

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a meeting on the adoption of the report of the Ad Hoc Committee in the Matter of Councilmember Jack Evans
- Department of Consumer and Regulatory Affairs releases the 2020 assessed amounts for infractions listed in Title 16 of the District of Columbia Municipal Regulations, Chapter 33 (Department of Consumer and Regulatory Affairs (DCRA) Infractions)
- Department of Energy and Environment establishes a schedule of civil infractions for violations related to the Wildlife Protection Act
- Department of Health Care Finance releases the 2020 Medicaid Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver)
- Department of Parks and Recreation extends the public comment period for the Community Gardening Partner Group Cooperative Agreement
- Office of the Deputy Mayor for Planning and Economic Development schedules a public meeting to receive comments on the proposed surplus of the St. Elizabeths properties
- District Department of Transportation solicits detailed proposals from organizations to manage a Trail Ranger Program

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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MAYOR

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-169

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 26, 2019

To approve, on an emergency basis, Change Order Nos. 1 through 3 to Contract No. DCAM-18-CS-0117, with Stevens School Developer, LLC, for design-build services for exterior renovations to the Thaddeus Stevens School, and to authorize payment for the goods and services received and to be received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Change Order Nos. 1 through 3 to Contract No. DCAM-18-CS-0117 Approval and Payment Authorization Emergency Act of 2019”.

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 Change Order Nos. 1 through 3 to Contract No. DCAM-18-CS-0117 with Stevens School Developer, LLC, for design-build services for exterior renovations to the Thaddeus Stevens School and authorizes payment in the not-to-exceed amount of \$7,452,006, for the goods and services received and to be received under the change orders.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

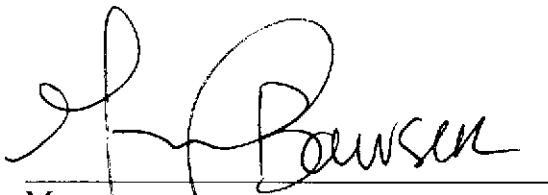
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

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
November 26, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-170

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 26, 2019

To approve, on an emergency basis, Contract No. NFPHCANTH-19-C-001 between the Not-for-Profit Hospital Corporation (“Hospital”) and Northrium Health, LLC, to provide 24-hour anesthesia services, vascular access, and infusion services to the Hospital, 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 “Contract No. NFPHCANTH-19-C-001 Approval and Payment Authorization Emergency Amendment Act of 2019”.

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 Contract No. NFPHCANTH-19-C-001 between the Not-for-Profit Hospital Corporation (“Hospital”) and Northrium Health, LLC, to provide 24-hour anesthesia services, vascular access, and infusion services to the Hospital, and authorizes payment in the amount of \$1,660,945.83 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.

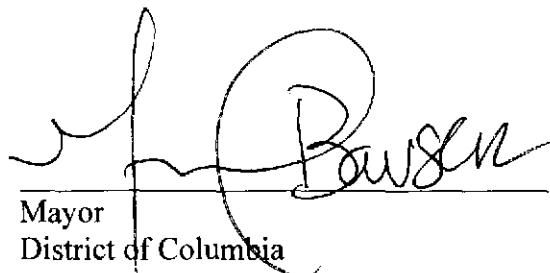
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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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 26, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-171

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 26, 2019

To approve, on an emergency basis, multiyear Contract No. DCCB-2019-C-0011 with Sher Edling, LLP and Tycko & Zavareei, LLP to provide outside legal counsel in support of the Office of the Attorney General's investigation and potential litigation against ExxonMobil Corporation, any subsidiary, affiliate, or successor-in-interest, or others responsible for potential violations of the Consumer Protection Procedures Act or other District laws in connection with statements or omissions about the effects of its fossil fuel products on climate change, and to authorize payment for the goods and services 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 "Contract No. DCCB-2019-C-0011 Approval and Payment Authorization Emergency Act of 2019".

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 multiyear Contract No. DCCB-2019-C-0011 with Sher Edling, LLP and Tycko & Zavareei, LLP to provide outside legal counsel in support of the Office of the Attorney General's investigation and potential litigation against ExxonMobil, and authorizes payment in the not-to-exceed amount of \$70 million for the goods and services 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 section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
November 26, 2019

ENROLLED ORIGINAL

AN ACT
D.C. ACT 23-172

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 26, 2019

To amend, on an emergency basis, the Advisory Neighborhood Councils Act of 1975 to clarify when an Advisory Neighborhood Commission shall forfeit quarterly allotments for failing to timely file quarterly reports approved by the Office of Advisory Neighborhood Commissions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Advisory Neighborhood Commission Accountability Clarification Emergency Amendment Act of 2019”.

Sec. 2. Section 16(j)(3) of the Advisory Neighborhood Councils Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.13(j)(3)), is amended to read as follows:

“(3)(A)(i) If a Commission has failed to timely file 2 or more quarterly reports approved by the OANC, the Commission shall forfeit the allotments associated with the most recent untimely quarterly report and shall forfeit additional allotments until the Commission files the required reports.

“(ii) If a Commission had not received a quarterly allotment by the last day of the fiscal year because it failed to file a quarterly allotment approved by the OANC, the Commission shall forfeit the unclaimed allotment or allotments.

“(iii) All funds forfeited pursuant to this paragraph shall return to the General Fund of the District of Columbia.

“(B) Sub-subparagraph (i) of subparagraph (A) of this paragraph shall not apply to the failure to file quarterly reports covering periods prior to the 2020 fiscal year.”.

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 Procedure Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1301.47a).

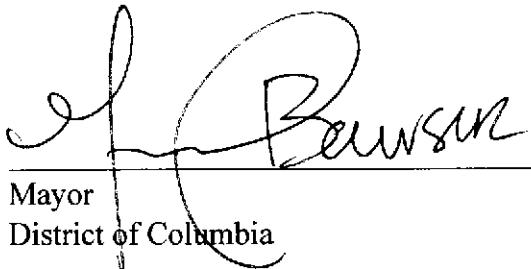
ENROLLED ORIGINAL

Sec. 4. Effective date.

The act shall take effect following the 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 26, 2019

ENROLLED ORIGINAL

AN ACT

D.C. ACT 23-173

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 26, 2019

To protect, on an emergency basis, unpaid federal workers, employees of contractors of the federal government, and household members of federal workers and employees of contractors from eviction, late fees, and foreclosure during a federal government shutdown.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Federal Worker Housing Relief Extension Emergency Act of 2019".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Borrower" shall have the same meaning as provided in section 539b(a)(1) of An Act To establish a code of law for the District of Columbia, effective March 12, 2011 (D.C. Law 18-314; D.C. Official Code § 42-815.02(a)(1)).

(2) "Contractor" shall have the same meaning as provided in 41 U.S.C. § 7101(7).

(3) "Covered period" means:

(A) For a federal worker, the period from the date of a federal worker's first unpaid payday during a shutdown through the earlier of:

(i) 30 days after the effective date of an appropriations act or continuing resolution that funds a federal worker's government agency; or

(ii) 90 days after the date of the federal worker's first unpaid payday; and

(B) For an employee of a contractor, the period from the date an employee of a contractor is laid off or otherwise stops receiving pay because of the shutdown through the earlier of:

(i) 30 days after the effective date of an appropriations act or continuing resolution that funds the agency with which the contractor has a contract; or

(ii) 90 days after the employee of a contractor is laid off or otherwise stops receiving pay because of the shutdown.

(4) "Federal worker" means an employee of a government agency.

(5) "Government agency" means each authority of the executive, legislative, or judicial branch of the government of the United States, the District of Columbia Courts, or the

ENROLLED ORIGINAL

District of Columbia Public Defender Service.

(6) "Household member" means an individual who resides with a federal worker or an employee of a contractor in a housing unit.

(7) "Housing provider" shall have the same meaning as provided in section 103(15) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.03(15)).

(8) "Housing unit" means any room or group of rooms forming a single-family residential unit, including an apartment, semi-detached condominium, cooperative, or semi-detached or detached home that is used or intended to be used for living, sleeping, and the preparation and eating of meals by human occupants.

(9) "Lender" shall have the same meaning as provided in section 539b(a)(3) of An Act To establish a code of law for the District of Columbia, effective March 12, 2011 (D.C. Law 18-314; D.C. Official Code § 42-815.02(a)(3)).

(10) "Mediation Administrator" shall have the same meaning as provided in section 539b(a)(6) of An Act To establish a code of law for the District of Columbia, effective March 12, 2011 (D.C. Law 18-314; D.C. Official Code § 42-815.02(a)(6)).

(11) "Residential mortgage" shall have the same meaning as provided in section 539a(a) of An Act To establish a code of law for the District of Columbia, effective May 8, 1984 (D.C. Law 5-82; D.C. Official Code § 42-815.01(a)).

(12) "Shutdown" means any period in which there is a lapse in appropriations for a government agency that continues through any unpaid payday for a federal worker employed by that agency.

(13) "Superior Court" means the Superior Court of the District of Columbia.

Sec. 3. Stay of proceedings for evictions and foreclosures.

(a)(1) Notwithstanding any other provision of law, if a housing provider initiates an eviction proceeding in Superior Court against a federal worker, an employee of a contractor, or a household member during the covered period, the federal worker, employee of a contractor, or household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, may move the court to stay proceedings until the covered period elapses. The movant shall attach to the motion the documentation required by subsection (c) or subsection (d) of this section, as applicable, to establish the movant's eligibility under this section. The court shall grant the motion to stay the proceeding if the court determines that the federal worker, employee of a contractor, or household member has submitted the required documentation necessary to establish eligibility for relief in accordance with subsection (c) or subsection (d) of this section, as applicable.

(2) Notwithstanding any other provision of law, a federal worker, an employee of a contractor, or a household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, may also move the court to void late fees charged by a housing provider pursuant to section 531 of the Rental Housing Act of 1985, effective July 17, 1985

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(D.C. Law 6-10; D.C. Official Code § 42-3505.31). The court shall grant the motion if the late fees accrued during the covered period.

(b)(1) Notwithstanding the requirements set forth in section 539b of An Act To establish a code of law for the District of Columbia, effective March 12, 2011 (D.C. Law 18-314; D.C. Official Code § 42-815.02), upon the request of a borrower who is a federal worker, an employee of a contractor, or a household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, the Mediation Administrator shall stay the mediation and shall not issue a mediation certificate to a lender until the covered period elapses. The borrower shall provide the documentation required by subsection (c) or subsection (d) of this section, as applicable, to establish the borrower's eligibility.

(2) Notwithstanding any other provision of law, if during the covered period but before the effective date of this act, the Mediation Administrator issued a mediation certificate and the lender gave written notice of the intention to foreclose on a residential mortgage, a federal worker, employee of a contractor, or household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, may petition the Superior Court to stay the sale until the covered period has elapsed. The petitioner shall attach to the petition the documentation required by subsection (c) or subsection (d) of this section, as applicable, to establish the petitioner's eligibility under this section. The court shall grant the petition to stay the sale if the court determines that the federal worker, employee of a contractor, or household member has submitted the required documentation necessary to establish eligibility for relief in accordance with subsection (c) or subsection (d) of this section, as applicable.

(3) Notwithstanding any other provision of law, if a lender initiates a foreclosure proceeding in Superior Court against a federal worker, an employee of a contractor, or a household member during the covered period, the federal worker, employee of a contractor, or household member eligible for relief under subsection (c) or subsection (d) of this section, as applicable, may move the court to stay the proceeding until the covered period elapses. The movant shall attach to the motion the documentation required by subsection (c) or subsection (d) of this section, as applicable, to establish the movant's eligibility under this section. The court shall grant the motion to stay the proceeding if the court determines that the federal worker, employee of a contractor, or household member has submitted the required documentation necessary to establish eligibility for relief in accordance with subsection (c) or subsection (d) of this section, as applicable.

(c) To be eligible for the relief set forth in this section:

(1) A federal worker shall submit to the court or Mediation Administrator one of the following:

(A) A pay stub issued by a government agency showing zero dollars in earnings for the federal worker for a pay period within the period of the shutdown; or

(B) A copy of a furlough notification letter or essential employee status letter; and

(2) An employee of a contractor shall submit to the court or Mediation

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Administrator a letter from the contractor, issued and signed by an officer or owner of the company or by the company's human resources director, stating:

(A) That the employee of the contractor was laid off or is otherwise not receiving pay from the contractor because of the shutdown;

(B) The date that the employee of the contractor was laid off or otherwise stopped receiving pay from the contractor; and

(C) The name of the agency with which the contractor had a contract.

(d)(1) A household member who is a party to the rental agreement subject to an eviction action or the residential mortgage subject to a foreclosure proceeding shall be eligible for the relief set forth in this section if the household member submits to the court or Mediation Administrator:

(A) Sufficient documentation that a federal worker or employee of a contractor resides in the same household unit as the household member, which shall include any 2 of the following that displays a name and home address for the federal worker or employee of a contractor:

(i) A current government-issued photo identification;

(ii) A utility bill dated no more than 60 days before the beginning of the covered period;

(iii) A bank or credit card statement dated no more than 60 days before the beginning of the covered period;

(iv) A student loan statement dated no more than 60 days before the beginning of the covered period; or

(v) Official mail received from a government agency or a District government agency dated no more than 60 days before the beginning of the covered period;

(B) The documentation required to be submitted by the federal worker or the employee of the contractor under subsection (c) of this section; and

(C) Sufficient documentation that the federal worker or employee of a contractor contributes at least 25% of the monthly rent or mortgage payment, which shall include any of the following for at least 2 of the 6 months before the beginning of the covered period:

(i) Cancelled checks;

(ii) Bank statements;

(iii) Electronic records of payment; or

(iv) Receipts.

(2) A household member shall continue to timely pay the household member's percentage share of the rent or mortgage payments. Failure of a household member to make timely payment of the household member's share of the rent or mortgage payment shall be grounds for lifting a stay of the proceeding.

Sec. 4. Fiscal impact statement.

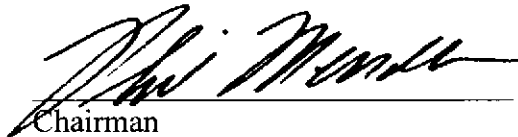
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact

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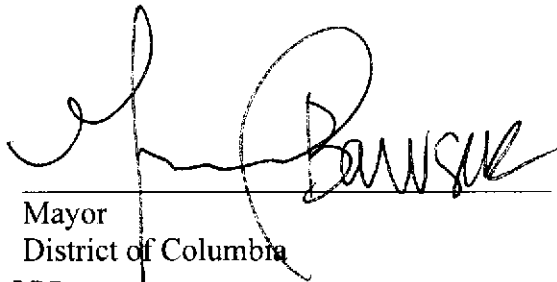
statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), 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 26, 2019

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AN ACT

D.C. ACT 23-174

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 26, 2019

To amend the Victims of Violent Crime Compensation Act of 1996 to provide that if a victim or secondary victim is a dependent on a primary insurance holder's insurance policy, the primary insurance holder's insurance policy shall not constitute a collateral source, unless the victim or secondary victim chooses to avail himself or herself of the benefits or compensation from the primary insurance holder's insurance policy, and to allow applications for crime victims compensation to be filed by electronic mail; to amend the Sexual Assault Victims' Rights Act of 2014 to modify the DC SANE Program to include entities that provide comprehensive medical forensic care to sexual assault victims and are a member of the Sexual Assault Response Team, to require the Department of Forensic Sciences to process physical evidence recovery kits involved in consumption litigation within 90 days after the date of receipt of a consumption determination from the prosecution, to authorize the Department of Forensic Sciences to delegate the processing of physical evidence recovery kits to accredited laboratories, to prohibit hospitals from charging a sexual assault victim for costs associated with a physical evidence recovery kit, to require the Chief of Police to annually report on the number of sexual assault victims who request the results of their physical evidence recovery kits, to expand the information reported by the Department of Forensic Sciences about physical evidence recovery kits in its annual report, to expand the membership of the Sexual Assault Response Team, to require the Office of Victim Services and Justice Grants to facilitate annual training for members of the Sexual Assault Response Team, to authorize the Sexual Assault Response Team to expand its membership, to require the Sexual Assault Response Team to establish a Feedback Review Committee to receive and investigate complaints and comments from sexual assault victims, to require the Sexual Assault Response Team to submit a report to the Mayor and the Council that includes a summary of its activities, to require each member of the Sexual Assault Response Team to provide certain data to other members of the Sexual Assault Response Team, to provide that the Sexual Assault Response Team shall only conduct case reviews of cases involving sexual assault victims 18 years of age or older, and to require that, before conducting case reviews, the SART obtain the consent of the sexual assault victim involved in the case; to amend the Emergency Care for Sexual Assault Victims Act of 2008 to require that hospitals providing emergency care to sexual assault victims inform them of the rights

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provided under section 23-1908 of the District of Columbia Official Code and, if the victim consents, immediately notify the sexual assault victim advocate dispatch system; to amend section 14-312 of the District of Columbia Official Code to exempt sexual assault counselors from mandatory reporting of child abuse except under certain circumstances; to amend the Anti-Sexual Abuse Act of 1994 to exempt certain communications between sexual assault victims and sexual assault counselors from mandatory reporting of child abuse; to amend the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to add the Director of the Office of Victim Services and Justice Grants as a member of the Criminal Justice Coordinating Council; to amend Subchapter II of Chapter 19 of Title 23 of the District of Columbia Official Code to require additional training for sexual assault youth victim advocates, to require physical evidence recovery kits to be preserved without charge to the sexual assault victim, to expand the rights of sexual assault victims in certain settings, to require that specific specialized units of the Metropolitan Police Department provide certain information to sexual assault victims over the age of 13, and to allow sexual assault victims to opt out of receiving certain information or services from the Metropolitan Police Department.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sexual Assault Victims' Rights Amendment Act of 2019".

Sec. 2. The Victims of Violent Crime Compensation Act of 1996, effective April 9, 1997 (D.C. Law 11-243; D.C. Official Code § 4-501 *et seq.*), is amended as follows:

(a) Section 8 (D.C. Official Code § 4-507) is amended by adding a new subsection (a-1) to read as follows:

"(a-1) Notwithstanding subsection (a) of this section, if a victim or secondary victim is a dependent on a primary insurance holder's insurance policy, the primary insurance holder's insurance policy shall not constitute a collateral source for the purposes of subsection (a) of this section, unless the victim or secondary victim chooses to avail himself or herself of the benefits or compensation from the primary insurance holder's insurance policy."

(b) Section 13 (D.C. Official Code § 4-512) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "in person or by mail." and inserting the phrase "in person, by mail, or by electronic mail." in its place.

(2) Subsection (b) is amended by striking the phrase "claimant by first class mail, along" and inserting the phrase "claimant by first class mail or electronic mail, along" in its place.

(3) Subsection (c) is amended by striking the phrase "claimant by first class mail, along" and inserting the phrase "claimant by first class mail or electronic mail, along" in its place.

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Sec. 3. Title II of the Sexual Assault Victims' Rights Act of 2014, effective November 20, 2014 (D.C. Law 20-139; D.C. Official Code § 4-561.01 *et seq.*), is amended as follows:

(a) Section 201 (D.C. Official Code § 4-561.01) is amended to read as follows:

“Sec. 201. Definitions.

“For the purposes of this title, the term:

“(1) “Case Review Subcommittee” means the SART Case Review Subcommittee established by section 214.

“(2) “Consumption litigation” means litigation in a criminal proceeding initiated by notification to the defense of the need to consume an entire DNA sample in forensic testing.

“(3) “DC SANE Program” means the DC Sexual Assault Nurse Examiner Program that provides comprehensive medical forensic care to sexual assault victims, including:

“(A) The DC Forensic Nurse Examiners;

“(B) The Child and Adolescent Protection Center; and

“(C) Any other entity within the District that is a member of the SART or the multidisciplinary investigation team, as described in section 151 of the Prevention of Child Abuse and Neglect Act of 1977, effective October 19, 2002 (D.C. Law 14-206; D.C. Official Code § 4-1301.51).

“(4) “DFS” means the Department of Forensic Sciences.

“(5) “Hospital” means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may, in addition, provide outpatient services, particularly emergency care.

“(6) “Independent expert consultant” means the individual retained pursuant to section 204 and charged with the duties and obligations specified in section 205.

“(7) “MPD” means the Metropolitan Police Department.

“(8) “OCME” means the Office of the Chief Medical Examiner.

“(9) “OVSJG” means the Office of Victim Services and Justice Grants, established by Mayor’s Order 2016-171.

“(10) “PERK” means a Physical Evidence Recovery Kit used to collect and preserve physical evidence related to a sexual assault or alleged sexual assault.

“(11) “SART” means the Sexual Assault Response Team established by section 212.

“(12) “Sexual assault” shall have the same meaning as provided in D.C. Official Code § 23-1907(9).

“(13) “Sexual assault victim” means an individual against whom a sexual assault has been committed or is alleged to have been committed, including a deceased individual.

“(14) “Sexual assault victim advocate dispatch system” means the system developed by OVSJG and approved by the SART, pursuant to D.C. Official Code § 23-1909(e).

“(15) “Task Force” means the Sexual Assault Victims’ Rights Task Force established pursuant to section 215.”.

(b) Section 202 (D.C. Official Code § 4-561.02) is amended as follows:

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(1) The section heading is amended by striking the phrase “of sexual assault forensic examination kits” and inserting the phrase “of PERKs” in its place.

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

(A) The lead-in language is amended by striking the phrase “the kits” and inserting the phrase “any PERK” in its place.

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

“(1) The PERK to the DFS; and”.

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

“(b)(1) If a PERK is not involved in consumption litigation, the DFS shall process the PERK within 90 days after DFS receives the PERK.

“(2) If a PERK is involved in consumption litigation, the DFS shall process the PERK within 90 days after the DFS receives a consumption determination from the prosecution.”.

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

“(b-1)(1) Notwithstanding subsection (b) of this section, the DFS may delegate the processing of a PERK to an accredited laboratory pursuant to a statement of work, which shall establish protocols for:

“(A) DFS to notify the accredited laboratory that a PERK is available for processing;

“(B) Delivery of the PERK to the accredited laboratory;

“(C) Processing the PERK; and

“(D) Delivery of the PERK and any results to the DFS.

“(2) Even if DFS delegates the processing of a PERK to an accredited laboratory, DFS shall comply with the time periods described in subsection (b) of this section.”.

(5) Subsection (c) is amended by striking the phrase “from the” and inserting the phrase “after the” in its place.

(c) Section 203 (D.C. Official Code § 4-561.03) is amended as follows:

(1) The section heading is amended by striking the phrase “sexual assault forensic examination kits.” and inserting the phrase “PERKs.” in its place.

(2) Strike the phrase “the administration of a sexual assault forensic examination kit or for the kit itself” and insert the phrase “a PERK, including the costs of the PERK, its administration, and the processing of the PERK or any biological specimens” in its place.

(d) Section 204 (D.C. Official Code § 4-561.04) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “the OVS” and inserting the phrase “the OVSJG” in its place.

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

(A) Strike the word “consultant” and insert the phrase “independent expert consultant” in its place.

(B) Strike the phrase “the OVS” and insert the phrase “the OVSJG” in its place.

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(3) Subsection (c) is amended to read as follows:

“(c) The independent expert consultant shall be retained for a period of one year, with the option for the OVSJG to extend the contract in 1-year increments.”.

(4) Subsection (d) is amended to read as follows:

“(d) The independent expert consultant selected shall have current and recognized expertise in the areas of law enforcement, crime victims’ rights, victim advocacy, medical best practices, policy and procedure development, sexual assault, and the investigation or prosecution of sexual assault.”.

(e) Section 205 (D.C. Official Code § 4-561.05) is amended as follows:

(1) The section heading is amended to read as follows:

“Sec. 205. Duties and obligations of the independent expert consultant.”.

(2) Paragraph (1) is amended by striking the phrase “Task Force established by section 215” and inserting the phrase “Task Force” in its place.

(3) Paragraph (2)(C) is amended by striking the phrase “with current best practices” and inserting the phrase “with best practices” in its place.

(4) Paragraph (3) is amended by striking the phrase “including;” and inserting the phrase “including:” in its place.

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

“(5) Within 120 days after the date of being retained by the OVSJG, audit all PERKs in storage to determine if all PERKs in which a sexual assault victim reported a sexual assault to MPD have been delivered to the DFS for processing;”.

(6) Paragraph (7) is amended by striking the phrase “the consultant” and inserting the phrase “the independent expert consultant” in its place.

(f) Section 206 (D.C. Official Code § 4-561.06) is amended as follows:

(1) Subsection (a)(1)(A)(ii) is amended by striking the phrase “the consultant” and inserting the phrase “the independent expert consultant” in its place.

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

“(b)(1) The independent expert consultant shall, within 45 days after being retained by the OVSJG:

“(A) Develop a plan and schedule for preparing the public report and reviewing the case review plan and process described in subsection (a)(1) of this section; and

“(B) Submit the plan to the OVSJG for review and approval.

“(2) The plan developed pursuant to paragraph (1) of this subsection shall include a timeline for submitting any recommendations to the Council or the Mayor regarding proposed legislation.”.

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

(A) Strike the phrase “The OVS” and insert the phrase “The OVSJG” in its place.

(B) Strike the phrase “30 days from the” and insert the phrase “30 days after the” in its place.

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(g) Section 208 (D.C. Official Code § 4-561.08) is amended by striking the phrase “sexual assault crimes” and inserting the phrase “sexual assaults” in its place.

(h) Section 209(a) (D.C. Official Code § 4-561.09(a)) is amended as follows:

(1) Paragraph (4) is amended to read as follows:

“(4) The recommendations received from the Case Review Subcommittee and the measures the MPD has taken, if any, to address those recommendations;”.

(2) Paragraph (5) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (6) is added to read as follows:

“(6) The number of sexual assault victims who:

“(A) Requested the results of their PERK; and

“(B) Did not request the results of their PERK.”.

(i) Section 210 (D.C. Official Code § 4-561.10) is amended to read as follows:

“Sec. 210. DFS reporting requirement.

“In the annual report filed pursuant to section 5(a)(5) of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.04(a)(5)), the Director of the DFS shall provide, for the prior calendar year:

“(1) The number of PERKs received from the MPD;

“(2) The number of PERKs processed by the DFS or an accredited laboratory to which the DFS delegated the processing;

“(3) The average time it took for PERKs to be processed by the DFS or an accredited laboratory to which the DFS delegated the processing;

“(4) The longest period of time it took for PERKs to be processed by the DFS or an accredited laboratory to which the DFS delegated the processing;

“(5) The number of PERKS involved in consumption litigation;

“(6) The number of times in which an accredited laboratory to which the DFS delegated the processing failed to comply with the time periods described in section 202(b);

“(7) If permission to consume was requested, the number of cases in which processing was completed 90 days after the PERK was received by the DFS due to consumption litigation; and

“(8) The number of days in which each PERK was delayed awaiting a consumption litigation determination.”.

(j) Section 212 (D.C. Official Code § 4-561.12) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “Team.” and inserting the phrase “Team (“SART”).” in its place.

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

“(b) The SART shall be a partnership of public and private agencies that:

“(1) Coordinates a high-quality, multidisciplinary, victim-centered response to sexual assault cases; and

“(2) Makes recommendations to improve the continuum of services in the District for sexual assault victims.”.

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(3) Subsection (c) is amended to read as follows:

“(c) Membership on the SART shall include the following persons:

“(1) The Director of the OVSJG, or the Director’s designee;

“(2) The SART coordinator, who shall be appointed by the Director of the OVSJG, and serve as a non-voting member;

“(3) “The Attorney General for the District of Columbia, or the Attorney General’s designee;

“(4) The Chief of Police, or the Chief’s designee who is a member of the Sexual Assault Unit with the rank of Captain or above;

“(5) A representative from the MPD Victim Services Branch;

“(6) The Director of the Child and Family Services Agency, or the Director’s designee;

“(7) The Executive Director of the Children’s Advocacy Center, or the Director’s designee;

“(8) The United States Attorney for the District of Columbia, or the United States Attorney’s designee who is an attorney assigned to the Sex Offense and Domestic Violence Section;

“(9) A representative from the Victim Witness Assistance Unit of the United States Attorney’s Office for the District of Columbia;

“(10) A representative from the United States Park Police;

“(11) The Director of each entity in the DC SANE Program, or the Director’s designee; provided, that the Director or the Director’s designee shall be a forensic nurse examiner, as that term is defined in D.C. Official Code § 23-1907(2), or a physician with specialized training in medical forensic evidence collection;

“(12) The Director of each community-based organization that is providing victim advocacy services pursuant to D.C. Official Code § 23-1909, or the Director’s designee; provided, that the community-based organization has been approved for membership by the SART;

“(13) The Director, or the Director’s designee, of each entity that provides medical forensic care to sexual assault victims; provided, that the entity has been approved for membership by the SART;

“(14) A representative from a community-based organization, selected by the SART, that is providing post-sexual assault mental health services;

“(15) A representative from the designated State sexual assault coalition, as that term is defined in 34 U.S.C. § 12291(a)(33), for the District;

“(16) The Director of the DFS, or the Director’s designee, who is a forensic scientist;

“(17) The Chief Medical Examiner, or the Chief Medical Examiner’s designee;

and

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“(18) A representative from a District of Columbia-based college or university that provides direct victim services to sexual assault victims and who holds a position at that college or university.”.

(4) New subsections (d-1) and (d-2) are added to read as follows:

“(d-1) A chairperson shall be elected from among the non-governmental members of the SART.

“(d-2) No non-governmental organization or entity shall have more than one representative on the SART.”.

(5) Subsection (g) is amended by striking the phrase “does not” and inserting the phrase “shall not” in its place.

(6) New subsections (h) and (i) are added to read as follows:

“(h)(1) At least annually, OVSJG shall, in collaboration with the DFS and the OCME, facilitate training for members of the SART.

“(2) The training shall include instruction on explaining, in a manner that is trauma-informed and victim-centered, the procedure and results of a PERK, forensic analysis of the PERK, and toxicology tests.

“(i) In addition to the members listed in subsection (c) of this section, the SART may expand its membership by establishing a membership application, evaluation, and approval process for:

“(1) Any community-based organization that seeks to provide victim advocacy services pursuant to D.C. Official Code § 23-1909;

“(2) Any entity that seeks to provide medical forensic care to sexual assault victims; and

“(3) Any entity that seeks to administer a victim hotline or participate in the sexual assault victim advocate dispatch system.”.

(k) Section 213 (D.C. Official Code § 4-561.13) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) The newly designated subsection (a) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “victims of sexual assault” and inserting the phrase “sexual assault victims” in its place.

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

“(2) Conduct regular case reviews, through the Case Review Subcommittee, of all parties involved in sexual assault responses involving sexual assault victims 18 years of age or older, including a review of sexual assault reports and investigations by the MPD and cases reported to any member of the SART;”.

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

(i) Strike the phrase “Case Review Subcommittee, established by section 214,” and insert the phrase “Case Review Subcommittee” in its place.

(ii) Strike the period and insert a semicolon in its place.

(D) New paragraphs (4) and (5) are added to read as follows:

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“(4) Establish a Feedback Review Committee for the purpose of receiving and investigating all complaints and comments from sexual assault victims, including complaints and comments regarding the United States Attorney’s Office for the District of Columbia; and

“(5) By January 1, 2022, submit a report to the Mayor and the Council that includes the following:

“(A) A summary of the case review activities conducted pursuant to paragraph (2) of this subsection;

“(B) A summary of all feedback received and the findings of all investigations conducted pursuant to paragraph (4) of this subsection;

“(C) The number of sexual assault victims who were informed by the MPD of the results of their PERK;

“(D) A discussion of any trends related to victimization and reporting;

“(E) A description of the activities conducted by the SART during the preceding fiscal year; and

“(F) Activities planned by the SART for the following fiscal year.”.

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

“(b) Each SART member shall provide the following data to other members of the SART:

“(1) The numbers of sexual assault victims served by each SART member;

“(2) The demographics of sexual assault victims and offenders, if known, served by each SART member;

“(3) The type and extent of service provided to each sexual assault victim by each SART member;

“(4) The disposition of each case closed by the SART member; and

“(5) Any other information requested by the Director of the OVSJG or the chairperson of the SART that is directly related to sexual assault cases; provided, that the information is not otherwise confidential or privileged under District or federal law.”.

(1) Section 214 (D.C. Official Code § 4-561.14) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “Review Subcommittee” and inserting the phrase “Review Subcommittee (“Case Review Subcommittee”)” in its place.

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

(A) The lead-in language is amended by striking the phrase “of, at a minimum, the” and inserting the phrase “of the” in its place.”

(B) Paragraph (2) is amended by striking the phrase “or his or her” and inserting the phrase “or the Commander’s” in its place.

(C) Paragraph (3) is amended by striking the phrase “or his or her” and inserting the phrase “or the Director’s” in its place.

(D) Paragraph (4) is amended by striking the phrase “the OVS” and inserting the phrase “the OVSJG” in its place.

(E) Subsection (5) is amended by striking the phrase “or his or her” and inserting the phrase “or the Director’s” in its place.

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(F) Subsection (6) is amended by striking the phrase “or his or her” and inserting the phrase “or the Director’s” in its place.

(3) Subsection (c) is amended to read as follows:

“(c)(1) The Case Review Subcommittee shall conduct case reviews of the following types of cases involving sexual assault victims 18 years of age or older:

“(A) A random sample of investigations that involve sexual assault; and

“(B) Specific cases as requested by members of the SART, the Case Review Subcommittee, or the independent expert consultant.

“(2) Before conducting case reviews under paragraph (1) of this subsection, the SART shall obtain the consent of the sexual assault victim involved in the case.”.

(4) The lead-in language of subsection (d) is amended to read as follows:

“(d) In addition to the duties set forth in subsection (c) of this section, the Case Review Subcommittee shall, for cases involving sexual assault victims 18 years of age or older:”.

(5) Subsection (e) is amended by striking the phrase “does not” and inserting the phrase “shall not” in its place.

(m) Section 215 (D.C. Official Code § 4-561.15) is amended as follows:

(1) The lead-in language of subsection (a) is amended to read as follows:

“(a) Beginning October 1, 2014, the OVSJG shall establish a Sexual Assault Victim Rights Task Force (“Task Force”) to study nationally recognized best practices and develop recommendations regarding:”.

(2) Subsection (b)(8) is amended by striking the phrase “the OVS” and inserting the phrase “the OVSJG” in its place.

Sec. 4. Section 4 of the Emergency Care for Sexual Assault Victims Act of 2008, effective March 25, 2009 (D.C. Law 17-346; D.C. Official Code § 7-2123), is amended as follows:

(a) Paragraph (3) is amended to read as follows:

“(3) Inform each victim of sexual assault, orally and in writing, in a language that the victim understands, of the:

“(A) Victim of sexual assault’s rights under D.C. Official Code § 23-1908; and

“(B) Option to be provided, by the hospital, with prophylactic antibiotics for the treatment of sexually transmitted diseases and emergency contraception for the prevention of pregnancy;”.

(b) Paragraph (4) is amended by striking the period and inserting the phrase “; and” in its place.

(c) A new paragraph (5) is added to read as follows:

“(5) If the sexual assault victim, who is 13 years of age or older, consents, immediately notify the sexual assault victim advocate dispatch system described in D.C. Official Code § 23-1909(e).”.

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Sec. 5. Section 14-312 of the District of Columbia Official Code is amended as follows:

(a) The section heading is amended to read as follows:

“§ 14-312. Sexual assault counselors.”

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

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

“(1) “Confidential communication” means:

“(A) Information exchanged between a sexual assault victim 13 years of age or older and a sexual assault counselor during the course of the sexual assault counselor providing counseling, support, and assistance to the victim; and

“(B) Records kept by a community-based organization in the course of providing victim advocacy services pursuant to D.C. Official Code § 23-1909 for sexual assault victim 13 years of age or older.”

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

“(2) “DC SANE Program” means the DC Sexual Assault Nurse Examiner Program that provides comprehensive medical forensic care to sexual assault victims including:

“(A) The DC Forensic Nurse Examiners;

“(B) The Child and Adolescent Protection Center; and

“(C) Any other entity within the District that is a member of the SART or the multidisciplinary investigation team, as described in section 151 of the Prevention of Child Abuse and Neglect Act of 1977, effective October 19, 2002 (D.C. Law 14-206; D.C. Official Code § 4-1301.51).”

