

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 22-506, Access to Treatment for Anaphylaxis Act of 2018
- D.C. Council recognizes and honors the 100th anniversary of the signing of the Armistice ending World War I (ACR 22-416)
- Department of Behavioral Health announces funding availability for the DC Clubhouse Initiative for Individuals Living with a Mental Illness
- Board of Elections schedules a public hearing to consider the proposed measure “Referendum on Law Repealing Initiative 77 – Minimum Wage Amendment Act of 2018”
- Department of Energy and Environment schedules public hearings to get comments on the Fiscal Year 2020 Weatherization Assistance Program (WAP) Draft State Plan
- Department of Health schedules an information gathering meeting on the proposed closure of Providence Hospital
- Department of Human Resources clarifies the District’s employee suitability policy
- Office of Public-Private Partnerships gives notice of several upcoming public hearings regarding the District’s Smart Lighting Project

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MAYOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-495

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To approve, on an emergency basis, Modification Nos. 11 and 12 to exercise option year 4 of Contract No. CW25390 with Precision Truck Repair, Inc. to provide preventative school bus maintenance and repair services and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. CW25390 with Precision Truck Repair, Inc. 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. 11 and 12 to Contract No. CW25390 with Precision Truck Repair, Inc. to provide preventative school bus repair and maintenance services to the Office of the State Superintendent of Education, and authorizes payment in the not-to-exceed amount of \$1.1 million for the goods and services received and to be received under the contract.

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.

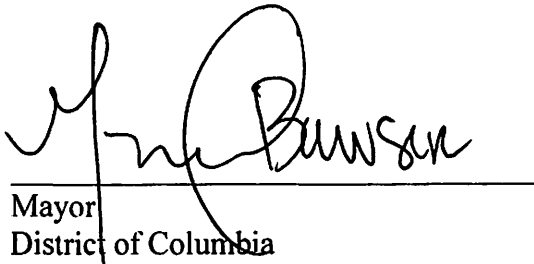
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

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
October 31, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-496

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To approve, on an emergency basis, Modification No. 2 to Contract No. DCPL-2018-C-0034C with Ingram Library Services, LLC to provide books, materials, and selected services, and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modification No. 2 to Contract No. DCPL-2018-C-0034C with Ingram Library Services, LLC 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 No. 2 to Contract No. DCPL-2018-C-0034C with Ingram Library Services, LLC to provide books, materials, and selected services, and authorizes payment in the not-to-exceed amount of \$1.3 million for goods and services received and to be received under Modification No. 2 for the period of October 1, 2018, through September 30, 2019.

Sec. 3. Fiscal impact statement.

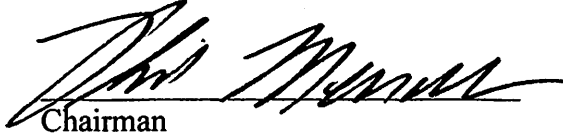
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

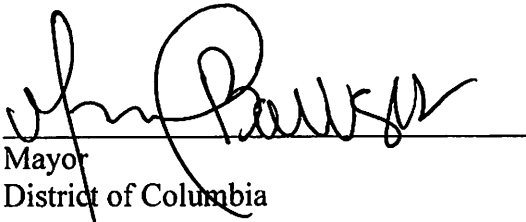
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-497

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To approve, on an emergency basis, Modification No. 2 to Contract No. DCPL-2018-C-0034A with Baker & Taylor to provide books, materials, and selected services, and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modification No. 2 to Contract No. DCPL-2018-C-0034A with Baker & Taylor 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 No. 2 to Contract No. DCPL-2018-C-0034A with Baker & Taylor to provide books, materials, and selected services, and authorizes payment in the not-to-exceed amount of \$1.3 million for goods and services received and to be received under Modification No. 2 for the period of October 1, 2018, through September 30, 2019.

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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-498

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 1, 2018

To amend, on an emergency basis, the Health Services Planning Program Re-establishment Act of 1996 to clarify that the State Health Planning and Development Agency currently has the authority to approve or disapprove the closure or termination of services of a health care facility; and to amend the Health-Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983 to authorize the Director of the Department of Health to issue a provisional license in the specified circumstance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Clarification of Hospital Closure Procedure Emergency Amendment Act of 2018”.

Sec. 2. Section 7(c) of the Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-406(c)), is amended by striking the phrase “extent possible.” and inserting the phrase “extent possible, which may include organizing meetings with affected stakeholders and providing planning and technical assistance for possible patient load transition, and, if the notice of closure is approved by SHPDA, continue to assist in the orderly transition by overseeing the placement of patients into new HCFs in a manner that ensures that the health and well-being of the patients is protected.”.

Sec. 3. Section 7 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 § 44-506), is amended as follows:

(a) Subsection (c) is amended by striking the phrase “Provisional licenses” and inserting the phrase “Except as provided in subsection (f) of this section, provisional licenses” in its place.

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

“(f)(1) If a notice of closure of a health care facility or health service is denied by the State Health Planning and Developmental Agency pursuant to section 7(c) of the Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-406(c)), the Director of the Department of Health may issue a provisional license to the health care facility or health service to continue to operate for up to 3 years.

ENROLLED ORIGINAL


“(2) For the purposes of this subsection, the terms “health care facility” and “health service” shall have the same meanings as provided in section 2(10) and (12) of the Health Services Planning Program Re-establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-401(10) and (12)), respectively.”.

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
November 1, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-499

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend, on a temporary basis, the District of Columbia Public Assistance Act of 1982 to extend the prohibition on the denial of cash or food assistance benefits to adults who are drug felons to include benefits obtained through the Supplemental Nutrition Assistance Program, the Program on Work, Employment, and Responsibility, the General Assistance for Children Program, and the Interim Disability Assistance Program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Access to Public Benefits Temporary Amendment Act of 2018".

Sec. 2. Section 571 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.71), is amended to read as follows:

"Sec. 571. Granting cash and food assistance benefits to drug felons.

"An adult who is a drug felon shall not be denied cash or food assistance benefits, including TANF, Supplemental Nutrition Assistance Program, POWER, GAC, and Interim Disability Assistance Program benefits, solely because he or she is a drug felon."

Sec. 3. Fiscal impact statement.

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


Sec. 4. Effective date.


(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review

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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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-500

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend the Advisory Neighborhood Councils Act of 1975 to permit Advisory Neighborhood Commissions to expend funds by debit card.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Advisory Neighborhood Commissions Debit Cards Amendment Act of 2018”.

Sec. 2. Section 16 of the Advisory Neighborhood Councils Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.13), is amended as follows:

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

“(b-1)(1) Each Commission may obtain one debit card associated with the Commission’s checking account.

“(2) Each Commission that obtains a debit card shall do so according to a procedure determined by the OANC that limits monthly debit card expenditures relative to the Commission’s quarterly allotment.”.

(b) Subsection (f) is amended by adding a new paragraph (2A) to read as follows:

“(2A)(A) An expenditure made by debit card shall be:

“(i) Made in the name of the Commission;

“(ii) Authorized by at least 2 officers of the Commission, one of whom shall be the Treasurer or Chairperson; and

“(ii) Conducted according to a procedure determined by the

OANC.

“(B) The Treasurer shall retain written documentation of authorizations, which shall bear the signatures of the 2 officers who authorized the expenditure pursuant to subparagraph (A)(ii) of this paragraph.”.

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

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

(A) Strike the phrase “it shall relinquish its checkbook to the OANC, whose permission will be needed for any expenditure made by check until the Commission files the required financial reports” and insert the phrase “it shall relinquish its checkbook and access

ENROLLED ORIGINAL

to its debit card to the OANC, whose permission will be needed for any expenditure made by check or debit card until the Commission files the required financial reports” in its place.

(B) Strike the phrase “return the checkbook to the Commission” and insert the phrase “return the checkbook and access to the debit card to the Commission” in its place.

(2) Paragraph (3) is amended by striking the word “Auditor” and inserting the phrase “OANC” in its place.

(d) Subsection (m)(4) is amended by striking the word “Auditor” and inserting the phrase “OANC” in its place.

(e) A new subsection (t) is added to read as follows:

“(t) For the purposes of this section, the term “debit card” means a card issued by a bank allowing the cardholder to draw funds from a specific account, established at that bank, that does not allow for any funds to be borrowed from the issuing bank.”.

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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-501

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend the Rental Housing Act of 1985 to reset rents of units no longer exempt from the Rent Stabilization Program due to the end of a tenant-based subsidy to an amount based on the adjustments of general applicability that accrued during the period of exemption, plus one vacancy increase, and to define the term “rent charged” for purposes of calculating baseline rents upon termination of an exemption.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Rental Housing Affordability Re-establishment Amendment Act of 2018”.

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 205 (D.C. Official Code § 42-3502.05) is amended by adding a new subsection (g-1) to read as follows:

“(g-1)(1) After the expiration or termination of an exemption claimed pursuant to subsection (a) of this section, a housing provider shall file, upon the re-renting of the unit, an amended registration statement with the Rent Administrator, which shall include the rent charged for the unit, calculated in accordance with the requirements of section 209, and the documentation supporting the calculation.

“(2) The notice requirements of subsection (h)(2) of this section shall apply to any amended registration statement filed pursuant to this subsection.”.

(b) Section 209 (D.C. Official Code § 42-3502.09) is amended as follows:

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

“(a) Upon the expiration or termination of an exemption claimed pursuant to section 205(a)(1), (3), or (5), rent charged for a unit may not exceed the following:

“(1) For a unit exempted pursuant to section 205(a)(1) or (5):

“(A)(i) If the unit is not vacant when the exemption terminates or expires, the sum of the rent charged on the date the unit became exempt and each subsequent adjustment of general applicability authorized pursuant to section 206(b);

“(ii) If the unit is vacant when the exemption terminates or expires:

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(i) of this subparagraph; or
“(I) 110% of the sum authorized under sub-subparagraph

“(II) The amount of rent charged for a substantially identical rental unit in the same housing accommodation; provided, that the increase shall not exceed 30% of the sum authorized under sub-subparagraph (i) of this subparagraph; or

“(B) If the rent charged on the date the unit became exempt was either not properly filed with the Rent Administrator or is no longer available at the Division, and the housing provider is not able to provide a stamped copy of the original filing demonstrating the rent charged on the date the unit became exempt, the lowest of:

“(i) The most recent rent charged on file with the Rent Administrator before the date the unit became exempt, plus each subsequent adjustment of general applicability authorized under section 206(b);

“(ii) The applicable Small Area Fair Market Rent for the Washington-Arlington-Alexandria Metropolitan area based on unit size and zip code, as established by the U.S. Department of Housing and Urban Development pursuant to 24 CFR § 888.113; or

“(iii) The average rent charged during the last 6 consecutive months of the exemption.

“(2) For a unit exempted pursuant to section 205(a)(3), up to 105% of the average rent charged during the last 6 consecutive months of the exemption.”.

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

“(a-1) An increase in rent charged pursuant to subsection (a) of this section may be effected only in accordance with the procedures specified in sections 208 and 904.”.

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

(A) Strike the phrase “, which” and insert the phrase “, that” in its place.

(B) Strike the phrase “in which 1” and insert the phrase “in which one” in its place.

(C) Strike the phrase “by 1 of” and insert the phrase “by one of” in its place.

(4) Subsection (c) is repealed.

(5) A new subsection (d) is added to read as follows:

“(d) For the purposes of this section, the term “rent charged” means the entire amount of money, money’s worth, benefit, bonus, or gratuity a tenant must actually pay to a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities, pursuant to the Rent Stabilization Program.”.

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

ENROLLED ORIGINAL

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.

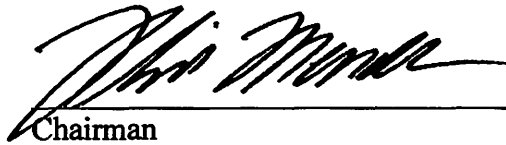
(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 4. Fiscal impact statement.

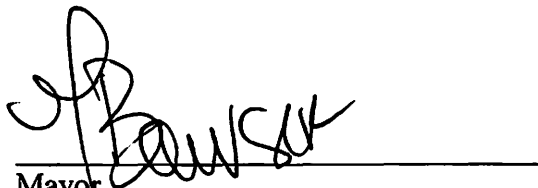
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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 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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-502

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend, on a temporary basis, the Child Development Facilities Regulation Act of 1998 to exempt parent-led play cooperatives from the requirements of the Child Development Facilities Regulation Act of 1998.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Parent-led Play Cooperative Temporary Amendment Act of 2018”.

Sec. 2. The Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215; D.C. Official Code § 7-2031 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-2031) is amended by adding a new paragraph (5A) to read as follows:

“(5A) “Parent-led play cooperative” means a group of parents, step-parents, or legal guardians of participating children, including a group organized through a nonprofit organization, who have agreed to supervise the participating children during group meetings and that:

“(A) Meets at predetermined times for less than a full day;

“(B) Meets at locations other than a home of one of the parents, step-parents, or legal guardians in the group;

“(C) Does not require payment by parents, step-parents, or legal guardians, other than to cover the costs of administering the group, including rent, insurance, equipment, and activities;

“(D) Does not employ any individual to supervise participating children on behalf of parents; provided, that a parent-led play cooperative may employ an individual to:

“(i) Facilitate activities while parents, step-parents, or legal guardians supervise the participating children; or

“(ii) Assist with administering the group;

“(E) Requires, as a prerequisite to joining the group, that a parent, step-parent, or legal guardian of each participating child in the group volunteer a minimum number of hours to supervise the participating children during meetings, regardless of whether the group

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requires parents, step-parents, or legal guardians of every child to be present at every meeting;
and

“(F) Notifies, upon registration with the group, the parents, step-parents, and legal guardians of each participating child in the group that the group is not a child development facility licensed pursuant to this act.”.

(b) Section 4 (D.C. Official Code § 7-2033) is amended by adding a new paragraph (2A) to read as follows:

“(2A) “Parent-led play cooperative;”.

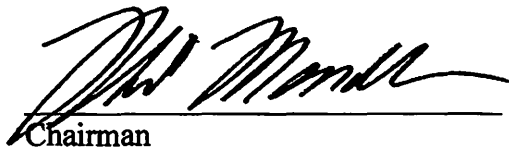
Sec. 3. Fiscal impact statement.

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).

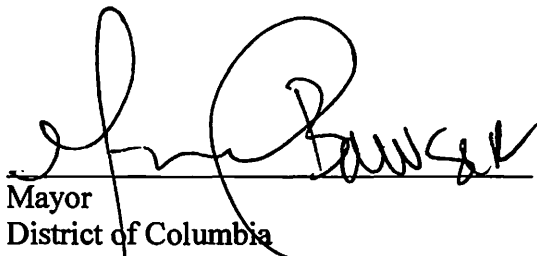
Sec. 4. Effective date.

(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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-503

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend, on a temporary basis, the District of Columbia Uniform Controlled Substances Act of 1981 to add certain classes and substances to the list of Schedule I controlled substances.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Revised Synthetics Abatement and Full Enforcement Drug Control Temporary Amendment Act of 2018”.

Sec. 2. The District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 *et seq.*), is amended as follows:

(a) Section 102(27) (D.C. Official Code § 48-901.02(27)) is amended as follows:

(1) Strike the phrase “as used in section 204(3) and section 206(1)(D)” and insert the phrase “as used in section 204(3), (5), and (6) and section 206(1)(D)” in its place.

(2) Strike the phrase “As used in section 204(3)” and insert the phrase “As used in section 204(3), (5), and (6)” in its place.

(b) Section 204 (D.C. Official Code § 48-902.04) is amended as follows:

(1) Paragraph (3) is amended as follows:

(A) The lead-in language is amended by striking the phrase “(for purposes of this paragraph only, the term “isomer” includes the optical, position, and geometric isomers):” and inserting a colon in its place.

(B) New subparagraphs (G-i) through (G-xii) are added to read as follows:

“(G-i) 25I-NBOMe (also known as 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine);

“(G-ii) 25B-NBOMe (also known as 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine);

“(G-iii) 25C-NBOMe (also known as 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine);

“(G-iv) 5-APB (also known as 1-(benzofuran-5-yl)propan-2-amine);

“(G-v) 5-APDB (also known as 1-(2,3-dihydrobenzofuran-5-yl)propan-2-amine);

“(G-vi) 6-APB (also known as 1-(1-benzofuran-6-yl)propan-2-amine);

“(G-vii) 6-APDB (also known as 1-(2,3-dihydrobenzofuran-6-yl)propan-2-amine);

ENROLLED ORIGINAL

“(G-viii) 3-methoxy-PCE (also known as *N*-ethyl-1-(3-methoxyphenyl)cyclohexanamine);

“(G-ix) 3-methoxy-PCP (also known as 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine);

“(G-x) 4-methoxy-PCP (also known as 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine);

“(G-xi) 5-MeO-DALT (also known as *N,N*-diallyl-5-methoxytryptamine);

“(G-xii) 4-AcO-DMT (also known as 5-acetoxy-*N,N*-dimethyltryptamine);”.

(C) A new subparagraph (M-i) is added to read as follows:

“(M-i) Methoxetamine (also known as 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexanone);”.

(D) Subparagraph (JJ) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(E) Subparagraph (KK) is amended by striking the semicolon and inserting the phrase “; and” in its place.

(F) A new subparagraph (LL) is added to read as follows:

“(LL) Cathinone;”.

(2) Paragraph (5) is amended to read as follows:

“(5) As used in this paragraph, the term “synthetic cathinones” includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in Schedules II through V, is not approved by the Food and Drug Administration as a drug, and is structurally derived from or contains any quantity of the following substances, their salts, isomers, homologues, analogues, and salts of isomers, homologues, and analogues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, analogues, and salts of isomers, homologues, and analogues is possible within the specific chemical designation:

“(A) Classified Synthetic Cathinones:

“(i) Cathinones. Any compound, other than methylnenedioxy cathinones and pyrrolidine cathinones, containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic ring system, with or without alkyl, alkoxy, or halo substitutions, and a substitution at the nitrogen atom by an alkyl group, cycloalkyl group, or incorporation into a heterocyclic structure. Examples of this structural class include:

“(I) Mephedrone, also known as:

“(aa) 2-(methylamino)-1-(4-methylphenyl)-1-propanone;

“(bb) 4-MeMC;

“(cc) 4-Methylmethcathinone;

“(dd) 4-Methylephedrone; or

“(ee) 4-MMC;

ENROLLED ORIGINAL

“(II) Dimethylcathinone, also known as:
 “(aa) 2-(dimethylamino)-1-phenyl-1-propanone; or
 “(bb) N,N-Dimethylcathinone;

“(III) Ethcathinone, also known as:
 “(aa) 2-(ethylamino)-1-phenyl-1-propanone;
 “(bb) Ethylcathinone;
 “(cc) N-Ethylcathinone; or
 “(dd) 2-Ethylaminobuphedro;

“(IV) Buphedrone, also known as:
 “(aa) 2-(methylamino)-1-phenylbutan-1-one; or
 “(bb) MABP;

“(V) 3,4-DMMC, also known as:
 “(aa) 1-(3,4-dimethylphenyl)-2-(methylamino)-1-propanone; or
 “(bb) 3,4-Dimethylmethcathinone;

“(VI) EMC, also known as:
 “(aa) 1-(4-ethylphenyl)-2-(methylamino)propan-1-one;
 “(bb) 4-EMC; or
 “(cc) 4-Ethylmethcathinone;

“(VII) Fluoromethcathinone (also known as 1-(4-fluorophenyl)-2-(methylamino) propan-1-one);

“(VIII) 3-FMC, also known as:
 “(aa) 3-fluoro-N-methylcathinone); or
 “(bb) 1-(3-fluorophenyl)-2-(methylamino)propan-1-one;

“(IX) 4-FMC, also known as:
 “(aa) 1-(4-fluorophenyl)-2-(methylamino)propan-1-one;
 “(bb) 4-fluoro-N-methylcathinone; or
 “(cc) Flephedrone;

“(X) 4-MeBP, also known as:
 “(aa) 2-(methylamino)-1-(4-methylphenyl)-1-butanone;
 “(bb) 4-Methylbuphedrone;
 “(cc) 4-methyl BP; or
 “(dd) 4-MeMABP;

“(XI) 3-MEC, also known as:
 “(aa) 2-(ethylamino)-1-(m-tolyl)propan-1-one; or
 “(bb) 3-Methyl-N-ethylcathinone;

“(XII) 4-MEC, also known as:

ENROLLED ORIGINAL

- propanone; or
- "(aa) 2-(ethylamino)-1-(4-methylphenyl)-1-
- "(bb) 4-Methyl-N-ethylcathinone;
- "(XIII) 3-MMC, also known as:
- "(aa) 2-(methylamino)-1-(3-methylphenyl)-1-
- propanone;
- "(bb) 3-methyl MS; or
- "(cc) 3-Methylmethcathinone;
- "(XIV) Methedrone (also known as 1-(4-methoxyphenyl)-
- 2-(methylamino)-1-propanone); and
- "(XV) Pentedrone (also known as 2-(methylamino)-1-
- phenylpentan-1-one);
- “(ii) Methylenedioxy Cathinones. Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at any position of the ring system with an alkyl, haloalkyl, halogen, alkylenedioxy, or alkoxy group, whether or not further substituted at any position on the ring system to any extent. Examples of this structural class include:
- “(I) 3-fluoromethylone;
- “(II) Methylone, also known as
- “(aa) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)-1-
- propanone; or
- “(bb) 3,4-Methylenedioxy-N-methylcathinone);
- “(III) N-ethyl Pentylone, also known as:
- “(aa) Ephylone; or
- “(bb) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-
- pentanone;
- “(IV) bk-MDDMA, also known as:
- “(aa) 1-(1,3-benzodioxol-5-yl)-2-
- (dimethylamino)propan-1-one;
- “(bb) Dimethylone;
- “(cc) *N,N*-dimethyl-3',4'-methylenedioxcathinone;
- “(dd) *N,N*-dimethyl-3,4-methylenedioxcathinone;
- or
- “(ee) *N,N*-Dimethyl MDCATH;
- “(V) Butylone, also known as 1-(1,3-benzodioxol-5-yl)-2-
- (methylamino)butan-1-one); and
- “(VI) Ethylone, also known as:
- “(aa) 3,4-Methylenedioxy-N-ethylcathinone; or
- “(bb) MDEC;
- “(iii) Pyrrolidine Cathinones. Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with an alkyl, cyclic, or fused

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polycyclic ring system and a substitution at the 3-position carbon with an alkyl, haloalkyl, halogen, alkoxy or alkylendioxy group, and a substitution at the nitrogen atom incorporation into a heterocyclic structure, with or without further halogen substitutions. Examples include:

- "(I) α -PVP (also known as α -pyrrolidinopentiophenone);
- "(II) α -pyrrolidinopropiophenone, also known as:
- "(aa) 1-phenyl-2-(1-pyrrolidinyl)-1-propanone; or
- "(bb) α -PPP;
- "(III) α -PBP, also known as:
- "(aa) 1-phenyl-2-(1-pyrrolidinyl)-1-butanone; or
- "(bb) α -pyrrolidinobutiophenone;
- "(IV) MDPBP, also known as:
- "(aa) 1-(1,3-benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-butanone;
- "(bb) 3,4-Methylenedioxy- α -Pyrrolidinobutiophenone; or
- "(cc) 3,4-MDPBP;
- "(V) MDPPP, also known as:
- "(aa) 1-(1,3-benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-propanone; or
- "(bb) 3,4-Methylenedioxy- α -Pyrrolidinopropiophenone;
- "(VI) MDPV, also known as:
- "(aa) 1-(1,3-benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone; or
- "(bb) 3,4-Methylenedioxy Pyrovalerone;
- "(VII) 4-MePPP, also known as
- "(aa) 4'-methyl- α -Pyrrolidinopropiophenone;
- "(bb) 4'-methyl PPP; or
- "(cc) 2-(pyrrolidin-1-yl)-1-(p-tolyl)propan-1-one;
- "(VIII) 4'-methyl PHP, also known as:
- "(aa) 4'-methyl- α -pyrrolidinohexanophenone;
- "(bb) MPHP;
- "(cc) 4'-methyl- α -PHP; or
- "(dd) PV4;
- "(IX) Naphyrone, also known as:
- "(aa) (RS)-1-naphthalen-2-yl-2-pyrrolidin-1-ylpentan-1-one; or
- "(bb) Naphpyrovalerone; and
- "(X) C-PVP, also known as:
- "(aa) 4-Chloro- α -PVP; or

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- 1-one; or
- "(bb) 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-
- "(iv) Piperazine Stimulants. Any compound containing or structurally derived from a piperazine, or diethylenediamine, structure with or without substitution at one of the nitrogen atoms of the piperazine ring to any extent, including alkyl, cycloalkyl, or fused ring systems, with or without further halogen substitutions. Examples include:
- "(I) BZP, also known as:
- "(aa) 1-(phenylmethyl)-piperazine;
- "(bb) 1-Benzylpiperazine; or
- "(cc) N-Benzylpiperazine; and
- "(II) TMFPP, also known as:
- "(aa) 1-[3-(trifluoromethyl)phenyl]-piperazine;
- "(bb) 1-(m-Trifluoromethylphenyl) piperazine; or
- "(cc) 3-Trifluoromethylphenylpiperazine.
- "(B) Unclassified Synthetic Cathinones:
- "(i) Aminorex (also known as (RS)-5-phenyl-4,5-dihydro-1,3-oxazol-2-amine);
- "(ii) α -ET, also known as:
- "(I) α -ethyl-1H-indole-3-ethanamine;
- "(II) α -ethyltryptamine; or
- "(III) 3-Indolybutylamine;
- "(iii) α -MT, also known as:
- "(I) α -methyl-1H-indole-3-ethanamine; or
- "(II) α -methyltryptamine;
- "(iv) EMA, also known as:
- "(I) N-ethyl- α -methyl-benzeneethanamine; or
- "(II) N-Ethylamphetamine;
- "(v) Fenethylamine (also known as (RS)-1,3-dimethyl-7-[2-(1-phenylpropan-2-ylamino)ethyl]purine-2,6-dione);
- "(vi) N-hydroxy MDA, also known as:
- "(I) MDOH;
- "(II) N-hydroxy- α -methyl-1,3-benzodioxole-5-ethanamine;
- or
- "(III) N-Hydroxy-3,4-methylenedioxyamphetamine; and
- "(vii) N,N-DMA, also known as:
- "(I) N,N, α -trimethyl-benzeethanamine;
- "(II) N,N-Dimethylamphetamine;
- "(III) Dimetamphetamine; or
- "(IV) Metrotonin."

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(3) New paragraphs (6) and (7) are added to read as follows:

“(6) Synthetic cannabimimetic agents (also known as “synthetic cannabinoids”), which includes, unless specifically exempted, unless listed in another schedule, or unless approved by the Food and Drug Administration as a drug, any material, mixture, preparation, any compound structurally derived from, or that contains any quantity of the following synthetic substances, its salts, isomers, homologues, analogues and salts of isomers, homologues, and analogues, whenever the existence of these salts, isomers, homologues, analogues, and salts of isomers, homologues, and analogues is possible within the specific chemical designation:

“(A) Classified Synthetic Cannabimimetic Agents:

“(i) Adamantanoylindoles: Any compound containing or structurally derived from an adamantanyl-(1H-indol-3-yl)methanone structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Examples include:

“(I) AB-001, also known as:

“(aa) (1s,3s)-adamantan-1-yl(1-pentyl-1H-indol-3-yl)methanone; or

“(bb) JWH 018 adamantyl analog; and

“(II) AM-1248, also known as:

“(aa) [1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]tricyclo[3.3.1.1^{3,7}]dec-1-yl-methanone; or

“(bb) AM1248;

“(ii) Benzimidazole Ketone: Any compound containing or structurally derived from (benzimidazole-2-yl) methanone structure with or without substitution at either nitrogen atom of the benzimidazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, with substitution at the carbon of the methanone group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3, 3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted in the benzimidazole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Benzimidazole Ketones include:

“(I) FUBIMINA, also known as:

“(aa) (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone; or

“(bb) AM2201 benzimidazole analog; and

“(II) JWH-018 benzimidazole analog, also known as:

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- benzo[d]imidazol-2-yl)methanone; or
- “(aa) naphthalen-1-yl(1-pentyl-1H-
- “(bb) BIM-018;
- “(iii) Benzoylindoles: Any compound containing or structurally derived from a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples include:
- “(I) AM-630, also known as:
- “(aa) [6-iodo-2-methyl-1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl](4-methoxyphenyl)-methanone;
- “(bb) AM630; or
- “(cc) Iodopravadoline ;
- “(II) AM-661 (also known as 1-(N-methyl-2-piperidine)methyl-2-methyl-3-(2-iodo)benzoylindole);
- “(III) AM-679, also known as:
- “(aa) (2-iodophenyl)(1-pentyl-1H-indol-3-yl)methanone; or
- “(bb) AM679;
- “(IV) AM-694, also known as:
- “(aa) [1-(5-fluoropentyl)-1H-indol-3-yl](2-iodophenyl)-methanone;
- “(bb) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole;
- or
- “(cc) AM694;
- “(V) AM-1241, also known as:
- “(aa) (2-iodo-5-nitrophenyl)-(1-(1-methylpiperidin-2-ylmethyl)-1H-indol-3-yl)methanone; or
- “(bb) AM1241;
- “(VI) AM-2233, also known as:
- “(aa) (2-iodophenyl)[1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]-methanone; or
- “(bb) AM2233;
- “(VII) RCS-4, also known as:
- “(aa) (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone; or
- “(bb) SR-19; and
- “(VIII) WIN 48,098, also known as
- “(aa) (4-methoxyphenyl)[2-methyl]-1-[2-(4-

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morpholinyl)ethyl]-1H-indol-3-yl]-methanone; or

“(bb) “Pravadoline”;

“(iv) Carbazole Ketone: Any compound containing or structurally derived from (9H-carbazole-3-yl) methanone structure with or without substitution at the nitrogen atom of the carbazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group with substitution at the carbon of the methanone group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3, 3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted at the carbazole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Examples include EG-018 (also known as naphthalen-1-yl(9-pentyl-9H-carbazol-3-yl)methanone);

“(v) Indazole Amide: Any compound containing or structurally derived from 3-carboxamide-1H-indazoles, whether or not substituted in the indazole ring to any extent and substituted to any degree on the carboxamide nitrogen and 3-carboxamide-1H-indoles, whether or not substituted in the indole ring to any extent and substituted to any degree on the carboxamide nitrogen. Examples include:

“(I) AB-CHMINACA (also known as N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide);

“(II) AB-FUBINACA (also known as N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide);

“(III) AB-PINACA (also known as N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide);

“(IV) 5F AB-PINACA, also known as:

“(aa) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide); or

“(bb) 5-fluoro AB-PINACA;

“(V) ADB-FUBINACA (also known as N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide);

“(VI) ADB-PINACA (also known as N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide);

“(VII) 5F ADB-PINACA, also known as:

“(aa) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide); or

“(bb) 5-fluoro ADB-PINACA;

“(VIII) FUB-AMB, also known as:

“(aa) methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate;

“(bb) AMB-FUBINACA; or

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- "(cc) MMB-FUBINACA;
- "(IX) 5-fluoro-AMB (also known as (S)- methyl 2- (1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate);
- "(X) MAB-CHMINACA (also known as N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide);
- "(XI) MMB CHMINACA, also known as:
- "(aa) methyl (S)-2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate; or
- "(bb) MDMB-CHMICA;
- "(XII) 5F MN-18, also known as:
- "(aa) 1-(5-fluoropentyl)-N-1-naphthalenyl-1H-indazole-3-carboxamide; or
- "(bb) 5-fluoro MN-18;
- "(XIII) 5F-APINACA, also known as:
- "(aa) 5-fluoro-APINACA
- "(bb) 5F-AKB-48;
- "(cc) 5F-AKB48;
- "(dd) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide; or
- "(ee) N-(1-adamantyl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide); and
- "(XIV) APINACA, also known as:
- "(aa) AKB-48;
- "(bb) AKB48;
- "(cc) 1-pentyl-N-tricyclo[3.3.1.1.3,7]dec-1-yl-1H-indazole-3-carboxamide; or
- "(dd) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide;
- "(vi) Cyclohexylphenols: Any compound containing or structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the cyclohexyl ring to any extent. Examples include:
- "(I) CP 47,497 (also known as 2-[(1S,3R)-3-hydroxycyclohexyl]- 5-(2-methyloctan-2-yl)phenol);
- "(II) CP 47,497 C8 homologue, also known as:
- "(aa) rel-2-[(1S,3R)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol; or
- "(bb) Cannabicyclohexanol;
- "(III) CP 55,490;

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“(IV) CP 55,940 (also known as 5-(1,1-dimethylheptyl)-2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol); and

“(V) CP 56,667;

“(vii) Cyclopropanoylindoles: Any compound containing or structurally derived from 3-(cyclopropylmethanoyl)indole, 3-(cyclopropylmethanone)indole, 3-(cyclobutylmethanone)indole or 3-(cyclopentylmethanone)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, and whether or not substituted on the cyclopropyl, cyclobutyl, or cyclopentyl rings to any extent. Cyclopropanoylindoles include cyclopropylmethanone indoles, as well as other cycloalkanemethanones, whether or not substituted at the nitrogen atom on the indole ring, whether or not further substituted in the indole ring to any extent, and whether or not substituted on the cycloalkane ring to any extent. Examples of this structural class include:

“(I) A-796,260, also known as:

“(aa) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)-methanone; or

“(bb) A-796260;

“(II) A-834,735, also known as:

“(aa) [1-[(tetrahydro-2H-pyran-4-yl)methyl]-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)-methanone; or

“(bb) A-834735;

“(III) AB-034 (also known as [1-[(N-methylpiperidin-2-yl)methyl]-1H-indole-3-yl]-(2,2,3,3-tetramethylcyclopropyl)methanone);

“(IV) UR-144 (also known as 1-pentyl-3-(2, 2, 3, 3-tetramethylcyclopropoyl)indole);

“(V) 5-bromo-UR-144, also known as:

“(aa) [1-(5-bromopentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)-methanone; or

“(bb) UR-144 N-(5-bromopentyl) analog;

“(VI) 5-chloro-UR-144, also known as:

“(aa) 1-(5-chloropentyl)-3-(2, 2, 3, 3-tetramethylcyclopropoyl)indole; or

“(bb) 5Cl-UR-144;

“(VII) XLR11, also known as:

“(aa) 1-(5-fluoropentyl)-3-(2,2,3, 3-tetramethylcyclopropoyl)indole;

“(bb) 5-FUR-144; or

“(cc) 5-fluoro UR-144; and

“(VIII) FUB-144 (also known as [1-{4-Fluorobenzyl)-1H-indol-3-yl}]{2,2,3, 3-tetramethylcyclopropyl)methanone);

“(viii) Hexahydrodibenzopyrans: Any compound containing or

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structurally derived from Hexahydrodibenzopyrans, whether or not substituted in the tricyclic ring system, except where contained in cannabis or cannabis resin;

“(ix) Indazole Ester (also known as Carboxylate indazole): Any compound containing or structurally derived from 3-carboxylate-indazoles, whether or not substituted in the indazole ring to any extent or substituted to any degree on the carboxylate, whether or not substituted to any extent in the indazole ring or on the carboxylate oxygen. Examples of indazole esters include 5-fluoro SDB-005, also known as:

“(I) naphthalen-1-yl 1-(5-fluoropentyl)-1H-indazole-3-carboxylate; or

“(II) 5F SDB-005;

“(x) Indole Amides: Any compound containing or structurally derived from or containing a 1H-Indole-3-carboxamide structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not substituted at the carboxamide group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3,3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3,3-dimethyl-1-oxobutan-2-yl or pyrrole group and whether or not further substituted in the indole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Indole amides include:

“(I) Adamantylamidoindoles, or any compound containing or structurally derived from an N-(adamantyl)-indole-3-carboxamide structure, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent;

“(II) Adamantylindoles, or any compound containing or structurally derived from an N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, and whether or not substituted on the adamantyl ring to any extent;

“(III) 5F ABICA, also known as:

“(aa) (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;

“(bb) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide; or

“(cc) 5-fluoro ABICA;

“(IV) ADBICA (also known as N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide));

“(V) 5F-ADBICA, also known as:

“(aa) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide; or

“(bb) 5-fluoro-ADBICA;

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- 1H-indole-3-carboxamide);
- “(VI) NNE1 (also known as N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide); or
- “(VII) 5F-NNE1, also known as:
- “(aa) 1-(5-fluoropentyl)-N-(naphthalene-1-yl)-1H-indole-3-carboxamide);
- “(bb) 5-fluoro-NNE1;
- “(VIII) SDB-006 (also known as N-benzyl-1-pentyl-1H-indole-3-carboxamide);
- “(IX) 5F-SDB-006, also known as:
- “(aa) N-benzyl-1-(5-fluoropentyl)-1H-indole-3-carboxamide); or
- “(bb) 5-fluoro-SDB-006;
- “(X) 2NE 1, also known as:
- “(aa) APICA;
- “(bb) JWH 018 adamantyl carboxamide; or
- “(cc) 1-pentyl-N-tricyclo[3.3.1.1.3, 7]dec-1-yl-1H-indole-3-carboxamide;
- “(XI) STS-135, also known as:
- “(aa) 1-(5-fluoropentyl)-N-tricyclo[3.3.1.1.3, 7]dec-1-yl-1H-indole-3-carboxamide;
- “(bb) N-adamantyl-1-fluoropentylindole-3-carboxamide;
- “(cc) 5F-APICA; or
- “(dd) 5-fluoro-APICA;
- “(XII) SDB-006 (also known as N-benzyl-1-pentyl-1H-indole-3-carboxamide); and
- “(XIII) 5-fluoro-MDMB-PICA (also known as N-[[1-(5-fluoropentyl)-1H-indol-3-yl]carbonyl]-3-methyl-L-valine, methyl ester);
- “(xi) Indole Esters: Any compound containing or structurally derived from a 1H-Indole-3-carboxylate structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not substituted at the carboxylate group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3, 3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group and whether or not further substituted in the indole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Indole esters may also be referred to as Quinolinylindolecarboxylates. Indole esters include:

“(I) Quinolinyl ester indoles, or any compound containing

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or structurally derived from Quinolinylnyl ester indoles, being any compound containing or structurally derived from 1H-indole-3carboxylic acid-8-quinolinylnyl ester, whether or not substituted in the indole ring to any extent or the quinolone ring to any extent;

“(II) BB-22, also known as:

“(aa) 1-(cyclohexylmethyl)-8-quinolinylnyl ester-1H-indole-3-carboxylic acid;

indole-3-carboxylate; or

“(bb) quinolin-8-yl 1-(cyclohexylmethyl)-1H-

“(cc) QUCHIC;

“(III) FDU-PB-22 (also known as naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate);

“(IV) FUB-PB-22, also known as:

“(aa) 1-[(4-fluorophenyl)methyl]-1H-indole-3-carboxylic acid, 8-quinolinylnyl ester; or

3-carboxylate;

“(bb) Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-

“(V) NM2201, also known as:

3-carboxylate; or

“(aa) naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-

“(bb) CBL-2201;

“(VI) PB-22, also known as:

carboxylic acid;

“(aa) 1-pentyl-8-quinolinylnyl ester-1H-indole-3-

carboxylate;

“(bb) quinolin-8-yl 1-pentyl-1H-indole-3-

carboxylate; or

“(cc) 8-Quinolinylnyl 1-pentyl-1H-indole-3-

“(dd) “QUPIC”; and

“(VII) 5F-PB-22, also known as:

indole-3-carboxylic acid;

“(aa) 1-(5-fluoropentyl)-8-quinolinylnyl ester-1H-

carboxylate;

“(bb) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-

carboxylate;

“(cc) 8-Quinolinylnyl 1-(5-fluoropentyl)-1H-indole-3-

“(dd) 5-fluoro-PB-22; or

“(ee) 5-fluoro QUPIC;

“(xii) Naphthoylindoles: Any compound containing or structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinylnyl)methyl, 2-(4-morpholinylnyl)ethyl

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group, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the naphthyl ring to any extent, including the following: AM-678, AM-1220, AM-1221, AM-1235, AM-2232, EAM-2201, JWH-004, JWH-007, JWH-009, JWH-011, JWH-015, JWH-016, JWH-018, JWH-019, JWH-020, JWH-022, JWH-046, JWH-047, JWH-048, JWH-049, JWH-050, JWH-070, JWH-071, JWH-072, JWH-073, JWH-076, JWH-079, JWH-080, JWH-081, JWH-082, JWH-094, JWH-096, JWH-098, JWH-116, JWH-120, JWH-122, JWH-148, JWH-149, JWH-164, JWH-166, JWH-180, JWH-181, JWH-182, JWH-189, JWH-193, JWH-198, JWH-200, JWH-210, JWH-211, JWH-212, JWH-213, JWH-234, JWH-235, JWH-236, JWH-239, JWH-240, JWH-241, JWH-242, JWH-258, JWH-262, JWH-386, JWH-387, JWH-394, JWH-395, JWH-397, JWH-398, JWH-399, JWH-400, JWH-412, JWH-413, JWH-414, JWH-415, JWH-424, MAM-2201, WIN 55-212. Naphthoylindoles also include:

“(I) AM-2201 (also known as (1-(5-fluoropentyl)-3-(1-naphthoyl)indole); and

“(II) WIN 55,212-2, also known as:

“(aa) (R)-(+)-[2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone; or

“(bb) [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[(1,2,3-de)-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone);

“(xiii) Naphthoynaphthalenes: Any compound containing or structurally derived from naphthalene-1-yl-(naphthalene-1-yl) methanone with substitutions on either of the naphthalene rings to any extent. Naphthoynaphthalenes include CB-13 (also known as CRA-13 or 1-naphthalenyl[4-(pentylox)-1-naphthalenyl]-methanone);

“(xiv) Naphthoylpyrroles: Any compound containing or structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including the following: JWH-030, JWH-031, JWH-145, JWH-146, JWH-147, JWH-150, JWH-156, JWH-243, JWH-244, JWH-245, JWH-246, JWH-292, JWH-293, JWH-307, JWH-308, JWH-309, JWH-346, JWH-348, JWH-363, JWH-364, JWH-365, JWH-367, JWH-368, JWH-369, JWH-370, JWH-371, JWH-373, JWH-392;

“(xv) Naphthylamidoindoles: Any compound containing or structurally derived from a N-(naphthyl)-indole-3-carboxamide structure, whether or not further substituted to any extent in the indole ring or in the naphthyl ring;

“(xvi) Naphthylmethyl Indoles: Any compound containing or structurally derived from 1H-indol-3-yl-(1-naphthyl)methane structure, also known as naphthylmethylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-

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morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include:

"(I) JWH-175 (also known as 3-(1-naphthalenylmethyl)-1-pentyl-1 H-indole);

"(II) JWH-184 (also known as 3-[(4-methyl-1-naphthalenyl)methyl]-1-pentyl-1 H-indole);

"(III) JWH-185 (also known as 3-[(4-methoxy-1-naphthalenyl)methyl]-1-pentyl-1 H-indole);

"(IV) JWH-192 (also known as (1-(2-morpholin-4-ylethyl)indol-3-yl)-4-methylnaphthalen-1-ylmethane);

"(V) JWH-194 (also known as 2-methyl-1-pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane);

"(VI) JWH-195 (also known as (1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethane);

"(VII) JWH-196 (also known as 2-methyl-3-(1-naphthalenylmethyl)-1-pentyl-1H-Indole);

"(VIII) JWH-197 (also known as 2-methyl-1-pentyl-1H-indol-3-yl-(4-methoxy-1-naphthyl)methane); and

"(IX) JWH-199 (also known as (1-(2-morpholin-4-ylethyl)indol-3-yl)-4-methoxynaphthalen-1-ylmethane);

“(xvii) Naphthylmethylindenes: Any compound containing or structurally derived from a naphthylideneindene structure or that is structurally derived from 1-(1-naphthylmethyl)indene with substitution at the 3-position of the indene ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:

"(I) JWH-171;

"(II) JWH-176 (also known as 1-((E)-{3-pentyl-1 H-inden-1-ylidene)methyl]-naphthalene); and

"(III) JWH-220;

“(xviii) Phenylacetylindoles: Any compound containing or structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including: JWH-167, JWH-201, JWH-202, JWH-203, JWH-204, JWH-205, JWH-206, JWH-207, JWH-208, JWH-209, JWH-237, JWH-248, JWH-249, JWH-

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250, JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305, JWH-306, JWH-311, JWH-312, JWH-313, JWH-314, JWH-315, JWH-316, RCS-8, SR-18, and Cannabipiperidiethanone (also known as 2-(2-methoxyphenyl)-1-[1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]-ethanone);

“(xix) Quinolinoyl pyrazole: Any compound containing or structurally derived from Quinolinoyl pyrazole carboxylate (also known as Quinolinyl fluoropentyl fluorophenyl pyrazole carboxylate);

“(xx) Tetrahydrobenzochromen: Any compound containing or structurally derived from (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol. Includes tetrahydrodibenzopyrans, or any compound containing or structurally derived from tetrahydrodibenzopyrans, whether or not substituted in the tricyclic ring system, but does not include tetrahydrodibenzopyrans that are contained in cannabis or cannabis resin. Examples of this structural class include:

“(I) AM-087 (also known as (6aR,10aR)-3-(2-methyl-6-bromohex-2-yl)-6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);

“(II) AM-411 (also known as (6aR,10aR)-3-(1-adamantyl)-6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);

“(III) HU-210, also known as:

“(aa) 3-(1,1'-dimethylheptyl)-6aR,7,10,10aR-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol;

“(bb) [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol];

“(cc) 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol; or

“(dd) 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol;

“(IV) HU-211, also known as:

“(aa) 3-(1,1-dimethylheptyl)-6aS,7,10,10aS-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol;

“(bb) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

“(cc) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; or

“(dd) “Dexanabinol”;

“(V) HU-243, also known as

“(aa) (6aR,8S,9S,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-8,9-ditritio-7,8,10,10a-tetrahydro-6aH-benzo[c]chromen-1-ol;

or

“(bb) 3-dimethylheptyl-11-hydroxyhexahydrocannabinol;

“(VI) JWH-051 (also known as (6aR,10aR)-6,6-dimethyl-

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3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-9-yl)methanol);

“(VII) JWH-133 (also known as (6aR,10aR)-3-(1,1-Dimethylbutyl) -6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran); and

“(VIII) JWH-359 (also known as (6aR,10aR)- 1-methoxy-6,6,9-trimethyl- 3-[(2R)-1,1,2-trimethylbutyl]- 6a,7,10,10a-tetrahydrobenzo[c]chromene);

“(xxi) Δ^8 Tetrahydrocannabinol: Any compound containing or structurally derived from 11-hydroxy- Δ^8 -tetrahydrocannabinol structure, also known as dibenzopyrans, with further substitution on the 3-pentyl group by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(n-methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl group;

“(xxii) Tetramethylcyclopropane-thiazole carboxamides: Any compound containing or structurally derived from 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide by substitution at the nitrogen atom of the thiazole ring by alkyl, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the thiazole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent, including the group Tetramethylcyclopropyl thiazoles, or any compound containing or structurally derived from 2,2,3,3-tetramethyl-N-(thiazol- 2-ylidene)cyclopropanecarboxamide by substitution at the nitrogen atom of the thiazole ring, whether or not further substituted in the thiazole ring to any extent, whether or not substituted in the tetramethylcyclopropyl ring to any extent.

