a) Bicycle Parking. In response to questions from Commissioner May, the Applicant analyzed its ability to provide additional long-term bicycle parking spaces in the garage of the seniors building. It managed to reconfigure the bicycle parking to accommodate 22 bicycles, which is still fewer than the 58 required, but more than the 10 initially provided. The Applicant noted that if there is sufficient demand for such bicycle parking spaces, it could convert a vehicular parking space to bicycle parking spaces because Building B already exceeds the vehicular parking space requirements of the Zoning Regulations; (Ex. 179 at 8.)
- (b) Layout of Temporarily Affordable Units. The Applicant committed to allocate such units as is necessary to accommodate on-site relocation from other Brookland Manor blocks during future phases of construction, without overly distinguishing between market rate and affordable units in any area of the building; (*Id.* at 4.)

- (c) Brick Color on Building B. In response to questions raised from ANC 5C as well as from the Commissioners regarding the texture of the brick of Building B, the Applicant has refined the color of the proposed brick to a warmer shade of red (which remains in the same general color range) with a crisper finish; (*Id.* at 7.)
- (d) Siding Dimensions. The Applicant also provided greater detail on the cementitious siding that will be used on the rear façades of the Project; (*Id.*)
- (e) Precedential Images. The Applicant provided precedential images of the proposed FRP treatment; (*Id.*)
- (f) Cornice Extension. The Applicant extended the cornice of Building A around the rear of the Project; (*Id.*)
- (g) Planting Choices. The Applicant removed hornbeams from the landscape plan in favor of a bosque of ornamental trees such as honey locust; (*Id.* at 7.)
- (h) First Source Employment Agreement. The Applicant provided additional information regarding its extensive history of supporting job training among the residents of Brookland Manor. (*Id.* at 8.) In addition, as a condition of approval for this Application, the Applicant agreed that all future second-stage PUD applications must include information as to the Applicant's satisfaction of the terms of the First Source Agreement associated with prior approved second-stage PUD applications; (*Id.* at 8.)
- (i) Neighborhood Connections. The Applicant stated that it had extended an employment offer to a Senior Vice President of Community Development who is a native of the District and who has significant experience in communities such as Brookland Manor; (*Id.* at 9.)
- (j) Context Renderings. In response to a question from Chairman Hood regarding the context of the existing neighborhood, the Applicant provided images showing the Project in relation to the surrounding existing buildings on Downing Street, N.E. (*Id.* at 7.) The Commission finds the Project is seamlessly integrated into the existing neighborhood from a massing, size, and architectural context; (*Id.*)
- (k) The "RIA" Name. The Applicant provided information that it worked with a consultant and Brookland Manor residents to develop a new name for Brookland Manor to signal a shift away from problems that have plagued Brookland Manor and the Brentwood Village Shopping Center in the past and towards a new and better future for residents and the community. (*Id.* at 11.) The Applicant notes that it will continue to work with residents to solicit feedback on naming individual buildings at the RIA Site; (*Id.*; Ex. 179C at 12.)
- (l) Relocation Plan. The Applicant provided an update to the Relocation Plan. The Applicant does not anticipate any development related tenant relocation activity will occur prior to the occupancy of the Block 7 buildings, which is expected to

occur in late 2019 or early 2020. All resident relocations have been completed on site and at the Applicant's expense. (*Id.* at 3.) Brookland Manor resident demographics indicate that upon the anticipated completion of Building B, at least 167 Brookland Manor residents will be 62 and older and therefore eligible to live in Building B. To the extent that the 200-unit senior building is not entirely occupied by eligible Brookland Manor residents, the Applicant will lease units to outside seniors utilizing DCHA vouchers supported by the Section 8 program. The Applicant has anticipated all along that non-Brookland Manor residents might occupy the senior building. Flexibility as to the overall number of senior affordable units to be occupied by Brookland Manor residents is contemplated in the First-Stage Order and the Applicant's initial statement, both of which note that the units in the senior building will likely not all be occupied by Brookland Manor seniors. (Ex. 1F at FF ¶ 96; Ex. 1 at 45.) The Applicant has occasionally described the 200-unit Building B as being designated for Brookland Manor's senior residents to assure residents that long-standing members of the community will have the first opportunity to move into a brand new building before that opportunity is offered to those from outside of Brookland Manor; (Ex. 179 at 2.)

- (m) Security Force Concerns. The Applicant provided extensive information regarding the Brookland Manor security force and noted that it had retained a new security company in response to resident concerns. (*Id.* at 10.) The Applicant also provided an explanation that fences newly installed at Brookland Manor were intended to protect residents from ongoing construction sites and, in one instance, as a public safety measure where a number of murders had previously occurred; (*Id.*)
- (n) "One-Pager". The Applicant provided a summary document that outlines the information requested by the Commission; (Ex. 179A.)
- (o) Relocation Process. The Applicant engaged a not-for-profit organization to survey current residents to ascertain their housing preferences and to assist the Applicant with the design of enrichment programs that will maximize professional, educational, and life opportunities for existing residents in the future redevelopment. (Ex. 179 at 5.) The Applicant has committed to providing various services and amenities, including a fitness center and computer lab, as requested by residents; (*Id.*)
- (p) Construction Mitigation Plan. The Applicant submitted a Development and Construction Management Plan to guide construction activity on Block 7; (*Id.* at 9; Ex. 179B.)
- (q) Residents with Extended Families. The Applicant's Post-Hearing Submission clarified that current Brookland Manor residents will have the opportunity to make an election about which building they will reside in. The Applicant will not require any multi-generational households to change household formation. For example, those existing households with seniors and grandchildren, or with

seniors and adult children who have special needs will have the opportunity to choose which housing option best suits their circumstances; (*Id.* at 5.)

- (r) Senior Evictions. The Applicant noted that it had sought and obtained a court-ordered eviction against only one senior citizen resident of Brookland Manor in the past three years (i.e., since the commencement of development activities); (*Id.* at 6.)
- (s) Family Accommodations. The Applicant also reiterated its commitment to allow all households in good standing that reside at Brookland Manor at the time that redevelopment starts the opportunity to remain in the redeveloped RIA community. This includes households that currently have more than six residents in their apartment unit and may need a four-bedroom accommodation (based upon the HUD occupancy standard of two people per bedroom). As indicated previously, the preponderance of large units on site are in Blocks 1 and 4 and these are in the final phase of the project, where construction is not expected to commence until 2023 at the earliest. The Applicant will continue to work with these households in the future to ascertain their needs and preferences, and will house them appropriately according to Section 8 program requirements. The Applicant agreed to provide updates to the Commission on the status of these households in each subsequent second-stage PUD application. With respect to large bedroom households, the Applicant noted that the townhome component of the overall RIA project will contain only three and four-bedroom style housing and will be subject to the District's Inclusionary Zoning requirements. The Applicant has begun an effort to identify resources to support first-time homeownership opportunities for current residents and has received positive feedback from residents regarding this housing option. The Association has indicated that this is an area of agreement they have with the Applicant and provides an opportunity to work collaboratively in the future to support residents who desire home ownership opportunities; (*Id.* at 3.)
- (t) Voucher Holder Residents. The Applicant committed to retain voucher-holding residents on site through the build-out of the RIA Site and to work with the Association, DCHA and other DC public officials to ensure that the future voucher payment standard for the Brentwood neighborhood is sufficient to cover the future market rate rent levels for voucher-holding residents. (*Id.* at 5.) The Applicant noted that it has refined its "good standing criteria" to (1) whether the resident is in compliance with its lease agreement; and (2) if subsidized the resident must be compliance with HUD and DCHA program requirements; and (*Id.* at 6.)
- (u) Community Meeting. The Applicant provided updates on its numerous and ongoing meetings with the residents of Brookland Manor. (*Id.* at 9.)

82. At the public hearing the Commission requested a post-hearing submission from the Association that responds to the Applicant's "one-pager." (Tr. 3 at 148.) The Commission also repeated its request for a report from the ANC. (*Id.* at 134.)

Agency and ANC Reports and Testimony

Office of Planning

83. In the OP Setdown Report, OP recommended that the application be set down for public hearing, stated that it would continue to work with the applicant to address and provide a full analysis of the proposal prior to the public hearing. OP also requested the following information: (a) the unit sizes and location of the units in Building A that would remain affordable indefinitely; (b) provision of an executed First Source Employment Agreement with DOES; (c) the services and programs being offered existing and future residents; (d) how the Project achieves high levels of sustainability; and (e) a transportation plan for the Project. (Ex. 10.)
84. In the OP Final Report, OP recommended approval of the requested modification to the First Stage PUD and the Second Stage PUD, provided the Applicant submit additional information with respect to the requested lot occupancy relief in order to detail the exceptional situation of the Property that results in a practical difficulty. (Ex. 34 at 10.)
85. The OP Final Report included comments from District agencies that did not separately submit reports. DC Water noted that additional review of the Project's water infrastructure would be undertaken at permitting. (*Id.*) DHCD requested a formal commitment from the Applicant that the Section 8 project remain in effect in perpetuity or at least 40 years. (*Id.*) FEMS recommended that fire access to the Project not be compromised and that the Project be developed in accordance with fire codes. (*Id.*)
86. The Commission finds that the Applicant satisfactorily addressed all of OP's comments and questions by providing information as follows in the PHS and 20-Day Statement:
- (a) Unit Sizes and Location of Permanently Affordable Units. The Applicant committed that a minimum of 265 units in this project will be deeply affordable and reserved for existing residents. All of the units (200) in Building B (the senior-only building) are reserved at deeply affordable rates, and at least approximately 65 of the units in Building A are initially to be reserved for other current residents of Brookland Manor. The initially affordable units in Building A consist of 25 units to be reserved as permanently affordable units and at least 40 "temporary" replacement units that will be used to house existing Brookland Manor residents. These temporary replacement units are to be used to support the goals of the Applicant's Relocation Plan, which includes keeping Brookland Manor residents on-site and minimizing the number of times that residents are required to move. The chart below details the size of the temporarily and permanently affordable units; (Ex. 12-13.)