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

“(5) “Sexual assault” means any of the following offenses: §§ 22-1834 (sex trafficking of children); 22-2704 (abducting or enticing child from his or her home for the purposes of prostitution; harboring such child); 22-2705 (pandering; inducing or compelling an individual to engage in prostitution); 22-2706 (compelling an individual to live life of prostitution against his or her will); 22-2708 (causing spouse or domestic partner to live in prostitution); 22-2709 (detaining an individual in disorderly house for debt there contracted); 22-1901 (incest); 22-3002 (first degree sexual abuse); 22-3003 (second degree sexual abuse); 22-3004 (third degree sexual abuse); 22-3005 (fourth degree sexual abuse); 22-3006 (misdemeanor sexual abuse); 22-3008 (first degree child sexual abuse); 22-3009 (second degree child sexual abuse); 22-3009.01 (first degree sexual abuse of a minor); 22-3009.02 (second degree sexual abuse of a minor); 22-3009.03 (first degree sexual abuse of a secondary education student); 22-3009.04 (second degree sexual abuse of a secondary education student); 22-3010 (enticing a child or minor); 22-3010.01 (misdemeanor sexual abuse of a child or minor); 22-3010.02 (arranging for sexual contact with a real or fictitious child); 22-3013 (first degree sexual abuse of a ward, patient, client, or prisoner); 22-3014 (second degree sexual abuse of a ward, patient, client, or prisoner); 22-3015 (first degree sexual abuse of a patient or client); 22-3016 (second degree sexual abuse of a patient or client); 22-3018 (attempts to commit sexual offenses); or 22-3102 (knowingly using a minor in a sexual performance or promoting a sexual performance by a minor).”

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(4) A new paragraph (5A) is added to read as follows:

“(5A) “Sexual assault counselor” shall have the same meaning as provided in § 23-1907(10).”.

(5) Paragraph (6) is amended to read as follows:

“(6) “Sexual assault victim” means any individual against whom a sexual assault has been committed or is alleged to have been committed, including:

“(A) Deceased individuals; and

“(B) Representatives appointed by the court to exercise the rights and receive services on behalf of sexual assault victims who are under 18 years of age, incompetent, incapacitated, or deceased.”.

(6) Paragraph (7) is repealed.

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

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

(A) The lead-in language is amended by striking the phrase “victim advocate shall” and inserting the phrase “counselor shall” in its place.

(B) Subparagraph (F) is amended by striking the phrase “victim advocate” and inserting the word “counselor” in its place.

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

“(3) The confidentiality of a confidential communication shall not be waived by the presence of, or disclosure to a:

“(A) Sign language or foreign language interpreter; provided, that a sign language or foreign language interpreter shall be subject to the limitations and exceptions set forth in paragraph (1) of this subsection and the same privileges set forth in subsection (c) of this section;

“(B) Third party participating in group counseling with the sexual assault victim; or

“(C) Third party with the consent of the victim where reasonably necessary to accomplish the purpose for which the sexual assault counselor is consulted.”.

(3) New paragraphs (4) and (5) are added to read as follows:

“(4) Except as provided in this subsection, no sexual assault counselor shall be compelled to reveal a confidential communication in any civil, criminal, or administrative proceeding, unless the sexual assault victim has given written consent.

“(5) Notwithstanding § 4-1321.02, sexual assault counselors shall be exempt from mandatory reporting of any crime disclosed in a confidential communication unless the sexual assault counselor has actual knowledge that the crime disclosed to the sexual assault counselor involves:

“(A) A victim under the age of 13;

“(B) A perpetrator or alleged perpetrator with whom the sexual assault victim has a significant relationship, as that term is defined in § 22-3001(10); or

“(C) A perpetrator or alleged perpetrator who is more than 4 years older than the sexual assault victim.”.

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

“(b-1) The presence of a sexual assault counselor shall not waive any privilege otherwise guaranteed by law.”.

Sec. 6. Section 252(c) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 19-315; D.C. Official Code § 22-3020.52(c)), is amended by adding a new paragraph (3) to read as follows:

“(3) Sexual assault counselors shall be exempt from reporting pursuant to subsection (a) of this section any crime disclosed in a confidential communication unless the sexual assault counselor has actual knowledge that the crime disclosed to the sexual assault counselor involves:

“(A) A victim under the age of 13;

“(B) A perpetrator or alleged perpetrator with whom the sexual assault victim has a significant relationship, as that term is defined in section 101(10) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(10)); or

“(C) A perpetrator or alleged perpetrator who is more than 4 years older than the sexual assault victim.”.

Sec. 7. Section 1504(a) of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4233(a)), is amended as follows:

(a) Paragraph (6) is amended by striking the phrase “Director, District of Columbia Department” and inserting the phrase “Director, Department” in its place.

(b) Paragraph (15) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(c) Paragraph (18) is amended by striking the period and inserting the phrase “; and” in its place.

(d) A new paragraph (19) is added to read as follows:

“(19) Director, Office of Victim Services and Justice Grants.”.

Sec. 8. Subchapter II of Chapter 19 of Title 23 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase “victim advocate” and inserting the phrase “victim advocates and sexual assault youth victim advocates” in its place.

(b) Section 23-1907 is amended to read as follows:

“For the purposes of this subchapter, the term:

“(1) “DC SANE Program” means the DC Sexual Assault Nurse Examiner Program that provides comprehensive medical forensic care to sexual assault victims, including:

“(A) The DC Forensic Nurse Examiners;

“(B) The Child and Adolescent Protection Center; or

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“(C) Any other entity within the District that is a member of the SART, or the multidisciplinary investigation team, described in § 4-1301.51.

“(2) “Forensic nurse examiner” means a nurse with specialized training in medical forensic evidence collection who provides comprehensive medical forensic care to sexual assault victims and participates in the DC SANE Program.

“(3) “Hospital” means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may, in addition, provide outpatient services, particularly emergency care.

“(4) “Interview” means any interview conducted by the MPD or other District agency with a sexual assault victim relating to the alleged sexual assault.

“(5) “MPD” means the Metropolitan Police Department.

“(6) “OVSJG” means the Office of Victim Services and Justice Grants, established pursuant to Mayor’s Order 2016-171.

“(7) “PERK” means a Physical Evidence Recovery Kit used to collect and preserve physical evidence related to a sexual assault or alleged sexual assault.

“(8) “SART” shall have the same meaning as provided in § 4-561.01(11).

“(9) “Sexual assault” means any of the following offenses: §§ 22-1834 (sex trafficking of children); 22-2704 (abducting or enticing child from his or her home for the purposes of prostitution; harboring such child); 22-2705 (pandering; inducing or compelling an individual to engage in prostitution); 22-2706 (compelling an individual to live life of prostitution against his or her will); 22-2708 (causing spouse or domestic partner to live in prostitution); 22-2709 (detaining an individual in disorderly house for debt there contracted); 22-1901 (incest); 22-3002 (first degree sexual abuse); 22-3003 (second degree sexual abuse); 22-3004 (third degree sexual abuse); 22-3005 (fourth degree sexual abuse); 22-3006 (misdemeanor sexual abuse); 22-3008 (first degree child sexual abuse); 22-3009 (second degree child sexual abuse); 22-3009.01 (first degree sexual abuse of a minor); 22-3009.02 (second degree sexual abuse of a minor); 22-3009.03 (first degree sexual abuse of a secondary education student); 22-3009.04 (second degree sexual abuse of a secondary education student); 22-3010 (enticing a child or minor); 22-3010.01 (misdemeanor sexual abuse of a child or minor); 22-3010.02 (arranging for sexual contact with a real or fictitious child); 22-3013 (first degree sexual abuse of a ward, patient, client, or prisoner); 22-3014 (second degree sexual abuse of a ward, patient, client, or prisoner); 22-3015 (first degree sexual abuse of a patient or client); 22-3016 (second degree sexual abuse of a patient or client); 22-3018 (attempts to commit sexual offenses); or 22-3102 (knowingly using a minor in a sexual performance or promoting a sexual performance by a minor).

“(10) “Sexual assault counselor” means an employee, contractor, or volunteer of a community-based organization serving sexual assault victims 13 years of age or older who:

“(A) Renders support, counseling, or assistance to a sexual assault victim;

“(B) Has undergone at least 40 hours of training related to sexual assault counseling using a curriculum approved by the OVSJG that includes instruction on:

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- violence;
- “(i) The dynamics and history of sexual assault and gender-based violence;
- exploitation;
- “(ii) Sex trafficking and other forms of commercial sexual exploitation;
- “(iii) Trauma resulting from sexual assault, gender-based violence, and commercial sexual exploitation;
- victims;
- “(iv) Responding to the specific needs of youth sexual assault victims;
- “(v) Responding to the specific needs of sexual assault victims with respect to their sexual orientation, gender identity, or gender expression;
- “(vi) Trauma-informed care, crisis intervention, personal safety, and risk management; and
- “(vii) Cultural humility;
- “(viii) The sexual assault victim advocate dispatch system, developed by OVSJG and approved by the SART, pursuant to § 23-1909(e); and
- “(ix) Services available to sexual assault victims, including how to access medical forensic care services available through the DC SANE Programs; and
- “(C) Is supervised by an individual who has a minimum of:
- “ (i) 5 years of experience rendering support, counseling, or assistance to sexual assault victims; or
- “ (ii) 3 years of experience rendering support, counseling, or assistance to sexual assault victims and an advanced degree in a related field.
- “(11) “Sexual assault victim” means any individual against whom a sexual assault has been committed or is alleged to have been committed, including:
- “(A) Deceased individuals; and
- “(B) Representatives appointed by the court to exercise the rights and receive services on behalf of sexual assault victims who are under 18 years of age, incompetent, incapacitated, or deceased.
- “(12) “Sexual assault victim advocate” means an employee or contractor of a community-based organization whose director or their director’s designee is a member of the SART and who:
- “(A) Is a sexual assault counselor; and
- “(B) Has undergone an additional 20 hours of training related to sexual assault victim advocacy using a curriculum approved by the OVSJG that includes instruction on:
- “ (i) The District’s criminal justice system;
- “ (ii) Crime victims’ rights; and
- “ (iii) Avoiding the unauthorized practice of law.”.
- “(13) “Sexual Assault Victim’s Rights Card” means a document, published by OVSJG in consultation with the SART, printed in the most widely spoken languages in the District, that advises sexual assault victims of their rights under this subchapter.

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“(14) “Sexual assault youth victim advocate” means an employee or contractor of a community-based organization whose director or the director’s designee is a member of the SART and who:

“(A) Qualifies as a sexual assault victim advocate; and

“(B) Has undergone an additional 20 hours of training related to youth sexual assault victim advocacy using a curriculum approved by the OVSJG that includes instruction on:

“(i) Providing services to sexual assault victims under the age of 18, including the different needs of children and adolescents;

“(ii) Navigating family dynamics in the context of providing services to children and adolescents who have experienced sexual assault;

“(iii) The co-occurrence of child abuse in children and adolescents who have experienced sexual assault; and

“(iv) Children’s susceptibility to suggestive questioning, the impact suggestive questions have on criminal investigations and prosecutions, and techniques for minimizing the potential for suggestibility.”.

(c) Section 23-1908 is amended to read as follows:

“§ 23-1908. Sexual assault victims’ rights.

“(a) In addition to the rights set forth in subchapter I of this chapter, a sexual assault victim shall have the right to have:

“(1) A PERK performed at no cost;

“(2) To have their PERK and any additional probative or evidentiary contents preserved, without charge, for 65 years from the date the crime is first reported to the law enforcement agency, as that term is defined in § 5-113.31(9);

“(3) For sexual assault victims 18 years of age or older, a sexual assault victim advocate, and for sexual assault victims ages 13 to 17, a sexual assault youth victim advocate, present during any:

“(A) Forensic medical, evidentiary, or physical examination;

“(B) Point during the hospital visit; provided, that the presence of a sexual assault victim advocate or a sexual assault youth victim advocate does not pose health or safety risks to the sexual assault victim, the sexual assault victim advocate, or the sexual assault youth victim advocate; and

“(C) Interview.

“(b) A sexual assault victim shall have the rights provided in subsection (a)(3) of this section even if the sexual assault victim previously declined the presence of a sexual assault victim advocate or a sexual assault youth victim advocate.”.

(d) Section 23-1909 is amended to read as follows:

“§ 23-1909. Sexual assault victim advocates and sexual assault youth victim advocates; sexual assault victim advocate dispatch system.

“(a)(1) Hospitals shall, if a sexual assault victim who is 13 years of age or older consents, immediately notify the sexual assault victim advocate dispatch system before beginning any

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forensic medical, evidentiary, or physical examination arising out of a sexual assault or an alleged sexual assault.

“(2) A sexual assault victim advocate shall, for sexual assault victims 18 years of age or older, and a sexual assault youth victim advocate shall, for sexual assault victims ages 13 to 17, inform the sexual assault victim of their rights under this subchapter.

“(b) The MPD shall, for a person known or suspected to be a sexual assault victim 13 years of age or older:

“(1) Upon making, provide to that person a Sexual Assault Victim’s Rights Card;

“(2) Before beginning an interview, advise the person of a sexual assault victim’s right to either a sexual assault victim advocate, if the sexual assault victim is 18 years of age or older, or a sexual assault youth victim advocate, if the sexual assault victim is ages 13 to 17;

“(3) If a sexual assault victim asserts their right to a sexual assault victim advocate or a sexual assault youth victim advocate, only conduct a minimal facts interview before the sexual assault victim consults with the advocate; and

“(4) If a sexual assault victim declines their right to a sexual assault victim advocate or sexual assault youth victim advocate, notify the sexual assault victim of their right to have a sexual assault victim advocate or a sexual assault youth victim advocate present as provided in § 23-1908.

“(c)(1) By June 1, 2020, the independent expert consultant, as that term is defined in § 4-561.01(6), shall submit to the MPD a report making recommendations on the scope of a minimal facts inquiry.

“(2)(A) By April 1, 2020, the independent expert consultant shall provide a draft of the report making recommendations on the scope of a minimal facts inquiry to the SART.

“(B) SART members may provide to the independent expert consultant written comments in response to that draft report within a reasonable period of time, to be determined by the independent expert consultant, but not less than one month.

“(3) The independent expert consultant shall consider all written comments that are timely received from SART members under paragraph (2)(B) of this subsection and submit its final report to the MPD based on the comments received.

“(4) The MPD shall, within 60 days after receiving the independent expert consultant’s final report, issue a general order regarding the scope of a minimal facts inquiry.

“(d) The MPD’s duties described in subsection (b) of this section shall:

“(1) For sexual assault victims ages 13 to 17, be performed by a member of MPD’s Youth Division; and

“(2) For sexual assault victims 18 years of age or older, be performed by a member of MPD’s Sexual Assault Unit.

“(e)(1) There is established a sexual assault victim advocate dispatch system that:

“(A) For a sexual assault victim ages 13 to 17:

“(i) Dispatches a sexual assault youth victim advocate to settings in which the sexual assault victim has the right to a sexual assault youth victim advocate’s presence pursuant to § 23-1908(a)(3); or

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“(ii) Provides the sexual assault victim with electronic access, including telephonic access, to a sexual assault youth victim advocate:

“(I) In settings or during times in which dispatching a sexual assault youth victim advocate is impracticable; or

“(II) Upon the sexual assault victim’s request; and

“(B) For a sexual assault victim 18 years of age or older:

“(i) Dispatches a sexual assault victim advocate to settings in which the sexual assault victim has the right to a sexual assault victim advocate’s presence pursuant to § 23-1908(a)(3); or

“(ii) Provides the sexual assault victim with electronic access, including telephonic access, to a sexual assault victim advocate:

“(I) In settings or during times in which dispatching a sexual assault advocate is impracticable; or

“(II) Upon the sexual assault victim’s request.

“(2) The sexual assault victim advocate dispatch system shall be developed by OVSJG and approved by the SART.”.

(e) Section 23-1910 is amended to read as follows:

“§ 23-1910. Access to information.

“(a) Except as provided in subsection (b) of this section, in addition to the notice requirements set forth in subchapter I of this chapter, for a sexual assault victim 13 years of age or older, MPD shall:

“(1) Inform the sexual assault victim of:

“(A) The status of any medical forensic examination, PERK, or toxicology test related to the sexual assault, including the reasons for any delay in processing and the eventual completion of the testing and analysis of specimens related to the case, within 15 business days after any material change in the status of the medical forensic examination, PERK, or toxicology test; and

“(B) Any PERK test results, DNA testing results, toxicology report, or other information collected as part of a medical forensic examination within 15 business days after the results become available; provided, that the MPD is not required to disclose to the sexual assault victim the identity of any suspect implicated by DNA or similar testing for cases with an open investigation or active prosecution;

“(2) Provide the sexual assault victim, upon request, with a written copy of all policies governing the administration and preservation of a PERK;

“(3) Have the PERK and its probative contents preserved for 65 years from the date the crime is first reported to the law enforcement agency, as that term is defined in § 5-113.31(9);

“(4) Provide the sexual assault victim with written notification at least 60 days before the date of the intended destruction or disposal of the PERK; and

“(5) Make reasonable attempts to notify a sexual assault victim 13 years of age or older of the MPD’s intent to communicate with a suspect before communicating with the suspect

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and alerting the suspect of the sexual assault allegation made against the suspect; provided, that if prior notification is not possible, notification shall be made as soon as is reasonably possible after the communication with the suspect has occurred.

“(b)(1) A sexual assault victim 13 years of age or older may request, in writing, that the MPD not perform any of its duties described in subsection (a) of this section.

“(2) If a sexual assault victim 13 years of age or older requests that the MPD not perform any of its duties described in subsection (a) of this section, the MPD shall not perform those duties, unless the sexual assault victim later requests that the MPD perform those duties; provided, that if a sexual assault victim requests that the MPD not preserve his or her PERK and its probative contents pursuant to subsection (a)(3) of this section, a sexual assault victim may not subsequently request that the MPD preserve his or her PERK and its probative contents pursuant to subsection (a)(3) of this section.

“(3)(A) The DFS shall notify the MPD of any material change in the status of any medical forensic examination, PERK, or toxicology test within 7 days after the material change.

“(B) The DFS shall notify the MPD of any PERK test results, DNA testing results, toxicology report, or other information collected as part of a medical forensic examination within 7 business days after the results become available.”.

Sec. 9. Applicability.

(a) Except as provided in subsection (b) of this section, sections 3, 4, 5, 6, and 8 shall apply as of October 1, 2020.

(b) The amendatory section 23-1909(c) within section 8(d) shall apply as of the effective date of this act.

Sec. 10. Fiscal impact statement.

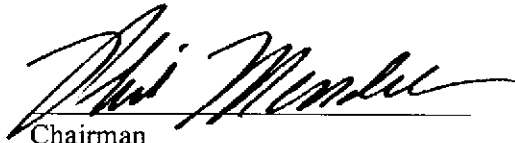
The Council adopts the fiscal impact statement provided in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 11. Effective date.

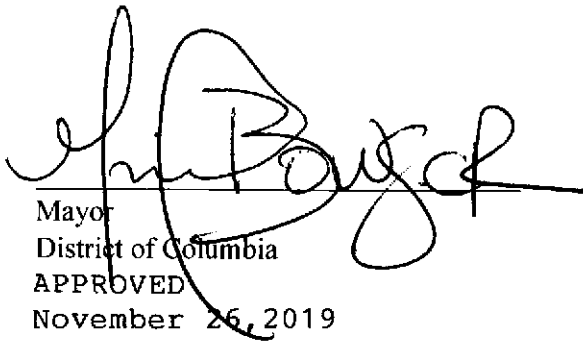
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
November 26, 2019

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A RESOLUTION

23-275

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 3, 2019

To appoint Ms. Stephanie Gidigbi as a member of the Board of Directors of the Washington Metropolitan Area Transit Authority.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Directors of the Washington Metropolitan Area Transit Authority Stephanie Gidigbi Appointment Resolution of 2019”.

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

Ms. Stephanie Gidigbi
Upsal Street, S.E.
Washington, D.C. 20032
(Ward 8)

as a member of the Board of Directors of the Washington Metropolitan Area Transit Authority, in accordance with the Washington Metropolitan Area Transit Authority Compact, approved November 6, 1966 (80 Stat. 1324; D.C. Official Code § 9-1107.01(5)), and the Washington Metropolitan Area Transit Authority Board of Directors Act of 2012, effective April 27, 2013 (D.C. Law 19-286; D.C. Official Code § 9-1108.11), replacing Councilmember Jack Evans, for the remainder of an unexpired term to end June 30, 2021.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the appointee, the Washington Metropolitan Area Transit Authority, and to the Office of the Mayor.

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

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

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

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

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

- | | |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| B23-561 | Anacostia River Toxics Remediation Amendment Act of 2019

Intro. 11-25-19 by Councilmember Cheh and referred to the Committee on Transportation and the Environment |
| <hr/> | |
| B23-562 | Closing of Columbian Quarter Alley in Square 5860 Act of 2019

Intro. 11-26-19 by Councilmember T. White and referred to the Committee of the Whole |
| <hr/> | |
| B23-563 | Deputy Mayor for Planning and Economic Development Limited Grant Making Authority for Entities Operating in Wards 5, 7, or 8 Amendment Act of 2019

Intro. 11-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development |
| <hr/> | |
| B23-564 | Modification of the Freedom Forum, Inc. Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004 Amendment Act of 2019

Intro. 12-2-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development |
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B23-565 Hearing Aid Sales Amendment Act of 2019
Intro. 12-2-19 by Chairman Mendelson and Councilmember Gray and referred to the Committee of the Whole with comments from the Committee on Health

B23-568 Home Purchase Assistance Amendment Act of 2019
Intro. 12-3-19 by Councilmembers Bonds, Allen, Cheh, T. White, Evans, Grosso, Nadeau, R. White, and Todd and referred to the Committee on Housing and Neighborhood Revitalization

B23-569 District of Columbia Public Schools Family and School Community Fundraising Equity Act of 2019
Intro. 12-3-19 by Councilmembers Grosso and Gray and referred sequentially to the Committee on Education and the Committee of the Whole

B23-570 First Source Resident Employment Amendment Act of 2019
Intro. 12-3-19 by Councilmembers Silverman, R. White, Bonds, and Nadeau and referred to the Committee on Labor and Workforce Development

B23-571 Health Benefit Exchange Authority Independent Procurement Authority Amendment Act of 2019
Intro. 12-3-19 by Councilmembers Gray, Cheh, Bonds, Grosso, and Nadeau and referred sequentially to the Committee on Health and the Committee on Facilities and Procurement

PROPOSED RESOLUTIONS

PR23-576 Commission on the Arts and Humanities Alma Gates Confirmation Resolution of 2019
Intro. 11-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR23-577 Commission on the Arts and Humanities Rhona Friedman Confirmation Resolution of 2019

Intro. 11-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR23-578 Commission on the Arts and Humanities José Alberto Uclés Confirmation Resolution of 2019

Intro. 11-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR23-579 Commission on the Arts and Humanities Mary Ann Miller Confirmation Resolution of 2019

Intro. 11-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR23-580 Commission on the Arts and Humanities Cicie Sattarnilasskorn Confirmation Resolution of 2019

Intro. 11-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR23-581 Commission on the Arts and Humanities Natalie Hopkinson Confirmation Resolution of 2019

Intro. 11-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR23-582 Commission on the Arts and Humanities Cora Masters Barry Confirmation Resolution of 2019

Intro. 11-26-19 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR23-586 Sense of the Council of Racial Discrimination in Contracting Resolution of
2019

Intro. 12-3-19 by Councilmembers T. White, Gray, Silverman, and Nadeau and
referred to the Committee on Business and Economic Development

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON
THE COMMITTEE ON HEALTH**

ANNOUNCES A PUBLIC HEARING ON

BILL 23-0529, THE “CERTIFICATE OF STILLBIRTH AMENDMENT ACT OF 2019”

**BILL 23-0543, THE “SUICIDE PREVENTION CONTINUING EDUCATION
AMENDMENT ACT OF 2019”**

**WEDNESDAY, JUNE 10, 2020
10:00 A.M., ROOM 500, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces a Public Hearing on Bill 23-0529, the “Certificate of Stillbirth Amendment Act of 2019” and Bill 23-0543, the “Suicide Prevention Continuing Education Amendment Act of 2019.” The hearing will be held on Wednesday, June 10, 2020, at 10:00 a.m., in Room 500 of the John A. Wilson Building.

Bill 23-0529, the “Certificate of Stillbirth Amendment Act of 2019”, requires the Department of Health (DOH) to establish a certificate of stillbirth to be made available at the request of the parents named on a fetal death report registered with DOH. It also prohibits the certificate from being used to calculate live birth statistics or to be used to create liability. It also limits the access of information available on the certificate.

Bill 23-0543, the “Suicide Prevention Continuing Education Amendment Act of 2019” requires continuing education for licensed health professionals on the subject of suicide risk assessment, treatment, and management to provide comprehensive care for at-risk patients. Training includes 2 credits of evidence-based training in suicide prevention, assessment and screening, treatment, management, and postvention.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Malcolm Cameron, Committee Legislative Analyst at (202) 654-6179 or mcameron@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization, by 5:00 p.m. on Monday, June 8, 2020. 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 mcameron@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave.,

N.W., Suite 113, Washington D.C. 20004.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Health of the need as soon as possible, but no later than Wednesday, June 3, 2020. We will make every effort to fulfill timely requests, however requests received after this date may not be fulfilled and alternatives may be offered.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON
THE COMMITTEE ON HEALTH**

ANNOUNCES A PUBLIC HEARING ON

**BILL 23-0534, THE “LYME DISEASE TESTING INFORMATION
DISCLOSURE ACT OF 2019”**

BILL 23-0535, THE “OPIOID LABELING AMENDMENT ACT OF 2019”

**THURSDAY, JUNE 18, 2020
10:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces a Public Hearing on Bill 23-0534, the “Lyme Disease Testing Information Disclosure Act of 2019” and Bill 23-0535, the “Opioid Labeling Amendment Act of 2019.” The hearing will be held on Thursday, June 18, 2020, at 10:00 a.m., in Room 500 of the John A. Wilson Building.

Bill 23-0534, the “Lyme Disease Testing Information Disclosure Act of 2019”, requires hospitals, health care facilities and testing centers to provide notice regarding the danger of receiving inaccurate results to early testing for Lyme disease.

Bill 23-0535, the “Opioid Labeling Amendment Act of 2019”, requires prescription opioid medications to include a statement that the drug is an opioid and that opioids may cause dependence, addiction, or overdose.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Malcolm Cameron, Committee Legislative Analyst at (202) 654-6179 or mcameron@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization, by 5:00 p.m. on Tuesday, June 16, 2020. 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 mcameron@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 113, Washington D.C. 20004.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Health of the need as soon as possible, but no later than Thursday, June 11, 2020. We will make every effort to fulfill timely requests, however requests received after this date may not be fulfilled and alternatives may be offered.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON
THE COMMITTEE ON HEALTH**

ANNOUNCES A PUBLIC HEARING ON

**BILL 23-0547, THE “NATIVE AMERICAN BIRTH RECOGNITION AMENDMENT ACT OF
2019”**

**MONDAY, JANUARY 27, 2020
10:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces a Public Hearing on Bill 23-0547, the “Native American Birth Recognition Amendment Act of 2019.” The hearing will be held on Monday, January 27, 2020, at 10:00 a.m., in Room 412 of the John A. Wilson Building.

Bill 23-0547, the “Native American Birth Recognition Amendment Act of 2019”, would allow birth certificate recognition of Native American tribal enrollment. It allows an individual to request a replacement birth certificate that includes recognition of Native American tribal enrollment.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Malcolm Cameron, Committee Legislative Analyst at (202) 654-6179 or mcameron@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization, by 5:00 p.m. on Thursday, January 23, 2020. 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 mcameron@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 113, Washington D.C. 20004.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee on Health of the need as soon as possible, but no later than Monday, January 20, 2020. We will make every effort to fulfill timely requests, however requests received after this date may not be fulfilled and alternatives may be offered.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

**PR 23-566, Board of Trustees of the University of the District of Columbia Joshua Wyner
Confirmation Resolution of 2019**

**PR 23-567, Board of Trustees of the University of the District of Columbia Dr. Esther Barazzone
Confirmation Resolution of 2019**

**PR 23-568, Board of Trustees of the University of the District of Columbia Jerome Shelton
Confirmation Resolution of 2019**

PR 23-576, Commission on the Arts and Humanities Alma Gates Confirmation Resolution of 2019

**PR 23-577, Commission on the Arts and Humanities Rhona Friedman Confirmation Resolution of
2019**

**PR 23-578, Commission on the Arts and Humanities Jose Alberto Ucles Confirmation Resolution of
2019**

**PR 23-579, Commission on the Arts and Humanities Mary Ann Miller Confirmation Resolution of
2019**

**PR 23-580, Commission on the Arts and Humanities Cicie Sattarnilasskorn Confirmation Resolution
of 2019**

**PR 23-581, Commission on the Arts and Humanities Natalie Hopkinson Confirmation Resolution of
2019**

**PR 23-582, Commission on the Arts and Humanities Cora Masters Barry Confirmation Resolution
of 2019**

on

**Thursday, January 9, 2020
12:00 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **PR 23-566**, Board of Trustees of the University of the District of Columbia Joshua Wyner Confirmation Resolution of 2019; **PR 23-567**, Board of Trustees of the University of the District of Columbia Dr. Esther Barazzone Confirmation Resolution of 2019; **PR 23-568**, Board of Trustees of the University of the District of Columbia Jerome Shelton Confirmation Resolution of 2019; **PR 23-576**, Commission on the Arts and Humanities Alma Gates Confirmation Resolution of 2019; **PR 23-577**, Commission on the Arts and Humanities Rhona Friedman Confirmation Resolution of 2019; **PR 23-578**, Commission on the Arts and Humanities Jose Alberto Ucles Confirmation Resolution of 2019; **PR 23-579**, Commission on the Arts and

Humanities Mary Ann Miller Confirmation Resolution of 2019; **PR 23-580**, Commission on the Arts and Humanities Cicie Sattarnilasskorn Confirmation Resolution of 2019; **PR 23-581**, Commission on the Arts and Humanities Natalie Hopkinson Confirmation Resolution of 2019; and **PR 23-582**, Commission on the Arts and Humanities Cora Masters Barry Confirmation Resolution of 2019. The hearing will be held at noon on Thursday, January 9, 2020 in Hearing Room 412 of the John A. Wilson Building. The hearing will be divided into two parts. The first part of the hearing will be on the qualifications of the nominees to the University of the District of Columbia (UDC) Board of Trustees, and the second part of the hearing will be on the qualifications of the nominees to the Commission on the Arts and Humanities (Commission).

The stated purpose of PRs 23-566 through 23-568 is to confirm the reappointments of Joshua Wyner, Dr. Esther Barazzone, and Jerome Shelton to the UDC Board of Trustees for terms to end May 15, 2024. The UDC Board of Trustees is the governing body for the University of the District of Columbia, and is charged with establishing and ensuring accreditation of each component of the University System, to include a liberal arts component, a vocational and technical component, and a school of law.

The stated purpose of PRs 23-576 through 23-580 is to confirm the reappointments of Alma Gates, Rhona Friedman, Jose Alberto Ucles, Mary Ann Miller, and Cicie Sattarnilasskorn to the Commission on the Arts and Humanities for terms to end June 30, 2022. The stated purpose of PRs 23-581 and 23-582 is to confirm the appointments of Natalie Hopkinson and Cora Masters Barry to the Commission for terms to end June 30, 2021. The Commission is an independent body that consists of 18 members. Its role is to evaluate and initiate action on matters relating to the arts and humanities and encourage programs and the development of programs which promote progress in the arts and humanities.

The purpose of this hearing is to receive testimony from witnesses as to the fitness of these nominees for the UDC's Board of Trustees and the Commission. Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Peter Johnson at (202) 724-8083, and provide your name, address, telephone number, organizational affiliation and title (if any) by close of business **Tuesday, January 7, 2020**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on January 7, 2020 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://lms.dccouncil.us>. Hearing materials, including a draft witness list, can be accessed at <http://www.chairmanmendelson.com/circulation>, 24 hours in advance of the hearing.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, January 20, 2020.

For reasonable accommodation requests, please inform the Committee of the Whole of the need as soon as possible but no later than five (5) business days before the hearing. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION
NOTICE OF PUBLIC ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004**

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

ANNOUNCES A PUBLIC ROUNDTABLE OF THE COMMITTEE ON

PR23-0506, the “District of Columbia Housing Authority Board of Commissioners Neil Albert Confirmation Resolution of 2019”

and

PR23-0548, the “District of Columbia Housing Finance Agency Board of Directors Buwa Binitie Confirmation Resolution of 2019”

on

Monday, December 16, 2019, at 12:00 PM
John A. Wilson Building, Room 120
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember Anita Bonds, Chairperson of the Committee on Housing and Neighborhood Revitalization, will hold a public roundtable on PR23-0506, the “District of Columbia Housing Authority Board of Commissioners Neil Albert Confirmation Resolution of 2019” and PR23-0548, the “District of Columbia Housing Finance Agency Board of Directors Buwa Binitie Confirmation Resolution of 2019”. The public roundtable will be held on Monday, December 16, 2019, at 12:00 PM in Room 120 of the John A. Wilson Building.

The purpose of PR23-0506 is to confirm the reappointment of Neil Albert to the D.C. housing Authority Board of Commissioners. The purpose of PR23-0548 is to confirm the reappointment of Buwa Binitie to the Housing Finance Agency Board of Directors. The purpose of this roundtable is to receive testimony from government and public witnesses as to the fitness of these nominees for their respective positions.

Those who wish to testify are requested to telephone the Committee on Housing and Neighborhood Revitalization, at (202) 724-8198, or email housing@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any), by close of business on December 13, 2019. Persons wishing to testify are encouraged to submit 15 copies of written testimony. Oral testimony should be limited to three minutes.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee of the need as soon as possible but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however

requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Housing and Community Development, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 112, Washington, D.C. 20004. The record will close at 12:00 p.m. on Tuesday, December 17, 2019.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

Bill 23-560, Anacostia River Toxics Remediation Temporary Amendment Act of 2019 and **Bill 23-567**, Access to Body Worn Camera Footage Temporary Amendment Act of 2019 were adopted on first reading on December 3, 2019. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on January 7, 2020.

COUNCIL OF THE DISTRICT OF COLUMBIA
AD HOC COMMITTEE IN THE MATTER OF COUNCILMEMBER JACK EVANS
MARY M. CHEH, CHAIR

NOTICE OF MEETING ON

Adoption of the Committee's Report

Tuesday, December 10, 2019
at 9:00 a.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Tuesday, December 10, Councilmember Mary M. Cheh, Chairperson of the Ad Hoc Committee in the Matter of Councilmember Jack Evans, will hold a meeting on Adoption of the Committee's Report. The meeting will begin at 9:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the meeting is for members to vote on adoption of the Committee's Report unanimously recommending that Councilmember Evans be expelled.

The Committee anticipates that this meeting will be open to the public; however, although the chair does not expect to do so, due to the sensitive and confidential nature of the disciplinary and personnel matters to be discussed, the Committee may enter into Executive Session and close a portion of the meeting to the public pursuant to section 504(b) and section 375 of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period XXIII.

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE OF CORRECTED RE-REFERRED PROPOSED LEGISLATION

The following proposed legislation was published as re-referred sequentially to the Committee on Business and Economic Development (sections 2, 6, 7, and 9), and to the Committee of the Whole. The re-referral has now been corrected, and referred sequentially:

Sections 2, 3, 4, 5, and 10 are referred to the Committee on Judiciary and Public Safety and then the Committee of the Whole.

Sections 2, 6, 7, and 9 are referred to the Committee on Business and Economic Development and then to the Committee of the Whole.

Section 11 is referred to the Committee on Judiciary and Public Safety, with comments from the Committee on Transportation and the Environment, and then to the Committee of the Whole.

The rest of the bill, including sections 8, 12, and 13, are referred to the Committee of the Whole:

B 23-72, the “Marijuana Legalization and Regulation Act of 2019”.

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE OF CORRECTED RE-REFERRED PROPOSED LEGISLATION

The following proposed legislation was published as re-referred sequentially to the Committee on Business and Economic Development (sections 2, 3, 7, and 8), and the Committee of the Whole. But the re-referral has now been corrected, and referred sequentially:

Sections 2, 3, 6, 7, and 8 to the Committee on Business and Economic Development, and then the Committee of the Whole.

Sections 4, 5, and 11 to the Committee on Judiciary and Public Safety and then to the Committee of the Whole.