Tetramethylcyclopropane-thiazole carboxamides also include A-836,339, also known as:

“(I) [N(Z)]-N-[3-(2-methoxyethyl)-4,5-dimethyl-2(3H)-thiazolylidene]-2,2,3,3-tetramethyl-cyclopropanecarboxamide;

“(II) N-[3-(2-Methoxyethyl)-4,5-dimethyl-1,3-thiazol-2(3H)-ylidene]-2,2,3,3-tetramethylcyclopropanecarboxamide; and

“(III) A-836339;

“(xxiii) Benzodihydropyrans: Any compound containing or structurally derived from benzodihydropyrans, by substitution on the benzyl ring by hydroxy, alkyl, haloalkyl, alkoxy, cycloalkyl, alkene, haloalkene, cycloalkane, or by substitution on the pyran ring by alkyl, cycloalkyl, cycloalkene, or cycloalkoxy group to any extent. Examples of this structural class include:

“(I) AM-855 (also known as (4aR,12bR)-8-hexyl-2,5,5-trimethyl-1,4,4a,8,9, 10,11,12b-octahydronaphtho[3,2-c]isochromen-1 2-ol);

“(II) AM-905 (also known as (6aR,9R, 10aR)-3-[(E)-hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a, 7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol);

“(III) AM-906 (also known as (6aR,9R,10aR)-3-[(Z)-hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a, 7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol);

“(IV) AM-2389 (also known as (6aR,9R,10aR)-3-(1-hexylcyclobut-1-yl)-6a, 7,8,9, 10, 10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1,9 diol); and

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"(V) JWH-057 (also known as (6aR,10aR)-3-(1,1-dimethylheptyl)-6a, 7, 10, 10a-tetrahydro-6,6,9-trimethyl-6H-Dibenzo[b,d]pyran); and

"(xxiv) Benzimidazole Ketone: Any compound containing or structurally derived from [IH-indazol-3-yl](1-naphthyl)methanone structure with or without substitution at either nitrogen atom of the indazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, with substitution at the carbon of the methanone group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3, 3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3, 3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted in the benzimidazole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Examples of this structural class include:

"(I) THJ-2201 (also known as [1-(5-Fluoropentyl)-IH-indazol-3-yl](1-naphthyl)methanone); and

"(II) THJ-018 (also known as 1-naphthalenyl(1-pentyl-IH-indazol-3-yl)-methanone);

"(B) Unclassified Synthetic Cannabimimetic Agents:

"(i) AM-356, also known as:

"(I) AM356;

"(II) arachidonyl-1'-hydroxy-2'-propylamide;

"(III) N-(2-hydroxy-1R-methylethyl)-5Z,8Z,11Z,14Z-eicosatetraenamide;

"(IV) (R)-(+)-Arachidonyl-1'-Hydroxy-2'-Propylamide;

"(V) Methanandamide; or

"(VI) R-1 Methanandamide;

"(ii) BAY38-7271 (also known as (-)-(R)-3-(2-Hydroxymethylindanyl -4-oxy) phenyl-4,4,4-trifluorobutyl-1-sulfonate);

"(iii) CP 50,556-1, also known as:

"(I) 9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate;

"(II) [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-; octahydrophenanthridin-1-yl] acetate;

"(III) [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate; or

"(IV) "Levonantradol";

"(iv) HU-308 (also known as (91R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol);

"(v) HU-331 (also known as 3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione);

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“(vi) JTE-907 (also known as N-(benzol[1,3]dioxol-5-ylmethyl) – 7-methoxy-2-oxo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide);

“(vii) Mepirapim (also known as (4-methylpiperazin-1-yl)(1-pentyl-1H-indol-3-yl) Methanone);

“(viii) URB597 (also known as [3-(3-carbamoylphenyl)phenyl] – N-Cyclohexylcarbamate);

“(ix) URB602, also known as:

“(I) [1,1'-Biphenyl]-3-yl-carbamic acid, cyclohexyl ester;

or

“(II) cyclohexyl [1,1'-biphenyl]-3-ylcarbamate;

“(x) URB754 (also known as 6-methyl-2-[(4-methylphenyl)amino] -4H-3,1-benzoxazin-4-one); and

“(xi) URB937 (also known as 3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-yl Cyclohexylcarbamate).

"(7) Synthetic opioids, which includes, unless specifically exempted, unless listed in another schedule, or unless approved by the Food and Drug Administration as a drug, any material, mixture, preparation, any compound structurally derived from, or that contains any quantity of the following synthetic substances, their salts, isomers, homologues, analogues and salts of isomers, homologues, and analogues, whenever the existence of these salts, isomers, homologues, analogues, and salts of isomers, homologues, and analogues is possible within the specific chemical designation:

"(A) Classified Synthetic Opioids:

"(i) Fentanyls: Any compound, other than carbomethoxyfentanyls, containing or structurally derived from N-(1-(2-Phenylethyl)-4-piperidinyl)-N-phenylpropanamide, whether or not substituted on the methanone group with an alkyl, alkene, halo, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, cyanoalkyl, hydroxyalkyl, furanyl, or alkoxy, and whether or not substituted on either phenyl ring with an alkyl, halo, cycloalkyl, or alkoxy group. Examples of fentanyls include:

"(I) Fentanyl (also known as N-(1-(2-Phenylethyl)-4-piperidinyl)-N-phenylpropanamide);

"(II) Furanylfentanyl (also known as N-Phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide);

"(III) Acetylfentanyl (also known as N-(1-Phenethylpiperidin-4-yl)-N-phenylacetamide);

"(IV) Acrylfentanyl (also known as N-Phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]prop-2-enamide);

"(V) Parafluorofentanyl, also known as:

"(aa) 4-fluorofentanyl; or

"(bb) N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide;

"(VI) Butyryl fentanyl, also known as:

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"(aa) Butyr fentanyl;
 "(bb) NIH 10486; or
 "(cc) N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-
 butanamide, monohydrochloride; and

"(VII) para-Fluorobutyryl fentanyl, also known as:

"(aa) 4-FPF;

"(bb) p-FBF;

"(cc) 4-Fluorobutyryl fentanyl;

"(dd) p-Fluorobutyryl fentanyl; or

"(ee) N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-

piperidinyl]-butanamide);

"(ii) Carbomethoxyfentanils: Any compound containing or structurally derived from 4-((1-oxopropyl)-phenylamino)-1-(2-phenylethyl)-4-piperidinecarboxylic acid methyl ester, whether or not substituted on either phenyl ring with an alkyl, halo, cycloalkyl, or alkoxy group. Carbomethoxyfentanils include:

"(I) Carfentanil, also known as:

"(aa) 4-Carbomethoxy Fentanyl;

"(bb) 4-carbomethoxy Fentanyl; or

"(cc) 4-[(1-oxopropyl)phenylamino]-1-(2-

phenylethyl)-4-piperidinecarboxylic acid, methyl ester;

"(II) Norcarfentanil (also known as: 4-[(1-oxopropyl)phenylamino]-4-piperidinecarboxylic acid, methyl ester; and

"(III) N-methyl Norcarfentanil, also known as:

"(aa) N-methyl Carfentanil;

"(bb) N-methyl Norremifentanil;

"(cc) N-methyl Remifentanil; or

"(dd) 1-methyl-4-[(1-oxopropyl)phenylamino]-4-

piperidinecarboxylic acid, methyl ester; and

"(iii) Benzamides: Any compound containing or structurally derived from 3,4-Dichloro-N-[(1R,2R)-2-(dimethylamino)cyclohexyl]-N-methylbenzamide, whether or not substituted on the phenyl ring with an alkyl, halo, cycloalkyl, or alkoxy group, and whether or not substituted with an alkyl or hydrogen on the nitrogen of the amide, and whether or not substituted on the nitrogen of the amide with an alkyl, cycloalkyl, tertiary amine, or combination thereof. Benzamides include:

"(I) U-47700 (also known as 3,4-dichloro-N-[(1R,2R)-2-(dimethylamino)cyclohexyl]-N-methylbenzamide); and

"(II) AH-7921 (also known as 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide).

"(B) Unclassified Synthetic Opioids:

"(i) W-18 (also known as 4-chloro-N-[(2E)-1-[2-(4-nitrophenyl)ethyl]piperidin-2-ylidene]benzene-1-sulfonamide);

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“(ii) Sufentanil (also known as N-[4-(methoxymethyl)-1-[2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenyl-propanamide);

“(iii) Alfentanil (also known as N-[1-[2-(4-ethyl-4,5-dihydro-5-oxo-1H-tetrazol-1-yl)ethyl]-4-(methoxymethyl)-4-piperidinyl]-N-phenyl-propanamide);

“(iv) Remifentanil (also known as 4-(methoxycarbonyl)-4-[(1-oxopropyl)phenylamino]-1-piperidinepropanoic acid, methyl ester);

“(v) Lofentanil (also known as methyl (3R,4S)-3-methyl-1-(2-phenylethyl)-4-(N-propanoylanilino)piperidine-4-carboxylate);

“(vi) Benzyl Carfentanil (also known as methyl 1-benzyl-4-(N-phenylpropionamido)piperidine-4-carboxylate); and

“(vii) N-methyl-Norcarfentanil (also known as 1-methyl-4-[(1-oxopropyl)phenylamino]-4-piperidinecarboxylic acid, methyl ester).”.

(c) Section 208(a) (D.C. Official Code § 48-902.08(a)) is amended as follows:

(1) Paragraph (5)(BB) is amended by striking the semicolon and inserting the phrase “; and” in its place.

(2) Paragraph (6) is amended by striking the phrase “; and” and inserting a period.

(3) Paragraph (7) is repealed.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

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December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-504

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend the District of Columbia Election Code of 1955 to require the District of Columbia Board of Elections to divide the District into appropriate voting precincts every 5 years, to permit voters to elect to receive a voter guide by electronic means, in lieu of by mail, if such a guide is published by the District of Columbia Board of Elections, to exempt the current Executive Director of the District of Columbia Board of Elections from the domicile requirement, and to repeal the requirement that the District of Columbia Board of Elections publish and display on its website a searchable copy of the list of qualified electors registered to vote; and to amend the State Board of Education Establishment Act of 2007 to allow members of the State Board of Education to serve as certain elected officials of political parties.

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

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(a) Section 5 (D.C. Official Code § 1-1001.05) is amended as follows:

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

(A) Paragraph (8) is amended by striking the phrase "Divide the District" and inserting the phrase "Every 5 years, divide the District" in its place.

(B) Paragraph (12) is amended by striking the phrase "votes therein;" and inserting the phrase "votes therein, including by establishing a system to permit voters to elect to receive a voter guide by electronic means in lieu of by mail, if such a guide is published by the Board;" in its place.

(2) Subsection (e)(1) is amended by adding a new subparagraph (B-i) to read as follows:

"(B-i) The requirements of subparagraph (B) of this paragraph shall not apply to Executive Director Alice Miller, beginning on her hire date of July 6, 2016."

(b) Section 7(h)(2A) (D.C. Official Code § 1-1001.07(h)(2A)) is repealed.

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Sec. 3. Section 402(e)(1)(C) of the State Board of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-2651(e)(1)(C)), is amended to read as follows:

“(C) Not hold another elective office, other than as an official of a political party, as described in section 1(1) through (4) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01(1)-(4)); or”.

Sec. 4. Fiscal impact statement.

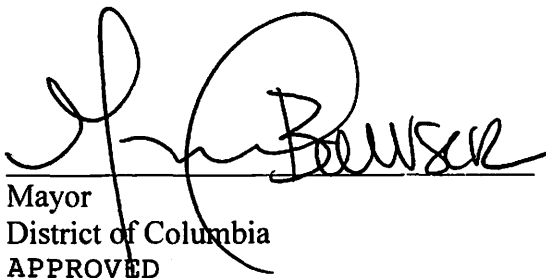
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 31, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-505

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend Chapter 39 of Title 28 of the District of Columbia Official Code to provide that the right of action established by section 28-3905(k) applies to trade practices arising from landlord-tenant relations, and to clarify that the Attorney General for the District of Columbia may apply the provisions and exercise the duties of section 28-3909 to landlord-tenant relations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "At-Risk Tenant Protection Clarifying Amendment Act of 2018".

Sec. 2. Chapter 39 of Title 28 of the District of Columbia Official Code is amended as follows:

(a) Section 28-3905 is amended as follows:

(1) Subsection (i)(4) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General for the District of Columbia" in its place.

(2) Subsection (k) is amended by adding a new paragraph (6) to read as follows:

"(6) The right of action established by this subsection shall apply to trade practices arising from landlord-tenant relations."

(b) Section 28-3909 is amended by adding a new subsection (d) to read as follows:

"(d) The Attorney General for the District of Columbia may apply the provisions and exercise the duties of this section to landlord-tenant relations."

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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-506

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To allow health care professionals to prescribe and pharmacists to dispense and distribute epinephrine auto-injectors to authorized entities, to authorize employees or agents of an authorized entity who has completed a training program to provide or administer an epinephrine auto-injector, to require an employee or agent of an authorized entity to undergo training before providing or administering an epinephrine auto-injector, to authorize an authorized entity to store epinephrine auto-injectors, and to provide immunity from civil and criminal liability to certain persons and entities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Access to Treatment for Anaphylaxis Act of 2018”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Administer” means the direct application of an epinephrine auto-injection to a human body.

(2) “Authorized entity” means any entity or organization other than a public school, including recreational camps, colleges, universities, day care facilities, youth sports leagues, restaurants, places of employment, and sports arenas.

(3) “Department” means the Department of Health.

(4) “Epinephrine auto-injector” means a disposable drug delivery system with a spring-activated needle that is designed for the emergency administration of epinephrine to a person suffering an episode of anaphylaxis.

(5) “Health care professional” means a physician, physician assistant, or advanced practice registered nurse licensed under the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*).

(6) “Standing order” means a prescriptive order written by a health care professional that is not specific to and does not identify a particular patient.

ENROLLED ORIGINAL**Sec. 3. Epinephrine prescriptions.**

(a) A health care professional acting in good faith may directly or by standing order prescribe an epinephrine auto-injector to an authorized entity that has an employee or agent who has completed the training program described in section 5.

(b) A pharmacist, in accordance with a health care professional's prescription or standing order, may dispense and distribute an epinephrine auto-injector to an authorized entity to whom an epinephrine auto-injector has been prescribed.

Sec. 4. Authorized use.

An employee or agent of an authorized entity who has completed the training program described in section 5 may use an epinephrine auto-injector prescribed pursuant to section 3 to:

(1) Provide an epinephrine auto-injector to any individual who the employee or agent believes in good faith is experiencing anaphylaxis, for immediate administration;

(2) Provide an epinephrine auto-injector to the parent, guardian, or caregiver of an individual who the employee or agent believes in good faith is experiencing anaphylaxis, for immediate administration; or

(3) Administer an epinephrine auto-injector to any individual who the employee or agent believes in good faith is experiencing anaphylaxis.

Sec. 5. Training required.

(a) An employee or agent of an authorized entity may not provide or administer an epinephrine auto-injector under this act unless he or she completes an anaphylaxis training program. The training program shall be conducted by:

(1) A nationally recognized organization experienced in training laypersons in emergency health treatment; or

(2) An entity or individual approved by the Department.

(b) The training program may be conducted online or in person and shall include instruction on:

(1) The recognition of signs and symptoms of severe allergic reactions, including anaphylaxis;

(2) Standards and procedures for the storage and administration of an epinephrine auto-injector; and

(3) Post-administration emergency medical follow-up procedures.

(c) An organization, individual, or entity that conducts the training program shall issue a certificate, on a form developed by the Department, to each person who successfully completes the training program.

Sec. 6. Storing and maintaining epinephrine.

(a) An authorized entity may acquire and maintain epinephrine auto-injectors obtained in accordance with section 3. Once acquired, the epinephrine auto-injectors shall be maintained:

ENROLLED ORIGINAL

- (1) In a location readily accessible in an emergency situation;
- (2) In accordance with the manufacturer's instructions for storage; and
- (3) In accordance with any additional requirements that may be established by the

Department.

(b) An authorized entity shall designate employees or agents who have completed the training described in section 5 to be responsible for the storage and maintenance of epinephrine auto-injectors acquired by the authorized entity.

Sec. 7. Limitations on liability.

(a) The following shall be immune from civil or criminal liability for the performance of actions authorized by this act; provided, that no immunity shall extend to gross negligence, recklessness, or intentional misconduct:

(1) An authorized entity and its employees or agents; and

(2) A third party that facilitates the availability of epinephrine auto-injectors to an authorized entity.

(b) The following shall be immune from civil or criminal liability for the performance of actions authorized by this act; provided, that no immunity shall extend to gross negligence, recklessness, intentional misconduct, or a willful or wanton disregard for the health or safety of others:

(1) A health care professional that prescribes epinephrine auto-injectors to an authorized entity;

(2) A pharmacist that dispenses or distributes epinephrine auto-injectors to an authorized entity; and

(3) An organization, individual, or entity that conducts the training described in section 5.

Sec. 8. Incident reports.

(a) An authorized entity that acquires and provides or administers epinephrine auto-injectors shall submit to the Department, on a form developed by the Department, a report of each incident on the authorized entity's premises that involves the provision or administration of an epinephrine auto-injector pursuant to section 4.

(b) By January 1, 2020, and annually thereafter, the Department shall publish a report summarizing and analyzing the reports submitted pursuant to subsection (a) of this section during the previous fiscal year.

Sec. 9. 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.

ENROLLED ORIGINAL

Sec. 10. 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.

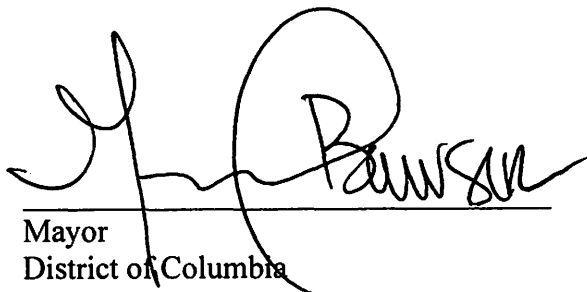
Sec. 11. Fiscal impact statement.

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. 12. 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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-507

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend the Insurance Trade and Economic Development Amendment Act of 2000 to increase the amount of valuable consideration a person may offer as a rebate for a policy or contract of life insurance, annuity, or accident and health insurance.

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

Sec. 2. The Insurance Trade and Economic Development Amendment Act of 2000, effective April 3, 2001 (D.C. Law 13-265; D.C. Official Code § 31–2231.01 *et seq.*), is amended as follows:

(a) Section 112(f) (D.C. Official Code § 31–2231.12(f)) is amended by striking the phrase “\$10” and inserting the phrase “\$75” in its place.

(b) Section 113(h)(1) (D.C. Official Code § 31–2231.13(h)(1)) is amended by striking the phrase “\$10” and inserting the phrase “\$75” 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.

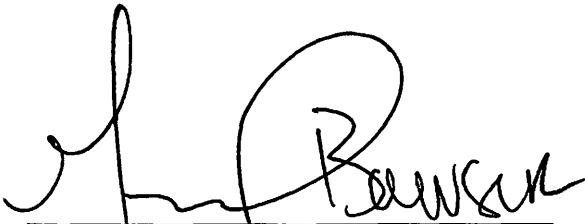
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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
October 31, 2018

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-508

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

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

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

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

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

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement 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.

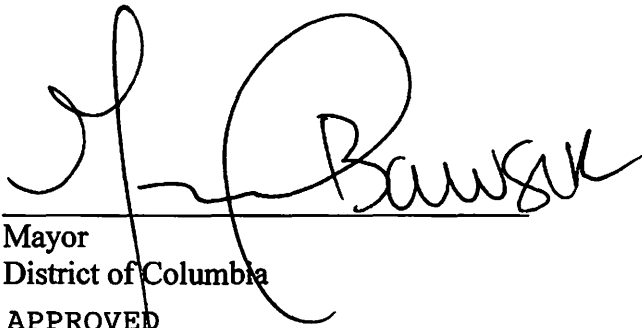
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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
October 31, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-509

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 31, 2018

To amend, on an emergency basis, the Prevention of Child Abuse and Neglect Act of 1977 to provide the Office of the State Superintendent of Education access to the Child Protection Register to conduct federally required suitability determinations of care givers in child development facilities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Prevention of Child Abuse and Neglect Emergency Amendment Act of 2018".

Sec. 2. The lead-in language of section 203(a-1)(1) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1302.03(a-1)(1)), is amended to read as follows:

“(1) Except as provided in paragraph (3) of this subsection, the staff which maintains the Child Protection Register shall grant access to substantiated reports to the Office of the State Superintendent of Education for the purpose of conducting background checks of employees of licensed, regulated or registered child development facilities pursuant to section 658H of the Child Care and Development Block Grant Act of 1990, approved November 18, 2014 (128 Stat. 1971; 42 USC § 9858f), and to the chief executive officers or directors of child development facilities, schools, or any public or private organizations working directly with children, for the purpose of making employment decisions regarding employees and volunteers or prospective employees and volunteers, if:”.

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).

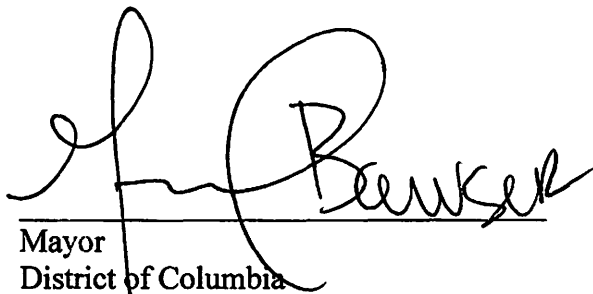
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Sec. 4. Effective date.

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
October 31, 2018

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-510

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 3, 2018

To amend, on an emergency basis, due to congressional review, the Rental Housing Act of 1985 to prohibit the execution of residential evictions during precipitation, to establish the eviction procedure and requirements that a housing provider shall meet before, during, and immediately after a residential eviction, and to establish standards for the handling of an evicted tenant's personal property; and to clarify, in an eviction not subject to the Rental Housing Act of 1985, the legal status of an evicted tenant's remaining personal property and a landlord's civil liability for such property.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Eviction Procedure Reform Congressional Review Emergency Amendment Act of 2018".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 501(k) (D.C. Official Code § 42-3505.01(k)) is amended as follows:

(1) Strike the phrase "tenant on any day when the National Weather Service predicts at 8:00 a.m. that the temperature at the National Airport weather station will fall below 32 degrees fahrenheit or 0 degrees centigrade within the next 24 hours." and insert the phrase "tenant:" in its place.

(2) New paragraphs (1) and (2) are added to read as follows:

"(1) On any day when the National Weather Service predicts at 8:00 a.m. that the temperature at the National Airport weather station will fall below 32 degrees Fahrenheit or 0 degrees centigrade; or

"(2) When precipitation is falling at the location of the rental unit.".

(b) A new section 501a is added to read as follows:

"Sec. 501a. Storage and disposal of tenants' personal property upon eviction.

"(a) A housing provider shall not remove an evicted tenant's personal property from a rental unit except as provided in this section.

"(b)(1) In addition to any notification from the United States Marshals Service ("Marshals") to the tenant of the date of eviction, a housing provider shall deliver to the tenant a

ENROLLED ORIGINAL

notice confirming the date of eviction not fewer than 14 days before the date of eviction by using the following methods:

“(A) Telephone or electronic communication, including by email or mobile text message;

“(B) First-class mail to the address of the rental unit; and

“(C) Conspicuous posting at the tenant’s rental unit in a manner reasonably calculated to provide notice.

“(2) The notice shall:

“(A) State the tenant’s name and the address of the rental unit;

“(B) Specify the date on which the eviction is scheduled to be executed;

“(C) State that the eviction will be executed on that date unless the tenant vacates the rental unit and returns control of the rental unit to the housing provider;

“(D) Prominently warn the tenant that any personal property left in the rental unit will be deemed abandoned 7 days after the time of eviction, excluding Sundays and federal holidays;

“(E) Include the phone numbers of the U.S. Marshals Service, Office of the Chief Tenant Advocate, and the District of Columbia Landlord Tenant Court; and

“(F) State that it is the final notice from the housing provider before the time of eviction, even if the eviction date is postponed by the court or Marshals.

“(c)(1) At the time of eviction, the housing provider shall change the locks on the rental unit in the presence of the Marshals, at the housing provider’s expense, and take legal possession of the rental unit by receipt of a document from the Marshals.

“(2) Any right of the evicted tenant to redeem the tenancy shall be extinguished at the time of eviction.

“(d)(1) At the time of eviction, the housing provider shall send by first-class mail to the address of an emergency contact, if provided, and conspicuously post in a manner reasonably calculated to provide notice to the evicted tenant a notice containing the following information:

“(A) The name and phone number of at least one housing provider representative whom the tenant may contact and who can grant access to the rental unit on the housing provider’s behalf pursuant to this subsection;

“(B) The phone number of the Office of the Chief Tenant Advocate;

“(C) The phone number of the United States Marshals Service;

“(D) The phone number of the District of Columbia Landlord Tenant Court; and

“(E) The text of this subsection attached to, or made a part of, the notice.

“(2) Any personal property of the evicted tenant present in the rental unit at the time of eviction shall remain in the rental unit for 7 days after the time of eviction, excluding Sundays and federal holidays, unless removed by the evicted tenant pursuant to this subsection.

ENROLLED ORIGINAL

“(3) The housing provider shall maintain and exercise reasonable care in the storage of the personal property of the evicted tenant during the period that the property remains in the rental unit pursuant to this subsection.

“(4)(A) The housing provider shall grant the evicted tenant access to the rental unit to remove the evicted tenant’s personal property during the period that the property remains in the rental unit pursuant to this subsection. Access shall be for no fewer than 8 continuous hours at times agreed to by the parties, without requiring payment of rent or service fees.

“(B) If the housing provider fails to grant access to the evicted tenant to remove the evicted tenant’s personal property as provided in this paragraph, the evicted tenant shall have a right to injunctive relief, including requiring the housing provider to grant access to the evicted tenant at certain dates and times to retrieve the evicted tenant’s personal property and extending the period during which the housing provider must store the evicted tenant’s personal property.

“(5) Any of the evicted tenant’s personal property remaining in the rental unit upon expiration of the period that the property remains in the rental unit pursuant to this subsection shall be deemed abandoned property.

“(6) The housing provider shall remove, or dispose of, any abandoned property in the rental unit upon the expiration of the period that the property remains in the rental unit pursuant to this subsection without any further notice or any other obligation to the evicted tenant.

“(7)(A) The housing provider shall dispose of any abandoned property in any manner not prohibited by paragraph (8) of this subsection or otherwise expressly prohibited by law.

“(B) If the housing provider receives any funds from any sale of such abandoned property, the housing provider shall pay such funds to the account of the evicted tenant and apply any amounts due the housing provider by the evicted tenant, including the actual costs incurred by the housing provider in the eviction process described in this section.

“(C) If any funds are remaining after application, the remaining funds shall be treated as a security deposit under applicable law.

“(8) The housing provider is prohibited from placing or causing the placement of abandoned property in an outdoor space other than a lawful disposal receptacle; provided, that a housing provider may place abandoned property or cause abandoned property to be placed in an outdoor private or public space while in the process of transporting the property from the premises for disposal.

“(9) An evicted tenant is prohibited from disposing of or causing the disposal of personal property in an outdoor space other than a lawful disposal receptacle; provided, that an evicted tenant may place personal property or cause personal property to be placed in an outdoor private or public space while in the process of transporting the property from the premises.

“(e) The housing provider and anyone acting on behalf of the housing provider shall be immune from civil liability for loss or damage to the evicted tenant’s abandoned property or

ENROLLED ORIGINAL

claims related to its lawful disposal.

“(f) This section shall not apply to evictions carried out by the District of Columbia Housing Authority.

“(g) For the purposes of this section, the term “time of eviction” means the time at which the Marshals execute a writ of restitution.”.

Sec. 3. Other evictions.

(a) At the time of an eviction not subject to the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), the landlord shall change the locks on the leased premises in the presence of the United States Marshals Service (“Marshals”), at the landlord’s expense, and take legal possession of the leased premises by receipt of a document from the Marshals.

(b) Any right of the evicted tenant to redeem the tenancy shall be extinguished at the time of eviction.

(c) Any personal property remaining in or about the leased premises at the time of eviction is deemed abandoned property.

(d)(1) The landlord shall dispose of any abandoned property in any manner not prohibited by subsection (e) of this section or otherwise expressly prohibited by law.

(2) If the landlord receives any funds from any sale of such abandoned property, the landlord shall pay such funds to the account of the evicted tenant and apply any amounts due the landlord by the evicted tenant, including the actual costs incurred by the landlord in the eviction process described in this section.

(3) If any funds are remaining after application, the remaining funds shall be treated as a security deposit under applicable law.

(e) The landlord is prohibited from placing or causing the placement of abandoned property in an outdoor space other than a licensed disposal facility or lawful disposal receptacle; provided, that a landlord may place abandoned property or cause abandoned property to be placed in an outdoor private or public space while in the process of transporting the abandoned property from the leased premises for disposal.

(f) The landlord and anyone acting on behalf of the landlord shall be immune from civil liability for loss or damage to the evicted tenant’s abandoned property or claims related to its lawful disposal.

(g) For the purposes of this section, the term “time of eviction” means the time at which the Marshals execute a writ of restitution.

Sec. 4. Repealer.

The Eviction Reform Emergency Amendment Act of 2018, effective July 24, 2018 (D.C. Act 22-425; 65 DCR 7709), is repealed.

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Sec. 5. Applicability.

This act shall apply as of October 7, 2018.

Sec. 6. Fiscal impact statement.

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

Sec. 7. Effective date.

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



Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia

APPROVED
October 31, 2018

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-394

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To honor Kathryn Amelia Eckles, congratulate her as she celebrates her 100th birthday, and declare August 26, 2018, as “Kathryn Amelia Eckles Day” in the District of Columbia.

WHEREAS, Kathryn Amelia Eckles, known to all of her friends as Kay, was born on August 26, 1918, in Ocoee, Florida, graduated from Florida State University, and spent her early career as a flight attendant for National Airlines;

WHEREAS, Kathryn moved to Washington, D.C. in 1947 to accept a position as marketing representative for National Airlines, was first assigned to Capitol Hill, where she befriended numerous congressmen, and was subsequently assigned as the first female representative to the Pentagon, earning a master’s degree in history from Georgetown University while working fulltime;

WHEREAS, Kathryn has traveled around the world 15 times, frequently on her own, visiting remote areas of Afghanistan and crossing Russia on the Trans-Siberian Railroad among other adventures; and

WHEREAS, Kathryn was honored by a Council resolution in 2008 for her decades of public advocacy and civic service as a founder and first president of the Residential Action Coalition, an officer and director of the Dupont Circle Citizens Association, and an active member and supporter of the Committee of 100 on the Federal City, the Dupont Circle Conservancy, the Association of Oldest Inhabitants, the Citizens Committee to Save Historic Rhodes Tavern, and the Federation of Citizens Associations, among others, testifying before the Council and many regulatory agencies, as well as marching for causes in which she believed.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Kathryn Amelia Eckles 100th Birthday Celebration Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia congratulates Kathryn Amelia Eckles on the celebration of her 100th birthday and declares August 26, 2018, as “Kathryn Amelia Eckles Day” in the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-395

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To recognize and congratulate the PEN/Faulkner Foundation on the celebration of its 30th anniversary and to declare September 24, 2018, as “PEN/Faulkner Foundation Day” in the District of Columbia.

WHEREAS, the PEN/Faulkner Foundation was created in 1980 by Mary Lou Settle who wanted to create an award celebrating the best of American fiction judged by their peers;

WHEREAS, the PEN/Faulkner Foundation was inspired by the Nobel Prize acceptance speech by William Faulkner;

WHEREAS, the PEN/Faulkner Foundation created its first board of directors with Susan Richards Shreve as President and fellow board members Stephen Goodwin and Deborah Taylor Ashford;

WHEREAS, the first PEN/Faulkner Award was granted in 1981 to Walter Abish for “How German Is It?”;

WHEREAS, the PEN/Faulkner Foundation has promoted a love of literature through its Writers In Schools program, Literary Conversations, After School programs, and Book Clubs throughout all 8 wards of the District of Columbia; and

WHEREAS, the PEN/Faulkner Foundation celebrates annually with a gala to raise funds to continue these charitable goals throughout the year, and this year’s 30th Anniversary Gala was held on September 24, 2018.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “PEN/Faulkner Recognition Resolution of 2018”.

ENROLLED ORIGINAL

Sec. 2. The Council of the District of Columbia salutes the PEN/Faulkner Foundation on the occasion of its 30th anniversary, congratulates the authors for their accomplishments of Finalists and Winners of the PEN/Faulkner Award, and declares September 24, 2018, as “PEN/Faulkner Foundation Day” in the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-396

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To recognize and honor Trinity Episcopal Church for its distinguished service to the District of Columbia and on the occasion of its 125th anniversary.

WHEREAS, in 1887, the Reverend James C. Dorsey, a former Episcopal missionary, moved from the Dakota Territory to Takoma Park, outside of the District of Columbia, and invited his neighbors to his home for the community’s first Episcopal Church service;

WHEREAS, service attendance increases necessitated the purchase of land for a church in the District of Columbia;

WHEREAS, Takoma Parish was erected at the present-day location of 7005 Piney Branch Road, N.W., with opening services held November 26, 1893;

WHEREAS, in 1895, the Diocese of Washington was established with the Takoma area given independent status the following year as Takoma Parish, with the Reverend George H. Johnson as Trinity’s first rector;

WHEREAS, on March 7, 1937, a new church building opened for services after a year-long replacement campaign, followed by a new rectory in March of 1941, and the enlargement of the Parish Hall in September of 1950;

WHEREAS, in 1941, the Diocese of Washington changed the name of the Takoma Parish to the Trinity Parish;

WHEREAS, Trinity Episcopal Church enjoys a rich tapestry representing many cultures and countries within its community and has a diverse cross-culture population of more than 20 countries and nationalities represented;

WHEREAS, the Trinity Parish is involved in community-building and outreach activities, including programs such as House Church, Advent Circle, the Trinity Education Arts Music Ministry, the Ministry to Homeless Women, an annual Christmas dinner for HIV/AIDS victims

ENROLLED ORIGINAL

and the homeless, and the Trinity Volunteer Corps, which is a community for young adults seeking to transform society through service and social justice;

WHEREAS, in 2000, Reverend Canon John T. W. Harmon accepted the call as Rector and Pastor of Trinity Episcopal Church, and under his leadership the church has grown and prospered;

WHEREAS, in 2006, Trinity Episcopal Church organized the first Clergy Leadership Summit on HIV/AIDS in the Nation’s Capital, with more than 300 churches participating;

WHEREAS, Trinity Episcopal Church remains a pillar of the Ward 4 community;

WHEREAS, on October 14, 2018, Trinity Episcopal Church will celebrate its 125th anniversary; and

WHEREAS, after 125 years of service to the District of Columbia, Trinity Episcopal Church continues to be a spiritual leader and continues to expand its outreach and social service activities in the community.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Trinity Episcopal Church 125th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and honors Trinity Episcopal Church for its many contributions to Ward 4 and the District of Columbia over the past 125 years

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-397

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To recognize and congratulate the Wanda Alston Foundation on the occasion of its 10th anniversary.

WHEREAS, the Wanda Alston Foundation opened its doors in 2008 as the only housing program in the District of Columbia solely dedicated to offering pre-independent transitional living and support services to homeless or at-risk LGBTQ youth ages 16 to 24 years in all 8 wards;

WHEREAS, the Wanda Alston House is a transition housing program that provides much-needed housing for homeless LGBTQ youth in the District of Columbia;

WHEREAS, the Wanda Alston House’s namesake honors Wanda Alston, a fierce advocate of housing programs for homeless and at-risk LGBTQ youth who was murdered in 2005;

WHEREAS, Wanda Alston’s legacy of activism, advocacy, and determination to ensure equal access to a higher quality of life lives on through the Wanda Alston House;

WHEREAS, the Wanda Alston House provides not only a safe place for youth to live, but also includes life skills training and links to other social services;

WHEREAS, over 40 youths have passed through the doors of the Wanda Alston House before going on to find permanent housing and success in life;

WHEREAS, the Wanda Alston Foundation also offers the Capacity Building Assistance Program, which helps community allies better understand and work with LGBTQ youth;

WHEREAS, on October 10, 2018, the Wanda Alston Foundation will celebrate its 10th anniversary at the Ajax in Washington, D.C.; and

WHEREAS, after 10 years of service to the District of Columbia, the Wanda Alston Foundation, under the leadership of Executive Director June Crenshaw, continues its

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commitment to providing housing, health, and hope to the most vulnerable LGBTQ homeless youth in the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Wanda Alston Foundation 10th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and congratulates the Wanda Alston Foundation on the occasion of its 10th anniversary and commends its commitment to ensuring that LGBTQ youth have access to services that improve their overall quality of life.

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

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A CEREMONIAL RESOLUTION

22-398

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To recognize and congratulate Arts for the Aging on the occasion of its 30th anniversary.

WHEREAS, in 1986, researchers at the National Institutes of Health approached Lolo Sarnoff, a sculptor and a founding Trustee of a small D.C. gallery called the Art Barn, to provide art workshops for people with Alzheimer’s disease;

WHEREAS, the patients benefited from the art workshops, even after they left the Art Barn;

WHEREAS, in 1988, Arts for the Aging, Inc. (“AFTA”) was founded by Lolo Sarnoff to continue the promising work from the Art Barn;

WHEREAS, AFTA is a pioneer in therapeutic, multidisciplinary arts programming for older adults and care partners, and in demonstrating accessible and uplifting ways to cope with changing abilities in Aging;

WHEREAS, AFTA has been named a Model Program in Lifelong Learning and Creative Aging by the National Endowment for the Arts, a Trailblazer by the Maryland Department of Aging, and One of the Best D.C. Area Small Charities for Excellence, Impact and Cost-effectiveness by the Catalogue for Philanthropy;

WHEREAS, AFTA has been featured in *The New York Times*, *The Washington Post*, on CNN News, and in the award-winning national PBS documentary film *Do Not Go Gently*;

WHEREAS, on October 15, 2018, Arts for the Aging will celebrate its 30th anniversary at The Hay-Adams hotel in Washington, D.C.; and

WHEREAS, after 30 years of service to the District of Columbia and Greater Washington, Arts for the Aging, under the leadership of Director and CEO Janine Tursini, continues its commitment to engaging older adults and care partners in health improvement and life enhancement through regular participation in the arts.

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RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Arts for the Aging 30th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and congratulates Arts for the Aging on the occasion of its 30th anniversary and commends its commitment to serving older adults in the Washington, D.C. region.

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

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A CEREMONIAL RESOLUTION

22-399

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To declare September 2018 as “National Month for Renters” in the District of Columbia, recognize Make Room, Inc. for its efforts to increase affordable housing, and applaud the organization on its “The Doors of Make Room” public art exhibition.

WHEREAS, in September 2018, Make Room, Inc. (“Make Room”) announced a bipartisan congressional effort to designate September as “National Month for Renters”;

WHEREAS, according to the National Low Income Housing Coalition, the United States has a shortage of 7.2 million rental homes that are affordable and available to extremely low-income renters, whose income is at or below the poverty guideline or 30% of their area median income;

WHEREAS, only 35 affordable and available rental homes exist for every 100 extremely low-income renter households, and extremely low-income households face a shortage in every state and every major metropolitan area across the United States;

WHEREAS, the District of Columbia has been committed to preserving and creating affordable housing;

WHEREAS, since 2001, the District’s Housing Production Trust Fund has provided nearly \$750 million in grants and loans to developers to build or preserve thousands of units of affordable housing;

WHEREAS, since taking office in 2015, Mayor Muriel Bowser has supported the creation or preservation of more than 11,000 affordable units and in the Fiscal Year 2019 budget, Mayor Muriel Bowser invested more than \$1 billion toward making the District of Columbia more affordable for residents;

WHEREAS, in 2015, Make Room, Inc. was launched at the United Nations Media for Social Impact summit in New York City;

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WHEREAS, Make Room's mission is to expose the human suffering and societal costs of the rental crisis and to advocate for solutions to end housing insecurity for 11 million households nationwide;

WHEREAS, on September 13, 2018, Make Room held a press conference on Freedom Plaza in the District of Columbia to unveil its "The Doors of Make Room", a public art exhibition representing the 11 million households suffering from housing insecurity that were on display around Washington from September 13 through September 28, 2018;

WHEREAS, on September 16, 2018, Make Room held their signature traveling event, the Home, Health & Finance Expo and Symposium at the National Building Museum;

WHEREAS, under the leadership of President and CEO Ali Solid, Make Room works diligently to raise awareness of the 25 million Americans struggling to pay rent thru tireless advocacy; and

WHEREAS, recognizing September as "National Month for Renters" draws attention to the rental affordability crisis in the United States, and reaffirms the District's commitment to preserving and increasing affordable housing.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "National Month For Renters Recognition Resolution of 2018".

Sec. 2. The Council of the District of Columbia declares September 2018 as "National Month for Renters" in the District of Columbia, commends Make Room, Inc. on its efforts to address the rental housing crisis in America, and supports the ongoing efforts by Mayor Bowser, the District of Columbia government, concerned citizens, and community-based organizations to alleviate the shortage of affordable housing in the District of Columbia.

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

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A CEREMONIAL RESOLUTION

22-400

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To recognize and congratulate CRP, Incorporated on the occasion of its 30th anniversary.

WHEREAS, CRP, Incorporated (“CRP”) was founded in 1988 by Dr. Carolyn B. Rudd;

WHEREAS, CRP is a consulting firm based in the District of Columbia that specializes in providing state-of-the-art, technology-based solutions to federal agencies, the District of Columbia government, institutions of higher education, and nonprofit organizations;

WHEREAS, under the leadership of President and CEO Carolynn Rudd, CRP has grown into one of the District’s most successful consulting firms and a leader in federal contracting in the District of Columbia business community;

WHEREAS, CRP was among the nation's first minority-owned firms to provide technical support services to the Federal Substance Abuse and Mental Health Services Administration (“SAMHSA”), and from the early 1990s to 2012, CRP evolved as one of the principal partners to SAMHSA, providing a portfolio of technical and programmatic services in support of the agency's strategic and policy priorities;

WHEREAS, CRP has demonstrated its commitment to serving the District of Columbia, and makes philanthropic contributions to Howard University’s Sickle Cell Center, Howard University Hospital, Leadership Greater Washington, Urban Alliance, Bright Beginnings, Crittenton Services of Greater Washington, Family Matters, the Congressional Black Caucus Foundation, the YWCA of the National Capital Area, the Humanities Council of Washington, D.C., the POSSE Foundation, and the Washington Area Women’s Foundation;

WHEREAS, in 2017, CRP was named the “Small Business of the Year” by the DC Chamber of Commerce; and

WHEREAS, on September 29, 2018, CRP, a valued member of the District’s small business community, will celebrate its 30th anniversary.

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RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “CRP, Incorporated 30th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and thanks Dr. Carolyn Rudd for her contributions and commitment to the District of Columbia and congratulates CRP, Incorporated on its 30th anniversary.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-401

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To honor and congratulate Ed and Gerri Solomon as they celebrate their 50th wedding anniversary and to declare October 20, 2018, as “Ed and Gerri Solomon Day” in the District of Columbia .

WHEREAS, Ed and Gerri were born in Pittsburgh, Pennsylvania;

WHEREAS, Ed and Gerri were married in Bloomington, Indiana in 1968;

WHEREAS, Ed received his Master’s Degree from Indiana University in 1968;

WHEREAS, Ed was drafted into the U.S. Army in 1968;

WHEREAS, Ed and Gerri moved to Washington, D.C. in the mid-70s and started their business, Wedding Creations and Anthony’s Tuxedos, in 1979;

WHEREAS, Ed and Gerri had a daughter, Hope, who received her undergraduate and Master’s Degree from Georgetown University and completing her second Master’s Degree from Harvard University;

WHEREAS, Gerri received a PhD from American University;

WHEREAS, Ed served as Advisory Neighborhood Commission 2E Chair for 2 terms and commissioner for 5 terms:

WHEREAS, Ed and Gerri contribute and participate in numerous community civic activities; and

WHEREAS, Ed and Gerri make dreams come true by donating prom dresses to Washington, D.C. high schools.

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RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Ed and Gerri Solomon 50th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and honors Ed and Gerri for their 50 years of marriage and declares October 20, 2018, as “Ed and Gerri Solomon Day” in the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-402

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To recognize Meridian International Center as a leading diplomatic and global leadership institution, connecting Washington and the United States to the world through the exchange of people, ideas, and culture, to congratulate Meridian International Center on the occasion of its 50th anniversary of the Meridian Ball, and to declare October 2, 2018, as “Ed and Gerri Solomon Day” in the District of Columbia .

WHEREAS, Meridian International Center works across parties, borders, and sectors to strengthen U.S. engagement with the world through its exchange, training, culture, and convening programs;

WHEREAS, Meridian International Center has cultivated thousands of global leaders over the past 55 years, including over 170 presidents and prime ministers, 4 Nobel Laureates and hundreds of ambassadors, ministers, and other senior government officials and introduced them to Washington, D.C. leaders, institutions, and values;

WHEREAS, Meridian International Center is the hub of engagement for Washington D.C.’s diplomatic community, connecting them with the public and private sectors to collaborate on global challenges and opportunities in a neutral, non-partisan environment;

WHEREAS, Meridian International Center uses the power of the arts and culture to connect Washington. D.C. and the United States with the world through a common language that breaks down barriers and promotes mutual understanding; and

WHEREAS, Meridian International Center ‘s annual Meridian Ball has withstood the test of time and after 50 years has proven to be the Washington, D.C. event where diplomats, government and business leaders across parties, borders, and backgrounds can set aside differences in support of diplomacy.

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RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Meridian International Center 50th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia is immensely proud to recognize, honor, and express our overwhelming gratitude to the Meridian International Center for its many years of service and declares October 2, 2018, as “Meridian International Center Day” in the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-403

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To celebrate the 25th anniversary of the District of Columbia Superior Court Drug Intervention Program and to recognize its commitment to giving drug-addicted defendants in the District a second-chance by providing the treatment needed to beat addiction and stay crime-free.

WHEREAS, the District of Columbia Superior Court Drug Intervention Program (“Drug Court”) was established in 1993 to reduce drug dependence and improve the quality of life for offenders and their families;

WHEREAS, the Drug Court is one of the original drug court programs in the country and now stands as one of the few that serve pretrial defendants on a pre-plea basis;

WHEREAS, the Drug Court’s pre-plea model is beneficial because it can reduce burdens on the court system by diverting cases away from costly and intensive trial proceedings, ensure defendants have access to needed treatment and social services, and that defendants can enter treatment more quickly;

WHEREAS, Drug Court offers eligible defendants with nonviolent misdemeanor and felony charges an opportunity to enroll in a 24-week substance addiction program with the possibility of having their cases dismissed or their sentences reduced;

WHEREAS, participants are supervised by a judge with the support of a drug court coordinator, case managers, substance abuse treatment providers, prosecuting attorneys, defense attorneys, law enforcement officers, and parole and probation officers who work together to provide needed services to participants;

WHEREAS, the Drug Court has become a model program recognized by senior government officials, policy advisers, researchers, and practitioners from around the world;

WHEREAS, the Center for Substance Abuse Treatment and the National Institute of Justice evaluated the Drug Court and found reductions in drug use during pretrial release,

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reductions in arrests during the year after sentencing, and reductions in drug-related social problems for participants; and

WHEREAS, Drug Court graduates often thank program coordinators for giving them the opportunity to save their own lives.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “25th Anniversary of the District of Columbia Superior Court Drug Intervention Program Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and honors the District of Columbia Superior Court Drug Intervention Program for its dedication to ensuring drug-addicted defendants in the District have access to the resources and services needed to live drug-free.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-404

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To recognize and honor the Capitol Hill Jazz Foundation as it celebrates its inaugural annual event, Hill Fest, and to declare October 4 through October 7, 2018, as “Capitol Hill Jazz Week” in the District of Columbia.

WHEREAS, the Capitol Hill Jazz Foundation celebrates another year by hosting the 2nd annual Hill Fest;

WHEREAS, the Capitol Hill Jazz Foundation’s mission is to serve the Washington, D.C. jazz community by providing a weekly jam session, an annual jazz festival, and arts advocacy on behalf of District of Columbia jazz musicians;

WHEREAS, the Capitol Hill Jazz Foundation’s vision is to financially assist Washington, D.C.-based jazz musicians, venues, and jazz education programs; and

WHEREAS, Hill Fest serves as the Capitol Hill Jazz Foundation’s leading annual event, bringing together musicians, community leaders, and policy professionals to address policy concerns that directly affect musicians at the local and national levels.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Capitol Hill Jazz Foundation Jazz Week Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia acknowledges and honors the Capitol Hill Jazz Foundation for hosting a dynamic educational event, and declares October 4 through October 7, 2018, as “Capitol Hill Jazz Week” in the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-405

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To recognize the heroic efforts of the first responders at the scene of the Arthur Capper Senior Apartments fire on September 19, 2018, to honor the resilient residents who were impacted by the fire, and to commend the generous neighbors who saved lives and volunteered their time and resources to support the residents.

WHEREAS, on September 19, 2018, members of the United States Marine Corps stationed at the Barracks at "8th & I", the oldest active Marine Corps post, saw that their neighbors were in danger and ran directly into the Arthur Capper Senior Apartments, knocked on doors, and carried residents out of harm's way;

WHEREAS, Fire and Emergency Medical Services Department personnel worked tirelessly to extinguish the fire and bring residents to safety;

WHEREAS, the Homeland Security and Emergency Management Agency coordinated various District agencies to provide immediate and continuous aid to the seniors during this difficult and tragic time;

WHEREAS, the residents of the Arthur Capper Senior Apartments have displayed tremendous resilience, strength, and patience despite the hardships they have faced;

WHEREAS, neighbors Bruce and Anne DarConte rushed from their home to knock on doors and help seniors leave the building, and they further assisted on the scene by providing residents with protective masks, water, and food;

WHEREAS, Meredith Fascett, neighbor and Advisory Neighborhood Commissioner of Single-Member District 6D07, was on site assisting the residents as they left the building, and has continued to contribute by organizing volunteers to help with recovery efforts;

WHEREAS, the Van Ness Elementary School Parent Teacher Organization immediately assisted in fundraising and volunteer efforts;

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WHEREAS, the Capitol Hill Community Foundation rapidly organized and centralized fundraising efforts to harness the outpouring of generosity of the Capitol Hill community; and

WHEREAS, the Capitol Riverfront BID and the Southwest BID purchased and distributed necessary life-sustaining items for the residents.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Arthur Capper Senior Apartments Fire Response Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes the heroic efforts of the first responders at the scene of the Arthur Capper Senior Apartments fire on September 19, 2018, and commends them and generous neighbors who saved lives and supported the residents impacted by the fire.