Unit	Unit Mix (of 131 total units)	Percentage	Permanently Affordable Units (of 25 total units)
Studio	3	2%	1
1-Bed	60	46%	12
2-Bed	50	38%	9
3-Bed	18	14%	3

A plan shows the location of the permanently affordable units. (Ex. 12A at G14.) Given the nature of the temporarily affordable units, the Applicant requested flexibility to locate these units throughout Building A as needs may dictate, provided such units are not overly concentrated on one floor. (*Id.*) Initially, Building A will include 66 market-rate units.⁹ Over time, as the 40 temporary affordable units are no longer needed to meet the Relocation Plan requirements, those 40 units will transition to market-rate units. Ultimately, Building A will include 81% market-rate units and 19% deeply affordable units. As a result of the removal of the two-over-two units that were initially approved for Block 7, the Applicant does not propose to include any IZ units in Block 7. Subsequent second-stage PUD applications will incorporate the IZ units required under the First-Stage Order; (*Id.*)

- (b) First Source Agreement. The Applicant and DOES entered into a First Source Agreement, a copy of which was entered into the record prior to the public hearing; (Ex. 121.)
- (c) Services and Programs for Residents. The Applicant currently provides, and will continue to provide, a number of programs that are designed for the children and seniors that live in the community; (*See* FF ¶ 74(e).)
- (d) Sustainability. The Applicant provided information detailing how the Project achieves environmentally sustainable design objectives by complying with the requirements of the Enterprise Green Communities checklist; (Ex. 12, 12A.)
- (e) CTR. The Applicant entered a complete CTR into the record; (Ex. 19-20.)
- (f) Zoning Relief. The Applicant provided information regarding the requested zoning relief; and (Ex. 24A.)
- (g) Section 8 Contract Period. The Commission takes notice that the Project is subject to obligations under the First-Stage Order with respect to the period of effectiveness of the Section 8 contract or alternative affordable housing

⁹ Based on timing and phasing considerations for the entire project, it may be necessary to utilize all of Building A (131 units) as replacement housing. Therefore, the Applicant requested flexibility as to the total number of "Temporary Replacement Units" that will be included in the initial lease-up of Building A. This building is not anticipated to be completed until the Summer of 2019, at which time the Applicant will have already made progress on Phases 2a and 2b of the project and will have greater insight as to how many units in Building A will be used as Temporary Replacement Units.

obligations. (Ex. 1F, Decision ¶ B.1.) The Applicant provided an update on the status of its Section 8 contract in its Post-Hearing Submission and reiterated its commitment to extend that contract. (Ex. 179 at 6.)

87. At the public hearing, OP recommended approval of the Project. The Commission finds that OP's reports and testimony were thorough and credible and helpful in considering this Application. (Tr. 2 at 90-92.)

Department of Energy and the Environment

88. DOEE supported the Project and recommended approval subject to considerations provided regarding design and environmental performance. (Ex. 33.)
89. In response to the comments raised in the DOEE Report, at the public hearing the Applicant agreed to utilize the considerations in the DOEE Report in future development of the RIA Site. (Tr. 2 at 19, 45.) DOEE did not attend the public hearing and did not testify on its report.

District Department of Transportation

90. The DDOT Report noted no objection to the Project presuming the TDM program is effectively implemented. (Ex. 40 at 2.) The DDOT Report found that the Applicant used sound methodology to perform the transportation impact analysis in the CTR. The DDOT Report includes findings and analysis regarding the Project's impact on District transportation services and facilities and concludes there is no unacceptable impact that is not mitigated by the TDM. (*Id.*)
91. The DDOT Report includes analysis that Building B does not satisfy the long-term bicycle parking requirements of the Zoning Regulations, but that lesser amounts of such parking are anticipated in Building B. (*Id.*) The UFA Report provides information on the removal and planting of trees but is neutral with respect to the Project. (Ex. 41.)
92. At the public hearing, DDOT confirmed it had nothing beyond the DDOT Report to add with respect to the instant Application. (Tr. 2 at 93.)

Advisory Neighborhood Commissions 5B and 5C

93. Neither ANC 5B nor ANC 5C provided a report on the Application. (Tr. 2 at 57, 98.)

Applicant Community Outreach

94. As part of the First-Stage Order, the Applicant engaged in significant community outreach to the ANCs, its neighbors, and its tenants as part of the PUD process. As a result, dozens of tenants, neighbors and neighboring institutions and organizations submitted letters in support of the First-Stage Order. Prior to filing the instant Application, the Applicant met with officials from OP, DDOT, DC Housing Authority,

and Office of the Deputy Mayor for Planning and Economic Development, as well as the Ward 5 Councilmember, and officials from HUD. (Ex. 1 at 11.)

95. The Applicant kept its residents aware of the status of the re-development plans by hosting an all-resident meeting January 23, 2017 to provide a project update and obtain additional resident input. In addition to the meeting with the residents of Brookland Manor, the Applicant has participated (or will participate) in a number of community meetings since the Application was filed, including the ANC 5B meeting on September 28, 2016. The Applicant presented the Application at an ANC 5C05 Single Member District Commissioner meeting on February 13, 2017. All of the ANC 5C commissioners attended that meeting. Other outreach by the Applicant included meetings with the Brookland Neighborhood Civic Association on October 18, 2016, Woodridge Civic Association on January 3, 2017, and Brentwood Civic Association meeting scheduled for February 7, 2017. (Ex. 12 at 4.) The Applicant meets regularly with smaller neighborhood groups to exchange information and to make sure that community feedback is considered and incorporated into the project. (*Id.*; Ex. 179 at 9.) The Applicant has also hosted multiple events for residents to discuss the Project and the overall development of the RIA Site as well as for social events. (*Id.* at 9-10.)

Persons in Support

96. More than 180 residents of Brookland Manor signed onto a “Letter of Support” of the Application. (Ex. 24B.) Prior to the closing of the record, more than 100 letters were submitted into the record expressing support for the Project. (Ex. 21-22, 24C, 24D, 25-26, 29, 31-32, 36-37, 39, 42, 45-61, 63-67, 69-72, 74-84, 86-93, 95-97, 102, 106, 108-113, 115, 117-120, 122-123, 126-131.) The letters of support addressed the following categories of issues that the Commission finds material to the Application:
- (a) Resident Support for the Project. In addition to the resident signatures on the Letter of Support, the Commission counts nearly three dozen letters of support from Brookland Manor residents. (Ex. 75-82, 88, 113, 122.) The Commission reviewed letters from residents who have already relocated from Block 7 and who had positive comments about their relocation experience. (Ex. 76, 88 at 10-11.) The Commission also reviewed letters from residents who have had positive experiences with Brookland Manor management staff. (Ex. 78, 81.) Finally, the Commission notes written testimony remarking on improvements in crime reduction and positively anticipating a “more gentrified culture”; (Ex. 82 at 8.)
 - (b) Abutter Support for the Project. Numerous residents of Downing Street, N.E., and 14th Street, N.E. the residential streets south and west of the Project, wrote in support of the Project. (Ex. 49-61, 64, 66-67, 90-92.) The Commission notes that many of these letters are form in nature but appreciates the feedback from those living closest to Block 7;
 - (c) Community Support for the Project (Economic Development). Numerous residents and property owners from surrounding neighborhoods wrote in support

of the Project. (Ex. 21, 31, 32, 36-37, 39, 48, 69-71, 130, 131, 156.) Many letters indicated excitement regarding change and development in the neighborhood. One supporter, Ms. Jarrai Stephens, expressed hope that the Project would increase the value of her property in the neighborhood; (Ex. 110.)

- (d) Community Support for the Project (Community Safety). Ms. Shaina Ward, of Langdon Park, wrote in support of the Project in the hopes that it would continue a trend of crime reduction and safety improvements; (Ex. 22.)
 - (e) Community Support for the Project (Urban Design and Architecture). Two neighborhood residents wrote in support of the Project, noting among other things, approval of the Project's urban design and architecture; (Ex. 25, 126.)
 - (f) Applicant-Supported Community Services. Numerous community and service organizations wrote in support of the Project and the Applicant's work to provide social and community programs at Brookland Manor. (Ex. 24D, 26, 27, 42, 47, 63, 65, 93, 102, 123.) These organizations universally thanked the Applicant for its support for their missions and for financial contributions or other donations; and
 - (g) Broader District Resident Support for the Project. Numerous residents of the broader District community wrote in support of the Project and in particular the retention of the Section 8 contract. (Ex. 72, 74, 83-84, 86-87, 89, 95-97, 106, 108, 109, 111, 118-120.)
97. At the public hearing, 12 persons or organizations spoke in support of the Project: (Tr. 2 at 98-129.)
- (a) Resident Support for the Project. Ms. Wilma Carter, Ms. Cheryl Brunson,¹⁰ Ms. Evelyn Hudgeson, Mr. Guillermo Gutierrez, and Mr. Hector Gutierrez, all residents of Brookland Manor spoke in favor of the Project; (*Id.* at 104, 108, 113, 125-126.)
 - (b) Community Support for the Project. Ms. Earline Frazier, a resident of Downing Street, N.E. testified as to the improvements in the neighborhood surrounding Brookland Manor as a result of the Applicant's improved security at Brookland Manor. (*Id.* at 112.) Ms. Betty Mugrow, a Brentwood resident also spoke in support of: the Project's improvements to the neighborhood generally, the Applicant's proposal to allow residents in good standing to remain at or return to the new RIA redevelopment, and the continued presence of security at Brookland Manor; (*Id.* at 121-122.)
 - (c) Security Staff/Security Concerns. Ms. Debbie Steiner testified as to the public safety and crime concerns historically associated with Brookland Manor and the

¹⁰ The Commission notes that Ms. Brunson spoke in opposition to the Project as well. (Tr. 3 at 27-29.) The Commission takes the entirety of Ms. Brunson's testimony into consideration.

Applicant's recent role in reducing those concerns. Ms. Steiner noted that DC Police requested the Applicant provide security staff at Brookland Manor following an assessment of public safety concerns. (*Id.* at 102.) Ms. Steiner also testified that HUD specifically asked the Applicant to hold its residents accountable under their leases; (*Id.* at 103.)