The rest of the bill, including sections 9 and 10, to the Committee of the Whole:

B 23-280, the “Safe Cannabis Sales Act of 2019”.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020
Protest Hearing Date: March 25, 2020

License No.: ABRA-115589
Licensee: Albi DC LLC/Maxwell Yards LLC
Trade Name: Albi/Maxwell
License Class: Retailer's Class "C" Tavern
Address: 1346 4th Street, S.E.
Contact: Matt Minora, Esq.: (202) 625-7700

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 February 3, 2020 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 25, 2020 at 4:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class C Tavern with a seating capacity of 160 inside and a Total Occupancy Load of 299. Summer Garden with 80 seats. Licensee is requesting an Entertainment Endorsement to provide live entertainment inside premises and outside in Summer Garden.

HOURS OF OPERATION FOR INSIDE PREMISES

Sunday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION AND HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES

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

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR OUTSIDE IN SUMMER GARDEN

Sunday 9am – 12am, Monday through Friday 8am – 12am, Saturday 9am – 12am

HOURS OF LIVE ENTERTAINMENT FOR OUTSIDE IN SUMMER GARDEN

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-079786
Licensee: 1306 G Street Investors, LLC
Trade Name: Astro Beer Hall
License Class: Retailer's Class "C" Tavern
Address: 1310 G Street, N.W.
Contact: Peter Bayne: (202) 641-6583

WARD 2 ANC 2C SMD 2C01

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 February 3, 2020 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

Licensee is applying to add Sports Wagering to their operations. Establishment will have two betting kiosks on the premises.

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

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

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

Sunday through Saturday 8am - 12am

CURRENT HOURS OF LIVE ENTERTAINMENT INSIDE THE PREMISES

Sunday through Thursday 11am - 2am, Friday and Saturday 11am - 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-098902
Licensee: Big Chief DC, LLC
Trade Name: Big Chief
License Class: Retailer's Class "C" Tavern
Address: 2002 Fenwick Street, N.E.
Contact: Pete Bayne: (202) 641-6583

WARD 5

ANC 5D

SMD 5D01

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 February 3, 2020 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

Licensee is applying to add Sports Wagering to their operations. Establishment will have two betting kiosks on the premises.

CURRENT HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

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

CURRENT HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
**12/6/2019

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-109998

License Class/Type: C Restaurant

Applicant: Georgetown Dining, Inc.

Trade Name: Brasserie Liberte

ANC: 2E03

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

3251 PROSPECT ST NW, #320, WASHINGTON, DC 20007

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

**1/21/2020

A HEARING WILL BE

**2/3/2020

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Monday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Wednesday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Thursday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Friday:	7 am - 3 am	8 am - 3 am	7 am - 3 am
Saturday:	7 am - 3 am	8 am - 3 am	7 am - 3 am

Hours of Summer Garden

Hours of Sales Summer Garden

Sunday:	7 am - 1 am	8 am - 1 am
Monday:	7 am - 1 am	8 am - 1 am
Tuesday:	7 am - 1 am	8 am - 1 am
Wednesday:	7 am - 1 am	8 am - 1 am
Thursday:	7 am - 1 am	8 am - 1 am
Friday:	7 am - 2 am	8 am - 2 am
Saturday:	7 am - 2 am	8 am - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
**11/22/2019

****RESCIND**

Notice is hereby given that:

License Number: ABRA-109998

License Class/Type: C Restaurant

Applicant: Georgetown Dining, Inc.

Trade Name: Brasserie Liberte

ANC: 2E03

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

3251 PROSPECT ST NW, #320, WASHINGTON, DC 20007

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

**1/6/2020

A HEARING WILL BE

**1/21/2020

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Monday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Wednesday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Thursday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Friday:	7 am - 3 am	8 am - 3 am	7 am - 3 am
Saturday:	7 am - 3 am	8 am - 3 am	7 am - 3 am

Hours of Summer Garden

Hours of Sales Summer Garden

Sunday:	7 am - 1 am	8 am - 1 am
Monday:	7 am - 1 am	8 am - 1 am
Tuesday:	7 am - 1 am	8 am - 1 am
Wednesday:	7 am - 1 am	8 am - 1 am
Thursday:	7 am - 1 am	8 am - 1 am
Friday:	7 am - 2 am	8 am - 2 am
Saturday:	7 am - 2 am	8 am - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-098427
Licensee: Bricklane DC, Inc.
Trade Name: Brick Lane Restaurant
License Class: Retailer’s Class “C” Restaurant
Address: 1636 17th Street, N.W.
Contact: Elalami Ikhiair: (202) 469-9543

WARD 2

ANC 2B

SMD 2B03

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 February 3, 2020 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

Applicant requests a Class Change from Retailer “C” Restaurant to Retailer “C” Tavern.

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

Sunday through Thursday 10am – 12am, Friday and Saturday 10am – 1am

HOURS OF OPERATION FOR SIDEWALK CAFE

Sunday through Thursday 10am – 12am, Friday and Saturday 10am – 1am

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
12/6/2019

Notice is hereby given that:

License Number: ABRA-110971

License Class/Type: C Restaurant

Applicant: 701 Second Street LLC

Trade Name: Cafe Fili

ANC: 6C04

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

701 Second ST NE, WASHINGTON, DC

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
1/21/2020

A HEARING WILL BE
2/3/2020

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7:30 am - 2 am	8 am - 2 am	-
Monday:	7:30 am - 2 am	8 am - 2 am	-
Tuesday:	7:30 am - 2 am	8 am - 2 am	-
Wednesday:	7:30 am - 2 am	8 am - 2 am	-
Thursday:	7:30 am - 2 am	8 am - 2 am	-
Friday:	7:30 am - 3 am	8 am - 3 am	-
Saturday:	7:30 am - 3 am	8 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
12/6/2019

Notice is hereby given that:

License Number: ABRA-001070

License Class/Type: C Multipurpose

Applicant: The George Washington University

Trade Name: Charles E Smith Center

ANC: 2A07

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

600 22ND ST NW, WASHINGTON, DC 20052

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
1/21/2020

A HEARING WILL BE
2/3/2020

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 12 am	10 am - 12 am	-
Monday:	7 am - 12 am	8 am - 12 am	-
Tuesday:	7 am - 12 am	8 am - 12 am	-
Wednesday:	7 am - 12 am	8 am - 12 am	-
Thursday:	7 am - 12 am	8 am - 12 am	-
Friday:	7 am - 12 am	8 am - 12 am	-
Saturday:	7 am - 12 am	8 am - 12 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-106963
Licensee: Church DC, LLC
Trade Name: Church
License Class: Retailer's Class "C" Restaurant
Address: 3222 M Street, N.W.
Contact: Peter Bayne: (202) 641-6583

WARD 2

ANC 2E

SMD 2E05

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 February 3, 2020 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

Licensee is applying to add Sports Wagering to their operations. Establishment will have two betting kiosks on the premises.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION

Sunday and Monday 10am - 1:30am, Tuesday through Thursday 8am - 2am, Friday and Saturday 8am - 3am

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

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-115645
Licensee: Family's, LLC
Trade Name: Climaxx Bar and Restaurant
License Class: Retailer's Class "C" Tavern
Address: 1414 9th Street, N.W.
Contact: Seferash Yegezaw: (314) 498-6271

WARD 2

ANC 2F

SMD 2F06

Notice is hereby given that this licensee has requested Substantial Changes 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 February 3, 2020 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 CHANGES

Applicant requests to Transfer the license from 900 Florida Avenue, N.W., to a new location at 1414 9th Street, N.W. Applicant also requests a Change of Hours, and an Increase in Occupancy Load, from a Total Occupancy Load of 122, to a Maximum Number of Seats of 149, with a Total Occupancy Load of 173. Licensee is also requesting an Entertainment Endorsement for the Outdoor Summer Garden.

CURRENT HOURS OF OPERATION INSIDE OF THE PREMISES

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

CURRENT HOURS OF OPERATION FOR THE OUTDOOR SUMMER GARDEN, AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

CURRENT HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES

Sunday through Thursday 8pm – 2am, Friday and Saturday 8am – 3am

PROPOSED HOURS OF OPERATION, HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION, AND HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
12/6/2019

Notice is hereby given that:

License Number: ABRA-087875

License Class/Type: C Nightclub

Applicant: 476 K, LLC

Trade Name: Cloakroom

ANC: 6E05

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

476 K ST NW, WASHINGTON, DC 20001

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
1/21/2020

A HEARING WILL BE
2/3/2020

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

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10:30 am - 2 am	10:30 am - 2 am	-
Monday:	10:30 am - 2 am	10:30 am - 2 am	-
Tuesday:	10:30 am - 2 am	10:30 am - 2 am	-
Wednesday:	10:30 am - 2 am	10:30 am - 2 am	-
Thursday:	10:30 am - 2 am	10:30 am - 2 am	-
Friday:	10:30 am - 3 am	10:30 am - 3 am	-
Saturday:	10:30 am - 3 am	10:30 am - 3 am	-

	Hours of Summer Garden	Hours of Sales Summer Garden
Sunday:	10:30 am - 2 am	10:30 am - 2 am
Monday:	10:30 am - 2 am	10:30 am - 2 am
Tuesday:	10:30 am - 2 am	10:30 am - 2 am
Wednesday:	10:30 am - 2 am	10:30 am - 2 am
Thursday:	10:30 am - 2 am	10:30 am - 2 am
Friday:	10:30 am - 3 am	10:30 am - 3 am
Saturday:	10:30 am - 3 am	10:30 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
12/6/2019

Notice is hereby given that:

License Number: ABRA-024489

License Class/Type: D Restaurant

Applicant: Edlavitch Jewish Community Center of Washington, DC, Inc.

Trade Name: DCJCC

ANC: 2B05

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

1529 16TH ST NW, Washington, DC 20005

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR
1/21/2020

A HEARING WILL BE
2/3/2020

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 9:30 pm	10 am - 9:30 pm	-
Monday:	6 am - 9:30 pm	8 am - 9:30 pm	-
Tuesday:	6 am - 9:30 pm	8 am - 9:30 pm	-
Wednesday:	6 am - 9:30 pm	8 am - 9:30 pm	-
Thursday:	6 am - 9:30 pm	8 am - 9:30 pm	-
Friday:	6 am - 4 pm	8 am - 4 pm	-
Saturday:	7 pm - 12 am	7 pm - 12 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020
Protest Hearing Date: March 25, 2020

License No.: ABRA-115492
Licensee: Eddie V's Holdings, LLC
Trade Name: Eddie V's
License Class: Retailer's Class "C" Restaurant
Address: 1001 Pennsylvania Avenue, N.W.
Contact: Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 2

ANC 2C

SMD 2C01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on February 3, 2020 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 25, 2020 at 4:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class C Restaurant with a seating capacity of 262 and Total Occupancy Load of 399. Summer Garden with 89 seats. Licensee is requesting an Entertainment Endorsement to provide live entertainment indoors only.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES AND FOR OUTDOOR SUMMER GARDEN

Sunday 11am – 10pm, Monday through Thursday 11am – 11pm,
Friday & Saturday 11am – 12am

HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES ONLY

Sunday 5pm – 9pm, Monday through Thursday 5pm – 10pm, Friday & Saturday 5pm – 11pm

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

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-001269
Licensee: Exchange Industries, Incorporated
Trade Name: Exchange, LTD.
License Class: Retailer's Class "C" Restaurant
Address: 1730 Pennsylvania Avenue, N.W.
Contact: George Marinakos: (202) 255-3791

WARD 2

ANC 2A

SMD 2A08

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 February 3, 2020 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

Licensee is applying to add Sports Wagering to their operations. Establishment will have a mobile app to assist with the betting, and no betting kiosks on the premises.

CURRENT HOURS OF OPERATION INSIDE OF THE PREMISES

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

CURRENT HOURS OF OPERATION FOR THE OUTDOOR SIDEWALK CAFE

Sunday through Thursday 10:30am – 2am, Friday and Saturday 10:30am – 3am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SIDEWALK CAFE

Sunday through Thursday 10:30am – 2am, Friday and Saturday 10:30am – 3am

CURRENT HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES

Sunday through Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-112502
Licensee: Brothers Burger Bar, LLC
Trade Name: Felicity Lounge
License Class: Retailer's Class "C" Restaurant
Address: 707 H Street, N.E.
Contact: Darryl Jones: (240) 462-0993

WARD 6

ANC 6C

SMD 6C05

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 February 3, 2020 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

Class Change from retailer "C" Restaurant to retailer "C" Tavern.

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

Sunday through Thursday 11am - 1am, Friday and Saturday 11am - 2am

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION/LIVE ENTERTAINMENT OUTSIDE IN SUMMER GARDEN

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-103899
Licensee: Manhattan Laundry DC, LLC
Trade Name: Franklin Hall
License Class: Retailer's Class "C" Tavern
Address: 1346 Florida Avenue, N.W.
Contact: Peter Bayne: (202) 641-6583

WARD 1

ANC 1B

SMD 1B04

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 February 3, 2020 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

Licensee is applying to add Sports Wagering to their operations. Establishment will have two betting kiosks on the premises.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

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

CURRENT HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6pm - 1am, Friday and Saturday 6pm - 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: November 8, 2019
Protest Petition Deadline: December 23, 2019
Roll Call Hearing Date: January 6, 2020
Protest Hearing Date: February 26, 2020

License No.: ABRA-114984
Licensee: King Street Oyster Bar DC, LLC
Trade Name: King Street Oyster Bar
License Class: Retailer’s Class “D” Restaurant
Address: 22 M Street, N.E.
Contact: Christopher Arakaky: (703) 468-4493

WARD 6

ANC 6C

SMD 6C06

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 6, 2020 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 **February 26, 2020 at 1:30 p.m.**

NATURE OF OPERATION

King Street Oyster Bar specializes in bringing fresh oysters from both the West and East Coast of the U.S and Canada, including shrimp, crab and lobster. 139 interior seats, 20 exterior seats on a Summer Garden, and a Total Occupancy Load of 179.

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

Sunday through Saturday 10:30am – 2am.

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: November 8, 2019
Protest Petition Deadline: December 23, 2019
Roll Call Hearing Date: January 6, 2020
Protest Hearing Date: February 26, 2020

License No.: ABRA-114984
Licensee: King Street Oyster Bar DC, LLC
Trade Name: King Street Oyster Bar
License Class: Retailer’s Class “D” Restaurant
Address: 22 M Street, N.E.
Contact: Christopher Arakaky: (703) 468-4493

WARD 6

ANC 6C

SMD 6C06

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 6, 2020 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 **February 26, 2020 at 1:30 p.m.**

NATURE OF OPERATION

King Street Oyster Bar specializes in bringing fresh oysters from both the West and East Coast of the U.S and Canada, including shrimp, crab and lobster. 139 interior seats, 20 exterior seats on a Summer Garden, and a Total Occupancy Load of 179.

****PROPOSED HOURS OF OPERATION INSIDE PREMISES AND FOR SUMMER GARDEN**

Sunday through Saturday 10:30am – 2am

****PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR SUMMER GARDEN**

Sunday through Saturday 11am – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020
Protest Hearing Date: March 25, 2020

License No.: ABRA-115713
Licensee: Washington Heights II, LLC
Trade Name: Mezcalero Cocina Mexicana II
License Class: Retailer's Class "C" Restaurant
Address: 3716 14th Street, N.W.
Contact: Ana De Leon, Esq.: (202) 246-7601

WARD 4

ANC 4C

SMD 4C04

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 February 3, 2020 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 25, 2020 at 1:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "C" Restaurant serving Mexican food. Applicant is applying for an Entertainment Endorsement. Applicant is also applying for a Sidewalk Cafe Endorsement with 12 seats. Total seating inside is 38 with a Total Occupancy Load of 45.

HOURS OF OPERATION (INSIDE PREMISES)

Sunday through Thursday 8am – 2am

Friday and Saturday 8am – 3am

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

Sunday through Thursday 10am – 2am

Friday and Saturday 10am – 3am

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

Sunday through Saturday 10am – 12am

HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES AND SUMMER GARDEN)

Sunday through Thursday 6pm – 2am

Friday and Saturday 6pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
 Protest Petition Deadline: January 21, 2020
 Roll Call Hearing Date: February 3, 2020
 Protest Hearing Date: March 25, 2020

License No.: ABRA-115590
 Licensee: MOMO NY, LLC
 Trade Name: MOMO
 License Class: Retailer’s Class “C” Restaurant
 Address: 1001 4th Street, S.W., Suite 102
 Contact: Sean T. Morris, Esq.: (301) 654-6570

WARD 6

ANC 6D

SMD 6D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on February 3, 2020 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 25, 2020 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer’s Class C Restaurant with a seating capacity of 74 and Total Occupancy Load of 80.

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

**12/6/2019

****READVERTISEMENT**

Notice is hereby given that:

License Number: ABRA-071088

License Class/Type: C Nightclub

Applicant: M Street Management Group, LLC

Trade Name: MPIRE Club

ANC: 2B06

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

1819 M ST NW, WASHINGTON, DC 20036

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

**1/21/2020

A HEARING WILL BE

**2/3/2020

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	4 pm - 2 am	4 pm - 2 am	-
Monday:	11:30 am - 2 am	11:30 am - 2 am	-
Tuesday:	11:30 am - 2 am	11:30 am - 2 am	-
Wednesday:	11:30 am - 2 am	11:30 - 2 am	-
Thursday:	11:30 am - 2 am	11:30 - 2 am	-
Friday:	11:30 am - 3 am	11:30 am - 3 am	-
Saturday:	11:30 am - 3 am	11:30 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

**11/22/2019

****RESCIND**

Notice is hereby given that:

License Number: ABRA-071088

License Class/Type: C Nightclub

Applicant: M Street Management Group, LLC

Trade Name: MPIRE Club

ANC: 2B06

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

1819 M ST NW, WASHINGTON, DC 20036

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

**1/6/2020

A HEARING WILL BE

**1/21/2020

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	4 pm - 2 am	4 pm - 2 am	-
Monday:	11:30 am - 2 am	11:30 am - 2 am	-
Tuesday:	11:30 am - 2 am	11:30 am - 2 am	-
Wednesday:	11:30 am - 2 am	11:30 - 2 am	-
Thursday:	11:30 am - 2 am	11:30 - 2 am	-
Friday:	11:30 am - 3 am	11:30 am - 3 am	-
Saturday:	11:30 am - 3 am	11:30 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-086808
Licensee: Riot Act DC, LLC
Trade Name: Penn Social
License Class: Retailer’s Class “CX” Multipurpose Facility
Address: 801 E Street, N.W.
Contact: Peter Bayne: (202) 641-6583

WARD 2 ANC 2C SMD 2C01

Notice is hereby given that this licensee has requested Substantial Changes 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 February 3, 2020 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 CHANGES

Licensee is requesting substantial changes to add Sports Wagering and a Game of Skill endorsement to their operations. Establishment will have four sports betting kiosks on the premises. Additionally, Licensee requests to offer the Dragon’s Ascent electronic game of skill. There will be one 8-player table model, and two 2-player consoles.

CURRENT HOURS OF OPERATION INSIDE PREMISES

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

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

Sunday 10am – 2am, Monday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-081238
Licensee: The Public Group, LLC
Trade Name: Public Bar
License Class: Retailer's Class "C" Tavern
Address: 1214 A 18th Street, N.W.
Contact: Matt Minora, Esq.: (202) 625-7700

WARD 2

ANC 2B

SMD 2B06

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 February 3, 2020 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

Licensee is applying to add Sports Wagering to their operations. Establishment will have up to seven sports wagering betting machines, handheld devices, and a mobile application available to download and use for betting on premises.

HOURS OF OPERATION FOR INSIDE PREMISES

Sunday through Thursday 9am - 2am, Friday & Saturday 9am - 5am

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

Sunday 10am - 2am, Monday through Thursday 9am - 2am, Friday & Saturday 9am - 3am

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR OUTDOOR SUMMER GARDEN

Sunday through Thursday 5pm - 1:45am, Friday & Saturday 5pm - 2:45am

HOURS OF LIVE ENTERTAINMENT INSIDE OF THE PREMISES ONLY

Sunday through Thursday 6pm - 2am, Friday & Saturday 6pm - 5am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: November 22, 2019
Protest Petition Deadline: January 6, 2020
Roll Call Hearing Date: January 21, 2020
Protest Hearing Date: March 11, 2020

License No.: ABRA-114799
Licensee: Swahili Village M Street, LLC
Trade Name: Swahili Village/ The Consulate
License Class: Retailer’s Class “C” Restaurant
Address: 1990 M Street NW
Contact: Sean T/ Morris, Esq.: (301) 654-6570

WARD 2

ANC 2B

SMD 2B06

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 21, 2020 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 11, 2020 at 4:30 p.m.**

NATURE OF OPERATION

New Retailer’s Class “C” Restaurant serving authentic African cuisine. **Applicant is also applying for an Entertainment Endorsement. Total Occupancy Load of 200 with seating for 175 patrons.

HOURS OF OPERATION

Sunday 11am – 3am
Tuesday through Thursday 11am – 1am
Friday and Saturday 11am – 3am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday 11am – 3am
Tuesday through Thursday 11am – 1am
Friday and Saturday 11am – 3am

****HOURS OF LIVE ENTERTAINMENT**

Sunday 8pm – 2am
Tuesday through Thursday 8pm – 1am
Friday and Saturday 8pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: November 22, 2019
 Protest Petition Deadline: January 6, 2020
 Roll Call Hearing Date: January 21, 2020
 Protest Hearing Date: March 11, 2020

License No.: ABRA-114799
 Licensee: Swahili Village M Street, LLC
 Trade Name: Swahili Village/The Consulate
 License Class: Retailer’s Class “C” Restaurant
 Address: 1990 M Street, N.W.
 Contact: Sean T. Morris, Esq.: (301) 654-6570

WARD 2

ANC 2B

SMD 2B06

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 21, 2020 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 11, 2020 at 1:30 p.m.**

****NATURE OF OPERATION**

New Retailer’s Class “C” Restaurant serving authentic African cuisine. Total Occupancy Load of 200 with seating for 175 patrons.

HOURS OF OPERATION

Sunday 11am – 3am
 Tuesday through Thursday 11am – 1am
 Friday and Saturday 11 am – 3am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday 11am – 2am
 Tuesday through Thursday 11am – 1am
 Friday and Saturday 11 am – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020
Protest Hearing Date: March 25, 2020

License No.: ABRA-113566
Licensee: The Cheesecake Factory Restaurants, Inc.
Trade Name: The Cheesecake Factory
License Class: Retailer's Class "C" Restaurant
Address: 1426 H Street, N.W.
Contact: Farhad Mirzadeh: (202) 589-1834

WARD 2

ANC 2C

SMD 2C01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on February 3, 2020 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 25, 2020 at 1:30 p.m.

NATURE OF OPERATION

A new Retailer's Class C Restaurant with a seating capacity of 370 and Total Occupancy Load of 465. Sidewalk Café with 70 seats.

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

Sunday 10am - 11pm, Monday through Thursday 11:30am - 11pm, Friday 11:30am - 12:30am, Saturday 10am - 12:30am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Placard Posting Date: **December 6, 2019
Protest Petition Deadline: **January 21, 2020
Roll Call Hearing Date: **February 3, 2020
Protest Hearing Date: **March 25, 2020

License No.: ABRA-115604
Licensee: The Lane Hecht Warehouse, LLC
Trade Name: The Lane
License Class: Retailer’s Class “C” Restaurant
Address: 1408 Okie Street, N.E.
Contact: Sean Morris: (301) 654-6570

WARD 5

ANC 5D

SMD 5D01

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 **February 3, 2020 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 25, 2020 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer’s Class C Restaurant with a seating capacity of 80 and a Total Occupancy Load of 302. Requesting a Summer Garden with 40 seats. ****Requesting to add Entertainment Endorsement that includes Cover Charge.**

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

Sunday 9am – 6pm, Monday through Thursday 10am – 8pm, Friday and Saturday 10am – 9pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: **November 22, 2019
Protest Petition Deadline: **January 6, 2020
Roll Call Hearing Date: **January 21, 2020
Protest Hearing Date: **March 11, 2020

License No.: ABRA-115604
Licensee: The Lane Hecht Warehouse, LLC
Trade Name: The Lane
License Class: Retailer’s Class “C” Restaurant
Address: 1408 Okie Street, N.E.
Contact: Sean Morris: (301) 654-6570

WARD 5

ANC 5D

SMD 5D01

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 21, 2020 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 11, 2020 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer’s Class C Restaurant with a seating capacity of 80 and a Total Occupancy Load of 302. Requesting a Summer Garden with 40 seats.

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

Sunday 9am – 6pm, Monday through Thursday 10am – 8pm, Friday and Saturday 10am – 9pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020

License No.: ABRA-092012
Licensee: Ching, LLC
Trade Name: Uproar
License Class: Retailer’s Class “C” Tavern
Address: 639 Florida Avenue, N.W.
Contact: Tammy Troung: (571) 274-0639

WARD 1 ANC 1B SMD 1B01

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 February 3, 2020 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

Applicant requests to expand the rooftop Summer Garden, increasing the Total Occupancy Load from 74 to 200 patrons.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR THE ROOFTOP SUMMER GARDEN

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

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6pm – 2am, Friday through Saturday 6pm – 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: December 6, 2019
Protest Petition Deadline: January 21, 2020
Roll Call Hearing Date: February 3, 2020
Protest Hearing Date: March 25, 2020

License No.: ABRA-115826
Licensee: MH Mulherins APC, LLC
Trade Name: Wm. Mulherin's Sons
License Class: Retailer's Class "C" Restaurant
Address: 945 Florida Avenue, N.W.
Contact: Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 1

ANC 1B

SMD 1B11

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 February 3, 2020 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 25, 2020 at 4:30 p.m.

NATURE OF OPERATION

New Retailer's Class "C" Restaurant serving pizza and other Italian-influenced, wood-fired fare. Applicant is applying for a Summer Garden Endorsement with 40 seats. Total seating inside is 200 with a Total Occupancy Load of 275.

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

Sunday through Saturday 8am - 1am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (SUMMER GARDEN)

Sunday through Saturday 11am - 11pm

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

TIME AND PLACE: Thursday, January 30, 2020, @ 6:30 p.m. (2nd Case)
Jerrily R. Kress Memorial Hearing Room
441 4th Street, NW, Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 10-03D (H Street Residential, LLC – PUD Modification of Significance @ Square 912 [901 H Street, N.E.]

THIS CASE IS OF INTEREST TO ANCs 6A AND 6C

On October 16, 2019, H Street Residential, LLC (the “Applicant”), filed an application (the “Application”) requesting approval by the Zoning Commission (the “Commission”) of a Modification of Significance to an approved consolidated planned unit development (“PUD”) approved pursuant to Z.C. Order No. 10-03 (the “Original Order”) for Lot 55 in Square 912 with an address of 901 H Street, N.E. (the “Property”).

The Application seeks to add a veterinary hospital use in a portion of the ground floor retail space in the approved PUD, in addition to the retail use approved in the Original Order. To do so, the Application requests a modification of two conditions of the Original Order, as well as of the plans approved by the Original Order. The Application also requests special exception relief from Subtitle H § 1101.4(g)(1)(c) of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references are made unless otherwise specified) because the veterinary hospital use will abut residential units located on the second floor above.

On October 25, 2019, the Office of Planning filed a report recommending that the Commission set down the Application for a public hearing. At its November 18, 2019, the Commission voted to set down the Application for a public hearing. The Applicant filed its Prehearing Submission with the Commission on November 21, 2019.

This public hearing will be conducted in accordance with the contested case provisions of Subtitle Z, Chapter 4.

How to participate as a witness – oral presentation

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

The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |
| 3. | Organizations | 5 minutes each |
| 4. | Individuals | 3 minutes each |

Pursuant to Subtitle Z § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

How to participate as a witness – written statements

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

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

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

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

“Great weight” to written report of ANC

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, an ANC that wishes to participate in the

hearing must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

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

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

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

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

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

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

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

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

ለመተና ስርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የማስጠኑ በነጻ ነው።

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

TIME AND PLACE: Thursday, January 30, 2020, @ 6:30 p.m. (1st Case)
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 19-26 (Office of Planning – Proposed Text Amendment to Clarify Requirements for Covenants Required by the Zoning Regulations)

THIS CASE IS OF INTEREST TO ALL ANCs

On November 8, 2019, the Office of Planning (“OP”) filed a setdown report that served as a petition proposing text amendments to Title 11 of the DCMR (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references are made unless otherwise specified) that would make all covenants required by the Zoning Regulations consistent by requiring that they be “for the benefit of the District of Columbia” and shall be approved by the Zoning Administrator and Office of the Attorney General by amending:

- Subtitle C (General Rules) §§ 903.6, 1001.6, 1006.6, and 1200.4;
- Subtitle G (Mixed Use (MU) Zones) § 410.1;
- Subtitle K (Special Purpose Zones) §§ 511.2, 602.6, and 902.5;
- Subtitle X (General Procedures) § 311.3; and
- Subtitle Z (Zoning Commission Rules of Practice and Procedure) § 702.1.

The proposed changes would make the requirements for covenants required by the Zoning Regulations consistent. Currently, some requirements for covenants specify that the District must be a party, and so requires the Mayor’s signature, while other requirements specify that the covenant is “for the benefit of the District,” which would not require the Mayor’s signature. The text amendment would also require that all required covenants run with the land and be reviewed and approved by the Zoning Administrator for technical sufficiency and by the Office of the Attorney General for legal sufficiency.

The proposed text amendment would apply city-wide.

At its regular public meeting held on November 18, 2019, the Commission voted to grant OP’s request to set down the proposed text amendment for a public hearing.

PROPOSED TEXT AMENDMENT:

The proposed amendments to the text of Title 11 DCMR (Zoning Regulations of 2016) are as follows (text to be deleted is marked in **~~bold and strikethrough~~**; new text is shown in **bold and underline**).

I. Proposed amendment to Subtitle C, GENERAL RULES

Subsection 903.6 of § 903, LOCATION RESTRICTIONS, of Chapter 9, LOADING, is proposed to be amended to read as follows:

- 903.6 Required loading berths may be provided in facilities designed to serve jointly two (2) or more adjoining buildings or structures on lots that share a party wall or lot line or are separated only by an alley within a single square; provided:
- (a) The number of berths in the joint facilities shall not be less than that required for the total combined requirement in Subtitle C § 901.1; and
 - (b) A binding covenant ~~that is acceptable to~~ **running with the land for the benefit of the District of Columbia, found technically sufficient by the Zoning Administrator and legally sufficient by the Office of the Attorney General, ensuring that ensures** the joint use of the loading berths and entered into by all property owners concerned, shall be recorded in the land records of the District of Columbia for the affected properties. A certified true copy of the recorded covenant shall be filed ...

Subsection 1001.6 of § 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, is proposed to be amended to read as follows:

- 1001.6 IZ requirements of this chapter shall not apply to:
- (a) Any development subject to a mandatory affordable housing requirement that exceeds the requirements of this chapter as a result of District law or financial subsidies funded in whole or in part by the Federal or District Government and administered and/or monitored by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA); provided:
 - (1) The development shall set aside ...
 - (2) The Exempt Affordable Units shall be reserved ...
 - (3) The requirements set forth in subparagraphs (1) and (2), of this paragraph, shall be stated as declarations within a covenant ~~approved by~~ **running with the land for the benefit of the District of Columbia, found technically sufficient by the Zoning Administrator and legally sufficient by the Office of the Attorney General;** and

(4) The approved covenant shall be recorded ...

(b) Boarding houses, community based institutional facilities ...

Subsection 1006.6 of § 1006, OFF-SITE COMPLIANCE WITH INCLUSIONARY ZONING, of Chapter 10, INCLUSIONARY ZONING, is proposed to be amended to read as follows:

1006.6 No order granting off-site compliance shall become effective until a covenant **running with the land, found technically sufficient by the Zoning Administrator and** legally sufficient by the Office of the Attorney General, has been recorded in the land records of the District of Columbia **between by** the owner of the off-site development **and the Mayor for the benefit of the District of Columbia**. A draft covenant, executed by the owner of the off-site property, shall be attached to an application for relief under this section.

Subsection 1200.4 of § 1200, GENERAL PROCEDURES, of Chapter 12, COMBINED LOT PROVISIONS, is proposed to be amended to read as follows:

1200.4 A covenant **for the benefit of the District of Columbia, found technically sufficient by the Zoning Administrator and legally sufficient by the Office of the Attorney General,** running with the land and applicable to all properties involved in the apportionment shall be executed by all of the owners of the properties prior to the issuance of any building permits. The covenant shall be for the purpose of insuring that the aggregate residential and nonresidential floor area does not exceed the limits applicable to residential and nonresidential uses, or of bonus floor area if applicable.

II. Proposed amendment to Subtitle G, MIXED USE (MU) ZONES

Subsection 410.1 of § 410, COMBINED LOT, of Chapter 4, MIXED-USE ZONES – MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, MU-10, AND MU-11, is proposed to be amended to read as follows:

410.1 The following combined lot development provision shall apply to the MU-10 zone only:

(a) The allowable residential ...

(b) **A Prior to the issuance of any building permit, a** covenant running with the land and applicable to all properties involved in the apportionment, **found technically sufficient by the Zoning Administrator and legally sufficient by the Office of the Attorney General,** shall be executed by

all of the owners of the properties **and for the benefit of** the District of Columbia ~~prior to the issuance of any building permits~~. The covenant shall be for the purpose of insuring that the aggregate residential and non-residential floor area does not exceed the limits applicable to residential and non-residential uses; and

(c)

III. Proposed amendments to Subtitle K, SPECIAL PURPOSE ZONES

Subsection 511.2 of § 511, CERTIFICATION OF COMBINED LOT DEVELOPMENTS, of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, is proposed to be amended to read as follows:

511.2 The instrument shall be in the form of a declaration of covenants that:

(a) Is signed by the owners of all affected lots;

(b) Is for the benefit of the District of Columbia;

~~(b)~~ (c) Runs with the land ...

~~(c)~~ (d) Burdens all lots ...

~~(d)~~ (e) Binds the present ...

~~(e)~~ (f) States the maximum

Subsection 602.6 of § 602, DENSITY – FLOOR AREA RATIO (FAR) (STE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19 is proposed to be amended to read as follows:

602.6 The instrument shall be in the form of a declaration of covenants that:

(a) Is signed by the owners of all affected lots;

(b) Is for the benefit of the District of Columbia;

~~(b)~~ (c) Runs with the land ...

~~(c)~~ (d) Burdens all lots ...

~~(d)~~ (e) States the maximum

- 902.5 If less than 3.75 FAR is developed in Land Bay E, excess floor area can be transferred to Land Bay K.1 in the WR-3 zone, or Land Bay F in the WR-3 zone, or Land Bay D in the WR-2 zone, or a combination of those land bays, subject to the requirements of this subsection:
- (a) No more than one hundred ...
 - (b) The maximum total FAR ...
 - (c) The maximum total FAR ...
 - (d) The allowable building height ...
 - (e) Before the transfer may occur, the applicant shall record in the Land Records of the District of Columbia a covenant **running with the land, found technically sufficient by the Zoning Administrator and legally sufficient by the Office of the Attorney General**, for each property **by the owner or owners for the benefit of the District of Columbia, in a form acceptable to the District**, that states the size, in square feet, of Land Bays E, K.1, F, and D, the maximum FAR and non-residential FAR permitted as a matter of right for Land Bays E, K.1, F, and D, the total amount of floor area being transferred, the amount of non-residential floor area being transferred, and the resulting maximum FAR and nonresidential FAR for both Land Bays E, K.1, F, and D; and
 - (f) The applicant for any building permit ...

IV. Proposed amendment to Subtitle X, GENERAL PROCEDURES

Subsection 311.3 of § 311, IMPLEMENTATION, of Chapter 3, PLANNED UNIT DEVELOPMENTS, is proposed to be amended to read as follows:

- 311.3 The Zoning Administrator shall not approve a permit application unless the applicant has recorded a covenant **running with the land found technically sufficient by the Zoning Administrator and legally sufficient by the Office of the Attorney General**, in the land records of the District of Columbia **between by the owner or owners and for the benefit of the District of Columbia satisfactory to the Office of the Attorney General and the Zoning Administrator**, which covenant will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders, or amendments thereof, of the Zoning Commission.

V. Proposed amendment to Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE

Subsection 702.1 of § 702, VALIDITY OF APPROVALS AND IMPLEMENTATION, of Chapter 7, APPROVALS AND ORDERS, is proposed to be amended to read as follows:

702.10 For PUD cases, the Zoning Administrator shall not approve a permit application unless the applicant has recorded a covenant **running with the land, found technically sufficient by the Zoning Administrator and legally sufficient by the Office of the Attorney General**, in the land records of the District of Columbia by the owner or owners for the benefit of the District of Columbia, ~~satisfactory to the Office of the Attorney General and the Zoning Administrator~~, which covenant will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders, or amendments thereof, of the Commission.