Sec. 2. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-406

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To declare July 28, 2019, as “Parents Day” in the District of Columbia, a commemoration uplifting and supporting the role of parents in rearing children.

WHEREAS, in 1897, the first generation of the District’s National Parent Teacher Association was established as the National Congress of Mothers who advocated for the education, health, and safety of all children;

WHEREAS, on August 5, 1994, the United States House of Representatives introduced a resolution establishing the fourth Sunday in July as National Parents’ Day;

WHEREAS, on October 14, 1994, the National Parents’ Day Congressional Resolution, 36 U.S.C. § 135, was signed by President Bill Clinton;

WHEREAS, the Council recognizes that parents are responsible for nurturing the development, curiosity, spirit, and character of children;

WHEREAS, the roles of parents are fundamental to a child’s cultivation, but their formation is not one size fits all;

WHEREAS, the constructs of District parents are diverse and the Council celebrates their dynamism and uniqueness in enveloping children with unconditional love;

WHEREAS, parents, even when perfectly imperfect, are a gift; and

WHEREAS, appreciating parents for their inspiration and care is a small gesture of gratitude for their tremendous sacrifice.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Celebration of National Parents Day Recognition Resolution of 2018”.

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Sec. 2. The Council of the District of Columbia honors all parents and declares July 28, 2019, as the inaugural “Parents Day” in the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-407

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To celebrate the trailblazing spirit, career, and legacy of Alice Allison Dunnigan, who, despite endemic racism, institutional segregation, and palpable sexism, emerged as the pioneer for the National Black Press and the first African American to gain press accreditation to the White House.

WHEREAS, in Alice Allison Dunnigan's indelible climb from a red clay hill in Kentucky to Capitol Hill in Washington D.C., she asks that we judge her not by what she achieved, but by the depths from what she rose;

WHEREAS, Alice Allison Dunnigan was born April 27, 1906 in rural Russellville Kentucky, her father a tobacco sharecropper, her mother a laundress;

WHEREAS, Alice Allison Dunnigan attended school one day a week, learning to read in between her chores, before the first grade;

WHEREAS, at the age of 13 years, Alice Allison Dunnigan provided small headlines to the local Owenboro Enterprise newspaper, beginning her love of storytelling;

WHEREAS, against her parents will, and undeterred by the limited state expenditures afforded for black students, Alice Allison Dunnigan enrolled in Western Kentucky Industrial College, and continued her pursuit to write, publishing newspaper articles in Hopkinsville, Paducah, and Louisville;

WHEREAS, at 18 years of age, Alice Allison Dunnigan became a young teacher in the segregated school system of Todd County, where she supplemented her students' curriculum with historical fact-sheets brimming with the contributions of black southern ancestry;

WHEREAS, some 41 years later, these fact-sheets would be memorialized as the *Fascinating Story of Black Kentuckians: Their Heritage and Tradition*;

WHEREAS, during World War II, Alice Allison Dunnigan migrated north in response to a call for federal government employees;

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WHEREAS, while working as a federal typist, Alice Allison Dunnigan took night classes at Howard University and freelanced for the Associated Negro Press (“ANP”) news service;

WHEREAS, Alice Allison Dunnigan lived in a one-room basement in Ward 5’s Brookland neighborhood, where she shoveled coal for the building’s furnace in exchange for a reduction in rent;

WHEREAS, after being repeatedly denied press credentials to cover the Senate and Congress, Alice Allison Dunnigan eventually received clearance in 1947, becoming the first African American woman with Hill accreditation and earning her the title of ANP bureau chief;

WHEREAS, in 1948, Alice Allison Dunnigan joined the press corps of President Harry S. Truman’s Western Campaign;

WHEREAS, Alice Allison Dunnigan’s race and gender always preceded her; in 1953 she was banned from covering an Eisenhower speech at a whites-only theater and while covering the funeral of Ohio Senator Robert Taft was forced to sit with the servants;

WHEREAS, Alice Allison Dunnigan lamented these indignities but never retreated, stating “[r]ace and sex were twin strikes against me. I’m not sure which was the hardest to break down.”;

WHEREAS, Alice Allison Dunnigan was the first African American woman to be elected to the Women’s National Press Club, affording her rare travel opportunities to Israel, Haiti, Mexico and various countries in South America and Africa;

WHEREAS, Alice Allison Dunnigan’s commitment to the human narrative drove her beyond journalism and into political activism: President Kennedy named her Education Consultant for the Equal Employment Opportunity Committee and she toured the U.S. with Lady Bird Johnson assessing the progress of American education and later became the Information Specialist for the Department of Labor;

WHEREAS, Alice Allison Dunnigan reported on politics for 112 black newspapers and won over 50 journalism awards, including the coveted Capital Press Club Newsman’s Trophy and induction into the Journalism Hall of Fame at the University of Kentucky;

WHEREAS, Alice Allison Dunnigan penned an autobiography, *Alone Atop the Hill: The Autobiography of Alice Dunnigan, Pioneer of the National Black Press*, saluting members of the black press who covered the honest struggle for civil rights; she wrote “without black writers, the world would perhaps never have known the chicanery, shenanigans and buffoonery employed by

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those in high places to keep the black man in his proverbial place by relegating him to second-class citizenship;” and

WHEREAS, in 1983 Alice Allison Dunnigan passed away befittingly in Washington D.C., a city she captured in words and in truth.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Celebration of Alice Allison Dunnigan Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia honors the bold life and legacy of Alice Allison Dunnigan.

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

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A CEREMONIAL RESOLUTION

22-408

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To celebrate the 25th anniversary of Black Cat, located on the District's historic U Street corridor, and recognize Black Cat owners Dante and Catherine Ferrando for their longstanding commitment to fostering the District's local music scene and arts community.

WHEREAS, Black Cat originated from Dante and Catherine Ferrando's idea to create a venue which would foster the local music scene and provide a friendly haven for performers from around the world—an idea that was made reality in collaboration with a small group of local musicians and music-lovers;

WHEREAS, the Ferrandos named Black Cat after a jazz club operated in Greenwich Village before Prohibition by Dante's great-grandfather Luigi, who embraced entrepreneurship and whose family went on to operate Chevy Chase Inn, Connecticut Avenue Caterers, and Food For Thought;

WHEREAS, the Black Cat opened in 1993 on U Street during a time when the now-bustling corridor was recovering from the riots of 1968, serving as an anchor for jobs and revitalization in the area and going on to become an iconic business in Washington, D.C.;

WHEREAS, Black Cat is a small, independent, local business that has remained exclusively family-owned while weathering the transitions of both an ever-changing local music scene and an evolving rock music industry;

WHEREAS, Black Cat has been showcasing independent music for 25 years, hosting stellar performances by a diverse group of musicians including the Foo Fighters, Pete Seeger, Fugazi, Beck, Janelle Monae, Jeff Buckley, The Damned, Sleater-Kinney, Moby, The Arcade Fire, The Roots, The New York Dolls, KRS-One, Radiohead, PJ Harvey and many other fan-favorites;

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WHEREAS, Dante and Catherine have cemented Black Cat as a multi-faceted community staple and regularly engage with the broader Washington, D.C. community by hosting political debates, participating in the local legislative process, and serving as community representatives on business-related matters; and

WHEREAS, the U Street corridor has had a prominent and historic role showcasing live musical performances, and Black Cat has proudly carried on its own version of that tradition into the present day.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Black Cat 25th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes Dante and Catherine Ferrando for 25 years of successfully operating Black Cat, a mainstay of the District’s local music scene, and for their ongoing commitments to bringing exceptional musicians to the District, strengthening the Black Cat’s surrounding community through civic engagement, and enhancing the District’s arts community.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-409

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To recognize Hispanic Heritage Month by honoring the histories, cultures, and contributions of American citizens whose ancestors came from Mexico, the Caribbean, Central and South America, and Spain.

WHEREAS, Hispanic heritage was first observed in 1968 as Hispanic Heritage Week under President Lyndon B. Johnson;

WHEREAS, Hispanic Heritage Week was expanded to a month by President Ronald Reagan on August 17, 1988;

WHEREAS, Hispanic Heritage Month is observed from September 15 to October 15;

WHEREAS, September 15 is significant because it is the anniversary of the independence of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua;

WHEREAS, September 16 and September 18 are significant because Mexico and Chile celebrate independence day on those dates, respectively;

WHEREAS, Hispanic Heritage Month extends to October because October 12 is Día de la Raza;

WHEREAS, many Hispanic Americans are the decedents of the Arawaks (Puerto Rico), the Aztecs (Mexico), the Incas (South America), the Maya (Central America), and the Tainos (in Cuba, Puerto Rico, and other places), and of Africa and Spain;

WHEREAS, the Mayor’s Office on Latino Affairs (“OLA”) was established in 1976 by the Council as a key component of the District of Columbia Latino Community Development Act, D.C. Law 1-86, and consequently strengthened the relationship between the community and the Mayor, the Council, District government agencies, private businesses, and community-based organizations;

ENROLLED ORIGINAL

WHEREAS, Pedro Casanave was a Spanish merchant who became the fifth mayor of Georgetown (modern-day D.C.);

WHEREAS, many notable Hispanic Americans include Franklin R. Chang-Díaz (Costa Rican American, Astronaut), Ileana Ros-Lehtinen (Cuban American, Congresswoman), Fernando Bujones (Cuban American, Ballet Dancer), Ana Sol Guitierrez (Salvadoran American, Maryland State Delegate), Christy Turlington (Salvadoran American, Model), Francisco Rubio (Salvadoran American, Astronaut), Raul Diaz Arce (Salvadoran American, Soccer Player), Nancy Lopez (Mexican American, Professional Golfer), Ellen Ochoa (Mexican American, Astronaut), Sandra Cisneros (Mexican American, Author), Lin Manuel Miranda (Puerto Rican American, Playwright), Sonia Sotomayor (Puerto Rican American, Supreme Court Justice,), and Jose Andres (Spanish American, Chef);

WHEREAS, Hispanics have had a profound and positive influence on the United States and the District through centuries-old traditions and customs that are embraced and valued in the District;

WHEREAS, President Obama signed an Executive Order in 2012 called the Deferred Action for Childhood Arrivals to provide legal status for undocumented young children who arrived into the United States;

WHEREAS, Deferred Action for Childhood Arrivals recipients are referred to as “Dreamers” and many of them reside in and make significant contributions to the District; and

WHEREAS, many Hispanics in the District are Dreamers and are in urgent need for the District to support the Deferred Action for Childhood Arrivals.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Hispanic Heritage Month Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes the exceptional contribution of Hispanic residents during Hispanic Heritage Month.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-410

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To recognize and honor Holy Trinity School for its many contributions to the citizens and the city of Washington, D.C., to congratulate it on the 200th anniversary of its founding, and to declare October 20, 2018, as “Holy Trinity School Day” in the District of Columbia .

WHEREAS, Holy Trinity School was founded in Georgetown in 1818 as “the Free School for Boys” by the first pastors of Holy Trinity Catholic Church, Francis Neale, S.J. and Benedict Fenwick, S.J.;

WHEREAS, Holy Trinity School offered a free education to the sons of working families in Holy Trinity parish and to other boys in the community;

WHEREAS, in 1918, Holy Trinity School became co-educational, offering free tuition for children of parishioners, and charging \$1 per month for non-Catholic students;

WHEREAS, Holy Trinity School has continued to this day to educate children in the District of Columbia, with 340 students in pre-kindergarten through 8th grade; and

WHEREAS, 200 years since its founding, under the current leadership of Principal Kevin McShane, Holy Trinity School remains committed to educational excellence and to the values of service to others and the promotion of justice.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Holy Trinity School 200th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and honors Holy Trinity School for its many contributions to the District of Columbia, congratulates it on 200 years of service to the community, and declares October 20, 2018, as “Holy Trinity School Day” in the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-411

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To celebrate the 130th anniversary of Crittenton Services of Greater Washington and to recognize their work empowering teen girls to overcome obstacles, make positive choices, and achieve their goals.

WHEREAS, we recognize the amazing potential and bright future of every teen girl in Washington, D.C.;

WHEREAS, teen girls, especially from low-income communities, are strengthened by thoughtful, medically accurate, consistent, and holistic programs that listen to their needs and treat them with respect;

WHEREAS, Crittenton Services of Greater Washington has been providing services to young women in greater Washington, D.C. since 1887;

WHEREAS, Crittenton serves more than 300 young women and girls at District of Columbia public schools in Wards 5, 7, and 8;

WHEREAS, Crittenton programs help girls and young women learn about healthy relationships and safer sex, have more positive attitudes toward education, better communicate their feelings, and set and attain their life and academic goals;

WHEREAS, Crittenton Services of Greater Washington provides the SNEAKERS curriculum for girls navigating the 8th to 12th grades, which includes information on healthy relationships, careers, post-secondary education, and reproductive health and fitness;

WHEREAS, young women who are pregnant or parenting receive support from Crittenton through the PEARLS positive youth development program, which offers sessions on goal-setting, conflict resolution, forming healthy relationships, contraception, and stress management;

ENROLLED ORIGINAL

WHEREAS, Crittenton Services of Greater Washington offers Goal Setting Girls, a 28-week curriculum for 6th and 7th grade girls from lower-income families to promote skill development and empowerment;

WHEREAS, 100% of girls participating in Crittenton programs in the 8th to 11th grades graduated high school or were promoted to the next grade in the past school year; and

WHEREAS, the District of Columbia values and appreciates Crittenton’s services.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “130th Anniversary of Crittenton Services of Greater Washington Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and honors Crittenton Services of Greater Washington on the occasion of its 130th anniversary for working to improve the academic success, the relationships, and the emotional, physical, and reproductive health of teen girls in the greater Washington, D.C. area.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-412

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To declare October 13 through October 21, 2018, as the “District of Columbia Week of Non-Violence” in the District of Columbia.

WHEREAS, violence, and its collateral trauma, impacts residents across the District;

WHEREAS, movements of non-violence are the cornerstones of historic political and social change;

WHEREAS, world leaders including Desmond Tutu, Mahatma Gandhi, Nelson Mandela, and César Chavez demonstrated non-violence in the face of brutality and struggle;

WHEREAS, bold women such as Rosa Parks, Ella Barker, and Dolores Huerta fought for justice amplifying a collective voice through grassroots participation and activism in lieu of violence and force;

WHEREAS, the District strives to prevent violence through increased knowledge and training of conflict resolution, mediation, mental health awareness, anger management, and de-escalation;

WHEREAS, suppressing violence, in all its forms, demands the resourceful and dedicated collaboration of families, the community, faith-based stakeholders, and District agencies;

WHEREAS, effective and sustainable violence-cessation strategies are rooted in a holistic public health approach;

WHEREAS, Black Women for Positive Change, a national non-partisan civil organization, has called for an annual week to promote peaceful action, justice, and inclusivity; and

ENROLLED ORIGINAL

WHEREAS, Dr. Martin Luther King, Jr. proffered that “Nonviolence chooses love instead of hate...resists violence of the spirit as well as the body...is spontaneous, unmotivated, unselfish and creative.”

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Week of Non-Violence Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes that nonviolence is the only true defense to peace, and declares October 13, through October 21, 2018, as “District of Columbia Week of Non-Violence” in the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-413

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To honor and recognize the small business community development field of the District of Columbia for their many contributions to improving the quality of life for residents of the District of Columbia.

WHEREAS, the District of Columbia has a rich spectrum of community development entities including nonprofit and for-profit affordable housing developers, housing counseling and human service agencies, workforce development providers, small business technical assistance providers and associations, community lenders, community development intermediaries, and government agencies that have made tremendous contributions to improving the quality of life of low- and moderate-income residents and the economic vitality of our community;

WHEREAS, affordable housing developers have created and preserved thousands of quality, affordable homes throughout the District of Columbia for the benefit of low- and moderate-income residents;

WHEREAS, small business technical assistance providers, community lenders, and business associations have fostered opportunities for entrepreneurs to start and expand businesses, creating jobs for District residents;

WHEREAS, community development practitioners shape policies and legislation, strengthen programs, and generally improve the infrastructure of community development activity in the District;

WHEREAS, the Coalition for Nonprofit Housing & Economic Development (“CNHED”) is committed to highlighting the accomplishments and dedication, and critical need for these organizations and efforts;

ENROLLED ORIGINAL

WHEREAS, CNHED has designated early October, annually, to be the time of recognition for these organizations and their efforts to enable all District residents to be part of thriving, livable communities that are socially, racially, and economically just; and

WHEREAS, during the week of October 15 through October 19, 2018, the government and the citizens of the District of Columbia will join together to celebrate the many accomplishments and importance of our community development sector.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Community Development Week Recognition Resolution of 2018".

Sec. 2. The Council of the District of Columbia recognizes the multitude of organizations engaged in community development, both nonprofit and for-profit, along with their government agency partners, for their accomplishments and exemplary dedication to all residents of the District of Columbia.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-414

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To recognize and honor Bishop Michael V. Kelsey, Sr., the Senior Pastor of New Samaritan Baptist Church, on the occasion of his 25th pastoral anniversary for his commitment, dedication, and service to District residents.

WHEREAS, Bishop Michael V. Kelsey, Sr., is a native Washingtonian and grew up in the Edgewood community of Ward 5;

WHEREAS, Bishop Michael V. Kelsey, Sr., attended both Noyes Elementary School and Langley Junior High School, and graduated from McKinley Technology High School in 1974;

WHEREAS, Bishop Michael V. Kelsey, Sr., received his Bachelor of Arts degree from the University of Maryland, College Park;

WHEREAS, Bishop Michael V. Kelsey, Sr., received his formal theological training at Virginia Union University School of Theology in Richmond, Virginia and earned a Master of Divinity degree, graduating magna cum laude;

WHEREAS, Bishop Michael V. Kelsey, Sr., also received and earned a Doctor of Ministry degree from United Theological Seminary in Dayton, Ohio;

WHEREAS, Bishop Michael V. Kelsey, Sr., has served as the Senior Pastor of the New Samaritan Baptist Church since 1993;

WHEREAS, Bishop Michael V. Kelsey Sr., is the founder and CEO of Michael V. Kelsey Ministries, teaching Christian principles in Ghana, Liberia, Ukraine, Israel, Cuba, England, Germany, Jamaica, El Salvador, and Ecuador;

WHEREAS, Bishop Michael V. Kelsey, Sr., served as a member of Gallaudet University’s Gallaudet Community Relations Council, which is made up of business and community leaders from the surrounding Northeast Washington, D.C. area;

ENROLLED ORIGINAL

WHEREAS, Bishop Michael V. Kelsey, Sr., worked closely with city officials on issues of crime prevention and economic development in Ward 5;

WHEREAS, Bishop Michael V. Kelsey, Sr., was appointed by Mayor Anthony Williams to the Mayor’s Interfaith Council of Washington, D.C., where he served as the Chair;

WHEREAS, Bishop Michael V. Kelsey, Sr., was regularly invited by the administration of President Obama to participate in significant White House briefings; and

WHEREAS, Bishop Michael V. Kelsey, Sr., married Sheila Bowens more than 35 years ago and is the father to Michael Jr., Kevin, Eric, and daughter-in-law Ashley, and grandfather to Ava, Michael III, and Jackson.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Bishop Michael V. Kelsey, Sr. 25th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and honors Bishop Michael V. Kelsey, Sr., the Senior Pastor of New Samaritan Baptist Church, and celebrates his 25th pastoral anniversary.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-415

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To honor and recognize the work of the Washington Lawyers' Committee for Civil Rights and Urban Affairs on the occasion of its 50th anniversary.

WHEREAS, since 1968, the Washington Lawyers' Committee for Civil Rights and Urban Affairs has worked to create legal, economic, and social equity through litigation, client and public education, and public policy advocacy;

WHEREAS, the Washington Lawyers' Committee was born in response to conditions described in the Kerner Commission, created by President Lyndon Johnson following a summer of rebellion in dozens of U.S. cities;

WHEREAS, the Washington Lawyers' Committee's work centers around the following priorities: creating equal opportunity to economic stability for individuals and families; challenging the conditions that force racial and economic segregation that limit options for safe, decent, and affordable housing based on race and national origin; reducing barriers to public services and public accommodations; creating equal opportunity for education; and reducing the impact of an unfair criminal system;

WHEREAS, the Washington Lawyers' Committee recognizes the central role that current and historic race discrimination plays in sustaining inequity and recognizes the critical importance of identifying, exposing, combatting, and dismantling the systems that sustain racial oppression;

WHEREAS, the Washington Lawyers' Committee has marshalled the resources of some of the most talented members of the private bar to address some of the most pressing civil rights issues over the last 5 decades;

WHEREAS, the Washington Lawyers' Committee has a long record of achievement that has made employment, housing, education, public accommodations, and public services open to all without regard to race, gender, disability, immigration status, or other protected status; and

WHEREAS, the Washington Lawyers' Committee has fought for fairness in the criminal justice system and for the constitutional treatment of prisoners.

ENROLLED ORIGINAL

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Washington Lawyers’ Committee for Civil Rights and Urban Affairs 50th Anniversary Recognition Resolution of 2018”.

Sec. 2. The Council of the District of Columbia recognizes and honors the Washington Lawyers Committee for Civil Rights and Urban Affairs for its commitment to dismantling injustice and pursuing lasting change.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

22-416

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 16, 2018

To recognize and honor the 100th anniversary of the signing of the Armistice ending World War I and to honor the contributions of the District of Columbia, its citizens, and employees for their service in the Great War.

WHEREAS, on July 28, 1914, World War I began with the shelling and invasion of Serbia by the Austro-Hungarian Empire;

WHEREAS, on April 6, 1917, the Congress of the United States declared war on Germany;

WHEREAS, with the District of Columbia having no congressional or even local representation, the citizens of the District had no opportunity to express their opinion on the issue of war and peace;

WHEREAS, despite having no vote in Congress, the citizens of the District of Columbia answered the country's call, with more than 26,000 District of Columbia men and women serving during World War I, 499 of whom gave the ultimate sacrifice;

WHEREAS, the Armistice ending World War I was signed on the eleventh hour of the eleventh day of the eleventh month of 1918 (11/11/1918);

WHEREAS, in remembrance of those from the District of Columbia who served and/or lost their lives during World War I, the District of Columbia established 3 different memorials.

WHEREAS, the first, the 16th Street World War I Memorial, dedicated on Memorial Day, May 30, 1920, consists of 2.3 miles of Sixteenth Street, N.W., between Alaska Avenue and Webster Street, and is designated as a memorial to these fallen heroes with the name of one of the 499 fallen veterans affixed to a small concrete post near a newly planted tree;

ENROLLED ORIGINAL

WHEREAS, the District honored employees of the District government who served during World War I through the commissioning of the “Supreme Sacrifice” sculpture, also dedicated in 1920, which currently resides on the first floor of the John A. Wilson Building;

WHEREAS, two Commissioners and 489 other District government employees fought during World War I and, of those, 3 District government employees were killed in action, and 10 others died in the service during the war.;

WHEREAS, the third District of Columbia World War I Memorial was dedicated by President Herbert Hoover on the national observance of Armistice Day, November 11, 1931, and is inscribed with the names of the 499 Washington residents who died in service during World War I;

WHEREAS, the names of the 499 who died are inscribed on the face of the platform in alphabetical order with no distinction made as to rank, race, or gender, and the memorial’s inscription states: “The names of the men and women from the District of Columbia who gave their lives in the World War are here inscribed as a perpetual record of their patriotic service to their country. Those who fell and those who survived have given to this and to future generations an example of high idealism courageous sacrifice and gallant achievement.”; and

WHEREAS, the sentiments expressed by these 3 memorials remind us that freedom is not free and must be paid for by a willingness to meet and oppose those who would keep freedom from us.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "100 Anniversary of the World War I Armistice Recognition Resolution of 2018".

Sec. 2. The Council of the District of Colombia recognizes and honors the contributions and sacrifice of its citizens and employees 100 years ago, and further, calls upon all of its citizens, employees, and visitors, today, to pause and reflect on the supreme sacrifice made by so many in the Great War, now commonly known as World War I.

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

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

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

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

COUNCIL OF THE DISTRICT OF COLUMBIA PROPOSED LEGISLATION

PROPOSED RESOLUTIONS

PR22-1104 Local Rent Supplement Program Contract No. 2017-LRSP-03A Approval
Resolution of 2018

Intro. 10-29-18 by Chairman Mendelson at the request of the District of
Columbia Housing Authority and Retained by the Council with comments from
the Committee on Housing and Neighborhood Revitalization

PR22-1105 Local Rent Supplement Program Contract No. 2016-LRSP-10A Approval
Resolution of 2018

Intro. 10-29-18 by Chairman Mendelson at the request of the District of
Columbia Housing Authority and Retained by the Council with comments from
the Committee on Housing and Neighborhood Revitalization

PR22-1106 District of Columbia Commission on Human Rights Dr. Alberto
Figueroa- Garcia Confirmation Resolution of 2018

Intro. 10-30-18 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Judiciary and Public Safety

PR22-1107 District of Columbia Commission on Human Rights Eleanor Collinson
Confirmation Resolution of 2018

Intro. 10-30-18 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Judiciary and Public Safety

PR22-1108 District of Columbia Commission on Human Rights Mark Herzog
Confirmation Resolution of 2018

Intro. 10-30-18 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Judiciary and Public Safety

PR22-1109 District of Columbia Commission on Human Rights Dr. John D. Robinson
Confirmation Resolution of 2018

Intro. 10-30-18 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Judiciary and Public Safety

PR22-1110 District of Columbia Commission on Human Rights Gunther Sanabria
Confirmation Resolution of 2018

Intro. 10-30-18 by Chairman Mendelson at the request of the Mayor and
referred to the Committee on Judiciary and Public Safety

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, D.C. 20004 ***REVISED AND ABBREVIATED***

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

ANNOUNCES A PUBLIC HEARING ON

PR 22-0982, “Director of the Department of Employment Services Unique Morris-Hughes Confirmation Resolution of 2018”

PR 22-1049, “Public Employee Relations Board Douglas A. Warshof Confirmation Resolution of 2018”

PR 22-1053, “Office of Employee Appeals Clarence Labor Confirmation Resolution of 2018”

**Monday, November 19, 2018, 10:00 a.m.
Hearing Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Elissa Silverman, Chair of the Committee on Labor and Workforce Development, announces a public hearing on:

- PR 22-0982, the “Director of the Department of Employment Services Unique Morris-Hughes Confirmation Resolution of 2018.”
- PR 22-1049, the “Public Employee Relations Board Douglas A. Warshof Confirmation Resolution of 2018”
- PR 22-1053, the “Office of Employee Appeals Clarence Labor Confirmation Resolution of 2018”

The hearing will be held at 10:00 a.m. on Monday, November 19, 2018, in Room 500 of the John A. Wilson Building.

The purpose of PR 22-0982 is to confirm the appointment of Unique Morris-Hughes as the Director of the Department of Employment Services. The mission of the Department of Employment Services (DOES) is to provide employment and training services to jobseekers and workers, as well as to enforce labor and employment laws within its jurisdiction.

The purpose of PR 22-1049 is to confirm the reappointment of Douglas A. Warshof as a member of the Public Employee Relations Board, for a term to end December 12, 2021. The Public Employee Relations Board (PERB) is an impartial, quasi-judicial, independent agency

that resolves labor-management disputes between agencies of the District government and labor organizations representing agency employees.

The purpose of PR 22-1053 is to confirm the appointment of Clarence Labor as a member of the Office of Employee Appeals, replacing Victoria Williams, for a term to end April 6, 2024. The Office of Employee Appeals (OEA) is an independent agency and its mission is to administer the DC Government Comprehensive Merit Personnel Act (CMPA) of 1978 (DC Code § 1-601.01 *et seq.*) by adjudicating employee appeals and rendering impartial decisions with sound legal reasoning in a timely manner.

The purpose of this hearing is to receive testimony from government and public witnesses on these nominees for appointment and reappointment.

Those who wish to testify before the Committee are asked to contact Charnisa Royster at labor@dccouncil.us or (202) 724-7772 by 5:00 p.m. on Thursday, November 15, 2018, to provide their name, address, telephone number, organizational affiliation and title (if any), as well as the language of oral interpretation, if any, they require. Those wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Those representing organizations will have five minutes to present their testimony, and individuals will have three minutes to present their testimony; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted by email to Ms. Royster at labor@dccouncil.us or mailed to the Committee on Labor and Workforce Development, Council of the District of Columbia, Suite 115 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Wednesday, November 21, 2018.

This notice has been revised to reflect two resolutions, PR22-1049 and PR22-1053, added to the hearing agenda and it has been abbreviated to provide notice to the public.

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

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 OVERSIGHT ROUNDTABLE ON THE MATTER OF:

Board of Real Property Tax Appeals Commission Richard Wilson Confirmation

Wednesday, November 14, 2018

9:45 a.m.

Room 412- 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 oversight roundtable to be held on Wednesday, November 14, 2018 at 9:45 a.m. in Room 412, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

The Board of Real Property Tax Appeals Commission Richard Wilson Confirmation would confirm the appointment of Mr. Richard Wilson to the Real Property Tax Appeals Commission as a part-time commissioner.

The Committee invites the public to testify at the roundtable. 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 9:30 a.m. on Friday, November 9, 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
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC ROUNDTABLE

on

**PR 22-1016, Metropolitan Washington Airports Authority Board of Directors Joslyn Williams
Confirmation Resolution of 2018**

**PR 22-1017, Metropolitan Washington Airports Authority Board of Directors Judith Batty
Confirmation Resolution of 2018**

on

**Wednesday, November 14, 2018
4:00 p.m. (or immediately following the preceding hearing)
Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public roundtable before the Committee of Whole on PR 22-1016, the “Metropolitan Washington Airports Authority Board of Directors Joslyn Williams Confirmation Resolution of 2018” and PR 22-1017, the “Metropolitan Washington Airports Authority Board of Directors Judith Batty Confirmation Resolution of 2018.” The roundtable will be held Wednesday, November 14, 2018 at 4:00 p.m., or immediately following the preceding hearing, in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of PR 22-1016 is to confirm the reappointment of Joslyn Williams to the Metropolitan Washington Airports Authority Board of Directors for a six-year term to expire January 5, 2025. The purpose of PR 22-1017 is to confirm the appointment of Judith Batty to the Metropolitan Washington Airports Authority Board of Directors for a six-year term to expire October 2, 2024. The Metropolitan Washington Airports Authority (“MWAA”) is an independent body created through an interstate compact between the Commonwealth of Virginia, the State of Maryland, and the District of Columbia that promotes, develops, and operates Washington Dulles International Airport and Ronald Reagan Washington National Airport. The MWAA Board of Directors governs the activities of the Authority and its members are appointed by the Governors of Virginia and Maryland, the Mayor of Washington, D.C., and the President of the United States. The purpose of this roundtable is to receive testimony from government and public witnesses as to the fitness of Mr. Williams and Ms. Batty for the Board.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or to call Evan Cash, Committee and Legislative Director at (202) 724-7002, and provide your name, address, telephone number, organizational affiliation, and title (if any) by close of business Tuesday, November 13, 2018. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on November 13, 2018 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, December 3, 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 22-113: FY 2018 Grant Budget Modifications of October 9, 2018

RECEIVED: 14-day review begins October 29, 2018

GBM 22-114: FY 2018 Grant Budget Modifications of October 25, 2018

RECEIVED: 14-day review begins November 6, 2018

GBM 22-115: FY 2018 Grant Budget Modifications of October 15, 2018

RECEIVED: 14-day review begins November 7, 2018

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, NW
Washington, DC 20004

ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR 22-1104, the “Local Rent Supplement Program Contract No. 2017-LRSP-03A Approval Resolution of 2018”, and PR 22-1105, the “Local Rent Supplement Program Contract No. 2016-LRSP-10A Approval Resolution of 2018”, to allow for the proposed resolutions to be considered at a regular legislative meeting on November 13, 2018.

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

Placard Posting Date: November 9, 2018
Protest Petition Deadline: December 24, 2018
Roll Call Hearing Date: January 7, 2019
Protest Hearing Date: March 6, 2019

License No.: ABRA-111308
Licensee: National Railroad Passenger Corporation
Trade Name: Amtrak
License Class: Retailer's Class "CX" Common Carrier
Address: 1401 W Street, N.E.
Contact: Joseph Donahue, Senior Director: (202) 906-3252

WARD 5

ANC 5C

SMD 5C05

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 January 7, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **March 6, 2019 at 1:30 p.m.**

NATURE OF OPERATION

New Class "CX" Common Carrier providing intercity rail passenger service with food and beverage service on café and dining cars.

HOURS OF OPERATION

Sunday – Saturday 12am – 12am (24-hour operations)

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday 10am to 12am

Monday – Saturday 8am to 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 9, 2018
Protest Petition Deadline: December 24, 2018
Roll Call Hearing Date: January 7, 2019
Protest Hearing Date: March 6, 2019

License No.: ABRA-112072
Licensee: District Soul Food Restaurant & Lounge, L.L.C.
Trade Name: District Soul Food Restaurant & Lounge
License Class: Retailer's Class "C" Restaurant
Address: 500 8th Street, S.E.
Contact: Edward Reynolds: (202) 487-6140

WARD 6

ANC 6B

SMD 6B04

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 January 7, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on March 6, 2019 at 1:30 p.m.

NATURE OF OPERATION

New Restaurant serving soul food. Requesting an Entertainment Endorsement to provide live entertainment with Dancing and Cover Charge inside the premises only. Sidewalk Café with 40 seats. Total Occupancy Load is 199 with seating for 180.

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

Sunday through Wednesday 10am – 11pm, Thursday through Saturday 10am – 2am

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

Sunday through Wednesday 10am – 11pm, Thursday through Saturday 10am – 12am

HOURS OF LIVE ENTERTAINMENT (INDOORS ONLY)

Sunday through Wednesday 4pm – 11pm, Thursday through Saturday 4pm – 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 9, 2018
Protest Petition Deadline: December 24, 2018
Roll Call Hearing Date: January 7, 2019

License No.: ABRA-088757
Licensee: El Don, LLC
Trade Name: El Don Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 4403 14th Street, N.W.
Contact: Maria E. Argueta, Managing Member: (202) 248-1991

WARD 4 ANC 4C SMD 4C05

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on January 7, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGE

Request to add a Sidewalk Cafe with 42 seats.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES)

Sunday through Thursday 10am - 2am
Friday and Saturday 10am - 3am

CURRENT HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES)

Sunday through Thursday 6pm - 11pm
Friday and Saturday 6pm - 12am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SIDEWALK CAFE)

Sunday through Saturday 10am - 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 9, 2018
Protest Petition Deadline: December 24, 2018
Roll Call Hearing Date: January 7, 2019
Protest Hearing Date: March 6, 2019

License No.: ABRA-111597
Licensee: Emilie's, LLC
Trade Name: Emilie's
License Class: Retailer's Class "C" Restaurant
Address: 1101 Pennsylvania Avenue, S.E.
Contact: Sean T. Morris, Esq.: (301) 654-6570

WARD 6

ANC 6B

SMD 6B04

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 January 7, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on March 6, 2019 at 4:30 p.m.

NATURE OF OPERATION

New Class "C" Restaurant serving farm-to-table American dim sum and other Asian-inspired food. Total Occupancy Load of 150 with seating for 110 patrons inside. Summer Garden with 35 seats.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (INSIDE PREMISES AND SUMMER GARDEN)

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 9, 2018
Protest Petition Deadline: December 24, 2018
Roll Call Hearing Date: January 7, 2019
Protest Hearing Date: March 6, 2019

License No.: ABRA-112012
Licensee: NV Yard LLC
Trade Name: Hatoba
License Class: Retailer's Class "C" Restaurant
Address: 300 Tingey Street, S.E.
Contact: Jeff Jackson: (202) 251-1566

WARD 6

ANC 6D

SMD 6D07

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 January 7, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on March 6, 2019 at 1:30 p.m.

NATURE OF OPERATION

New Restaurant serving Japanese cuisine. Summer Garden with 45 seats. Total Occupancy Load is 120 with seating for 110.

HOURS OF OPERATION INSIDE PREMISES

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

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES

Sunday through Thursday 11am - 2am, Friday and Saturday 11am - 3am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SUMMER GARDEN

Sunday through Saturday 11am - 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 9, 2018
Protest Petition Deadline: December 24, 2018
Roll Call Hearing Date: January 7, 2019

License No.: ABRA-104866
Licensee: Naomi’s Ladder II, LLC
Trade Name: Smokin’ Pig
License Class: Retailer’s Class “C” Tavern
Address: 1208 H Street, N.E.
Contact: Cynthia Gibson: (301) 399-9762

WARD 6 ANC 6A SMD 6A01

Notice is hereby given that this licensee has requested to transfer the license to a new location 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 January 7, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION

Licensee requests to transfer license from 1123 H Street, N.E, to a new location at 1208 H Street, N.E. Total Occupancy Load of 99 with seating for 60 patrons. Summer Garden with a seating capacity of 14. The licensee also has an Entertainment Endorsement with Dancing and Cover Charge to provide live entertainment indoors only.

HOURS OF OPERATION FOR INSIDE PREMISES

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

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE PREMISES

Sunday through Thursday 10am – 1:45am, Friday and Saturday 10am – 2:45am

HOURS OF LIVE ENTERTAINMENT INSIDE ONLY

Sunday through Thursday 5pm – 2am, Friday 5pm – 3am, Saturday 10am – 3am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR SUMMER GARDEN

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: November 9, 2018
Protest Petition Deadline: December 24, 2018
Roll Call Hearing Date: January 7, 2019
Protest Hearing Date: March 6, 2019

License No.: ABRA-112073
Licensee: Navy Yard Wise LLC
Trade Name: Wiseguy Pizza & Altani Gelato
License Class: Retailer's Class "D" Restaurant
Address: 202 M Street, S.E.
Contact: Nuri Erol: (202) 710-1870

WARD 6

ANC 6D

SMD 6D07

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 January 7, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The Protest Hearing date is scheduled on March 6, 2019 at 4:30 p.m.

NATURE OF OPERATION

New Restaurant serving fast food, pizza and gelato. Summer Garden with 70 seats. Total Occupancy Load is 148 with seating for 78.

HOURS OF OPERATION INSIDE PREMISES AND FOR SUMMER GARDEN

Sunday through Wednesday 11am - 2am, Thursday 11am - 3am, Friday and Saturday 11am - 5am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR SUMMER GARDEN

Sunday through Saturday 11am - 1am

D.C. BOARD OF ELECTIONS**NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW REFERENDUM MEASURE**

The Board of Elections shall consider in a public hearing whether the proposed measure “Referendum on Law Repealing Initiative 77 – Minimum Wage Amendment Act of 2018” is a proper subject matter for referendum, as well as the formulation of the measure’s short title and summary statement, at a special meeting on Friday, November 9, 2018 at 2:00 p.m., at 1015 Half Street S.E., in the Office of Campaign Finance Hearing Room, Suite 775, Washington DC 20003.

The Board requests that written memoranda be submitted for the record no later than 4:45 p.m., Wednesday, November 7, 2018 to the Board of Elections, General Counsel’s Office, 1015 Half Street, S.E., Suite 750, Washington, D.C. 20003.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number and name of the organization represented (if any) by calling the Office of the General Counsel’s at 727-2194 no later than Wednesday, November 7, 2018 at 4:45 p.m.

The Short Title, Summary Statement and Legislative Text of the proposed referendum read as follows:

SHORT TITLE

“REFERENDUM ON LAW REPEALING INITIATIVE 77 –MINIMUM WAGE
AMENDMENT ACT OF 2018”

SUMMARY STATEMENT

A majority of District of Columbia voters approved Initiative 77 on June 19, 2018. Initiative 77 gradually increases the minimum wage for tipped employees from the current rate (\$3.89/ hour), to the same minimum wage as non-tipped employees by 2026. In October 2018, the Council of the District of Columbia enacted a law to repeal Initiative 77. This referendum concerns whether that law should be approved (repealing Initiative 77) or rejected (upholding Initiative 77).

TEXT OF MEASURE

Shall the registered voters of the District of Columbia approve or reject section 2 of D.C. Act 22-489?

D.C. Act 22-489 -- "Tipped Wage Workers Fairness Amendment Act of 2018”

“Sec. 2. The Initiative No. 77 - - Minimum Wage Amendment Act of 2018, effective October 11, 2018 (D.C. Law 22-163; 65 DCR 8513), is repealed.”

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF PUBLIC HEARING****Air Quality Permit for Y&G Auto Body Shop LLC**

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, 5th Floor, Washington, DC, is announcing its intention to hold a public hearing on the subject of a draft air quality permit (No. 6786-R1) proposed for issuance to Y & G Auto Body Shop LLC, to operate an existing cross flow automotive paint spray booth at the facility located at 1851 Adams Street NE, Washington DC 20018.

Public comment was previously taken from August 24, 2018 through September 24, 2018. During that comment period a request for a public hearing was submitted. DOEE is granting this public hearing request and is scheduling a public hearing on this matter.

Information on the draft permit and the original public comment period can be found at: <https://doee.dc.gov/node/1352016>.

The public hearing at which interested parties may present comments to be included in the record will be held as follows:

Public Hearing: Tuesday, December 11, 2018

HEARING DATE: Tuesday, December 11, 2018
TIME: 5:00 pm
PLACE: Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington DC 20002

NoMa-Gallaudet University (Red Line) Metro Stop

All persons present at the hearing who wish to be heard may testify in person. All presentations shall be limited to five minutes. Persons are urged to submit paper or electronic copies of any written statements.

All relevant comments will be considered before taking final action on the permit application.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF ENERGY AND ENVIRONMENT

**NOTICE OF PUBLIC HEARING AND
SOLICITATION OF PUBLIC COMMENT****Fiscal Year 2020 Weatherization Assistance Program Draft State Plan
Public Hearing Notice**

The Department of Energy and Environment (the Department) invites the public to present its comments at a public hearing on the fiscal year (FY) 2020 Weatherization Assistance Program (WAP) Draft State Plan.

Public Hearing: Tuesday, December 18, 2018

HEARING DATE: Tuesday, December 18, 2018
TIME: 6:00 pm
PLACE: Department of Energy and Environment
1200 First Street, NE, Washington, DC 20002
5th Floor
NOMA Gallaudet (Red Line) Metro Stop

Beginning 11/16/18, the full text of the **FY 2020 WAP Draft State Plan** will be available online at the Department's website. A person may obtain a copy of the FY 2020 WAP Draft State Plan by any of the following means:

Download from the Department's website, <http://doee.dc.gov/service/weatherization-assistance-program>. Look for "FY20 WAP Draft State Plan" near the bottom of the page. Follow the link to the page, where the document can be downloaded in a PDF format;

Email a request to WAPStatePlan@dc.gov with "Request copy of **FY 2020 WAP**" in the subject line.

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

Write the Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Kenley Farmer RE: **FY20 WAP Draft State Plan**" on the outside of the envelope.

The deadline for comments is 12/18/18 at the conclusion of the public hearing. All persons present at the hearing who wish to be heard may testify in person. All presentations shall be limited to five minutes. Persons are urged to submit duplicate copies of their written statements.

Persons may also submit written testimony by email, with a subject line of "FY20 WAP Draft State Plan", to WAPStatePlan@dc.gov. Comments clearly marked "FY20 WAP Draft State

Plan” may also be hand delivered or mailed to the Department’s offices at the address listed above. All comments should be received no later than the conclusion of the public hearing on Tuesday, December 18, 2018. The Department will consider all comments received in its final decision.

Filename: DC Register Notice FY20 WAP SP hearing.doc

DISTRICT OF COLUMBIA OFFICE OF PUBLIC-PRIVATE PARTNERSHIPS

NOTICE OF PUBLIC HEARING

Delivery of Smart Street Lighting Project

The District of Columbia Office of Public-Private Partnerships (“DC OP3”), in coordination with the District Department of Transportation (“DDOT”) and the Office of the Chief Technology Officer (“OCTO”), hereby gives notice of several upcoming public hearings regarding the District’s Smart Lighting Project (“Project”) pursuant to Section 110 of the Public-Private Partnerships Act of 2014, effective March 11, 2015 (D.C. Law 20-228; D.C. Official Code § 2-271.01 et seq.) as implemented through regulations contained in Chapter 48 (Public-Private Partnerships), of Title 27 (Contracts and Procurement) of the D.C. Municipal Regulations (27 DCMR 4802) (“P3 Act”). Details for the time and location of these hearings as well as how to register to participate are provided below.

The Project will modernize the District’s more than 75,000 streetlights by converting them to LED technology with remote monitoring and control capabilities and deploy Smart City technology, including expansion of the District broadband Wi-Fi network and a platform for future uses and applications. It is also anticipated that the selected developer will obtain private financing for the Project and conduct asset management of the existing and improved lighting systems under a long-term, performance-based contract.

As part of the overall Project, the District has and will continue to provide opportunities for public input through the procurement, environmental, design and construction phases of the project and will continue formal outreach for one year into project operations. It will also be coordinated with and incorporate any specific outreach in support of National Environmental Policy Act of 1969 (“NEPA”) activities such as Section 106, Environmental Justice, or Section 4(f) consultations, which include discussion of the public safety, environmental, economic and community benefits of the Project. Public comments from this outreach will be summarized and shared with the project team for consideration in the development of the project.

Under Section 107 of the P3 Act, a Request for Qualifications (“RFQ”) was released for the Project. The District received responses from 11 teams and will announce the most highly qualified teams later this year (“Shortlisted Proposers”). Only those Shortlisted Proposers will be allowed to submit proposals in response to the Request for Proposals (RFP). Following this public comment period, the District will incorporate feedback in a revised draft RFP that will be submitted to the DC Council for review. If approved by the DC Council, the District will issue the final RFP to the Shortlisted Proposers and select a Preferred Proposer.

The following hearings will be held to discuss the Project:

No.	Location	Date
1	Woodbridge Library 1801 Hamlin St NE Washington, DC20018	Tuesday, December 4, 2018 6:30 – 8:30 PM

2	Chevy Chase Library 5625 Connecticut Ave NW Washington, DC 20015	Thursday, December 6, 2018 6:30 – 8:30 PM
3	1100 4th Street SW 2 nd Floor Washington, DC 20024	Tuesday, December 11, 2018 6:30 – 8:30 PM
4	RISE Demonstration Center 2730 Martin Luther King Jr. Ave SE Washington, DC 20032	Thursday, December 13, 2018 6:30 – 8:30 PM

The hearings will be held in town hall style format, with a public presentation from government representatives followed by 3 minutes of speaking time for each individual who registers. Those interested in speaking at the public hearing must register at <https://op3.eventbrite.com/>. If you cannot attend one of the public hearings, please send written comments to StreetlightP3@dc.gov by Thursday, December 27, 2018. For those interested in learning more about the Project, please visit <http://op3.dc.gov/streetlights>.

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

The Director of the District of Columbia Department of Human Resources, with the concurrence of the City Administrator, pursuant to the authority established in Mayor's Order 2008-92, dated June 26, 2008; Mayor's Order 2012-84, dated June 18, 2012; Title IV of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 ("CMPA") (D.C. Official Code §§ 1-604.01 - 1-604.08 (2016 Repl. & 2017 Supp.)); Title VIII of the CMPA (D.C. Official Code §§ 1-608.01 (2016 Repl.)); Title IX of the CMPA (D.C. Official Code §§ 1-609.01 - 1-609.09 (2016 Repl. & 2017 Supp.)); Title X-A of the CMPA (D.C. Official Code §§ 1-610.51 - 1-610.65 (2016 Rep. & 2017 Supp.)); and the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (CYSHA), effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code §§ 4-1501.01 *et seq.* (2012 Repl.)); hereby gives notice of the adoption of the following amendments to Chapter 4 (Suitability) of Title 6 (Personnel), Subtitle B (Government Personnel), of the District of Columbia Municipal Regulations (DCMR).