- (d) Preservation of Affordable Housing. Mr. Stillman Knight, a former HUD Assistant Secretary testified in support of the Applicant's preservation of affordable housing. (*Id.* at 109.) Mr. Knight testified that the concentration of subsidized housing promotes cycles of poverty and noted that the Project provided the benefit of retaining deeply affordable residential units while expanding housing opportunities and bringing services to the neighborhood. (*Id.*) Mr. Knight testified to the maturation of Section 8 contracts around the country and the end of affordability restrictions associated with those projects. Mr. Knight noted that the Applicant was free to let the affordable housing restrictions lapse at Brookland Manor, at which point the affordable units would be lost along with the HUD support for such units. The Applicant's election to retain the Section 8 contract is unique; the majority of landlord's in the Applicant's position choose not to renew their contracts; (*Id.* at 111; *see also* Ex. 128.)
- (e) Applicant-Supported Community Services. Mr. Dwayne Dawson spoke in support of the Project to discuss the many social programs offered at Brookland Manor to its residents at no charge with the support of the Applicant. (*Id.* at 105-108; *see also* Ex. 63.) Mr. Charles Brown testified in support of the Project on behalf of Healthy Families Grow. (Tr. 2 at 119.) Mr. Brown identified the community and support programs his organization offers at Brookland Manor in partnership with the Applicant; and (*Id.* at 119-20; *see also* Ex. 63.)
- (f) Applicant Community Outreach. Mr. Kyle Todd spoke in support of the Applicant and the Application on behalf of the Rhode Island Avenue Main Street program. (*Id.* at 114.) Mr. Todd praised the Applicant's outreach and commitment to community programs and support. (*Id.* at 115-116.) Mr. Todd testified that the Project will improve conditions in the neighborhood more broadly. (*Id.*; *see also* Ex. 129.)

Contested Issues Raised by the Association, and Persons in Opposition

- 98. Prior to the closing of the record, more than 60 letters or items of written testimony were submitted in this matter. At the hearing, numerous persons and organizations provided testimony in opposition to the Project. The Association also presented direct testimony in opposition to the Application at the public hearing, submitted several written filings stating its opposition, and submitted draft findings and conclusions of law. The concerns related to the following items with respect to the Project.

99. The Association, Justice First (“JF”), and other opponents raised a number of inter-related issues concerning the affordable housing provided in Project. The issues fall into the following categories:
- (a) The Project has an insufficient number of subsidized replacement units to house the likely number of existing residents because of the number of affordable units in the Project and because additional units will be needed as a result of some existing residents moving to the senior building;
 - (b) The Project will result in displacement as a result of splitting families and housing seniors in the senior building;
 - (c) The Project does not include a subsidy for current residents who are DCHA Section 8 voucher holders; and
 - (d) The Applicant is responsible for displacing tenants as evidenced by the fact there are fewer occupied units than when the First-Stage Order was approved, eviction lawsuits were filed against existing residents, the private security force hired by the Applicant issued notices of infraction for frivolous reasons, the Applicant improperly issuing barring notices after evictions, and the private security force hired by the Applicant was guilty of sexual harassment, illegal searches, and violence toward residents.

The Commission addresses each of these issues as follows.

100. Number of Subsidized Replacement Units. The Association, residents in opposition to the Project, and community organizations alleged the Project has an insufficient number of subsidized replacement units to house the likely number of existing residents who are likely to want to remain at the RIA Site. The opponents assert that because the senior building will contain 200 “Section 8 units,” and the Applicant is obligated to provide no more than 373 project based Section 8 units in the RIA Site, the senior building will take up so many of the available project-based Section 8 slots that there will not be enough left for households with non-seniors to meet the need of the existing residents, and that as a result some existing residents will be divested of their project-based Section 8 slot, and will be displaced. The opponents state that as a result of this alleged deficiency: (a) the affordable housing provided in the Project should not count as a public benefit; (b) that it should count as adverse effect of the PUD, (c) that as a result, the Applicant has failed to meet its commitment in the First-Stage Order that all households in good standing that reside at Brookland Manor at the commencement of the redevelopment will be provided the opportunity to remain at the property through and following the redevelopment process, and (d) that the Project is inconsistent with the Comprehensive Plan.

Before the Commission address each of these points, it will address an overarching issue that underlies all of these allegations. The Commission finds that the opponent’s position is based on a misunderstanding of the way the project based Section 8 slots will be allocated to the senior building. The senior building units will be comprised of

“permanently affordable units reserved for residents that who will be assisted by the project based and/or HCV Section 8 programs, and will be used to house existing Brookland Manor residents as demand dictates, with the balance (if any) open to income qualified tenants, subject in all instances to Condition B.1 of the First Stage Order.” (Ex. 190 at 4; Condition B.1.e of this Order.) This means there will be two kinds of “Section 8 units” in the senior building: (1) project based Section 8 units; and (2) HCV Section 8 units. The project based Section 8 slots will only be assigned to the senior building at the election of the leaseholders. If an eligible senior lives with a family that includes non-seniors, that senior may elect to continue to reside with their current family members in another multi-family building at their preference. (Ex. 179 at 3.) If a senior makes this choice, the project based Section 8 slot remains with the leaseholder(s), and the available slot in the senior building will be filled with an eligible senior utilizing HCV vouchers. (Ex. 189 at 2.) As a result, there will be more than 373 “Section 8” units in the redevelopment. (Ex. 189A at 3.) The opponents’ position seems reasonable because the First-Stage Order provides in Condition B.1.a.(2) that if the Section 8 contract remains (as is the case), the Applicant’s affordable housing obligation shall be to provide 373 Section 8 units, and “[o]f the 373 Section 8 units, 150 to 200 of such units shall be in the Senior Building, which shall contain no other units.” This implies that all of the Section 8 units in the senior building will be project based Section 8 units. However, this is not the case. Accordingly, the Commission is deleting this language from Condition B.1.a. in the First-Stage Order to prevent any further confusion and addresses the housing replacement issues as follows:

- (a) The affordable housing is a public benefit. The Association and JF alleged that the affordable housing provided in this Project should not qualify as a public benefit because the Project reduces the number of affordable units on the site and because many of the affordable units will be reserved for seniors. The Commission disagrees for several reasons:
- (1) This issue has no relationship to the modifications to the First-Stage Order or the second-stage PUD approval sought through this Application, and is therefore outside the scope of the Commission’s review;
 - (2) The Commission conclusively decided that the affordable housing provided in the project was a valuable public benefit when it approved the First-Stage Order. (Ex. 1F at Conclusions of Law [“COL”] ¶ 8.) The First-Stage Order also established the overall number of affordable units and the bedroom counts of the various units in the overall RIA Site redevelopment. (Ex. 1F at COL ¶ 8-9.) The First-Stage Order also established that the Project would include a senior building with up to 200 units. (Ex. 1F at FF ¶ 39.) Thus the number of affordable units, their bedroom counts, and the number of units in the senior building are unchanged as a result of this Application; and
 - (3) The Commission continues to find that the affordable housing provided by the Project is a valuable public benefit. If the Project was developed as a

matter of right, the Applicant would be required to provide only the amount of affordable housing required by the Zoning Regulations. This Project far exceeds that amount;

- (b) Potential displacement as an adverse effect of the PUD. The Association and other opponents allege that because of the alleged deficiency in the number of affordable units, the Project displaces existing residents, and this should be considered an adverse effect of the Project. The Commission disagrees with this for several reasons:
- (1) This issue has no relationship to the modifications to the First-Stage Order or the second-stage PUD approval sought through this Application, and is therefore outside the scope of the Commission's review. The First-Stage Order also established the overall number of affordable units and the bedroom counts of the various units in the overall RIA Site redevelopment. (Ex. 1F at COL ¶ 8-9.) The First-Stage Order also established that the Project would include a senior building with up to 200 units. (Ex. 1F at FF ¶ 39.) Thus the number of affordable units, their bedroom counts, and the number of units in the senior building are unchanged as a result of this Application;
 - (2) The Commission concluded in the First-Stage Order that Brookland Manor contains 373 Section 8 units and 117 market-rate units with individual tenants paying their rents with supplemental financial assistance in the form of DC Housing Choice Vouchers. (Ex. 1F at COL ¶ 8.) The Commission further concluded that the Applicant's decision to retain the project based Section 8 contract and provide 373 units for residents who make significantly less than 50% of AMI is a significant project amenity. (*Id.*) The Commission finds that absent the First-Stage Order, the use restrictions on the project based Section 8 contract for the site would expire this year, and thereafter the Applicant would have the right to revert all 373 of those units to market rate. (Ex. 189A.) The Commission therefore finds that the impact of the Project as it relates to potential displacement is favorable, rather than an adverse effect of the PUD;
 - (3) The Commission conclusively decided that the Applicant's tenant relocation and construction phasing plan was a commendable public benefit, and not a potential adverse effect, when it approved the First-Stage Order.; (Ex. 1F; COL ¶ 10.)
 - (4) The Commission also concluded in the First-Stage Order that the Applicant's tenant relocation and construction phasing plan, which includes an obligation to allow all households that reside at Brookland Manor at the commencement of the redevelopment a right to return to the new community is a public benefit of the project. (*Id.*) The Applicant strengthened its tenant relocation commitment in this proceeding by

stating that all relocations will occur on the property. (Tr. 5 at 29.) The Commission therefore finds that the Applicant has sufficiently mitigated this potential adverse effect through the Project, its relocation plan, and the Applicant's commitment in the First-Stage Order to provide an opportunity to remain at the Property; and

- (5) The Commission does not believe that any displacement will occur, but if it does, the Commission finds that it is acceptable given the quality of the public benefits of the Project;
- (c) Applicant's commitment in the First-Stage Order that all households in good standing that reside at Brookland Manor at the commencement of the redevelopment will be provided the opportunity to remain. The Association and other opponents allege that because of the alleged deficiency in the number of units, the Applicant cannot satisfy the commitment of the First-Stage Order that "all households in good standing that reside at Brookland Manor at the commencement of the redevelopment will be provided the opportunity to remain at the property through and following the redevelopment process."¹¹ The Commission disagrees for two reasons:
- (1) The Applicant has convincingly demonstrated that at this phase of the redevelopment there are a sufficient number of units to meet this commitment. The Applicant has provided substantial evidence that upon completion of Block 7, there will be at least 800 units on the entire property, a more than adequate amount of housing to accommodate current residents; and (Ex. 1G.)
- (2) The number and size of the units needed to satisfy this commitment cannot be ascertained at present because the needs of current residents will not be known until the time of their relocation. The Commission finds that large households will be able to continue to live in one of Brookland Manor's existing 80-year-old buildings (containing four- and five-bedroom count units) until at least 2023, and that the Applicant will continue to house

¹¹ Condition B.2. of the First-Stage Order states "[t]he Applicant shall abide by the terms of the tenant relocation and construction phasing plan as detailed at Exhibit 104B of the record in this case." The Applicant articulated its affordable housing commitment as follows:

1. The Applicant will retain the project based Section 8 Housing Assistance payment contracts on the property, which provide deep rental assistance to 373 extremely low income families (incomes below 30% of AMI); and
2. All households in good standing that reside at Brookland Manor at the commencement of the redevelopment in early 2018 will be provided the opportunity to remain at the property through and following the redevelopment process.