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

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR Subtitle Z, Chapter 5.

How to participate as a witness.

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

Time limits.

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

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

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

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

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

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

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

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

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

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

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

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

ለሚተፍ ዕርዳታ ያስፈልግዎታል? የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓም) ካስፈለገዎት እባክዎን ከስብሰባው አግስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚጠኑ በነጻ ነው።

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING**Wildlife Protection Infractions**

The Director of the Department of Energy and Environment (Department), pursuant to the authority set forth in the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1) (2016 Repl.)), the Wildlife Protection Act of 2010, effective March 8, 2011 (D.C. Law 18-289; D.C. Official Code § 8-2211 (2013 Repl. & 2019 Supp.)), Section 6002 of the Fiscal Year 2017 Budget Support Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code §§ 8-2201 *et seq.* (2019 Supp.)) (“Wildlife Protection Enforcement Amendment Act of 2016”), the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl. & 2019 Supp.)), Mayor’s Order 2006-61, dated June 14, 2006, and Mayor’s Order 2014-123, dated May 27, 2014, hereby gives notice of the intent to adopt the following amendments to Chapter 40 (Department of Environment (DDOE) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking will schedule fines related to the Wildlife Protection Act in Title 19, Chapter 15 of the DCMR for violations of conditions for licensure and registration, restrictions on the capture, handling, and transport of wildlife, restrictions on euthanasia of wildlife, control requirements for specified species, and required records and annual reporting relating to the capture of wildlife by wildlife control operators and service providers.

Pursuant to § 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1) (2016 Repl.)), the proposed rules were submitted to the Council of the District of Columbia for review and approval and published in the *D.C. Register* on April 20, 2018 at 65 DCR 004454. No comments were received and no changes were made to the infractions.

This rule was deemed approved by Council on October 18, 2019. The rule was adopted October 18, 2019, and is effective upon publication of this notice in the *D.C. Register*.

Chapter 40, DEPARTMENT OF THE ENVIRONMENT (DDOE) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

A new Section 4016, WILDLIFE PROTECTION INFRACTIONS, is added to read as follows:

4016 WILDLIFE PROTECTION INFRACTIONS

4016.1 Violation of the following provision shall be a Class 1 infraction:

- (a) 19 DCMR § 1570.1 (engaging in the control of wildlife without a license);
- (b) 19 DCMR § 1570.13 (controlling wildlife species not designated by the license);
- (c) 19 DCMR § 1571.1 (failure to register as a wildlife control services provider with the Department prior to providing services);
- (d) 19 DCMR § 1571.2 (failure to register as a wildlife control services provider when working as a self-employed wildlife control operator);
- (e) 19 DCMR § 1574.1 (failure to employ non-lethal means as the preference in the control of problem wildlife);
- (f) 19 DCMR § 1574.3 (euthanizing, killing, relocating, distressing, displacing, or otherwise harming a Species of Greatest Conservation Need without written permission from the Department);
- (g) 19 DCMR § 1574.5(a) (Removing, altering, or destroying a Migratory Bird nest with eggs or the young without obtaining a federal permit);
- (h) 19 DCMR § 1574.9 (failure to obtain written permission from the Department to transport wildlife out of the District);
- (i) 19 DCMR § 1574.10 (failure to obtain written permission from the Department to transport wildlife into the District);
- (j) 19 DCMR § 1576.5 (failure obtain a federal permit prior to using a mist or rocket net to capture a bird or bat outdoors);
- (k) 19 DCMR § 1576.12(a) (failure to immediately release, at the site of capture, captured non-target wildlife that is healthy and does not pose an unreasonable risk to the health and safety of persons or domestic animals);
- (l) 19 DCMR § 1576.12(b) (relocating captured non-target wildlife to a property without obtaining prior permission from the property owner);
- (m) 19 DCMR § 1576.14(b) (relocating captured target wildlife to a property without the written permission of the property owner);
- (n) 19 DCMR § 1576.18 (failure to keep captured wildlife in a covered, secure safe container during transport);
- (o) 19 DCMR § 1576.20 (failure to use the quickest, least stressful, and least painful method of euthanasia on sick, injured, or orphaned wildlife);
- (p) 19 DCMR § 1576.21 (failure to use a method of euthanasia that conforms to the Report of the American Veterinary Medical Association (AVMA) Panel on Euthanasia: 2013 Edition for Free-Ranging Wildlife and Domestic Animals);

- (q) 19 DCMR § 1576.22 (failure to obtain prior approval from the Department to use a method of euthanasia not published in the Report of the American Veterinary Medical Association (AVMA) Panel on Euthanasia: 2013 Edition for Free-Ranging Wildlife and Domestic Animals).
- (r) 19 DCMR § 1577.1 (use of a toxicant prohibited by the Department for use on wildlife);
- (s) 19 DCMR § 1577.2 (prohibited use of a toxicant to control pigeons, European starlings, or house sparrows); or
- (t) 19 DCMR § 1577.4 (prohibited use of a leg-hold and other body-gripping trap, body-crushing trap, snare, or harpoon-type trap to control wildlife).

4016.2 Violation of the following provision shall be a Class 2 infraction:

- (a) 19 DCMR § 1576.3 (failure to check a mist net at least once every hour);
- (b) 19 DCMR § 1576.9 (failure to check a trap at least once every twenty-four (24) hours, or more frequently as environmental conditions deemed necessary);
- (c) 19 DCMR § 1576.11 (failure to check the trap if remote technology fails to report in twenty-four (24) hours);
- (d) 19 DCMR § 1576.15 (failure to make reasonable effort to keep dependent young wildlife with their parent);
- (e) 19 DCMR § 1576.16 (failure to obtain written authorization from the Department prior to holding wildlife for the purpose of reuniting dependent young);
- (f) 19 DCMR § 1576.19 (selling, bartering, trading, giving, or retaining wildlife or parts thereof);
- (g) 19 DCMR § 1577.3 (prohibited–use of sticky or glue trap to control wildlife); or
- (h) 19 DCMR § 1577.5 (failure to obtain written permission from the Department to keep wildlife in captivity for longer than thirty-six (36) hours).

4016.3 Violation of the following provisions shall be a Class 3 infraction:

- (a) 19 DCMR § 1573.4 (failure to report a potential outbreak or widespread occurrence of suspected disease in wildlife to the Department);
- (b) 19 DCMR § 1574.6 (failure to obtain written permission and guidance from the Department prior to controlling bats);

- (c) 19 DCMR § 1574.8 (wildlife control of an amphibian or a turtle);
- (d) 19 DCMR § 1574.11 (failure to notify the Department prior to performing wildlife control on black bears or coyotes);
- (e) 19 DCMR§ 1575.2 (wildlife control of a feral cat in violation of the District’s policy of trap, spay or neuter, return, or adoption of feral cats);
- (f) 19 DCMR § 1576.8 (failure to set a trap to avoid capture or harm to a non-targeted wildlife);
- (g) 19 DCMR § 1576.13(a) (b) (failure to transfer to the District’s Animal Care and Control Agency or a licensed wildlife rehabilitator in the District, captured non-target wildlife that is believed to be sick, injured, orphaned, or that poses an unreasonable risk to people or domestic animals, or that is otherwise unfit for release);
- (h) 19 DCMR § 1576.14(c) (failure to surrender captured target wildlife expressing symptoms of disease to the District’s Animal Care and Control Agency for evaluation and assessment);
- (i) 19 DCMR § 1576.14(d) (failure to transfer sick, injured, or abandoned captured target wildlife to a licensed wildlife rehabilitator in the District); or
- (j) 19 DCMR§ 1576.17 (failure to prevent or limit unnecessary discomfort, behavioral stress, or physical harm to captured wildlife during handling, or transport).

4016.4 Violation of the following provisions shall be a Class 4 infraction:

- (a) 19 DCMR § 1573.2 (failure of a wildlife control services provider to submit an accurate summary of wildlife control activities for the preceding year to the Department by January 15th).

4016.5 Violation of the following provisions shall be a Class 5 infraction:

- (a) 19 DCMR § 1570.6 (failure of a wildlife control operator to be in possession of their license while engaging in wildlife control activities);
- (b) 19 DCMR § 1572.1 (failure of the wildlife control operator to provide a written assessment of the problem and proposed wildlife control measures);
- (c) 19 DCMR§ 1573.1 (failure of a wildlife control operator to maintain required records of each wildlife control service call);
- (d) 19 DCMR § 1573.3 (failure of a wildlife control services provider to make required records available for inspection by the Department); or

- (e) 19 DCMR § 1576.7 (failure to label trap or exclusionary device with the name, address, and phone number of the wildlife control operator or wildlife control services provider).

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FINAL RULEMAKING¹****Z.C. Case No. 18-18****(Text Amendment – 11-K DCMR)****(New Chapter 10 in Subtitle K - To Establish a Northern Howard Road (NHR) Zone)****September 23, 2019**

The Zoning Commission for the District of Columbia (“Commission”) pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2018 Repl.)), and the authority set forth in § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of the adoption of the following amendments to Subtitle K (Special Purpose Zones) of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references herein are made unless otherwise specified), by adding a new Chapter 10 to create the Northern Howard (NHR) Zone.

Substantively, the Commission creates a new Special Purpose Zone in Subtitle K, known as the Northern Howard Road (NHR) zone, intended for properties along the northernmost stretch of Howard Road, S.E., within the area adjacent to Poplar Point and in between Suitland Parkway and the Anacostia Freeway/I-295. The NHR zone applies to a single large area that would benefit from a cohesive, self-contained set of regulations to guide site design, building height and bulk, land uses, and other aspects of development. The NHR zone encourages high-density development in conformance with the Comprehensive Plan and ensures a mix of uses with a substantial affordable housing component, a strong commitment to sustainability, and improved pedestrian and bicycle mobility. Although the Commission created only one zone in this text amendment, the NHR zone, it could in the future create additional NHR zones to apply to other Comprehensive Plan land use designations in the vicinity.

To ensure mixed-use development in the NHR zone, the Commission imposes a minimum density of two and one-half (2.5) residential floor area ratio (FAR) within an overall maximum of nine (9.0) FAR, with flexibility allowed to satisfy this minimum residential FAR across a combination of lots subject to specific conditions. The NHR zone also allows building heights up to one hundred thirty feet (130 ft.) and a maximum lot occupancy of one hundred percent (100%). These height and density limits are higher than those of the current MU-14 zoning governing all lots fronting on Howard Road, S.E. that are within the eligible geographic area for the NHR zone. This increased height and density is more consistent with that allowed in most areas in downtown Washington and in the Central Employment Area (CEA) that have Comprehensive Plan designations similar to the proposed area of the NHR zone (Land Use Change Areas with a Future Land Use Map designation for High Density Residential, High Density Commercial, and Institutional Uses).

¹ For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 18-18.

The Commission imposes a minimum of twelve percent (12%) Inclusionary Zoning (IZ) for all residential development in the NHR zone. This represents a significant increase over the eight percent (8%) minimum standard for residential buildings that utilize Type I construction (steel and concrete) to build the majority of the dwelling units. These IZ units shall be set aside for households earning equal to or less than fifty percent (50%) or sixty percent (60%) of the Median Family Income (MFI), as more specifically allocated in the text, with at least twenty-five percent (25%) of the IZ units being three- (3)-bedroom units.

All new buildings in the NHR zone require Commission design review approval to promote the goals of the NHR zone, including providing a mix of uses that activate the streetscape, encouraging superior architecture and open space design, and promoting a pedestrian- and bike-friendly streetscape. The mandatory design review process provides for an expanded involvement by the public, Advisory Neighborhood Commissions (ANC), and District agencies in the initial design planning for buildings in the NHR zone.

Procedures leading to the adoption of the amendment

On October 5, 2018, the Office of Planning (OP) filed a report that served as a petition proposing text amendments to Subtitle K. On October 22, 2018, the Commission voted to set down the petition for a public hearing, which was scheduled for March 14, 2019. OP filed its Hearing Report on March 4, 2019, as required by Subtitle Z § 400.6.

In response to testimony at the March 14, 2019 public hearing from OP, ANCs 8A and 8C, and the public, the Commission asked OP to revise the proposed text amendment to address the issues raised by the public and members of the Commission, specifically the possibility of an alternative review procedure to the design review and the potential of requiring setbacks on upper floors.

OP submitted a Supplemental Report on April 25, 2019, that recommended not adopting any alternative review process because OP believed the design review procedure, which was based on the successful design review process for the Capitol Gateway (CG) zone, was appropriately robust. OP also recommended not adding setbacks on upper floors because OP asserted that the proposed location of the NHR zone did not have a view requiring specific protection, so that the Commission's design review authority was sufficient to ensure a particular project met the design goals of the NHR zone.

At the end of continued hearing held on May 2, 2019, the Commission requested supplemental filings by OP, ANCs 8A and 8C, and the applicant in Z.C. Case No. 18-19 (which requested the mapping of the proposed NHR zone to specific property), to address issues raised at the continued hearing, specifically the potential impact on the surrounding community of the increased development potential allowed by this proposed new zone.

OP submitted a Second Supplemental Report on May 24, 2019, which responded to the issues raised at the hearing by proposing revisions to the text amendment. The revisions included requiring each design review application to provide details of community outreach efforts and establishing that any affordable units proposed in excess of the requirement be reserved at a

maximum sixty percent (60%) MFI level. OP also reported that ANCs 8A and 8C proposed increasing the mandatory IZ set-aside from ten percent (10%) to fifteen percent (15%).

At its June 6, 2019 special public meeting, the Zoning Commission took **PROPOSED ACTION** by a vote of **5-0-0** (Peter A. Shapiro, Robert E. Miller, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**) to authorize a notice of proposed rulemaking to adopt the revised text included in OP's Second Supplemental Report, with three (3) changes:

- To incorporate the ANCs' proposed increase in the IZ set-aside;
- To incorporate OP's suggested changes to the IZ language; and
- To incorporate the text proposed by OP in the related NHR map amendment case (Z.C. Case No. 18-19) that imposed additional requirements specific to the properties proposed to be rezoned into the NHR zone, as detailed in the text.

Prior to the publication of the Notice of Proposed Rulemaking authorized by this vote, OP submitted a Third Supplemental Report dated July 1, 2019. In response to OAG's concerns, OP requested that the Commission clarify how to apply its adoption of the ANCs' proposed increased fifteen percent (15%) IZ set-aside to OP's proposed deeper affordability requirements, which had been based on a ten percent (10%) IZ set-aside. OP proposed two alternatives:

- Lowering the IZ set-aside to ten percent (10%), but keeping the original deeper affordability with seventy-five percent (75%) of the IZ units limited to sixty percent (60%) MFI and twenty-five percent (25%) limited to fifty percent (50%) MFI, while at least twenty-five percent (25%) of IZ units would have at least three (3) bedrooms; or
- OP's recommended option of retaining the fifteen percent (15%) IZ set-aside but raising the maximum MFI levels to eighty percent (80%) MFI for fifty percent (50%) of the units and the other fifty percent (50%) at sixty percent (60%) MFI, while at least twenty-five percent (25%) of IZ units would have at least three (3) bedrooms at sixty percent (60%) MFI.

At its July 8, 2019 public meeting, the Commission further deliberated and chose neither of OP's suggested alternatives, but instead took **PROPOSED ACTION** to authorize a notice of proposed rulemaking to modify the text authorized in the Commission's June 6, 2019, Proposed Action, to reduce the IZ set-aside from fifteen percent (15%) to twelve percent (12%), but at the original deeper affordability (75% of IZ units at 60% MFI and the remainder at 50% MFI), by a vote of **5-0-0** (Robert E. Miller, Peter A. Shapiro, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**).

Notice of Proposed Rulemaking

The Office of Zoning referred the proposed amendment to the National Capital Planning Commission (NCPC) for the thirty (30)-day review period required by § 492 of the District

Charter on August 6, 2019 and published the proposed amendment as a Notice of Proposed Rulemaking (NPR) in the *D.C. Register* on August 9, 2019 at 66 DCR 10398.

NCPC filed a report dated September 5, 2019, stating that NCPC had determined that the proposed amendment is not inconsistent with the Comprehensive Plan or other federal interests.

The Commission received one comment to the Notice of Proposed Rulemaking – from Goulston & Storrs on behalf of the applicant in Z.C. Case No. 18-19, which requested the application of the proposed NHR zone to specific properties (Goulston Comment). The Goulston Comment expressed concerns that the twelve percent (12%) IZ requirement would be onerous for that site given its location in an undeveloped area without an established housing market, and so alerted the Commission that it was likely to seek flexibility from the IZ requirements as part of any design review in the new NHR zone.

In response, OP requested feedback from the Department of Housing and Community Development (DHCD) to the Goulston Comment, which OP submitted in a Fourth Supplemental Report, dated September 17, 2019. OP's Fourth Supplemental Report noted that DHCD supported the Commission's retention of the deeper affordability/MFI limits because of the high demand for units limited to fifty percent (50%) MFI. DHCD also opposed any flexibility from IZ requirements due to the difficulty of administering a custom IZ requirement for a specific property. OP also proposed a clarification to Subtitle K § 1006.1, as published in the NPR, to add specific section references to the general descriptions of the standards from which special exception relief was authorized. This was not a substantive change, as defined in 1 DCMR § 310.6, that required the publication of a revised NPR.

“Great Weight” to the Recommendations of OP

The Commission must give “great weight” to the recommendations contained in the OP Reports 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 (2018 Repl.); *see* Subtitle Z § 405.8).

The Commission concurred with OP's recommendation that the text amendment be adopted as amended, although the Commission did not adopt the IZ option recommended by OP's Third Supplemental Report to retain the increased fifteen percent (15%) IZ set-aside but with higher MFI limits. Instead, the Commission retained the original MFI limits, but adopted an increased IZ set-aside of twelve percent (12%). In reaching this determination, the Commission balanced the importance of providing additional affordable housing against the concern of driving developers away with too onerous a requirement and noted that the proposed increased IZ requirement was proposed by ANCs 8A and 8C, as reported in OP's Second Supplemental Report.

“Great Weight” to the Written Report of affected ANCs

The Commission must give “great weight” to the issues and concerns contained in the written report of an affected ANC 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)(3)(A) (2016 Repl.); *see* Subtitle Z § 406.2.) To satisfy this 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. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)

This amendment is of concern to all ANCs. However, as no ANC submitted a written report to the record, the Commission has nothing to which it can give great weight. The Commission noted that OP worked with ANCs 8A and 8C in preparing OP’s Second Supplemental Report, and that the Goulston Comment asserted that ANCs 8A and 8C were in support of this text amendment.

Based on the case record, at its public meeting on September 23, 2019, the Zoning Commission took **FINAL ACTION** to adopt the amendments as proposed in the Notice of Proposed Rulemaking, including the proposed clarification to Subtitle K § 1006.1 proposed by OP’s Fourth Supplemental Report, by a vote of **5-0-0** (Peter A. Shapiro, Robert E. Miller, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**).

The following amendments to Title 11 DCMR (Zoning Regulations of 2016) are adopted:

11-K DCMR, SPECIAL PURPOSE ZONES, is amended by adding a new Chapter 10, NORTHERN HOWARD ROAD (NHR) ZONE, as follows:

CHAPTER 10 - NORTHERN HOWARD ROAD (NHR) ZONE

1000 GENERAL PROVISIONS (NHR)

1000.1 The Northern Howard Road (NHR) zone is intended to be applied to a defined geographic area including the portions of Squares 5860 and 5861 north of Interstate 295.

1000.2 The purposes of the Northern Howard Road (NHR) zone are to:

- (a) Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan;
- (b) Encourage a variety of visitor-related uses, such as retail, service, and entertainment;
- (c) Provide for increased height and density associated with increased affordable housing;
- (d) Encourage superior architecture and design in all buildings and publicly accessible outdoor spaces;

- (e) Require preferred ground-level retail and service uses along Howard Road, S.E.;
- (f) Provide for the development of Howard Road, S.E. as a pedestrian- and bicycle-friendly street, with street-activating uses, and connections to metro and the broader neighborhood; and
- (g) Encourage the inclusion of a bicycle track along Howard Road.

1000.3 Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of the NHR zone shall govern.

1000.4 Development in the NHR zone shall be in accordance with the development standards of this chapter.

1000.5 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in this chapter.

1001 DEVELOPMENT STANDARDS (NHR)

1001.1 The NHR zone is intended to permit high-density mixed-use development generally in the vicinity of the Anacostia Metrorail Station along Howard Road, S.E.; encourage a variety of support and visitor-related uses, such as retail, service, and entertainment uses; provide for increased height and bulk of buildings with increased affordable housing; and provide for development of Howard Road, S.E. as an active, pedestrian-oriented street with active ground floor uses.

1001.2 The maximum permitted density in the NHR zone is 9.0 FAR, except as provided in Subtitle K § 1009.

1001.3 A building on a lot in the NHR zone shall provide a minimum residential FAR of 2.5 on the lot unless modified through the provisions of Subtitle K § 1009 below. Residential FAR consists exclusively of uses that fall within the “Residential” Use Category defined in Subtitle B § 200.2.

1001.4 The maximum permitted building height, not including the penthouse, in the NHR zone shall be:

Street Right of Way Width	Maximum Permitted Building Height, Not Including Penthouse
Greater than or equal to 110 ft.	130 ft.
Less than 110 ft. but greater than or equal to 100 ft.	120 ft.
Less than 100 ft. but greater than or equal to 90 ft.	110 ft.
Less than 90 ft.	No taller than the width of the street right of way, plus 20 ft.

- 1001.5 The maximum permitted height of a penthouse in the NHR zone shall be twenty feet (20 ft.); and the maximum number of stories within the penthouse shall be one (1), plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.
- 1001.6 The height and density limits of Subtitle K § 1001 shall serve as the maximum permitted under a planned unit development.
- 1001.7 The maximum permitted lot occupancy in the NHR zone shall be one hundred percent (100%).
- 1001.8 No side yard is required for the principal building; however, any side yard provided on any portion of the principal building shall be at least two inches (2 in.) per one foot (1 ft.) of height, and no less than five feet (5 ft.).
- 1001.9 A minimum rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance measured from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.) shall be provided, subject to the following conditions:
- (a) A horizontal plane may be established at twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards;
 - (b) A rear yard is not required to be provided below a horizontal plane as described in Subtitle K § 1001.9(a) above;
 - (c) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and
 - (d) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.
- 1001.10 In the case of a corner lot, a court complying with the width requirements for a closed court may be provided in lieu of a required rear yard. For the purposes of this section, the required court shall be provided above a horizontal plane beginning not more than twenty feet (20 ft.) above the curb grade opposite the center of the front of the building and the width of the court shall be computed for the entire height of court.
- 1001.11 A court is not required in the NHR zone, but where it is provided, it shall have the following minimum dimensions:

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging	2.5 in./ft. of height of court; 6 ft. minimum	2.5 in./ft. of height of court; 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

1001.12 The minimum required Green Area Ratio for the NHR zone shall be 0.2.

1002 INCLUSIONARY ZONING (NHR)

1002.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications to certain development standards, shall apply to the NHR zone as specified in Subtitle C, Chapter 10, and as modified by this chapter, which shall govern in any conflict with the provisions of Subtitle C, Chapter 10.

1002.2 No bonus density, as made available in Subtitle C § 1002, shall be available in the NHR zone.

1002.3 Residential development in the NHR zone shall set aside for IZ the following square footage:

- (a) Twelve percent (12%) of the gross floor area dedicated to residential use, excluding penthouse habitable space; and
- (b) The equivalent of eight percent (8%) of the gross floor area of any residential penthouse habitable space.

1002.4 Inclusionary units resulting from the set-aside required by Subtitle K § 1002.3 shall be reserved as follows:

- (a) At least twenty-five percent (25%) of the set-aside required by Subtitle K § 1002.3(a) shall be reserved for households earning equal to or less than fifty percent (50%) of the Median Family Income (MFI), with the remainder reserved for households earning equal to or less than sixty percent (60%) of the MFI; and
- (b) One hundred percent (100%) of the set-aside required by Subtitle K § 1002.3(b) shall be reserved for households earning equal to or less than fifty percent (50%) of the MFI.

1002.5 A minimum of twenty-five percent (25%) of the total IZ set-aside requirement shall be three- (3)-bedroom units.

1002.6 Any non-residential penthouse habitable space shall be subject to the affordable housing production requirements of Subtitle C § 1505.

1002.7 Any affordable housing generated in excess of that required by Subtitle K § 1002.3(a) shall be reserved for households earning equal to or less than sixty percent (60%) of the MFI.

1003 USE PERMISSIONS (NHR)

1003.1 The use permissions for the NHR zone are those specified for MU-Use Group F; provided that buildings, structures, and uses with frontage on a Designated Street of Subtitle K § 1004 shall provide the ground floor uses specified in Subtitle K § 1004.

1004 DESIGNATED STREETS (NHR)

1004.1 For the purpose of this chapter any portion of Howard Road, S.E. (both sides of the street) in the NHR zone shall be a Designated Street.

1004.2 A building, structure, or use with frontage on a Designated Street shall devote one hundred percent (100%) of its ground floor street frontage along the Designated Street, except for space devoted to building entrances or required for fire control, to the following preferred use categories:

- (a) Arts, design, and creation;
- (b) Daytime care;
- (c) Eating and drinking establishments;
- (d) Education, public or private;
- (e) Entertainment, assembly, and performing arts;
- (f) Medical Care;
- (g) Retail; and
- (h) Service, general or financial.

1004.3 Buildings and structures with frontage on a Designated Street must comply with the following design requirements:

- (a) The ground floor shall have a minimum clear height of fourteen feet (14 ft.), for a continuous depth of at least thirty-six feet (36 ft.) from the building line on the Designated Street;
- (b) The ground story shall devote at least fifty percent (50%) of the surface area facing a designated street to display windows or pedestrian entrances having clear low-emissivity glass, and ensure that the view through the display windows and pedestrian entrances is not blocked for at least ten feet (10 ft.) in from the building face;
- (c) Ground-floor pedestrian entrances, or areas where a future ground-floor entrance could be installed without structural changes, shall be located no more than an average distance of forty feet (40 ft.) apart on the façade facing the designated primary or secondary street segment; and
- (d) No direct vehicular garage or loading entrance or exit shall be permitted to a new building or structure.

1005 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES (NHR)

1005.1 For all properties within the NHR zone, all proposed buildings and structures, or any proposed exterior renovation to any existing buildings or structures that would result in a substantial alteration of the exterior design, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions.

1005.2 In addition to proving that the proposed use, building, or structure meets the standards set forth in Subtitle X, Chapter 6, and the relevant provisions of this chapter, an applicant requesting approval under this section shall prove that the proposed building or structure, including the architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

- (a) Help achieve the objectives of the NHR zone defined in Subtitle K § 1000.1;
- (b) Help achieve the desired use mix, with the identified preferred uses specifically being residential, office, entertainment, retail, or service uses;
- (c) Provide streetscape connections for future development on adjacent lots and parcels, and be in context with an urban street grid;
- (d) Minimize conflict between vehicles, bicycles, and pedestrians;
- (e) Minimize unarticulated blank walls adjacent to public spaces through facade articulation;

- (f) Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards; and
- (g) Promote safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses.

1005.3 Each application for review under this section shall provide a report on the following items as part of the initial submission:

- (a) Coordination by the applicant with the Department of Employment Services (DOES) regarding apprenticeship and training opportunities during construction and operation at the subject site, and the provision of any internship or training opportunities during construction and operation at the subject site, either with the applicant or with contractors working on the project independent of DOES;
- (b) Efforts by the applicant to include local businesses, especially Wards 7 and 8 businesses, in contracts for the construction or operation of the proposed project;
- (c) Efforts by the applicant to provide retail or commercial leasing opportunities to small and local businesses, especially Ward 8 businesses, and efforts to otherwise encourage local entrepreneurship and innovation; and
- (d) Coordination by the applicant with the State Archaeologist and any plans to study potential archeological resources at the subject site, and otherwise recognize local Anacostia history.

1005.4 The applicant shall also provide evidence that the information required by Subtitle K § 1005.3 has been served on any ANC on or adjacent to the NHR zone.

1006 RELIEF FROM DEVELOPMENT STANDARDS AND USE AND DESIGN REQUIREMENTS (NHR)

1006.1 The Zoning Commission may grant special exception relief from the development standards of § 1001 of this chapter and from the Designated Street use and design standards of § 1004 of this chapter, subject to the standards of Subtitle X, Chapter 9 and to the applicable conditions of this chapter and provided that the applicant demonstrates the special exception relief would result in a design that still complies with the purposes of this chapter.

- 1006.2 Requested relief that does not comply with the applicable conditions or limitations for a special exception as set out in this chapter shall be processed as a variance.
- 1006.3 The Zoning Commission may grant special exception relief, pursuant to Subtitle X, Chapter 9, from the rear yard requirements of this chapter, provided:
- (a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;
 - (b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;
 - (c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards; and
 - (d) Provision shall be included for service functions, including parking and loading access and adequate loading areas.
- 1006.4 The Zoning Commission may grant special exception relief, pursuant to Subtitle X, Chapter 9, from the driveway prohibition of Subtitle K § 1006.1(d), subject to the following criteria:
- (a) The applicant shall demonstrate that there is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway, such as signage approved by DDOT that would direct vehicles to an alternative entrance point within the same square;
 - (b) The vehicular entrance will not impede the flow of pedestrian traffic on designated primary street frontage; and
 - (c) The driveway that would access the proposed parking or loading entrance or exit is not inconsistent with DDOT landscape plans for the public rights of way on the designated street frontage, to the extent that such plans exist at the time of the special exception application.

1007 PARKING AND LOADING REGULATIONS (NHR)

- 1007.1 This section provides conditions and requirements related to parking spaces and loading, including location and access.

- 1007.2 Vehicle parking shall be provided in accordance with the requirements of Subtitle C, Chapter 7.
- 1007.3 Bicycle parking shall be provided in accordance with the requirements of Subtitle C, Chapter 8.
- 1007.4 Loading shall be provided in accordance with the requirements of Subtitle C, Chapter 9.

1008 SUSTAINABILITY (NHR)

- 1008.1 Each building constructed or substantially improved shall earn certification at the LEED v4.1 for New Construction Gold level, provided that prior to receipt of the first certificate of occupancy for the new construction or substantial improvement, the applicant shall submit to the Department of Consumer and Regulatory Affairs a financial security that is compliant with the provisions of § 6 of the Green Building Act of 2006, as amended (D.C. Official Code § 6-1451.05).
- 1008.2 Each building constructed or substantially improved shall have an on-site renewable energy system installed and operating prior to receipt of the first certificate of occupancy for the new construction or substantial improvement, which renewable energy system shall generate at least one percent (1%) of the total energy estimated to be needed to operate the building as calculated in the energy model submitted with the building permit application to the Department of Consumer and Regulatory Affairs.

1009 COMBINED LOT (NHR)

- 1009.1 Two (2) or more lots in the NHR zone may be combined for the purpose of achieving the minimum residential FAR required for all of the lots, provided that the total density limits of the zone shall not be exceeded, except that the maximum floor area on any one (1) lot in the combined lot shall not exceed 10.0 FAR.
- 1009.2 No allocation of gross floor area shall be effective unless an instrument is filed with the Zoning Administrator and recorded by the Recorder of Deeds in the land records against all lots included in the combined lot development.
- 1009.3 The instrument shall be in the form of a declaration of covenants that:
- (a) Is signed by the owners of all affected lots;
 - (b) Runs with the land in perpetuity;
 - (c) Burdens all lots involved in the allocation of gross floor area; and

- (d) States the maximum permitted gross floor areas for all uses in all lots, the maximum allowed gross floor area for nonresidential uses in all lots and the gross floor area of nonresidential uses allocated. The covenant shall further state that, after the transfer, the combined lots conform with the maximum gross floor area limitations.

1009.4 The declaration of covenants shall also contain a written statement by the Director of the Office of Planning attesting to:

- (a) The accuracy of the computations with respect to the amount of residential and nonresidential uses allocated; and
- (b) Whether, after the transfer, the combined lots will conform with the maximum gross floor area limitations for the lots before any such transfer.

1009.5 The declaration of covenants shall expressly state that it may be amended or terminated only with the prior approval of the Zoning Administrator.

1009.6 The declaration of covenants shall be approved in content by the Zoning Administrator, who may, in his or her discretion, request the Office of the Attorney General to undertake a legal sufficiency review.

1010 DEVELOPMENT ON LOTS 97, 1025-1031, 1036-1037 IN SQUARE 5860 AND ON LOT 991 IN SQUARE 5861

1010.1 Any new building constructed on Lots 97, 1025-1031, or 1036-1037 in Square 5860 or on Lot 991 in Square 5861, shall comply with the following provisions, which shall govern in the event of conflict with other provisions of this chapter:

- (a) Rooftop solar panels shall be constructed on each building to generate one hundred seventy-eight kilowatt hours (178 kWh) per one thousand (1,000) gross square feet of building area;
- (b) All inclusionary units set aside at fifty percent (50%) of the Median Family Income (MFI) shall be three- (3)-bedroom units;
- (c) One-third (1/3) of all inclusionary units set aside at sixty percent (60%) of the MFI shall be three- (3)-bedroom units;
- (d) Each building shall provide a stormwater capacity to withstand a one and seven-tenths inch (1.7") stormwater event; and
- (e) No building shall be constructed within the five hundred- (500)-year flood plain.

Proposed Action

VOTE (June 6, 2019): **5-0-0** (Peter A. Shapiro, Robert E. Miller, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**)

Proposed Action

VOTE (July 8, 2019): **5-0-0** (Robert E. Miller, Michael G. Turnbull, Anthony J. Hood, Peter A. Shapiro, and Peter G. May to **APPROVE**)

Final Action

VOTE (September 23, 2019): **5-0-0** (Michael G. Turnbull, Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, and Peter G. May to **APPROVE**)

The text amendments shall become effective upon publication of this notice in the *D.C. Register*, that is on December 6, 2019.

DEPARTMENT OF HEALTH

NOTICE OF FOURTH PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 5(a) 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 § 44-504(a) (2012 Repl. & 2019 Supp.)) (hereinafter “the Act”), and in accordance with Mayor’s Order 98-137, dated August 20, 1998, hereby gives notice of the intent to adopt a new Chapter 110, entitled “Ambulatory Surgical Facilities”, to Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

These proposed rules create licensure, construction, and operating standards for ambulatory surgical facilities in the District of Columbia, and address such areas as patient care, qualifications of staff, and recordkeeping. The rules require licensure as an ambulatory surgical facility for an entity, other than a hospital or maternity center, including an office-based facility, which has as its primary practice outpatient surgery and related procedures. A nursing home, hospital, or the office of a physician, dentist or podiatrist at which outpatient surgery is not the primary medical service are exempt from licensure under this chapter. The proposed regulations expand the statutory right to a variance on the basis of undue and impractical hardship. In addition, the rules give the public a list of surgical procedures allowed to be performed in a licensed facility. By these regulations, the District will adopt the allowable procedures list from the Federal government, the posting of which is on the website of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. Each licensee is also required to develop and follow certain operating protocols, including those on personnel, preoperative testing and examinations, surgical procedures, post-anesthesia care and evaluation, discharge planning, emergency care, informed consent, and safety.

The rules were published as proposed in the *D.C. Register* on November 23, 2012 at 59 DCR 13407; comments were received and, based on those comments, some revisions were made. The proposed rulemaking was published for comment for the second time on September 6, 2013 at 60 DCR 12636. No written comments on the second publication were received from the public. However, the rulemaking was published as proposed a third time because the Department determined that the license fee structure should be changed to reflect a fee based on the number of surgical suites instead of a flat fee. Therefore, the rules were published for comment for the third time on December 2, 2016 at 63 DCR 14860.

The Department received comments from eight (8) organizations and individuals and addressed most of the comments positively by adding or deleting information from the rulemaking. The D.C. Academy of Anesthesiologist Assistants, Medstar Health, the D.C. Society of Anesthesiology, Case Western Reserve University, Anesthesia Concepts, LLC, the American Academy of Anesthesiologist Assistants, Inc., the American College of Surgeons, and the American Society of Anesthesiologists all requested that the rules specifically refer to anesthesiologist assistants as professionals authorized to administer and manage anesthetics in ambulatory surgical facilities. In all provisions concerning anesthesia management the regulations make clear that anesthesiologist assistants can manage anesthesia in accordance with

the authority granted by the D.C. Board of Medicine. See, for example, Subsection 11012.4(d), where these practitioners are specifically listed as authorized to administer anesthesia, and Section 11099, in which an anesthesiologist assistant is defined. The D.C. Academy of Anesthesiologist Assistants wanted the Department to add the American Academy of Anesthesiologist Assistants' guidelines to the list of associations' guidelines that may be consulted in developing a licensee's policies on anesthesia management. The American Academy was added, affording licensees a limited option to compare and choose what is applicable.