The rulemaking: (1) amends Subsections 400.4 and 435.9 to clarify that an employee deemed unsuitable will be removed unless the employee is reassigned to a non-covered position in the same agency for which he or she is qualified and otherwise suitable; (2) adds new language to Subsection 402.3 to clarify that general suitability screening may be conducted prior to the issuance of an offer of employment letter; (3) amends Subsections 406.1(b), 409.3, and 415.3 to require employees occupying safety, protection, and security sensitive positions to undergo periodic criminal background checks, as outlined in Subsection 415.3; (4) amends Subsections 406.4 and 406.6 to notify incumbents whenever an existing position has been newly designated as covered under the enhanced suitability program, and make it discretionary to include a statement in the position description that the position is designated as covered under the enhanced suitability screening program; (5) amends Subsection 407.1 to require that a vacancy announcement and offer of employment letter for competitive recruitments state that the position is designated as enhanced suitability and is subject to the requirements of the program; (6) amends Subsection 409.2(b) to clarify that positions designated as protection sensitive include duties and responsibilities that involve caring for patients or other vulnerable persons; (7) amends Subsection 411.2 to delete the assessment, monitoring, or support of childcare activities as an example of protection sensitive duties and responsibilities; (8) amends Subsections 414.2 and 426.5 to clarify that volunteers are not subject to pre-appointment, or random drug and alcohol testing, unless required by federal law; (9) amends Subsections 417.1 and 417.2 to include language stating the general standard that will be used for making a suitability determination; (10) adds language clarifying suitability to Subsection 417.1; (11) amends Subsection 417.5 to clarify that no individual may hold a position that has direct unsupervised contact with children or youth, if he or she has been charged with any sexual offense(s) involving minors; (12) amends Subsection 424.1 to allow individuals to provide responses to derogatory information revealed by a general or enhanced suitability screening through an in-person interview or written response; (13) amends Subsection 425.1 to require vendors to follow procedures stated in 49 CFR Part 40 and District government procedures for all drug and alcohol testing for applicants and employees; (14) amends Subsection 428.1 to clarify that employees deemed unsuitable as a result of a positive drug or alcohol test, failure to submit to or otherwise

cooperate with a drug or alcohol test, or failure to complete a counseling rehabilitation program shall be immediately subject to separation from employment; unless otherwise provided for by law; (15) makes non-substantive amendment to Subsections 436.2(c) and 438.6; (16) amends Subsection 439.3 to require the personnel authority or employing agency to carry out the removal procedures when an employee is deemed unsuitable; (17) repeals Subsection 439.4 to add the language to Subsection 439.3; and (18) amends Section 499 (Definitions) to revise the language consistent with the other changes in this rulemaking.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 23, 2018 at 65 DCR 001893. No comments were received, and no changes have been made to the text of the rules as proposed. The rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 4, SUITABILITY, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

Section 400, EMPLOYEE SUITABILITY POLICY, Subsection 400.4, is amended to read as follows:

400.4 Unless otherwise specified in this chapter, an employee deemed unsuitable pursuant to this chapter, will be subject to immediate removal. At the discretion of the agency, the employee may be reassigned within the same agency to a non-covered position for which he or she is qualified and otherwise suitable.

Section 402, GENERAL SUITABILITY SCREENING, a new Subsection 402.3 is added to read as follows:

402.3 Nothing in this section shall preclude the personnel authority from conducting a general suitability screening of an applicant prior to the issuance of an employment offer.

Section 406, ENHANCED SUITABILITY SCREENING – GENERAL PROVISIONS, is amended as follows:

Subsection 406.1(b) is amended to read as follows:

(b) Periodic criminal background checks;

Subsections 406.4 and 406.6 are amended to read as follows:

406.4 If an existing, filled position is newly designated as a covered position, the personnel authority shall notify the incumbent that he or she shall be subject to enhanced suitability screening under this chapter prior to conducting any such screening.

406.6 The position description for each position designated for an enhanced suitability screening may include a statement of such designation and a statement indicating that incumbents of the position shall be subject to enhanced suitability screening.

Section 407, ENHANCED SUITABILITY SCREENING – RECRUITMENT REQUIREMENTS, Subsection 407.1 lead-in language is amended to read as follows:

407.1 In the case of competitive recruitment for a position requiring an enhanced suitability screening, the vacancy announcement and subsequent offer letter to the appointee shall state that:

...

Section 409, POSITIONS SUBJECT TO ENHANCED SUITABILITY SCREENING, Subsection 409.2 (b) and 409.3, are amended to read as follows:

(b) Protection sensitive, which are positions that are not safety sensitive positions, but that include duties or responsibilities that involve caring for patients or other vulnerable persons; and

...

409.3 An employee who is detailed, temporarily promoted, or temporarily reassigned from a non-covered position to a covered position shall affirmatively agree to an enhanced suitability screening to the position upon the effective date of the personnel action, and to periodic criminal background and traffic record checks, as appropriate, while detailed, temporarily promoted, or temporarily reassigned to the covered position.

Section 411, PROTECTION SENSITIVE POSITIONS – GENERAL PROVISIONS, Subsection 411.2, is amended to read as follows:

411.2 Examples of protection sensitive duties and responsibilities include, but are not limited to, positions that:

- (a) Coordinate, develop, or support recreational activities;
- (b) Manage, plan, direct, or coordinate educational activities; or
- (c) Perform tasks involving individual or group counseling.

Section 414, VOLUNTEERS, Subsection 414.2, is amended to read as follows:

414.2 Notwithstanding Sections 410 and 411, volunteers performing duties and responsibilities in a covered position shall be subject to enhanced suitability screening except for pre-appointment or random drug and alcohol testing, unless such testing is otherwise required by federal law.

Section 415, CRIMINAL BACKGROUND CHECKS – GENERAL PROVISIONS, is amended as follows:

Subsection 415.3 is amended to read as follows:

- 415.3 Criminal background checks for covered positions shall be conducted:
- (a) For appointees, within sixty (60) days following the acceptance of a conditional offer;
 - (b) For safety and protection sensitive employees and volunteers, at least once every two (2) years; and
 - (c) For security sensitive employees and volunteers, at least once every four (4) years.

Section 417, ASSESSING CRIMINAL HISTORIES, is amended as follows:

Subsection 417.1 and 417.2 are amended to read as follows:

- 417.1 Upon receipt, the program administrator shall review an individual's criminal history.
- 417.2 The program administrator shall assess any derogatory information within the criminal history and determine whether the individual, if serving in the position, would pose a present danger to children or youth, the public or other District employees; or would pose a threat to the integrity of District government operations.

Subsection 417.5 is amended to read as follows

- 417.5 Notwithstanding any other provision of this chapter, no individual may hold a position that has direct unsupervised contact with children or youth, if he or she has been charged with any sexual offense(s) involving minors, and for such offense(s):
- (a) Was convicted, pleaded guilty, pleaded *nolo contendere*, placed on probation before judgment, or otherwise placed on a stet docket; or
 - (b) Was found not guilty by reason of insanity.

Section 424, CLARIFYING DEROGATORY INFORMATION, is amended to read as follows:

- 424.1 Whenever a general and enhanced suitability screening reveals derogatory information the program administrator shall:
- (a) Notify the individual as to the source, nature, and potential impact of the derogatory information; and
 - (b) Allow the individual no less than ten (10) business days and no more than twenty-one (21) calendar days to provide a response, through an in-person interview or written response if not available for an interview, to the derogatory information. The personnel authority may authorize a shorter time period under extraordinary circumstances.

Section 425 MANDATORY DRUG AND ALCOHOL TESTING – GENERAL PROVISIONS, Subsection 425.1, is amended to read as follows:

- 425.1 Each program administrator with safety or protection sensitive positions shall contract with a professional testing vendor(s) to conduct required drug and alcohol testing. The vendor(s) shall ensure quality control, chain-of-custody for samples, reliable collection and testing procedures, and any other safeguards needed to guarantee accurate and fair testing Notwithstanding 49 CFR § 40.1, vendors shall follow all procedures stated in 49 CFR Part 40 and District government procedures, as applicable, for all drug and alcohol testing for applicants and employees.

Section 426, MANDATORY DRUG AND ALCOHOL TESTING – NOTIFICATION REQUIREMENTS, Subsection 426.5, is added to read as follows:

- 426.5 Volunteers are subject to reasonable suspicion, post-accident and post-incident drug and alcohol screenings. Volunteers are not subject to pre-appointment or random drug and alcohol testing, unless such testing is otherwise required by federal law.

Section 428, MANDATORY DRUG AND ALCOHOL TESTING – POSITIVE DRUG OR ALCOHOL TESTS RESULTS, Subsection 428.1, is amended to read as follows:

- 428.1 Unless otherwise required by law, and notwithstanding Subsection 400.4, an employee shall be deemed unsuitable and there shall be cause to separate an employee from a covered position as described in Subsections 435.9 and 439.3 for:
- (a) A positive drug or alcohol test result;

- (b) A failure to submit to or otherwise cooperate with drug or alcohol testing; or
- (c) In the case of an employee who acknowledged a drug or alcohol problem as specified in Subsection 426.4, failure to complete a counseling or rehabilitation program(s), or a positive return-to-duty drug or alcohol test result.

Section 435, SUITABILITY DETERMINATIONS, Subsection 435.9, is amended to read as follows:

435.9 If an employee is deemed unsuitable, the personnel authority may terminate his or her employment pursuant to the appropriate adverse action procedure as specified in this subtitle or any applicable collective bargaining agreement. Instead of terminating the employee, the personnel authority may reassign the employee to a position for which he or she is qualified and suitable.

Section 436, APPOINTEE, VOLUNTEER, AND EMPLOYEE RIGHTS, Subsection 436.2(c) is amended to read as follows:

- (c) Employees subject to the provisions of this chapter have a right to review records according to the procedures established in Chapters 4 and 31.

Section 438, APPEALS BEFORE THE COMMISSION ON HUMAN RIGHTS, Subsection 438.6, is amended to read as follows:

438.6 To initiate the review process, the petitioner shall file a Notice of Appeal, along with a copy of the suitability determination being appealed, with the Commission within thirty (30) days of the issuance of the agency decision being appealed.

Section 439, PROGRAM MANAGEMENT, is amended as follows:

Subsection 439.3 is amended to read as follows:

439.3 If the program administrator or employing agency determines that an existing employee is unsuitable to continue serving in a covered position, and that he or she should be separated from employment, the removal action shall be carried out by the personnel authority in accordance with the employee's type of appointment (*i.e.*, probationary, term or permanent, etc.) and service (*i.e.*, Career, Legal, Excepted, Management Supervisory Service, etc.), and the applicable legal and regulatory provisions governing adverse actions, including but not limited to Chapter 16 and applicable collective bargaining agreement provisions.

Subsection 439.4 is repealed.

Section 499, DEFINITIONS, Subsection 499.1, is amended as follows:

The definition of the term “Vulnerable adult” is amended to read as follows:

Vulnerable person – an individual who has a physical or mental condition which impairs his or her ability to provide for his or her own care or protection, or a person age sixty-five (65) years or older.

The definition of the term “Elderly” is repealed.

The definition of the term “Protection sensitive position” is amended to read as follows:

Protection sensitive position – a position with duties or responsibilities that involve caring for patients or other vulnerable persons, including but not limited to the positions listed in Subsection 411.2 of this chapter.

D.C. DEPARTMENT OF HUMAN RESOURCES

NOTICE OF PROPOSED RULEMAKING

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator and pursuant to the authority under Mayor’s Order 2008-92, dated June 26, 2008; Mayor’s Order 2016-178, dated November 10, 2016; Section 1092 of the Workplace Wellness Act of 2014 (D.C. Law 20-155; D.C. Official Code § 1-541.01 (2016 Repl.)); and Sections 404(a) and 2007 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-604.04(a) and 1-620.07 (2016 Repl. & 2017 Repl.)), hereby gives notice of the intent to adopt amendments to Chapter 20 (Health) of Subtitle B (Government Personnel) of Title 6 (Personnel) of the District of Columbia Municipal Regulations (DMCR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 20 has been amended in its entirety with changes that include a new general provisions section (2000); a new applicability section (2001) that indicates who is excluded from the chapter; a new ordering medical evaluations section (2005) that establishes when an applicant or employee may be subject to a medical evaluation; a new medical evaluation determination section (2006) that outlines the actions that a personnel authority may take after a medical evaluation establishes that an employee is unable to perform all of his or her essential job functions; and a section that expands the regulations for the workplace wellness program (2013).

Chapter 20, HEALTH, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended in its entirety to read as follows:

CHAPTER 20 HEALTH

- 2000 GENERAL PROVISIONS**
- 2001 APPLICABILITY**
- 2002 [RESERVED]**
- 2003 [RESERVED]**
- 2004 PHYSICAL AND MENTAL QUALIFICATIONS REQUIREMENTS**
- 2005 ORDERING MEDICAL EVALUATIONS**
- 2006 MEDICAL EVALUATION DETERMINATIONS**
- 2007 [RESERVED]**
- 2008 [RESERVED]**
- 2009 [RESERVED]**
- 2010 EMPLOYEE ASSISTANCE PROGRAM**
- 2011 [RESERVED]**
- 2012 [RESERVED]**
- 2013 WELLNESS PROGRAM**
- 2099 DEFINITIONS**

2000 GENERAL PROVISIONS

2000.1 The District of Columbia government is committed to providing a safe and secure workplace for its employees. To provide a safe and secure workplace, employees must be able to perform their duties in a safe, secure, productive, and effective manner.

2000.2 Each individual selected for an appointment in the District of Columbia government must be able to perform the essential functions of his or her job, with or without reasonable accommodation(s).

2000.3 Unless otherwise specified in this chapter, medical evaluations are to be made by physicians or practitioners, and determinations regarding essential functions of the job are to be made by supervisors and managers based on the employee’s practical day-to-day responsibilities and the employee’s position description.

2000.4 Agencies shall maintain medical records in a manner that ensures the greatest degree of privacy for applicants, candidates, and employees. Medical records shall not be released to any party except as authorized by Chapter 31, federal and District of Columbia laws, regulations, or court order.

2001 APPLICABILITY

2001.1 Unless otherwise provided by law, this chapter shall apply to all District government applicants, candidates, employees, and volunteers, except for:

- (a) Uniformed members and applicants for uniformed positions in the Fire and Emergency Medical Services Department and the Metropolitan Police Department, who shall be covered by Chapter 8; and
- (b) Employees covered by the public-sector workers’ compensation provisions in D.C. Municipal Regulations, Title 7, Chapter 1.

2002–2003 [RESERVED]

2004 PHYSICAL AND MENTAL QUALIFICATIONS REQUIREMENTS

2004.1 Personnel authorities may establish physical and mental qualification requirements that are necessary to perform a specific job or class of jobs. Any physical or mental qualification requirement established by a personnel authority shall:

- (a) Be related to the essential job function(s) of the specific job or class of jobs, and is consistent with business necessity;
- (b) Be designed to ensure consideration of individuals having the minimum ability necessary to perform the essential job functions efficiently without posing a significant risk of substantial harm to his or her health or safety,

or the health or safety of others; and

- (c) List disqualifying medical conditions only when specific physical or mental capabilities are required to safely and satisfactorily perform essential job functions and those functions cannot be safely or satisfactorily performed with the disqualifying medical condition.

2004.2 The personnel authority may require an individual who has applied for or occupies a position with established physical or mental requirements, including requirements for selection or retention, or established occupational or environmental standards, to undergo a medical evaluation:

- (a) After an offer of employment has been made to a job applicant and prior to appointment (including reemployment based on full or partial recovery from a medical condition);
- (b) On a regularly recurring, periodic basis; or
- (c) Whenever there is an objectively reasonable concern about an employee’s continued capacity to meet the established physical or mental requirements of the position.

2004.3 The personnel authority may disqualify an applicant or candidate, or direct an agency to separate an employee or volunteer, if the applicant, candidate, employee, or volunteer is found to be unable to meet established physical or mental requirements of his or her position.

2004.4 The personnel authority shall adhere to the physical and medical qualification requirements contained in Subtitle B of Title 49 of the Code of Federal Regulations (C.F.R.) for positions that require a commercial driver’s license.

2005 ORDERING MEDICAL EVALUATIONS

2005.1 Regardless of whether physical or mental health requirements have been established for a position, a personnel authority may require an employee to undergo a medical evaluation when there is a reasonable concern as to the employee’s continuing ability to physically or mentally carry out the essential functions of his or her position or when an employee’s work-related conduct or performance raises concerns relating to the health or safety of the employee or others.

2005.2 Orders to undergo a medical evaluation shall:

- (a) Be in writing;
- (b) Inform the employee of the reason(s) the agency is ordering the medical evaluation;

- (c) State what action(s) the employee must take to comply with the order, including whether to bring medical records to the evaluation; and
- (d) State the consequences for failing to comply with the order.

2005.3 Whenever the personnel authority directs an employee to undergo a medical evaluation, the personnel authority may direct that the employee:

- (a) Be examined by his or her personal physician or practitioner; or
- (b) Be examined by a physician or practitioner designated by the personnel authority.

2005.4 The personnel authority may order a psychiatric examination (including a psychological assessment) only when recommended by a physician or practitioner, or when other medical records reasonably support the need for such an examination.

2005.5 Medical evaluations conducted under this section shall be conducted to evaluate the capacity of the employee to perform the essential job functions of his or her position.

2005.6 The cost of the medical evaluation shall be the responsibility of the employing agency.

2005.7 Whenever a medical evaluation is conducted by a physician or practitioner designated by the personnel authority, the personnel authority shall consider any medical records supplied by the employee from his or her personal health care physician(s) or practitioner(s).

2005.8 The personnel authority shall provide the evaluating physician or practitioner with a copy of all approved medical evaluation protocols and any applicable medical qualifications and requirements for the position, or a detailed description of the essential job functions of the position, including physical demands and environmental factors.

2006 MEDICAL EVALUATION DETERMINATIONS

2006.1 Whenever a medical evaluation establishes that an employee is temporarily unable to perform all of his or her essential job functions, the personnel authority may:

- (a) Detail the employee to a more appropriate position;
- (b) Temporarily change the employee’s tour of duty; or
- (c) In consultation with the agency Americans with Disabilities Act (ADA) Coordinators, temporarily provide the employee reasonable

accommodation(s) to enable him or her to perform the essential job functions.

2006.2 Whenever a medical evaluation establishes that an employee is permanently incapable of performing one (1) or more of his or her essential job functions, the personnel authority shall:

- (a) Collaborate with the employee and the employing agency ADA Coordinators to determine whether a reasonable accommodation can be made that will enable the employee to perform the essential job functions, involving the D.C. Office of Disability Rights for technical assistance and guidance when necessary;
- (b) If no such reasonable accommodation can be made, work with the employing agency to non-competitively reassign the employee to another position for which the employee qualifies and can perform the essential job functions with or without a reasonable accommodation;
- (c) If the employee cannot be reasonably accommodated or reassigned to a new position, the personnel authority shall advise the employee of applicable disability and retirement programs, and the program eligibility requirements; and
- (d) Separate the employee, either through a retirement program or Chapter 16.

2006.3 Whenever a medical evaluation establishes that the employee is fit to carry out the essential job functions, and the employee continues to be deficient in either conduct or performance, the personnel authority may take administrative action against the employee pursuant to Chapters 14 and 16.

2007–2009 [RESERVED]

2010 EMPLOYEE ASSISTANCE PROGRAM

2010.1 The District of Columbia government shall provide an Employee Assistance Program (EAP) designed to address many personal challenges faced by employees.

2010.2 The Director of the D.C. Department of Human Resources (DCHR Director) shall administer the EAP.

2010.3 The EAP shall provide counseling and assistance to employees who are experiencing problems that may adversely affect work performance or conduct on the job including, but not limited to, the following:

- (a) Family and marital problems;

- (b) Financial difficulties;
- (c) Emotional or mental illness;
- (d) Identity theft difficulties;
- (e) Legal difficulties;
- (f) Lactation support; and
- (g) Substance abuse problems.

- 2010.4 The EAP shall consist of assessment, counseling, and referral services.
- 2010.5 Any employee (excluding temporary employees) shall be eligible to receive services through the EAP.
- 2010.6 Supervisors and managers should encourage an employee who is experiencing challenges that adversely affect his or her work performance or conduct on the job to voluntarily seek assistance through the EAP.
- 2010.7 If an employee refuses or fails to voluntarily seek assistance through EAP, managers and supervisors can require the employee to report to the EAP when the employee is experiencing challenges that adversely affect his or her work performance or conduct on the job.
- 2010.8 Participation in the EAP does not prevent management from taking appropriate corrective, adverse, or other administrative action in situations where such action is warranted.
- 2010.9 Involvement in the EAP shall be on the basis of self-referral or agency referral.
- 2010.10 Up to two (2) hours of administrative leave may be granted to an employee to attend his or her initial EAP appointment.
- 2010.11 The services of the EAP shall be provided through contracted health care service provider(s).
- 2010.12 The cost of the initial session with the EAP contractor, which includes assessment, counseling, and referral services shall be paid in full by the District government to the extent that the session is not covered by the employee's health insurance carrier.
- 2010.13 DCHR may enter into a written agreement with another personnel authority to provide EAP services administered by the DCHR Director to employees of the other personnel authority.

- 2010.14 Each subordinate agency and independent personnel authority that participates in the EAP administered by DCHR shall designate an EAP coordinator.
- 2010.15 DCHR may authorize the establishment of other employee assistance programs for the District of Columbia government, provided such programs are consistent with this section.
- 2010.16 Unless a separate program is established pursuant to the provisions of § 2010.15, agencies under the personnel authority of the Mayor must participate in the EAP administered by the DCHR Director.
- 2010.17 Records and information on referral to or participation in the EAP shall be maintained in confidence as provided in Chapter 31 and any other applicable federal and District of Columbia laws and regulations.

2011-2012 [RESERVED]

2013 WELLNESS PROGRAM

- 2013.1 The District of Columbia government shall maintain a wellness program to improve and promote the health and fitness of its employees.
- 2013.2 The wellness program applies to all District agencies, including independent District agencies and the Council of the District of Columbia, but excluding boards and commissions, Advisory Neighborhood Commissions, and the Courts.
- 2013.3 Each agency shall designate one employee as the agency’s wellness coordinator who will be responsible for implementing the wellness policy in the agency and facilitating wellness programs.
- 2013.4 DCHR, in collaboration with the Department of Health, will provide guidance and assistance to agencies in the development of a comprehensive wellness program. The components of the wellness program shall include:
 - (a) A wellness leader at the management level who has direct access to the agency head. The individual will be responsible for creating a workplace wellness infrastructure for the agency.
 - (b) A wellness committee that includes employees who represent a cross section of the agency’s population.
 - (c) A chair or co-chair(s) elected by the wellness committee to conduct its meetings and lead activities.
- 2013.5 The wellness program shall include initiatives that:
 - (a) Establish measurable goals for improving the health of the District of Columbia government employees;

- (b) Improve nutrition in the workplace, including:
 - (1) Opportunities for employees to store lunches and foods in District buildings;
 - (2) Promoting the availability and consumption of water throughout the day;
- (c) Improve the physical fitness of employees and physical activity during the work day with the supervisor’s approval, including:
 - (a) Providing opportunities for employees to exercise at their desks and offices; and
 - (b) Ensuring that staircases are accessible and their use is encouraged;
- (d) Promote healthy living and educating employees about physical activity, healthy eating, stress management, and disease prevention;
- (e) Provide for early detection and screening for key health indicators; and
- (f) Support changes in the work environment to encourage healthy behaviors and breastfeeding, and promote occupational safety and health.

2013.6 Upon request by DCHR, each agency must complete workplace wellness surveys and submit reports on the wellness activities provided to their employees.

2099 DEFINITIONS

2099.1 When used in this chapter, the following meanings apply:

Essential job functions — the fundamental duties of a position; the things a person holding a position must be able to do, with or without reasonable accommodation, in order to fulfill the requirements of the position.

Medical condition — any physiologic, mental, or psychological condition, disorder, disease, illness, or injury. A biological or psychological state that is within the range of normal human variation is not a medical condition.

Medical evaluation — a critical appraisal or assessment of an individual’s mental or physical health; a judgement of an individual’s mental or physical health; or measurement of an individual’s progress with respect to a health care related treatment.

Medical record(s) — written health information, including but not limited to information that relates to an individual’s genetics, history of health care services, or past, present, or future physical or mental health, and any written medical evaluations completed pursuant to this chapter.

Personnel authority — an individual or entity authorized by D.C. Official Code § 1-604.06 to implement personnel rules and regulations for employees of an agency or group of agencies of the District of Columbia, or that individual or entity's agent who is delegated that authority.

Physician — a person authorized by law to practice medicine or osteopathy.

Practitioner — a person authorized by law to provide preventative, curative, or rehabilitative health care and who provides such care in a professional capacity. The term "practitioner" does not include physicians.

Reasonable accommodation — a change in the workplace or the way things are customarily done that permits an employee to perform the full duties and responsibilities of the given position (excludes removing essential functions of the position). A "reasonable accommodation" includes:

- (a) Changes to a job application process to permit an individual with a disability to be considered for a job;
- (b) Changes to enable a qualified individual with a disability to perform the essential functions of the job; and
- (c) Changes that enable employees with disabilities to enjoy equal benefits and privileges of employment.

Temporary appointment — an appointment with a specific time limitation of one (1) year or less.

Comments on these proposed regulations should be submitted, in writing, within thirty (30) days of the date of the publication of this notice to the D.C. Department of Human Resources, Policy and Compliance Administration. Comments may be submitted by mail to 1015 Half Street, S.E., 9th Floor, Washington, D.C. 20003, or by e-mail to dchr.policy@dc.gov.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

RM6-2018-01, IN THE MATTER OF THE COMMISSION’S INVESTIGATION INTO THE RULES REGARDING PAY TELEPHONES

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Sections 34-802, 2-505, and 34-1831 of the District of Columbia Code¹ of its intent to amend Chapter 6 (Pay Telephones) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (“DCMR”), in not less than thirty (30) days from the date of publication of this Notice of Proposed Rulemaking in the *D.C. Register*.

2. The proposed amendments consolidate sections regarding the cancellation of a certification, ensure that the complaint procedures are consistent with those in 15 DCMR Chapter 3, revise penalty provisions, and provide for recovery of removal expenses. The proposed amendments also update D.C. Official Code citations and make other technical changes.

Chapter 6, PAY TELEPHONES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

601 PAY TELEPHONE PROVIDER CERTIFICATION

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601.6 All filings to the Commission concerning pay telephones shall filed with the Commission Secretary.

...

602 CANCELLATION OF CERTIFICATE

...

602.6 A PSP may request that its certificate be canceled.

602.7 A request for cancellation of the certificate shall be in writing and shall include:

- (a) A list of the locations of each PSP payphone(s), if any;

¹ D.C. Official Code § 34-802 (2012 Repl.); D.C. Official Code § 2-505 (2016 Repl.), and D.C. Official Code § 34-1831 (2012 Repl.).

- (b) The PSP's specific plans for terminating service and removing the pay telephone(s), or its plans for transferring the PSP's registered pay telephones to another certified PSP in accordance with § 610; and
- (c) The date on which the PSP wishes the cancellation to become effective.

602.8 If a request for cancellation of a certificate meets the requirements under this section, the Commission shall within ten (10) days send written notice to the PSP that its certificate has been canceled.

603 [DELETED]

604 PAY TELEPHONE REGISTRATION

604.1 A PSP shall not install and/or operate a pay telephone in the District until the instrument is registered with the Commission.

604.2 Registration Applications shall be submitted for each proposed pay telephone.

604.3 Each Registration Application shall identify the proposed site of the pay telephone and state whether the pay telephone is to be located on public or private space.

604.4 If the proposed pay telephone location is located outdoors on public space, the Registration Application shall contain a copy of the public space permit for that location issued by the Department of Public Works.

604.5 If the proposed pay telephone application is located outdoors on private space, the Registration Application shall be accompanied by a photograph of the proposed site.

604.6 If the proposed pay telephone is located in an alley, in or in front of a vacant lot, or in front of an abandoned building, the Registration Application shall be accompanied by a letter from the local ANC and/or MPD district supporting such installation.

604.7 The Registration Application shall be executed by an officer of the corporation, a partner in the case of a partnership, a designated agent of an owner, or a sole proprietor.

604.8 Each completed Registration Application shall be accompanied by a check or money order in the amount of \$50.00, which is a fee covering expenses associated with pay telephone regulation. The check or money order shall be made payable to the D.C. Treasurer. A PSP may apply for and receive a refund in the amount of \$50.00, provided that (a) the refund request is made before the 121st day after the Commission approves the PSP's Registration Application, and (b) the PSP

certifies that it has not and will not install a pay telephone at the location specified in its Registration Application.

604.9 Upon the filing of a completed Registration Application for an outdoor pay telephone, the Commission shall notify, in writing, OPC, the ANC Chairperson, the Single Member District ANC Commissioner, and the MPD district for the area in which the pay telephone is to be located, as well as any local civic association that asks to be on the Commission’s service list, that the Commission intends to take action on the pending application. The notice shall contain the name of the PSP, the proposed location of the pay telephone, and state whether the pay telephone is to be located on private or public property.

604.10 If a Registration Application is approved, the Commission shall issue a Registration Number for each pay telephone to the PSP. A Registration Number may not be altered, reused, or transferred to another PSP or pay telephone.

604.11 The Registration Application shall be available for public inspection.

604.12 If a Registration Application or Renewal Application contains incorrect information, a PSP shall submit an amendment to the Application within thirty (30) days of the date of notification from the Commission of the error(s). All amendments must be signed by the PSP and notarized. If a PSP fails to submit the requested information within thirty (30) days of notification, the Commission shall deny the Application, and the Registration Application or Renewal Application fees shall not be refunded.

605 COMPLAINTS REGARDING THE INSTALLATION OF A PAY TELEPHONE

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605.2 The Commission Secretary shall, within five (5) days, serve a copy of the complaint on OPC and the PSP seeking to register the pay telephone. The procedures in §§ 323 through 326 shall apply to complaints regarding complaints filed under this section.

...

606 TWO YEAR REGISTRATION RENEWAL

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606.2 PSPs shall submit a completed Pay Telephone Registration Renewal Form by March 31 of the year in which the existing registration expires. The Renewal Form may be obtained from the Commission Secretary.

...

607 INSTALLATION

607.1 An outdoor pay telephone shall be installed within ninety (90) days after receiving approval by the Commission unless the PSP can show good cause, in writing, for delaying installation.

607.2 Failure to install an outdoor pay telephone within ninety (90) days may result in the Commission’s withdrawal of its approval.

607.3 The PSP shall notify the Commission, in writing, within ten (10) days after the date of installation of a pay telephone.

607.4 PSPs shall make reasonable efforts to ensure that outdoor pay telephones are located in areas that provide adequate lighting during the hours of darkness.

...

608 REMOVAL

...

608.3 If a PSP fails to comply with a written directive of the Commission or other District of Columbia governmental agency to remove a pay telephone, the Commission may, in its discretion, impose penalties pursuant to § 617.1, order the suspension of service to that instrument and/or order the termination of service to the PSP’s other pay telephones until such time as the PSP complies with the Commission’s or other District of Columbia governmental agency’s directive.

608.4 A pay telephone owned by a non-certified company may have dial tone service suspended as soon as the phone is identified as non-certified by the Commission. A non-certified owner will not be afforded time for corrective action pursuant to § 618. All such equipment must be removed, by the owner. The Commission will give thirty (30) days’ notice to the pay telephone owners to remove their equipment.

608.5 If the pay telephone is not removed by the owner of the pay telephone by the deadline established by the Commission, then the pay telephone may be removed by the Commission or other District of Columbia governmental agency. The owner of the pay telephone may be charged reasonable expenses for the removal.

609 PAY TELEPHONE SERVICES

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609.2 Pay telephones shall display prominently the following information:

- (a) The valid Registration Number issued to the PSP, pursuant to § 604.10;

...

610 TRANSFER OF OWNERSHIP OF REGISTERED PAY TELEPHONES

...

610.3 A Pay Telephone Transfer of Ownership form may be obtained from the Commission Secretary.

...

Section 612, INFORMAL CONFERENCE, is amended to read as follows:

612 INFORMAL COMPLAINTS

612.1 A complaint regarding the operation of a pay telephone may be filed with the Office of Consumer Services, which shall handle the matter as an informal complaint for resolution.

612.2 The procedures for informal complaints in § 323 shall apply to informal payphone complaints.

612.3 If the complaint is resolved informally, the Commission shall dismiss the matter upon the submission of a signed settlement agreement that sets forth the terms of the settlement.

612.4 Notice of informal proceedings shall be sent by certified mail to the Complainant(s), the PSP, the ANC Chairperson and Single Member District ANC Commissioner of the community in which the instrument is located, OPC, and the MPD District in which the instrument(s) is located or proposed to be located. The notice shall state that OPC is available to assist and/or represent the complainant.

612.5 If the Office of Consumer Services determines that a matter cannot be resolved informally, then within five (5) Business Days, the Office of Consumer Services shall notify the Complainant in writing and invite the Complainant to file a Formal Complaint with the Commission. The PSP, the ANC Chairperson and Single Member District ANC Commissioner of the community in which the instrument is located, OPC, local civic association chair (if any) and the MPD District in which the instrument(s) is located shall be copied on this notification. The notification shall:

- (a) State that the Complainant has the right to file, at no cost, a Formal Complaint, if he or she so desires;

- (b) State that a Formal Complaint must be filed within fourteen (14) Days of the date of mailing of the notification or the matter shall be dismissed;
- (c) Indicate the availability of assistance and legal representation by OPC and OPC’s address and telephone number;
- (d) Indicate that the Complainant may be represented by him or herself, by counsel, by OPC, or by a third party of the Complainant’s choosing; and
- (e) Set forth the Commission’s Formal Complaint and hearing procedures.

Section 613, FORMAL HEARINGS, is amended to read as follows:

613 FORMAL COMPLAINTS AND HEARINGS

613.1 A formal complaint shall conform to the requirements of § 324. Formal hearings shall be conducted in accordance with the procedures in § 325.

613.2 Within two (2) Business Days of the filing of the Complaint, the Office of the Commission Secretary shall notify and provide the affected a Notice of hearings sent by first-class mail postage prepaid to the Complainant(s), the PSP, the ANC Chairperson and Single Member District ANC Commissioner of the community in which the instrument is located, local civic association chair (if any), OPC, and the MPD District in which the instrument(s) is located or proposed to be located. The notice shall state that OPC is available to assist and/or represent the complainant.

613.4 – 613.12 – [DELETED]

615 DECISIONS AND APPEALS

615.1 The Hearing Officer shall render a decision within thirty (30) days after the close of the record.

615.2 Any party may appeal the Hearing Officer’s decision to the Commission pursuant to § 326. The appeal shall be served on the Complainant(s), the PSP, the ANC Chairperson and Single Member District ANC Commissioner of the community in which the instrument is located, local civic association chair (if any), OPC, and the MPD District in which the instrument(s) is located or proposed to be located.

615.3 – 615.19 – [DELETED]

Section 617, FINES, is amended as follows:

617 PENALTIES

- 617.1 Pursuant to D.C. Code §§ 34-706 and 34-708, a PSP that fails to comply with any lawful requirement or order of the Commission shall be subject to a fine of up to \$5,000 for each day that the PSP willfully fails to comply with the Commission’s order or directive.
- 617.2 Operation of a pay telephone without first registering the instrument with the Commission shall subject the PSP to a fine of up to \$5,000.

Section 618, SUSPENSION FOR VIOLATION, amends the title and Subsection 618.7 as follows:

618 SUSPENSION OF SERVICE FOR VIOLATION

...

618.7 **[DELETED]**

699 DEFINITIONS

699.1

...

ANC – Advisory Neighborhood Commission.

MPD – Metropolitan Police Department.

OPC – Office of the People’s Counsel.

Pay Telephone Service Provider (“PSP”) - Any corporation, company, association, partnership or person engaged in the business of providing pay telephone service.

...

3. Any person interested in commenting on the subject matter of this proposed rulemaking may submit written comments not later than thirty (30) days after publication of this

notice in the *D.C. Register* to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or electronically on the Commission's website at https://edocket.dcpsec.org/public/public_comments. Copies of the proposed rules may be obtained by visiting the Commission's website at www.dcpsec.org or at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPR should call (202) 626-5150 or send an email to psc-commissionsecretary@dc.gov.

DISTRICT DEPARTMENT OF TRANSPORTATION**NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD**

The District Department of Transportation is extending the public comment period on the proposed Residential Permit Parking Rulemaking to amend Chapter 24 (Stopping, Standing, Parking, and Other Non-Moving Violations), Chapter 26 (Civil Fines for Moving and Non-Moving Infractions), and Chapter 99 (Definitions), of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR), to establish regulations for residential permit parking. The original thirty (30) day public comment period, scheduled to end on November 11, 2018, is being extended to a sixty (60) day comment period, scheduled to end on December 11, 2018.

The proposed rules were published in the *D.C. Register* at 65 DCR 011504 on October 12, 2018. All comments received by Tuesday, December 11, 2018 will be considered.

A copy of the proposed rulemaking is available at the following link:
<https://dcregs.dc.gov/Common/NoticeDetail.aspx?NoticeId=N0074313>

All persons interested in commenting on the subject matter in the subject proposed rulemaking may file comments in writing, not later than Monday, November 26, 2018, with Cameron Stokes, Policy Analyst, Policy and Legislative Affairs Division, Office of the Director, District Department of Transportation, 55 M Street, S.E., 7th Floor, Washington, D.C. 20003. An interested person may also send comments electronically to publicspace.policy@dc.gov. Copies of the proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation's website at www.ddot.dc.gov.

Electronic submission is preferred.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES COORDINATING BOARD**

NOTICE OF SECOND EMERGENCY RULEMAKING

The Chairperson of the Construction Codes Coordinating Board (Chairperson), pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2012 Repl.)) and Mayor's Order 2009-22, dated February 25, 2009, as amended, hereby gives notice of the adoption of the following emergency rulemaking amending Chapter 1 (Administration and Enforcement) of Title 12 (D.C. Construction Codes Supplement of 2013), Subtitle A (Building Code Supplement of 2013) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessitated by the immediate need to revise provisions in the 2013 District of Columbia Building Code to clarify the requirements for registered design professionals for new construction, repair, expansion, addition or alteration projects submitted for permit.

This second emergency rulemaking was adopted on May 2, 2018 to become effective immediately. Pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), this emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness, and expired on September 2, 2018. A Notice of Emergency and Proposed Rulemaking was adopted on January 5th, 2018 and published into the *D.C. Register* on June 8, 2018 at 65 DCR 6188. The internal process for the final rulemaking and consideration of the comments submitted during the comment period for the proposed rulemaking is ongoing.

To clearly show the changes being made to the Construction Codes Supplement, additions are shown in underlined text and deletions are shown in ~~striktthrough~~ text.

Chapter 1, ADMINISTRATION AND ENFORCEMENT, of Title 12-A DCMR, BUILDING CODE SUPPLEMENT OF 2013, is amended as follows:

Section 105, PERMITS, is amended as follows:

Strike Section 105.3.10 in the 2013 District of Columbia Building Code in its entirety and insert a new Section 105.3.10 in the 2013 District of Columbia Building Code in its place to read as follows:

~~**105.3.10 Design Professional in Responsible Charge.**—All design for new construction work, alteration, repair, expansion, addition or modification work involving the practice of professional architecture shall be prepared only by an architect licensed by the District and work involving the practice of professional engineering shall be prepared only by an engineer licensed by the District. All drawings, computations, and specifications required for a building permit application for such work shall be prepared by or under the direct supervision of a~~

licensed architect or licensed engineer and shall bear the signature and seal of the architect or the engineer.

~~105.3.10.1 Exemptions.~~ ~~The professional services of a registered architect, professional engineer or an interior designer are not required for the following:~~

- ~~1. Work done under any of the exemptions from registration provided for in the laws of the District of Columbia governing the professional registration of architects, engineers and interior designers.~~
- ~~2. Nonstructural alteration of any *building* of R-3 occupancies or of any *building* under the jurisdiction of the *Residential Code*.~~
- ~~3. Preparation of drawings or details for cabinetry, architectural millwork, furniture, or similar interior furnishings, for any work to provide for their installation or for any work exempt from building permit by Section 105.2.~~
- ~~4. Preparation of drawings or details for the installation of water and sewer *building* connections to a single family residential *structure*. The *code official* is authorized to accept drawings and details prepared by a licensed plumber.~~

~~105.3.10.2 Substitute Design Professional.~~ ~~If the circumstances require, the *owner* shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge.~~

~~105.3.10.3 Attestation.~~ ~~An application for a building permit requiring a stamp from a design professional shall include an attestation by the design professional in responsible charge stating as follows:~~

- ~~(a) For architects: "I am responsible for determining that the architectural designs included in this application are in compliance with all laws and regulations of the District of Columbia. I have personally prepared, or directly supervised the development of, the architectural designs included in this application."~~
- ~~(b) For engineers: "I am responsible for determining that the engineering designs included in this application are in compliance with all laws and regulations of the District of Columbia. I have personally prepared, or directly supervised the development of, the engineering designs included in this application."~~

105.3.10 Registered Design Professional. The design of work for new construction, repair, expansion, addition or alteration projects submitted for permit shall comply with Sections 105.3.10.1 through 105.3.10.6 as applicable.

105.3.10.1 Architectural Services. Where the project involves the practice of architecture, as defined by D.C Official Code § 47-2853.61 (2015 Repl.), the corresponding permit documents shall be prepared by an architect licensed to practice architecture in the District of Columbia. All plans, computations, and specifications required to be submitted in connection with a permit application for such architectural work shall be prepared by or under the direct supervision of an architect with a valid and unexpired District of Columbia architecture license and shall bear the architect's signature and seal in accordance with the laws of the District of Columbia.

105.3.10.2 Engineering Services. Where the project involves the practice of engineering, as defined by D.C Official Code § 47-2853.131 (2015 Repl.), the corresponding permit documents shall be prepared by a professional engineer licensed to practice engineering in the District of Columbia. All plans, computations, and specifications required to be submitted in connection with a permit application for such engineering work shall be prepared by or under the direct supervision of a professional engineer with a valid and unexpired District of Columbia engineer license and shall bear the engineer's signature and seal in accordance with the laws of the District of Columbia.

Exception: An architect licensed in the District of Columbia is authorized to perform engineering work that is incidental to the practice of architecture, as permitted by D.C Official Code § 47-2853.61 (2015 Repl.).

105.3.10.3 Interior Design Services. Plans for non-structural alterations and repairs of a building, including the layout of interior spaces, which do not adversely affect any structural member, any part of the structure having a required fire resistance rating, or the public safety, health or welfare, and which do not involve the practice of architecture and engineering as defined by D.C Official Code §§ 47-2853.61 and 47-2853.131 (2015 Repl.), shall be deemed to comply with this section when such plans are prepared, signed and sealed by an interior designer licensed and registered in the District of Columbia in accordance with D.C Official Code § 47-2853.101 (2015 Repl.).

105.3.10.4 Exemptions. The professional services of a licensed architect, professional engineer or interior designer are not required for the following:

1. Work done under any of the exemptions from registration provided for in the laws of the District of Columbia governing the licensure of architects, professional engineers and interior designers.
2. Nonstructural alteration of any building of R-3 occupancies or of any building under the jurisdiction of the *Residential Code*.

3. Preparation of drawings or details for cabinetry, architectural millwork, furniture, or similar interior furnishings, for any work to provide for their installation or for any work exempt from permit by Section 105.2.
4. Drawings or details for the installation of water and sewer building connections to a single family residential structure prepared by a master plumber licensed pursuant to D.C Official Code § 47-2853.121 et seq. (2015 Repl.).

105.3.10.5. Registered Design Professional in Responsible Charge. The code official is authorized to require the owner to engage and designate on the permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. Where a registered design professional in responsible charge is required, the code official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

105.3.10.6 Attestations Required.

105.3.10.6.1 Registered Design Professional. The signature and seal of the registered design professional, where required by and in accordance with Section 105.3.10, shall serve as attestation of the following:

1. For architects: “I am responsible for determining that the architectural designs included in this application are in compliance with all relevant laws and regulations of the District of Columbia. I have personally prepared, or directly supervised the preparation of, the architectural designs included in this application.”
2. For engineers: “I am responsible for determining that the engineering designs included in this application are in compliance with all relevant laws and regulations of the District of Columbia. I have personally prepared, or directly supervised the preparation of, the engineering designs included in this application.”

105.3.10.6.2 Registered Design Professional in Responsible Charge. Where the code official determines that a registered design professional in responsible charge is required for any project, an attestation sealed and signed by the registered design professional in responsible charge engaged by the owner shall be submitted prior to the issuance of any and all certificate(s) of occupancy for the project. The attestation shall identify the registered design professional in charge

by name and registration number, shall identify the project or portion thereof being attested to, and shall state, to the *code official's* satisfaction, that the project or portion thereof has been completed in a manner that is substantially compatible with the design of the building that was the basis of the corresponding permit. Furthermore, the attestation shall state that changes from such permit documents, including but not limited to submittal documents prepared by others during the course of construction, and phased and deferred submittal items, have been reviewed and coordinated by the attesting *registered design professional in responsible charge.*

**DEPARTMENT OF BEHAVIORAL HEALTH
NOTICE OF FUNDING AVAILABILITY
RFA: #RMO DCCI 110918**

**DC CLUBHOUSE INITIATIVE
FOR INDIVIDUALS LIVING WITH A MENTAL ILLNESS**

Purpose/Description of Project

The District of Columbia Department of Behavioral Health (DBH) is soliciting applications to award one (1) Clubhouse start-up and implementation grant to expand the availability of mental health rehabilitative services for behavioral health consumers in the District of Columbia. The purpose of this funding is to provide infrastructure to a prospective DBH-certified Mental Health Rehabilitative Services (MHRS) Clubhouse Specialty Provider. The funding is intended to support the initial expense of hiring the Clubhouse Clinical Director and the implementation of DBH certification and Clubhouse International Accreditation. Expenses may include recruitment, salary, office space, training, computer/software, office supplies/furniture and consulting. The purpose of this grant award is to support individuals living with a mental illness by implementing a Clubhouse model of rehabilitation for the District.

Eligibility

Applicants must:

1. Be an organization located within the District of Columbia planning to assist individuals with behavioral health diagnoses to develop social networking, independent living, budgeting, self-care, and other skills that will assist them to live in the community and to prepare for securing and retaining employment.
2. Have an independent board of directors or if affiliated with a sponsoring agency have a separate advisory board comprised of individuals to provide financial advice, legal guidance, legislative assistance, employment development, consumer and community support, and advocacy for the Clubhouse.
3. Contribute a cash match of forty thousand dollars (\$40,000) to accomplish the purpose of the grant.
4. Agree to hire a full-time Program Director and Clinical Director by March 1, 2019.
5. Participate in DBH-mandated trainings such as Person Centered Treatment Planning Training, Documentation Web course, and Claims Review Committee Training.
6. Become a certified MHRS Clubhouse Specialty Provider by July 31, 2019, and begin the application process for the Clubhouse International Accreditation as a Clubhouse by September 30, 2019.
7. Maintain a physical space when applying for DBH certification that is separate from any mental health center or institutional settings, and is impermeable to other programs. The Clubhouse must have its own identity, including its own name, mailing address, telephone number when applying for DBH certification.
8. Enter into a Grant Agreement with DBH and comply with Agreement requirements and conditions.

Length of Award

Grant award will be made for a period of approximately eight (8) months from the date of award with an end date of September 30, 2019. The grant may be continued for up to (12) additional months and for up to 75% of the base year awarded amount based on documented success and availability of funding. Grant recipients will be expected to begin start-up activities by February 1, 2019.

Available Funding

Approximately forty thousand dollars \$40,000 is available to fund one (1) prospective Clubhouse Specialty Provider.

Request for Application (RFA) Release

The RFA will be released Friday, November 9, 2018. The RFA will be posted on the website of the Office of Partnerships and Grants, www.opgs.dc.gov under the District Grants Clearinghouse. Please direct any questions to Randall Raybon at randall.raybon@dc.gov.

Pre-Application Conference

A pre-application conference will be held at DBH, 64 New York Avenue, NE, Washington, DC, 20002 on Friday, November 16, 2018, from 10:00 a.m. – 11:00 a.m. ET. For more information, please contact Marina Soto at (202) 727-1595.

Deadline for Applications

The deadline for submission is Monday, December 10, 2018 at 4:45 p.m. ET.

DC INTERNATIONAL SCHOOL**REQUEST FOR PROPOSALS****Financial Advisory Services**

RFP for Financial Advisory Services: DCI invites written proposals from qualified firms interested in providing financial advisory services to DCI relative to the refinancing of approximately \$60MM in construction/mini permanent debt relative to our facility. Proposals are due no later than 12:00PM on Friday, November 16. Please contact rfp@dcinternationalschool.org for the complete RFP.

Student Local Trip Transportation

RFP for Student Local Trip Transportation: DCI is seeking competitive bids for local student trip transportation options. DCI is looking for a vendor who can provide bussing for student field trips and sports game transport. Please email your proposal and any questions to rfp@dcinternationalschool.org. Proposals must be received no later than the close of business Friday, November 16, 2018.

Substitute Teacher Providers

RFP for Substitute Teacher Providers: DCI is seeking competitive bids for on-call teacher substitute providers. DCI is looking for a vendor who can provide on call substitute teachers to fill as needed vacancies. Please email your proposal and any questions to rfp@dcinternationalschool.org. Proposals must be received no later than the close of business Friday, November 16, 2018.