(Ex. 179 at 1.)

these households after that in accordance with Section 8 program requirements and may need a four-bedroom accommodation (based upon the HUD occupancy standard of two people per bedroom). (Ex. 179.) The Commission has included a condition in this Order that the Applicant is required to provide an update on the allocation of the affordable housing units throughout the redevelopment site and the remaining Brookland Manor buildings with any subsequent second-stage PUD application. (Condition B.1.f.) The Commission finds that these provide sufficient assurance that the Project complies with the condition of the First-Stage Order; and

- (d) Comprehensive Plan. The Commission addresses all of the opponents Comprehensive Plan issues below in FF ¶ 104.

101. Family accommodations and treatment of families with senior residents. Opponents alleged that the Project would displace large families and families with senior residents.

- (a) Accommodations for large families. With respect to large families, the Commission finds as follows:

- (1) This issue has no relationship to the modifications to the First-Stage Order or the second-stage PUD approval sought through this Application, and is therefore outside the scope of the Commission's review. The First-Stage Order established the overall number of affordable units and the bedroom counts of the various units in the overall RIA Site redevelopment. (Ex. 1F at COL ¶ 8-9.) The number of affordable units sized for large families is unchanged as a result of this Application;
- (2) The number and size of the units needed to house the existing large families cannot be ascertained at present because the needs of current residents will not be known until the time of their relocation. It is speculative at this point to conclude what unit sizes individual families will need when they are relocated. The preponderance of large units on site are in Blocks 1 and 4 and these are in the final phase of the project, where construction is not expected to commence until 2023 at the earliest, so large households will be able to continue to live in one of Brookland Manor's existing 80-year-old buildings (containing four- and five-bedroom count units) until at least 2023. (Ex. 179.) After that, the Applicant will continue to house these households after that in accordance with Section 8 program requirements and may need a four-bedroom accommodation (based upon the HUD occupancy standard of two people per bedroom). (*Id.*) The Applicant noted that the townhome component of the overall RIA project will contain only three- and four-bedroom style housing and will be subject to the District's Inclusionary Zoning requirements. The Applicant has begun an effort to identify resources to support first-time homeownership opportunities for current residents and

has received positive feedback from residents regarding this housing option. The Association has indicated that this is an area of agreement they have with the Applicant and provides an opportunity to work collaboratively in the future to support residents who desire home ownership opportunities. (*Id.* at 3.) The Commission has included a condition in this Order that the Applicant is required to provide an update on the allocation of the affordable housing units throughout the redevelopment site and the remaining Brookland Manor buildings with any subsequent second-stage PUD application. (Condition B.1.f.) The Commission finds that these measures provide sufficient assurance that the Project will not displace large families; and

- (3) The Commission does not believe that any displacement will occur, but if it does, the Commission finds that it is acceptable given the quality of the public benefits of the Project; and
- (b) Families with senior residents. With respect to families with senior residents, the Commission finds as follows:
- (1) This issue has no relationship to the modifications to the First-Stage Order or the second-stage PUD approval sought through this Application, and is therefore outside the scope of the Commission's review. The First-Stage Order established the overall number of affordable units and the bedroom counts of the various units in the overall RIA Site redevelopment. (Ex. 1F at COL at ¶ 8-9.) The First-Stage Order also established that the Project would include a senior building with up to 200 units. (Ex. 1F at FF ¶ 39; Condition B.1(a)(2).) Thus the number of affordable units, their bedroom counts, and the number of units in the senior building are unchanged as a result of this Application;
 - (2) The number and size of the units needed to house the existing families with a senior, or seniors who opt to live in the senior building cannot be ascertained at present because the needs of current residents will not be known until the time of their relocation. It is speculative at this point to conclude how many additional units and what unit sizes individual families will need when they are relocated. The Applicant will give the senior residents the chance to either opt into the senior building, or to occupy an unrestricted unit. (Ex. 179 at 4-5.) If an eligible senior lives with a family that includes non-seniors, that senior may elect to continue to reside with their current family members in another multi-family building at their preference. (Ex. 179 at 3.) If a senior makes this choice, the project-based Section 8 slot remains with the leaseholder(s), and the available slot in the senior building will be filled with an eligible senior utilizing HCV vouchers. (Ex. 189 at 2.) The Commission finds that these measures provide sufficient assurance that the Project will not displace families that include a senior resident; and

- (3) The Commission does not believe that any displacement will occur, but if it does, the Commission finds that it is acceptable given the quality of the public benefits of the Project.

102. Subsidy for DCHA HCV Holders on site. The Association alleges that because there are current residents who receive financial assistance through the DCHA HCV program, a different program from the Project based Section 8 program, and the Applicant has not provided an assurance that future voucher payment standard will be sufficient to cover the future market-rate rent level for the Project, the Applicant cannot meet its commitment to house all residents in good standing at the commencement of redevelopment through and following the redevelopment process. The Commission finds that the Applicant does not have an obligation to ensure that the subsidy provided through the DCHA HCV program is sufficient to cover the future market rate level for the Project. The number of affordable units in the overall RIA Site redevelopment was established in the First-Stage Order, and is not properly before the Commission as part of this Application. (Ex. 1F at COL ¶ 8.) The First-Stage Order stated that “Brookland Manor includes 373 [project-based] Section 8 units, and 117 “market”-rate units with individual tenants paying their rents with supplemental financial assistance in the form of the [DCHA HCV]”. (*Id.*) The Commission finds that the Applicant’s obligation to provide an opportunity for all residents to remain does not include a responsibility to provide subsidized below market rate rents beyond its obligation to retain the project based Section 8 Assistance Payment contracts, or a responsibility to guarantee that future HCV payments will be sufficient to cover the future market rent level for the Project. The Applicant stated that all residents who participate in the DCHA Section 8 HCV program will have an opportunity to remain, and has provided evidence there is sufficient space to accommodate them. (Ex. 189, 1G.) The Commission therefore finds that the Project complies with this condition of the First-Stage Order. To the extent that any displacement occurs as a result of a funding gap between the voucher standard and market rents, the Commission finds that it is acceptable given the quality of the public benefits of the Project.
103. Fewer occupied units than when the First-Stage Order was approved, eviction lawsuits were filed against existing residents; the private security force hired by the Applicant issued notices of infraction for frivolous reasons; the Applicant improperly issuing barring notices after evictions; the private security force hired by the Applicant was guilty of sexual harassment, illegal searches, and violence toward residents. Several community organizations and neighbors spoke in support of the existing tenants, in opposition to alleged aggressive eviction practices, and the conduct of the private security force hired by the Applicant. The Association made a number of allegations of what it stated was displacement and that it implied amounted to a deliberate campaign by the Applicant to reduce the number of residents who remained on the Property and could qualify as residents in “good standing” and qualify for a replacement unit under the terms of the condition in the First-Stage Order. The Association stated that the number of residents at Brookland Manor had declined from 503 occupied units to 438 between the inception of the application that gave rise to the First-Stage Order and the Applicant’s filing of the

instant Application. (*Id.* at 135.) The Association’s lawyer referred to a newspaper report regarding evictions at Brookland Manor that described increased rates of eviction and eviction practices at Brookland Manor. (Tr. 2 at 136; Ex. 132 at 5.) The Association further alleged that the private security force hired by the Applicant issued notices of infraction against residents for frivolous reasons, that the Applicant improperly issued barring notices after evictions, and that the private security force hired by the Applicant was guilty of sexual harassment, illegal searches, and violence toward residents. (Ex. 182 at 8, 9.) Association requested a specific condition removing any infraction notices by the security company. (Ex. 191.) All of these allegations turn on a number of facts that are not before the Commission, such as the truth of the allegations themselves, the obligations of the residents and Applicant under their tenant and landlord relationship as determined by their leases, and the other rights and obligations of the respective parties under other regulations and laws. As a result, the Commission cannot determine whether these allegations have merit. In addition, adjudicating these claims is not within the Commission’s jurisdiction, which is limited to its statutory authority established by D.C. Official Code § 6-641.01, and does not include authority to adjudicate landlord and tenant disputes.

104. Consistency with the Comprehensive Plan policies cited by the Association and other parties and persons in opposition. The Association and other opponents allege that the Project is inconsistent with the Comprehensive Plan. This issue was conclusively decided in the First-Stage Order, and the issues raised now by the opponents have no relationship to modifications sought through this Application or the second-stage PUD approval sought through this Application. Nonetheless, out of an abundance of caution the Commission analyzed the specific allegations of inconsistency as follows:

- (a) Upper Northeast Area Element policies. The Association and JF allege the Project is inconsistent with the Upper Northeast Area Elements of the Comprehensive Plan. The only relevant policy the Commission could identify¹² is “Policy UNE-1.1.4: Reinvestment in Assisted Housing,” which provides as follows:

Continue to reinvest in Upper Northeast’s publicly-assisted housing stock. As public housing complexes are modernized or reconstructed, actions should be

¹² The Association alleges in its draft order that “the current PUD is inconsistent with the Upper Northeast Area Elements of the Comprehensive Plan where the integrity and stability of the neighborhoods as well as preventing displacement are key factors.” (Ex. 182.) The Association’s draft order does not explicitly mention which policies in the Upper Northeast Element it is referring to, but the Commission surmises that it is referring to the policies in the Housing Element of the Comprehensive Plan that the Association cited in its written submission of February 23, 2017. (Ex. 136.) JF separately alleges that the Project is inconsistent with the Upper Northeast Element of the Comprehensive Plan “where the integrity and stability of the neighborhood as well as preventing displacement are key factors.” (Ex. 162 at 2; Tr. 3 at 47-52.) JF cited these policies as “Comprehensive Plan for the National Capital, Chapter 24, Upper Northeast Area Elements 24-9 to 24-11” but the cited provisions do not directly correspond to the numbering system found in the DCMR or the online version of the Comprehensive Plan found on OP’s website. The Commission conducted its own review of the Upper Northeast Element for policies that could be related to the issues stated by the Association and JF.

taken to minimize displacement and to create homeownership opportunities for current residents.