Several comments were submitted by Kaiser Foundation Health Plan of Mid-Atlantic States Inc. Kaiser's comments and the Department responses were as follows:

1. The rules required that before hire, each new employee should have a health inventory done, during which it would be determined that the employee was in good health and had no communicable disease. The Department's response was in sync with its latest action with regard to other health care facilities. Language in the proposed regulations will now require that the ambulatory surgical centers create their own policies to ensure that new and other employees are in good health, do not expose patients to communicable disease, and that the licensee is in compliance with requirements of the Equal Employment Opportunity Commission (EEOC) and the Americans with Disabilities Act (ADA).

2. The commenter questioned why the Department would want a licensee to report the termination of a health-care worker's "job related incident". The Department explained that the term "unusual incident" is already defined in the proposed rulemaking and "job related" needs no further explanation.

3. A medical director should review protocols every two (2) years instead of annually as the proposed rules would require. The Department agreed and changed the requirement to every two (2) years.

4. The comment asked if the Department could grant flexibility by allowing a physician to confirm a medical order for another's order instead of insisting that one physician confirm his or her own order. In the final instance, the Department changed language and will flexibility so that a physician may confirm another's order.

5. The proposed rulemaking requires that any loss, theft or unusual incident involving controlled substances shall be reported to the Department. The comments stated that reporting all such occurrences with regard to all drugs was too burdensome. The Department responded that the requirement only related to controlled substances and there would be no change.

6. The Department requires in the rules to have each licensee maintain a written agreement with an ambulance service to supply emergency transportation to a licensed hospital if a patient needs it. The Department will maintain this provision even if the comment disagrees and states it creates burden. On the contrary, the Department believes a written agreement will help ensure that the transportation service will be safe and will be required to comply with the standards usually required of transportation services.

7. Finally this commenter pointed out that in the rules the Fire Safety Code should be updated. They are now updated to the latest applicable adoption – 2013.

The Department now publishes the proposed regulations for the fourth time as a result of changes made with regard to the most recent comments. This proposed rulemaking is subject to a forty-five (45) day Council review period if the Council does not act earlier to adopt a resolution approving the rules.

Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended by adding a new Chapter 110, AMBULATORY SURGICAL FACILITIES, to read as follows:

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CHAPTER 110 AMBULATORY SURGICAL FACILITIES**11000 GENERAL PROVISIONS**

- 11000.1 This chapter applies to all freestanding ambulatory surgical facilities (“ASF”), but shall exclude freestanding maternity centers and freestanding kidney dialysis centers.
- 11000.2 In the absence of requirements in this chapter or in other applicable regulations, the management and operation of each ASF shall be in accordance with Joint Commission standards, the American Association for Accreditation Association for Ambulatory Health Care and good medical and public health practices, and with the following standards regarding:
- (a) Pharmaceutical services, Title 42 of the Code of Federal Regulations (hereinafter "CFR") § 416.48;
 - (b) Laboratory and radiological services, 42 CFR § 416.49;
 - (c) Infection control, 42 CFR § 416.51;
 - (d) Surgical services, 42 CFR § 416.42;
 - (e) Anesthesia services, 42 CFR § 416.42(a); and
 - (f) Emergency services, 42 CFR § 416.44(c)-(d).
- 11000.3 If an ASF delivers services through a contract with a business that is licensed by another jurisdiction, the ASF shall be responsible for delivery of services in compliance with the laws of the District of Columbia.
- 11000.4 Each ASF shall be licensed and shall comply with the requirements set forth in this Chapter and with those requirements set forth in Chapter 31 of Title 22-B of the District of Columbia Municipal Regulations (“DCMR”), which contains provisions on inspections, licensing and enforcement actions pertaining to ASFs and other facilities authorized under the Act.
- 11000.5 In addition to standards specified in this chapter, an ASF shall comply with:
- (a) Section 9 of the Act (D.C. Official Code § 44-508) with regard to clinical privileges;
 - (b) Applicable federal standards if the ASF is a participant in the Medicare or Medicaid program; and

- (c) Any District of Columbia law that is applicable to the operation of an ASF in the District of Columbia.

11000.6 A license is nontransferable.

11000.7 The following facilities are not required to obtain a license under this chapter: an office of a licensed physician, dentist or podiatrist at which outpatient surgery is not the primary medical service provided; a licensed nursing home; or a licensed hospital.

11000.8 Each ASF shall apply for District of Columbia licensure no later than one hundred and eighty (180) days after the effective date of this chapter.

11000.9 The ASF's license shall be posted in a conspicuous place in the ASF within the public's view.

11000.10 Each facility shall meet the minimum requirements for insurance as appropriate for the number and types of operating suites in the facility and the number and types of services available as determined by the Director.

11000.11 Surgical procedures allowed in licensed ASFs are listed in § 11010 of this chapter.

11001 ADDITIONAL LICENSING PROCEDURES FOR AMBULATORY SURGICAL FACILITIES

11001.1 Any ASF and any applicant to operate an ASF shall:

- (a) Be designated by a distinctive name, which shall not be changed without notifying the Director and receiving approval in writing. Duplication of an existing facility's name is prohibited;
- (b) Be in compliance with all local and federal laws, including the District's Fire and Life Safety Code;
- (c) Submit a written description of the ASF's quality assurance program that meets the requirements of this chapter;
- (d) Provide the following:
- (1) The governing body's bylaws, rules and regulations, or other written organizational plan;
 - (2) The name of the medical director and his or her District of Columbia license number, and license expiration date;

- (3) The number of physicians, dentists, podiatrists, and advance practice registered nurses on staff;
 - (4) Staffing plans for medical, nursing, allied health, and behavioral health services;
 - (5) The name of the nursing director, his or her District of Columbia license number, and license expiration date;
 - (6) The number of surgical suites and recovery rooms; and
 - (7) Written fire and emergency plans and procedures.
- (e) In cases of an ASF applying for first licensure after purchase, and previously licensed under other ownership, the licensure application shall include:
- (1) A signed agreement with the Director to correct any deficiencies listed in the most recent licensure inspection report;
 - (2) A copy of the closing documents, which must include an effective date and the signatures of the buyer and seller; and
 - (3) Evidence of payment of, or arrangement to pay, any money owed to the District by the ASF.

11001.2 There shall be disclosure of ASF ownership as follows:

- (a) If owned by an individual, partnership or trust, the names and ownership percentages of such individuals, partners or trustees must be provided, except that, in the case of a limited partnership, such information shall be provided only for those owning ten percent (10%) or more of the partnership interest and the general partner.
- (b) If owned by a for-profit corporation, the names of all stockholders with more than ten percent (10%) interest shall be disclosed.
- (c) If owned by a not-for-profit corporation, the names of the members and directors of the corporation shall be disclosed.

11001.3 Any changes in or additions to any information in the ownership control document shall be reported to the Director thirty (30) days prior to the change in ownership.

11002 VARIANCES

- 11002.1 The Director may authorize a variance to a specific provision(s) of this chapter.
- 11002.2 A facility may request a variance to a particular standard(s) or requirement(s) contained in a particular provision of this chapter when the standard or requirement poses an undue and impractical hardship unique to the operation of the requesting facility and when a variance to it would not endanger the safety or well-being of patients.
- 11002.3 The request for a variance shall describe how compliance with the applicable standard or requirement constitutes an undue and impractical hardship unique to the operation of the requesting facility.
- 11002.4 The request for variance should be in writing and should include:
- (a) A clear and reasoned description of the hardship and ramifications of compliance with the regulatory standard;
 - (b) Proposed alternative(s), if any, to meet the purpose of the standard or requirement that will ensure the protection and well-being of patients; and
 - (c) A Proposed time for the length of time the variance will be in force.
- 11002.5 The Director shall not accept a request for general variance from compliance with this chapter.
- 11002.6 The Director may rescind or modify a variance if:
- (a) Conditions change and it is determined that the impact on patient safety or well-being changes;
 - (b) Additional information becomes known that alters the basis for the original determination on granting or denying the variance;
 - (c) The facility fails to meet any condition(s) placed on the variance; or
 - (d) The results of the variance jeopardize the safety or well-being of patients.
- 11002.7 A licensee to whom a variance has been granted shall agree that the Director's implementation of Subsection 11002.6 of this chapter is not the basis for a contested case within the meaning of the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat. 1203; D.C. Official Code §§ 2-501 *et seq.*).

- 11002.8 The Director shall notify the facility in writing of the receipt of the request for a variance. The licensee shall be notified in writing of the Director's decision on the variance request.
- 11002.9 If granted, the commissioner may attach conditions to a variance to protect the safety and well-being of patients. The Director may also grant a variation of the request if it is more suitable to the safety and well-being of patients.
- 11002.10 If a variance is denied, expires, or is rescinded, routine enforcement of the standard or requirement to which the variance was granted shall be resumed.

11003 SEPARATE LICENSE

- 11003.1 A separate license shall be required for ASFs maintained on separate premises although operated under the same management. A separate license is not required for separate buildings on the same grounds or within the same complex of buildings.
- 11003.2 A hospital that has a separate ASF that is located outside the grounds of the licensed hospital is required to have a separate license for that facility.

11004 INSPECTIONS AND ACCREDITATION

- 11004.1 The Department shall conduct inspections, surveys and investigations in accordance with the Act and with Chapter 31 of Title 22-B of the District of Columbia Municipal Regulations (22-B DCMR Chapter 31).
- 11004.2 An ambulatory surgical facility may request exemption from inspection or surveys, after having been licensed for at least one year, by submitting to the Department documentation of accreditation by, and the most recent survey from, an approved accrediting body.
- 11004.3 An ambulatory surgical facility that opts to be accredited in lieu of routine license inspection and is certified for federal participation shall comply with 42 CFR § 416.26(a)(2) and 42 CFR § 416.40, which require that federal participants meet licensure requirements in order to maintain certification.
- 11004.4 An ambulatory surgical facility that completes the requirements of Subsection 11003.2 will not be subject to inspections or licensure surveys by the Department except under the following circumstances:
- (a) The ambulatory surgical facility has applied for and has been denied accreditation or has received a provisional accreditation report from the accrediting organization on its most recent survey;

- (b) The ambulatory surgical facility has received full accreditation but has not authorized the release of the accrediting body’s report to the Department, or the Department has not received the accrediting organization's report timely; or
- (c) The Department determines, after receiving a complaint or incident report, that because of the nature or number of allegations of noncompliance, a survey by the Department is required.

11004.5 Accreditation does not limit the Department’s investigation of complaints.

11004.6 Licensees must comply with statutory provisions on inspections and accreditation as set out in the Act at D.C. Official Code § 44-505.

11005 LICENSE ISSUANCE AND FEE

11005.1 No person may establish or operate an ASF without obtaining a license from the Director.

11005.2 The following states the applicable initial license fee based on the number of operating rooms or surgical stations maintained by the ASF:

<u>Number of Operating Rooms/Surgical Suites</u>	<u>Initial Fee</u>
1	\$1500.00
2	\$2000.00
3 or More	\$3500.00

11005.3 Applications for renewal licenses shall be accompanied by the applicable license renewal fee as follows: \$1000 plus \$200 per operating room/surgical suite maintained by the licensee equaling a maximum of \$1600, plus a late fee, if applicable.

<u>Number of Operating Rooms/ Surgical Suites</u>	<u>Renewal Fee</u>	<u>Late Fee</u>
1	\$1200.00	\$120.00
2	\$1400.00	\$140.00
3 or More	\$1600.00	\$160.00

11005.4 Each application for a license or license renewal shall be accompanied by the appropriate license fee.

11005.5 Every license shall state the name and address of the ASF, the number of surgical suites and recovery rooms of the ASF, the period of licensure of the ASF, and the services the ASF provides.

- 11005.6 Each license shall be returned to the Director immediately upon change of ownership or voluntary cessation of services or when the license is suspended or revoked.
- 11005.7 Each license shall be renewed annually in accordance with 22-B DCMR §§ 3104 and 3110.
- 11005.8 An ASF shall submit an application for licensure renewal and the application fee to the Director no later than ninety (90) days before the expiration date of the current license.

11006 ADMINISTRATION AND OPERATION

- 11006.1 The ASF must have a governing body that sets policy and assumes full legal responsibility for the operation of the ASF.
- 11006.2 The responsibilities of the governing body shall include the following:
- (a) Determining the mission, goals, and objectives of the ASF;
 - (b) Ensuring that facilities and personnel are adequate and appropriate to carry out the mission;
 - (c) Establishing an organizational structure and specifying functional relationships among the various components of the ASF;
 - (d) Adopting written bylaws and written policies for the orderly operation, development and management of the ASF;
 - (e) Ensuring that the quality of care is evaluated and that problems are identified and addressed;
 - (f) Reviewing all legal and ethical matters concerning the ASF and its staff and, when necessary, responding appropriately;
 - (g) Maintaining effective communication throughout the ASF;
 - (h) Establishing a system of financial management and accountability that includes an audit appropriate to the ASF;
 - (i) Developing, implementing, and enforcing written policies on the rights of patients;
 - (j) Approving all major contracts or arrangements affecting the medical care provided, including, but not limited to, those concerning:

- (1) The employment of health care practitioners;
 - (2) Effective procedures and agreements with a local hospital for transfer of patients if necessary in an emergency or for care beyond the capability of the ASF;
 - (3) The use of external laboratories;
 - (4) An effective procedure for obtaining emergency laboratory, radiology, and pharmaceutical services if laboratory, X-ray, and pharmacy services are not provided on site; and
 - (5) The provision of education to students and postgraduate trainees if the ASF participates in such programs;
- (k) Formulating long-range plans in accordance with the mission, goals, and objectives of the ASF;
- (l) Assuring that all marketing and advertising concerning the ASF are truthful and do not imply that it provides care or services which it does not or cannot provide;
- (m) Developing a system of risk management appropriate to the ASF including, but not limited to:
- (1) Periodic review of all litigation involving the ASF, its staff, and health care practitioners regarding activities in the ASF;
 - (2) Periodic review of all incidents reported by staff and patients;
 - (3) Review of all deaths, trauma, or adverse reactions occurring on the premises;
 - (4) Evaluation of patient complaints;
- (n) Providing for the initial appointment, reappointment, assignment or the curtailment of privileges and practice for physicians and non-physicians; and
- (o) Developing policies and procedures on reporting unusual incidents to the licensing agency which included events that result in death, wrong-site surgery, accidents, injury drug error, abuse or neglect.

11006.3 An ASF shall have a formal organizational plan with written by-laws, rules and regulations or their equivalent that clearly set forth the organization of the ASF,

and the duties, responsibilities, accountability and relationships of professional staff and other personnel.

- 11006.4 The by-laws, rules and regulations, or their equivalent, shall include at least the following information about the ASF:
- (a) A statement of its purpose, mission and goals;
 - (b) A description of the functions and duties of its governing body;
 - (c) A statement of authority and responsibility delegated to its administrator and medical staff; and
 - (d) Provision of medical staff guidelines for relationships among its governing body, administrator, and medical staff.
- 11006.5 An ASF governing body shall meet at least annually and keep minutes or records as necessary for the orderly conduct of the ASF.
- 11006.6 If an ASF's governing body elects, appoints or employs officers to carry out any of its directives, the authority, responsibility and functions of all such positions shall be clearly defined and maintained in writing.
- 11006.7 The responsibility for the daily administration and management of the ASF shall be vested in an administrator, who shall be appointed by the governing body, and whose qualifications, authority and duties shall be defined in a written statement adopted by the governing body. The administrator's duties shall include:
- (a) Implementing the facility's policies and coordinating the provision of services;
 - (b) Organizing and coordinating administrative functions;
 - (c) Establishing procedures for the accountability of personnel involved in patient care;
 - (d) Training staff on the facility's policies and procedures, and on applicable local and federal law;
 - (e) Participating in the development of organizational and fiscal planning for the ASF;
 - (f) Participating in the development, negotiation and implementation of agreements or contracts to which the ASF is a party;

- (g) Ensuring that all personnel receive orientation and have sufficient experience to perform the duties of the job for which they were hired; and
 - (h) Ensuring that all personnel are licensed or certified as appropriate under District law.
- 11006.8 The administrator, in consultation with other professional staff as necessary, including but not limited to the medical and nursing directors, shall develop and implement policies and procedures governing the operation of the facility.
- 11006.9 The administrator shall ensure that policies and procedures are reviewed by staff at least annually and revised as necessary. The governing body shall approve all policies and procedures and any revisions thereto.
- 11006.10 The ASF is required to develop and implement policies regarding the following:
- (a) Policies that establish the type, scope and delivery of services provided by the ASF either directly or through contractual arrangements;
 - (b) Policies regarding the granting of clinical privileges to physicians, podiatrists, physician assistants and advanced practice registered nurses in accordance with Section 8 of the Act (D.C. Official Code § 44-507);
 - (c) Personnel policies delineating functional responsibility, authority and job descriptions, requirements for appropriate licensure, and the specific responsibilities and privileges of employment;
 - (d) Required methods of communication to be used among personnel to provide for the orderly flow of information;
 - (e) The types of anesthesia that may be used;
 - (f) Admissions and discharge policies, including criteria for evaluating the patient before admission and at discharge, and providing aftercare plans;
 - (g) The protocols for providing surgical and medical care in emergencies;
 - (h) The preoperative testing and postoperative recovery and care;
 - (i) The proper handling of pharmaceuticals;
 - (j) The appropriate transfer and referral of patients who require emergency services or services not provided by the facility;
 - (k) The required written informed consent of the patient prior to any medical procedure;

- (l) The maintenance, disposal and transport of medical waste and pharmaceuticals;
- (m) The maintenance of equipment to ensure proper safety and operation;
- (n) The regulation of the use, removal, handling and storage of any radioactive material;
- (o) The precautions against electrical, mechanical and radiation hazards;
- (p) The safe storage and use of anesthetics and medical gases;
- (q) Patient rights; and
- (r) Infection control.

11006.11 The administrator shall ensure that the written policies and procedures are available at all times for staff inspection and use, and that appropriate personnel implement all policies and procedures as adopted.

11006.12 All written policies and procedures shall be made available to the Director upon request.

11007 PERSONNEL

11007.1 The administrator shall ensure that all personnel:

- (a) Have sufficient documented experience to demonstrate competency to perform assigned duties, and
- (b) Are licensed and certified by all appropriate licensing boards to practice in the District, if required by law;
- (c) Comply with criminal background check requirements (D.C. Official Code § 44-551), and all applicable federal and local employment laws;
- (d) Have malpractice insurance, if applicable;
- (e) Practice in accordance with applicable state and federal law and conform to the standards and ethics of their profession.

11007.2 Each facility shall develop and implement a written policy to address the health and safety of patients and employees. Such policy shall be in compliance with this section and shall include preventative measures for communicable diseases, including tuberculosis. Any health screening shall include a limited medical

history and intradermal tuberculin test; any indicated laboratory work related to a communicable disease shall be performed in accordance with standards and guidelines by the Centers for Disease Control and Prevention.

- 11007.3 Each physician or employee who is licensed by a professional board shall be responsible for being free of communicable disease and any other condition that may threaten the health or safety of the professional, co-workers and patients. Accordingly, each professional staff person shall comply with 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.*).
- 11007.4 Preventative measures as well as testing and frequency of testing for tuberculosis shall be in accordance with standards and guidelines developed by the Centers for Disease Control and Prevention.
- 11007.5 A report, signed by an examining physician or other qualified health professional, shall be made of each examination.
- 11007.6 In lieu of a pre-employment intradermal tuberculin test, which shall be required to test for tuberculosis, the examining physician may accept a written report of the test or x-ray made by a qualified person within twelve (12) months prior to the date of the reexamination.
- 11007.7 Each person who is involved in direct patient care and who has been absent from duty because of an illness required to be reported to the Director in accordance with requirements related to communicable diseases shall, prior to returning to duty, obtain certification from a physician or other qualified health professional, as provided for in the ASF's policies, that he or she may return to duty without apparent danger of transmitting the cause of the illness to any patient.
- 11007.8 A copy of each health certification that is required in this chapter shall be kept on file in each employee's personnel record and made available for examination by the Director.
- 11007.9 Immunization against communicable disease shall be required of all employees and all other persons who routinely come in contact with patients or patient areas. Immunizations shall be in accordance with current standards and guidelines developed by the Centers for Disease Control and Prevention.
- 11007.10 The administrator shall ensure that the ASF has a sufficient number of qualified staff to ensure the safe operation of the ASF in accordance with nationally accepted standards of practice.
- 11007.11 The administrator shall ensure that the ASF has on file job descriptions for all personnel.

- 11007.12 The administrator shall ensure that each employee sign an employment agreement, an offer letter or job description, and maintain copies of each signed document on file. The administrator shall also ensure that a current copy of any required license, or a printout from a professional licensing website, is maintained in each file.
- 11007.13 The ASF shall notify the Director in writing within thirty (30) days of any personnel changes in the medical director, nursing director, or administrator positions.
- 11007.14 The administrator shall ensure that all personnel are provided with orientation and training to familiarize them with the ASF's policies, procedures, and facilities.
- 11007.15 Credentials including education and experience, certifications, licenses, and registrations, shall be reviewed and verified for every person providing medical services.
- 11007.16 Clinical privileges for each such person shall be clearly defined in writing, and a written copy of the clinical privileges for each person shall be kept in each person's personnel file.
- 11007.17 The ASF shall have a formal written credentialing process for physicians, dentists and podiatrists. As part of the credentialing process, the administrator, in consultation with the medical director, shall collect, review and document the following information:
- (a) The physician's, dentist's and podiatrist's education, professional experience, board certifications and post-graduate training;
 - (b) Any licenses or registrations to practice a health occupation;
 - (c) Any suspensions or revocations of any health occupation license;
 - (d) The name of any hospital where any dentist, podiatrist and physician on staff was employed, the number of years worked there, any privileges held, and any disciplinary actions taken or voluntary surrenders;
 - (e) The name of all professional liability insurance carriers for the past five years and documentation regarding the current carrier; current limits on coverage; current types of coverage; and any restrictions on coverage;
 - (f) Any claims made against the dentist, podiatrist, or physician in the last five years, and the status of that claim;

- (g) Reasonable efforts taken by the ASF to identify any physical or mental condition that currently impairs the physician's, dentist's, or podiatrist's ability to exercise privileges; and
 - (h) Any data on the dentist, podiatrist or physician in the National Practitioners Databank.
- 11007.18 The administrator shall establish a procedure for the reappointment of any physician, podiatrist, or dentist at least biannually.
- 11007.19 The performance of any person on staff who provides medical services shall be evaluated at least annually, with regard to the following:
 - (a) The medical service provider's involvement in any complaints against the ASF;
 - (b) Malpractice claims filed against the medical service provider;
 - (c) Adherence to policies, bylaws and procedures; and
 - (d) Any assessments made through the quality assurance program.
- 11007.20 Whenever a licensed health-care professional is terminated as a result of a job-related incident, the ASF shall refer a report of the incident to the appropriate professional health-care board which shall review the report in accordance with 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.*).

11008 MEDICAL SERVICES GENERALLY

- 11008.1 All medical services performed in the ASF shall be limited to those procedures that are approved by the governing body upon the recommendation of qualified medical personnel. Surgical procedures to be performed in the ASF shall be reviewed periodically as part of the peer review portion of the ASF's quality assurance program.
- 11008.2 Medical services shall be supervised by a medical director, who shall be responsible for the quality of medical services, the overall medical care provided by the ASF, and for providing advice and consultation with facility staff on all medical issues relating to the services provided by the facility.
- 11008.3 The medical director shall:
 - (a) Develop written protocols for the management of surgical patients and emergency situations; staffing and supervision of surgery;

- (b) Have all such protocols approved by the governing body;
- (c) Make such protocols available on site at all times for reference;
- (d) Review the protocols at least every two (2) years and revise them as necessary; and
- (e) Obtain approval of revisions by the governing body.

11008.4 At least one physician shall be present at the ASF whenever medical services are provided until all patients have been discharged.

11008.5 Licensed nurses and other personnel assisting in the provision of medical services shall be appropriately trained and supervised and shall be available in sufficient numbers for the medical care provided.

11008.6 No medication or treatment shall be given except on the signed order of a person lawfully authorized to order treatment or medication. Emergency telephone and other verbal orders shall be signed within a reasonable time not to exceed forty-eight (48) hours by the person giving the order or, when such person is not available, cosigned by another physician or other person authorized to give the order.

11008.7 Only physicians and registered nurses shall administer blood and blood products.

11009 SURGICAL SERVICES

11009.1 Each ASF shall provide adequate supervision of all services offered and provided at the facility.

11009.2 Protocols for the implementation of surgical services shall include but not be limited to: personnel, preoperative testing and examinations, surgical procedures, post-anesthesia care and evaluation, discharge planning, emergency care, informed consent, and safety.

11009.3 Surgical procedures shall be performed by a physician, podiatrist or dentist licensed to perform such procedures in the District who has been granted privileges to perform such procedures after review of the practitioner's documented education, training, experience and competence.

11009.4 An appropriate physical history, physical examination, and pertinent preoperative diagnostic studies, including a pre-anesthesia evaluation, shall be incorporated into the patient's medical record prior to surgery.

11009.5 Sufficient time shall be allowed between any examination, testing or studies and any procedure to permit the reporting and review of the exam, testing or studies

by the responsible physicians. Where medical evaluation, examination, and referrals are made from a private physician's office, or another hospital, clinic or medical service, pertinent records therefrom shall be obtained and incorporated into the patient's medical record at the time the patient is admitted to the ASF.

- 11009.6 In an ASF that provides abortion services, documentation of verification of pregnancy and the length of the gestation period shall be the responsibility of the physician performing the abortion procedure.
- 11009.7 If any of the assessments required in Subsection 11007.4 are performed before the day of surgery, a qualified health practitioner shall on the day of surgery reassess and document any change in the patient's clinical status that could have an effect on the surgical procedure to be performed and the anesthesia to be used.
- 11009.8 The necessity or appropriateness of any proposed surgery, as well as the availability of any alternate treatment, shall be discussed with the patient prior to scheduling the patient for surgery.
- 11009.9 A description of the findings and techniques of an operation shall be accurately and thoroughly written up immediately and placed in the patient's medical record or dictated immediately after the procedure by the practitioner who performed the procedure. If the description was dictated, an accurate written summary shall be immediately available to the health care practitioners providing care and become part of the patient's medical record.
- 11009.10 A safe environment for treating surgical patients, including adequate safeguards to protect the patient from cross-infection, shall be provided by the provision of adequate space, equipment and personnel.
- 11009.11 Each patient shall be evaluated for post-operative complications under the direct supervision of a physician.
- 11009.12 Written protocols shall be established for instructing patients in self-care after surgery.

11010 ALLOWABLE SURGICAL PROCEDURES

- 11010.1 Surgical procedures that are generally within the scope of the operation of an ambulatory surgical facility would not include the following procedures that:
- (a) Generally result in extensive blood loss;
 - (b) Require major or prolonged invasion of body cavities;
 - (c) Directly involve major blood vessels;

- (d) Are generally emergent or life-threatening in nature;
- (e) Commonly require systemic thrombolytic therapy; or
- (f) Are designated as requiring inpatient care.

11010.2 In accordance with Section 5(h) of the Act, and with the exception of Subsection 11009.2 of this chapter, this section lists outpatient surgical procedures which, if not performed in a hospital or, when appropriate, a maternity center, may be performed only in a facility licensed as an ambulatory surgical facility.

11010.3 Where a procedure on the list is a service, treatment or examination that is commonly ancillary to a surgical procedure, it may be provided in a licensed ambulatory surgical facility; however, a licensed health care professional or entity that provides such ancillary service(s), treatment(s) or examination(s) is not required to be licensed as an ambulatory surgical facility unless the health care professional or entity is otherwise defined as an ambulatory surgical facility in accordance with Section 11099 of this chapter.

11010.4 Allowable outpatient surgical procedures shall be in accordance with this section and may include procedures wherein the tissue is cut, burned, vaporized, frozen, sutured, probed or manipulated by closed reductions for major dislocations or fractures, or otherwise altered by mechanical, thermal, light-based, electromagnetic, or chemical means.

11010.5 Allowable outpatient surgical procedures in the District are those procedures listed as “Final ASC Covered Surgical Procedures” by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).

11010.6 The list of allowable outpatient surgical procedures is extensive and is updated quarterly at the end of the months of January, April, July and October.

11010.7 The list of allowable outpatient surgical procedures appears on the website of CMS and can be accessed as follows;

- (a) Go to:
<https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ASCPayment/ASC-Regulations-and-Notices-Items/CMS-1656-FC.html>
- (b) Click “Addendum AA”
- (c) Click “Accept” at bottom of page;
- (d) Click “Open”; and

(e) “Final ASC Addendum”.

11010.8 Instructions for access to the website are also published on the D.C. Department of Health (DC Health) website by following the link to “Health Regulation and Licensing Administration”, then “Health Care Facilities”.

11010.9 Any change in format of the website or instruction for accessing the website shall be published on the DC Health website by following the link to “Health Regulation and Licensing Administration”, and then “Health Care Facilities”.

11011 NURSING SERVICES

11011.1 Each ASF shall retain a sufficient number of nurses qualified to provide the nursing services necessary for the type of care the ASF provides in keeping with generally accepted nursing standards of practice.

11011.2 The number and type of nursing personnel, including registered nurses, licensed practical nurses, and supplementary staff, shall be based upon the needs of the patients and types of services performed, and shall be documented in writing in the ASF’s policies and procedures.

11011.3 Nursing services shall be under the direction of a nursing director, who shall be a registered nurse licensed in the District and who shall be responsible for the quality of nursing services.

11011.4 At least one registered nurse with current certification in basic life support shall be on duty at all times when the ASF is in use and whenever a patient is on the premises.

11011.5 There shall be a written plan of administrative authority for all nursing services addressing responsibilities and a written delineation of functions, qualifications, and patient care responsibilities for all categories of nursing personnel.

11011.6 A registered nurse shall assign nursing care of patients to other personnel in accordance with patient needs and the qualifications of available nursing staff.

11011.7 Recovery room nurses shall have specialized training in resuscitation techniques and other emergency procedures consistent with policies and procedures of the ASF for designated special units.

11012 ANESTHESIA SERVICES

11012.1 Anesthesia services provided by the ASF shall be limited to those that are approved by the ASF governing body.

- 11012.2 Anesthesia services shall be provided under the direction of a physician, who is approved by the governing body, licensed in the District of Columbia, and responsible for the supervision of all persons administering anesthesia, the review of all anesthesia complications, and the development and implementation of policies and procedures related to anesthesia care in consultation with medical staff.
- 11012.3 The supervisory physician shall, in conjunction with medical staff, develop written guidelines for the anesthesia service provided by the ASF, which shall be approved, implemented and enforced by the governing body which must take into account the applicable standards and guidelines of the American Society of Anesthesiologists, the American Association of Nurse Anesthetists, The American Academy of Anesthesiologist Assistants and the licensing rules and standards applicable to those categories of licensed professionals qualified to administer anesthesia.
- 11012.4 The following practitioners may administer anesthesia in accordance with their education and training:
- (a) An anesthesiologist;
 - (b) A physician, dentist, podiatrist or an oral surgeon who is qualified under District law and has education, training and experience in the type of anesthesia being administered;
 - (c) A certified registered nurse anesthetist practicing in accordance with rules and regulations promulgated by the D.C. Board of Nursing, 17 DCMR Chapter 57; and
 - (d) An anesthesiologist assistant in accordance with rules promulgated by the District of Columbia Board of Medicine, 17 DCMR Chapter 51.
- 11012.5 Medications for conscious sedation may be administered by a registered nurse in accordance with the requirements set out by the Board of Nursing.
- 11012.6 If anything other than an un-supplemented local anesthetic is needed to accomplish a surgical procedure, the practitioner providing anesthesia shall conduct a pre-anesthesia evaluation and document in the patient's clinical record the anesthetic risk to the patient, but if the assessment was performed prior to the day of surgery, a qualified health professional shall on the day of surgery reassess and document any changes in the patient's clinical status that could have an effect on the surgical procedure to be performed and the anesthesia to be used.
- 11012.7 The person administering the anesthesia shall ensure that the patient's condition is documented during the procedure, at recovery, and at discharge, and such documentation shall be incorporated into the patient's clinical record.

- 11012.8 Patients who have received anesthesia shall be evaluated for proper recovery by the operating surgeon or other practitioner who administered the anesthesia prior to discharge.
- 11012.9 Before discharge from the ASF, each patient shall be evaluated by a physician or anesthesiologist for proper anesthesia recovery.
- 11012.10 Patients shall be discharged in the company of a responsible adult, except when the attending physician otherwise exempts a patient from this requirement. The exemption shall be documented in writing and shall be part of the patient's clinical record and discharge planning.
- 11012.11 Emergency equipment and supplies appropriate for the type of anesthesia services provided shall be properly maintained and made easily accessible to staff at all times.
- 11012.12 Functioning equipment and supplies which are required for each ASF shall include:
- (a) Suctioning equipment, including a source of suction and suction catheters in appropriate sizes for the population being served;
 - (b) A source of compressed gases;
 - (c) Basic airway management equipment, including oral and nasal airways, face masks and self-inflating breathing bag valve sets;
 - (d) Vital signs blood pressure monitoring equipment; and
 - (e) Emergency medications specified by the medical staff and appropriate to the type of surgical procedures and anesthesia services provided by the ASF.
- 11012.13 In addition to the equipment and supplies required above, each ASF that provides moderate sedation/analgesia, deep sedation/analgesia, regional analgesia and/or general anesthesia shall provide the following:
- (a) Intravenous equipment, including catheters, tubing, fluids, dressing supplies, and appropriately sized needles and syringes;
 - (b) Advanced airway management equipment, including laryngoscopes and an assortment of blades, endotracheal tubes and stylets in appropriate sizes for the population being served;
 - (c) A mechanism for monitoring blood oxygenation, such as pulse oximetry;

- (d) Electrocardiographic monitoring equipment;
- (e) A cardioverter-defibrillator; and
- (f) Pharmacologic antagonists as specified by the medical staff and appropriate to the type of anesthesia services provided.

11012.14 There shall be written procedures on site, approved by the physician identified in Subsection 11012.2, for the safe storage and use of inhalation anesthetics and medical gases.

11013 PHARMACEUTICAL SERVICES

11013.1 The ASF shall provide drugs and biologics in a safe and effective manner in accordance with professional practices and in compliance with all District and federal laws and regulations. The ASF shall be licensed as required by the Pharmaceutical Control Division of the Health Regulation and Licensing Administration, and shall comply with all applicable pharmaceutical services regulations.

11013.2 The medical director or his or her licensed designee shall be responsible for the provision of pharmaceutical services in compliance with applicable District of Columbia and federal regulations.

11013.3 Pharmaceutical services may be made available by the ASF through a contractual agreement that requires services be provided in accordance with the same ethical and professional practices and legal requirements that would be required if the ASF were providing the service.

11013.4 Each ASF shall obtain a criminal record check in accordance with 22-B DCMR Chapter 47 for any compensated employee not licensed by the Board of Pharmacy whose job it is to provide access to controlled substances within the ASF.

11013.5 Drugs shall only be provided under the direction of an authorized prescriber.

11013.6 Staff shall prepare and administer drugs in accordance with ASF policies and procedures and acceptable standards of practice.

11013.7 Adverse reactions to drugs shall be reported immediately to the patient's health care practitioner and documented in the patient's medical record.

11013.8 In accordance with Subsection 11008.6, any oral drug order from a practitioner shall be immediately reduced to writing and signed by an authorized practitioner prescriber within forty-eight (48) hours and shall provide the following:

- (a) The full name of the prescriber;
- (b) The date and time of the order;
- (c) The full name and strength of the drug, directions for use; and
- (d) The name of the practitioner who received the verbal order.