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
OFFICE OF PUBLIC CHARTER SCHOOL FINANCING AND SUPPORT**

**ANNOUNCES NOVEMBER 15, 2018 PUBLIC MEETING
FOR THE DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL CREDIT
ENHANCEMENT COMMITTEE**

The Office of the State Superintendent of Education (OSSE) hereby announces that it will hold a public meeting for the District of Columbia Public Charter School Credit Enhancement Committee as follows:

**12:30 p.m. – 2:00 p.m.
Thursday Nov. 15, 2018
1050 First St. NE, Washington, DC 20002
Conference Room 536 (LeDroit Park)**

For additional information, please contact:

Debra Roane
Financial Program Specialist
Office of Public Charter School Financing and Support
Office of the State Superintendent of Education
1050 First St. NE, Fifth Floor
Washington, DC 20002
(202) 478-5940
Debra.Roane@dc.gov

The draft agenda for the above-referenced meeting will be:

- I. Call to Order
- II. Approval of agenda for the Nov. 15, 2018, committee meeting
- III. Approval of minutes from Oct. 18, 2018, committee meeting
- IV. Review Conflict of Interest – Transaction Disclosure Checklist
- V. Charter School Incubator Initiative - \$1,312,500 direct loan

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.

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, 5th Floor, Washington, DC, intends to issue Permit Nos. 6492-R1 and 6493-R1 to Howard University to operate two (2) identical 10.206 million Btu per hour natural gas fired boilers at the Law School located at 2900 Van Ness Street NW, Washington DC 20008. The contact person for the facility is Susan Dreyer, Director, Environmental, Health, and Safety at (202) 806-1006.

Emissions:

The estimated maximum annual emissions from each of the two (2) 10.206 MMBTU/hr natural gas-fired boilers are expected to be as follows:

Pollutant	Maximum Annual Emissions for Each Boiler (tons/yr)
Total Particulate Matter (PM Total)	0.45
Sulfur Dioxide (SO ₂)	0.04
Oxides of Nitrogen (NO _x)	1.56
Volatile Organic Compounds (VOC)	0.18
Carbon Monoxide (CO)	4.92

The proposed emission limits are as follows:

- a. Each of the two 10.206 MMBTU per hour natural gas fired boilers shall not emit pollutants in excess of those specified in the following table [20 DCMR 201]:

Boiler Emission Limits	
Pollutant	Short-Term Limit (lb/hr)
Carbon Monoxide (CO)	1.12
Oxides of Nitrogen (NO _x)	0.36
Total Particulate Matter (PM Total)	0.10
Sulfur Dioxide (SO ₂)	0.009

*PM Total includes both filterable and condensable fractions.

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the boilers, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the

public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

- d. Total suspended particulate matter (TSP) emissions from each of the boilers shall not exceed 0.10 pound per million BTU. [20 DCMR 600.1]

The permit applications and supporting documentation, along with the draft permits are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a public hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permits.

Comments on the draft permits 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 December 10, 2018 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

HEALTH BENEFIT EXCHANGE AUTHORITY**NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4th Floor, Washington, DC 20005 on **Wednesday, November 14, 2018 at 5:30 pm**. The call in number is 1-650-479-3208, and access code is 736 345 671. The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

DEPARTMENT OF HEALTH**STATE HEALTH PLANNING AND DEVELOPMENT AGENCY****INFORMATION GATHERING MEETING ON THE PROPOSED CLOSURE
OF PROVIDENCE HOSPITAL**

The D.C. State Health Planning and Development Agency (SHPDA) will hold an information gathering meeting on the notification that it has received from Providence Hospital regarding the proposed closure of the Hospital. The purpose of the meeting is to gather information from the Hospital and from stakeholders, interested/affected parties, and the general public regarding the proposed termination of services.

The meeting will convene on Friday, November 16, 2018, at 10:00 a.m., at 899 North Capitol Street, N.E., Sixth Floor, Conference Room 6002, Washington, DC 20002.

Representatives of Providence Hospital will be given a period of up to one hour in which to make their presentation. Each public commentator, whether scheduled or unscheduled, will have up to five minutes to present his or her statement. The time limit will be enforced by the Chairperson. Written statements may also be submitted to the SHPDA at 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002 until the record closes at 4:45 p.m. on Monday, November 26, 2018.

Persons wishing to provide information or make a statement should contact the SHPDA by Thursday, November 15, 2018 by 4:45 p.m. at (202) 442-5875.

**DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND
TENURE**

**Judicial Tenure Commission Begins Reviews of
Judges William C. Pryor, Kaye K. Christian, and Robert I. Richter**

This is to notify members of the bar and the general public that the Commission is reviewing the qualifications of **Judge William C. Pryor** of the District of Columbia Court of Appeals, and reviewing the qualifications of **Judges Kaye K. Christian and Robert I. Richter** of the Superior Court of the District of Columbia, who have requested recommendations for reappointment as Senior Judges.

The District of Columbia Retired Judge Service Act P.L. 98-598, 98 Stat. 3142, as amended by the District of Columbia Judicial Efficiency and Improvement Act, P.L. 99-573, 100 Stat. 3233, §13(1) provides in part as follows:

"...A retired judge willing to perform judicial duties may request a recommendation as a senior judge from the Commission. Such judge shall submit to the Commission such information as the Commission considers necessary to a recommendation under this subsection.

(2) The Commission shall submit a written report of its recommendations and findings to the appropriate chief judge of the judge requesting appointment within 180 days of the date of the request for recommendation. The Commission, under such criteria as it considers appropriate, shall make a favorable or unfavorable recommendation to the appropriate chief judge regarding an appointment as senior judge. The recommendation of the Commission shall be final.

(3) The appropriate chief judge shall notify the Commission and the judge requesting appointment of such chief judge's decision regarding appointment within 30 days after receipt of the Commission's recommendation and findings. The decision of such chief judge regarding such appointment shall be final."

The Commission hereby requests members of the bar, litigants, former jurors, interested organizations, and members of the public to submit any information bearing on the qualifications of Judges Pryor, Christian, and Richter which it is believed will aid the Commission. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting materials will be kept confidential unless expressly authorized by the person submitting the information.

All communications should be mailed, faxed, or e-mailed by **November 26, 2018**, and addressed to:

District of Columbia Commission on Judicial Disabilities and Tenure
Building A, Room 246
515 Fifth Street, N.W.
Washington, D.C. 20001
Telephone: (202) 727-1363
FAX: (202) 727-9718
E-Mail: dc.cjdt@dc.gov

In addition, comments may be submitted by an online survey available on the Commission's website, <https://www.cjdt.dc.gov>, and using the link "Evaluate Candidates". Access to the survey for Judges Christian and Richter is also available by using the link <https://www.surveymonkey.com/r/SeniorJudgeSuperiorCourt1216A>, and through the link <https://www.surveymonkey.com/r/SeniorJudgeCourtOfAppeals1217> for Judge Pryor.

The members of the Commission are:

Jeannine C. Sanford, Esq., Chairperson
Anthony T. Pierce, Esq., Vice Chairperson
Hon. Joan L. Goldfrank
Hon. Colleen Kollar-Kotelly
William P. Lightfoot, Esq.
David P. Milzman, M.D.
Nikki Sertsu

BY: /s/ Jeannine C. Sanford, Esq.
Chairperson

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Chromebook and Laptop Insurance**

KIPP DC is soliciting proposals from qualified vendors for Chromebook and Laptop Insurance. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on November 21, 2018. Questions can be addressed to scooter.ward@kippdc.org.

Onsite, Licensed Aftercare Services

KIPP DC is soliciting proposals from qualified vendors to provide Licensed Aftercare Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on December 13, 2018. Questions can be addressed to emmanuelle.stjean@kippdc.org.

Summer School Programming

KIPP DC is soliciting proposals from qualified vendors to provide Summer School Programming. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST, on December 13, 2018. Questions can be addressed to emmanuelle.stjean@kippdc.org.

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

**NOTICE OF PUBLIC DISPOSITION MEETING
PURSUANT TO D.C. OFFICIAL CODE §10-801
FOR 2 PATTERSON STREET NE**

The Office of the Deputy Mayor for Planning and Economic Development will conduct a public meeting to obtain community comment and suggestions on the proposed use of the District of Columbia owned property identified below

Property: 2 Patterson Street NE
Washington, DC 20001
Square 0672, Lot 0245

The public meeting will include presentations by the qualified respondents to the Request for Solicitation, which was published by the Office of the Deputy Mayor for Planning and Economic Development on June 22, 2018.

The date, time and location of the Public Meeting shall be as follows:

Date: Wednesday, November 28, 2018

Time: 6:30pm – 8:30pm

Location: Walker Jones School
1125 New Jersey Avenue NW
Washington DW 20001

Contact: Patrick Pendleton Smith, Project Manager
Patrick.smith3@dc.gov
(202) 724-6634

Government of the District of Columbia
Public Employee Relations Board

<hr/>)
In the Matter of:)
)
Fraternal Order of Police/Metropolitan)
Police Department Labor Committee)
(on behalf of Duane Fowler))
	PERB Case No. 18-E-02)
Petitioner/Complainant)
	Opinion No. 1681)
v.)
)
Metropolitan Police Department)
)
Respondent)
<hr/>)

DECISION AND ORDER

On January 22, 2018, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP”) filed pursuant to Rule 560.1 a Petition for Enforcement regarding PERB Case No 17-A-06, Slip Op. No. 1635. FOP alleges that MPD has failed to comply with Slip Opinion 1635, which was issued on August 25, 2017, regarding an arbitration award (“Award”) reinstating and awarding backpay to Officer Duane Fowler (“Grievant”). FOP is requesting the Board to enforce its Decision and Order of August 25, 2017. MPD opposes FOP’s Petition for Enforcement but did not contest the facts. Thus, as the uncontested facts establish the Union’s entitlement to relief, the Petition for Enforcement is granted.

I. Statement of the Case

On July 30, 2010, MPD terminated Officer Fowler due to his conviction on criminal charges and for making untruthful statements in the related criminal investigation.¹ Following his termination, the Union filed a grievance on his behalf. The grievance was denied. On August 24, 2010, the Union invoked arbitration.

On March 24, 2017, Arbitrator Kaplan issued an Award in which he stated, “The Grievant shall be reinstated forthwith. The Grievant is entitled to back pay and other lost benefits for the period he was wrongfully terminated.”²

¹ Petition Attachment 2 at 2.

² Petition Attachment 1 at 26-27.

Decision and Order
PERB Case No. 18-E-02
Page 2

On April 19, 2017, MPD filed an Arbitration Review Request (“Request”) seeking review of the March 24, 2017 Award. FOP opposed the Request. In its Request, MPD asserted that the Arbitrator’s conclusions on both charges were contrary to law and public policy.³ In Slip Opinion 1635, the Board found that MPD’s Request for Review did not meet the requirements for reversing the Award. Specifically, the Board found that the Arbitrator properly interpreted the law applied in the case and that there were no grounds presented to modify, set aside, or remand the Award.

MPD did not file a petition for review of the Board’s Decision and Order in D.C. Superior Court and has not reinstated Officer Fowler.

On January 22, 2018, the Union filed the instant Petition for Enforcement. FOP contends that MPD has failed to comply with Slip Opinion 1635. More specifically, FOP asserts that despite the Board’s denial of MPD’s arbitration review request, MPD has not reinstated Officer Fowler or provided him his back pay and benefits as required by the Award. FOP is requesting that the Board enforce Slip Opinion 1635 and compel MPD to comply with the terms of the Award.

II. The Union’s Entitlement to Relief

The elements for granting a petition for enforcement are present herein. The Department filed an arbitration review request. The Board affirmed the Award in Slip Opinion 1635.⁴ The Department did not appeal the Board’s decision to the Superior Court. The Union then filed the instant Petition. MPD filed a response admitting the material facts. Therefore, it is clear that MPD has not complied with the Award. MPD has not reinstated or provided back pay to Officer Fowler as required.

MPD’s failure to comply with the terms of the Award is not based on a genuine dispute over the terms of the Award but is rather a flat refusal to comply with it. The Board finds that MPD has no “legitimate reason” for its ongoing refusal to reinstate Officer Fowler or provide him with back pay and benefits as required by the Award. For the reasons noted above, we find that MPD has not complied with Slip Opinion 1635. It is undisputed that the Board’s order affirming the Award became final and that the Department did not comply with the Award. No dispute over the terms of the Award has been raised and no reason for noncompliance has been suggested. Therefore, the Petition for Enforcement is granted. The Board will seek judicial enforcement of its August 25, 2017 Decision and Order, as provided under D.C. Official Code § 1-617.13(b).

³ Petition Attachment 2.

⁴ *MPD v. FOP/MPD Labor Comm. (on behalf of Fowler)*, 64 D.C. Reg. 10115, Slip Op. No. 1635, PERB Case No. 17-A-06 (2017).

Decision and Order
PERB Case No. 18-E-02
Page 3

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee's petition for enforcement is granted.
2. Within ten (10) days from the issuance of this Decision and Order, the Metropolitan Police Department shall fully comply with the terms of the Award, if it has not already done so, and shall notify the Public Employee Relations Board in writing that it has complied.
3. The Board shall proceed with enforcement of Slip Opinion 1635 pursuant to D.C. Official Code §§ 1-605.02(16) and 1-617.13(b) if full compliance with the Award is not made and documented within ten (10) days of the issuance of this Decision and Order.
4. 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.

September 27, 2018

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in Case No. 18-E-02 was sent by File & ServeXpress to the following parties on this the 27th day of September 2018.

Nicole Lynch
Metropolitan Police Department
300 Indiana Ave. NW, room 4126
Washington, DC 20001

Marc L. Wilhite
Pressler & Senftle P.C.
1432 K St. NW, 12th Floor
Washington, DC 20005

/s/ Sheryl V. Harrington
Administrative Assistant

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
Fraternal Order of Police/Metropolitan)	
Police Department Labor Committee)	
(on behalf of Hiram Rosario))	
)	PERB Case No. 18-E-03
Petitioner/Complainant)	
)	Opinion No. 1682
v.)	
)	
Metropolitan Police Department)	
)	
Respondent)	
_____)	

DECISION AND ORDER

On March 1, 2018, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP”) filed pursuant to Rule 560.1 a Petition for Enforcement regarding PERB Case No 17-A-01, Slip Op. No. 1615. FOP alleges that MPD has failed to comply with Slip Opinion 1615, which was issued on April 4, 2017, regarding an arbitration award (“Award”) reinstating Officer Hiram Rosario (“Grievant”) to his position in the Master Patrol Officer Program and awarding him any loss of pay or other benefits which resulted from his removal from that program. FOP is requesting the Board to enforce its Decision and Order of April 4, 2017. MPD opposes FOP’s Petition for Enforcement but does not contest the facts. Thus, as the uncontested facts establish the Union’s entitlement to relief, the Petition for Enforcement is granted.

I. Statement of the Case

On September 7, 2005, MPD notified Officer Rosario that he was being removed from the Master Patrol Officer Program due to his misconduct for events that occurred in May and July of 2004.¹ Following his removal, the Union filed a grievance on his behalf. The grievance was denied. The Union invoked arbitration.

¹ Petition Attachment 2 at 2.

Decision and Order
PERB Case No. 18-E-03
Page 2

On October 17, 2016, Arbitrator Miller issued an Award that ordered that Officer Rosario be reinstated to his former position and be made whole for any loss of pay or other benefits resulting from his removal from the program.²

On November 7, 2017, MPD filed an Arbitration Review Request (“Request”) seeking review of the October 17, 2016 Award. FOP opposed the Request. In its Request, MPD asserted that the Arbitrator’s conclusions were contrary to law and public policy.³ In Slip Opinion 1615, the Board found that MPD’s Request for Review did not meet the requirements for reversing the Award. Specifically, the Board found that the Arbitrator properly interpreted the law applied in the case and that there were no grounds presented to modify, set aside, or remand the Award.

On May 4, 2017, the Department filed in D.C. Superior Court a petition for review of the Board’s denial of the Department’s arbitration review request. The Department filed a praecipe withdrawing this petition in D.C. Superior Court on November 2, 2017. The D.C. Superior Court dismissed the case on November 3, 2017.

On March 1, 2018, the Union filed the instant Petition for Enforcement. FOP contends that MPD has failed to comply with Slip Opinion 1615. More specifically, FOP asserts that despite the Board’s denial of MPD’s arbitration review request, MPD has not reinstated Officer Rosario to his former position or provided him with back pay and benefits as required by the Award. FOP is requesting that the Board enforce Slip Opinion 1615 and compel MPD to comply with the terms of the Award.

II. The Union’s Entitlement to Relief

The elements for granting a petition for enforcement are present herein. The Department filed an arbitration review request. The Board affirmed the Award in Slip Opinion No. 1615.⁴ The Union then filed the instant Petition. MPD filed a response admitting the material facts. Therefore, it is clear that MPD has not complied with the Award. MPD has not reinstated Officer Rosario to his prior position or provided back pay and benefits as required.

MPD’s failure to comply with the terms of the Award is not based on a genuine dispute over the terms of the Award but is rather a flat refusal to comply with it. The Board finds that MPD has no “legitimate reason” for its ongoing refusal to reinstate Officer Rosario or provide him with back pay and benefits as required by the Award. For the reasons noted above, we find that MPD has not complied with Slip Opinion 1615. It is undisputed that the Board’s order affirming the Award became final and that the Department did not comply with the Award. No dispute over the terms of the Award has been raised and no reason for noncompliance has been suggested. Therefore, the Petition for Enforcement is granted. The Board will seek judicial

² Petition Attachment 1 at 26.

³ Petition Attachment 2.

⁴ *MPD v. FOP/MPD Labor Comm. (on behalf of Rosario)*, 64 D.C. Reg. 4893, Slip Op. No. 1615, PERB Case No. 17-A-01 (2017).

Decision and Order
PERB Case No. 18-E-03
Page 3

enforcement of its April 4, 2017 Decision and Order, as provided under D.C. Official Code § 1-617.13(b).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee’s petition for enforcement is granted.
2. Within ten (10) days from the issuance of this Decision and Order, the Metropolitan Police Department shall fully comply with the terms of the Award, if it has not already done so, and shall notify the Public Employee Relations Board in writing that it has complied.
3. The Board shall proceed with enforcement of Slip Opinion 1615 pursuant to D.C. Official Code §§ 1-605.02(16) and 1-617.13(b) if full compliance with the Award is not made and documented within ten (10) days of the issuance of this Decision and Order.
4. 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.

September 27, 2018

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in Case No. 18-E-03 was sent by File & ServeXpress to the following parties on this the 27th day of September 2018.

Nicole Lynch
Metropolitan Police Department
300 Indiana Ave. NW, Room 4126
Washington, DC 20001

Marc L. Wilhite
Pressler & Senftle P.C.
1432 K St. NW, 12th Floor
Washington, DC 20005

/s/ Sheryl V. Harrington
Administrative Assistant

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFFFORMAL CASE NO. 1140, IN THE MATTER OF THE INVESTIGATION INTO THE ESTABLISHMENT OF A PURCHASE OF RECEIVABLES PROGRAM FOR NATURAL GAS SUPPLIERS AND THEIR CUSTOMERS 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 Code and in accordance with Section 2-505 of the District of Columbia Code,¹ of its intent to act upon the proposed amendments to Firm Delivery Service Gas Supplier Agreement – Rate Schedule No. 5, of Washington Gas Light Company’s (WGL or Company) General Regulations Tariff in not less than 30 days after the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.²

2. The proposed tariff revisions are related to WGL’s implementation of its Purchase of Receivables (POR) program for natural gas suppliers and their customers in the District. To implement the POR program, on October 23, 2018, WGL filed a revised Rate Schedule No. 5 of its tariff, which governs the relationship between competitive service providers (CSPs) and WGL. This NOPT supersedes WGL’s previous POR NOPT.³

3. Generally, in Rate Schedule No. 5, pages 27B, 27E, 27G, 27GG, 27GGG, 27H, and 27HH, WGL sets forth the calculation of the discount rate for the POR program, and the mechanism for implementing the POR program. Specifically, WGL lists the components of the discount rate – bad debt expense, implementation costs, incremental collection costs, cash working capital costs, risk factor, reconciliation factor, and late payment revenues.⁴ WGL’s proposed tariff allocates separate discount rates on the receivables associated with Residential customers and Non-Residential customers.⁵ WGL’s discount rate for Residential customers is 3.836%⁶ and for Non-residential customers, WGL’s discount rate is 1.392%.⁷ Further, payment

¹ D.C. Code §§ 2-505 and 34-802 (2001).

² *Formal Case No. 1140, In the Matter of the Investigation into the Establishment of a Purchase of Receivables Program for Natural Gas Suppliers and Their Customers in the District of Columbia (Formal Case No. 1140)*, Order No. 19719, rel. October 17, 2018.

³ 64 *D.C. Reg.* 11359-11360 (October 27, 2017); 65 *D.C. Reg.* 3058-3059 (March 23, 2018).

⁴ *Formal Case No. 1140*, Washington Gas Lights Company’s Response to Order No. 19719 (WGL Response), filed October 23, 2018; Appendix at 12.

⁵ *Formal Case No. 1140*, WGL Response; Appendix at 1, 12.

⁶ *Formal Case No. 1140*, WGL Response, Appendix at 1.

⁷ *Formal Case No. 1140*, WGL Response, Appendix at 1.

to natural gas suppliers will occur twice a month, but the Company has the right to hold back or reverse payment on any disputed charges. The CSP enrollment and exit from the POR program will be administered in accordance with specific monthly deadlines as set forth in the tariff.

4. The Commission hereby gives this notice of WGL's proposed tariff amendments associated with the POR program. WGL proposes to revise the following tariff pages of P.S.C. - D.C. No. 3:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3
Eleventh Revised Page No. 2B
Fourth Revised Page No. 27E
Ninth Revised Page No. 27G
Original Page No. 27GG
Original Page No. 27GGG
Eight Revised Page No. 27H
Original Page No. 27HH

5. Any person interested in commenting on the subject matter of this NOPT may submit written comments not later than 30 days after publication of this notice in the *D.C. Register* to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or electronically on the Commission's website at https://edocket.dcpssc.org/public/public_comments. Copies of the NOPT may be obtained by visiting the Commission's website at www.dcpssc.org or at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPT should call (202) 626-5150 or send an email to psc-commissionsecretary@dc.gov.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after December 15, 2018.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on November 9, 2018. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
Recommendations for Appointments as DC Notaries Public

Effective: December 15, 2018

Page 2

Arevalo	Marvila S.	Kelley Drye & Warren, LLP 3050 K Street, NW, Suite 400	20007
Ayala Cruz	Cristela Yamileth	Premium Title & Escrow, LLC 3407 14th Street, NW	20010
Bade-Ajidahun	Atinuke O.	Bank of America 201 Pennsylvania Avenue, SE	20003
Bah	Gassimou	Wells Fargo Bank 1300 I Street, NW, 12th Floor	20005
Baker	Melissa J.	The Ross Center 5225 Wisconsin Avenue, NW, Suite 400	20015
Bernal	Antonio	Bank of America 5201 Wisconsin Avenue, NW	20015
Blake	Maxwell	Bank of America 1001 Pennsylvania Avenue, NW	20004
Boone Jr.	Charles M.	Population Services International 1120 19th Street, NW	20036
Bradley	Barbara A.	National Geographic Society 1145 17th Street, NW	20036
Brown	Cassandra M,	Self (Dual) 2250 12th Place, NW	20009
Butler	Aleria Elyse	Georgetown University Law Center 600 New Jersey Avenue, NW	20001
Carlson	Donna S.	Avenue Settlements 2401 Pennsylvania Avenue, NW, Suite H	20037
Carroll	Joy H.	Self 4304 21st Street, NE	20018
Corridan	Anne B.	Buckley Sandler, LLP 1250 24th Street, NW, Suite 700	20037

D.C. Office of the Secretary **Effective: December 15, 2018**
Recommendations for Appointments as DC Notaries Public **Page 3**

Crofoot	Emily	Digital Promise 1001 Connecticut Avenue, NW, Suite 20036 935	
Crowley	J'son A.	National Democratic Institute 455 Massachusetts Avenue, NW, Floor 8	20001
Davin	Ann K.	Clifford Chance US, LLP 2001 K Street, NW	20001
Delgado	Michelle	PNC Bank 5530 Connecticut Avenue, NW	20015
Dixon	Joy CB.	O'Donoghue & O'Donoghue, LLP 5301 Wisconsin Avenue, NW, Suite 800	20015
Dixon	Marilyn A.	Self 819 Longfellow Street, NW	20011
Dunklee	Teresa J.	Ashcraft & Gerel, LLP 1825 K Street, NW	20006
Ellison-Blue	Sheryl E.	Sheryl E Ellison-Blue, ESQ 1374 Tuckerman Street, NW	20011
Evans	Elnora B.	Northside Medical Service, Inc 4121 Minnesota Avenue, NE	20019
Fianko-Ofori	Elsie	Bank of America 4301 49th Street, NW	20016
Finwall	Vania R.	Marmara Corporation 1125 Okie Street, NE	20002
Frye	Penny	Schertler & Onorato, LLP 901 New York Avenue, NW, Suite 500 West	20001
Ghee	Hailey J.	United States Department of Agriculture 1400 Independence Avenue, SW	20250
Gilkey	Lorna M.	Miller and Chevalier Chartered 900 16th Street, NW	20006

D.C. Office of the Secretary Effective: December 15, 2018
 Recommendations for Appointments as DC Notaries Public Page 4

Classic	Thomas M.	Thomas M. Classic, Esq 1835 California Street, NW	20009
Griffin	Frank	Self 1113 McCollough Court, NW, # 101	20001
Gross	Trina I	Hope Community Public Charter School 6200 Kansas Avenue, NE	20011
Gunn	Gaynell Fay	Greenberg Traurig, LLP 2101 L Street, NW, Suite 1000	20037
Harder-Washington	Alana	Sidley Austin, LLP 1501 K Street, NW	20005
Harris	Mia P.	Information Technology Industry Council ITIC 1101 K Street, NW	20005
Hemans	Tiffany T.	Ecolab 300 New Jersey Avenue, NW, Suite 601	20001
Henry	Alesia	Self 1125 42nd Street, NE	20019
Hernandez Rubio	Napoleon	Department of Labor FCU 200 Constitution Avenue, NW	20210
Hilliard	Latonya	Department of Labor FCU 200 Constitution Avenue, NW	20210
Jackson	Rosalind	United States House of Representatives H2-189 Ford House Office Building	20515
Jankowski	Thomas Michael	Self (Dual) 1772 Hobart Street, NW	20009
Johnson	Delenia A.	Self 6600 Georgia Avenue, NW, Apartment 2B	20012
Jones	Angela D.	Foxhall Medicine, PLLC 3301 New Mexico Avenue, NW, Suite 202	20016

D.C. Office of the Secretary **Effective: December 15, 2018**
Recommendations for Appointments as DC Notaries Public **Page 5**

Jones	Khadija	EASE Property Services 231 Upshur Street, NW	20011
Kennedy	Kimberly	American Federation of Government Employees 80 F Street, NW	20001
Kidd	Linda Diane	National Association of Insurance Commissioners 444 North Capitol Street, NW, Suite 700	20001
Liggins	LaVerne Pamela	Self 1511 38th Street, SE	20020
LLontop Maldonado	Alejandra	Clark Law Group, PLLC 1100 Connecticut Avenue, NW, Suite 920	20036
Lyons	Rickeata Leonora	Bank of America 2100 Martin Luther King Jr. Avenue, SE	20020
Mahadalle	Danita	Holiday Inn Central 1501 Rhode Island Avenue, NW	20005
Mayo	Linda R.	Oculus Realty, LLC 2900 Connecticut Avenue, NW, Suite 6	20008
Morales	Delmy P.	Latin American Youth Center 1419 Columbia Road, NW	20009
Ngue	Ivain Zacharie	United States Securities and Exchange Commission 100 F Street, NE	20549
Pastor	Reynaldo C.	Freshfields Bruchaus Deringer 700 13th Street, NW, 10th Floor	20005
Perkins	Ulonda A.	The Washington Times 3600 New York Avenue, NE	20002
Phillips	Michelle B.	Toyota Motor North America, Inc 325 7th Street, NW, Suite 1000	20004

D.C. Office of the Secretary **Effective: December 15, 2018**
Recommendations for Appointments as DC Notaries Public **Page 6**

Raj	Rashee	Self 1150 4th Street, SW, Apartment T101	20024
Reed	Janai	Law and Litigation Services, LLC 460 L Street, NW, Suite 830	20001
Reyes	Karen E.	Arent Fox, LLP 1717 K Street, NW	20006
Robinson	Madina M.	Orrick, Herrington & Sutcliffe, LLP 1152 15th Street, NW	20005
Schenewerk	Megan	NRCC 320 First Street, SE	20036
Sisco	Lydia D.	Suntrust Bank 1275 K Street, NW	20005
Slye	Norman	Self 822 20th Street, NE	20002
Spinner	Alice Y.	Marriott Wardman Park 2660 Woodley Road, NW	20008
Stevens	Mary Beth	Washington Gas Light Company 1000 Maine Avenue, SW	20024
Stoney	Cherea	Avalon Consulting Group 805 15th Street, NW, Suite 700	20005
Tapolo	David	Self 317 60th Street, NE	20019
Thomas V	John F.	Great Jones Capital 1710 Connecticut Avenue, NW, Suite 300	20009
Thornton	Angela C.	Office of Disciplinary Counsel 515 5th Street, NW, Suite 117	20001
Towns	Stefanie	Planet Depos 1100 Connecticut Avenue, NW, Suite 900	20036

D.C. Office of the Secretary **Effective: December 15, 2018**
Recommendations for Appointments as DC Notaries Public **Page 7**

Townsend	Jennifer L.	Northstar Tutoring 1419 Columbia Road, NW	20009
Trimmer	Letha	United States Department of Education 550 12th Street, SW, Suite 8156	20024
Turner	Michelle D.	Bureau of Engraving and Printing 14th & C Street, SW, Room 419A	20228
Tutt	Arlene F.	Self 2016 Otis Street, NE	20018
Ventura	Milagro	American University 4300 Nebraska Avenue, NW	20017
Walker	Theresa J.	Wells Fargo 1750 H Street, NW, Suite 550	20006
Ware	Marissa	White Ribbon Alliance 1901 Pennsylvania Avenue, NW	20006
Warren	Linda M.	The Gale Eckington 151 Q Street, NE	20002
Washington	Jon-Michael	Financial Integrity Network 1919 M Street, NW	20036
Watkins	Melissa Y.	Baker and McKenzie, LLP 815 Connecticut Avenue, NW	20006
Weinberg	Steven	Law Office of Steven Weinberg 2141 P Street, NW, #103	20037
White	Jessica C.	United States Department of Justice 601 D Street, NW	20004
Winslow	Madeline D.	Brown and Peisch, PLLC 850 10th Street, NW	20001
Winters	Kathleen G.	Shipman & Goodwin, LLP 1875 K Street, NW, Suite 600	20006
Wise	Rene'	United States Securities and Exchange Commission 100 F Street, NE	20549

D.C. Office of the Secretary
Recommendations for Appointments as DC Notaries Public

Effective: December 15, 2018

Page 8

Yost	Christina Cecilia	O'Donoghue & O'Donoghue, LLP 5301 Wisconsin Avenue, NW, Suite 800	20015
Yourick	Isabelle V.	Arent Fox, LLP 1717 K Street, NW	20006

WASHINGTON YU YING PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Behavior Management Consultation based on the Collaborative and Proactive Solutions Model**

Washington Yu Ying is currently seeking a reputable social emotional development contracting agency to provide behavior management consultation for classroom teachers in their elementary school in Washington, D.C The contracting company will provide consulting sessions for cohort of teaching staff as well as professional development for all teaching staff on the steps and development of the collaborative and proactive solutions model of behavior management.

Deadline for submissions is close of business November 21, 2018. Please e-mail proposals and supporting documents to RFP@washingtoneying.org. Please specify “RFP for Behavior Management Consultation” in the subject line.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Operations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will be holding a meeting on Thursday, November 15, 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 linda.manley@dcwater.com.

DRAFT AGENDA

- | | | |
|-----|-------------------------------|---|
| 1. | Call to Order | Committee Chairperson |
| 2. | AWTP Status Updates | Assistant General Manager,
Plant Operations |
| | 1. BPAWTP Performance | |
| 3. | Status Updates | Chief Engineer |
| 4. | Project Status Updates | Director, Engineering &
Technical Services |
| 5. | Action Items | Chief Engineer |
| | - Joint Use | |
| | - Non-Joint Use | |
| 6. | Water Quality Monitoring | Assistant General Manager,
Consumer Services |
| 7. | Action Items | Chief Engineer
Assistant General Manager,
Consumer Services |
| 8. | Emerging Items/Other Business | |
| 9. | Executive Session | |
| 10. | 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 Tuesday, November 13, 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.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | |
|--|-----------------------|
| 1. Call to Order | Committee Chairperson |
| 2. October, 2018 Financial Report | Committee Chairperson |
| 3. Agenda for December, 2018 Committee Meeting | Committee Chairperson |
| 4. Adjournment | Committee Chairperson |

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

Application No. 19480 of Ilya Zusin, pursuant to Subtitle X § 901, Subtitle E § 5007, and Subtitle E § 5201, for a special exception from the lot occupancy requirements of Subtitle E § 304.1, the lot occupancy requirements for accessory buildings of Subtitle E § 5003.1, and the rear yard requirements for accessory buildings of Subtitle E § 5004.1, to allow construction of an accessory two-story carriage house in the RF-1 Zone at premises 202 9th Street, S.E. (Square 944, Lot 814).

HEARING DATES: April 19, 2017 and May 17, 2017
DECISION DATES: June 14, 2017 and June 28, 2017

DECISION AND ORDER

This self-certified application was submitted on February 17, 2017 by Ilya Zusin, the owner of the property that is the subject of the application (the “Applicant”). The application requested special exception relief to allow construction of a two story carriage house¹ as an accessory building that would not meet requirements for lot occupancy, lot occupancy for an accessory building, or the rear yard requirements for an accessory building in the RF-1 district at 202 9th Street, S.E. (Square 944, Lot 814) (“subject property”). After a public hearing, the Board of Zoning Adjustment (“Board” or “BZA”) voted to grant the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated February 23, 2017, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 6 as well as the Chairman and the four at-large members of the D.C. Council; Advisory Neighborhood Commission 6B (the “ANC”), the ANC in which the subject property is located; and Single Member District/ANC 6B05. Pursuant to 11 DCMR Subtitle Y § 402.1, on January 4, 2017 the Office of Zoning mailed letters providing notice of the hearing to the Applicant, the Councilmember for Ward 6, ANC 6B, and the owners of all property within 200 feet of the subject property. Notice was published in the *District of Columbia Register* on March 3, 2017 (64 DCR 2397).

Party Status. The Applicant and ANC 6B were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application from Candace Gill

¹ The term “carriage house” is not defined in the Zoning Regulations, or in Webster’s Dictionary. The Board takes note that the term has been widely used to refer to accessory buildings used for residential, storage, and parking uses. See *Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164 (D.C. 1990).

(“Party in Opposition”), the owner of a residence abutting the subject property to the north with an address of 905 Independence Avenue, S.E. (Exhibit 38.)

Applicant’s Case. The Applicant provided evidence and testimony about the planned accessory building, and asserted that the proposal would satisfy all requirements for approval of the requested zoning relief. With his pre-hearing statement dated March 29, 2017 (Exhibit 34), the Applicant submitted a Zoning Map (Exhibit 34A), a copy of HPRB’s concept approval of the design (Exhibit 34B), a report from EHT Traceries regarding whether the window located on 905 Independence Avenue was original to the structure or was added some time later (Exhibit 34C), a copy of BZA Order 17251 (Exhibit 34D), and eight letters in support of the application.² (Exhibit 34E.) On March 29, 2017, the Applicant also submitted a zoning analysis prepared by his architect, photographs showing the existing site conditions, a site plan showing neighboring properties, architectural plans showing the proposed new accessory carriage house, including elevation and section drawings showing the relationship between the proposed accessory carriage house to adjacent buildings and views from public ways. (Exhibit 35.) On May 11, 2017, the Applicant submitted revised architectural plans showing a more accurate depiction of the depth of the carriage houses to the south of the Applicant’s proposed new accessory structure. (Exhibit 106.)

Correction of Applicant’s pre-hearing statement. On April 13, 2017, the Applicant filed a motion requesting that he be allowed to file a revised pre-hearing statement. (Exhibit 79.) The Applicant’s attorney stated that he had erroneously included in the conclusion of the pre-hearing statement that the Applicant was seeking approval of an application to permit an eating and drinking establishment on the Property, and that the mistake was a scrivener’s error. Attached to the motion was a corrected pre-hearing statement with exhibits. (Exhibit 80.) The Board granted the motion.

Continuance. The party in opposition requested a postponement of the April 19, 2017 hearing. (Exhibit 56.) The Applicant originally opposed the postponement (Exhibit 71), then consented to the postponement. (Exhibit 93.) On April 19, 2017, the Board opened the hearing, granted the request for party status, considered the submissions related to the continuance, and continued the rest of the hearing until May 17, 2017.

OP Reports. OP submitted four reports in this case. By memorandum dated April 7, 2017³, the Office of Planning recommended approval of the three special exceptions requested by the Applicant. (Exhibit 81.) In a supplemental report dated May 5, 2017, OP expanded its analysis and included additional information, and again recommended approval of the application.

² Two of the letters were signed by the same person, listing different addresses as his residence. Another letter of support was later rescinded by the signatory, who then opposed the application.

³ OP stated that it submitted the report on April 6th via IZIS, but it was not included in the exhibits of the case as of April 13, 2017, so it resubmitted the same report again on April 13, 2017.

(Exhibit 103.) In a second supplemental report dated May 24, 2017, OP responded to questions asked by the Party in Opposition. (Exhibit 122.) In a third supplement report dated June 16, 2017, OP again responded to questions asked by the Party in Opposition. (Exhibit 129.)

DDOT. By memorandum dated April 5, 2017, the District Department of Transportation indicated no objection to approval of the application. (Exhibit 39.)

ANC Report. By letter dated April 14, 2017, ANC 6B indicated that, at a properly noticed public meeting on April 12, 2017 with a quorum present, the ANC voted to support the application without stating any issues or concerns. (Exhibit 88.) The letter mentioned an enclosed Form 129, which appears as Exhibit 89. That form only referenced the lot occupancy request. The ANC submitted a second Form 129 on April 15th. That form added a reference to the side yard relief and indicated that the ANC “determined that granting these special exceptions would not be inconsistent with the general intent and purpose of the Zoning regulations”, and for that reason recommended that the Board “grant the Special Exceptions to construct an accessory two-story carriage house for use as covered parking and an office.” (Exhibit 98.)

Party in Opposition. The Party in Opposition, Ms. Gill, contended that the Applicant’s proposed accessory building would cause a loss of light and air to her property by enclosing her kitchen window, and diminish the value of her property. (Exhibit 96.) On May 13, 2017, Ms. Gill submitted photographs showing conditions on her property (Exhibit 107), and conditions in the alley (Exhibit 108-111.) On May 15, 2017, Ms. Gill submitted additional photographs showing the exterior of her property, and conditions on the subject property at various points in time. (Exhibit 112.) On May 16, 2017, Ms. Gill submitted tax documents related to her property. (Exhibit 113.) On May 17, 2017, Ms. Gill submitted a copy of a newspaper article (Exhibit 114), contested several factual assertions made by the Applicant (Exhibit 115), submitted additional photographs showing conditions of her property (Exhibit 116), and a copy of a building permit. (Exhibit 117.)

Persons in support. With his pre-hearing statement dated March 29, 2017 the Applicant submitted eight letters in support of the application.⁴ (Exhibit 34E.) A letter of support was submitted April 12, 2017 by Karen Kerr and Pierre Chone, who reside two doors away at 206 9th Street, S.E. (Exhibit 70.) The letter stated that they supported the application because the Applicant’s property was one of the few on the alley that lacked a carriage house, and that the Applicant’s proposed carriage house would enhance security for adjacent houses and improve the appearance of the alley. A letter of support was submitted on April 18, 2017 by the Capitol Hill Restoration Society Zoning Committee. (Exhibit 95.) An additional letter of support was submitted on April 21, 2017 by Amy Dinan, who stated she believed the proposed carriage house would improve the block. (Exhibit 101.)

⁴ Two of the letters were signed by the same person, listing different addresses as his residence. Another letter of support was later rescinded by the signatory, who then opposed the application.

Persons in opposition. The Board received letters from persons in opposition to the application. The persons in opposition objected that the Applicant's proposed accessory building be used for commercial use, would compound parking difficulties in the area, and would negatively impact Ms. Gill's property's access to light and air.

FINDINGS OF FACT

1. The subject property is located on the east side of 9th Street, S.E. near its intersection with Independence Avenue (Square 944, Lot 814).
2. The subject property has a total land area of 2,452 square feet and is improved with a two-story attached building used as a principal dwelling. It is a rectangular shaped lot with approximately 23 feet of street frontage on 9th Street S.E., and a depth of approximately 106 feet. The rear of the lot faces a public alley.
3. Square 944 is bounded by Independence Avenue to the north, 9th Street to the west, C Street to the south, and 10th Street to the east. The Square is bisected by a 20-foot north-south alley that runs from Independence Avenue to C Street. A majority of the buildings in the square are attached and located on rectangular lots of a typical Capitol Hill row pattern. Many of the attached dwelling units in the square have accessory structures, including the properties surrounding the subject property.
4. The subject property is located in an RF-1 Zone, where applicable zoning provisions are intended, among other things, to recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city. (Subtitle E § 100.3(a).)

Proposed project

5. The Applicant proposes to construct a two-story accessory structure⁵ (a carriage house) at the rear of the subject property. The carriage house will have a height of 20 feet at the building height measuring point. At its tallest point, the carriage house will have a height of approximately 23½ feet with a chimney that extends approximately two feet above that.
6. The western wall of the Applicant's proposed accessory structure is 24 feet from, and parallel to, the alley. The western walls of Ms. Gill's carriage house, and the western wall of the garage located to the south of subject property, are also 24 feet from, and

⁵ The Zoning Regulations use both the terms "accessory building" and "accessory structure" to describe what the Applicant proposes to construct. The development standards refer to "accessory buildings", while 11-E DCMR § 5201, which allows for deviations from those standards, refers to "accessory structures." For the purposes of this order, the Board will use each term in its applicable context.

parallel, to the alley. An outdoor fireplace will be attached to the western wall of the proposed carriage house and will project 2 ½ feet into the rear yard. There is also a chimney projection on Ms. Gill's property. With the exception of these projections, the western walls of the three carriage houses will align at an even depth.

7. Parking for two automobiles will be provided in the first floor garage of the accessory structure. The garage will be accessed via the public alley. The second floor of the accessory building will be used as an office for the residents of the primary dwelling and/or as auxiliary living space by the residents of the primary dwelling.
8. The combined lot occupancy for the principal building and the proposed accessory building is 68.9%. The maximum permitted combined lot occupancy as a matter of right is 60% pursuant to 11-E DCMR § 304.1.
9. The lot occupancy for the proposed accessory building itself is 566 square feet. The maximum permitted lot occupancy for an accessory structure is 450 square feet, pursuant to Subtitle 11-E DCMR § 5003.1.
10. The rear yard measured from the center line of the alley for the proposed carriage house is 10 feet. A rear yard of 12 feet is required by 11-E DCMR § 5004.1.

Neighboring properties

11. To the north of the subject property are lots 63 and 64.
12. Lot 63 has an address of 200 9th Street, N.E and is improved with a two-story semi-detached building.
13. Lot 64 is located at the intersection of Independence Avenue, S.E. and the north-south alley. The Property is owned by the Party in Opposition and is improved with a carriage house residence at premises 905 Independence Avenue.
14. To the south of the subject property is lot 22, which has an address of 204 9th Street, S.E. It is improved with a two and a half story attached building with an accessory garage at the rear of the property. The north face of this garage is separated from the northern property line with the subject property by an approximately three-foot wide walkway leading to the alley.
15. To the east of the subject property is the 20-foot wide north-south alley dividing Square 944. Across the alley is a row of accessory structures facing the alley in the rear yards of the primary structures facing 10th Street, S.E.
16. To the west of the subject property is 9th Street, S.E. On the opposite side of the street is a row of attached dwellings.

The light and air available to neighboring properties

17. The Applicant's proposed accessory structure would block a 24-inch by 32-inch window that opens onto the kitchen of the residence owned by the Party in Opposition. This is the only window on the south side of that building, which was constructed to the property line adjacent to the Applicant's property. There is no side yard required for an accessory structure in the RF-1 Zone District. (11-E DCMR § 5005.1.) Therefore, the window was constructed at the risk that it would someday be blocked through the construction of an accessory structure with no side yard, as is happening here.

The privacy of use and enjoyment of neighboring properties

18. The proposed west-facing windows would be approximately 30 feet from the rear walls of neighboring structures and the oblique views from the proposed carriage house's second story would not likely intrude on the privacy of adjacent structures.
19. The existing principal structure's west-facing windows overlook the same back yards that the proposed carriage house's west-facing windows would overlook, and would, thus, not further compromise the privacy or use of these back yards.
20. The proposed structure would have no views into the north-adjacent carriage house residence or its yard.
21. The privacy of properties to the east would be protected by the combined width of the alley and rear yard depths to the east, as well as accessory structures in rear yards to the east.

Potential for visual intrusion upon the character, scale, and pattern of houses along the subject street frontage

22. The proposed accessory structure would not be visible from 9th Street.
23. The proposed accessory dwelling would be visible from Independence Avenue and the alley. It would have a similar appearance to several of the existing two-story garages and carriage houses along the north-south alley along the rear of the property. It would also have a similar alignment to the alley as several existing carriage houses on the alley.

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks special exceptions under 11-E DCMR § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the lot occupancy requirements for accessory buildings of Subtitle E § 5003.1, and the rear yard requirements for accessory buildings of Subtitle E §

5004.1, to allow construction of an accessory two-story carriage house in the RF-1 Zone at premises 202 9th Street, S.E. (Square 944, Lot 814).

The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR Subtitle X § 901.2.)

Pursuant to 11-E DCMR §§ 5201.1 and 5201.2, the Board may approve, as a special exception under Subtitle X, chapter 9, relief from specific development standards applicable to residential buildings in the RF-1 Zone, including the lot occupancy (up to 70%), lot occupancy for accessory buildings, and rear yard for accessory building relief sought in this application, subject to certain requirements. Those requirements are as follows. Pursuant to Subtitle E § 5201.3, an applicant for a special exception must demonstrate that the accessory structure will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. In particular, the applicant must demonstrate that the accessory structure will not unduly affect the light and air available to neighboring properties, or unduly compromise the privacy of use and enjoyment of neighboring properties. The planned accessory structure, as viewed from a street, alley, and other public way, must not substantially visually intrude on the character, scale, and pattern of houses along the street frontage. Pursuant to Subtitle E § 5204.5, the application shall not permit the introduction or expansion of a nonconforming use. Pursuant to Subtitle E § 5204.6, the application shall not permit the introduction or expansion of nonconforming height or number of stories.

In addition, the application must meet the general special exception criteria of Subtitle X, Chapter 9.

The accessory structure will not unduly affect the light and air available to neighboring properties

The Board concludes that the light and air available to neighboring properties will not be unduly affected by the accessory structure.

The accessory structure will block a 24-inch by 32-inch window that opens onto that property's kitchen. This is the only window on the south side of that building. That side was constructed at the south property line adjacent to the Applicant's property. Since there is no side yard requirement for an accessory building, the window was always at risk to be blocked as a matter of right, and therefore the loss of light and air that results from this addition is not relevant in this unusual circumstance. Although the Board could consider the loss of light due to the blockage of an at-risk window, the loss in this instance is minimal. Most of the light and air available to Ms. Gill's carriage house comes from its 14 remaining windows. The Board therefore agrees

with the Office of Planning that “while the applicant’s proposed accessory structure would likely have a substantially adverse impact on the light and air available to the kitchen in 905 Independence Avenue, that impact could not be considered undue because the window that would be blocked is an at-risk, ... window ... that is located on the property line shared by the two properties.” (Exhibit 103.)

The light and air available to the properties to the west and east will not be affected by the structure.

The accessory structure will not unduly compromise the privacy of use and enjoyment of neighboring properties

The Board concludes that the privacy and enjoyment of neighboring properties will not be unduly compromised.

The privacy of the property to the north that is owned by the Party in Opposition will not be impacted since there are no windows in the proposed accessory structure with views towards her residence or yard. As noted, the impact resulting from the proposed structure blocking the sole window on the south side is irrelevant because the window was at risk and was, in any event, small, with 14 other windows remaining.

For the properties to the northwest and south, the Applicant’s proposed west-facing windows would be approximately 30 feet from the rear walls of the neighboring structures and the oblique views from the proposed carriage house’s second story would not likely intrude on the privacy of adjacent structures or yards. The project will not impact on the enjoyment of these properties.