(10A DCMR § 2408.5.)

The Commission previously found that the Project is consistent with this policy with respect to the overall redevelopment approved under the First-Stage Order. (Ex. 1F at FF ¶ 62.) The Commission continues to find that the Project is consistent with this policy. This Project is an undertaking to replace a privately owned apartment complex that currently receives public subsidies. The subsidies include a project based Section 8 contract that is ending this year, and individual tenants using DCHA Housing Choice vouchers. (Ex. 189A at 3.) The Applicant could have waited until the project based contract ended, and constructed a market rate project. (*Id.*) Instead, the Project includes a commitment to retain the project based Section 8 contracts, and to provide an opportunity for all households in good standing that reside at the property at the commencement of the redevelopment to remain on the property through and following the redevelopment process. The Commission finds these commitments made by the Applicant will minimize any displacement that occurs as a result of the Project such that it is consistent with this policy; and

(b) Housing Element policies. The Commission further finds that the Project is consistent with the Housing Element policies of the Comprehensive Plan cited by the Association as follows:

(1) *Policy H-1.2.3 Mixed Income Housing*, which seeks to “Focus investment strategies and affordable housing programs to distribute mixed income housing more equitably across the entire city, taking steps to avoid further concentration of poverty within areas of the city that already have substantial affordable housing.”¹³ (10-A DCMR § 504.8.) The Association’s lawyer asserted that the “[A]pplicant’s proposed elimination of deeply affordable units proposed both in Block 7 and the overall redevelopment will drive families out of an intensely gentrifying neighborhood, into hyper-segregated and impoverished areas of the city, thus furthering segregation and concentrating poverty” (Tr. 2 at 139.) The Commission found in the First-Stage Order that the overall RIA Site redevelopment was consistent with Policy H-1.2.3. (Ex. 1F ¶ 56.) The OP Final Report arrives at a similar conclusion for this Application. (Ex. 34 at 18.) In light of the Applicant’s failure to provide any evidence or justification for its assertion, the Commission sees no reason to disturb its previous finding. The Project provides 225 new, high-quality, permanently

¹³ Although the text of this and the succeeding policy excerpts are not reproduced directly in the Association’s testimony, the entirety of the Comprehensive Plan’s text is incorporated into the record by reference pursuant to the Zoning Regulations, so these policies are provided here for context. (*See* 11-Z DCMR § 203.7; Ex. 1 at the Appendix.)

and deeply affordable units where currently there are 64 units more than approximately 80 years old. The overall RIA Site will create a mixed-income community where currently there is a community of concentrated poverty;

- (2) *Policy H-1.2.1 Affordable Housing Production*, which seeks to “Establish the production of housing for low and moderate income households as a major civic priority, to be supported through public programs that stimulate affordable housing production and rehabilitation throughout the city.” (10-A DCMR § 504.6.) The Association stated that the Project does not promote affordable housing. (Tr. 2 at 139.) The Commission disagrees. The Applicant is constructing brand new affordable housing to replace housing with an expiring affordability restriction. OP reaches a similar conclusion, and the Commission is directed to give great weight to its analysis. (Ex. 34 at 18.) The Applicant’s commitment to and promotion of affordable housing is evidenced by its election to deliver new affordable housing as part of its first phase of construction before proceeding to blocks that will have higher concentrations of market-rate units;
- (3) *Policy H-1.3.1 Housing for Families*, which seeks to “Provide a larger number of housing units for families with children by encouraging new and retaining existing single family homes, duplexes, row houses, and three- and four-bedroom apartments.” (10-A DCMR § 505.6.) The Association stated that the Project as well as the overall RIA Site redevelopment eliminates existing four-bedroom units and reduces the number of three-bedroom units. (Tr. 2 at 139.) The Commission does not disagree with the factual statement, but disagrees that the Project is inconsistent with this objective of the Comprehensive Plan. The OP Final Report finds the Application consistent with this policy objective and again the Commission gives such finding great weight. (Ex. 34 at 18.) The Applicant is making a significant commitment to retaining family-sized units. The Project includes three-bedroom units. The First-Stage Order also provides for rowhouses, where currently none exist. The Applicant reiterated its commitment to provide rowhouses as part of future phases of development and to identify resources to support first-time homeownership opportunities for current residents. (Ex. 179 at 3.) This section of the Comprehensive Plan calls for the *provision* of housing units for families and not necessarily the *retention* of existing three- and four-bedroom apartment units, especially existing three- and four-bedroom apartment units that were constructed many decades ago and no longer conform to market standards. Overall, the Project is not inconsistent with this policy objective;
- (4) *Policy H-2.1.1, Protecting Affordable Rental Housing*, which has the objective of “Recogniz[ing] the importance of preserving rental housing

affordability to the well-being of the District of Columbia and the diversity of its neighborhoods [and] [u]ndertak[ing] programs to protect the supply of subsidized rental units and low-cost market rate units.” 10-A DCMR § 509.5. The Association stated that the plan for Block 7 shows that affordable housing will be greatly reduced. (Tr. 2 at 140.) Again, the Commission disagrees. The Project is an express effort to extend and retain an expiring Section 8 affordable housing contract. The Applicant is under no obligation to retain the existing affordability restriction at the RIA Site as a former HUD official testified. (Ex. 128.) Its election to do so on a one-for-one basis is a significant public benefit for the District and the existing residents who benefit from the Section 8 program; and

- (5) *Policy H-2.1.3, Avoiding Displacement*, which seeks, in relevant part, to “Maintain programs to minimize displacement resulting from the conversion or renovation of affordable rental housing to more costly forms of housing.” (10-A DCMR § 509.8.) The Association’s lawyer alleged that Brookland Manor had already experienced “mass displacement” resulting from the reduction in occupancy at Brookland Manor. (Tr. 2 at 140.) The Commission cannot agree with the Association. The Applicant has repeatedly committed to allowing existing tenants who wish to remain and who maintain good standing the opportunity to do so. (Ex. 1F at FF ¶ 56; Ex. 179 at 1-5.) The Commission finds that the Applicant has agreed to do far more than “minimize” displacement; it has developed a plan to avoid Brookland Manor resident displacement altogether. The Association seems to equate, without credible evidence, turnover in Brookland Manor residents with “displacement.” The Commission is not convinced. The Applicant credibly notes that residential turnover in apartment buildings is common and gives a number of reasons why residents leave Brookland Manor regularly of their own accord (listing moving out of the District, purchasing homes, getting married, moving for employment reasons or passing away as instances of natural attrition at Brookland Manor similar to apartment buildings generally). (Ex. 179 at 6.) A change on the order suggested by the Association is in keeping with the Applicant’s analysis of ordinary background conditions of resident turnover. (*Id.*) The Commission previously found redevelopment of Brookland Manor is not inconsistent with this policy objective and sees no reason to reverse that finding now. (Ex. 1F; FF ¶ 56.)

105. DC for Reasonable Development (“DCRD”) also alleged that the Project is inconsistent with the Comprehensive Plan. (Ex. 133 at 2.) In support of this allegation, DCRD cites a list of Comprehensive Plan directives and policies but does not provide even the merest of allegation or offer any explanation as to why the Project would be inconsistent with these particular directives and policies. Moreover, the DCRD letter does not assert that the Project is inconsistent with the provisions cited therein; it merely asserts that such policies are “relevant” without justification or explanation as to how such policies are

relevant. Accordingly, these policies and directives are not material contested issues about which the Commission can make a finding or draw conclusions.

106. JF claims that the Project fails to comply with the intent and purposes of the Zoning Regulations, but offers no justification for this claim. (Ex. 162 at 1.) The Commission disagrees with JF and notes its extensive findings herein with respect to the Project's consistency with the Zoning Regulations. Finally, JF alleges an unspecified adverse impact on the surrounding area arising from the Project's creation of affordable housing. (*Id.*) For the reasons set forth above, the Commission finds that the Project will create no unacceptable impact on land values in the surrounding area. (*See* FF ¶ 72.)
107. Opponents raised the following additional issues about the Project:
- (a) Senior and Accessible Units. Ms. Davis further noted that the Association has a preference for housing that is accessible to seniors and those with disabilities. (Tr. 2 at 143; Ex. 142.) The Commission finds that the Applicant has provided evidence that the senior housing will be accessible for seniors and those with disabilities;
 - (b) Isolation of Seniors. Ms. Davis noted that the Project isolates seniors in a senior building that does not meet their needs or allow them to remain an active part of the community. (Tr. 2 at 144.) Community members noted a concern that a senior-only building might separate seniors from other family members. (Tr. 3 at 55, 103, 109; Ex. 144.) The Commission credits the Applicant's testimony that senior residents of Brookland Manor will have the choice as to whether to relocate to the senior building; (Ex. 179 at 5.)
 - (c) Definition of Good Standing as a Criteria for Eligibility to Remain. Ms. El-Amin and others asked for clarification about the standards required for residents to be able to remain at Brookland Manor. (Tr. 2 at 149, 171; *see also* Tr. 3 at 66; Ex. 140.) The Application has provided this information; (Ex. 179 at 6.)
 - (d) Younger/Youth Residents' Concerns of Displacement. Ms. Yvonne Johnson noted that she had observed youth residents of Brookland Manor showing signs of depression and concern regarding displacement; (Tr. 2 at 144-145, 167-169; *see also* Tr. 3 at 66, 103; Ex. 138, 141.)
 - (e) Preservation of Family Housing. Ms. Johnson also expressed support for retaining affordable housing that accommodates families. (Tr. 2 at 144-145.) Community members and advocates expressed similar concerns. (Tr. 3 at 31-36, 42-44, 62-63, 74-76; Ex. 98, 121, 125, 134, 141, 143, 145, 147, 160, 165.) The First-Stage Order established the overall number of affordable units and the bedroom counts of the various units in the overall RIA Site redevelopment; (Ex. 1F at COL ¶ 8-9.)
 - (f) Vacant Units at the RIA Site Could Be Used to House Others. Ms. El-Amin and Ms. Valerie Scott noted a concern about some units in Brookland Manor being

vacant when other families need housing. (Tr. 2 at 144-145, 162; *see also* Tr. 3 at 52-53; Ex. 144.) The Commission finds that a certain percentage of vacant units are necessary for the Applicant to undertake relocations on site during construction so that Brookland Manor residents are not displaced during construction. (Ex. 179 at 6-7.) The Commission notes that the Applicant is voluntarily foregoing rental income by doing so; (*Id.*)