11013.9 Each ASF providing pharmaceutical services shall comply with the following requirements:

- (a) Drugs shall be obtained from suppliers licensed or registered as required by federal and District law;
- (b) A current and complete list of all medications in inventory shall be maintained by the ASF;
- (c) All areas where drugs are stored shall be dry, well lighted, well ventilated, maintained at a temperature safe for the storage of drugs as specified by the United States Pharmacopoeia/National Formulary (USP/NF) or the United States Food and Drug Administration (USFDA) and maintained in a clean and orderly condition;
- (d) Drug storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their use as stipulated by the United States Pharmacopoeia/National Formulary (USP/NF) and/or the manufacturer's or distributor's labeling unless otherwise indicated by the Pharmaceutical Control Division;
- (e) Each ASF shall provide refrigeration facilities exclusively for the storage of drugs requiring cold storage with a thermometer controlling the interior temperature to keep it maintained between thirty-six degrees Fahrenheit (36°F) and forty-six degrees Fahrenheit (46°F);
- (f) The drug storage area shall be separately enclosed and secured, or shall be located within a decentralized automated medication system (as defined at 22-B DCMR § 1999) in such a manner as to prevent diversion and unauthorized access;
- (g) Access to the drug storage area shall be limited to persons who require entry for the purpose of discharging a job-related duty and to persons legally entitled to engage in inspection, enforcement or other regulatory duty;
- (h) Medications shall not be kept or displayed in an area that is accessible to the public;

- (i) Each ASF shall maintain current drug information reference sources consistent with the scope of practice at the location of the ASF;
- (j) Each ASF shall define procedures for proper management of drug recalls which may include, where appropriate, contacting patients to whom the recalled drug product(s) has been dispensed;
- (k) Each ASF shall ensure that discontinued and outdated drugs, and containers with worn, illegible or missing labels are maintained separately from current drug stock;
- (l) Each ASF shall develop and implement policies and procedures for disposal of drugs that is in compliance with District and Federal laws;
- (m) Medications designated as high alert medications as defined by standard setting bodies, such as Joint Commission and the Institute for Safe Medication Practices, shall be stored, handled and administered with precautions and safeguards consistent with the standards of practice associated with these medications;
- (n) Medications in multi-use vials shall base beyond-use dating on the stability information available from the manufacturer or other published studies using the same pharmaceutical contents. In the absence of stability information, the beyond-use date can be determined as follows:
 - (1) For non-aqueous liquids and solids made using commercially manufactured products, the beyond-use date shall be no greater than twenty-five percent (25%) of the time remaining on the commercial product or a maximum of six months, whichever is less;
 - (2) For aqueous solutions made from solids obtained from commercially manufactured drug products, the beyond-use date is fourteen (14) days when stored at a cold temperature; and
 - (3) For all other formulations, the beyond-use date is not later than the intended duration of therapy or thirty (30) days, whichever is earlier.

11013.10 ASFs providing pharmaceutical services shall comply with the following with respect to controlled substances:

- (a) Controlled substances shall be ordered by the federal Drug Enforcement Agency (DEA) registrant or licensed person noted on a delegation of authority;

- (b) Only designated, licensed health care persons who are authorized by written facility policy to handle controlled substances shall have access to controlled substances;
- (c) Schedule II controlled substances shall be ordered using a DEA-222 form or electronic equivalent;
- (d) Upon receipt of Schedule II Controlled Substances, the DEA 222 form must be properly executed to reflect the date and quantity of the substance and it must be initialed by the receiver;
- (e) Invoices for controlled substances shall be filed separately from other invoices, shall be readily retrievable and maintained for five (5) years;
- (f) A separate double locked cabinet, a permanently affixed compartment box or drawer within a locked cabinet, or a decentralized automated medication system (as defined at 22-B DCMR § 1999) shall be used for the storage of each substance that is controlled by the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-901.02 *et seq.*), and for other drugs subject to abuse;
- (g) A perpetual inventory of all controlled substances shall be completed daily and must be signed by a person authorized to handle the controlled substances. The perpetual inventory must be documented in a separately maintained log book or similar recordkeeping instrument;
- (h) Any discrepancies in inventory must be reconciled immediately;
- (i) A complete inventory of controlled substances must be taken at a minimum of every (2) two years. This inventory shall be identified as the biennial inventory, shall be signed and dated by the authorized handler, and shall indicate the time when the inventory was taken;
- (j) All thefts, losses and unusual occurrences must be reported to the Pharmaceutical Control Division within forty-eight (48) hours of discovery;
- (k) A DEA Theft/Loss Report (Form 106) must be completed in the event of theft or loss of a controlled substance and a copy of the Form 106 must be filed with the DEA and the Pharmaceutical Control Division;
- (l) Controlled substances records must be maintained for five (5) years, with the most recent two (2) years maintained on the premises and the last three (3) years kept off-site and retrievable within three (3) business days; and

(m) Controlled substance disposal shall be handled in accordance with District and Federal Pharmaceutical Waste Disposal laws and regulations.

11013.11 An ASF shall maintain a complete and accurate record of all drugs received, administered or otherwise disposed of, for a period of five (5) years; the most recent two (2) years of records shall be maintained on site and the remaining three (3) years of records may be maintained off site as long as the records can be retrieved within three (3) business days of a request.

11013.12 An ASF shall develop, maintain and implement procedures set forth in a policy and procedure manual for pharmaceutical services that will be reviewed annually.

11013.13 The medical director or designee shall inspect any areas where medications are stored and maintained quarterly and make appropriate written records and notations of those inspections as part of a Quality Assurance Program.

11014 RADIOLOGY AND X-RAY SERVICES

11014.1 Radiology and x-ray services shall be provided and made available when appropriate to meet the needs of the patients to adequately support the ASF's clinical capabilities.

11014.2 Radiological and x-ray services may be obtained by the ASF through a contractual agreement as long as the parties to the contract are bound by the same ethical and professional practices and legal requirements that would be required of the ASF if it were providing the service.

11014.3 A radiologist shall authenticate all examination reports, except reports of specific procedures that may be authenticated by physicians who have been granted privileges by the governing body or its designee to authenticate such reports and all reports shall be made a part of the patient's medical record.

11014.4 Radiology and x-ray services shall be provided only upon the written order of a physician, dentist, advanced practice registered nurse or other authorized healthcare practitioner (such orders must be accompanied by a concise statement of the reason for the service).

11014.5 The ASF shall limit the use of any radioactive sources to physicians who have been granted privileges for such use on the basis of their training, experience and current competence.

11014.6 Radiographic equipment shall be licensed in accordance with applicable federal and local requirements.

11014.7 The ASF shall develop and implement safety programs, requirements for education, credentialing and training of personnel, and a requirement that all personnel working with radiographic equipment be adequately trained in the safety and use of all equipment.

11015 PATHOLOGY AND CLINICAL LABORATORY SERVICE

11015.1 Laboratory facilities shall be approved under the Clinical Laboratory Act of 1988, effective March 16, 1989 (D.C. Law 7-182; D.C. Official Code §§ 44-201 *et seq.*) (CLIA), and any other federal or local laws as applicable.

11015.2 Pathology and clinical laboratory services shall be provided as follows:

- (a) By limiting laboratory procedures to those that are appropriate to the needs of the patients;
- (b) By performing tests in a timely manner;
- (c) By distributing routine and non-critical test results within twenty-four (24) hours after completion of a test and maintaining a copy of the results in the laboratory; and
- (d) By performing and documenting appropriate quality assurance procedures, including but not limited to, instrument maintenance and quality control testing, and validating test results through use of standardized control specimens or laboratories.

11015.3 Preoperative laboratory procedures shall be provided as follows:

- (a) At the discretion of the Medical Director or the governing body in accordance with preoperative laboratory orders by the medical staff;
- (b) Any discretion exercised shall be consistent with standard medical practice; and
- (c) Upon the order of a physician, podiatrist, dentist, or advanced practice registered nurse and written on the patient's chart.

11015.4 Clinical or laboratory services shall be provided either directly by the ASF or through a contract arrangement with a reference laboratory.

11015.5 The contractual agreement with the reference laboratory shall provide for routine and stat work including pathology, clinical, and blood bank services, if blood is authorized by the ASF, and shall be available for review.

- 11015.6 The patient may be instructed to go directly to the reference laboratory, or the specimen may be collected on the ambulatory surgical center's premises and then the patient may be referred to the Medicare-approved reference laboratory.
- 11015.7 For laboratory tests not performed on the premises the following shall be maintained and shall be readily available for inspection during the retention period:
- (a) Procedures and policies governing the approved reference laboratory specimen requirements; identification, collection, labeling, storage, and transportation of the specimen, and preventive maintenance of equipment used in processing and storage of specimen; and
 - (b) A log book or electronic documentation which shall include patient name and identification number, doctor's name, date the specimen was drawn and sent to the Medicare-approved reference laboratory, laboratory tests ordered, date the final report came back from the reference laboratory, and condition of the specimen.
- 11015.8 The final report on laboratory tests shall be in the patient's chart, with copies kept in the ASF's laboratory.
- 11015.9 For laboratory tests performed on the premises, the following shall be maintained:
- (a) Procedures governing identification, collection, labeling, and storage of specimens;
 - (b) A log book, which shall include patient name and identification number, practitioner's name, date the specimen was drawn, tests ordered, and results;
 - (c) Procedures for each test performed by the laboratory, including source of reagents, standards, and calibration procedures, and information concerning the basis for the tested normal ranges;
 - (d) Procedures and documentation of performed maintenance on equipment used to process laboratory work;
 - (e) Dated reports of all examinations performed and made a part of the patient's medical record; and
 - (f) Proficiency testing as appropriate for the type of testing performed.
- 11015.10 Quality control of the laboratory, contract services of a reference laboratory and the complete analytic process for each test performed shall be monitored through the quality assurance committee.

- 11015.11 The ASF may allow laboratory work to be performed and brought in from other CLIA-certified laboratories or practitioners' offices, and reports from such laboratories or practitioners shall be included in the patient's charts before surgery.
- 11015.12 The medical staff shall develop, and the governing body shall approve, written criteria describing the length of time tests may be performed prior to surgery.
- 11015.13 Laboratory work shall be performed in a reference laboratory or in the patient's healthcare practitioner's office as specified in written ASF policy.
- 11015.14 If the ASF performs surgery which incorporates the removal of a tissue specimen or the freezing of a tissue specimen, the specimen shall be submitted to a reference laboratory.
- 11015.15 Pathology tissue reports and positive cytology reports shall have the authorized signature of the pathologist interpreting the report.

11016 MEDICAL WASTE AND HANDLING OF TISSUE

- 11016.1 Each ASF shall dispose of medical waste in accordance with Section 3 of the Illegal Dumping Enforcement Act of 1994, effective May 20, 1994 (D.C. Law 10-117; D.C. Official Code § 8-902).
- 11016.2 Each ASF shall maintain and store tissue and waste in accordance with its Patient Safety Program as required by Section 11019 of this chapter.

11017 DISCHARGES

- 11017.1 Each ASF shall have a program to provide discharge planning to patients.
- 11017.2 Discharge planning shall include the following:
- (a) A system for timely evaluation of any discharge planning needs of patients;
 - (b) Identification of staff responsible for the program;
 - (c) Development of a discharge plan, including medication review, with the patient or representative when a need is identified;
 - (d) Provision of documentation regarding follow-up care, medication review with the patient or representative, and whether the patient must be discharged with an escort;
 - (e) Contact information in the event of an emergency or complications; and

- (f) Maintenance of a complete and accurate list of community-based services, resources and facilities to which patients can be referred.

11018 PATIENT RIGHTS

- 11018.1 The ASF shall have written protocols for ensuring patient rights.
- 11018.2 Patients shall be treated with respect, consideration and dignity.
- 11018.3 Patients shall be provided with adequate privacy.
- 11018.4 Patient records shall be treated confidentially and shall be released only with consent of the patient or designee or as permitted by law.
- 11018.5 Patients shall be provided known appropriate information concerning their diagnosis, treatment and prognosis. When it is medically inadvisable to provide such information to the patient, the information shall be provided to an authorized representative.
- 11018.6 Patients have the right to participate in decisions involving their health care, except when such participation is contraindicated for medical reasons.
- 11018.7 Patients shall have the right to refuse to participate in experimental research.
- 11018.8 Information shall be available to patients and staff concerning:
 - (a) Patient rights;
 - (b) Patient's conduct and responsibilities;
 - (c) Services provided at the ASF;
 - (d) Provisions for after-hours and emergency care;
 - (e) Fees for services;
 - (f) Payment policies;
 - (g) Patients' right to refuse to participate in experimental research; and
 - (h) Grievance procedures.
- 11018.9 Each Patient shall be given a written copy of his or her rights and responsibilities prior to or upon admission to the ASF.

11018.10 Patients shall be entitled to copies of their records upon request within ten (10) business days of the request.

11018.11 The ASF may charge a reasonable fee for the copying of records.

11019 PATIENT SAFETY GOALS

11019.1 Each ASF shall have a Patient Safety Program that shall ensure that the ASF complies with the National Patient Safety Goals published by the American Association for Accreditation of Ambulatory Surgical Facilities, the Accreditation Association for Ambulatory Health Care, the Joint Commission on Accreditation of Healthcare Organizations or another accrediting body for ambulatory surgical facilities which is approved by the Director.

11019.2 The ASF must develop, adopt and implement an effective, on-going Patient Safety Program.

11019.3 A description of the Patient Safety Program must be in writing, approved by the governing body and made available for review by the Director.

11019.4 A description of the Patient Safety Program must include the following components:

- (a) The definition of medical errors, and adverse and reportable events;
- (b) The process for internal reporting of medical errors and adverse and reportable events;
- (c) A list of events and occurrences which staff are required to report internally;
- (d) Time frames for internal reporting of errors and events;
- (e) Consequences for failing to report events;
- (f) Mechanisms for preservation and collection of data;
- (g) The process for conducting and completing an investigation to determine the cause of the event;
- (h) The requirement for development of an action plan within forty-five (45) days of the event or error, designed to reduce the risk of events or errors in the future;
- (i) The process for communication of action plans; and

(j) The process for feedback to staff of root cause analyses and action plans.

11019.5 The ASF must make the root cause analysis and action plan available to the Director for review.

11019.6 The ASF must provide patient education and training to staff.

11019.7 Training must be provided on all components of the Patient Safety Program.

11019.8 The ASF must designate one or more individuals to be responsible for the management of the Patient Safety Program.

11020 QUALITY ASSURANCE PROGRAM

11020.1 The administrator shall ensure that the facility develops and maintains a quality assurance program.

11020.2 A quality assurance program shall include the following:

(a) Identification and selection of appropriate staff and concomitant responsibilities for the program;

(b) Ongoing review of clinical responsibilities and authority;

(c) Peer review and supervision of all professional and technical activities;

(d) Monitoring and evaluation of the Patient Safety Program;

(e) Maintenance of medical records; and

(f) Quality controls for all diagnostic and other technical services provided.

11020.3 The professional and administrative staff shall understand and support the quality assurance program.

11020.4 Quality assurance activities shall be conducted by a Quality Assurance Committee, which is composed of members of the specific clinical disciplines within the ASF. The committee shall meet not less than quarterly.

11020.5 The ASF shall have a peer review process that shall include a mechanism to evaluate the clinical performance of each health care practitioner on a continuous basis, but not less than annually, and a written annual evaluation of each health care practitioner.

11020.6 The administrator shall ensure that the ASF develop a quality control procedure to monitor the safety and performance of all biomedical equipment consistent with

Food and Drug Administration recommendations and the equipment manufacturer's recommendations.

11020.7 A written description of the ASF's quality assurance program shall be submitted with the initial application for licensure.

11020.8 The facility shall submit any changes to its quality assurance program at the time of renewal.

11021 EMERGENCY CARE

11021.1 Each employee shall be trained in emergency procedures, disaster plans and fire evacuation plans and credentialed in cardiopulmonary resuscitation.

11021.2 Each ASF shall maintain the ability to provide emergency services as necessary.

11021.3 An ASF shall have, at a minimum, the following equipment available in the operating rooms:

- (a) An emergency call system;
- (b) Oxygen;
- (c) Mechanical ventilator assistance, including airways;
- (d) Manual breathing bags and ventilator;
- (e) Cardiac defibrillator;
- (f) Cardiac monitoring equipment;
- (g) Tracheostomy set;
- (h) Laryngoscopes and endotracheal tubes;
- (i) Suction equipment; and
- (j) Any other equipment and supplies specified by the medical director.

11021.4 Each ASF shall execute a written agreement with an ambulance service which ensures emergency transportation to a licensed general hospital.

11021.5 Each ASF shall execute a written agreement with a general hospital, no further than fifteen (15) minutes away, to ensure that any patient of the ASF shall receive needed emergency treatment.

11021.6 The written agreement shall be with a hospital capable of providing full surgical, anesthesia, clinical laboratory, and diagnostic radiology service on fifteen (15) minutes' notice and with a physician in the hospital available for emergency service at all times.

11021.7 Each ASF shall have written plans and procedures for emergency transfers, including a mechanism for notifying a hospital of a pending emergency transfer and a procedure for transferring any medical records.

11022 MEDICAL RECORDS

11022.1 The ASF shall maintain a complete, comprehensive and accurate medical record for each patient, and develop and maintain a system for the collection, processing, maintenance, storage, retrieval and distribution of patient medical records.

11022.2 The record or chart shall contain sufficient information to identify the patient, the diagnosis, any need for medical or surgical service.

11022.3 The record shall, as applicable, include the following:

- (a) Patient identification;
- (b) Admitting information, including patient history and results of physical examinations;
- (c) Signed consents;
- (d) Confirmation of pregnancy, if applicable;
- (e) Preoperative diagnostic studies (if any);
- (f) Allergies;
- (g) Physician orders;
- (h) Laboratory tests and results;
- (i) Anesthesia records;
- (j) Operative records;
- (k) Medications and treatments;
- (l) Recovery room notes;
- (m) Physician and nurse progress notes;

- (n) Condition at the time of discharge;
 - (o) Patient instructions;
 - (p) Names of referral physicians or agencies;
 - (q) Discharge instructions; and
 - (r) Emergency contact numbers provided to patients.
- 11022.4 All relevant patient information shall be incorporated into the chart in a timely manner.
- 11022.5 Medical advice given to a patient by telephone shall be entered into a patient's record and signed by the person giving the advice.
- 11022.6 The content and format of medical records shall be uniform, except as otherwise required by law.
- 11022.7 All clinical information relevant to a patient shall be made available to all practitioners involved in the care of that patient.
- 11022.8 Entries shall be legible to clinical personnel and shall be accurate and completed promptly.
- 11022.9 When necessary for patient care, summaries or photocopies of the records of a patient who was treated elsewhere shall be obtained.
- 11022.10 All final tissue and abnormal cytology reports shall be signed by a pathologist.
- 11022.11 The ASF shall send a copy of the medical record with the patient upon referral to another health care provider or upon transfer to a hospital.
- 11022.12 Provisions shall be made for the safe storage of medical records or accurate and legible productions thereof.
- 11022.13 Storage of medical records shall be in compliance with the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (110 Stat. 2021; 42 USC §§ 1320d *et seq.*).
- 11022.14 All medical records shall be kept for a minimum of five (5) years.
- 11022.15 Records of minor patients shall be kept for five (5) years after the patient reaches the age of eighteen (18).

11023 PHYSICAL ENVIRONMENT

- 11023.1 The ASF shall meet all applicable guidelines of the Building Officials and Code Administrators, and all federal and local laws, ordinances and regulations for construction.
- 11023.2 The ASF shall meet all safety requirements of the National Fire Protection Association (NFPA) 101 “Life Safety Code 2012” and any subsequent revision.
- 11023.3 Each operating room shall be designed and equipped so that the types of services provided can be performed in a manner that protects the lives and assures the physical safety of all persons in the area.
- 11023.4 Treatment rooms, including operating rooms, shall have a minimum clear floor area sufficient to permit removal of a patient by stretcher.
- 11023.5 A safe environment for treating patients, including adequate safeguards to protect each patient from cross-infection, shall be assured through the provision of adequate space, equipment and personnel.
- 11023.6 Provisions shall be made for the isolation or immediate transfer of persons with communicable diseases.
- 11023.7 All persons entering the operating room shall be properly attired.
- 11023.8 Acceptable aseptic techniques shall be used by all persons in the surgical area.
- 11023.9 Only authorized personnel shall be allowed in the surgical area.
- 11023.10 The ASF shall maintain suitable equipment for high-speed and routine sterilization that ensures that operating room materials are sterile.
- 11023.11 Performance records for all sterilizers shall be maintained for six (6) months.
- 11023.12 Operating rooms shall be appropriately cleaned before, during and after each operation.
- 11023.13 Illumination at the examination tables and in the surgical areas shall provide at least one hundred (100) foot candles of light.
- 11023.14 Emergency power adequate for the types of surgery performed shall be available in the operative and post-operative areas in accordance with NFPA 99, NFPA 101 and NFPA 110 or the most recent applicable safety standards.
- 11023.15 All parts of the ASF and its premises shall be kept clean and neat and free of litter and rubbish.

- 11023.16 Hazardous cleaning solutions, compounds and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other materials.
- 11023.17 Adequate space shall be provided for accumulated waste.
- 11023.18 Waste, including all contaminated sharps, dressings or similar infectious waste, shall be disposed of in a manner compliant with the Occupational Safety and Health Administration and Centers for Disease Control guidelines.
- 11023.19 Each ASF shall make provisions for the cleaning of all linens in accordance with Centers for Disease Control and Prevention Guidelines on Healthcare-associated Infections.
- 11023.20 There shall be separate areas for the storage and handling of clean and soiled linens.
- 11023.21 All soiled linens shall be placed in closed containers prior to transportation.
- 11023.22 Adequate provisions shall be maintained for the processing, sterilizing, storing and dispensing of clean and sterile supplies and equipment.
- 11023.23 Written procedures shall be established for the appropriate disposal of pathological and other potentially infectious waste and supplies.
- 11023.24 The ASF shall comply with all guidelines for infection control promulgated by the Association for Professionals in Infection Control and Epidemiology, Inc.
- 11023.25 The ASF shall ensure that all medical equipment operates in accordance with the manufacturer's standards, and shall perform preventative maintenance in accordance with the manufacturer's recommendations and generally accepted standards.
- 11023.26 All medical equipment shall be periodically tested as appropriate to ensure proper functioning.
- 11023.27 Maintenance records for medical equipment shall be maintained by the ASF for at least three (3) years.

11024 DIETARY SERVICE

- 11024.1 If the program calls for dietary service, serving of snacks or other food, adequate space, equipment, and supplies shall be provided.
- 11024.2 Applicable local laws pertaining to the receipt, storage, refrigeration, preparation, and serving of food shall be followed.

11024.3 Any food service offered or provided to patients of the ASF shall be in accordance with the District of Columbia laws and regulations on food, Title 25 DCMR, Subtitles A and B.

11025 CONSTRUCTION

11025.1 All ASFs shall be designed, constructed, and maintained in a manner that is safe, clean, and functional for the type of care and treatment to be provided.

11025.2 New construction and renovations shall comply with the following codes and guidelines to provide a safe and accessible environment that is conducive to the care and treatment to be provided:

- (a) Building Officials and Code Administrators (BOCA);
- (b) National Fire Protection Association, Life Safety Code;
- (c) National Fire Protection Association 99, Health Care Facilities;
- (d) American Institute for Architects (AIA) Guidelines for Design and Construction of Hospitals and Health Care Facilities;
- (e) National Electrical Code; and
- (f) Uniform Federal Accessibility Standards.

11026 INCIDENT REPORTS

11026.1 Each facility shall maintain and keep for three (3) years from the date of occurrence, a summary and analysis of each unusual incident that occurs within the facility, on the premises, and concerning a patient, visitor or employee of the facility.

11026.2 A summary and analysis of each incident shall be completed immediately and reviewed within forty-eight (48) hours of the incident by the Medical Director or the Director of Nursing.

11026.3 The incident report shall include the following:

- (a) The date, time and a description of the incident;
- (b) The name of all witnesses;
- (c) A statement of the victim;
- (d) A statement indicating whether there is a pattern of occurrence; and

(e) A description of the corrective action taken.

11026.4 Summaries and analyses of incidents shall be reviewed at least monthly by the administrator or designee in order to identify and correct health and safety hazards and patterns of occurrence.

11026.5 Each incident shall be documented in the patient's records and reported to the Director within two (2) business days of occurrence, except that an incident or accident that results in harm to a patient shall be reported within twenty-four (24) business hours of occurrence.

11027 GRIEVANCE PROCEDURES

11027.1 Each ASF shall develop written procedures that assure prompt and complete investigations of all grievances that are filed against any ASF staff.

11027.2 Grievance procedures shall be made available to the Director upon request.

11027.3 Each ASF's procedures shall include, at a minimum, a requirement that a senior staff person investigate grievances, the establishment of a reporting procedure so that the senior staff person receives the grievance within twenty-four (24) hours, and a written process for investigation.

11027.4 Each ASF shall maintain a grievance file that includes the original report of the complaint, the investigation process and any findings of the investigation, the outcome of the investigation, and any actions taken.

11027.5 The grievance file shall be available for inspection by the Director.

11027.6 If the Director receives a grievance regarding patient care or safety, the Director may inspect the ASF at any time.

11027.7 If the Director receives a grievance regarding the performance of a health care practitioner or standards of practice, the Director shall refer the grievance to the board that licenses or certifies the practitioner.

11027.8 The Director shall conduct investigations of complaints in accordance with 22-B DCMR Chapter 31.

11028 EVACUATION PLAN

11028.1 Each ASF shall develop a written evacuation plan to assure reasonable precautions are taken to protect patients, employees and visitors from fire and other disasters.

11028.2 The evacuation plan shall provide a program to familiarize personnel with evacuation procedures.

11028.3 The evacuation plan shall be available to the Director upon request.

11099 DEFINITIONS

11099.1

Act - The Health-Care and Community Residence Facility Hospice Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*).

Administrator - A person who is a physician or a registered nurse, and has a baccalaureate or postgraduate degree in administration or a health-related field, or has at least three (3) years of administrative experience in a health care setting.

Advanced Practice Registered Nurse - An individual licensed by the D.C. Board of Nursing and authorized to practice as an advanced practice registered nurse in the District of Columbia.

Anesthesiologist Assistant - a person licensed to practice as an anesthesiologist assistant 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.*).

ASF (Ambulatory Surgical Facility) - In addition to and in accordance with D.C. Official Code § 44-501(a)(8), a facility, other than a hospital or maternity center, including an office-based facility, which has as its primary practice outpatient surgery and related procedures on patients for whom a planned stay would not exceed twenty-four (24) hours following an admission.

Certified registered nurse anesthetist (CRNA) - A registered nurse who has current certification from the Council on Certification of Nurse Anesthetists and who is currently authorized to practice as an advanced practice registered nurse by the District of Columbia Board of Nursing.

Dentist - A person who is currently licensed under the laws of the District of Columbia to practice dentistry.

Director - The Director of the Department of Health and his or her designee.

Direct supervision - Supervision in which the supervisor is immediately available on the premises and within vocal communication either directly or by a communication device.

Freestanding - Independent and not part of or affiliated with an existing hospital, maternity center or other health care facility licensed in accordance with the Act.

Governing body - The entity that is designated full responsibility for determining, implementing, and monitoring policies governing the operation of the ASF's.

Healthcare practitioner - Anyone who provides medical services at the ASF and is authorized to do so by 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.*).

Incident (reportable) - an unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof.

Licensed practical nurse - A person who is currently licensed by the D.C. Board of Nursing as a licensed vocational nurse.

Medical services - The diagnoses or treatment of any patient for a medical condition. Medical services shall include but not be limited to surgical services.

Professional board – an agency of the District of Columbia authorized by 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.*) to license and regulate health care professionals.

Reference laboratory - A Medicare-enrolled laboratory that receives a specimen from another, referring laboratory for testing and that actually performs the test.

Registered nurse (RN) - A person who is currently licensed by the D.C. Board of Nursing as a registered nurse.

Outpatient - Any patient who remains in an ASF less than twenty-four (24) hours after admission.

Physician - An individual licensed by the D.C. Medical Board and authorized to practice medicine in the District of Columbia.

Podiatrist - An individual licensed by the D.C. Medical Board and authorized to practice podiatry in the District of Columbia.

Physician's Assistant - An individual licensed by the D.C. Medical Board and authorized to practice as a physician's assistant in the District of Columbia.

Surgery - In accordance with the American College of Surgeons: (1) the structural altering of the human body by the incision or destruction of tissues; (2) the diagnostic or therapeutic treatment of conditions or disease processes by any instruments causing localized alteration or transposition of live human tissue which include lasers, ultrasound, ionizing radiation, scalpels, probes, and needles; or (3) the injection of diagnostic or therapeutic substances into body cavities, internal organs, joints, sensory organs, and the central nervous system.

Unusual incident - An unexpected occurrence or accident resulting in death, life-threatening or serious injury, or the risk thereof, to a patient, visitor or employee of the facility. An unusual incident includes, but is not limited to, an incident resulting in the abuse of a patient, wrong-site, accidents, injuries, drug errors, abuse, and neglect.

Comments on this proposed rulemaking should be submitted, in writing, to (1) Sharon Williams Lewis DHA, RN-BC, CPM, Senior Deputy Director, Health Regulation and Licensing Administration, Department of Health, at 899 North Capitol Street, N.E., 2nd Floor, Washington, D.C. 20002 (email: Sharon.Lewis@dc.gov) and (2) Phillip Husband, General Counsel, Department of Health, 899 North Capitol Street, N.E. 6th Floor, Washington, D.C. 20002 (email: Phillip.Husband@dc.gov) within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of this rulemaking are available at Office of the General Counsel, Department of Health, 899 North Capitol Street, N.E. 6th Floor, Washington, D.C. 20002.

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

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, Sections 404(a) and 801(a) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-604.04(a) and 1-608.01(a) (2016 Repl.)), hereby gives notice of the intent to adopt the following amendment to Chapter 8 (Career Service) of Title 6 (Personnel), Subtitle B (Government Personnel), of the District of Columbia Municipal Regulations (DCMR), in no less than thirty (30) days after publications of this notice in the *D.C. Register*.

The proposed rule would amend Subsection 876.2 of Title 6-B DCMR Chapter 8. The changes to this rule would enable more Fire and Emergency Medical Services Department (FEMS) employees to meet the time-in-rank requirements to take the Sergeant, Lieutenant, and Captain promotional examinations. This would allow FEMS to modernize their recruitment and retention practices by providing additional opportunities for employee advancement. These changes would give flexibility to the agency by broadening the time-in-rank requirements for employees wishing to take the Sergeant, Lieutenant, and Captain promotional examinations.

Chapter 8, CAREER SERVICE, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:

Subsection 876.2 of Section 876, PROCESSING CANDIDATES FOR FIRE SERGEANT, LIEUTENANT, AND CAPTAIN POSITIONS, is amended to read as follows:

- 876.2 To be eligible to take a promotional examination, the candidate shall meet the following time-in-rank requirements:
- (a) Eligible employees applying for the Sergeant Examination shall have a minimum of five (5) years of cumulative service, continuous or intermittent, in the Fire Department of the District of Columbia as of the qualifying date for the examination;
 - (b) Eligible employees applying for the Lieutenant Examination shall have a minimum of one (1) year of cumulative service, continuous or intermittent, as a Sergeant in the Fire Department of the District of Columbia as of the qualifying date for the examination; and
 - (c) Eligible employees applying for the Captain Examination shall have a minimum of one (1) year of cumulative service, continuous or intermittent, as a Lieutenant in the Fire Department of the District of Columbia as of the qualifying date for the examination.

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 FL, Washington, D.C. 20003, or by e-mail to dchr.policy@dc.gov.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING**Z.C. CASE NO. 12-08C****(Text Amendment – 11-K DCMR)****(To Increase Permitted FAR, Clarify Lot Occupancy Limits, Transfer Preferred Use Requirements, and Reflect New Street Names and Alignments within St Elizabeths East Zones)**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505 (2016 Repl.)), hereby gives notice of its intent to amend the Subtitle K (Special Purpose Zones), of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” to which all references are made unless otherwise specified).

The Commission proposes to revise the regulations for the St. Elizabeths East zones to:

- Increase the maximum floor area ratio (FAR) for StE-13, StE-15, and StE-17 zones in proximity to the Congress Heights Metro station;
- Clarify that the maximum lot occupancy limitation applies only to residential use;
- Transfer preferred use requirements from the StE-14B zone to the StE-15 and StE-17 zones;
- Limit parking and loading restrictions;
- Reflect new street names; and
- Correct references and terminology.

On August 30, 2019, the Office of Planning (OP) submitted a report that served as a petition proposing text amendments to Subtitle K, Chapter 6, Saint Elizabeths East Campus Zones.

At its publicly-noticed public meeting held on September 9, 2019, the Commission voted to set down the petition for a public hearing.

OP filed a Hearing Report on November 8, 2019, as required by Subtitle Z § 400.6, recommending approval of the proposed text amendment and presenting its analysis that the proposed text amendment was not inconsistent with the Comprehensive Plan.

At the November 21, 2019 public hearing, the Commission heard testimony from OP and from the Office of the Deputy Mayor in support of the proposed text amendment.

“Great Weight” to the Recommendations of OP

The Commission is required to give “great weight” to the recommendation of OP pursuant to § 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 (2018 Repl.); Subtitle Y § 405.8); *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

The Commission finds OP’s recommendation that the Commission take proposed action to adopt the proposed text amendment as not inconsistent with the Comprehensive Plan and persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANCs

The Commission must give “great weight” to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 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) (2016 Repl.); Subtitle Y § 406.2). To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)

As no ANC filed a written report, there is nothing to which the Commission can give great weight.

At the close of the November 21, 2019 public hearing, the Commission voted to take proposed action and authorized the publication of a notice of proposed rulemaking.

VOTE (November 21, 2019): 5-0-0 (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to **APPROVE**)

The proposed following amendments to the Zoning Title 11 DCMR are as follows (text to be deleted is marked with ~~strikethrough~~ and **bold** and new text is shown in **bold** and underlined):

11-K DCMR, SPECIAL PURPOSE ZONES, is amended as follows:

Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, is proposed to be amended as follows:

Subsections 601.1 and 601.3 of § 601, DEVELOPMENT STANDARDS (STE), are proposed to correct references, to read as follows:

601.1 The development standards in Subtitle K §§ 602 through ~~610~~ 611 shall control the bulk of buildings in the StE zones.

...¹

¹ The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

601.3 Except as provided in this chapter, the density, height of a building or structure not including the penthouse, lot occupancy, **front setback**, and rear yard in a StE zone shall not exceed or be less than that set forth in Subtitle K §§ 602 **through 606**.

...

Subsections 602.1, 602.2, and 602.9 of § 602, DENSITY – FLOOR AREA RATIO (FAR) (STE), are proposed to be amended to increase by-right density in proximity to the Congress Heights Metro station and to correct references, to read as follows:

602.1 The maximum permitted FAR of buildings in the StE zones shall be given in the following table:

TABLE K § 602.1: MAXIMUM PERMITTED FAR

Zone District	FAR (Max.)	FAR – Required Residential (Min.)	FAR – Above Grade Parking (Max.)
StE-1	0.20	-	-
...			
StE-13	3.20 4.00	1.60 2.00	-
StE-14A	1.50	-	-
StE-14B	1.50	1.00	-
StE-15	2.00 2.50	1.00 1.20	Subtitle K § 602.2
StE-16	3.20	1.60	-
StE-17	0.50 1.00	-	Subtitle K § 602.2
...			

602.2 Density for structured parking located above grade is regulated as follows:

- (a) In addition to the density permitted by Subtitle K § 602.1, additional density for above grade parking is permitted as follows:
 - (1) Within the StE-7 zone – 1.0 FAR;
 - (2) Within the StE-15 zone – 1.0 FAR; and
 - (3) Within the StE-17 zone – 2.0 FAR;
- (b) Any of the density permitted under Subtitle K § 602.2(a) that is not used for above grade parking may be utilized for any other use permitted within that zone;
- (c) Any above grade parking shall conform to the standards of Subtitle K § ~~610~~ **608**; and
- (d) This density may not be transferred through the combined lot provisions of Subtitle K §§ ~~608~~ **602.4 through 602.8** to another parcel.

...

602.9 The density and height ~~and density~~ limits of Subtitle K §§ 602 and ~~603-1~~ shall serve as the maximums permitted under a planned unit development (PUD).

Subsection 603.2 of Section 603, HEIGHT (STE), is proposed to be amended to correct the text, to read as follows:

603.2 Maximum permitted building height and penthouse height within the StE-7 zone is as follows:

- (a) For a distance of two-hundred fifty feet (250 ft.) measured from the north property line bounding Cypress Street, S.E., the maximum permitted building height, not including the penthouse, shall be eighty feet (80 ft.) and the maximum permitted height of the penthouse shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1), except that a second story for penthouse mechanical space shall be permitted; and
- (b) For the remainder of this parcel, the maximum permitted height shall be fifty feet (50 ft.); and the maximum permitted height of a penthouse ~~in the CG-5 zone~~ shall be twelve feet (12 ft.), except that a height of fifteen feet (15 ft.) shall be permitted for penthouse mechanical space; and the maximum number of stories within the penthouse shall be one (1), except that a second story for penthouse mechanical space shall be permitted.