The privacy and enjoyment of the properties to the west and east will not be affected by the structure.

The accessory structure, together with the original building, as viewed from the street, alley, and other public way, will not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage

The proposed accessory structure will not be visible from 9th Street, and although the structure will be visible from Independence Avenue and the alley, it would have a similar appearance to several of the existing two-story garages and carriage houses along the north-south alley along the rear of the property. The proposed structure would also have a similar alignment to the alley as several existing carriage houses on the alley.

The Board therefore concludes that the accessory structure combined with the original building will not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage.

Other criteria.

Consistent with 11-E DCMR § 5201.3(d) the Applicant submitted plans, photographs, elevation and section drawings to demonstrate compliance with the Subtitle E § 5201.3 standard. The lot occupancy relief requested, at 68%, did not exceed the 70% limitation of Subtitle E § 5201.3(d). The lot occupancy and rear yard relief will not introduce or expand a nonconforming use in contravention of 11-E DCMR § 5201.5, but will allow for a new accessory structure that will be occupied by matter of right uses. And, since no height relief is being requested, the grant of the application will not permit the introduction or expansion of nonconforming height or number of stories as is prohibited by 11-E DCMR § 5201.6.

General special exception criteria of Subtitle X, Chapter 9

In accordance with Subtitle X § 901.2, the Board concludes that approval of the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. Approval of the requested special exception will be in harmony with the purpose of the RF-1 Zone, and consistent with the intention of provisions applicable in the RF-1 Zone to recognize and reinforce the importance of neighborhood character, housing affordability, aging in place, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city. As discussed above, the Board concludes that while the Applicant's proposed accessory structure will have an adverse effect on Ms. Gill's property by enclosing her window, this is unrelated to the zoning relief requested. The special exceptions will not otherwise affect adversely the use of neighboring property.

The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.)) For the reasons discussed above, the Board concurs with OP's recommendation that the application should be approved in this case.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.)) In this case ANC 6B expressed support for the Applicant's proposal without stating any issues and concerns to which the Board can give great weight.

Based on the findings of fact and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, the lot occupancy requirements for accessory buildings of Subtitle E § 5003.1, and the rear yard requirements for accessory buildings of Subtitle E § 5004.1, to allow construction of an accessory two-story carriage house in the RF-1 Zone at premises 202 9th Street, S.E. (Square 944, Lot 814). It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y**

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§ 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 35 – ARCHITECTURAL PLANS AND ELEVATIONS.

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, and Peter A. Shapiro (by absentee ballot) to APPROVE; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 31, 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

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APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION 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. 19788-A of the Royal Norwegian Embassy, pursuant to 11 DCMR Subtitle X, Chapter 2, to renovate and expand a chancery by renovating the exterior, and constructing an addition to the existing Norwegian chancery building in the R-12 Zone at premises 2720 34th Street N.W. and 3401 Massachusetts Avenue N.W. (Square 1939, Lot 39).

HEARING DATE: July 25, 2018

DECISION DATE: July 25, 2018

CORRECTED¹ NOTICE OF FINAL RULEMAKING

and

DETERMINATION AND ORDER

The Board of Zoning Adjustment (the “Board”), pursuant to the authority set forth in § 306 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code § 6-1306 (2012 Repl.)) and Chapter 2 of Subtitle X of the Zoning Regulations of the District of Columbia, Title 11 DCMR, and after having held a public hearing on July 25, 2018, hereby gives notice that it took final action not to disapprove the application of the Royal Norwegian Embassy (“Applicant”) to renovate and expand a chancery by renovating the exterior, and constructing an addition to the existing Norwegian chancery building in the R-12 Zone at premises 2720 34th Street N.W. and 3401 Massachusetts Avenue N.W. (Square 1939, Lot 39)(the “Subject Property”).

A notice of proposed rulemaking was published in the June 8, 2018 edition of the *D.C. Register*. (65 DCR 6314.) In accordance with Subtitle Y § 402.1, the Board provided written notice to the public more than 40 days in advance of the public hearing. On June 5, 2018, the Office of Zoning referred the application to the United States Department of State, the District of Columbia Office of Planning (“OP”), Advisory Neighborhood Commission (“ANC”) 3C, whose boundaries encompass the Subject Property, the Single Member District Commissioner for ANC 3C08, the District Department of Transportation (“DDOT”), Historic Preservation Review Board (“HPRB”), the Department of Housing and Community Development, the National Capital Planning Commission, and the Councilmember for Ward 3.

¹ This Corrected Notice of Final Rulemaking and Determination and Order was issued to correct the citation to the Exhibits containing the plans approved by the Board. This is the only change to the Order as originally issued.

The Office of Zoning scheduled a public hearing on the application for June 5, 2018 and provided notice of the hearing by mail to the Applicant, ANC 3C, and the owners of all property within 200 feet of the Subject Property. Notice of the hearing was published in the *D.C. Register* on June 8, 2018. (65 DCR 6153.)

Background

The Subject Property is owned by the Royal Norwegian Government and is currently improved with two buildings, including the ambassador's residence and the chancery, with offices for diplomatic services. The Applicant proposes to renovate the existing chancery and to construct an approximately 4,272 square foot addition to create a garden room connecting the chancery and embassy structures. The Applicant also proposes to reconfigure the chancery entrance and a stairwell/common area, as well as associated improvements to the public space abutting the Subject Property.²

Location in a Mixed Use Area

The Subject Property is located in the R-12 Zone, which is a low-density residential zone. For applications requesting to locate, replace, or expand a chancery in a low- to medium-density residential zone, the Board must first determine that the proposed location is in a mixed-use area on the basis of existing uses. (11-X DCMR §§ 201.3 – 201.7.) Pursuant to Subtitle X § 201.4, the “area” shall be the area that the Board determines most accurately depicts the existing mix of uses adjacent to the proposed location of the chancery. Pursuant to Subtitle X § 201.5, an area shall be considered to be a mixed-use area if more than 50% of the zoned land within the area is devoted to uses other than residential uses.

The Board finds that the area relevant to this determination includes Square 1939 and the portions of Square 2122 adjacent to 34th Street, N.W. The Board determines that this area is mixed-use and thus meets the requirement of Subtitle X § 201.3. The Board credits the information provided by the Applicant in Exhibits 6 and 10, that the entirety of the area consists of approximately 300,967 square feet of land area and, of such area, approximately 190,157 square feet of land area is utilized for nonresidential, religious, or diplomatic uses. Based on this analysis, nonresidential uses account for approximately 63.2% of the area, which exceeds the 50% threshold for presumptive treatment as mixed-use.

As the Board has concluded that the area that includes the Subject Property is a mixed-used area, the Board shall determine the merits of the application based on the criteria provided in the

² The proposed project does not comply with the Zoning Regulations for the lot occupancy requirements under Subtitle D § 704.1 nor the penthouse setback requirements under Subtitle C § 1502.1. The Board, in addition to not disapproving the location of chanceries in certain zones, has the authority to hear requests for special exception or variances required for chancery applications, but the Board must exclusively evaluate these requests using the six criteria cited in the Foreign Missions Act. (11-X DCMR § 203.7; *See Embassy of the People's Republic of Benin v. D.C. Bd. of Zoning Adjustment*, 534 A.2d 310 (D.C. 1987).)

Foreign Missions Act, also found in Subtitle X § 201.8 of the Zoning Regulations. (11-X DCMR § 201.6.)

Foreign Missions Act Criteria

Pursuant to § 406(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d), the Board must consider six enumerated criteria when reviewing a chancery application. The provision further dictates who is to make the relevant finding for certain factors. The factors and relevant findings are as follows:

1. The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

In a letter dated July 6, 2018, the Department of State determined that favorable action on this application would fulfill the international obligation of the United States to facilitate the Embassy of the Kingdom of Norway in acquiring adequate and secure premises to carry out their diplomatic mission. (Exhibit 44.)

2. Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

The Subject Property is not a historic landmark, nor is it located in a historic district. The Office of Planning ("OP"), which includes the Historic Preservation Office, noted that the Applicant nonetheless "solicited feedback from D.C.'s Historic Preservation staff regarding the proposed exterior design and use of material." (Exhibit 45.) Based on the evidence and testimony in the record, the Board finds this criterion is met.

3. The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

The Applicant proposes to increase the off-street parking provided from 17 spaces to 23 spaces, which exceeds the requirement of the Regulations. Fifteen long-term bicycle spaces, as well as accessory locker and showers below-grade, and seven short-term bike-space would also be provided at the front entryway. The Board concurs with the findings reached by the District Department of Transportation ("DDOT") that the impacts of the expansion of the chancery building will have no adverse impacts on the travel conditions of the District's transportation network, based on the robust Transportation Demand Management Plan adopted by the Applicant. (Exhibit 46.)

The Department of State, after consulting with the Federal agencies authorized to perform protective services, determined that there exist no special security requirements relating to parking in this case. (Exhibit 44.)

4. The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

After consulting with Federal agencies authorized to perform protective services, the Department of State determined that the subject site and area are capable of being adequately protected. (Exhibit 44.) The Board finds this criterion is met.

5. The municipal interest, as determined by the Mayor.

OP, on behalf of the Mayor of the District of Columbia, determined that approving the application was in the municipal interest. (Exhibit 45.) OP found that the renovation and expansion of the chancery buildings, though it does not meet the Zoning Regulations for lot occupancy and penthouse setback, would not create an adverse impact on the surrounding neighborhood to harm the public good or the intent of the Regulations. OP also made the following specific findings regarding the areas of zoning relief required.

The proposed additions would increase the lot occupancy from 41.7% to 45.4%, while a maximum lot occupancy is permitted in the R-12 Zone. Based on the design proposed additions, OP found that neither should have an undue impact to the light and air to neighboring property, nor should they create privacy concerns for the abutting neighbors to the north or west of the site.

The chancery's proposed elevator override at the southeast corner of the chancery structure does not meet the 1:1 setback required by Subtitle C § 1502.1(a). The proposed setback is the result of the unique programmatic needs of this use, and OP found that this satisfies the intent of the Regulations, which is to reduce visibility from public space.

In addition, OP worked with the Applicant, DDOT's Public Space staff, and the Historic Preservation Office on public space design issues. Based on the Applicant's revised plans in Exhibit 42A, OP noted that those issues had been addressed.

6. The federal interest, as determined by the Secretary of State.

The Department of State determined that there is federal interest in this project. Specifically, the Department of State acknowledged the Government of the Kingdom of Norway's assistance in addressing the United States' land use needs in Oslo. Such cooperation was essential for successfully achieving the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide. (Exhibit 44.)

Great Weight

The Board is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001) to give great weight to the issues and concerns raised in the written report of the affected ANC, which is ANC 3C. The ANC submitted a resolution dated May 21, 2018, indicating that at its regularly scheduled, duly noticed public hearing on May 21, 2018, with a quorum present, the ANC voted in support of the project as proposed. (Exhibit 39.) The ANC noted that it worked with the Applicant to address concerns regarding parking, lighting, and trash, that were raised by neighbors during the process. The Applicant revised its plans to respond to neighbors' feedback, therefore the ANC has no issues or concerns with the Applicant's proposal. Absent any issues or concerns, the Board has nothing to afford "great weight." *See Metropole v. Bd. of Zoning Adjustment*, 141 A.3d 1079 (D.C. 2016).

Based upon its consideration of the six criteria discussed above, and having given great weight to the ANC, the Board has decided not to disapprove the application. Accordingly, it is hereby **ORDERED** that the application is **NOT DISAPPROVED, AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 42A AND 49A1 – 49A3.**

VOTE: 5-0-0 (Frederick L. Hill, Peter G. May, Lesylleé M. White, Lorna L. John, and Marcel C. Acosta to Not Disapprove.)

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: October 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.

**BZA APPLICATION NO. 19788-A
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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19798 of State of Hungary, Ministry of Foreign Affairs and Trade, pursuant to 11 DCMR Subtitle X, Chapter 2, to renovate the existing Hungarian Chancery in the MU-15 Zone at premises 1500 Rhode Island Avenue, N.W. (Square 195S, Lot 800).

HEARING DATE: September 12, 2018

DECISION DATE: September 12, 2018

NOTICE OF FINAL RULEMAKING

and

DETERMINATION AND ORDER

The Board of Zoning Adjustment (“Board”), pursuant to the authority set forth in § 306 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code § 6-1306 (2012 Repl.)) and Chapter 2 of Subtitle X of the Zoning Regulations of the District of Columbia, Title 11 DCMR, and after having held a public hearing on September 12, 2018, hereby gives notice that it took final action not to disapprove the application of The State of Hungary, Ministry of Foreign Affairs and Trade (“Applicant”) to renovate the existing Hungarian Chancery in the MU-15 Zone at premises 1500 Rhode Island Avenue, N.W. (Square 195S, Lot 800) (the “Subject Property”).

A notice of proposed rulemaking was published in the July 27, 2018 edition of the *D.C. Register*. (65 DCR 7938.) In accordance with Subtitle Y § 402.1, the Board provided written notice to the public more than 40 days in advance of the public hearing. On July 10, 2018, the Office of Zoning (“OZ”) provided notice of the filing of the application to the United States Department of State; the District of Columbia Office of Planning (“OP”); Advisory Neighborhood Commission (“ANC”) 2B, whose boundaries encompass the Subject Property; the Single Member District Commissioner for ANC 2B05; ANC 2F, whose boundary line abuts the Subject Property and therefore is also an affected ANC; the District Department of Transportation (“DDOT”), Historic Preservation Review Board (“HPRB”), and the Councilmember for Ward 2.

OZ scheduled a public hearing on the application for September 12, 2018 and provided notice of the hearing by mail to the Applicant, ANC 2B, ANC 2F, and the owners of all property within 200 feet of the subject property, as well as to the Department of State. Notice of the hearing was published in the *D.C. Register* on July 27, 2018. (65 DCR 7816.)

Background

The Subject Property is located in the MU-15 Zone district and is presently improved with an existing building known as the Brodhead-Bell-Morton House, which is listed in the D.C. Inventory of Historic Sites and in the National Register of Historic Places. The Applicant purchased the Subject Property in 2016 for chancery use.

The Applicant proposes improvements to the existing building, site, and public space adjacent to the existing chancery annex building. The proposed renovations include interior, structural, and mechanical improvements, most notably including installation of a replacement elevator penthouse, installation of a security fence in public space along the perimeter of the site, relocation of the existing curb cut on Rhode Island Avenue, N.W. with a decrease in curb cut width on 15th Street, N.W. and location of trash receptacles within the public space off N Street, N.W.

Specifically, the Applicant proposes to replace the existing elevator, and consequently, the existing 13-foot roof penthouse that encloses the elevator machine room will be removed and replaced with a three-foot, 11-inch-tall elevator override penthouse.¹

In addition, the Applicant proposes to install a new perimeter security fence around the Subject Property in public space. The proposed fence will be six feet, six inches tall and will sit on top of a one-foot tall knee-wall, creating a total consistent fence height of seven feet, six inches. In its report to the Board, DDOT requested that the fence be reduced to a total height of six feet, six inches. The Applicant determined to retain the proposed height of the fence, however, based on security reasons and the building's landmark status.

The Subject Property currently provides 29 off-street parking spaces accessed from 15th Street, N.W., Corregidor Street, N.W., and Rhode Island Avenue, N.W. Three additional diplomatic parking spaces are located directly to the south of the Subject Property on N Street, N.W. The Applicant proposes to retain the existing curb cut on Corregidor Street, N.W. and the existing driveway from this entrance into the building's porte-cochere, though they will be used for ceremonial purposes only and will be controlled with a new sliding metal gate. The Applicant proposes to provide eight surface parking spaces along 15th Street, N.W. and to relocate loading to an on-site loading zone on N Street, N.W. The existing 33-foot wide curb cut along 15th Street, N.W. will be reduced to 20 feet in width, and trash containers will be located in the enlarged areaway on the south side of the building. Trash will be collected from N Street, N.W. DDOT requested that the trash enclosure height be reduced to 42 inches, which the Applicant accepted and incorporated into its revised plans.

¹ The proposed project does not comply with the Zoning Regulations for the requirements for penthouse setback in Subtitle C § 1502. The Board, in addition to not disapproving the location of chanceries in certain zones, has the authority to hear requests for special exception or variances required for chancery applications, but the Board must exclusively evaluate these requests using the six criteria cited in the Foreign Missions Act. (11-X DCMR § 203.7; *See Embassy of the People's Republic of Benin v. D.C. Bd. of Zoning Adjustment*, 534 A.2d 310 (D.C. 1987).)

Pursuant to § 406(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d), the Board must consider six enumerated criteria when reviewing a chancery application. The provision further dictates who is to make the relevant finding for certain factors. The factors and relevant findings are as follows:

1. The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

In a letter dated August 22, 2018, the Department of State determined that favorable action on this application would fulfill the international obligation of the United States to facilitate the Government of Hungary in acquiring adequate and secure premises to carry out their diplomatic mission. (Exhibit 43.)

2. Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

The existing structure is listed in the D.C. Inventory of Historic Sites and in the National Register of Historic Places. Pursuant to 11-X DCMR § 203.6, this application was referred to the chair of the Historic Preservation Review Board on July 10, 2018 to report as to whether the substantive criteria of this factor was met. (Exhibit 23). No report was received.

The Office of Planning (“OP”), which includes the Historic Preservation Office, noted that the Applicant “worked extensively with D.C.’s Historic Preservation staff regarding the proposed exterior changes, including removal of the cut-outs for window air conditioners, the renovated grand stair facing Rhode Island Avenue and use of materials for the screen wall to shield the view of the fire escape from public space, proposed to be designed by a Hungarian artist.” (Exhibit 44.) OP noted that Historic Preservation staff is satisfied with the Applicant’s revised plans. Finally, the Applicant submitted for the record a detailed draft of its Historic Preservation Plan. (Exhibit 8.) Based on the evidence and testimony in the record, the Board finds this criterion is met.

3. The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

The Board concurs with the findings reached by the District Department of Transportation (“DDOT”) that the proposed action will not lead to an increase in vehicle, transit, pedestrian and bicycle trips, and the property is currently functioning as a chancery. (Exhibit 45.) Although the

proposal will reduce the number of off-street parking spaces on the Subject Property, the Board finds that the Applicant will provide adequate vehicle parking spaces, as the eight spaces provided exceed the five parking spaces required by the Zoning Regulations. (11-C DCMR §§ 701.5 and 702.) The Board also credits OP's finding that this site is adequately served by public transportation. (Exhibit 44.)

The Department of State, after consulting with the Federal agencies authorized to perform protective services, determined that there exist no special security requirements relating to parking in this case. (Exhibit 43.)

4. The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

After consulting with the Federal agencies authorized to perform protective services, the Department of State determined that the subject site and area are capable of being adequately protected. (Exhibit 43.)

5. The municipal interest, as determined by the Mayor.

OP, on behalf of the Mayor of the District of Columbia, determined that not disapproving the application was in the municipal interest. (Exhibit 44.) OP found that the proposal does not meet the Zoning Regulations for penthouse setback, as the mechanical penthouse would be reconstructed to enclose a new elevator system with an override of three feet, 11 inches and a setback of one foot, one-and-a-half inches from the edge of the structure. The existing elevator penthouse on the structure is 13 feet in height, with a setback of one foot, seven inches from the roof's edge; therefore, the proposed renovation would result in less visibility from the street. OP found that this satisfies the intent of the regulations.

In its report, OP also noted that the Applicant is proposing an eight-foot wide dish antenna on the renovated roof area as shown on the revised plans. The dish would be mounted no more than nine feet, four inches in height above the roof, which is below the maximum permitted mounted height of 12 feet above the roof, pursuant to Subtitle C § 1304.1(b). OP further indicated that the proposed location of the dish towards the center of the roof would ensure that its visibility would be minimized from public space; therefore, the installation would satisfy the intent of Subtitle C § 1304.1 and would not require relief from the regulations.

Further, OP indicated that the treatment of the public space is an important element of the municipal interest. OP noted that the Applicant worked closely with OP's and DDOT's Public Space staff, as well as with the Historic Preservation Office, on public space issues and OP is satisfied that the Applicant satisfied the requests expressed by Historic Preservation and Public Space staff. Based on OP's findings, the Board finds that this criterion is met.

6. The federal interest, as determined by the Secretary of State.

The Department of State determined that there is federal interest in this project. Specifically, the Department of State acknowledged the Government of Hungary's assistance in addressing the United States' land use needs in Budapest. Such cooperation was essential for successfully achieving the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide. (Exhibit 43.)

Great Weight

The Board is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001) to give great weight to the issues and concerns raised in the written report of the affected ANCs, which are ANC 2B and ANC 2F. ANC 2F did not submit a written report. ANC 2B submitted a resolution dated July 17, 2018, indicating that at its regularly scheduled, duly noticed public hearing on July 11, 2018, with a quorum present, the ANC voted 9-0-0 in support, with no issues or concerns. (Exhibit 34.) As no issues or concerns were raised by the affected ANCs, the Board had no issues to afford great weight.

Based upon its consideration of the six criteria discussed above, and having given great weight to the ANC and OP, the Board has decided not to disapprove the application. Accordingly, it is hereby **ORDERED** that the application is **NOT DISAPPROVED, AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 40A – PREHEARING STATEMENT: TAB A (ARCHITECTURAL DRAWINGS), AS REVISED BY EXHIBIT 49 – REVISED SHEET SHOWING FENCE HEIGHT.**

VOTE: 5-0-0 (Frederick L. Hill, Marcel C. Acosta, Lesylleé M. White, Lorna L. John, and Peter G. May to Not Disapprove.)

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: November 1, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.12, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL UPON PUBLICATION IN THE *D.C. REGISTER*.

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,

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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. 19837 of Peter and Stephanie Eicher, as amended,¹ pursuant to 11 DCMR Subtitle X, Chapter 9, for special exception under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, the rear yard requirements of Subtitle D § 306.2, and the nonconforming structure requirements of Subtitle C § 202.2, to construct a three-story rear addition and deck in the R-3 Zone at premises 600 H Street S.W. (Square 468, Lot 67).

HEARING DATE: October 24, 2018
DECISION DATE: October 24, 2018

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated September 6, 2017, from the Zoning Administrator (“ZA”), certifying the required relief. (Exhibit 5.) A revised ZA memorandum, dated October 15, 2018, was subsequently filed to the record to amend the relief requested. (Exhibit 34.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6D, which is automatically a party to this application. The ANC’s report indicated that at a regularly scheduled, properly noticed public meeting on July 9, 2018, at which a quorum was present, the ANC voted 6-0-0 to support the application, with no issues or concerns. (Exhibit 30.)

The Office of Planning (“OP”) submitted a timely report recommending approval of the amended application. (Exhibit 32.) The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application. (Exhibit 33.) Two adjacent neighbors submitted letters in support of the application. (Exhibit 14.) A petition in support with 32 signatures was also submitted to the record. (Exhibit 14.)

¹ The original memorandum from the Zoning Administrator (“ZA”) submitted with the application included relief for pervious surface under Subtitle D § 308.3. (Exhibit 5.) The revised ZA memorandum subsequently filed withdrew the pervious surface relief and added relief for nonconforming structure under Subtitle C § 202.2. (Exhibit 34.) The caption has been revised accordingly.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exception under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 304.1, the rear yard requirements of Subtitle D § 306.2, and the nonconforming structure requirements of Subtitle C § 202.2, to construct a three-story rear addition and deck in the R-3 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle D §§ 5201, 304.1 and 306.2, and Subtitle C § 202.2, 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 7.**

VOTE: 3-0-2 (Carlton E. Hart, Lorna L. John, and Peter G. May to APPROVE; Frederick L. Hill and Lesylleé M. White not present.)

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: November 1, 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

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§ 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. 19838 of Andrew Cooper, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story accessory structure in the RF-1 Zone at premises 912 5th Street, N.E. (Square 807, Lot 42).

HEARING DATE: October 24, 2018

DECISION DATE: October 24, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5 (original self-certification), 15 (corrected); 32 (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") 6C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, 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 October 10, 2018, at which a quorum was present, the ANC voted 5-0-0 to support the application. (Exhibit 43.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 42.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 41.) The Capitol Hill Restoration Society filed a letter of support into the record. (Exhibit 44.) Also, the adjacent neighbor at 914 5th Street, N.E. submitted a letter in support of the application. (Exhibit 12.)

¹ The Applicant amended the application by withdrawing from the original request a variance from the access requirements of Subtitle U § 301.1(c)(4) based on the revised self-certification form at Exhibit 32.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story accessory structure in the RF-1 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle E §§ 5201 and 304.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 38 – REVISED ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 3-0-2 (Carlton E. Hart, Lorna L. John, and Peter G. May to APPROVE; Frederick L. Hill and Lesylleé M. White not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: October 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

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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. 06-14F**

Z.C. Case No. 06-14F

Washington Gateway Three, LLC

(Technical Correction to Z.C. Order Nos. 06-14, 06-14A, 06-14B, 06-14C, and 06-14D

Washington Gateway – PUD @ Square 3584)

September 17, 2018

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on September 17, 2018. At the meeting, the Commission approved an application of Washington Gateway Three, LLC (“Applicant”) for a technical correction to Z.C. Order Nos. 06-14, 06-14A, 06-14B, 06-14C, and 06-14D (“Orders”). Because the modification to the Orders were technical in nature, a public hearing was not conducted. The Commission determined that the application was properly before it under the provisions of Subtitle Z § 703 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”).

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 06-14, dated February 12, 2007, and effective on June 29, 2007, the Commission approved a planned unit development (“PUD”), known as Washington Gateway, at the northeast intersection of New York and Florida Avenues, N.E., in Square 3584.
2. The PUD was originally approved as a mixed-use development consisting of residential, hotel, office, and retail uses. In accordance with the modification granted under Z.C. Order No. 06-14B, the first phase of the PUD, was developed with an apartment house consisting of 400 units and 5,000 square feet of ground-floor retail. Under Z.C. Order No. 06-14D, for the second phase of the project, the PUD was modified to allow the North Tower used for residential use rather than the approved office and the South Tower was reconfigured and redesigned; also the applicant was granted flexibility to have either office or residential use in the South Tower if approved by the Commission as a modification of consequence, which the Applicant sought in Z.C. Case No. 06-14E.
3. Pursuant to Z.C. Order No. 06-14A, dated June 8, 2009, and effective on June 19, 2009, the PUD approval was extended to June 29, 2011 and an application for a building permit for one of the buildings was filed by June 29, 2013, and construction was commenced by June 29, 2014.
4. Pursuant to Z.C. Order No. 06-14D, the Commission bifurcated the timing requirements for the North Tower and South Tower, such that the approval of the PUD modification for each tower is valid until May 4, 2020, and construction for each tower is to commence no later than May 4, 2021. The Applicant may seek extensions of time for each tower, respectively, in accordance with Subtitle Z § 705 of the Zoning Regulations.
5. By letter dated August 21, 2018 (Exhibit [“Ex.”] 1), the Applicant applied for a technical correction to the Orders pursuant to Subtitle Z § 703 of the Zoning Regulations. The

purpose of the technical correction was to change the land area cited for the PUD site from 134,665 square feet to 134,592 square feet.

6. The Orders incorrectly identify the land area of the PUD site as 134,665 square feet. The Subdivision Plat for the PUD site and the Office of Tax and Revenue records indicate that the land area is 134,592 square feet. (Ex. 1A, 1B.) Also, the original PUD plans and statement identify the land area of the PUD site as 134,592 square feet. It was not until the final written order, Z.C. Order No. 06-14, that the land area was identified as 134,665 square feet, which was then used in the subsequent orders for the PUD.
7. Pursuant 11-Z DCMR § 703.13, the Applicant was required to formally serve a copy of the application on all parties to the original proceeding while it filed the application with the Office of Zoning. Other than Advisory Neighborhood Commissions (“ANC”) 5E, 6C, and 5D, there were no other parties to the original proceeding. As noted in the Certificate of Service attached to the application, the subject application was served on ANCs 5E, 6C, and 5D on August 21, 2018. (Ex. 1.)
8. The Office of Planning (“OP”) reviewed the request for a technical correction. By report dated September 7, 2018, OP recommended approval of the technical correction.¹ (Ex. 5.)
9. On September 17, 2018, at its regular monthly meeting, the Commission reviewed the application and granted approval of the requested technical correction.

CONCLUSIONS OF LAW

Pursuant to 11-Z DCMR § 703, the Commission is authorized to approve technical corrections to approved final orders through a consent calendar procedure without a public hearing. The Commission concludes that the modifications described herein are technical in nature, and the request falls within the scope of a technical correction made pursuant to 11-Z DCMR § 703.

The Commission is required by § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to the recommendations of OP. OP recommended approval of the application as a technical correction, and the Commission concurs in this recommendation.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The affected ANCs did not submit a written report to the record. Because the ANC 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).)

¹ OP’s report also addressed the Applicant’s request for a modification of consequence in Z.C. Case No. 06-14E. However, the Applicant’s request for a modification of consequence is not the subject of this Order and is a separate case before the Commission. (*See* Z.C. Case No. 06-14E.)

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a technical correction to Z.C. Order Nos. 06-14, 06-14A, 06-14B, 06-14C, and 06-14D to change the land area cited for the PUD site from 134,665 square feet to 134,592 square feet.

On September 17, 2018, upon the motion of Commissioner Turnbull as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **ADOPT** this application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull; Peter A. Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on November 9, 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. 07-21C
Z.C. Case No. 07-21C
HHLP Georgetown II Associates, LLC
(PUD Modification @ Square 50)
July 24, 2017

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on January 5, 2017, to consider an application of HHLP Georgetown II Associates, LLC, successor to PerStar M Street Partners, LLC (“Applicant”) for approval of a modification of the signage condition of an approved and constructed planned unit development (“PUD”) at Lot 87 in Square 50 (“Subject Property”). The Commission considered the application pursuant to Subtitle X, Chapter 3 and Subtitle Z of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 4. For the reasons stated below, the Commission hereby approves the application as amended.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The Subject Property has a land area of approximately 15,588 square feet and is located at the northwest corner of 22nd and M Streets, N.W. Square 50 is bounded by N Street to the north, 22nd Street to the east, M Street to the south, and 23rd Street to the west. The Subject Property is located in the CR Zone District.¹
2. Pursuant to Z.C. Order No. 07-21, dated May 12, 2008, the Commission approved a PUD for the Subject Property to be developed as a new hotel with a restaurant on the ground floor. Pursuant to Z.C. Order No. 07-21A, dated May 10, 2010, the Commission granted a two-year extension of the original PUD approval, and pursuant to Z.C. Order No. 07-21B, dated November 28, 2011, the Commission granted modifications to the approved PUD for a revised hotel design. The Applicant developed the Subject Property in accordance with the plans approved in Z.C. Order No. 07-21B, and the Subject Property is now occupied and operated as a Hilton Garden Inn with a restaurant on the ground floor.
3. Subsequent to the issuance of Z.C. Order No. 07-21B, the Applicant applied for and received permits from the Department of Consumer and Regulatory Affairs (“DCRA”) for construction of the hotel, including installation of the building signage. At the time, the Applicant understood that that the Commission had approved the proposed signage plan shown in: (i) the architectural drawings prepared by Shalom Baranes Associates,

¹ The CR Zone District was the zone designation under the 1958 Zoning Regulations, which were repealed and replaced with the 2016 Zoning Regulations on September 6, 2016. The CR Zone District converts to the MU-10 zone under the 2016 Zoning Regulations.

dated October 7, 2011, and included in the case record of Z.C. Case No. 07-21B as Exhibit 24; and (ii) the signage plan included on page 4 of the Applicant's PowerPoint presentation from the public hearing of Z.C. Case No. 07-21B, which was included in the case record of Z.C. Case No. 07-21B as Exhibit 36. The DCRA signage permits approved two hotel signs: one at the top of the building on the 22nd Street façade facing east, and one above the hotel entrance on the 22nd Street façade facing east. The approved permit plans also included a retail sign for Café Deluxe located at the ground level on the M Street façade facing south. (Exhibit ["Ex."] 22B.) The hotel signs were installed as shown on the approved permit drawings. The retail sign was installed on the ground level's 22nd Street façade instead of on the M Street façade.

4. On April 28, 2014, Advisory Neighborhood Commission ("ANC") 2A, the ANC in which the Subject Property is located, and the 22 West Condominium Association ("22 West"), which appeared as an organization in opposition to Z.C. Case No. 07-21B, filed an appeal to the Board of Zoning Adjustment ("BZA") challenging the issuance of the building permit for installation of the east-facing hotel sign at the top of the building. They claimed that the sign was not specifically referenced in the list of conditions in Z.C. Order No. 07-21B and was therefore not permitted. At the BZA's public hearing and in written submissions, the Applicant asserted that the signage shown in Exhibit 36 was indeed permitted, that the Applicant acted in good faith reliance upon Z.C. Order No. 07-21B to apply for a sign permit from DCRA, and that the Zoning Administrator concurred and approved the sign permit issuance. The BZA reviewed the specific language of Z.C. Order No. 07-21B and determined that the language, as written in Z.C. Order No. 07-21B, Decision A.1, only permitted the single hotel sign over the hotel entrance. (*See* BZA Order No. 18793.)
5. On October 5, 2015, the Applicant filed an application with the Commission for a consent calendar modification to the PUD. (Ex. 1, 2-2H.) The Applicant requested to modify the text of Z.C. Order No. 07-21B by adding the following sentence at the end of Decision No. A.1: "The signage area locations and approximate dimensions shall be shown on the signage plan at Exhibit 36, page 4."
6. By letter dated October 9, 2015, ANC 2A objected to: (i) the Applicant's request for a "minor" modification to Z.C. Order No. 07-21B, and requested that the application be placed on the Commission's hearing calendar to permit public testimony; and (ii) the Applicant's request to maintain the hotel sign at the top of the building. The letter indicated that at its special meeting on October 7, 2015, with a quorum of commissioners present, ANC 2A voted 5-0-0 to oppose the Applicant's request for a modification to the text of Z.C. Order No. 07-21B.
7. By letter dated October 9, 2015, the West End Citizen's Association ("WECA"), which was a party in Z.C. Order No. 07-21B, also objected to the Applicant's request for a minor modification to modify the text of Z.C. Order No. 07-21B. (Ex. 6.)

8. On October 14, 2015, the Office of Planning (“OP”) submitted a report recommending that the Commission not consider the Applicant’s request as a minor modification, and instead to set down the application for a public hearing. (Ex. 8.)
9. At its public meeting held on October 19, 2015, the Commission voted to schedule a public hearing on the application.
10. On August 11, 2016, the Applicant filed a Prehearing Submission, which supplemented the Applicant’s initial application and addressed the one sign at issue, which was the horizontal, back-lit, east-facing hotel sign at the top of the 22nd Street façade. (Ex. 13-13L.)
11. A Notice of Public Hearing for the application was published in the *D.C. Register* on October 4, 2016. The Notice of Public Hearing was mailed to all property owners within 200 feet of the Subject Property and to ANC 2A on October 7, 2016. (Ex. 20.)
12. On December 9, 2016, the District Department of Transportation (“DDOT”) filed a hearing report indicating that the application would have no adverse impacts on the travel conditions of the District’s transportation network, and that DDOT had no objection to approval of the application. (Ex. 21.)
13. On December 16, 2016, the Applicant filed a supplemental prehearing submission, which updated the Commission on the proposed signage plan and included revised proposed text for Z.C. Order No. 07-21B, Decision No. A.1, based on continued negotiations with the ANC and other stakeholders. (Ex. 22D.)
14. On December 22, 2016, ANC 2A submitted a second letter that reaffirmed its opposition to the Applicant’s request to maintain the hotel sign at the top of the building. The ANC’s letter indicated that at its regular, duly noticed public meeting on November 16, 2016, with a quorum of commissioners present, ANC 2A voted 5-0-0 to oppose the Applicant’s modification request. (Ex. 24.)
15. On December 27, 2017, OP submitted a hearing report indicating that it did not support the application to retain the hotel signage at the top of the building, but that it did not oppose locating the ground-floor retail signage on the building’s 22nd Street façade. (Ex. 25.)
16. The Commission held a public hearing on the Application on January 5, 2017. The parties to the case were the Applicant, ANC 2A, and WECA. Twenty-Two West participated as an organization in opposition to the application.
17. Three witnesses testified at the public hearing on behalf of the Applicant: Christopher Doyle of the Applicant; Shalom Baranes of Shalom Baranes Associates, and Shane Dettman of Holland and Knight LLP. The Commission indicated that they had previously qualified Mr. Baranes as an expert in architecture and Mr. Dettman as an expert in land use and zoning.

18. At the public hearing, Joel Lawson of OP testified against the Applicant's request to maintain the hotel sign at the top of the building.
19. At the public hearing, both Commissioner Florence Harmon of ANC 2A06, the Single Member District representative for the area in which the Subject Property is located, and Commissioner Patrick Kennedy, Chairman of ANC 2A, testified on behalf of ANC 2A in opposition to the application.
20. At the public hearing, Barbara Kahlow testified on behalf of WECA as a party in opposition to the application.
21. At the public hearing, Sally Blumenthal of 22 West testified as an organization in opposition to the application. Twenty-Two West is a residential condominium building located directly across M and 22nd Streets from the Subject Property at 1177 22nd Street, N.W.
22. At the conclusion of the public hearing, the Commission requested that the Applicant continue to work with ANC 2A, WECA, and 22 West to reach an agreement on the hotel signage. The Commission set dates for the parties to file post-hearing submissions and scheduled a decision meeting for the case on April 24, 2017.
23. On April 11, 2017, the Applicant, ANC 2A, and 22 West submitted a joint letter requesting a three-month extension of the April 24, 2017, decision meeting and associated filing deadlines in order to continue negotiations regarding the hotel signage. (Ex. 40.)
24. On July 10, 2017, the Applicant, ANC 2A, 22 West, and WECA submitted a joint letter indicating that they had resolved the matter regarding hotel signage by agreeing that the Applicant would remove the hotel sign at the top of the building and replace it with a new blade sign. (Ex. 41.) On July 11, 2017, WECA submitted an email indicating that its support for installation of the new blade sign was conditioned on the Applicant immediately removing the sign at the top of the building. (Ex. 42.)
25. On July 14, 2017, the Applicant submitted its post-hearing filing, which: (i) described its agreement with ANC 2A, WECA, and 22 West and attached a copy of the agreed-upon new blade sign; (ii) proposed conditions to be included in the Commission's Order regarding timing for removing the existing sign and installing the new blade sign; (iii) addressed the location of the ground-level retail signage, with which none of the parties or 22 West had any concerns; and (iv) requested a waiver of the post-hearing filing deadline, since its post-hearing submission was filed several days late. (Ex. 43-43A.)
26. On July 16, 2017, ANC 2A submitted an email opposing the signage plan included in the Applicant's post-hearing submission because it was not an accurate depiction of the sign to which the parties had agreed. (Ex. 44-44A.)

27. On July 17, 2017, the Applicant submitted a letter superseding and replacing the cover letter and signage plan filed on July 14, 2017, which had inadvertently included an outdated signage plan. (Ex. 47-47A.) The revised signage plan included the sign that was agreed to by the Applicant, ANC 2A, WECA, and 22 West. (Ex. 47A.)
28. At its public meeting on July 24, 2017, the Commission voted to deny the Applicant's originally-stated request to modify the text of Decision No. A.1 of Z.C. Order No. 07-21B, and to grant the Applicant's request to install the revised blade sign shown and remove the hotel sign at the top of the building. (Ex. 47A.)

PUD Modification

29. The Applicant requested approval to modify the signage condition of the PUD approved in Z.C. Order No. 07-21B. The approved PUD includes hotel and restaurant signage that was required to be built "in accordance with the architectural plans and elevations prepared by Shalom Baranes Associates, dated October 11, 2007 (Exhibit 24), as supplemented by the plans presented at the public hearing (Exhibit 36) (the "Plans"), as modified by the guidelines, conditions, and standards herein." (See Z.C. Order No. 07-21B, Decision No. A.1.) Exhibit 24 was the architectural drawings prepared by Shalom Baranes Associates and dated October 7, 2011. Exhibit 36 was a copy of the Applicant's PowerPoint presentation, which included the Applicant's signage plan on page four.
30. The Applicant in this case originally requested that the Commission add the following sentence at the end of Decision No. A.1 of Z.C. Order No. 07-21B: "The signage area locations and approximate dimensions shall be shown on the signage plan at Exhibit 36, page 4." Adding this language would clarify that Exhibit 36, page 4 showing the signage area, locations, and approximate dimensions was the approved signage plan for the project and would permit the Applicant to maintain the hotel signage in its existing location at the top of the building.
31. In its supplemental prehearing submission dated December 16, 2016, the Applicant updated its request to modify the text of Z.C. Order No. 07-21B to instead add the following condition on the location and dimensions of the approved building signage: "The signage area[,] locations, and approximate dimensions shall be shown on Exhibit Nos. [22A, 22B, and 22CD] of Z.C. Case No. 07-21C." (Ex. 22.) Exhibit 22A is a photograph of the existing upper-level hotel sign, Exhibit 22B is a copy of the approved permit drawings for the building signage, and Exhibit 22D is a photograph showing the existing ground-level restaurant sign located on the building's 22nd Street façade.
32. Following the public hearing and negotiations with ANC 2A, WECA, and 22 West, on July 14, 2017, as supplemented on July 17, 2017, the Applicant submitted its post-hearing filing, which included a revised signage plan showing an externally-illuminated hotel blade sign for the hotel on the building's M Street façade near the corner with 22nd Street, which would replace the existing hotel sign at the top of the building. (Ex. 47, 47A.) The replacement sign would be three feet by 10 feet (30 square feet) with two spot lights mounted on each side near the base of the sign ("Replacement Sign"). Installation

of the Replacement Sign was agreed to by ANC 2A, WECA, and 22 West, contingent upon the Applicant removing the existing hotel sign at the top of the building. (*See Ex. 41.*) In its post-hearing filing, the Applicant proposed conditions regarding the timing for removal of the existing sign and installation of the Replacement Sign, which the Commission did not approve.

33. The Applicant also requested a modification regarding the building's ground-floor retail signage, which was approved to be located on the building's 22nd Street façade (*see Exhibit 36 of Z.C. Case No. 07-21B*), but was installed on the building's east façade (*see existing conditions photograph and signage permit drawings at Exhibit 22B and 22D*). The Applicant requested that the Commission approve the existing location and approximate dimensions of the retail signage, as shown on Exhibit 22B and 22D, to allow the sign to be maintained in its current configuration. The Applicant also requested flexibility to relocate the retail signage to its originally-approved location, as shown on Exhibit 36 of Z.C. Case No. 07-21B. ANC 2A, WECA, and 22 West did not oppose this request. OP also stated no objection to the existing retail signage, assuming it meets all requirements of any applicable signage or public space regulations. (*See Ex. 25, p. 3.*)
34. Based on the foregoing, the Commission approves the Applicant's final request to modify the text of Z.C. Order No. 07-21B to add the following condition: "The signage area, locations, and approximate dimensions shall be as shown on Exhibit No. 47A of Z.C. Case No. 07-21C. The building shall not include any signage at the top of the building. Ground-floor retail signage shall be consistent with either Exhibit 36 of Z.C. Case No. 07-21B or Exhibits 22B and 22D of Z.C. Case No. 07-21C."

OP Reports

35. By report dated October 14, 2015, OP recommended that the Commission not consider the Applicant's request as a consent calendar minor modification, and instead set down the application for a public hearing. (*Ex. 8.*)
36. By report dated December 27, 2017, OP indicated that it did not support the application to retain the hotel signage at the top of the building, but did not oppose the placement of the ground-floor retail signage on the building's 22nd Street façade. (*Ex. 25, p. 1.*) Consistent with OP's recommendations, the Commission does not approve the Applicant's request to maintain the hotel signage at the top of the building, and does approve the Applicant's request for flexibility to maintain the existing location of the ground-floor retail signage.

DDOT Report

37. By report dated December 9, 2016, DDOT filed a hearing report indicating that the application would have no adverse impacts on the travel conditions of the District's transportation network, and that DDOT had no objection to approval of the application. (*Ex. 21.*)

ANC 2A Report

38. By letter dated October 9, 2015, ANC 2A objected to: (i) the Applicant's request for a "minor" modification to Z.C. Order No. 07-21B, and requested that the application be placed on the Commission's hearing calendar to permit public testimony; and (ii) the Applicant's request to maintain the hotel sign at the top of the building. The letter indicated that at its special meeting on October 7, 2015, with a quorum of commissioners present, ANC 2A voted 5-0-0 to oppose the Applicant's request for a modification. The ANC's decision was based on its belief that Z.C. Order No. 07-21B provided "clear direction for one hotel identification sign only and it was to be over the hotel entrance." (Ex. 7, p. 2.)
39. By letter dated December 22, 2016, ANC 2A submitted a second letter that reaffirmed its opposition to the Applicant's request to maintain the hotel sign at the top of the building, based on its belief that Z.C. Order No. 07-21B clearly permitted one hotel identification sign only, and it was to be located over the hotel entrance. The letter indicated that at its regular, duly noticed public meeting on November 16, 2016, with a quorum of commissioners present, ANC 2A voted 5-0-0 to oppose the Applicant's request for a modification. (Ex. 24, p. 2.)
40. Commissioners Florence Harmon and Patrick Kennedy testified on behalf of ANC 2A at the public hearing and expressed ANC's unanimous opposition to the proposed modification. Commissioners Harmon and Kennedy described the ANC's long history of involvement with the PUD and the inappropriate nature of the existing signage for the neighborhood. Commissioners Harmon and Kennedy requested that the Commission deny the Applicant's request to maintain the existing hotel sign at the top of the building as being inconsistent with Z.C. Order No. 07-21B and the intent of the Commission in approving that application. (Ex. 30, 36.)
41. Following negotiations with the Applicant, WECA, and 22 West after the public hearing, the parties filed a joint notice of settlement based upon a revised signage plan, which would remove the existing hotel sign at the top of the building and replace it with the Replacement Sign (*see* Ex. 41). Unfortunately, the plans submitted were not those agreed to by the ANC. Commissioner Harmon pointed this out to the Applicant's Counsel through an email dated July 16, 2017. (Ex. 44.) The Applicant subsequently submitted the correct revised plans. (Ex. 47-47A.)

Parties in Opposition

42. WECA submitted written and oral testimony in opposition to the application. By letters dated October 9, 2015, and August 15, 2016, WECA objected to the Applicant's request for the application being reviewed a consent calendar "minor" modification, and objected to the Applicant's request to maintain the existing hotel sign at the top of the building. (Ex. 6, 14.) Similar to the ANC's position, WECA's objection was based on its belief that Z.C. Order No. 07-21B only permitted one hotel sign, and that sign was to be located over the hotel's entrance.

43. Barbara Kahlow testified on behalf of WECA at the public hearing, expressing WECA's opposition to the hotel signage at the top of the building and the importance of removing that sign. (Ex. 35.)
44. Following negotiations with the Applicant, ANC 2C, and 22 West after the public hearing, WECA agreed to a revised signage plan, which would remove the existing hotel sign at the top of the building and replace it with the Replacement Sign. (Ex. 41.) WECA conditioned its support of the Replacement Sign with the Applicant immediately removing the existing hotel sign at the top of the building. (*See* Ex. 42, 48.)

Organizations in Opposition

45. Sally Blumenthal of 22 West testified as an organization in opposition to the application at the public hearing. Twenty-Two West opposed the application based on the belief that Z.C. Order No. 07-21B only permitted a single hotel sign, and that sign was to be located above the hotel's entrance on 22nd Street. (Ex. 37.) Following negotiations with the Applicant and other parties, 22 West supported the revised signage plan. (*See* Ex. 41.)

Persons in Opposition

46. Rebecca Coder, ANC Commissioner Chair during Z.C. Case No. 07-21B, testified in opposition to the application at the public hearing in her individual capacity. Commissioner Coder provided examples of other PUDs with "appropriate" signage, included information on the health impacts of artificial light, and asserted that hotels do not need signs for successful operation. (Ex. 31.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to provide for higher quality development through flexibility in building controls, including building height and density, provided that the PUD results in a project superior to what would result from the matter-of-right standards, offers a commendable number or quality of meaningful public benefits, protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan. (Subtitle X § 300.1.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider and approve this application for a modification to the approved Consolidated PUD. Any modifications proposed to an approved PUD that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Commission pursuant to Subtitle Z, Chapter 7. Pursuant to Subtitle X § 704.3, the application shall meet the requirements for, and be processed as, a second-stage PUD application. In this case, the Commission treated the PUD modification as a second-stage PUD application.