- (g) Security Staff Harassment/Infraction Notices. Ms. El-Amin, Ms. Neeka Sullivan, Ms. Scott, and others raised concerns regarding unprofessional behavior and harassment by the Brookland Manor private security staff. (Tr. 2 at 146-147, 155-158, 160-161, 170; Tr. 3 at 24-25, 28-29, 45, 55, 68-69, 82, 111-112, 125-128, 131; Ex. 94, 115, 116, 137, 144-146, 148, 157.) The Applicant provided extensive information regarding the Brookland Manor security force and noted that it had retained a new security company in response to resident concerns. (*Id.* at 10.) As noted, the Applicant has terminated its relationship with the existing security service in light of these concerns; (Ex. 179 at 10.)
- (h) Park Space. Ms. El-Amin noted that the residents of Brookland Manor would like a new park in their neighborhood and was disappointed that one was not proposed as part of the Project. (Tr. 2 at 148. *see also* Tr. 3 at 107; Ex. 144.) The Commission notes that the Community Green will be constructed in a subsequent second-stage PUD;
- (i) Community Development/Non-housing Related Resident Needs. Rev. Houston expressed a desire for support programs for residents. (Tr. 2 at 151.) The Commission notes that the Applicant provides extensive support programs for residents; (*See supra*, FF ¶¶ 91(f) and 97(e); Ex. 179.)
- (j) Job Placement/Training. Rev. Houston expressed a desire for additional job training so that residents are prepared to participate in the actual construction efforts of the Project; (Tr. 2 at 152; Ex. 85, 143.)
- (k) Fences. Ms. El-Amin and Ms. Scott also raised concerns about fences having been installed at Brookland Manor. (Tr. 2 at 147, 162.) Multiple community members raised concerns regarding the fences as well. (Tr. 3 at 24, 54, 68; Ex. 144, 148.) The Commission finds that the Applicant's installation of fences as a safety measure around construction sites and as a public safety measure in light of criminal activity in and around Brookland Manor is entirely warranted. (Ex. 179 at 10-11.)
- (l) Design and Density. One interested community member spoke in favor of the existing garden apartment style design and noted that the density of the Project was inappropriately high; (Tr. 3 at 105; *see also* Ex. 124, 163, 168.) The Commission uniformly disagrees with this criticism and finds that the urban design and architecture is exemplary. The Commission notes that this

commenter's assessment of the FAR for the Project appears to be incorrect. The Project has an overall FAR of 2.8, not 5.95;

- (p) Affirmative fair housing obligations under the Fair Housing Act. The Washington Lawyers' Committee for Civil Rights and Urban Affairs ("WLC") provided testimony regarding the Commission's role in implementing the District's fair housing obligations. (Tr. 3 at 122; Ex. 167.) WLC asserted that the Project did not advance the District's affirmative fair housing obligations under the Fair Housing Act. However, the issue of Fair Housing Act compliance is not within the Zoning Commission's jurisdiction in this case, which is limited to its statutory authority established by D.C. Official Code § 6-641.01, and does not include an assessment of the Applicant's compliance with fair housing obligations under the Fair Housing Act. Only a court with the jurisdiction to so can find Fair Housing Act violations and impose the appropriate penalties and/or enjoin further development of this Project. Unless and until that happens, the Commission may review this PUD for compliance with the PUD standard set forth in Chapter 3 of Subtitle X of the Zoning Regulations.

WLC acknowledges this in its submission, stating "[t]his Commission should note that the District's obligations to further fair housing do not require it to determine as a matter of law, whether a particular redevelopment unlawfully violates the federal civil rights afforded to members of a protected class nor to adjudicate claims under the federal Fair Housing Act and/or District of Columbia Human Rights Act frameworks, which are properly considered by courts of competent jurisdiction." (Ex. 167 at 2.) WLC goes on to claim that the Commission can consider the fair housing implications of specific PUDs under the Commission's review and whether such redevelopments pose barriers to fair housing choice, as previously explained, when it considers the public benefits and adverse impacts of each redevelopment." However, the PUD regulations do not require that housing or affordable housing be provided at all. Housing is but one of many types of benefits that may be proffered, and so an applicant's decision to provide little no affordable (other than what is required by IZ) is of absolutely no relevance to a PUD application; and

- (q) New Communities Initiative and Fair Housing Act compliance. Law for Black Lives Matter D.C. ("LBLM") alleged that the Project violates various public policies, including the federal Fair Housing Act and regulations thereunder and the District's New Communities Initiative. (Tr. 3 at 82; Ex. 169.) As stated above, the issue of Fair Housing Act is not within the Commission's jurisdiction in this case. Likewise, the Commission finds that the issue of compliance with the District's New Communities Initiative is not within the Commission's jurisdiction in this case, which is limited to its statutory authority established by D.C. Official Code § 6-641.01. In addition, according to NCI information cited in LBLM's filing, NCI applies only to four specific communities in the District and does not apply to the Project.

108. The Commission therefore resolves these contested questions in favor of the Applicant and finds that the Project is consistent with the First-Stage Order, the Zoning Regulations, and the PUD evaluation standards.
109. The Commission notes that the Brookland Neighborhood Civic Association (“BNCA”) filed a letter declining to take a formal position on the Project. (Ex. 127.) BNCA noted its support for the residents of Brookland Manor and its lack of opposition to the Project itself. (*Id.*) BNCA noted a lack of support for the Project’s architecture. (*Id.*)
110. On balance, the Commission finds that there is comparatively little opposition to the Project itself. Even the Association conceded that it is not opposed to this Project. (Tr. 2 at 88-89; Tr. 3 at 88.) At its core, the Project replaces 64, now-vacant, 80-year-old apartment units subject to a maturing affordability restriction with 331 brand new mixed-income units of the highest-caliber design with modern amenities and subject to a new affordability restriction.

CONCLUSIONS OF LAW

Procedural and Jurisdictional Conclusions

1. Any PUD application must meet the requirements of Subtitle Z, Chapter 3, 11-X DCMR § 307.1, and the Commission must hear any PUD case in accordance with the contested case procedures of Subtitle Z, Chapter 4. (11-X DCMR § 300.3.) The Commission concludes that the Application satisfies the PUD application requirements, and that the Commission has satisfied the procedural requirements of the Zoning Regulations, including the applicable notice thereof, necessary to issue this Order. The Commission concludes that this Application complies with the Zoning Regulation’s procedural requirements and notice provisions.
2. The minimum area included within a proposed PUD must be no less than 15,000 square feet and all such area must be contiguous. (11-X DCMR § 301.) The Application satisfies these minimum area and contiguity requirements.

Evaluation Standards

3. The Applicant has requested approval of: (1) a modification of the First-Stage PUD order, and (2) approval of a second stage PUD. The Applicant has the burden of proof to justify the granting of the Application. (11-X DCMR § 304.2.)

First-Stage PUD Modification

4. The scope of the Commission’s decision in judging the Applicant’s modification to the first stage order is “limited to the impact of the modification on the subject of the original application.” (11-Z DCMR § 704.4.) The Commission is not permitted to revisit the decisions it made in its original decision. (*Id.*) The Commission interprets this to mean that unless an issue is related to the impact of the modification, or the detailed site plan

review to determine compliance with the first-stage approval, it is outside of the scope of the Commission's review of the Application. In this case, the Applicant's requested modifications to the First-Stage Order are limited to changes to the buildings on Block 7 of the site. The First Stage PUD approved a PUD-related rezoning of Block 7 to the R-5-B (now RA-2) Zone District, and development of the Block with a multi-family building and 28 structures described as "two-over-two residential units." The Applicant's requested modifications are quite limited, and include replacing the two-over-two residential units with a second multi-family building, swapping the locations of the senior building and the multi-family building on the site, changes to the building envelopes for these two buildings, and changes to the alley configuration and parking for these two buildings. The Applicant seeks additional relief from the lot occupancy (with respect to both Buildings) and long-term bicycle parking requirements (with respect to Building B only) of the Zoning Regulations. The Applicant also requested flexibility to rebalance affordable units initially provided in Building A to other portions of the RIA Site upon completion of subsequent phases, with the objective of avoiding a permanent disproportional concentration of low income residents in particular buildings. (FF ¶¶ 57-66.) The Applicant did not request any changes to the development proposed for Block 1, the Pedestrian Walk between Blocks 1 and 2, Blocks 2 through 6, Block, or the PUD-related map amendment. Likewise, the Applicant did not request any changes to the Project's benefits and amenities package, including its proffered affordable housing commitments. The issues raised by opponents related to the sufficiency of the Project's affordable housing benefits, potential displacement as a potential adverse effect of the PUD, family accommodations and treatment of families with senior residents, subsidy for residents who are DCHA Section 8 HCV holders, and the Project's consistency with the Comprehensive Plan, are not related to the impact of the modifications and/or additional relief sought by the Application. The issues were decided in the First-Stage Order, and the Commission by rule is not permitted to revisit them.