3. The Commission may establish general standards and, in individual cases, set standards and conditions for height and bulk lesser or greater than the standards established for the affected districts in the Zoning Regulations. (Subtitle X § 300.6.)
4. Development of the Property, as modified, carries out the purposes of Subtitle X, Chapter 3 to provide high quality development that is superior to what would result from the matter-of-right standards.
5. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan.
6. The project benefits and amenities are reasonable tradeoffs for the requested development flexibility.
7. Approval of the PUD modification is appropriate because the project is consistent with the present character of the area, is not inconsistent with the Comprehensive Plan, and conforms with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Commission is required under § 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 written issues and concerns the affected ANC. The only issues and concerns expressed by ANC 2A concerned its opposition to the modification originally proposed. The ANC did not submit a formal report concerning the revised modification request, although its representative entered a settlement agreement with the Applicant concerning it. Therefore, as to the modification granted, there are no issues or concerns to give great weight to.
9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. For the reasons stated above, the Commission concurs with OP's recommendation to: (i) deny the Applicant's request to maintain the hotel signage at the top of the building; and to (ii) grant the Applicant's request for flexibility on the location of the ground-floor retail signage. OP took no position on the negotiated new signage plan shown on Exhibit 47A.
10. The PUD modification application is subject to compliance with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission of the District of Columbia **ORDERS APPROVAL** of the revised request for modifications to a previously approved consolidated PUD for the Subject Property located at Lot 87 in Square 50, originally approved in Z.C. Order No. 07-21, as amended by Z.C. Order No. 07-21B, subject to the conditions listed below.

A. HOTEL SIGNAGE

1. Decision No. A.1. of Z.C. Order No. 07-21B shall be amended as follows:

“The PUD shall be developed in accordance with the architectural plans and elevations prepared by Shalom Baranes Associates, dated October 7, 2011 (Exhibit 24), as supplemented by the plans presented at the public hearing (Exhibit 36) (the "Plans"), as modified by the guidelines, conditions, and standards herein. Notwithstanding the notes on pages A1 and A2 of Exhibit 24, but subject to the flexibility allowed under Condition No. 7(e) (discussed at paragraph 43(b) of this Order), the hotel shall have two signs: (i) one hotel sign shall be above the hotel's entrance on 22nd Street, as shown on pages A1 and A2 of Exhibit 24, and that sign cannot be at a different location or be vertically mounted on the façade of the hotel or illuminated from within, and (ii) one hotel sign shall be an externally-illuminated vertical blade sign located on the building's M Street façade near the corner with 22nd Street, and shall be three feet by 10 feet (30 square feet) with two spot lights mounted on each side near the base of the sign. The signage area, locations, and approximate dimensions shall be consistent with Exhibit No 47A of Z.C. Case No. 07-21C. The building shall not have any signage at the top of the building. Ground floor retail signage shall be consistent with either Exhibit 36 of Z.C. Case No. 07-21B or Exhibits 22B and 22D of Z.C. Case No. 07-21C.”

B. MISCELLANEOUS

1. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.
2. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 *et seq.*, (“Act”). 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 which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On July 24, 2017, upon the motion of Commissioner Turnbull, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application, as amended, at its 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) to approve.

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on November 9, 2018.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-07C
Z.C. CASE NO. 08-07C
Four Points, LLC
(Second-Stage PUD @ Square 5784)
September 17, 2018

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on July 26, 2018, to consider an application from Four Points, LLC (“Applicant”) for approval of a second-stage planned unit development (“PUD”) for property located at Square 5784, Lots 899, 900, and 1101 (“Site”) in accordance with the Commission’s first-stage PUD approval in Z.C. Order No. 08-07 (“Application”). The Commission considered the Application pursuant to Subtitle X, Chapter 3 and Subtitle Z of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”).¹ For the reasons stated below, the Commission hereby **APPROVES** the Application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On March 9, 2018, the Applicant filed an application for a second-stage PUD to develop an office building with ground-floor retail on the Site (“Building 4”). (Exhibit [“Ex.”] 1-3I.)
2. On May 4, 2018, the Office of Planning (“OP”) submitted a setdown report recommending that the Commission setdown the Application for a public hearing and identifying some items for which more information or clarification was needed from the Applicant prior to the public hearing. (Ex. 10.) OP indicated in its report that it would consult with other District agencies as part of its review of the Application, including the Department of Energy and the Environment (“DOEE”), District Department of Transportation (“DDOT”), Fire and Emergency Medical Services Department (“FEMS”), Metropolitan Police Department (“MPD”), and DC Water. (Ex. 10, p. 14.)
3. At its public meeting held on May 14, 2018, the Commission voted to setdown the Application for a public hearing with certain questions and requests for additional information.
4. On May 16, 2018, the Applicant filed its Prehearing Submission. (Ex. 12-12E.) The Prehearing Submission responded to the questions raised by the Commission at the setdown meeting and by OP in its setdown report: (i) confirmation on the flexibility

¹ Pursuant to 11-A DCMR §§ 102.1 and 102.3(a), the second-stage PUD has vested development rights under the 1958 Zoning Regulations because the architectural drawings approved in this second-stage PUD application are consistent with the unexpired first-stage PUD that was approved prior to the effective date of the 2016 Zoning Regulations. Accordingly, all zoning tabulations for the project were properly reviewed and approved according to the standards of the 1958 Zoning Regulations.

requested for building materials; (ii) confirmation that zoning flexibility is not needed from the penthouse requirements and an estimated contribution amount to the affordable housing trust fund generated by the penthouse amenity space; (iii) confirmation that short-term bicycle parking spaces would be provided at the project; (iv) information on the loading management plan, curbside management plan, and pathways between the loading dock and the office and retail areas; (v) architectural drawings showing Building 4's south elevation and signage plan, and landscape drawings showing precedent images of the proposed streetscape and courtyard; (vi) confirmation that the Applicant would enter into a First Source Employment Agreement and Certified Business Enterprise ("CBE") Agreement for development of Building 4; and (vii) information on the Anacostia Business Improvement District. (Ex. 11-12.) The Applicant also indicated that any information not provided in the Prehearing Submission would be filed prior to the public hearing on the Application.

5. On May 29, 2018, the Office of Zoning sent copies of a Notice of Public Hearing on the Application to OP, DDOT, DOEE, and the D.C. Housing Authority ("DCHA"). The Notice of Public Hearing was also mailed to the owners of property located within 200 feet of the Site; the Advisory Neighborhood Commission ("ANC") 8A, which is the ANC in which the property is located; and the affected and at large District Councilmembers. (Ex. 17.)
6. A Notice of Public Hearing was published in the *D.C. Register* on June 8, 2018. (Ex. 14.)
7. On June 26, 2018, the Applicant submitted a Comprehensive Transportation Review ("CTR") report prepared by Gorove/Slade Associates and dated June 11, 2018. (Ex. 20-20A.) The CTR reviewed and provided analysis on the impact of Building 4 and two other mixed-use buildings within the PUD Site (defined below) known as "Building 5" and "Building 8." As it relates to Building 4, the CTR concluded that the building would not have a detrimental impact on the surrounding transportation network once all planned site design elements are implemented.
8. On July 6, 2018, the Applicant filed a Supplemental Prehearing Submission. (Ex. 21-21B.) The Supplemental Prehearing Submission included: (i) updated architectural drawings that included all project details and additional renderings requested previously by the Commission and OP; (ii) final confirmations on the total number of long- and short-term bicycle parking spaces provided for the project; and (iii) a construction management plan ("CMP") with which the Applicant agreed to comply during construction of Building 4.
9. On July 16, 2018, DDOT submitted a report ("DDOT Report") stating no objection to the Application subject to a number of revisions and conditions. (*See* Ex. 22, pp. 4-5). The DDOT Report also listed items that the Applicant would be required to address with DDOT outside of the zoning process and during the permitting process. (*See* Ex. 22, pp. 5-6).

10. On July 18, 2018, OP submitted a report (“OP Report”) recommending approval of the Application subject to several outstanding items and requests for information detailed in Finding of Fact (“FF”) No. 58. (Ex. 25.) The OP Report also requested a waiver for the Commission to accept the report less than 10 days prior to the public hearing. The Commission approved the waiver. The OP Report indicated that OP had circulated the Application to DDOT, DOEE, FEMS, MPD, and DC Water. (Ex. 25, p. 14.)
11. On July 18, 2018, the Metropolitan Police Department submitted a letter stating that the project would have little impact on public space and safety. (Ex. 23.)
12. By letter dated July 18, 2018, ANC 8A appointed Commissioner Greta Fuller, the Single Member District representative for the Site (SMD 8A06), to represent ANC 8A at the public hearing. (Ex. 27.)
13. By letter dated July 24, 2018, ANC 8A requested that the Commission permit the ANC to finalize a Community Benefits Agreement (“CBA”) with the Applicant no later than September 7, 2018, to provide additional time to gain community support for the project. (Ex. 28.)
14. On July 26, 2018, the Applicant submitted the following materials: (i) its PowerPoint presentation for the public hearing; (ii) photos of the proposed materials for Building 4; and (iii) a response to the DDOT Report, prepared by Gorove/Slade, identifying the conditions and items for continued coordination which the Applicant agreed, and for those with which it did not agree, and explanation as to its position (“DDOT Response Memo”). (Ex. 37.)
15. Eight letters in support of the Application from local organizations were filed in the case record on July 26, 2018. (Ex. 29-36.)
16. After proper notice described above, the Commission held a public hearing on the Application on July 26, 2018.
17. The parties to the case were the Applicant and ANC 8A.
18. The Applicant presented three witnesses at the public hearing in its direct testimony: Keith Turner, on behalf of the Applicant; Lawrence Caudle, on behalf of Hickok Cole Architects; and Erwin Andres on behalf of Gorove/Slade. Ryan Brannan of Bowman Consulting and Shane Dettman of Holland & Knight were also accepted by the Commission as expert witnesses but they did not testify at the hearing. Based on their professional experience, as evidenced by resumes submitted for the record, the Commission qualified each of the witnesses as experts in their respective fields of architecture (Mr. Caudle), transportation planning (Mr. Andres), civil engineering (Mr. Brannan), and land use planning (Mr. Dettman).
19. OP testified in support of the Application at the public hearing. OP stated that the Applicant adequately responded to questions raised in the OP report, including providing a description of the Applicant’s proposed proffer related to employment and training

- opportunities for local residents. OP also indicated its support for either zoning relief or design flexibility to provide parking spaces in Building 4 that do not fully comply with the size requirements of the 1958 Zoning Regulations, but do comply with the size requirements of the 2016 Zoning Regulations.
20. DDOT testified that it had no objection to approval of the Application, based on the Applicant agreeing to the majority of the conditions and items for continued coordination, as set forth in the Applicant's DDOT Response Memo. (Ex. 37C.)
 21. Commissioner Greta Fuller testified on behalf of ANC 8A at the public hearing. Commissioner Fuller raised several issues related to the Application, including: (i) the need for the ANC to review the proposed building materials in more detail; (ii) concerns that Building 4 would create additional traffic congestion, pedestrian safety issues, noise, and trash in the surrounding streets; (iii) concern for a loss of privacy and increased shadows on the adjacent row homes to the south of Building 4; and (iv) the need for more time to thoroughly review the CBA and Construction Management Plan ("CMP").
 22. One organization, the Anacostia Coordinating Council ("ACC") (a membership consortium of organizations and individuals involved in the revitalization of Anacostia through information gathering and sharing, networking, advocacy, and community organization), represented by its Executive Director Philip Pannell, testified in support of the Application at the public hearing. Mr. Pannell stated that the Applicant had previously presented the project to the ACC, which received positive community feedback, and that the Applicant was scheduled to present the project again at an upcoming ACC meeting.
 23. By letter dated August 4, 2018, ACC submitted a formal letter in support of the Application, noting that the Applicant had presented to the ACC twice, with approximately 200 community members in attendance between the two meetings. (Ex. 45B.) The ACC letter stated that the PUD "in general and this office building, in particular, will bring dramatic economic development and added vibrancy to... greater Anacostia" and would "leverage investments already made or planned by the District." The letter also noted that the project would "dramatically enhance the neighborhood and continue its revitalization by replacing low-scale industrial uses with a new, well designed building that includes ground floor retail, an attractive landscaped courtyard and public space improvements that will help improve the pedestrian experience in our neighborhood."
 24. One organization, DC 4 Reasonable Development ("DC4RD") represented by Chris Otten, testified as undeclared at the public hearing. Mr. Otten raised a variety of unsubstantiated claims regarding development of Building 4 that the Applicant responded to in its rebuttal testimony and are addressed in detail in FF Nos. 73-75.
 25. At the conclusion of the August 26, 2018 public hearing, the Commission closed the record, except to receive additional information from the Applicant and the ANC,

including post-hearing submission materials, responses thereto, a report from the ANC, and draft Findings of Fact and Conclusions of Law.

26. On August 27, 2018, the Applicant submitted a post-hearing submission in response to the requests for information at the public hearing. (Ex. 45-45C.) The post-hearing submission included the following information: (i) an updated materials board showing a broader range of proposed colors for Building 4's metal panels; (ii) a photograph of the existing townhomes across the public alley from the Site and a photograph of the Site from the townhomes' rear yards; (iii) a proposed rendering of Building 4 from the townhomes' rear yards, including a view of the upgraded screening on Building 4 that will hide the existing generator and utilities that serve Building 3 but are located on the Site; (iv) a site plan showing the linear dimensions between the townhomes and Buildings 3 and 4; (v) a request for zoning flexibility to provide parking spaces that are nine feet by 18 feet in size; and (vii) an update on the Applicant's coordination with ANC 8A and the ACC.
27. The Commission took final action to approve the Application on September 17, 2018.

The PUD Site and Prior Zoning Approvals

28. Pursuant to Z.C. Order No. 08-07, dated September 9, 2013, and effective on October 25, 2013, the Commission approved a first-stage PUD and a related Zoning Map amendment from the C-2-A and C-M-1 Zone Districts to the C-3-A Zone District for Square 5772, Lots 827, 829, 831, 880, 984, 1017, and 1019; Square 5783, Lots 829 and 1018; Square 5784, Lots 898, 899, and 900; and Square 5785, Lots 839 and 906 (collectively, the "PUD Site").² The PUD Site has an overall land area of approximately 340,467 square feet (approximately 7.8 acres) and is generally bounded by U Street, to the north, Martin Luther King, Jr. Avenue to the east, Chicago Street to the south, and Interstate 295 to the west, all located in the southeast quadrant of the District.
29. The approved first-stage PUD is a mixed-use project consisting of approximately 1,570,000 square feet of gross floor area (4.5 floor area ratio ("FAR")) comprised of seven new buildings and two renovated existing buildings. The Commission approved the development of approximately 481,000 square feet of gross floor area for residential use; approximately 144,000 square feet of gross floor area for retail, service, arts, and limited types of office use; and approximately 945,000 square feet of gross floor area for office use. (See Z.C. Order No. 08-07, Decision Nos. A (2)-(3).)
30. In the approved first-stage PUD, the Commission approved Building 4 to have a maximum building height of 90 feet (not including penthouse) and a maximum density of

² Z.C. Order No. 08-07 was approved under the 1958 Zoning Regulations. Under the 2016 Zoning Regulations, which repealed and replaced the 1958 Zoning Regulations on September 6, 2016, the C-2-A Zone District was re-designated to the MU-4 zone, the C-M-1 Zone District was re-designated to the PDR-1 zone, and the C-3-A Zone District was re-designated to the MU-7 zone. This application for a second-stage PUD for Building 4 is subject to the development and use requirements of the 1958 Zoning Regulations.

4.0 FAR. The Commission also granted relief from the parking and loading requirements for Building 4. (See Z.C. Order No. 08-07, FF Nos. 29 and 30.)

31. Pursuant to Z.C. Order No. 08-07A, dated March 30, 2015, and effective on May 22, 2015, the Commission approved a second-stage PUD and modifications to the approved first-stage PUD to develop Lot 839 and part of Lot 906 in Square 5785 with a residential building (“Building 1”). “Building 3,” which contains office use, has been completed and is occupied.

Second-Stage PUD for Building 4

32. The Applicant seeks second-stage approval to permit the development of Building 4. As shown on the Architectural Plans and Elevations dated July 6, 2018 (Ex. 21A1-21A4), as revised by the site plan and street sections included in the July 25, 2018 DDOT Response Memo (Ex. 37C), and as further revised by the Architectural Plans and Elevations dated August 27, 2018 (Ex. 45A), (together, the “Architectural Drawings”), Building 4 will have a maximum building height of 90 feet (not including penthouses) and approximately 287,886 square feet of gross floor area (4.4 FAR). Approximately 6,644 square feet of gross floor area will be devoted to retail space and approximately 281,242 square feet of gross floor area will be devoted to office space. Building 4 includes 460 total parking spaces, comprised of 324 zoning-compliant spaces and 136 tandem spaces. Loading facilities for Building 4 include three loading berths at 30 feet deep, one 20-foot service/delivery space (Sheet A-02 in Ex. 21A1 incorrectly states that no delivery space will be provided), and one 400-square-foot loading platform.
33. Building 4’s volume is comprised of two main components of seven and five stories, organized to create an “L” shape with the main fronts aligned on Railroad Avenue, W Street, and Shannon Place. The south elevation faces an alley while the internal elevations face the existing building at 2235 Shannon Place (Building 3) to create a landscaped courtyard. The five story volume features retail on the ground floor and a shared lobby to provide access to both retail and office uses. This area is the main entrance to Building 4, with a second entrance provided from the landscaped courtyard.
34. Service, delivery, and parking garage access is located on Railroad Avenue near W Street, S.E. W Street, S.E. is the subject of a pending street dedication application (“S.O. No. 00469”) that would effectively widen the W Street sidewalk adjacent to the Site by setting Building 4 back 20 feet and creating an unencumbered surface easement to provide wider sidewalks, enhanced landscape treatments, and a significantly improved pedestrian realm.
35. The material selection for Building 4 is consistent with the overall massing diagram. The five-story volume at the corner of Shannon Place and W Street is defined by a brick and metal grid that organizes the facades in a sequence of 10-foot-wide by 12.5-foot-high bays. This language defines the transition between the scale of the neighborhood and the seven-story main volume along Railroad Avenue at the north and south elevations, alternating the 10-foot bays with 15-foot bays to differentiate the more civic and urban

nature of the Shannon Place and W Street elevations from the Railroad Avenue elevations. The articulation of the front with different heights and materials reduces the scale of the larger volume and establishes a gradual transition between the building's seven-story bulk and the scale of the town homes on Chicago Street.

36. The Railroad Avenue façade is primarily characterized by an articulated window wall system that maximizes views across the Anacostia River and creates a composition of gently angled glass. The articulation of Building 4 with different volumes and heights also creates an opportunity to provide a sequence of roof terraces that complement the amenity spaces within Building 4, providing both landscaped and paved outdoor areas. The roof terrace at the seventh floor will provide unique views of the Anacostia River and the District's skyline beyond, and the roof terrace at the fifth floor will provide an intensive green garden, introducing a strong natural presence into the project.

Development Flexibility

37. The PUD process was created to allow greater flexibility in planning and design than may otherwise be possible under conventional zoning procedures. As part of the first-stage approval, the Commission granted zoning flexibility such that Building 4 was permitted to provide 347 parking spaces where 461 spaces were required, and three loading berths where four berths and one service/delivery space were required. Building 4 continues to need zoning flexibility for the number of parking spaces and loading berths. At the public hearing, the Applicant requested zoning flexibility to permit the parking spaces in Building 4 to be nine feet by 18 feet in size instead of the required dimension of nine feet by 19 feet in size. The Commission approves this requested relief, since the nine feet by 18 feet parking spaces comply with the new size standards of the 2016 Zoning Regulations, even though they do not comply with the standards of the 1958 Zoning Regulations under which the Application was reviewed. (*See* 11-C DCMR § 712.5.) The Commission also notes that OP testified in support of this flexibility request at the public hearing.
38. The Applicant also requested flexibility in the following areas:
- a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, and to vary the size of the retail area, provided that the variations do not change the exterior configuration of the building;
 - b. To vary the number, location, and arrangement of parking spaces in Building 4, provided that the total number of spaces is not reduced below 324 zoning-compliant parking spaces;
 - c. To vary the final selection of exterior building materials within the color ranges of the material types shown at Exhibit 37B (materials board) as modified by Sheet A-01 of the Post-Hearing Submission (Ex. 45A), 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 make minor refinements to exterior details, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, brick shapes, sills, bases, cornices, railings and trim; and any other changes to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit;
- e. To vary the sustainable features of Building 4, provided the total number of LEED points achievable for Building 4 does not decrease below LEED-Gold;
- f. To vary the final design of retail frontages, including the location and design of entrances, show windows, and size of retail units, in accordance with the needs of retail tenants, and to vary the types of uses designated as “retail” use on the approved architectural drawings to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)), and to vary the amount of retail space, so long as the total amount is not less than 6,644 square feet and is not devoted to a single retail category;
- g. To vary the retail signage according to the signage guidelines and storefront guidelines shown on Sheet A-47 of the Architectural Drawings (Ex. 21A2); and
- h. To provide on-site parking spaces that measure nine feet by 18 feet.

The Commission limited the design flexibility granted through this order slightly from what was requested by the Applicant to be consistent with what it has approved in other recent cases, and to limit the scope of the design flexibility.

Public Benefits and Amenities

39. The Commission found in Z.C. Order No. 08-07 that the first-stage PUD provided an exceptional number and level of public benefits and project amenities, including those related to urban design and planning, public space improvements, transportation benefits, employment and training opportunities, housing and affordable housing, and environmental benefits. (*See* Z.C. Order No. 08-07, FF No. 33(a)-(f).) The Commission also found that the first-stage PUD provided uses of special value to the neighborhood and to the District as a whole, including the provision of significant new retail with active street frontages; below-market rent space to help foster an active mix of uses in the vicinity of the PUD Site; and funding and/or free space to community initiatives. (*See* Z.C. Order No. 08-07, FF No. 33(g).) Thus, the Commission concluded that the “project benefits and amenities are reasonable tradeoffs for the requested development flexibility.” (*See* Z.C. Order No. 08-07, Conclusions of Law No. 7.)

40. For this second-stage PUD, OP confirmed the Commission's prior finding that the first-stage PUD included the benefits and amenities described above and noted that "[w]hile some of the benefits are not specific to Building 4, the benefits proffered with the current application are consistent with the First Stage approval." (Ex. 25, pp. 8-9.) OP also described the additional benefits proposed as part of the Application, including those related to urban design; landscaping, creation, or preservation of open spaces; site planning and efficient and economical land utilization; office and community serving retail; local business opportunities and First Source Agreements; green elements; transportation demand management; and other benefits to be determined by the Applicant, ANC 8A, and community organizations and members. (*See* Ex. 25, pp. 9-10.)
41. Moreover, the Applicant executed a CBA with ANC 8A that established additional public benefits, including employment opportunities for Ward 7 and 8 residents; a commitment to enter into a First Source Employment Agreement with DOES that governs project components for which Tax Increment Financing ("TIF") is being used; commitment to enter into a CBE Agreement for Building 4 to contract with CBEs for at least 35% of the contract dollar volume of the entire project for which TIF financing is being used; affordable local rents; space for the Anacostia Playhouse; and a number of contributions to local organizations, among others. (*See* Ex. 46A.) Although the CBA is not enforceable by the Commission and its contents are not being proffered as additional public benefits and amenities since a number of them do not meet the standards of 11-X DCMR § 305.2, the CBA includes a variety of items that the Applicant has committed to provide, and that both the Applicant and ANC 8A believe provide special value to the neighborhood.
42. Based on the foregoing, the Commission finds that the first-stage PUD provided important public benefits and amenities that were "reasonable tradeoffs for the requested development flexibility," that the benefits and amenities have not changed with this Application and are therefore consistent with the first-stage PUD, and that the second-stage PUD will result in significant new benefits and amenities for the community. (*See* Z.C. Order No. 08-07, Conclusions of Law No. 7.) The Commission further finds that the relative value of the project benefits and amenities offered is sufficient given the degree of development incentives requested, including the requested relief for the size of on-site parking spaces, and any potential adverse effects of the project.

Transportation Demand Management

43. The Applicant will implement the following TDM measures as part of the project:
 - a. The Applicant will identify a TDM leader (for planning, construction, and operations). The TDM leader will work with employees in Building 4 to distribute and market various transportation alternatives and options;
 - b. The Applicant will work with DDOT and goDCgo (DDOT's TDM program) to implement TDM measures at Building 4;

- c. The Applicant will share the full contact information of the TDM leader for Building 4 with DDOT and goDCgo;
- d. The Applicant will post all TDM commitments online, publicize availability, and allow the public to see what commitments have been promised;
- e. The Applicant will provide retail employees who wish to carpool with detailed carpooling information and will refer them to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (“MWCOG”);
- f. The Applicant will provide 82 long-term and 10 short-term bicycle parking spaces for Building 4;
- g. The Applicant will provide a bicycle repair station in the secure long-term bicycle storage room in Building 4;
- h. The Applicant will provide changing facilities in Building 4 that include six showers and 49 lockers for employees of the retail and office uses;
- i. The Applicant will install a Transportation Information Center Display (electronic screen) within the lobby of Building 4 containing information related to local transportation alternatives;
- j. The Applicant will fund and install a 19-dock Capital Bikeshare station within the PUD Site and provide funding for one year of maintenance and operations;
- k. The Applicant will fund and install the expansions of three nearby existing Capital Bikeshare stations to 19 docks (Pleasant Street, Good Hope Road, and Shannon Place);
- l. The Applicant will dedicate two parking spaces within the garage of Building 4 for car-share services. If a car-share provider(s) chooses not to locate vehicles in those spaces, then the Applicant will host a transportation event for employees of Building 4; and
- m. The Applicant will dedicate nine parking spaces within the garage of Building 4 as electric vehicle charging stations.

Compliance with PUD Standards and Consistency with Comprehensive Plan

44. Pursuant to 11-X DCMR § 302.2(b), a second-stage PUD application is 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 the Zoning Regulations.

45. With respect to a second-stage PUD, “[i]f the Zoning Commission finds the application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Zoning Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Zoning Commission's decision.” (11-X DCMR § 309.2.)
46. The Commission previously found that the first-stage PUD, including the project, was not inconsistent with the Comprehensive Plan (*see* Z.C. Order No. 08-07, FF Nos. 35-39); that the impact of the PUD on the surrounding area was not unacceptable and could be approved with conditions to ensure that any potential adverse effects on the surrounding area would be mitigated (*see* Z.C. Order No. 08-07, Conclusion of Law Nos. 5 and 6); that the requested flexibility was consistent with the Comprehensive Plan and the project benefits and amenities were reasonable trade-offs for the requested development flexibility (*see* Z.C. Order No. 08-07, Conclusions of Law No. 7).
47. The Commission finds that this second-stage Application meets the requirements of 11-X DCMR § 302.2(b) because it included a detailed review of the site plan, building design, and landscape materials, which the Commission finds are in compliance with the first-stage PUD and the Zoning Regulations.
48. The Commission further finds that this second-stage PUD Application is consistent with the first-stage PUD approval in Z.C. Order No. 08-07, with the exception of the additional flexibility requested for the size of parking spaces, which the Commission has approved. The Commission previously found that the PUD provides important public benefits and project amenities and that those benefits and amenities were reasonable trade-offs for the requested development flexibility. (*See* Z.C. Order No. 08-07, FF 33, Conclusions of Law No. 7.) The approved public benefits and amenities have not changed with the Application, and are therefore fully consistent with the first-stage PUD approval. However, in working with ANC 8A, the Applicant agreed to a number of additional benefits, which although not being specifically proffered as additional public benefits and amenities, will have a positive impact on the immediate community.
49. The Commission moreover concludes that this second-stage PUD for Building 4 will continue to advance the priorities approved in Z.C. Order No. 08-07 and will not create any new adverse impacts. The Application has been evaluated by the relevant District agencies, and based on the reports of those agencies and their testimony at the public hearing, the Commission finds that there will be no adverse impacts created by Building 4 that cannot be mitigated by the conditions imposed in this Order.
50. Building 4 has been evaluated under the PUD guidelines for the C-3-A Zone District under the 1958 Zoning Regulations, which was the zone approved for the Site by Z.C. Order No. 08-07.
51. Regarding the issue of consistency with the Comprehensive Plan, in Z.C. Order No. 08-07, the Commission found that the first-stage PUD advanced the purposes of the Comprehensive Plan, was not inconsistent with the Future Land Use Map, complied with

- the guiding principles in the Comprehensive Plan, and furthered a number of the major elements of the Comprehensive Plan. (*See* Z.C. Order No. 08-07, FF No. 34.) The Commission also found that the Applicant’s proposal in the first-stage PUD to rezone the PUD Site “to C-3-A and to redevelop the PUD Site into a neighborhood center with a mix of office, retail, service, and residential uses is fully consistent with the Future Land Use Map and Generalized Policy Map designations for the PUD Site.” (*See* Z.C. Order No. 08-07, FF No. 42.)
52. The Commission further found that the first-stage PUD, including Building 4, advanced the Comprehensive Plan’s purposes by promoting the social, physical, and economic development of the District through the provision of a high-quality mixed-use development that would increase the housing supply, add new retail uses, create additional employment opportunities, and generate significant tax revenues for the District. (*See* Z.C. Order No. 08-07, FF No. 36.) The Commission determined that the first-stage PUD was not inconsistent with many guiding principles in the Comprehensive Plan and furthered the objectives and policies of many of the Comprehensive Plan’s major elements, as set forth in Z.C. Order No. 08-07, FF Nos. 38 and 39. Moreover, the Commission found that the first-stage PUD carried out the purposes of Chapter 24 of the 1958 Zoning Regulations to encourage the development of well-planned developments, which would offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development. (*See* Z.C. Order No. 08-07, Conclusions of Law No. 3.)
53. 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, 11-DCMR § 309.2 states that “[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 PUD is not inconsistent with the Comprehensive Plan as part of its review and approval of the first-stage PUD, and the Commission is not required to revisit that decision.
54. Furthermore, as set forth in the OP Report of the present case, OP found that the second-stage PUD for Building 4 is not inconsistent with the first-stage PUD or with the Comprehensive Plan Future Land Use and Generalized Policy Maps’ designations and determined that the project meets or furthers many of the policies of the Comprehensive Plan Elements and the Far Southeast and Southwest Area Elements. (Ex. 25, p. 11; Ex. 10 appendix.) OP also acknowledged that the Commission previously found in the first-stage PUD that the overall PUD would further the objectives of the Anacostia Transit Area Strategic Investment and Development Plan (2006), including the provision of new retail space and improvements to the pedestrian realm. (Ex. 25, p. 11; Z.C. Order No. 08-07, FF No. 44.) The Commission concurs with OP’s findings.

55. Notwithstanding the fact that the Commission has already determined that the overall PUD is 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. (Ex. 3D.) Based on this additional information, the Commission reconfirms its prior finding in the first-stage PUD that the project is not inconsistent with the Comprehensive Plan. Moreover, the Commission finds that based upon the evidence in the record, including the Applicant's Statement in Support, the Applicant's Comprehensive Plan analysis, and the OP Report, the requested first-stage PUD is not inconsistent with the approved first-stage PUD. (Ex. 3, 3D, 25.)
56. Therefore, taken together and based on all of the evidence in the record, including the Commission's findings in Z.C. Order No. 08-07, the Applicant's filings in the case record, and the OP Reports, and consistent with the Findings of Fact above, the Commission concludes that the project is not inconsistent with the guiding principles, policies, and goals of the Comprehensive Plan, including the Future Land Use Map and the Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major Citywide and Area Elements of the Comprehensive Plan.

Office of Planning Reports and Testimony

57. By report dated July 18, 2018, OP recommended approval of the Application, stating that the Application is not inconsistent with the first-stage PUD and accompanying Zoning Map amendment or the Comprehensive Plan. (Ex. 25.) OP acknowledged the Commission's previous finding that the first-stage PUD was not inconsistent with the Comprehensive Plan Future Land Use and Generalized Policy Maps and that the proposed second-stage PUD is not inconsistent with the first-stage approval or with the Comprehensive Plan map designations. (Ex. 25, pp. 10-11.) OP also supported the Applicant's requested zoning and development flexibility with comments on certain areas of flexibility described in FF Nos. 58-59 and as fully addressed by the Applicant. In addition, OP found that the first-stage PUD "included a number of benefits, including urban design, public space improvements, transportation benefits, affordable housing, workforce housing, First Source Employment and CBE agreements, environmental designs and benefits, retail space, the creation of a Business Improvement District ("BID"), setting aside space for below market rents, and funding and/or space for community initiatives. While some of the benefits are not specific to Building 4, the benefits proffered with the current application are consistent with the First Stage approval." (Ex. 25, pp. 8-9.)
58. OP's support was subject to the following outstanding items and requests for information: (i) further details on building materials, including additional language limiting the design flexibility permitted for exterior materials; (ii) confirmation that the flexibility granted regarding the design of retail frontages would be consistent with Sheet A-47 of the Architectural Drawings submitted with the Applicant's Supplemental Prehearing Submission (Ex. 21A1-21A4), which was confirmed in the Applicant's proposed conditions submitted on August 20, 2018 (Ex. 43A); (iii) support for the Applicant's

requested flexibility to vary the interior components of the project including the size of the retail area, so long as the retail space is not reduced to less than 6,644 square feet and is not dedicated to one single retail category; (iv) support for the Applicant's proposal to add an egress stair through the roof of the fifth floor portion of Building 4, provided that any resultant penthouse meets all zoning requirements; and (v) information on how the Applicant would be expanding employment and business opportunities to the surrounding area and how the First Source Employment and CBE Agreements would be implemented.

59. The Applicant responded to the outstanding items from the OP Report at the public hearing as follows:
- a. The Applicant provided material samples, which were since modified. (Ex. 37B, 45A.) The Applicant also revised the requested design flexibility to the language shown at FF Nos. 38 of this Order;
 - b. The Applicant confirmed that the flexibility granted regarding the design of retail frontages would be consistent with Sheet A-47 of the Architectural Drawings; (Ex. 21A2.)
 - c. The Applicant agreed to provide a minimum of 6,644 square feet of retail space in Building 4, not to be devoted to a single retail category;
 - d. Although the Applicant initially requested flexibility to add an egress stair through the roof of the fifth floor if necessary, prior to the public hearing the Applicant determined that the egress stair was necessary for the project. Thus, the Architectural Drawings show the egress stair and confirm that the resultant penthouse fully meets the requirements of the Zoning Regulations; and (Ex. 21A.)
 - e. The Applicant described the employment and training opportunities it committed to as part of the CBA. (*See* Ex. 46A.)
60. At the public hearing, OP testified that it was supportive of the project based on the Applicant's filings in the record and testimony at the public hearing.
61. Based on the analysis provided in the OP Report and the Applicant's responses thereto, the Commission finds that the Applicant fully addressed all of OP's outstanding concerns, that the Application is consistent with the Commission's intent in approving the first-stage PUD, and that the second-stage PUD is not inconsistent with the Comprehensive Plan, would not result in unacceptable impacts on the area or on city services, and includes public benefits and project amenities that balance the flexibility requested.

DDOT Report and Testimony

62. By report dated July 16, 2018, DDOT asserted no objection to the Application subject to the following conditions (*see* Ex. 22, pp. 4-5):

- a. Fund and construct the widened portion of W Street, S.E. between Shannon Place and Railroad Avenue, as proposed by the Applicant and shown on the plan set. This approximately 20-foot strip along the northern portion of the Site is intended to serve as the new pedestrian realm and widened W Street, and should be constructed to DDOT standards and be provided within a public access easement. The easement must be recorded with the Office of the Surveyor;
- b. Upgrade Railroad Avenue, S.E. between Chicago Street and W Street to include a curb on the west side and a row of street trees. Work with DDOT to determine the ultimate cross-section of Railroad Avenue and which side of the street the row of trees will be installed;
- c. In lieu of the proposed traffic signal at Martin Luther King Jr. Avenue and Shannon Place, the Applicant should fund and construct the following pedestrian network improvements in the vicinity of the Site to offset vehicular impacts to the transportation network and encourage nonautomotive travel:
 - i. Bulb-outs on the east side of Martin Luther King Jr. Avenue at Morris Road, Maple View Place, Pleasant Street, W Street, V Street, and U Street, consistent with the recommendations of the Great Streets Initiative; and
 - ii. A six-foot sidewalk along the north side of Talbert Street, S.E. between Shannon Place and the public alley;
- d. Implement the Loading Management Plan (“LMP”), for the life of the project, as proposed by the Applicant in the June 11, 2018 CTR;
- e. Implement the Transportation Demand Management (“TDM”) Plan as proposed by the Applicant in the June 11, 2018 CTR, for the life of the project, unless otherwise noted, with the following additions and minor revisions:
 - i. Clarify in TDM Plan: Specify that a minimum of six showers, 49 lockers, 82 long-term, and 10 short-term bicycle spaces will be provided at Building 4 to meet the requirements of the 2016 Zoning Regulations;
 - ii. Clarify in TDM Plan: Provide TDM leader contact information to DDOT, report TDM efforts and amenities to goDCgo staff once per year, and notify goDCgo staff each time a new office tenant moves in;
 - iii. Add to TDM Plan: Unbundle the cost of retail and office parking from the cost of lease or purchase, and only offer hourly, daily, or weekly rates. Monthly, annually, and discounted parking rates will not be offered;
 - iv. Add to TDM Plan: Retail and office tenants with 20 or more employees will demonstrate compliance with the DC Commuter Benefits Law and participate in one of the three transportation benefits outlined in the law

- (employee-paid pre-tax benefit, employer paid direct benefit, or shuttle service);
- v. Add to TDM Plan: Post all TDM commitments online, publicize availability, and allow the public to see what commitments have been promised;
 - vi. Add to TDM Plan: Fund and install a 19-dock Capital Bikeshare station within the PUD Site and provide funding for one year of maintenance and operations;
 - vii. Add to TDM Plan: Fund and install the expansions of three nearby existing Capital Bikeshare stations to 19 docks (Pleasant Street, Shannon Place, and Good Hope Road); and
 - viii. Add to TDM Plan: Dedicate two parking spaces within the garage for car-share services. If a car-share provider chooses not to locate vehicles in those spaces, then an alternate TDM strategy should be implemented; and
- f. The portion of the sidewalk along the western side of Shannon Place, SE proposed on private property should be provided within a public access easement to be recorded with the Office of the Surveyor.
63. On July 26, 2018, the Applicant submitted the DDOT Response Memo responding to DDOT's conditions listed above and also testified to these items at the public hearing. (Ex. 37C.) The Applicant agreed to each of DDOT's conditions and submitted updated plans and street sections where applicable, except as clarified below:
- a. The Applicant did not agree to fund and construct the requested off-site pedestrian improvements, which were the bulb-outs on the east side of Martin Luther King Jr. Avenue at six different intersections and a six-foot sidewalk on the north side of Talbert Street, S.E., between Shannon Place and the public alley. (FF No. 62(c).) As noted in the DDOT Response Memo, the requested improvements were not associated with the project and would be impacted by other development projects that are currently under construction or will be under construction in the near future. Moreover, the sidewalk on Talbert Street is not expected to be used by pedestrians associated with the project, who will more likely use Shannon Place to access most of the PUD Site. The Applicant and DDOT agreed to revisit the need for any additional off-site pedestrian improvements as part of any subsequent second-stage PUD application. The Commission finds that the Applicant has fully addressed DDOT's concern and finds that the solution proposed is appropriate;
 - b. The Applicant did not agree to unbundle the cost of retail office parking from the cost of lease or purchase, or to only offer hourly, daily, or weekly parking rates. (*See* FF. No. 62(e)(iii).) As set forth in the DDOT Response Memo and as testified to at the public hearing, at the time of the hearing the Applicant already

had a Letter of Intent (“LOI”) with a future office tenant to lease the majority of Building 4, and the terms of that LOI provided that parking spaces were included in the cost of the lease of the office space. Thus, in order to obtain a high quality tenant for Building 4, avoid limiting other office leases in the future, and prevent the Applicant from breaking its current LOI, the Commission finds that the Applicant is not required to unbundle the cost of parking or limit parking rates in Building 4 as requested by DDOT;

- c. The Applicant did not agree to comply with the DC Commuter Benefits Law. (*See* FF. No. 62(e)(iv)).) As stated in the DDOT Response Memo, future office and retail tenants of Building 4 will be responsible for complying with any laws applicable to them, and this responsibility should not be on the owner of the building. Therefore, the Commission finds that it is the responsibility of the individual tenant to comply with the DC Commuter Benefits Law; and
 - d. The Applicant did not agree to provide a public access easement over the portion of the sidewalk along the western side of Shannon Place, S.E. because doing so was not necessary after the Applicant submitted an updated landscape plan with the DDOT Response Memo showing a revised courtyard design with a sidewalk on Shannon Place, N.E. (*See* FF. No. 62(f).) This solution addresses DDOT’s concern of having a consistent sidewalk width and appropriately-scaled pedestrian realm. Therefore, the Commission finds that based on the revised design, a public access easement is not needed to address DDOT’s concern.
64. DDOT’s support was also conditioned on the Applicant continuing to work with DDOT outside of the zoning process on the following items: (*See* Ex. 22, pp. 5-6)
- a. Provide a detailed curbside management and signage plan, assumed to include multi-space meter installation at the Applicant's expense, consistent with current DDOT policies;
 - b. Public space, including curb and gutter, street trees and landscaping, street lights, sidewalks, curb ramps, and other features within the public rights of way, are expected to be designed and built to DDOT standards;
 - c. The Applicant will be required to obtain public space permits for all elements of the project shown in public space. The following issues with the current public space design should be coordinated with DDOT as the Applicant pursues public space permits:
 - i. DDOT concurs with the removal of three curb cuts along Shannon Place and W Street, S.E.;
 - ii. Remove unused curb cut on Railroad Avenue just south of the Building 4 Site;

- iii. The proposed 79.5-foot curb cut to the loading area and parking garage on Railroad Avenue is wider than DDOT standards;
 - iv. All vaults are expected to be located on private property;
 - v. The loading area must be separated from the parking garage driveway by at least 12 feet;
 - vi. Install curbs on the west side of Railroad Avenue;
 - vii. Install one row of street trees along Railroad Avenue between Chicago Street and W Street on either the east or west side. If on the east side, then the curb must be moved at least four feet to fit tree boxes;
 - viii. The sidewalk jogs on Shannon Place south of the retail portion of the building. The courtyard feature should be moved back a minimum of three feet to accommodate a straight sidewalk and additional street trees installed where missing;
 - ix. Determine final locations for the short-term bicycle spaces (inverted U-racks) in the “furniture zone” within public space near the retail entrances;
 - x. All building entrances should be at-grade with no stairs or ramps in public space;
 - xi. Doors are currently shown swinging into the pedestrian realm along both Shannon Place and W Street. Doors should be recessed into the building to ensure a continuous six-foot-wide pedestrian clear zone; and
 - xii. Do not preclude future bicycle and pedestrian connections to the Shepherd Branch Trail at either Chicago Street or W Street, S.E;
- d. The Applicant should participate in a Preliminary Design Review Meeting (“PDRM”) with OP and DDOT to resolve the public space issues noted above;
 - e. Coordinate with DDOT's Project Review Team, Transportation Safety and Operations Division (“TOSD”), and Traffic Engineering and Signals Division (“TESD”) regarding the proposed and recommended pedestrian improvements and roadway changes;
 - f. Coordinate with DDOT's Capital Bikeshare Team regarding the location of a new Capitol Bikeshare station as well as expansion of the three existing stations noted above;
 - g. Coordinate with DDOT's Active Transportation Branch regarding the future Shepherd Branch Trail and any connections from the PUD Site; and

- h. Coordinate with DDOT's Urban Forestry Division ("UFD") and the Ward 8 arborist regarding the preservation and protection of existing small street trees, as well as the planting of new street trees, in bioretention facilities or a typical expanded tree planting space.
65. As set forth in the DDOT Response Memo, the Applicant agreed to each of DDOT's items recommended for "continued coordination." As part of the DDOT Response Memo, the Applicant submitted a curbside management plan and an updated landscape site plan showing that all elements within public space are designed to DDOT standards and incorporate the additional public space elements and conditions requested in the DDOT Report. The revised landscape plan confirmed that the three curb cuts that are proposed on Railroad Avenue meet DDOT standards: (i) a 24-foot-wide curb cut for the parking garage; (ii) a 24-foot curb cut for the loading dock; and (iii) a 12-foot curb cut for the loading dock, all of which will be separated by 12-foot-wide pedestrian refuge islands. The updated site plan also shows that the Applicant updated the courtyard design so that a consistent sidewalk width is now provided on Shannon Place, N.E.
66. At the public hearing DDOT confirmed its support for the Application based on the Applicant's response to the conditions and items for continued coordination identified in the DDOT Report, addressed in the DDOT Response Memo, and discussed at the public hearing.
67. Based on the analysis included in the DDOT Report, including implementation of DDOT's stated conditions as revised and the updated TDM plan, the Commission concludes that any potential adverse transportation impacts that may arise out of the project will be adequately mitigated and will not create any adverse impacts to the surrounding roadway network or neighborhood.

ANC Reports

68. By letter dated July 18, 2018, ANC 8A appointed Commissioner Greta Fuller to represent ANC 8A at the public hearing. (Ex. 27.) By letter dated July 24, 2018, ANC 8A requested that the Commission permit the ANC to submit a CBA no later than September 7, 2018, to provide additional time to gain community support for the project. (Ex. 28.) Neither report listed issues or concerns of the ANC.
69. At the public hearing, Commissioner Fuller raised several issues related to the Application, including: (i) the need for the ANC to review the proposed building materials in more detail; (ii) concerns that Building 4 would create additional traffic congestion, pedestrian safety issues, noise, and trash in the surrounding streets; (iii) concern for a loss of privacy and increased shadows on the adjacent row homes to the south of Building 4; and (iv) the need for more time to thoroughly review the draft CMP and CBA.
70. The Applicant responded to Commissioner Fuller's concerns as follows:

- a. The Applicant provided an updated materials board in its post-hearing submission and presented those materials at an August 2, 2018, public meeting about the project hosted by the Anacostia Coordinating Council, at which Commissioner Fuller was present; (Ex. 45A.)
- b. The Applicant committed to a number of TDM measures, which DDOT found would mitigate any potential adverse traffic and/or pedestrian safety issues created by the project. Therefore, based on the Applicant's CTR, the DDOT Report, the Applicant's DDOT Response Memo, the testimony from the Applicant's transportation consultant, and the testimony of DDOT provided at the public hearing, the Commission finds that the project will not create traffic congestion or pedestrian safety concerns that cannot be mitigated. (*See* FF No. 63; Ex. 20-20A, 22, 37C.)

Regarding noise and trash, the Applicant agreed to abide by a Construction Management Plan and will also be required to comply with all applicable laws and regulations regarding construction noise and trash, such that all construction-related noise and trash impacts will be properly mitigated. (Ex. 46A.) Furthermore, the project does not establish new land uses that will generate excessive noise during Building 4's operation, since the proposed office and retail uses already exist in the surrounding neighborhood.

Moreover, the Commission previously found that the first-stage PUD "has been designed so that it does not result in unreasonable or unexpected traffic, parking, litter... odor, noise, or vibration impacts on surrounding residential areas." (*See* Z.C. Order No. 08-07, FF No. 39(a)(vii).) Because Building 4 has been designed to be consistent with the first-stage PUD approval, the Commission concludes that the project will not create unreasonable traffic, pedestrian safety, noise, or trash impacts in the surrounding neighborhood that cannot be mitigated;

- c. As shown on Sheet A-30 of the Architectural Drawings, the Applicant provided shadow studies showing that Building 4 would not cast shadows on any existing residences for the majority of the year. (Ex. 21A2.) As shown on Sheet A-05 of the Architectural Drawings included in the Post-Hearing Submission, Building 4 will be located between 59 feet and 71.5 feet from the existing row houses to the south of the Site and separated by a public alley, which is a typical condition for property located adjacent to commercial uses and commercially-zoned land. (Ex. 45A.) Moreover, it is well settled in the District of Columbia that a property owner is not entitled to a view, light, or air across another person's property without an express easement. (*See Hefazi v. Stiglitz*, 862 A.2d 901, 911 (D.C. 2004) ("American courts have wisely refused to allow the acquisition by prescription of easements of light and air"); *see also Ash v. Tate*, 73 F.2d 518 (D.C. Cir. 1934) (no injunction under District of Columbia law to prevent adjoining landowner from erecting structure that cuts off light and air); Z.C. Order No. 11-03, Finding of Fact No. 91 ("[t]he Commission finds that the viewsheds and property values ... are not protected by any restrictive covenants).)

In addition, the Commission previously found that the first-stage PUD “includes a number of elements designed to serve as buffers, including landscaping, height step-downs and setbacks, and other architectural and site planning measures that avoid potential conflicts.” (*See* Z.C. Order No. 08-07, FF No. 39(a)(viii).) Because Building 4 includes step-downs and setbacks previously approved by this Commission and determined to be adequate to avoid potential conflicts, the Commission continues to find that Building 4 will not create an unreasonable loss of privacy or increased shadows on adjacent residential homes; and

- d. The Applicant continued to work closely with ANC 8A following the public hearing.
71. By letter dated September 14, 2018, ANC 8A submitted a report stating that “[a]t its specially scheduled, properly noticed meeting on September 14, 2018, with a quorum of 6 Commissioners present, ANC 8A voted 5-0-0 to support Zoning Commission Case Number 08-07C: Four Points – 2nd Stage PUD @ Square 5784: Community Benefits Agreement Between Four Points, LLC (Its Affiliates and Assigns) and Advisory Neighborhood Commission 8A.” The letter attached a copy of the agreement. The letter did not list any issues or concerns. (Ex. 46, 46A.)
 72. Based on the foregoing findings of facts, the Commission concludes that the Applicant has fully addressed and reasonably responded to all of Commissioner Fuller’s stated concerns.