5. The Commission is required to apply in judging the requested modification to the First Stage Order are set forth in 11-X § 304. The relevant standards are:
 - (a) The Commission shall "judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific benefits of the case; (11-X DCMR § 304.3.)
 - (b) The Commission shall find the proposed development is not inconsistent with the Comprehensive Plan and with other public policies an active programs related to the subject site; (11-X DCMR § 304.4(a).)
 - (c) The Commission shall find the proposed development does not result in unacceptable project impacts on the surrounding area but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits of the project; and (11-X DCMR § 304.4(b).)

- (d) The Commission shall find the proposed development includes specific public benefits and project amenities that are not inconsistent with the Comprehensive Plan and with other public policies an active programs related to the subject site. (11-X DCMR § 304.4(c).)

The Commission applied these standards and concludes as follows:

- (a) The Commission shall “judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific benefits of the case.” (11-X DCMR § 304.3.)

For the reasons discussed in FF 57-75, 98-108, the Commission concludes the Project warrants the requested modifications to the approved First-Stage Order PUD, including the additional requested zoning flexibility and relief, in light of the extensive public benefits offered by the Project. The relief, flexibility and modifications are comparatively minor and largely offset by mitigation plans and superior design. Moreover, the benefits of the Project and the First-Stage Order more generally are extensive. The Applicant is in the midst of constructing a new mixed-use, mixed-income, transit-oriented neighborhood, replete with amenities such as the Community Green, and introduction of commercial uses, all while preserving a significant quantity of deeply affordable housing that will be indistinguishable from market rate units. The individual elements of the Applicant’s undertaking are benefits to the existing residents and the neighborhood locally; the Applicant’s preservation of affordable housing and creation of new housing is a benefit to the District as a whole. The Applicant’s additional provision of service, employment, and special use benefits is accretive to the Project’s design and programmatic benefits;

- (b) The Commission shall find the proposed development is not inconsistent with the Comprehensive Plan and with other public policies and active programs related to the subject site. (11-X DCMR § 304.4(a).)

For the reasons discussed in FF 68-71, 104, the Commission concludes the Project is not inconsistent with the Comprehensive Plan and with other public policies and active programs related to the subject site;

- (c) The Commission shall find the proposed development does not result in unacceptable project impacts on the surrounding area but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits of the project. (11-X DCMR § 304.4(b).)

For the reasons discussed above in Finding of Fact 72-73, 99-103, 105-107, the Commission finds that the proposed development does not result in unacceptable impacts on the surrounding area. Instead, the Commission concludes the impacts

are either favorable, capable of being mitigated, or acceptable given the quality of the public benefits of the project; and

- (d) The Commission shall find the proposed development includes specific public benefits and project amenities that are not inconsistent with the Comprehensive Plan and with other public policies and active programs related to the subject site. (11-X DCMR § 304.4(c).)

The public benefits of the Project are unchanged from when the Commission approved the First-Stage PUD. The Commission continues to believe the Project includes public benefits and project amenities that are not inconsistent with the Comprehensive Plan and with other public policies and active programs related to the subject site.

6. As part of a PUD application, the Commission may, in its discretion, grant relief from any building development standard or other standard (except use regulations) referenced in the zone reference table. (X §§ 303.1, 303.11.) The Applicant seeks relief from the lot occupancy (with respect to both Buildings) and long-term bicycle parking requirements (with respect to Building B only) of the Zoning Regulations. (FF ¶¶ 62-66.) The Commission has found that these items of relief do not impair the purposes or intent of the Zoning Regulations and are not inconsistent with the Comprehensive Plan. (*Id.*) Therefore, the Commission concludes it may authorize its discretion to grant such items of relief subject to the Conditions hereof.

Approval of Second Stage PUD

7. The Commission's review of the second-stage application is comprised of "a detailed site plan review to determine transportation management and mitigation, final building and landscape materials and compliance with the intent and purposes of the first-stage approval, and this title." (11-X DCMR §302.2(b).) For the reasons discussed above in FF ¶¶ 60-61 and ¶¶ 99-103, the Commission conducted a detailed site plan review and concludes that the second-stage application complies with the intent and purposes of the first stage approval and the Zoning Regulations, including its commitment to provide an opportunity for all households in good standing that reside at Brookland Manor at the commencement of the redevelopment in early 2018 to remain at the property through and following the redevelopment process.
8. The Commission must undertake a "comprehensive public review" of any PUD application "in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits," and in deciding on the Application, the Commission must "judge, balance, and reconcile the relative value of the public benefits project and amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case." (X §§ 300.5, 304.3.) A PUD-related zoning map amendment is flexibility against which the Commission must weigh the benefits of the PUD as explained below: (*Id.* § 303.12.)

- (a) The Commission heard the Application in a public hearing and followed the contested case procedures of the Zoning Regulations. (FF ¶¶ 3-33.) The Commission therefore concludes that it has satisfied the procedural requirements in order to review the Application and evaluate the flexibility and incentives requested against the proposed public benefits;
 - (b) The Project warrants the requested relief, modifications to the approved First-Stage Order PUD, flexibility afforded by the Zoning Map amendment in light of the extensive public benefits offered by the Project. The relief, flexibility and modifications are comparatively minor and largely offset by mitigation plans and superior design. Moreover, the benefits of the Project and the First-Stage Order more generally are extensive. The Applicant is in the midst of constructing a new mixed-use, mixed-income, transit-oriented neighborhood, replete with amenities such as the Community Green, and introduction of commercial uses, all while preserving a significant quantity of deeply affordable housing that will be indistinguishable from market rate units. The individual elements of the Applicant's undertaking are benefits to the existing residents and the neighborhood locally; the Applicant's preservation of affordable housing and creation of new housing is a benefit to the District as a whole. The Applicant's additional provision of service, employment, and special use benefits is accretive to the Project's design and programmatic benefits; and
 - (c) The Project and its incentives and benefits must be evaluated also against the special circumstances in this case, which include Brookland Manor resident and Association concerns regarding the availability of units and the displacement of residents. The Commission has found that this Project, by itself, does not create unacceptable concerns regarding the availability of units to meet the need of Brookland Manor residents. At the conclusion of the construction of the Project, there will be more than 800 units available to house Brookland Manor residents. The Commission has also found that the strong support for the Applicant among the community for this Project and the Applicant's good will from decades of laudable service to the Brentwood neighborhood and Brookland Manor residents outweigh the concerns alleged. The Commission recognizes the Applicant's challenge in recreating Brookland Manor into a new mixed-use, mixed-income neighborhood and concludes that the benefits it is providing outweigh any special circumstances before the Commission at this time.
9. Accordingly, the Project's benefits and amenities outweigh the relief, flexibility and modifications requested even in light of the background concerns in the community, which concerns the Commission will reevaluate in future second-stage applications under the First-Stage Order.
 10. Nothing in the record leads the Commission to disturb its conclusion from the First-Stage Order regarding the Zoning Map amendment applicable to the Property. ("The Commission finds that rezoning the site is consistent with the Comprehensive Plan. The PUD is fully consistent with and fosters the goals and policies stated in the elements of

the Comprehensive Plan.”). (Ex. 1F at COL ¶ 10.) Therefore, the Commission concludes that the Zoning Map amendment for the Project is consistent with the Plan.

Consistency with the PUD Process, Zoning Regulations, and Plan

11. Pursuant to the Zoning Regulations, the purposes of the PUD process are “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 (the “PUD Process”).) The Commission concludes that the approval of the Application is an appropriate result of the PUD Process. The Project is a high-quality development that is superior to what could be constructed on the Property as a matter-of-right via the underlying zoning. The Commission has found that the Project provides public benefits that are commendable both in number and quality. Finally, the Commission has found that the Project will not injure the public health, safety, welfare or convenience, and is not inconsistent with the Comprehensive Plan.
12. The PUD process is intended to “provid[e] for greater flexibility in planning and design than may be possible under conventional zoning procedures, [but] the PUD process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan.” (X § 300.2.) The Commission has found that the Project generally conforms to the requirements of the Zoning Regulations except for the two areas of articulated zoning relief, which are nonetheless consistent with the intent and purposes of the Zoning Regulations. The Project is not inconsistent with the Comprehensive Plan. Therefore, the Commission concludes that Project does not circumvent the Zoning Regulations and is not inconsistent with the Comprehensive Plan.

Great Weight to ANC Reports and OP Recommendations

13. 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. Neither affected ANC submitted a written report in this case, thus there are no issues or concerns. Because the ANCs expressed no issues or concerns, there is nothing for the 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).
14. The Commission is also required to give great weight to the recommendations of OP. D.C. Code § 6-623.04. The Commission has reviewed the OP Setdown Report, the OP Final Report and heard testimony from OP. The Commission gives OP’s recommendation to approve the application great weight, and concurs with OP’s conclusions.

Human Rights Act compliance

15. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the Application for second-stage review of a Planned Unit Development and related modification of an approved first-stage PUD for the Subject Property (Square 3953, Lots 1-3). The approval of this PUD is subject to the following guidelines, conditions and standards (“Conditions”).

I. Modifications to conditions in the First-Stage Order.

Condition A.1 of Z.C. Order No. 14-18 is amended to read as follows:

The PUD project shall be developed in accordance with the plans prepared by Perkins Eastman marked as Exhibits 76-76M and supplemented by drawing submitted June 8, 2015 as Exhibit 104A of the record in Z.C. Case No. 14-18, as amended and supplemented by the plans prepared by Torti Gallas Urban, marked as Exhibits 24E1-24E5, 101A1-102A2, and supplemented by drawings submitted on April 10, 2017 as Exhibit 179F1-179F4 of the record in Z.C. Case No. 14-18A (“Approved Plans”).

Condition B.1.a. of Z.C. Order No. 14-18 is amended to read as follows:

- a. If the Section 8 contract remains, the Applicant’s affordable housing obligations shall be as follows:
- (1) There shall be at least 373 units covered by the Section 8 contract and eleven “inclusionary units” within the meaning of 11 DCMR § 2602;
 - (2) The final location and composition of these units shall be determined by the Applicant no later than the date that the first certificate of occupancy is issued for the final rental building; except that:
 - (i) At least 10% of each multi-family building’s units shall be the Section 8 contract units;
 - (ii) The eleven inclusionary units shall be either Townhouses or Two-Over-Two Units collectively constituting at least 10% of the residential GFA of the Townhouses and Two-Over-Two Units;
 - (iii) Six of the inclusionary units shall be reserved for households earning no more than the 50% of the AMI and five of the inclusionary units shall be reserved for households earning no more than 80% of the AMI; and

- (iv) The units in the Senior Building shall, as demand dictates, be reserved initially for existing eligible Brookland Manor residents who wish to move to the Senior Building either (x) with a Housing Choice Voucher or (y) who lease a Section 8 contract unit, with the balance (if any) open to other income qualified tenants.