Other Contested Issues

73. In addition to the issues raised by the ANC, DC4RD testified as undeclared at the public hearing and raised the following issues:
 - a. DC4RD stated that the project would have significant impacts on the surrounding neighborhood generally, given that the first-stage PUD was approved in 2013 and the public better understands now that PUDs must be consistent with the Comprehensive Plan, including in this case with the Generalized Policy Map’s designation of Building 4 in Neighborhood Conservation Area;
 - b. DC4RD claimed that the Building 4’s height diverges too much from existing buildings in the neighborhood, would create a “canyon effect” when constructed in conjunction with surrounding projects being developed in the neighborhood, and as a result would have negative impacts on light and air to surrounding properties because Building 4 does not provide adequate setbacks;
 - c. DC4RD alleged that development of Building 4 would increase neighborhood housing prices, property taxes, and rents, thus resulting in displacement, and requested a mitigation system in the form of tax abatements and freezes and rent abatements for properties in the surrounding area. DC4RD also stated that the Department of Housing and Community Development (“DHCD”) did not submit

- a report to the record indicating whether adequate affordable housing, including affordable family housing, was being provided;
- d. DC4RD stated that FEMS did not submit a report to the record indicating whether capacity exists to respond to emergencies at Building 4 and at surrounding properties;
 - e. DC4RD requested that the Applicant commit to providing jobs created by the development of Building 4 to Ward 8 residents; and
 - f. Finally, DC4RD stated that development of Building 4 does not account for policies within the District's pedestrian action plan related to pedestrian safety, and specifically noted concerns with large trucks during construction.
74. The Applicant responded to the issues raised by DC4RD in its rebuttal testimony as follows:
- a. The Comprehensive Plan was adopted in 2006 (prior to approval of the first-stage PUD), at which point the Future Land Use and Generalized Policy Map designations were established for the PUD Site. In 2013, upon approval of the first-stage PUD, the Commission found that the overall PUD, including Building 4, was consistent with the Comprehensive Plan, including the Future Land Use Map and Generalized Policy Map designations for the PUD Site. (*See* Z.C. Order No. 08-07, FF No. 42, stating that the proposal to “redevelop the PUD Site into a neighborhood center with a mix of office, retail, service, and residential uses is fully consistent with the Future Land Use Map and Generalized Policy Map designations for the PUD Site.”) Nothing has changed since 2013 with respect to the Future Land Use or Generalized Policy Map designations for the PUD Site. Accordingly, evaluating this second-stage PUD, OP concluded Building 4 is not inconsistent with the first-stage PUD or with the Comprehensive Plan Future Land Use and Generalized Policy Maps’ designations. (*See* OP Report (Ex. 25, p. 11).) The Commission concurs with OP’s findings. In addition, the requirement that zoning shall “not be inconsistent with the Comprehensive Plan has been in place since passage of the Home Rule Act, well in advance of the first-stage PUD, and nothing in the Home Rule Act, the Comprehensive Plan, or the Zoning Regulations has changed so as to modify this requirement.

More specifically, the Commission finds that the second-stage PUD for Building 4 continues to be not inconsistent with the Generalized Policy Map. The Site is situated between Martin Luther King Jr. Avenue, S.E. on the east, which is designated as a Main Street Mixed-Use Corridor on the Generalized Policy Map, and the area to the west containing the Anacostia Freeway, Anacostia Metro Station, and Poplar Point, which are designated as Land Use Change Areas and are part of the Central Employment District. The Generalized Policy Map defines Main Street Mixed Use Corridors as traditional commercial business corridors with a concentration of older storefronts along the street. Their common feature is

that they have a pedestrian-oriented environment with traditional storefronts, many of which have upper story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. (10-A DCMR § 223.14.) In contrast, the Generalized Policy Map describes Land Use Change Areas as representing areas where change to a different land use from what exists today is anticipated, and which represent many of the city's large development opportunity sites, and other smaller sites that are undergoing redevelopment or that are anticipated to undergo redevelopment. In some cases, the Future Land Use Map depicts the specific mix of uses expected for these areas. Such is the case for the nearby Poplar Point area which is designated as Mixed Use (Institutional, Medium-Density Commercial, and High-Density Residential).

Based on the above, as well as the Applicant's Statement in Support, the Applicant's Comprehensive Plan analysis, and the OP Report, the Commission finds that the second-stage PUD is not inconsistent with its designation as a Neighborhood Conservation Area on the Generalized Policy Map. (Ex. 3, 3D, 25.) In contrast to the definition of a Neighborhood Conservation Area, the PUD Site (including the Building 4 Site) primarily consists of vacant and underutilized land and is commercial in character. Considering the actual physical surroundings of the Site, and the surrounding Generalized Policy Map designations, the Commission finds that Building 4 will provide an appropriate transition between the lower-scale Martin Luther King Jr. Ave, S.E. main street corridor to the east and the higher-density development contemplated for the Poplar Point area to the south and southwest. The Commission also finds that the project will carry out the policy goals of the Generalized Policy Map related to the maintenance, conservation, and enhancement of existing land uses and community character;

- b. With respect to DC4RD's claim that Building 4 would have a negative impact on light and air to nearby properties, the Commission finds that Building 4 provides significant setbacks and height step downs in order to minimize its impact to the surrounding area. As shown on Sheet A-30 of the Architectural Drawings, the Applicant provided shadow studies showing that Building 4 would not cast shadows on any existing residences for the majority of the year, including the closest existing rowhomes to the south of Building 4 across the alley, and would otherwise not block views. (Ex. 21A2.) Moreover, the Applicant is widening W Street by 20 feet via a public easement in order to create additional building setbacks and avoid creating a "canyon effect";
- c. Moreover, the Commission previously found that the first-stage PUD "has been designed so that it does not result in unreasonable or unexpected... view obstruction" and "includes a number of elements designed to serve as buffers, including landscaping, height step downs and setbacks, and other architectural and site planning measures that avoid potential conflicts." (See Z.C. Order No.

08-07, FF No. 39(a)(vii) and (viii).) In addition, the Commission previously concluded that the first-stage PUD “complies with the applicable height, bulk and density standards of the Zoning Regulations. The mix of office, retail, service, and residential uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.” (See Z.C. Order No. 08-07, Conclusions of Law No. 5.) Building 4 has been designed to have a consistent height, bulk, and density with the design approved under the first-stage PUD, and therefore the Commission concludes that this Applicant also does not create any unacceptable impacts on the surrounding area and should be approved;

- d. In response to DC4RD’s comments regarding displacement and the need for more affordable housing, the Applicant noted that Building 4 is an office building and therefore has no bearing on providing housing or affordable housing.³ DHCD did not submit a letter to the record commenting on the proposed affordable housing because it is irrelevant to this Application. Moreover, the majority of the PUD Site, including the Building 4 Site, is presently commercial/industrial in use or vacant and used as surface parking. The majority of the buildings approved in the first-stage PUD that will be constructed on the PUD Site are also commercial/industrial in nature. Therefore, no residential displacement will occur as a result of the overall PUD, and more specifically, no displacement will occur as a result of development of Building 4. Furthermore, the Applicant has no control over the District’s policies or laws relating to tax and/or rent abatements or mitigations, and those comments are not properly directed towards nor should they be addressed by this Application;
- e. Regarding FEMS’ evaluation of Building 4 and its impact on emergency response times, the Applicant noted that the cumulative impact of the overall PUD was already carefully reviewed and approved in the first-stage PUD. Moreover, OP noted in its May 4, 2018 setdown report that it would consult with FEMS on the Application, and indicated in its July 18, 2018 hearing report that it circulated the Application to FEMS. (Ex. 10, 25.) Thus, the Commission finds that FEMS was notified and had an opportunity to provide comments on the Application and declined to do so. Moreover, as a District agency, the Commission finds that FEMS is required to provide fire and emergency medical services to all buildings within the District;
- f. Regarding jobs, the Applicant will (i) enter into a First Source Employment Agreement with DOES that governs project components for which tax increment financing (“TIF”) is being used; (ii) enter into a CBE Agreement applicable to Building 4, as approved and executed by the Department of Small and Local Business Development (“DSLBD”), to contract with CBEs for at least 35% of the

³ Building 1, approved pursuant to Z.C. Order No. 08-07A, was approved as a six-story residential building with approximately 71 residential units, 80% of which will be set aside for households earning up to 60% of the area medium income.

contract dollar volume of the entire project for which TIF financing is being used, or otherwise as consistent with applicable law; and (iii) participate in an internship program with DOES. The Applicant has also committed to ANC 8A to undertake certain job training and employment efforts as part of the CBA; and (Ex. 46A.)

- g. With respect to pedestrian safety, the Applicant carefully evaluated Building 4's impact on the surrounding transportation network, including the pedestrian network and safety. That analysis was reviewed by DDOT, and in doing so DDOT determined that Building 4 includes a variety of mitigation measures that will ensure that any negative impacts created by Building 4 are fully mitigated. Moreover, the Applicant has agreed to a CMP that will ensure that pedestrian safety measures are taken throughout construction of Building 4.
75. Based on the foregoing, the Commission finds that the Applicant has fully addressed each of the issues raised by DC4RD at the public hearing. The Commission finds that many of DC4RD's claims are generalized grievances that are not specific to any portion of a particular proposal, including the Applicant's proposal. The Commission finds that DC4RD failed to substantiate any of its claims through fact based evidence or analysis, including those related to displacement and gentrification. Therefore, based on the foregoing, the Commission concludes that some of the issues raised by DC4RD are unsubstantiated, generalized grievances, not specific to the Application. To the extent that any of the issues raised are applicable to the Application, the Commission finds that the Applicant fully addressed all of DC4RD's relevant concerns in its rebuttal testimony at the public hearing, as further articulated above, and the Commission adopts them as its findings.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) results in a project superior to what would result from the matter-of-right standards; (b) offers a commendable number or quality of meaningful public benefits; and (c) protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan. (11-X DCMR § 300.1.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to modify the approved first-stage PUD and to consider an application for approval of a second-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking and loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. Development of the property included in this Application carries out the purposes of 11-X DCMR, Chapter 3 of the Zoning Regulations to encourage the development of well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development. The Application is consistent with the purposes and goals of the Commission's approval in the first-stage PUD.
4. The Application complies with the applicable height, bulk, and density standards of the Zoning Regulations and the first-stage PUD. The mix of uses is appropriate for the Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the Application should be approved.
5. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
6. The Applicant's requests for zoning flexibility from those standards, requirements, and limitations of the 1958 Zoning Regulations that are specifically prescribed in this Order are consistent with the Comprehensive Plan, and the flexibility requested for certain design aspects of the project are appropriate. Moreover, the project's benefits and amenities approved as part of the first-stage PUD and as modified by this second-stage PUD are reasonable trade-offs for the flexibility requested.
7. 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 Building 4, and construction of Building 4 shall begin within three years of the effective date of this Order.
8. Approval of the PUD is appropriate because the project is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the project will promote the orderly development of the Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP's recommendations. The Commission carefully considered the OP reports in this case and, as explained herein, finds OP's recommendation to grant the Application persuasive.
10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. ANC 8A's reports expressed no issues or concerns. Because the written reports of the ANC expressed no issues or concerns, there is nothing for the Zoning Commission to give great weight to. *See Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016). The Commission nonetheless

carefully considered the concerns expressed by Commissioner Fuller at the hearing, and believes the Applicant has fully addressed and reasonably responded to them. The Commission also considered ANC 8A's support of the application, and that ANC 8A and Applicant entered into a CBA related to the project.

11. The Application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2- 1401 et seq. (2007 Repl.).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a second-stage PUD for the Site, subject to the guidelines, conditions, and standards set forth below:

A. Project Development

1. Building 4 shall be developed in accordance with the Architectural Plans and Elevations dated July 6, 2018 (Ex. 21A1-21A4), as modified by the revised site plan (L-01) and street sections (L-04) included in the DDOT Response Memo (Ex. 37C), as further revised by the Architectural Plans and Elevations dated August 27, 2018 (Ex. 45A) (collectively, the "Architectural Drawings"), as modified by the guidelines, conditions, standards, and flexibility of this Order.
2. In accordance with the Architectural Drawings, Building 4 shall be a mixed-use project with a maximum building height of 90 feet not including penthouses and a maximum density of approximately 287,886 square feet of gross floor area (4.4 FAR). A minimum of 6,644 square feet of gross floor area shall be devoted to retail space and approximately 281,242 square feet of gross floor area shall be devoted to office space. Building 4 shall include approximately 460 total parking spaces, comprised of a minimum of 324 zoning-compliant spaces and approximately 136 tandem spaces (subject to the parking flexibility included as Decision A.4.b of this Order). Loading facilities for Building 4 shall include three loading berths at 30 feet deep, one 20-foot service/delivery space, and one 400-square-foot loading platform.
3. The public space improvements on W Street, Railroad Avenue, and Shannon Place shall be developed in accordance with the Architectural Drawings (Ex. 21A1-21A4), as modified by the revised site plan and street sections included in the DDOT Response Memo (Ex. 37C) and shall include upgrading Railroad Avenue, S.E. between Chicago Street and W Street to include a curb on the east and west side and a row of street trees on either side of Railroad Avenue, S.E., street trees, landscaping, and bicycle racks. The courtyard design shall be developed in accordance with Sheet C-03 of Exhibit 21A3 and Sheet L-01 of Exhibit 37C and shall include specialty paving, benches, lighting, security

cameras, electric outlets, trash and recycling receptacles, trees, and mixed and bio-retention plantings.

4. The Applicant shall have flexibility with the design of the project in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, and to vary the size of the retail area, provided that the variations do not change the exterior configuration or appearance of the building;
 - b. To vary the number, location, and arrangement of parking spaces in Building 4, provided that the total number of spaces is not reduced below 324 zoning-compliant parking spaces;
 - c. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in Exhibit 37B (materials board) as modified by Sheet A-01 of the Post-Hearing Submission at Exhibit 45A;
 - d. To make minor refinements to exterior details, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, brick shapes, sills, bases, cornices, railings and trim; and any other changes that do not substantially alter the exterior design shown on the Architectural Drawings necessary to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit;
 - e. To vary the sustainable features of Building 4, provided the total number of LEED points achievable for Building 4 does not decrease below LEED-Gold;
 - f. To vary the final design of retail frontages, including the location and design of entrances, show windows, and size of retail units, in accordance with the needs of retail tenants, and to vary the types of uses designated as “retail” use on the approved Architectural Drawings to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)), and to vary the amount of retail space, so long as the total amount is not less than 6,644 square feet and is not devoted to a single retail category;

- g. To vary the retail signage according to the signage guidelines and storefront guidelines shown on Sheet A-47 of the Architectural Drawings at Exhibit 21A2; and
- h. To provide on-site parking spaces that measure nine feet by 18 feet.

B. Public Benefits and Amenities

1. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that: (a) the Applicant has completed the public space improvements on W Street, Railroad Avenue, and Shannon Place in accordance with Sheets L-01 (Ex. 37C) and C-03 of the Architectural Drawings (Ex. 21A3), which shall include new paving, street trees, landscaping, and bicycle racks; (b) the Applicant has completed the courtyard design in accordance with Sheets L-01 (Ex. 37C) and C-03 of the Architectural Drawings (Ex. 21A3), which shall include specialty paving, benches, lighting, security cameras, electric outlets, trash and recycling receptacles, trees, and mixed and bio-retention plantings; and (c) the DC Council has approved street widening legislation to effectively extend the width of W Street, S.E., consistent with the plat included as Sheet C-08 of the Architectural Drawings (Ex. 21A3) and S.O. No. 00469.
2. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has submitted: (a) an executed First Source Employment Agreement with DOES that governs project components for which TIF financing is being used. The First Source Employment Agreement shall be consistent with the First Source Employment Agreement Act of 1984 and shall be consistent with the form of agreement utilized at the time the PUD received first-stage approval in 2013; and (b) an executed CBE Agreement with DSLBD that requires the Applicant to contract with CBEs for at least 35% of the contract dollar volume of the entire project for which TIF financing is being used, or otherwise as consistent with applicable law.
3. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has created or is participating in an internship program with DOES.
4. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has:
 - a. Installed approximately 1,000 square feet of solar panels on Building 4 as shown on Sheet A-29 of the Architectural Drawings; and (Ex. 21A2.)

- b. Designed Building 4 to achieve LEED Gold Certification under the USGBC's LEED v4 for Building Design and Construction rating system and registered Building 4 with the USGBC to commence the LEED Certification process.
5. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that the Building 4 courtyard has been constructed:
 - a. To be accessible to persons with disabilities from Shannon Place in accordance with the applicable ADA standards;
 - b. With signage to permit the courtyard to be closed at night; and
 - c. With electric outlets that can be accessed by members of the public.
6. **For the life of Building 4**, the Applicant shall:
 - a. Make Building 4's courtyard accessible to the public during normal daytime hours;
 - b. Maintain the ADA-access to the courtyard from Shannon Place;
 - c. Close the courtyard at night,
 - d. Keep the courtyard clean and well maintained;
 - e. Permit the courtyard to be available for use by community organizations during evening and weekend hours, subject to a scheduling process to be developed by the Applicant, the property manager, and the signatory organizations to the CBA; and (Ex. 46A.)
 - f. Maintain electric outlets in the courtyard and make them available for use by the public during organized events.

C. Transportation Mitigation Measures

1. **For the life of Building 4 or as otherwise noted below**, the Applicant shall implement the following TDM measures:
 - a. The Applicant shall identify a TDM leader (for planning, construction, and operations). The TDM leader shall work with employees of Building 4 to distribute and market various transportation alternatives and options;
 - b. The Applicant shall work with DDOT and goDCgo to implement TDM measures at Building 4;

- c. The Applicant shall share the full contact information of the TDM leader for Building 4 with DDOT and goDCgo;
- d. The Applicant shall post all TDM commitments online, publicize availability, and allow the public to see what commitments have been promised;
- e. The Applicant shall provide retail employees who wish to carpool with detailed carpooling information and shall refer them to other carpool matching services sponsored by MWCOG;
- f. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has installed a minimum of 82 long-term and 10 short-term bicycle parking spaces, as shown on the Architectural Drawings;
- g. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has installed a bicycle repair station in one of the secure long-term bicycle storage rooms in Building 4;
- h. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has installed six showers and 49 lockers for employees of the retail and office uses in Building 4;
- i. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has installed a Transportation Information Center Display (“electronic screen”) within the lobby of Building 4 containing information related to local transportation alternatives;
- j. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has funded the installation of a 19-dock Capital Bikeshare station within the PUD Site and has set aside funding for one year of maintenance and operations for the station;
- k. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has funded the expansion of three nearby existing Capital Bikeshare stations to 19 docks at stations located at: (i) the intersection of Pleasant Street and Martin Luther King Jr. Avenue; (ii) the intersection of Good Hope Road and Martin Luther King Jr. Avenue; and (iii) the dead-end portion of Shannon Place;

1. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has offered two parking spaces within the garage of Building 4 for car-sharing services. If no agreement has been reached with a car share company for either of the two parking spaces prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4, then the Applicant shall host a transportation event for employees of Building 4 within the first year following the issuance of the first certificate of occupancy for the above-grade portion of Building 4; and
- m. **Prior to the issuance of the first certificate of occupancy for the above-grade portion of Building 4**, the Applicant shall demonstrate to the Zoning Administrator that it has dedicated nine parking spaces within the garage of Building 4 as electric vehicle charging stations.
2. **For the life of Building 4**, the Applicant shall implement the Loading Management Plan (“LMP”), as proposed by the Applicant in the Comprehensive Transportation Review (“CTR”) report prepared by Gorove/Slade Associates and dated June 11, 2018. (Ex. 20.)

E. Miscellaneous

1. No building permit shall be issued for Building 4 until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. This second-stage PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within that time, the Applicant shall file for a building permit for Building 4 and shall begin construction of Building 4 within three years of the effective date of this Order.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 *et seq.*, (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form

of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On September 17, 2018, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Peter Shapiro not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 9, 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. 11-07G(1)
Z.C. Case No. 11-07G
The American University
(Campus Plan Amendment and Further Processing of the Campus Plan –
Hall of Science Building)
ORDER DENYING MOTION FOR RECONSIDERATION AND REHEARING
September 17, 2018

The Zoning Commission for the District of Columbia (“Commission”) granted the application of The American University (“AU” or “Applicant”) for an amendment to the 2011-2022 American University Campus Plan and special exception approval for further processing of the 2011-2022 American University Campus Plan to permit the construction of a new Hall of Science (“HOS”) Building, granted by Z.C. Order No. 11-07G effective as of August 24, 2018 (“HOS Building Order”).

Procedural History of the Campus Plan Amendment and Further Processing Application

The Spring Valley Wesley Heights Citizens Association (“SVWHCA”), Neighbors for a Livable Community (“NLC”), and eight individual neighbors in opposition to the application – including Dr. Jessica Herzstein (collectively, the “Party Opponents”) were a party to the Campus Plan Amendment and Further Processing proceeding before this Commission.

The Commission held the original public hearing on the Campus Plan Amendment and Further Processing application on November 20, 2017. The Applicant made post-hearing submissions on January 8, 2018, February, 20, 2018, and March 5, 2018. (Exhibit [“Ex.”] 58, 58A-58J, 67, 69, 69A-69C.) The Party Opponents made post-hearing filings on January 16, 2018, February 20, 2018, and March 12, 2018. (Ex. 61, 66, 71.)

The Commission approved the Campus Plan Amendment and Further Processing application by vote on March 19, 2018. Z.C. Order No. 11-07G became final effective upon publication in the *D.C. Register* on August 24, 2018. (11-Z DCMR § 604.9.)

On August 31, 2018, the Party Opponents filed a request (“Motion”) that the Commission reconsider the findings and conclusions of Z.C. Order No. 11-07G relating to the use of Jacobs Field, noise arising from such usage, and specific conditions in the 2011-2022 American University Campus Plan (Conditions 17 and 25 in Z.C. Order No. 11-07) relating thereto. In addition, the Motion requested that the Commission hold further hearings related solely to the use of Jacobs Field. (Ex. 78.)

On September 7, 2018, the Applicant filed a response asking the Commission to deny the Motion (“Response”) pursuant to Subtitle Z § 700.8 of the Commission’s Rules of Practice and Procedure. (Ex. 79.)

At a regularly-scheduled public meeting on September 17, 2018, the Commission considered the Motion and the Response. The Motion was denied.

Rules of Procedure Pertaining to a Motion for Reconsideration or Rehearing

Pursuant to Subtitle Z § 700.6, a motion for reconsideration or rehearing must state with specificity the respect in which the final order is claimed to be erroneous, the grounds of the motion, and the relief sought. The Commission may not grant a request for rehearing unless new evidence is submitted that could not reasonably have been presented at the original hearing. (11-Z DCMR § 700.7.)

Commission's Decision on the Use of Jacobs Field

The Commission's decision in the HOS Building Order addressed two issues that are at the core of the Motion. First, the HOS Building Order addressed whether the Applicant's use of Jacobs Field for non-University athletic events was contemplated and permitted by Conditions 17 and 25 of Z.C. Order No. 11-07. Second, the HOS Building Order addressed the concerns raised by the Party Opponent regarding the mitigation of impacts of such use of Jacobs Field on neighboring properties.

The Commission thoroughly reviewed AU's compliance with the Conditions of approval of Z.C. Order No. 11-07, and in particular AU's compliance with the Conditions related to the use of Jacobs Field for non-AU athletic events. In response to specific questions and comments asked by the Commission, AU addressed its satisfaction of Conditions 17 and 25 in two post-hearing submissions. (Ex. 58, 69). In addition, the Commission received information from the Party Opponent by their responses to AU's post-hearing submissions in two post-hearing submissions. (Ex. 61, 71.) Thereafter, the Commission specifically addressed this issue in its Public Meetings of February 26, 2018 and March 19, 2018. The HOS Building Order includes 10 Findings of Fact ("FF") that address the issues related to the use of Jacobs Field (FF Nos. 61-70). In particular, FF Nos. 69 and 70 state:

69. For the reasons stated in the Conclusions of Law, the Commission finds that the Applicant's interpretation of its ability to offer Jacobs Field for non-University athletic event[s] is reasonable and in fact provides important opportunities for youth in the District.
70. American University is currently in discussions with the owners of 4710 Woodway Lane regarding the construction of a sound barrier wall. The wall would be approximately 360 linear feet long with a 200-foot-long, 15-foot-high segment to cover the player bench area of Jacobs Field. The remaining 80-foot segments on either end of the wall will be 10 feet tall. The estimated cost of design and construction of the sound barrier wall system is approximately \$500,000. (Ex. 58.) The Commission expects the University to follow through on this expeditiously. (Transcript ["Tr."] of March 19, 2018 Meeting, p. 19.)

The HOS Building Order included the following discussion of the use of Jacobs Field in the Conclusions of Law section:

The Commission also notes the Applicant's written testimony and post-hearing submissions regarding how it is in compliance with the conditions related to the use of

Jacobs Field. The Commission finds the Applicant's interpretation of Condition Nos. 17 and 25 consistent with the spirit and intent of the original campus plan order. The types of non-university related athletic events described in the Applicant's Exhibit No. 69B are exactly what the Commission intended by "special events" and provide an important benefit to District citizens, particularly its youth. The Applicant has also demonstrated that these events do not use amplified sound and therefore will have little if no impacts due to noise. However, other events do have the potential for noise impacts and the Commission expects the University to expeditiously conclude its discussions with the owners of 4710 Woodway Lane regarding the construction of a sound barrier as described in Finding of Fact No. 70.

The Party Opponent's Allegations of Error

In the Motion, the Party Opponents raise the following allegations of error on the part of the Commission:

- The Commission's decision and findings regarding Jacobs Field were not supported by substantial evidence;
- The Commission adopted an arbitrary, capricious, and legally erroneous interpretation of Conditions 17 and 25 in Z.C. Order No. 11-07 relating to Jacobs Field;
- The Commission should not have relied upon public policy considerations when evaluating the University's compliance with Conditions 17 and 25; and
- The Commission lacked the authority to revise and re-interpret Conditions 17 and 25 relating to Jacobs Field in the context of a further processing case for a science building.

The Commission's Decision and Findings Regarding the Use of Jacobs Field Was Supported by Substantial Evidence in the Record

The Party Opponents argued that the evidence before the Commission mandated a finding that the neighbors are still experiencing objectionable noise impacts from usage of Jacobs Field. The Motion states that the Commission erred by finding that unamplified special events were not creating adverse impacts upon neighbors due to noise and requested that the Commission strike the sentence, "The Applicant has also demonstrated that these events do not use amplified sound and therefore will have little if no impacts due to noise," from the HOS Building Order.

The Commission notes the information presented by the Applicant regarding the noise studies that AU has undertaken since approval of the Campus Plan. The Commission recognizes that the Party Opponents still have concerns regarding the noise impacts related to the use of Jacobs Field. For that reason, the HOS Building Order included FF No. 70 and the language in the Conclusions of Law which noted its expectation that the University "expeditiously" concludes discussions with the Party Opponents regarding the construction of the sound barrier wall.

The Commission's Interpretation of Conditions 17 and 25 of Z.C. Order No. 11-07 Were Not Arbitrary, Capricious, or Legally Erroneous

The Party Opponents argued that the Commission's ultimate interpretation of Conditions 17 and 25 is not based upon the plain meaning of Z.C. Order No. 11-07 or any reasoned analysis of the record in this case. They further stated that Commission acted in an arbitrary, capricious, and legally incorrect manner by retroactively revising the conditions to suit the University's current practices while ignoring the adverse impact of non-University athletics upon neighbors. The Party Opponent's basis for these arguments is based on statements that were made by some Commissioners during the initial deliberations on this issue compared with the ultimate decision that the Commission made on this issue.

The Commission finds that the Party Opponents have not provided any evidence that FF Nos. 61-70 or the pertinent conclusions in the HOS Building Order are erroneous, arbitrary, or capricious. The Commission agrees with the Applicant's statements that the public deliberations on this matter put on full display the appropriateness of the Commission's ultimate decision that AU has remained in substantial compliance with Conditions 17 and 25 of Z.C. Order No. 11-07. The Commission's decision on this issue was consistent with the substantial evidence that was provided in the record of this case. The Commission's decision that AU remained in substantial compliance with the requirements of Conditions 17 and 25 was not erroneous, it was not arbitrary and capricious, and was the result of a well-reasoned and thoughtful analysis of the permitted use of Jacobs Field.

The Commission Did Not Rely Upon Public Policy Considerations When Evaluating the University's Compliance with Conditions 17 and 25

The Party Opponents argued that the Commission erred by relying upon new policy considerations when evaluating the University's compliance with the Conditions related to the use of Jacobs Field. The Party Opponents argued that the Commission's reference to the "important benefit to District citizens, particularly its youth" of non-University related athletic events was evidence of the Commission's failure to apply the correct legal standard in this further processing application. The Party Opponents stated, "Clearly, the Commission was trying to justify its preferred outcome in this case by mentioning the perceived needs of youth who are unaffiliated with the University."

The Commission did not rely upon public policy considerations in making its determination that AU's use of the Jacobs Field for non-University related events was consistent with Conditions 17 and 25. The Commission reviewed the information from AU which noted the types of non-University related athletic events that occurred on Jacobs Field and properly determined that those uses were consistent with express language of Conditions 17 and 25, and the intent of the Zoning Commission when it approved those Conditions in the Z.C. Order No. 11-07.

The Commission's Did Not Revise or Re-Interpret the Meaning of Conditions 17 and 25 of Z.C. Order No. 11-07

The Party Opponents claim that the Commission should have required AU to file a request for the modification of the Conditions of Z.C. Order No. 11-07 which affect Jacobs Field. The Party Opponents allege that the Z.C. Commission erred in issuing findings and conclusions in this case without requiring AU to have filed such a modification request. The Commission does not find

this argument to be convincing and notes that this argument assumes that AU's use of Jacobs Field was not in substantial compliance with Conditions 17 and 25. As noted above, the Commission appropriately concluded that AU was in substantial compliance with those conditions. Therefore, there was no need for AU to amend those conditions. Accordingly, there was no error by the Commission in not requiring AU to modify Conditions 17 and 25 of Z.C. Order No. 11-07.

Motion for Rehearing

The Party Opponents requested that if the Commission did not agree to modify the HOS Building Order in a manner that is consistent with its Motion, then the Commission should hold a full hearing "with respect to the objectionable conditions caused by non-University athletics at Jacobs Field". The Applicant opposed such a motion for rehearing and claimed that the Party Opponent had not satisfied the requirements of Subtitle Z § 700.7.

The Commission may not grant a request for rehearing unless new evidence is submitted that could not have been reasonably presented at the original hearing. The Commission finds that the Party Opponents motion for rehearing does not make any attempt to address how it satisfies this requirement and merely points to information that was already submitted into the record. Therefore, the request for rehearing is denied as it is not based on new evidence or evidence that was not reasonably available at the time of the Commission's public hearing on this matter.

For the above stated reasons, the Commission finds no new evidence not reasonably available at the time of the original public hearing on the instant application was presented by the Party Opponents. In addition, the Commission finds that its decision regarding the use of Jacobs Field was not in error, arbitrary, or capricious. Accordingly, the Motion is **DENIED**.

On September 17, 2018, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **DENY** the Motion by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Peter A. Shapiro, not present, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 9, 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. 14-12A**

Z.C. Case No. 14-12A

EAJ 1309 5th Street, LLC

**(Time Extension – Consolidated Planned Unit Development and
Related Map Amendment @ Lot 5¹, Square 3591)**

September 17, 2018

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on September 17, 2018. At that meeting, the Commission approved the request of EAJ 1309 5th Street, LLC (“Applicant”) for a time extension of the date before which the Applicant must file a building permit application for the consolidated planned unit development (“Consolidated PUD”), approved by the Commission as part of the PUD development pursuant to Z.C. Order No. 14-12 (“Approved PUD”). The Approved PUD pertains to 1309-1329 5th Street, N.E. (Lot 5, Square 3591) (“Property”), which includes two parcels: (i) the south parcel (“South Parcel”) being the subject of the Consolidated PUD and related map amendment pursuant to the Approved PUD, and (ii) the north parcel (“North Parcel”) being the subject of a first-stage PUD approval and the related map amendment set forth in the Approved PUD. This application pertains to the Consolidated PUD. The Consolidated PUD was approved under the Zoning Regulations then in place, which were repealed as of September 5, 2016 and replaced by new text and the existing zone names were also changed. Although development of the Consolidated PUD and the related map amendments are vested under those former regulations and map, all procedural requests, including requests for time extensions are decided under the replacement regulations. Thus, the time extension request was made pursuant to Subtitle Z § 705 of Title 11 DCMR (the Zoning Regulations of 2016).

FINDINGS OF FACT

BACKGROUND INFORMATION

1. The Property is located in the northeast quadrant of the District of Columbia on a rectangular lot bounded by 6th Street, N.E. to the east, 5th Street, N.E. to the west, a surface parking lot to the south, and a vacant lot to the north. (Exhibit [“Ex.”] 1, p. 3.) The Property is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 5D. The Property is in ANC Single-Member District 5D01 in Ward 5. It is approximately one third of a mile from the NoMA-Gallaudet University Metrorail station. The Property is located in the Union Market District (which is also known as the “Florida Avenue Market District”), and the South Parcel today contains the existing two-story market building (known as “Union Market”) that is at the center of retail activity in Union Market District today. In total, the Property consists of approximately 85,820 square feet of land area. (*Id.*)
2. The Approved PUD became final and effective upon publication in the *D.C. Register* on May 8, 2015. The Approved PUD includes: (i) the Consolidated PUD approval, pertaining only to the South Parcel, (ii) a first-stage PUD approval pertaining only to the

¹ The Property is now known as Lot 5 in Square 3591. The Property was subdivided into Lot 5. Previously, the Property was known as Lot 800 in Square 3591.

North Parcel, and (iii) a related Map Amendment, pertaining to both the South Parcel and the North Parcel. The Zoning Map amendment approved in the Order amended the Property's zoning from the C-M-1 to the C-3-C Zone District, which allows for greater height and density and a greater mix of uses than the underlying zoning. The subject of this extension request is the South Parcel and the Consolidated PUD approved with respect thereto. (*Id.*, pp. 1-3.)

3. The overall project authorized under the Approved PUD ("Project"), as approved by the Commission, is a mixed-use, transit-oriented development, with retail, office, and residential uses. The Project includes a total of approximately 541,400 square feet of gross floor area ("GFA") in two buildings, one on the South Parcel ("South Building") and the second on the North Parcel ("North Building"), for a total floor area ratio ("FAR") of 6.3. The approved South Building retains the existing Union Market building and adds stories above for a total GFA of approximately 216,400 square feet (with an effective FAR of approximately 2.52) of theater, retail, and either residential or office use. The approved North Building consists of approximately 325,000 square feet of GFA (for an effective FAR of approximately 3.78) of retail and either residential or office use. (*Id.*)

CURRENT APPLICATION

4. Pursuant to Condition D.2 of the Approved PUD, the Consolidated PUD approval for the South Building was valid until May 8, 2017, within such time, an application must be filed for the building permit for the South Building as specified. Construction shall begin within three years after the effective date of this Order. The Applicant filed the instant application for a time extension of the Consolidated PUD prior to the expiration of the approval therefor. The filing of such extension tolled the expiration of the Consolidated PUD approval, although no application for a building permit could be approved unless the request was granted.
5. The Applicant and ANC 5D were the only parties to the Approved PUD proceedings. A copy of the application materials for this extension request were served on ANC 5D, as demonstrated by the Applicant's Certificate of Service. (Ex. 1, p. 9.) The ANC did not respond to this extension request.
6. There has been no substantial change in the material facts upon which the Commission relied for its original approval of the Approved PUD that would undermine the justification for the approval thereof. The Project, as approved, continues to achieve the goals and policies of the Comprehensive Plan of the District of Columbia and the Florida Avenue Market Small Area Plan ("Florida Avenue Market Study" dated March 2009) and satisfies the PUD evaluation criteria contained in the Zoning Regulations. Although the Applicant proposed a modification to the Approved PUD (Ex. 5; *see also* Z.C. Case No. 14-12B), that modification was withdrawn prior to the Commission's deliberation on the instant time extension request. (Ex. 6.)
7. The Applicant provided substantial evidence that there is good cause for extending the expiration of the Consolidated PUD. The Applicant has been diligently, and in good faith, pursuing development of the Project. The Applicant has expended significant time and

resources to identify development partners and finance and develop the Project. (Ex. 1, pp. 4-7; 1E; 6.) The Applicant funded a wide variety of expenditures to facilitate the implementation of the Project and provided a detailed list of work and costs funded by the Applicant totaling approximately \$2,150,000. (Ex. 1E, 6.) The Applicant's efforts to implement the Project include:

- (a) Solicitation of office and residential development partners ("Development Partners") – the Applicant engaged in a process to solicit experienced, proven developers to implement the unique complexities of the Project by interviewing, reviewing, and ultimately signing non-binding agreements with two Development Partners for the Project;
- (b) Due diligence and joint venture/Development Partner negotiation – the Applicant engaged with two different Development Partners in detailed negotiations relating to the joint venture between the parties. Each such Development Partner spent a great deal of time and money to review and design their respective elements of the Project; and
- (c) Implementation of prior approved requirements – the Applicant has continued to develop the Project by implementing elements of the prior approved Order. For example, Applicant funded and worked with the consultant hired to create the "Streetscape Guidelines" for the Union Market District, which will allow the creation of a unique and cohesive experience in the public realm of the Union Market District.

8. However, despite the Applicant's work to find a development partner and the negotiations and redesign relating to such partnership search, along with the market and other conditions beyond the Applicant's reasonable control, the Applicant has been unable to file an application for a building permit for the South Building within the period required under the Approved PUD (i.e., by May 8, 2017). Factors beyond the Applicant's reasonable control that justify the extension include:

- (a) The Applicant's loss of the most recent Development Partner for the North Building due to the current climate of PUD appeals in the District;
- (b) The South Building's movie theater tenant's failure to perform under its lease, resulting ultimately in the loss of the theater lease commitment;
- (c) The speculative nature of the office component of the South Building;
- (d) The Applicant's inability to commit additional capital to the South Building without a theater or office tenant;
- (e) The complex structural engineering and high construction costs associated with constructing over the existing Union Market – the Approved PUD contemplates constructing eight new stories of the South Building above the existing Union Market without interrupting activity within or closing the Market; such construction effort presents substantial technical and engineering challenges. To

address these challenges, the Applicant retained specialized expertise, including structural engineers who specialize in bridge construction, to solve the technical challenges involved. In addition, the financing associated with such complicated construction required additional time to investigate and fund;

- (f) The Applicant's self-imposed requirement to minimize adverse impacts to the existing tenants and businesses in the Market; and
- (g) Uncertainty of the timing of development of the adjacent Gallaudet-owned parcel to the south, which the Applicant currently licenses for much needed parking for the Market and other businesses in the area.

Taken together, these challenges have taken longer to resolve than the Applicant originally anticipated.

- 9. The Office of Zoning referred the application to the Office of Planning ("OP") on May 11 2017. (Ex. 2.) On May 22, 2017, OP filed a report with the Commission recommending approval of the PUD time extension request until May 8, 2019. OP concluded that the Applicant satisfied the relevant standards of Subtitle Z § 705. (Ex. 4.)
- 10. ANC 5D did not provide a response to this application, and there were no other documents filed by third parties or persons in the record of this case.

CONCLUSIONS OF LAW

The Commission may extend the time period of an approved PUD provided the requirements of Subtitle Z § 705.2 are satisfied. The Applicant has satisfied each of the requisite conditions.

Section 705.2(a) requires that the Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond. The only party in the original case was ANC 5D, which was properly served with this time extension request but did not respond to this request. The Applicant has satisfied this notice requirement.

Section 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the Approved PUD. Based on the information provided by the Applicant and OP, the Commission concludes that extending the time period of approval for the Consolidated PUD is appropriate, as there are no substantial changes in the material facts that the Commission relied on in approving the original Consolidated PUD.

Section 705.2(c) requires that the Applicant demonstrate with substantial evidence one or more of the following criteria:

- (a) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;

- (b) An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
- (c) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

Based on the substantial evidence placed into the record by the Applicant, as recited above, the Commission concludes that there is good cause shown to extend the period of time in which the Applicant is required to file a building permit application for the Consolidated PUD. The Applicant has worked in good faith to advance the development of the overall Project and the development of the South Building. However, numerous factors outside the Applicant's control, including litigation risk, market conditions, and construction challenges, require additional time for the Applicant to resolve or design around. The Commission concludes that granting the time extension request until May 9, 2019 is an appropriate amount of time in light of the existing conditions. For these reasons, the Commission finds that the Applicant has satisfied the requirements of § 705.2(c)(3).

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (DC Law 8-163, D.C. Official Code § 6-623.04), to give great weight to OP's recommendations. OP recommended approval of the time extension request, and the Commission concurs in its recommendation.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a time extension of the Consolidated PUD application approved in Z.C. Order No. 14-12. The consolidated PUD approved by the Zoning Commission shall be valid until May 9, 2019, before which time the Applicant will be required to file a building permit application for the South Building. Construction of the Consolidated PUD must start no later than May 9, 2020.

On September 17, 2018, upon motion by Vice Chairman Miller, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to **APPROVE** this application its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve, and Peter A. Shapiro, not present, and not voting).

In accordance with the provisions of 11-Z DCMR § 604.8 this Order shall become final and effective upon publication in the *D. C. Register* on November 9, 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. 17-05A
Z.C. Case No. 17-05A
2100 2nd Street SW, LLC
(Design Review Modification of Consequence @ Square 613, Lot 10)
October 22, 2018

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on October 22, 2018. At that meeting, the Commission approved the application of 2100 2nd Street SW, LLC (“Applicant”) for a modification of consequence to Z.C. Order No. 17-05 (“Order”). The property that is the subject of this modification comprises Lot 10 in Square 613 (“Property”). The modification request was pursuant to § 703 of the Commission’s Rules of Practice and Procedure, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (“DCMR”).

Findings of Fact

1. Pursuant to Chapter 6 of Subtitle X of the Zoning Regulations, the Commission approved the design of a mixed-use building (“Project”) for the former headquarters of the United States Coast Guard at the Property. This approval is reflected in Z.C. Order No. 17-05. (Exhibit [“Ex.”] 1.)
2. On August 10, 2018, the Applicant submitted an application for a modification of consequence related to the redesign and relocation of architectural elements of the building and property area contained in the Order based on plan refinements during the permitting process. The application sought relief to make changes to: a) First Street, b) the rooftop terrace and façade, c) the south façade and terrace, d) building materials, and e) floodproofing plans. The Applicant included a set of plans depicting each of the following proposed modifications with the application: (Ex. 1, 1C.)¹
 - a. First Street: The modified design incorporated an elevated landing on 1st Street and relocated the pet relief area;
 - b. Rooftop Terrace and Façade: The pool was relocated and the modified design included a raised deck and associated trellis, and the penthouse façades were altered slightly;
 - c. South Façade and Terrace: Additional glass was incorporated into the south façade and a covered, open arcade walkway was provided in the southeast corner of the building to connect the restaurant terrace with 1st Street. Modifications were also proposed to the terrace wall to reduce its visual presence and to the flooring of the dining terrace;

¹ The Applicant initially requested a modification regarding the treatment of the river’s edge, but withdrew that modification based on feedback from the Office of Planning and the Department of Energy and the Environment. (Ex. 5.)

- d. Materials: Nichiha products replaced the Trespa and Equitone products approved for the elevation materials. Additionally, panels at the Project and balcony materials were revised slightly; and
 - e. Flood Proofing: The Applicant proposed a different type of temporary flood barriers to floodproof the building instead of the approved aluminum flood planks, which included some revisions to plantings around the Property.
3. The Office of Planning (“OP”) submitted a report dated September 6, 2018, recommending approval of the modification of consequence as requested, and noted comments from the Department of Energy and Environment (“DOEE”) regarding the floodproofing plan. OP supported the modifications as they only change exterior components of the Project and not the overall Project massing and do not change the flexibility granted in the Order. (Ex. 4.)
 4. The Applicant submitted a response to OP’s report and an update withdrawing one request for modification. The Applicant noted that DOEE had approved the revised floodproofing plan as part of the Code Modification process. (Ex. 5.)
 5. Advisory Neighborhood Commission (“ANC”) 6D, the ANC in which the project is located, submitted a letter dated September 17, 2018, which indicated:

At a regularly scheduled and properly noticed public business meeting on September 10, 2018, with a quorum being present (a quorum being 4), Advisory Neighborhood Commission (ANC) 6D voted 6-0-0 to offer support with concerns and suggestions RE the Capitol Gateway Overlay District Design review ... relief sought by the application noted above.

...

We are concerned with any loss of retail area in this retail-starved area. In this case, approximately 1,414 square feet of retail is lost.

(Ex. 6.)

6. The Commission, at its September 17, 2018 public meeting, determined that the application was properly a modification of consequence within the meaning of 11-Z DCMR §§ 703.3 and 703.4, and that no public hearing was necessary pursuant Subtitle Z § 703.1. The Commission was therefore required by Subtitle Z § 703.17(c)(2) to establish a timeframe for the parties in the original proceeding to file a response in opposition to or in support of the request and for the application to respond thereto; and schedule the request for deliberations. Because the ANC was the only party to the original proceeding, and had filed its report as noted above, the Commission noted there was no need for a timeframe for parties to file a response to the Modification. The Commission set a timeframe for the Applicant to respond to the ANC’s letter and to provide an update regarding DOEE’s comments by October 9, 2018. The Commission scheduled the request for deliberations for October 22, 2018.

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7. The Applicant submitted a response to the ANC's report and an update on DOEE's comments on October 9, 2018, providing a copy of the Code Modification for construction of a mixed-use building within the floodplain for the Project, approved by DOEE, and responding to the ANC's concerns regarding the revisions at the southeastern corner of the Project. The Applicant noted that while the revisions to the southeast corner to provide a covered walkway do minimally reduce the indoor retail square footage, such a loss is minor compared to the gains of the modification. Specifically, the covered walkway provides easier access to the planned restaurants along the southern terrace and creates an opportunity for outdoor seating for the tenant in the southeast corner. (Ex. 7.)
8. The Commission, at its October 22, 2018 public meeting, voted to approve the modification of consequence.

Conclusions of Law

Pursuant to 11-Z DCMR § 703.1, the Commission, in the interest of efficiency, is authorized to make "modifications of consequence" to final orders and plans without a public hearing. A modification of consequence means a "modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance. (11-Z DCMR § 703.3.) Examples of modifications of consequence "include but are not limited to, a proposed change to a condition in a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission." (11-Z DCMR § 703.4.)

The Commission concludes that the refinement of plans as described above is a modification of consequence and therefore can be granted without a public hearing.

The Commission finds that the proposed modifications are consistent with the Commission's previous approval of the Project and the Order. The refinements are supported by OP and the affected ANC.

The Commission is required under section 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 considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.

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, which in this case is ANC 6D. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. In this case, the affected ANC expressed concern over the with the loss of approximately 1,414 square feet of retail. The Commission agrees with the Applicant that the benefits of the covered walkway outweigh this relatively small loss of retail.

DECISION

The Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a modification of consequence to the design review project approved in Z.C. Case No. 17-05. The conditions in Z.C. Order No. 17-05 remain unchanged except as follows (deletions noted by ~~striketrough~~ text and additions in **bold** and underline text):

1. The Project shall be built in accordance with the plans, including flood proofing plans, and elevations dated May 16, 2017, and marked as Exhibit 16A of the record **of Z.C. Case No. 17-05**, as modified by the drawings submitted as Exhibits 26A, 30A, and 34A **of the record of Z.C. Case No. 17-05**, and as modified by the guidelines, conditions, and standards **contained in the Z.C. Order No. 17-05, as amended by the plans submitted on August 10, 2018, marked as Exhibit 1C of the record of Z.C. Case No. 17-05A.**

3. The Applicant will have the following areas of flexibility:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - b. To provide a range in the number of residential units and vehicular parking spaces plus or minus 10%;
 - c. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim, such that the refinements do not substantially change the external configuration or appearance of the building;
 - d. To continue coordination of the streetscape design and areas in public space with DDOT during the public space process; ~~and~~
 - e. To modify the number and location of retail entrances based on the number of tenants ultimately secured for the retail space; **and**
 - f. **To continue coordination of the floodproofing plans with DOEE during the permitting process.**

On October 22, 2018 upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its

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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 to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become effective upon publication in the *D.C. Register*; that is on November 9, 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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