Condition B.2. of Z.C. Order No. 14-18 is amended to read as follows:

B.2. The Applicant shall abide by the terms of the tenant relocation and construction phasing plan as detailed at Exhibits 1G and 179 of the record in case 14-18A. All tenant relocations will occur on the RIA Site. In addition to the information required under the Zoning Regulations and this Order, in connection with any subsequent second stage application arising out of this Order, the Applicant shall provide an update on the allocation of affordable housing units throughout the redevelopment site and the remaining Brookland Manor buildings, as applicable.

II. Conditions of approval of the Application.

A. PROJECT DEVELOPMENT

1. The second-stage PUD project shall be developed in accordance with the plans prepared by Torti Gallas Urban marked as Exhibits 24E1-24E5, 101A1-101A2, and supplemented by drawings submitted on April 10, 2017 as Exhibit 179F1-179F4 of the record (“Approved Plans”), as modified by the guidelines, conditions, and standards herein.
2. The second-stage PUD project consists of: (i) Building A, a four-story apartment building containing approximately 131 mixed-income units with associated ground-floor level amenity space, 68 below-grade vehicular parking spaces, and 54 bicycle parking spaces (44 long-term and seven short-term); and (ii) Building B, a four-story residential building containing approximately 200 seniors-only independent living units with associated ground-floor level amenity space, 48 below-grade vehicular parking spaces, and 32 bicycle parking spaces (22 long-term and 10 short-term). Building A has 169,342 square feet of gross floor area, a maximum height of 49 feet four inches, and an FAR of 2.97. Building B has 172,266 square feet of GFA, a maximum height of 51 feet, and an FAR of 3.0. Block 7 has a total FAR of 2.98 and contains 341,608 square feet of GFA, all of which is devoted to residential uses.
3. Flexibility. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided

that the variations do not change the exterior configuration or appearance of the structure;

- b. To vary final selection of the exterior materials within the color ranges of the materials types as proposed based on availability at the time of construction;
- c. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;
- d. To vary the final streetscape design and materials in response to direction received from District public space permitting authorities;
- e. To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings, trim, and outdoor assembly space or any other changes to comply with Construction Codes;
- f. To increase the number of units by up to 10% (except as provided below in Condition B.1.d) and to adjust the location of affordable units to reflect the final unit mix of the Project, provided that the Applicant complies with Condition B.1 of this Order and that the number of permanently affordable residential units in this second-stage PUD application will increase by the same percentage as the number of additional units (while maintaining the overall number of permanently affordable housing units approved in Z.C. Order No. 14-18) and provided further that the allocation of such units does not overly distinguish between market-rate and affordable units in any area of Building A; and
- g. To vary the number of parking spaces plus or minus five percent.

B. PUBLIC BENEFITS

1. Housing and Affordable Housing. The Applicant shall include in the second-stage PUD Project 331 residential units. The Applicant shall provide a minimum of 265 units (80% of the total units delivered as part of this phase) that shall be deeply affordable and reserved for occupants eligible to receive Section 8 assistance through the project based contract with HUD or through a DCHA Housing Choice Voucher as described below:
 - a. **For the life of the Project**, the Applicant shall reserve a minimum of 25 units in Building A as permanently affordable units reserved for residents that who will be assisted by the project based and/or

- HCV Section 8 programs, and will be used to house existing Brookland Manor residents as demand dictates, subject in all instances to Condition B.1 of the First-Stage Order. To the extent the Section 8 and/or HCV are inapplicable to the Project, the Applicant shall instead comply with the applicable requirements of Condition B.1.b or Condition B.1.c of the First-Stage Order;
- b. **For the life of the Project**, the Applicant shall include in Building A no fewer than 18 three-bedroom units, of which no fewer than three units shall be reserved as partial satisfaction of the requirements of Condition B.1.a.;
 - c. A minimum of 40 units shall be initially reserved in Building A as temporary replacement units to house existing Brookland Manor residents as demand dictates, subject in all instances to Condition B.1 of the First-Stage Order;
 - d. The Applicant shall have the flexibility to utilize up to all of the units in Building A (i.e. up to all 131 units contained therein) as affordable housing and to reallocate to other buildings in the RIA development any affordable units provided in Building A, subject to the 25-unit minimum set forth in Condition B.1.a. and the three-unit three-bedroom minimum set forth in Condition B.1.b.;
 - e. The units in Building B shall, as demand dictates, be reserved initially for existing eligible Brookland Manor residents who wish to move to Building B either (x) with a Housing Choice Voucher or (y) who lease a Section 8 contract unit, with the balance (if any) open to other income qualified tenants; and
 - f. In addition to the information required under the Zoning Regulations and the First-Stage Order, **in connection with any subsequent second stage application arising out of the First-Stage Order, the Applicant shall provide** an update on the allocation of affordable housing units throughout the redevelopment site and the remaining Brookland Manor buildings, as applicable.
2. **Employment Benefits**: The Applicant has entered into a First Source Agreement with DOES to promote and encourage the hiring of District residents. **The Applicant shall provide updates in all future second-stage applications** as to the Applicant's satisfaction of the terms of the First Source Agreement associated with approved second-stage PUD applications.

3. Relocation and Construction Management Plans.
 - a. The Applicant shall abide by the terms of the tenant relocation and construction phasing plan as detailed at Exhibits 1G and 179¹⁴ of the record in this case. All tenant relocations will occur on the property; and
 - b. The Applicant shall abide by the terms of the Construction Management Plan as detailed in Exhibit 179B.
4. Social Services and Facilities:
 - a. **For the life of the Project**, the Applicant shall continue to provide programs that are designed for the children and seniors that live in the community. Such programs for children may include a variety of enrichment activities, such as after school care, tutoring, arts and crafts, community gardening, summer camp, meal programs to ensure that no child goes home hungry, girls' self-esteem workshops, reading and math tutoring, school supply drives, holiday gifts and a food pantry for families. Such programs for senior residents may include brown-bag lunches and other events designed to bring Brookland Manor's senior community together; and
 - b. **Prior to the issuance of the Certificate of Occupancy for the Project**, the Applicant shall submit a memorandum to the Zoning Administrator, with a simultaneous copy to the Office of Zoning, certifying that the social services required hereunder have been arranged as set forth herein, provided the Applicant shall have the flexibility to reallocate such social services from time to time in accordance with the preferences and demands of the target communities.
5. Building Space for Special Uses:

¹⁴ The relevant portion of Exhibit 179 reads as follows:

1. The Applicant will retain the project based Section 8 Housing Assistance Payment contracts on the property, which provide deep rental assistance to 373 extremely low income families (incomes below 30% of AMI); and
2. All households in good standing that reside at Brookland Manor at the commencement of the redevelopment in early 2018 will be provided the opportunity to remain at the property through and following the redevelopment process.

- a. **For the life of the Project**, the Applicant shall include the Amenity Spaces in each of the two Buildings. Buildings A and B shall each include Amenity Spaces for special uses including, but not limited to, community, educational or social development, promotion of the arts or similar programs; and
 - b. **Prior to the issuance of the final certificate of occupancy for the Project**, the Applicant shall submit a memorandum to the Zoning Administrator, with a simultaneous copy to the Office of Zoning, describing the availability of such space and the guidelines for use by residents and community groups, which availability and guidelines the Applicant shall have the flexibility to amend from time to time in accordance with usage patterns for such space.
6. **LEED-ND Update. Prior to the issuance of the certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with written evidence that the Project advances the First-Stage Order's requirement that the overall area subject to the First-Stage Order is on track to satisfy the requirements of the LEED-ND program at the Silver level. Compliance with the LEED-ND program will be established on the basis of the build-out of the entire PUD area and cannot be accomplished prior to issuance of a Certificate of Occupancy for this phase, but the Applicant shall provide an update on its progress towards satisfaction of such requirement of the First-Stage Order.

C. TRANSPORTATION MITIGATION

1. **For the life of the Project**, the Applicant shall provide the following traffic demand management ("TDM") measures:
 - a. The Applicant shall designate a TDM coordinator for each building, who is responsible for organizing and marketing the TDM plan and who will act as a point of contact with DDOT;
 - b. All parking on site will be priced at market rates at minimum, defined as the average cost for parking in a 0.25-mile radius from the site, and unbundled from the costs of leasing apartments;
 - c. The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials;
 - d. The Applicant shall supply long-term and short-term bicycle parking at both Building A and Building B;
 - e. The Applicant shall install a Transportation Information Center Display (electronic screen) within each residential lobby (one for

each building) containing information related to local transportation alternatives; and

- f. The Applicant shall dedicate two parking spaces within the garage for car-sharing services to use with right of first refusal.
2. The Applicant shall continue to work with DDOT on the following matters: (i) for each subsequent second-stage PUD submission the Applicant will provide an updated CTR for the specific second-stage application which will also include an updated analysis for the entire first-stage PUD, as appropriate; (ii) further coordination to determine the appropriateness of curb bulb outs, the proposed curbside management, and the exact width dimensions for the Saratoga Street layout for Block 7; and (iii) design of the public realm for Block 7, including utility vault location and treatment, and bike rack locations.

D. MISCELLANEOUS

1. The Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (“DCRA”) shall not issue any building permits for the PUD until the Applicant has recorded a Covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The change of zoning to the RA-2 Zone District shall be effective upon the recordation of the covenant discussed in Condition No. D.1.
3. The second-stage PUD approval for the development of Block 7 shall remain valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified under the Zoning Regulations. Construction of the project shall start within three years from the effective date of this Order.
4. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 *et seq.*, (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is 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.

On May 22, 3017, upon the motion of Commissioner Shapiro, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application 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).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on April 13, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

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