Subsection 604.1 of Section 604, LOT OCCUPANCY (STE), is proposed to be amended to clarify that this provision regulates only residential use, to read as follows:

604.1 The maximum permitted lot occupancy for the StE zones shall be given in the following table:

TABLE K § 604.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone District	Lot Occupancy for Residential Use (Max. %)
StE-1	25
...	

Subsections 607.1 and 607.2 of § 607, INCLUSIONARY ZONING (STE), are proposed to be amended to correct references, to read as follows:

607.1 All residential development is subject to Inclusionary Zoning and shall be constructed according to the provisions set forth in Subtitle C, Chapter 10 ~~except for Subtitle C § 1002.~~

607.2 The density, height, and lot occupancy, ~~and height~~ maximums of Subtitle K §§ 603.1, and 604.1 shall serve as the maximum permitted density for buildings and structures within each zone including for the provision of inclusionary units.

Subsections 608.3, 608.4, 608.10, 608.12, and 608.14 of § 608, PARKING (STE), are proposed to be amended to reflect new street names, to limit parking restrictions, and to correct references, to read as follows:

608.3 Additional parking spaces beyond the four thousand eight hundred (4,800) space limit shall be permitted by special exception by the Board of Zoning Adjustment pursuant to Subtitle X, and provided that the applicant addresses compliance with the following standards:

- (a) The application shall include a detailed accounting of the existing and proposed number and locations of parking spaces provided pursuant to Subtitle K § ~~610.1~~ 608.1; and shall also include a traffic study assessing the impacts of the proposed additional parking spaces on local traffic patterns for referral to and comment by the District Department of Transportation;

...

608.4 For any application pursuant to Subtitle K § ~~610.3~~ 608.3:

...

...

608.10 Parking spaces within an above-grade structure along 13th Street, S.E. Dogwood Street, and Sycamore ~~Street~~ Drive, S.E. shall be lined with preferred uses as defined in Subtitle K § ~~621~~ 619.1 on the ground floor to a depth of thirty feet (30 ft.) minimum.

...

608.12 Parking spaces provided within an automated parking garage need not meet the accessibility requirement of Subtitle K § ~~610.10~~ 608.11 as long as the mechanized parking system does.

...

608.14 **Where For buildings located in the StE-1 through StE-9, StE-11 through StE-12, StE-16, and StE-18 through StE-19 zones, where** other options for access to parking spaces exist, such as from an alley or a different street, access to parking shall not be from a section of street where preferred uses are required in accordance with Subtitle K §§ ~~621~~ 619.2 and 619.3; or from Martin Luther King Jr. Avenue, S.E., ~~Dogwood~~ Sycamore Drive, S.E., 12th Street, S.E., 13th Street, S.E., or Oak Drive, S.E.

...

Subsections 609.1 and 609.2 of § 609, **LOADING (STE)**, are proposed to be amended to reflect new street names, to limit loading restrictions, and to correct references, to read as follows:

- 609.1 Loading requirements for each use shall be as prescribed in Subtitle C, Chapter ~~21~~ **9**.
- 609.2 ~~Where~~ **For buildings located in the StE-1 through StE-9, StE-11 through StE-12, StE-16, and StE-18 through StE-19 zones, where** other options for access to ~~parking spaces~~ **loading** exist, such as from an alley or a different street, access to loading shall not be from a section of street where preferred uses are required in accordance with Subtitle K §§ ~~621 619.2 and 619.3~~; or from Martin Luther King Jr. Avenue, S.E., ~~Dogwood Sycamore Drive, S.E., 12th Street, S.E., 13th Street, S.E., or Oak Drive, S.E.~~

Subsection 613.2 of § 613, **USE LIMITATIONS (STE)**, is proposed to be amended to correct references and text, to read as follows:

- 613.2 Uses permitted within the StE-10 and StE-14A zones shall be in accordance with the RF-1 use provisions of Subtitle ~~E U~~, Chapter ~~18 3~~, which ~~includes include~~, but ~~is are~~ not limited to, buildings containing one (1) or two (2) dwelling units, and other uses compatible with a low- to moderate-density residential zone.

Section 614, **USES PERMITTED BY SPECIAL EXCEPTION (STE)**, is proposed to be amended to clarify the text and correct references, to read as follows:

- 614.1 The uses in this section shall be permitted in the StE zones as a special exception if approved by the Board of Zoning Adjustment pursuant to the general standards of Subtitle X, ~~the criteria set forth in Subtitle K § 615.2~~, and subject to the applicable conditions of each section as stated below:
- (a) Except as permitted as a matter of right in the St-E 2 zone ...
 - (b) Community-based institutional facilities (CBIF) for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the criteria set forth in Subtitle K § 618 and the following conditions:
 - (1) There shall be no other property containing a CBIF ...
 - ...
 - (4) The ~~shelter~~ CBIF shall meet all applicable code and licensing requirements.
 - ...

Section 616, ACCESSORY USES (STE), is proposed to be amended to correct references, to read as follows:

- 616.1 Accessory uses, buildings, or structures customarily incidental and subordinate to the principal uses permitted in Subtitle K § 612 shall be permitted in any StE zone except StE-19 as a matter of right, subject to the development standards of Subtitle C, Chapter 8 K, §§ 602 through 606.

Section 618, SPECIAL EXCEPTION – GENERAL USE PROVISIONS (STE), is proposed to be amended to correct a reference, to read as follows:

- 618.1 In addition to the general standards set forth in Subtitle X, an applicant for a special exception to establish a community based institutional facility (**CBIF**) pursuant to Subtitle K § ~~616~~ 614.1(b) shall demonstrate ...

Section 619, PREFERRED USE REQUIREMENTS (STE), is proposed to be amended to reflect new street names, to transfer the preferred use requirements from the StE-14B zone to the StE-15 and StE-17 zones, and to correct references, by revising §§ 619.2, 619.3, 619.6, and 619.7, and by adding a new § 619.3 and renumbering the current §§ 619.3 through 619.7 as new §§ 619.4 through 619.8, to read as follows:

...

- 619.2 Each building that faces the following streets or locations in the following zones shall devote not less than fifty percent (50%) of the gross floor area of the ground floor to preferred uses:
- (a) StE-3 ...
 - (b) StE-7: facing Martin Luther King Jr. Avenue, S.E., Cypress Street, S.E., **Dogwood Sycamore** Drive, S.E., or **Oak Drive 8th Street**, S.E.;
 - ~~(c) StE-14B: facing Dogwood Drive, S.E., Oak Drive, S.E., or the southwest corner;~~
 - ~~(d)~~ (c) StE-15: facing **Dogwood Sycamore** Drive, S.E., 13th Street, S.E., Oak Drive, S.E., or the park;
 - ~~(e)~~ (d) StE-16: facing 13th Street, S.E., and the southwest corner; and
 - ~~(f)~~ (e) StE-17: facing **Dogwood Sycamore** Drive, S.E., 13th Street, S.E., or **Oak Drive 12th Street**, S.E.

619.3 In addition to the preferred use requirements of Subtitle K § 619.2, each building in the StE-15 and StE-17 zones shall devote additional square footage to preferred uses on the ground floor in an amount sufficient that all

buildings in the StE-15 and StE-17 zones collectively provide an additional 6,620 square feet devoted to preferred uses on the ground floor across the StE-15 and StE-17 zones. Each building permit application shall include evidence of the allocation of these 6,620 square feet to the individual buildings in these zones.

- 619.3 619.4** Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages described in Subtitle K §§ **621.2 619.2 and 619.3** shall be devoted to doors or display windows having clear or low emissivity glass.
- 619.4 619.5** Preferred uses shall provide direct, exterior access to the ground level.
- 619.5 619.6** The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.).
- 619.6 619.7** Ground floor area required for preferred uses may not be transferred to any other lot through the combined lot development procedures of Subtitle K §§ **621.2 602.4 through 602.8**.
- 619.7 619.8** For good cause shown, the Board of Zoning Adjustment may authorize interim occupancy of the preferred use space required under Subtitle K §§ **621.2 619.2 and 619.3**, by other uses permitted in the StE zones for up to a five (5) year period, provided that:
- (a) The ground-floor space is suitably designed for future occupancy by preferred uses;
 - (b) The proposed use is compatible with the surrounding uses; and
 - (c) It can be demonstrated that a preferred use cannot be accommodated due to market conditions.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-122
November 26, 2019

SUBJECT: Delegation - Authority - Authority to Designate Repeat Parking Violations Pilot Zones

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(6) and (11) (2016 Repl.), it is hereby **ORDERED** that:

1. The Director of the District Department of Transportation (“**DDOT**”) is delegated the authority vested in the Mayor by section 2b of the Performance Parking Pilot Zone Act of 2008, effective April 11, 2019 (D.C. Law 22-298; D.C. Official Code § 50-2531.02).
2. The Director of DDOT may further delegate all or part of this authority to any subordinates under his or her jurisdiction.
3. This Order shall supersede all previous Mayor’s Orders to the extent of any inconsistency.
4. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

 KIMBERLY A. BASSETT
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-123
December 2, 2019

SUBJECT: Appointments – District of Columbia Financial Services Regulatory Sandbox and Innovation Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with Mayor's Order 2019-003, dated January 23, 2019, it is hereby **ORDERED** that:

1. The following persons are appointed as banking and lending industry members to the District of Columbia Financial Services Regulatory Sandbox and Innovation Council (the "**Council**"), for terms to end November 1, 2022:
 - a. **OMAR AL-ALAMI;**
 - b. **CASEY MAULDIN;** and
 - c. **TREASURE MCCLAIN.**

2. The following persons are appointed as members representing consumers to the Council, for terms to end November 1, 2022:
 - a. **JULIAN ALCAZAR;**
 - b. **ELIZABETH EURGUBIAN;**
 - c. **RENEE JOHNSON;** and
 - d. **JOSHUA ROSENTHAL.**

3. The following persons are appointed as members who specialize in financial services regulation to the Council, for terms to end November 1, 2022:
 - a. **LARA KAPLAN;** and
 - b. **ERICA MILES.**

4. The following persons are appointed as insurance industry members to the Council, for terms to end November 1, 2022:
 - a. **JIGAR GANDHI;** and
 - b. **THOMAS HAMPTON.**

- 5. The following persons are appointed as securities industry members to the Council, for terms to end November 1, 2022:
 - a. **SALMAN BANAEI**;
 - b. **DREW MALONEY**; and
 - c. **JOSEPH VARDNER**.

- 6. The following persons are appointed as technology industry members to DC FRSIC, for terms to end November 1, 2022:
 - a. **SHAHAR ABRAMS**;
 - b. **MARQUIS ALLEN**; and
 - c. **COURTNEY ROBINSON**.

- 7. The following persons are appointed as members to the Council, to serve at the pleasure of the Mayor:
 - a. **LINDSEY PARKER**, as the District of Columbia Chief Technology Officer; and
 - b. **STEPHEN TAYLOR**, as the Commissioner of the Department of Insurance, Securities and Banking.

- 8. **STEPHEN TAYLOR**, as Commissioner of the Department of Insurance, Securities, and Banking, is appointed as the Chairperson of the Council, to serve at the pleasure of the Mayor.

- 9. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-124
December 2, 2019

SUBJECT: Reappointment and Appointment — District of Columbia Commission on Aging


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2016 Repl.), and in accordance with section 402 of the District of Columbia Act on the Aging, effective October 29, 1975, D.C. Law 1-24; D.C. Official Code § 7-504.02 (2018 Repl.), it is hereby **ORDERED** that:

1. **GULEFORD BOBO** is reappointed as a member of the District of Columbia Commission on Aging ("**Commission**"), for a term to end October 28, 2022.
2. **GLORIA WHITFIELD** is appointed as a member of the Commission, replacing Charles Hicks, for a term to end October 28, 2022.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

 KIMBERLY A. BASSETT
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, DECEMBER 11, 2019
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson

Members: James Short, Bobby Cato, Rema Wahabzadah, Rafi A. Crockett

- Protest Hearing (Status)** **9:30 AM**
Case # 19-PRO-00102; Balkan Concepts, LLC, t/a Ambar, 523 8th Street SE
License #90240, Retailer CR, ANC 6B
**Substantial Change (Request to Expand to the Third Floor with 56
Additional Seats. Total Occupancy Load 140 to 196)**
- Show Cause Hearing (Status)** **9:30 AM**
Case # 19-CMP-00017; Betty's Gojo Restaurant and Lounge, LLC, t/a Betty's
Gojo, 7616 Georgia Ave NW, License #102500, Retailer CR, ANC 4A
- Show Cause Hearing (Status)** **9:30 AM**
Case # 19-CMP-00097; Betty's Gojo Restaurant and Lounge, LLC, t/a Betty's
Gojo, 7616 Georgia Ave NW, License #102500, Retailer CR, ANC 4A
**Operating After Hours, Failed to Follow Security Plan, Failed to Ensure the
Security Footage was made Available Within 48 Hours**
- Show Cause Hearing (Status)** **9:30 AM**
Case # 19-CMP-00073, 1716 I, LLC, t/a Eye Bar/Garden of Eden, 1716 I Street
NW, License #83133, Retailer CN, ANC 2B
Substantial Change without Board Approval (Increase in Occupancy)
- Show Cause Hearing (Status)** **9:30 AM**
Case # 19-CC-00116; Good Food Market, LLC, t/a Good Food Markets, 2006
Rhode Island Ave NE, License #98178, Retailer B, ANC 5C
Sale to Minor Violation, No ABC Manager on Duty

Board's Calendar
December 11, 2019

Show Cause Hearing (Status) 9:30 AM

Case # 18-CC-00082; Desperados Pizza, LLC, t/a Desperados Pizza, 1342 U Street NW, License #84731, Retailer CT, ANC 1B
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age

Show Cause Hearing (Status) 9:30 AM

Case # 18-251-00183; La Morenita Restaurant, LLC, t/a La Morenita Restaurant 3539 Georgia Ave NW, License #86595, Retailer CR, ANC 1A
Interfered with an Investigation, Failed to Frame and Post the License in a Conspicuous Place, Failed to Post the Correct Name

Show Cause Hearing (Status) 9:30 AM

Case # 19-CMP-00110; B Washington, LLC, t/a Plan B Burger Bar, 801 Pennsylvania Ave NW, License #95796, Retailer CR, ANC 2C
Failed to Obtain a Summer Garden Endorsement

Show Cause Hearing (Status) 9:30 AM

Case # 19-CC-00108; Addis Incorporated, t/a King Convenience Store, 1535 U Street SE, License #89932, Retailer B, ANC 8A
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age, No ABC Manager on Duty

Fact Finding Hearing* 9:30 AM

3636 Woodner Limited Partnership, t/a Sangria Café, 3636 16th Street NW
License #90781, Retailer CR, ANC 1D
Request to Extend Safekeeping

Show Cause Hearing* 10:00 AM

Case # 19-CMP-00061; Café Europa, t/a LeDesales, 1725 De Sales Street NW
License #60754, Retailer CR, ANC 2B
No ABC Manager on Duty

Show Cause Hearing* 11:00 AM

Case # 19-CMP-00076; The New Elroy Bar, LLC, t/a The Elroy, 1423 H Street NE, License #112289, Retailer CT, ANC 6A
Failed to Obtain a Summer Garden Endorsement

**BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA
1:00 PM**

Board's Calendar
December 11, 2019

Protest Hearing*

4:30 PM

Case # 19-PRO-00083; Rito Loco, LLC, t/a Rito Loco-El Techo, 606 Florida Ave NW, License #104119, Retailer CR, ANC 6E

Application to Renew the License

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

**This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.*

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
CANCELLATION AGENDA

WEDNESDAY, DECEMBER 11, 2019
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The ABC Board will be cancelling the following licenses for the reasons outlined below:

ABRA-084620 – **Heat** – Retail – C – Nightclub – No Location
[Licensee did not pay the safekeeping fee within 30 days.]

ABRA-108135 – **TBD** – Retail – A – 4009 South Capitol Street SW
[Licensee did not pay the safekeeping fee within 30 days.]

ABRA-105948 – **Five to One** – Retail – C – Tavern – 903 U Street NW
[Licensee did not pay the safekeeping fee within 30 days.]

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, DECEMBER 11, 2019 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 4C. SMD 4C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Stein's Café*, 4630 14th Street NW, Retailer CR, License No. 114522.

2. Review Application for Safekeeping of License – Original Request. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *TBD (1914, LLC)*, 1914 9th Street NW, Retailer CT, License No. 115685.

3. Review Request to increase Total Occupancy Load from 1072 to 2880, as allowed by Certificate of Occupancy. ANC 5C. SMD 5C02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Echostage*, 2135 Queens Chapel Road NE, Retailer CN, License No. 090250.

4. Review Request to increase Total Occupancy Load from 180 to 303, as allowed by Certificate of Occupancy. Seating will remain the same, at 180. ANC 1C. SMD 1C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Roofers Union – Jug and Table*, 2442-2446 18th Street NW, Retailer CT, License No. 093592.

5. Review Request to increase Sidewalk Café seating from 18 to 54, and to increase Total Occupancy Load inside of the premises from 120 to 166. ANC 3G. SMD 3G06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Parthenon Restaurant & Chevy Chase Lounge*, 5510-12 Connecticut Avenue NW, Retailer CR, License No. 013995.

6. Review Application for Change of Hours. ***Current Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 11:30am to 11pm, Friday-Saturday 11:30am to 3am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday-Thursday 10am to 2am, Friday-Saturday 10am to 3am. ANC 2E. SMD 2E06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Liberte/L' Annexe***, 2917 M Street NW, Retailer CR, License No. 109013.
-
7. Review Application for Change of Hours of operation only. ***Current Hours of Operation and Alcoholic Beverage Sales and Consumption:*** Sunday 3pm to 2am, Monday-Thursday 9am to 2am, Friday-Saturday 9am to 3am. ***Proposed Hours of Operation:*** Sunday 3pm to 3am, Monday-Thursday 9am to 3am, Friday-Saturday 9am to 4am. ANC 3B. SMD 3B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***The Good Guys Restaurant***, 2311 Wisconsin Avenue NW, Retailer CN, License No. 000899.
-
8. Review Application for Change of Hours to open for breakfast. ***Current Hours of Operation and Alcoholic Beverage Sales and Consumption Inside Premises:*** Sunday 11am to 12am, Monday-Saturday 11am to 1am. ***Current Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Cafe:*** Sunday 11am to 10pm, Monday-Saturday 11am to 11pm. ***Proposed Hours of Operation Inside Premises:*** Sunday 7am to 12am, Monday-Saturday 7am to 1am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption Inside Premises:*** Sunday 8am to 12am, Monday-Saturday 8am to 1am. ***Proposed Hours of Operation for Sidewalk Cafe:*** Sunday 7am to 10pm, Monday-Saturday 7am to 11pm. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Sidewalk Cafe:*** Sunday 8am to 10pm, Monday-Saturday 8am to 11pm. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Ankara***, 1320 19th Street NW, Retailer CR, License No. 097698.
-
9. Review Application for Summer Garden with 16 seats. ***Proposed Hours of Operation for Summer Garden:*** Sunday 10am to 1am, Monday-Thursday 10am to 12am, Friday-Saturday 10am to 3am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday 10am to 12am, Monday-Thursday 10am to 11:30pm, Friday-Saturday 10am to 2am. ANC 4B. SMD 4B01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Nile Ethiopian Restaurant and Nile Market***, 7815 Georgia Avenue NW, Retailer CR, License No. 060432.
-

10. Review Application for Summer Garden with 44 seats. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday-Saturday 11:30am to 2am. ANC 2B. SMD 2B08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Chi-Cha Lounge***, 1624 U Street NW, Retailer CT, License No. 026519.
-

11. Review request for approval to provide a gift of 4 tickets to Fiddler on the Roof that does not exceed \$500 in value to various licensed DC Retailers. ANC 5C. SMD 5C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Breakthru Beverage***, 2800 V Street NE, Wholesaler A, License No. 060518.
-

***In accordance with D.C. Official Code §2-547(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend. This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.**

OFFICE ON ASIAN AND PACIFIC ISLANDER AFFAIRS
COMMISSION ON ASIAN AND PACIFIC ISLANDER COMMUNITY
DEVELOPMENT

Wednesday, November 20, 2019, 6:30 pm
441 4th Street NW Room 721 North, Washington, DC 20001
Call-in: (877) 787-5492, Passcode: 9401470

Agenda

Call to Order

Introduction of Commissioners

Quorum

Approval of Agenda

Approval of October 2019 Meeting Minutes

Executive Reports and Business Items

1. Director's Report, Director Ben de Guzman, MOAPIA
2. Diwali Debrief
3. New Commissioners
4. Commission Task Forces
5. Commission Meeting Operating Procedures

Miscellaneous Items

Meeting Adjournment

Next Meeting:

Wednesday, December 18, 2019, 6:30 pm

MOAPIA

441 4TH St NW, Room 721 North, Washington, DC 20001

Questions:

John Tinpe Chairman, John.Tinpe@dcbc.dc.gov

Ben Takai, Vice Chair & Secretary BenTakai@dcbc.dc.gov

Henry Duong, MOAPIA Henry.Duong@dc.gov

www.apia.dc.gov

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES COORDINATING
BOARD**

**NOTICE OF 2020
REGULAR MEETING
DATES**

Regular Meetings of the Construction Codes Coordinating Board will be held
on the following dates from 10:30 a.m. to 12:30 p.m. at
the Department of Fire and Emergency Medical Services
1100 4th Street, S.W. – 7th Floor Conference
Room– Washington, DC 20024

Thursday, January 16, 2020
Thursday, February 20, 2020
Thursday, March 19, 2020
Thursday, April 16, 2020
Thursday, May 21, 2020
Thursday, June 18, 2020
Thursday, July 16, 2020
Thursday, August 20, 2020
Thursday, September 17, 2020
Thursday, October 15, 2020
Thursday, November 19, 2020
Thursday, December 17, 2020

Meeting Minutes are posted on the DCRA website
at: <https://dcra.dc.gov/node/1307866>

The CCCB Meeting Calendar and copies of associated meeting
minutes and agendas are available on the website of the District
of Columbia Office of Open Government at:

<https://www.open-dc.gov/public-bodies/construction-codes-coordinating-board>

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

SCHEDULE OF FINES

The Council of the District of Columbia passed legislation (Section 11 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1401 *et seq.*)) requiring DCRA to increase assessed fine amounts in tandem with the past year's Consumer Price Index (CPI). Therefore, pursuant to the law, beginning January 1st, 2020, for all infractions listed in §§ 3301 through 3313 of Title 16 of the District of Columbia Municipal Regulations, assessed fine amounts will be increased by 0.9%. The new fine amounts as of Jan. 1 are listed in the table below under "Current Fine Amount". The CPI adjustment is based on the September 2019 12-Month Consumer Price Index for All Urban Consumers (CPI-U) for the Washington Metropolitan Statistical Area, as published by the United States Bureau of Labor Statistics.

Fine Type	Previous Fine Amount	Current Fine Amount
Class 1		
For the first offense	\$2,075	\$2,093
For the second offense	\$4,149	\$4,187
For the third offense	\$8,299	\$8,373
For the fourth and subsequent offenses	\$16,597	\$16,747
Class 2		
For the first offense	\$1,037	\$1,047
For the second offense	\$2,075	\$2,093
For the third offense	\$4,149	\$4,187
For the fourth and subsequent offenses	\$8,299	\$8,373
Class 3		
For the first offense	\$519	\$524
For the second offense	\$1,037	\$1,047
For the third offense	\$2,075	\$2,093
For the fourth and subsequent offenses	\$4,149	\$4,187
Class 4		
For the first offense	\$104	\$105
For the second offense	\$207	\$209
For the third offense	\$415	\$419
For the fourth and subsequent offenses	\$830	\$838
Class 5		
For the first offense	\$52	\$52
For the second offense	\$104	\$105
For the third offense	\$207	\$209
For the fourth and subsequent offenses	\$415	\$419
Class 6		
For the first offense	\$10,373	\$10,467
For the second and subsequent offenses	\$20,747	\$20,934

D.C. CRIMINAL CODE REFORM COMMISSION**NOTICE OF PUBLIC MEETING**

WEDNESDAY, DECEMBER 4, 2019 AT 10:00 AM
441 4TH STREET N.W., ROOM 1112, WASHINGTON, D.C., 20001

D.C. Criminal Code Reform Commission
441 Fourth Street, NW, Suite 1C001S, Washington, D.C. 20001
(202) 442-8715 www.ccrdc.dc.gov

The D.C. Criminal Code Reform Commission (CCRC) will hold a meeting of its Criminal Code Revision Advisory Group (Advisory Group) on Wednesday, December 4, 2019 at 10am. The meeting will be held in Room 1112 of the Citywide Conference Center on the 11th Floor of 441 Fourth St., N.W., Washington, DC. The planned meeting agenda is below. Any changes to the meeting agenda will be posted on the agency's website, <http://ccrc.dc.gov/page/ccrc-meetings>. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or richard.schmechel@dc.gov.

MEETING AGENDA

- I. Welcome and Announcements.
- II. Discussion of Advisory Group Written Comments on First Draft of Report #41, *Ordinal Ranking of Maximum Imprisonment Penalties*.
- III. Discussion of Draft Reports and Memoranda Currently Under Advisory Group Review:
 - (A) Advisory Group Memorandum #26, *D.C. Code Statutory Penalties and Voluntary Sentencing Guidelines*; and
 - (B) Advisory Group Memorandum #27, *Public Opinion Surveys on Ordinal Ranking of Offenses*;
 - (C) Advisory Group Memorandum #28, *Statistics on District Adult Criminal Charges and Convictions*;
 - (D) First Draft of Report #42, *Obscenity, Privacy, and Related Offenses*;
 - (E) Advisory Group Memorandum #29, *Supplemental Materials to First Draft of Report #42*;
 - (F) First Draft of Report #43, *Blackmail*
 - (G) First Draft of Report #44, *Trademark Counterfeiting*
 - (H) First Draft of Report #45, *Fraudulent Advertising and Fraudulent Registration*
 - (I) First Draft of Report #46, *Possession of an Open Container of Alcohol*
 - (J) First Draft of Report #47, *Illegal Vending*
 - (K) First Draft of Report #48, *Incest*
 - (L) First Draft of Report #49, *Parental Kidnapping*
- IV. Adjournment.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT ON DISABILITY SERVICES

NOTICE OF PUBLIC MEETINGS**D.C. Family Support Council to Hold 2020 Meetings**

The District of Columbia Family Support Council (FSC) announces its 2020 Meeting Schedule. These meetings are open to the public. For those persons who are unable to attend the public meeting, a conference call-in number will be available.

<u>DATE</u>	<u>LOCATION</u>
January 16, 2020, 12:30-2:30 p.m.	Department on Disability Services 250 E Street, SW 1 st Floor, Joy Evans Conference Room – 145A Washington, DC 20024
March 12, 2020, 12:30-2:30 p.m.	Department on Disability Services 250 E Street, SW 1 st Floor, Joy Evans Conference Room – 145A Washington, DC 20024
May 14, 2020, 12:30-2:30 p.m.	Department on Disability Services 250 E Street, SW 1 st Floor, Joy Evans Conference Room – 145A Washington, DC 20024
July 16, 2020, 12:30-2:30 p.m.	Department on Disability Services 250 E Street, SW 1 st Floor, Joy Evans Conference Room – 145A Washington, DC 20024
September 17, 2020, 12:30-2:30 p.m.	Department on Disability Services 250 E Street, SW 1 st Floor, Joy Evans Conference Room – 145A Washington, DC 20024
November 19, 2020, 12:30-2:30 p.m.	Department on Disability Services 250 E Street, SW 1 st Floor, Joy Evans Conference Room – 145A Washington, DC 20024

Notice of these public meetings will be published on the DDS website.

The FSC provides recommendations, assists, and advises the Department on Disability Services (DDS) and sister agencies on developing person and family-centered systems of support for families throughout the life course of their family members with intellectual and developmental disabilities (IDD). The FSC operates pursuant to D.C. Law 16-264, the “Department on Disability Services Establishment Act of 2006,” effective March 14, 2007 (D.C. Official Code § 7-761.01 *et seq.*), and according to the “Family Support Council Procedure,” 2019-DDA-PROC02 (August 22, 2019), at https://dds.dc.gov/sites/default/files/dc/sites/dds/publication/attachments/2019-DDA-PROC02%20Family%20Support%20Council%20Procedure_1.pdf.

The FSC works to fulfill a need for ongoing and meaningful engagement between government agencies and people with IDD and their family members. The FSC provides a forum for this engagement and ensures that government agencies are held accountable to the needs of the people they are serving. The FSC consists of eleven (11) voting members, the majority of whom are people with IDD and their family members. There are two (2) additional non-voting member positions for emerging leaders with IDD.

To request a conference call-in number, translation/interpretation services, sign language interpretation, or other accommodations, please contact Ms. Emily Ornstein, Program Development Specialist, at (202) 730-1687, or email emily.ornstein@dc.gov, at least fourteen (14) calendar days before the meeting to submit a request.

Please call (202) 730-1687 at least five (5) business days prior to the meeting and/or check the DDS website at www.dds.dc.gov to ensure the meeting has not been cancelled or rescheduled.

For more information, contact Emily Ornstein, Program Development Specialist, DDS Office on Policy, Planning and Innovation, at (202) 730-1687, or emily.ornstein@dc.gov, or Crystal Thomas, Program Manager, DDS Office on Policy, Planning and Innovation, at (202) 730-1751 or crystal.thomas2@dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT ON DISABILITY SERVICES

NOTICE OF PUBLIC MEETINGS

D.C. State Rehabilitation Council to Hold Quarterly Public Meetings in 2019-2020

**Department on Disability Services
Rehabilitation Services Administration
One Independence Square
250 E Street, SW
First Floor Conference Room
Washington, DC 20024**

The D.C. State Rehabilitation Council (SRC) will hold public meetings regarding the operation of the D.C. State Vocational Rehabilitation Program, as mandated by the Rehabilitation Act of 1973, as amended. The following public meetings are to be conducted from 9:30 am – 11:00 am.

Dates	Location
Thursday, December 12, 2019	First Floor Conference Room
Thursday, March 12, 2020	First Floor Conference Room
Thursday, June 11, 2020	First Floor Conference Room
Thursday, September 10, 2020	First Floor Conference Room

Individuals who wish to attend should RSVP at least seven (7) days prior to the public meeting by contacting Donald Clark by calling at 202-730-1637 or by email at donald.clark@dc.gov.

If you require reasonable accommodations for attendance, please call 202-730-1637 at least two (2) weeks before the public meeting to ensure appropriate accommodations.

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

NOTICE OF PUBLIC MEETING
COMMISSION ON OUT OF SCHOOL TIME GRANTS AND YOUTH
OUTCOMES

Commission on Out of School Time Grants and Youth Outcomes (OST Commission) Public Meeting Washington, DC – The Commission on Out of School Time Grants and Youth Outcomes will hold a public meeting on Thursday, December 12, 2019 from 7:00 pm to 8:30 pm at One Judiciary Square, 441 4th Street NW, Room 1107 South. The OST Commission will hear updates from the Office of Out of School Time Grants and Youth Outcomes and the Needs Assessment Committee. Finally, the Commission will hear updates from the OST Commission's committees.

Individuals and representatives of organizations who wish to comment at a public meeting are asked to notify the OST Office in advance by phone at (202) 481-3932 or by email at learn24@dc.gov. Individuals should furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and if available, submit one electronic copy of their testimony by the close of business on Tuesday, December 10th at 5:00 pm.

Below is the draft agenda for the meeting.

- I. Call to Order
- II. Public Comment
- III. Announcement of a Quorum
- IV. Approval of the Agenda
- V. Approval of Minutes
- VI. Updates: Office of Out of School Time Grants and Youth Outcomes
- VII. Update on Needs Assessment Committee
- VIII. Committee Update
- IX. Adjournment

The Office of Out of School Time Grants and Youth Outcomes (OST Office) and the OST Commission support the equitable distribution of high-quality, out-of-school-time programs to District of Columbia youth through coordination among government agencies, grant-making, data collection and evaluation, and the provision of technical assistance to service providers. The OST Commission's purpose is to develop a District-wide strategy for equitable access to out-of-school-time programs and to facilitate interagency planning and coordination for out-of-school time programs and funding.

Date: December 12, 2019
Time: 7:00 p.m. – 8:30 p.m.
Location: One Judiciary Square
Room 1107 South
441 4th Street, NW
Washington, DC 20001
Contact: Debra Eichenbaum

Grants Management Specialist
Office of Out of School Time Grants and Youth Outcomes
Office of the Deputy Mayor for Education
(202) 478-5913
Debra.eichenbaum@dc.gov

FRIENDSHIP PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS

Friendship Public Charter School is seeking bids from prospective vendors to provide:

- **Federal Grants Administration Services** - FPCS seeks proposals from vendors to assist the School with the financial portion of federal grants applications as well as completing reimbursement requests associated with spending under those grant programs.
- **Commercial Warehouse Space lease** - FPCS seeks proposals from vendors to provide approximately 2,200 square feet of commercial warehouse space for rent in the District of Columbia.

The competitive RFP can be found on FPCS website at:

<http://www.friendshipschools.org/procurement>. Proposals are due no later than **4:00 P.M., EST, Wednesday December 18, 2019**. Questions and Proposals should be submitted online at: Procurementinquiry@friendshipschools.org. Proposals can be submitted in person at 1400 1st Street NW, Suite 300, Washington, DC. 20001. All bids not addressing all areas as outlined in the RFP will not be considered. No proposals will be accepted after the deadline.

DEPARTMENT OF HEALTH CARE FINANCE**PUBLIC NOTICE****MEDICAID FEE SCHEDULE FOR
HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS
WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES**

The Department of Health Care Finance (DHCF), in accordance with the requirements in 29 DCMR §§ 988.4 and 1901.2, announces publication of the Medicaid Fee Schedule setting forth the reimbursement rates, effective January 1, 2020, for services available to participants under the Medicaid Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver).

The Department on Disability Services (DDS), Developmental Disabilities Administration (DDA), operates the ID/DD Waiver under the supervision of DHCF. The ID/DD Waiver was renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2017.

As required under 29 DCMR § 1901.2, DHCF is identifying through this Public Notice the changes in the reimbursement rates for services rendered on or after January 1, 2020, for certain ID/DD Waiver services listed in 29 DCMR § 1901.1. The new rates align with ID/DD Renewal Waiver Year 3 rate methodology, include the 2020 D.C. Living Wage of \$14.65 where required, and are expressly subject to the service and other limitations described in the ID/DD Waiver and applicable rules.

DHCF is increasing the reimbursement rates for eleven (11) ID/DD Waiver services as follows: (1) Behavioral Support Services, 29 DCMR § 1919; (2) Companion Services, 29 DCMR § 1939; (3) Day Habilitation Services, 29 DCMR § 1920; (4) Employment Readiness Services, 29 DCMR § 1922; (5) Host Home without Transportation Services, 29 DCMR § 1915; (6) Individualized Day Supports Services, 29 DCMR § 1925; (7) In-Home Supports Services, 29 DCMR § 1916; (8) Residential Habilitation Services, 29 DCMR § 1929; (9) Respite Services, 29 DCMR § 1930; (10) Supported Employment Services – Individual and Small Group Services, 29 DCMR § 1933; and (11) Supported Living Services, 29 DCMR § 1934.

For Personal Care Services, 29 DCMR § 1910, and Skilled Nursing Services, 29 DCMR § 1931, DHCF will reimburse providers at the rate set forth in the Medicaid Fee Schedule for the Medicaid State Plan, and for Dental Services, 29 DCMR § 1921, DHCF will continue to reimburse providers at the rate set forth in the Medicaid Fee Schedule for the Medicaid State Plan increased by twenty (20) percent.

In addition, the new rates will also include a 0.62% increase to the service categories affected by the District of Columbia Universal Paid Leave Act of 2015.

These reimbursement rates for each service will be included on the Medicaid Fee Schedule for the ID/DD Waiver and will become effective on January 1, 2020. The Medicaid Fee Schedule for the ID/DD Waiver is located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/nonsecure/feeScheduleDownload>. For further information or questions regarding this fee schedule update, please contact Bidemi Isiaq, Associate Director, DHCF, at Bidemi.Isiaq@dc.gov or via telephone at (202) 442-9202.

**DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

NOTICE OF MEETING

Board of Medicine
December 11, 2019

On DECEMBER 11, 2019 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

The meeting will be open to the public from 8:30 am to 10:30 am to discuss various agenda items and any comments and/or concerns from the public.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will then move to Closed Session from 10:30 am until 4:45 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

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

Meeting times and/or locations are subject to change – please visit the Board of Medicine website www.doh.dc.gov/bomed and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Frank B. Meyers, JD

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

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

Designation Case No. 19-09: National Presbyterian Church Complex

4101 and 4125 Nebraska Avenue and 4120 and 4124 Van Ness Street NW
Square 1724, part of Lot 805

Affected Advisory Neighborhood Commission: 3D

Designation date: September 26, 2019

Designation Case No. 18-07: Mitchell Park Fieldhouse

1801 23rd Street NW

Square 2529, Lot 821

Affected Advisory Neighborhood Commission: 2D

Designation date: October 31, 2019

Designation Case No. 18-08: Chevy Chase Playground

5500 41st Street NW

Square 1744, Lot 1 and Square 1745, Lot 1 (Reservation 431)

Affected Advisory Neighborhood Commission: 3E

Designation date: October 31, 2019

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

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF PARKS AND RECREATION**

**NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD FOR COMMUNITY GARDENING
PARTNER GROUP COOPERATIVE AGREEMENT**

The Notice of Community Gardening Partner Group Cooperative Agreement was published in the *District of Columbia Register* (DCR) on November 1, 2019, at 66 DCR 014520. The original thirty (30) day public comment period, scheduled to end on December 1, 2019, will be extended to January 6, 2019 due to a technical issue regarding the online form to submit comments on this matter. Pursuant to this extension all comments received by Monday, January 6, 2019 will be considered.

DC Department of Parks and Recreation (DPR) will implement a revised Community Gardening Partner Group Cooperative Agreement (Gardening Agreement) which shall be used to standardize the rules and expectations of gardeners at the several community gardens on DPR property throughout the city. The general purpose of this agreement and the corresponding rules and guidelines is to promote and ensure fairness in the process for gardeners to obtain a gardening plot, provide rules governing how gardeners may maintain good standing in a community garden and to provide guidelines for the structure of each community gardening partner group. As part of this effort, DPR is also noticing the Community Garden Bylaws Guidance and a new Garden Code of Conduct. Pursuant to the implementation of the Gardening Agreement, and the corresponding bylaws guidance and code of conduct, DPR will accept and review public comments on these documents.

Comments may be submitted online or through written correspondence. The Gardening Agreement is available for review and comment at:
<https://www.surveymonkey.com/r/dprcommunitygardenscomments>. DPR Garden Code of Conduct and DPR Community Garden Bylaws Guidance are available for review at:
<https://dpr.dc.gov/page/community-gardens-frequently-asked-questions>.

Interested persons may submit written comments within thirty (30) days of publication of this notice. The written comments must include the person's name, telephone number, affiliation if any, mailing address, and statement outlining the issues or support surrounding the implementation of the gardening agreement, bylaws guidance and/or code of conduct. All relevant comments will be considered in implementing these changes. **Written comments postmarked after January 6, 2019 will not be accepted.**

Address written comments to:

Department of Parks and Recreation
Kathleen Rehwaldt
Office of Partnerships and Development
Attn: Gardening Agreement Comments
1275 First Street, NE, 8th Floor
Washington, DC 20002

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

**NOTICE OF PUBLIC MEETING REGARDING
SURPLUS RESOLUTION PURSUANT TO D.C. OFFICIAL CODE §10-801**

The Office of the Deputy Mayor for Planning and Economic Development will conduct a public meeting to receive public comments on the proposed surplus of the District of Columbia owned property identified below.

Property:

A&T Lot	Square/Lot	Premise Address
829	5868/02	1100 Alabama Ave., SE
828	5868/02	1100 Alabama Ave., SE
820	5868/02	1100 Alabama Ave., SE
818	5868/02	1100 Alabama Ave., SE
825	5868/02	1100 Alabama Ave., SE
826	5868/02	1100 Alabama Ave., SE
830	5868/02	1100 Alabama Ave., SE
831	5868/02	1100 Alabama Ave., SE
832	5868/02	1100 Alabama Ave., SE
833	5868/02	1100 Alabama Ave., SE
834	5868/02	1100 Alabama Ave., SE

The public meeting will be held at the date, time, and location as follows:

Date: Thursday, January 9, 2020

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

Location: R.I.S.E. Demonstration Center
2730 Martin Luther King Jr., Ave., SE
Washington, D.C. 20032

Contact: **James Parks**, James.Parks2@dc.gov
(202) 769-7830

Please note that written comments will be accepted by U.S. Mail or email until Friday, January 24, 2020, at:

The Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attention: Latrena Owens, Executive Director of St. Elizabeths East
Latrena.Owens@dc.gov

DISTRICT OF COLUMBIA RETIREMENT BOARD**NOTICE OF OPEN PUBLIC MEETING**

December 19, 2019
1:00 p.m.

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

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, December 19, 2019, at 1:00 p.m. The meeting will be held at 900 7th Street, N.W., 2nd floor, DCRB Boardroom, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

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

AGENDA

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

DISTRICT DEPARTMENT OF TRANSPORTATION**NOTICE OF FUNDING AVAILABILITY (NOFA)****Trail Ranger Fiscal Year 2020 Grant
Request for Application Release Date: December 20, 2019
Application Submission Deadline: January 3, 2020**

The Urban Forestry Division (UFD) within the District of Columbia (District) Department of Transportation (DDOT) is soliciting detailed proposals from organizations to manage a Trail Ranger program.

Trail Rangers will patrol the District's sixty-plus (60+) miles of multi-use trails and establish volunteer clean up days, report trail maintenance issues, perform basic bike maintenance repairs, report safety concerns, provide trail usage feedback, and generally encourage productive use and activation of the entire trail network. The purpose of the program will be to provide informational/educational/way finding materials including trail system maps, local trail-related regulations and contact information for District personnel. Cyclists, skaters, joggers and pedestrians who utilize area trails are the intended customers. The Trail Ranger program is a way to support trail users, keep the local trail system safe, and promote active lifestyle choices.

DDOT is requesting proposals from potential grantees for a project that would use available funding to directly advance the Department's mission and specific strategies. Local non-profit organizations and faith-based organizations are eligible to apply for Fiscal Year 2020 Trail Ranger grant funds. Individual proposals should not exceed \$100,000.

Please refer to the full Request for Applications (RFA) for this funding opportunity for a detailed timeline of requirements. The RFA will be available on **December 20, 2019** and will be available at the District Grants Clearinghouse on the Office of Partnerships and Grant Services website.

For additional information or to receive the full RFA by email, please contact:

John O'Neill
Lead Forester
Urban Forestry Division
55 M Street SE, Suite 600
Washington, DC 20003
Phone: (202) 527 - 5633
Email: john.oneill@dc.gov

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重要通知

本文件包含重要資訊。如果您需要用（中文）接受幫助或者對本通知有疑問，請電洽 202-527 - 5633。請

告訴客戶服務部代表您所說的語言，會免費向您提供口譯員服務。謝謝！

AVIS IMPORTANT

Ce document contient des informations importantes. Si vous avez besoin d'aide en Français ou si vous avez des questions au sujet du présent avis, veuillez appeler le 202-527 - 5633. Dites au représentant de service quelle langue vous parlez et l'assistance d'un interprète vous sera fournie gratuitement. Merci.

안내

이 안내문은 중요한 내용을 담고 있습니다. 한국어로 언어 지원이 필요하시거나 질문이 있으실 경우 202-527 - 5633 로 연락을 주십시오. 필요하신 경우, 고객 서비스 담당원에게 지원 받고자 하는 언어를 알려주시면, 무료로 통역 서비스가 제공됩니다. 감사합니다.

AVISO IMPORTANTE

Este documento contiene información importante. Si necesita ayuda en Español o si tiene alguna pregunta sobre este aviso, por favor llame al 202-527 - 5633. Infórmele al representante de atención al cliente el idioma que habla para que le proporcione un intérprete sin costo para usted. Gracias.

THÔNG BÁO QUAN TRỌNG

Tài liệu này có nhiều thông tin quan trọng. Nếu quý vị cần giúp đỡ về tiếng Việt, hoặc có thắc mắc về thông báo này, xin gọi 202-527 - 5633. Nói với người trả lời điện thoại là quý vị muốn nói chuyện bằng tiếng Việt để chúng tôi thu xếp có thông dịch viên đến giúp quý vị mà không tốn đồng nào. Xin cảm ơn.

DISTRICT DEPARTMENT OF TRANSPORTATION

PUBLIC MEETINGS NOTICE

Major Crash Review Task Force

The Major Crash Review Task Force will hold the following meetings in Calendar Year 2020:

Date	Time	Location	Room Number
January 29, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
February 26, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
March 25, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
April 29, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
May 27, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
June 24, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
July 29, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
August 26, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
September 30, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
October 28, 2020	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
November 18, 2019	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404
December 16, 2019	2:30 PM – 5:30 PM	55 M St. SE Washington, DC 20003	404

Each meeting will take place at 55 M St. SE, Washington, DC 20003, on the 4th floor, in the room listed above. The location is nearest to the Navy Yard-Ballpark Metro station on the Metrorail green line. The initial and concluding portions of the meeting are open to the public. Due to the sensitive nature of personal information discussed during the detailed review of major crashes, the crash review portion of the meeting is not open to the public. The draft agenda for meetings is available below. If you have any questions about the task force or its meetings, please contact vision.zero@dc.gov via e-mail or 202-790-6842 via phone.

Draft Agenda

Public Portion of Meeting

- I. Welcome and Introductions
- II. Confirm any new Voting Members or Alternate Members
 - a. Vote on any new non-voting members
 - b. Sign non-disclosure agreements
- III. Approval of meeting minutes

Closed Portion of Meeting

- IV. Review of Major Crashes

Public Portion of Meeting

- V. New Business
- VI. Adjournment

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

Application No. 20097 of Jason and Ashley Meyer, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 504.1, and from the nonconforming structure requirements of Subtitle C § 202.2, to construct a two-story rear addition to an existing, row dwelling¹ with one principal dwelling unit in the RF-3 Zone at premises 310 5th Street, N.E. (Square 813, Lot 31).

HEARING DATE: September 25 and October 2, 2019
DECISION DATE: October 2, 2019

DECISION AND ORDER

Jason and Ashley Meyer (the “**Applicant**”) filed an application with the Board of Zoning Adjustment (the “**Board**”) on June 11, 2019, pursuant to Subtitle X, Chapter 9 of Title 11 of the DCMR (the “**Zoning Regulations**”, to which all references are made unless otherwise specified) requesting

- special exception relief under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 504.1 and
- special exception relief from the nonconforming structure requirements of Subtitle C § 202.2 (the “**Application**”),

to construct a two-story rear addition to an existing, semi-detached principal dwelling unit in the RF-3 Zone at premises 310 5th Street, N.E. (Square 813, Lot 31) (the “**Property**”). For the reasons explained below, the Board voted to **APPROVE** the Application.

FINDINGS OF FACT

Notice of Application and Notice of Public Hearing

1. Pursuant to Subtitle Y §§ 400.4 and 402.1, the Office of Zoning (“**OZ**”) sent notice of the Application and the September 25, 2019 hearing by a July 29, 2019 letter to
 - the Applicant;
 - Advisory Neighborhood Commission (“**ANC**”) 6C, the ANC within which boundaries the Property is located and so the “affected” ANC per Subtitle Z § 101.8;
 - the Single Member District (“**SMD**”) Commissioner for ANC 6C03 and the Office of ANCs;
 - the Office of Planning (“**OP**”);

¹ Although published noticed described the building as a “semi-detached” dwelling, the existing dwelling is in fact a “row” dwelling per Subtitle B § 100.2.

- the District Department of Transportation (“DDOT”);
 - the Architect of the Capitol (“AOC”);
 - the Councilmember for Ward 6;
 - the Chairman of the Council;
 - the At-Large Councilmembers; and
 - the owners of all property within 200 feet of the Property. (Exhibit [“Ex.”] 7, 11, and 13-26.)
2. OZ also published notice of the September 25, 2019 public hearing in the *D.C. Register* on August 31, 2018 (66 DCR 8766) as well as through the calendar on OZ’s website.
 3. At the public hearing on September 25, 2019, the Board granted a request to postpone the hearing until October 2, 2019. (Ex. 44.)

Party Status

4. In addition to the Applicant, ANC 6C was automatically a party in this proceeding pursuant to Subtitle Y § 403.5.
5. The Board received and granted a request for party status in opposition to the Application from Megan and Samuel Greenaway, the owners of the Northern Lot (collectively, the “**Northern Lot Owner**”) at the September 25, 2019, public hearing. (Ex. 29-29C and 44.)

The Property

6. The Property is located at 310 5th Street, N.E., Square 813, Lot 31. (Ex. 37.)
7. The Property is rectangular in shape and measures approximately 70 feet long by 17 feet wide. It encompasses 1,166 square feet of land area, far smaller than the minimum size of 1,800 square feet for lots in the RF-3 zone required by Subtitle E § 201.1. (Ex. 2 and 6.)
8. The Property fronts on 5th Street, N.E. to the east and abuts a public alley to the west. (Ex. 2.)
9. To the south of the Property are the rear lot lines of residential row buildings. (Ex. 28.)
10. To the north of the Property is a contiguous lot under separate ownership at address 312 5th Street, N.E. (the “**Northern Lot**”). It is currently improved with an existing two-story row dwelling that, at some time in the past, was expanded with a one-story rear addition. The Northern Lot contains an approximately five-foot-wide rear open court facing its southern lot line shared with the Property. (Ex. 28, 36A, and 45; BZA Public Hearing Transcript of October 2, 2019 [“October 2 Tr.”] at 22.)
11. An existing fence runs along the property line dividing the Property and the Northern Lot. (Ex. 2; Tr. at 12-14, 26-27).

12. The Property is currently improved with a two-story row dwelling with one principal dwelling unit (the “**Dwelling**”), which covers approximately 61% of the lot. (Ex. 28.)
13. At the rear of the Dwelling is an approximately five-foot-wide open court facing the Property’s northern lot line that generally aligns with the rear open court on the Northern Lot. (Ex. 2, 28, 36A, and 45; October 2 Tr. at 22)
14. The Dwelling has existing windows on its north-facing first and second floors. (Ex. 5.)
15. The Applicant testified that the character and scale of the back of the row dwellings, as viewed from the alley, varies in the vicinity of the Property. (October 2 Tr. at 32.)
16. The surrounding neighborhood is generally residential in character. (Ex. 28.)
17. The Property is located in the RF-3 zone, a Capitol Interest zone imposing additional requirements for special exception relief applications per Subtitle E § 5202.
18. The purpose of the RF-3 zone is “to provide for areas adjacent to the U.S. Capitol precinct predominately developed with row house on small lots within which no more than two (2) dwelling units are permitted.” (Subtitle E § 500.1.)

The Application

19. The Application proposes to construct a new two-story rear addition (the “**Addition**”) to extend the Dwelling into the existing rear open court along the Property’s northern property line and to extend the Dwelling west toward the rear lot line.² (Ex. 36A.)
20. The Addition would rise approximately 24 feet in height. (Ex. 37.)
21. The Addition would increase the Property’s lot occupancy to 69%. (Ex. 37.)
22. The initial plans submitted for the Addition proposed to extend the Dwelling’s first floor to the northern property line and to extend the Dwelling’s second floor, but with an approximately 2-foot, 10.5-inch set back from the Northern Lot. (Ex. 28, the “**Initial Plans**”.)
23. The Applicant submitted revised plans for the Addition to provide a larger second floor setback – of approximately 4 feet, 1.5 inches – from the Northern Lot. The Revised Plans also lowered the rooflines of the Addition’s first and second floors to further reduce the Addition’s impact on the Northern Lot. (Ex. 36, 36A, and 37, the “**Revised Plans**”.)

² For row dwellings, RF-3 zones do not require that any minimum width for open courts nor the retention of any existing open court per Subtitle E § 203.1.

24. The Applicant submitted a Sun/Shade study and a Sun/Shade Diagram demonstrating that the Addition, as proposed in the Revised Plans, would cast limited additional shading on the yard and residential windows on the Northern Lot. (Ex. 38, 38A, and 42.)

Zoning Relief

25. Subtitle E § 504.1 requires that a row dwelling in the RF-3 zone not exceed 60% lot occupancy. The existing lot occupancy of the Dwelling is 61%, and the Addition would increase the lot occupancy to 69%. (Ex. 28)
26. Subtitle C § 202.2 provides that additions can be made to a structure, so long as additions “(a) conform to use and development standard requirements; and (b) neither increase or extend any existing, nonconforming aspect of structure and addition combined.” The Addition would expand the existing non-conforming lot occupancy from 61% to 69%. (Ex. 28.)
27. In order to exceed the lot occupancy standard in the RF-3 zone, the Application requested relief under Subtitle X § 901.2, for special exceptions under Subtitle D § 5201 from the lot occupancy requirements of Subtitle E § 504.1 and from the nonconforming structure requirements of Subtitle C § 202.2.
28. Subtitle E § 5202 requires that a special exception application in the RF-3 zone comply with the Capitol Interest Overlay zone criteria in addition to any conditions required for the specific special exception.

OP Reports

29. OP submitted a written report dated September 11, 2019 that analyzed the Application against the special exception standards, which it determined had been met, and recommended approval of the requested relief.³ (Ex. 28, the “**OP Report**”.)
30. The OP Report determined that the Addition would not unreasonably impair the light and air available to neighboring properties because the existing rear yards of the adjacent properties to the south ensured continued access to light and air. For the Northern Lot, which OP identified as most likely to be impacted by the Addition, the existing open court on the Northern Lot provided continued access to light and air, while the Addition’s second floor setback, increased by the Revised Plans, limited the impact of the Addition.
31. The OP Report concluded that the privacy of use and enjoyment of neighboring properties would not be unduly compromised. In particular, OP noted that the Addition proposed only one small second story window facing the Northern Lot, and that the existing open court on the Northern Lot provided sufficient separation from the Addition to ensure that privacy is not unduly compromised.

³ At the September 25, 2019 hearing, OP testified that the OP Report was based on the Initial Plans, and since the Revised Plans reduced the size and impacts of the Addition, OP continued to support the Application. (BZA Public Hearing Transcript of September 25, 2019 [“September 25 Tr.”] at 47-48.)

32. The OP Report concluded that the Addition would not visually intrude on the character, scale, and pattern of houses along 5th Street, N.E. or the rear public alley. OP noted that the Addition's location at the rear of the Dwelling would prevent it from impacting the streetscape character, and that even when viewed from the alley, the Addition would be in scale with other buildings and employ similar materials as the Dwelling.

DDOT Report

33. DDOT submitted a written report dated September 6, 2019 stating that it had no objection to the Application. DDOT concluded that the proposed development would not result in any adverse impacts to the District transportation network. (Ex. 31, the "**DDOT Report**".)

ANC Report

34. ANC 6C submitted a written report to the record stating that the ANC voted to support the Application at a duly noticed and scheduled public meeting on September 11, 2019, at which a quorum was present.⁴ (Ex. 41, the "**ANC Report**".)
35. The ANC Report concluded that although the Addition would "undoubtedly have some adverse impacts on air and light – primarily on winter afternoons when the sun is low in the southern sky," the "modest" scale of the Addition would not unduly affect the Northern Lot, and so complied with Subtitle E § 5201.3(a).
36. The ANC Report concluded that the Addition would not create a material change in the privacy and use of enjoyment of the Northern Lot because existing windows on the Dwelling's façade faced the Northern Lot.
37. The ANC Report noted that even though Megan Greenway, an owner of the Northern Lot, spoke in opposition to the plan at the September 11, 2019 ANC meeting, that the ANC nonetheless concluded that the Application satisfied the special exceptions standards.

Architect of the Capitol Report

38. The Architect of the Capitol submitted a written report dated September 23, 2019 stating that it had no objections to the Application because the requested relief is not inconsistent with the intent of the RF-3 zone, would not adversely affect the health, safety, and general welfare of the U.S. Capitol Precinct and area adjacent to this jurisdiction, and is not inconsistent with the goals and mandates of the United States Congress. (Ex. 32, the "**AOC Report**".)

⁴ At the September 25, 2019 hearing, the Board asked if the ANC Report, which recommended approval of the Application, was based on the Initial or Revised Plans. ANC 6C04 Commissioner Mark Eckenwiler, whom the ANC authorized to present testimony at the hearing, testified that since the Revised Plans improved the Addition and reduced its impacts, it was unnecessary for the Applicant to return to the ANC to present the Revised Plans as the ANC would continue to support the Application. (September 25 Tr. 45-47.)

Persons in Support

39. The Capitol Hill Restoration Society (“CHRS”) Zoning Committee submitted a written report dated September 24, 2019, in support of the special exception request, provided that CHRS received letters of support from neighbors; however, CHRS did not confirm if it had received any such letters of support. (Ex. 39, the “CHRS Report”.)

Persons in Opposition

40. The Northern Lot Owner asserted that the Addition would adversely impact their property by reducing the amount of light and airflow to their house, obstructing existing views and sightlines, infringing on their privacy, and reducing property values. (Ex. 29B.)

Public Hearing of October 2, 2019

41. At the October 2, 2019 Public Hearing (the “Public Hearing”), the Applicant testified that the Revised Plans reduced the impact on the Northern Lot by increasing the Addition’s setback from the Northern Lot by 13 inches. (October 2 Tr. at 12.)
42. OP testified at the Public Hearing that the Addition satisfied the special exception standards, as well as the Capitol Interest Overlay criteria, as supported by the AOC Report submitted in support of the project.
43. OP characterized the Addition as “modest” in size and testified that the second floor setback, as increased in the Revised Plans, in combination with the existing open court on the Northern Lot, mitigated the impact of the Addition on the access to light and air and the privacy of use and enjoyment of the Northern Lot.
44. OP concluded that the Addition would not be out of the character of neighboring properties since expanding into an open court was a typical strategy to enlarge small houses in row house zones and the existing open court configuration was not present throughout properties in the subject square. (Ex. 28; October 2 Tr. at 33-34, 40-41.)
45. The Northern Lot Owner testified that the Addition would negatively impact the light, air, and privacy of the Northern Lot, as shown in the graphic representation submitted into the record, by
- (i) reducing the separation between the Dwelling and the Northern Lot and so increasing the feeling of “enclosure” on the Northern Lot and
 - (ii) obstructing views from the most used spaces on the Northern Lot, including the backyard, kitchen, and home office. (Ex. 45; October 2 Tr. at 19-21.)
46. The Northern Lot Owner asserted that the Addition would be out of character with the scale and pattern of the houses on the block, which the Northern Lot Owner characterized as having a repeating window and open court pattern. (October 2 Tr. at 20.)

47. The Northern Lot Owner expressed her preference that the Property's existing open court be maintained and for the Addition instead to be shifted entirely toward the south and west side of the Dwelling and further away from the Northern Lot. She also preferred for the Addition's roofs to slope to the west, rather than to the north, in order to direct any water runoff away from her property. (October 2 Tr. at 23, 25-26, 28.)
48. In response to the Board's questioning, the Applicant testified that the Northern Lot Owner's suggestion that the Addition be moved to the west side of the Dwelling instead of expanding into the open court as proposed would not be consistent with the Applicant's project goals and would likely require new zoning relief. (October 2 Tr. at 29-30.)

CONCLUSIONS OF LAW

1. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.07(g)(2) (2018 Repl.); *see also* Subtitle X § 901.2) authorizes the Board to grant special exceptions, as provided in the Zoning Regulations, where, in the judgement of the Board, the special exception:
 - a. will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map,
 - b. will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and
 - c. complies with the special conditions specified in the Zoning Regulations.
2. For the relief requested by the Application, the "specific conditions" are those of Subtitle E § 5201, which authorizes the requested relief, and Subtitle E § 5202, because the Property is in the Capitol Interest RF-3 zone.
3. Relief granted by the Board through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, the Board's discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and "if the applicant meets its burden, the Board ordinarily must grant the application." *First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. D.C. Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)).

Relief from Development Standards Pursuant to Subtitle E § 5201

4. Subtitle E § 5201.1 authorizes the Board to approve relief only from certain development standards listed in paragraphs (a)–(f) as special exception in the RF zones. The Board concludes the Application complies with this subsection as the requested relief is from two of the eligible standards – the lot occupancy requirements of Subtitle E § 504.1 and the nonconforming structure requirements of Subtitle C § 202.2.

5. Subtitle E § 5201.2 limits the special exception relief to certain types of development. The Board concludes that the Application satisfies the standard because an addition to an existing residential building is one of the eligible development types.
6. The Board concludes that the Application meets the criteria of Subtitle E § 5201.3, which requires that an applicant demonstrate that the addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property as follows:
 - (a) *The light and air available to neighboring properties shall not be unduly affected*
7. The Board concludes, in concurrence with OP's analysis, that the Applicant has demonstrated that the light and air available to neighboring properties would not be unduly affected by the Addition because the neighboring properties to the south will retain their rear yards. The Board concludes that Addition's modest size and second floor setback mitigate its impact on the Northern Lot, as confirmed by the Applicant's Sun/Shade study and diagrams, which demonstrated that the Addition would cast only limited additional shading on the Northern Lot's yard and windows. The Board disagreed with the Northern Lot Owner that obstruction to views is a relevant consideration for the special exception analysis. (October 2 Tr. at 26, 41.)
 - (b) *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*
8. The Board concludes, in concurrence with OP's analysis, that the Applicant has demonstrated that the Addition would not unduly compromise the privacy of use and enjoyment of neighboring property because the properties to the south retain the buffer of their rear yards, while the impact on the Northern Lot is limited by the Addition's second-story setback and the limit of only one small second-story window facing the Northern Lot. (October 2 Tr. at 40- 43.)
 - (c) *The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;*
9. The Board concludes that the Applicant has demonstrated that the addition would "not substantially visually intrude" on the character, scale, and pattern of houses along the subject street frontage. The Board concurs with OP's analysis, which determined that the addition would be in scale with other buildings and that the Addition would employ similar materials as the existing building. The Board also is convinced by the Applicant's testimony that there was no repeating design pattern of dwellings, as viewed from the alley, of dwellings in the vicinity. (October 2 Tr. at 40-43.)

- (d) In demonstrating compliance with the paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and view from public ways*
10. The Board concludes that the plans submitted to the record in support of the Application were sufficient for the Board's evaluation of the Application and so met this standard.
- (e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).*
11. The Board concludes that the Application meets this standard because it proposes a 69% lot occupancy for the Property, including the Addition. (Finding of Fact 19.)
12. The Board concludes the granting the relief sought by the Application did not require the imposition of any conditions as authorized by Subtitle E § 5201.4.
13. The Board concludes that Subtitle E §§ 5201.5 and 5201.6 were satisfied, as the Application did not introduce or expand a nonconforming use, height, or number of stories.

Relief from Development Standards Pursuant to Subtitle E § 5202

14. Per Subtitle E § 5202.1, in the RF-3 zone, in addition to any conditions relative to the special exception, any special exception application shall be subject to consideration by the Board as to whether the proposed development is:
- (a) Compatible with the present and proposed development of the neighborhood;*
- (b) Consistent with the goals and mandates of the United States Congress in title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1985 (Pub.L. No. 94-59, 89 Stat. 288); and*
- (c) In accordance with the plan promulgated under the Act.*
15. The Board concludes that the Application satisfies the standards of Subtitle E § 5202.1 based on the AOC Report, which found that the proposal is not inconsistent with the Subtitle E § 5202.1 criteria, and OP's testimony that the Addition is compatible with the present and proposed development in the neighborhood. (October 2 Tr. at 35.)

Relief from General Special Exception Standards Pursuant to Subtitle X § 901.2

16. The Board concludes that the Application meets the general special exception standards of Subtitle X § 901.2(b) – to not adversely affect the use of the neighboring properties – for the same reasons as the Board concludes that the Application satisfies the specific

special exception standards of Subtitle E §§ 5201 and 5202, which more specifically enumerate the potential adverse impacts on neighboring properties.

17. The Board concludes that the Application meets the general special exception standards of Subtitle X § 901.2(a) – to be in general harmony with the Zoning Regulations and Map – because it complies with all of the other standards for the requested special exception relief and is consistent with the purpose of the RF-3 zone in enabling the continued use of a principal dwelling unit in a row dwelling on a small lot (“to provide for areas adjacent to the U.S. Capitol precinct predominately developed with row house on small lots within which no more than two (2) dwelling units are permitted” - Subtitle E § 500.1).

“Great Weight” to the Recommendations of OP

18. The Board is required to give “great weight” to OP’s recommendation 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 (2018 Repl.) and Subtitle Y § 405.8.)
19. The Board concludes that the OP Report, which provided an in-depth analysis of how the Application met each of the requirements for the requested special exception relief, is persuasive and concurs with OP’s recommendation that the Board approve the Application.

“Great Weight” to the Written Report of the ANC

20. The Board is required to give “great weight” to the issues and concerns raised in the written report of the affected ANC by § 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) (2012 Repl.) and Subtitle Y § 406.2) To satisfy this 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. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).
21. The Board concludes that the ANC Report was persuasive, in particular that the Addition would not unduly affect the light and air to the Northern Lot although some additional shadows would be cast and would not materially decrease the privacy and use of enjoyment of the Northern Lot given the Dwelling’s existing windows facing the Northern Lot. (Ex. 41, October 2 Tr. at 41.)

DECISION

Based on the case record, the testimony at the hearing, and the Findings of Fact and Conclusions of Law, the Board concludes that the Applicant has satisfied the burden of proof with respect to

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the request for special exception relief under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 504.1 and from the nonconforming structure requirements of Subtitle C § 202.2, and therefore orders the Application, based on the Revised Plans, be **GRANTED**, subject to the following conditions:

1. The Addition shall be constructed in accordance with the Revised Plans (Ex. 36-36A), as required by Subtitle Y §§ 604.9 and 604.10.

VOTE (October 2, 2019): 4-0-1 (Frederick L. Hill, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro 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: November 25, 2019

PURSUANT TO 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 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 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,

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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. 20142 of 746 IRVING ST LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 5201 and 205.5 from the rear wall extension requirements of Subtitle E § 205.4, to construct a two-story rear addition to an existing attached principal dwelling unit in the RF-1 Zone at premises 746 Irving Street, N.W. (Square 2890, Lot 59).

HEARING DATE: November 20, 2019

DECISION DATE: November 20, 2019

SUMMARY ORDER

Relief Requested. The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 14 (Revised); Exhibit 4 (Original).)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 10, 2019, at which a quorum was present, the ANC voted 7-0-1 to support the application. (Exhibit 34.) The ANC Report noted the ANC's concern with the depth of the rear addition, but the ANC ultimately recommended approval of the application based on the height of the addition, size of homes in the area, and support of adjacent neighbors.

OP Report. The Office of Planning ("OP") submitted a report recommending approval of the application. (Exhibit 49.) OP originally submitted a report indicating that it was not able to make a recommendation. (Exhibit 38.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 37.)

Persons in Support. The Board received letters in support from both adjacent neighbors and from the Point Pleasant Civic Association. (Exhibits 39-40.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle E §§ 5201 and 205.5 from the rear wall extension requirements of Subtitle E § 205.4, to construct a two-story rear addition to an existing attached principal dwelling unit in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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 PLANS¹ AT EXHIBIT 17²**.

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Robert E. Miller 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: November 27, 2019

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

¹ Self-certification: In granting the certified relief, the Board 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.

² The Applicant submitted a version of the architectural plans in Exhibits 43A1-43A2 that provide additional details. To the extent that these plans make any refinements or modifications to the plans in Exhibit 17, the Board adopts those modifications as part of the approved plans.

AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 20145 of Andrew and Courtney Briggs, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1 and from the rear yard requirements of Subtitle E § 306.1, to construct a two-story rear addition to an existing attached principal dwelling unit in the RF-1 Zone at premises 717 Kentucky Avenue, S.E. (Square 1077, Lot 0076).

HEARING DATE: November 20, 2019
DECISION DATE: November 20, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 12, 2019, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 37.)

OP Report. The Office of Planning submitted a report, dated November 8, 2019, recommending approval of the application. (Exhibit 33.)

DDOT Report. The District Department of Transportation submitted a report, dated November 1, 2019, indicating that it had no objection to the application. (Exhibit 32.)

Persons in Support. The Board received letters from two neighbors in support of the application. (Exhibits 11 and 12.)

Persons in Opposition. The Board received a letter from the Capitol Hill Restoration Society ("CHRS") in opposition to the application. CHRS objected to the planned reduction in rear yard. (Exhibit 31.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1 and from the rear yard requirements of Subtitle E § 306.1, to construct a two-story rear addition to an existing attached principal dwelling unit in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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 PLANS¹ AT EXHIBIT 5.**

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Robert E. Miller 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: November 22, 2019

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

¹Self-certification: In granting the self-certified relief, the Board 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.

§ 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. 20147 of Christopher Lobb and Paola Barbara, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, and from the nonconforming structures requirements of Subtitle C § 202.2 to build a one-story rear addition and a two-story side addition to an attached principal dwelling unit in the RF-1 Zone at premises 148 11th Street, S.E. (Square 989, Lot 26)

HEARING DATE: November 20, 2019

DECISION DATE: November 20, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 3.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 12, 2019, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 34.)

OP Report. The Office of Planning submitted a report, dated November 8, 2019, recommending approval of the application. (Exhibit 30.)

DDOT Report. The District Department of Transportation submitted a report, dated November 1, 2019, indicating that it had no objection to the application. (Exhibit 29.)

Persons in Support. The Board received letters from two neighbors in support of the application. (Exhibits 11 and 12.) The Board also received a letter from the Capitol Hill Restoration Society in support of the application. (Exhibit 28.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, and from the nonconforming structures requirements of Subtitle C § 202.2 to build a one-story rear addition and a two-story side addition to an attached principal dwelling unit in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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 PLANS¹ AT EXHIBIT 6.**

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Robert E. Miller 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: November 25, 2019

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

¹ Self-certification: In granting the self-certified relief, the Board 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.

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

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 20149 of George Ingram and Lynn Hart, 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 at the rear of the existing detached principal dwelling unit in the RF-1 Zone at premises 138 11th Street S.E. (Square 989, Lot 31).

HEARING DATE: November 20, 2019

DECISION DATE: November 20, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 15, 2019, at which a quorum was present, the ANC voted 7-0-0 to support the application. (Exhibit 36.)

OP Report. The Office of Planning ("OP") submitted a report recommending approval of the application. (Exhibit 35.) OP noted that the adjacent property owner filed an application to remove a large tree that impacts the proposed accessory building and indicated that, if the tree removal application were denied, the proposed accessory building's foundation, design, and potentially size or siting would have to be adjusted to minimize impacts on the tree.

The Applicant testified to confirm that the tree removal application is pending. The Board noted that, if the tree is not removed and the proposal must be redesigned accordingly, the Applicant would need to return to the Board with a request to modify the approved plans.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 34.)

Persons in Support. The Board received seven letters in support from neighbors and a letter in support from Capitol Hill Restoration Society. (Exhibits 11-17, and 33.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a two-story accessory structure at the rear of the existing detached principal dwelling unit in the RF-1 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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 PLANS¹ AT EXHIBIT 6 AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall have flexibility to lower the height of the accessory structure by one foot, as required by the Historic Preservation Review Board.

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Robert E. Miller 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: November 25, 2019

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.

¹ Self-certification: In granting the certified relief, the Board 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.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 20150 of Kenyon 7, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle G § 1200 from the lot occupancy requirements of Subtitle G § 404.1 and from the side yard requirements of Subtitle G § 406.1, and under Subtitle § 1201 from the rear yard requirements of Subtitle G § 405.2, to construct a two-story addition to an existing two-story attached building in the MU-4 Zone at premises 3117 Georgia Avenue, N.W. (Square 3041, Lot 127).

HEARING DATE: November 20, 2019
DECISION DATE: November 20, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 10, 2019 at which a quorum was present, the ANC voted 9-0-0 to support the application, with a recommendation on material to be used on the balcony guard rail, which did not impact the relief requested in this case. (Exhibit 32.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 33.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 34.)

Persons in Opposition. One letter was filed in opposition to the application (Exhibit 39.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle G § 1200 from the lot occupancy requirements of Subtitle G § 404.1 and from the side yard requirements of Subtitle G § 406.1, and under Subtitle § 1201 from the rear yard requirements of

Subtitle G § 405.2, to construct a two-story addition to an existing two-story attached building in the MU-4 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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 PLANS¹ AT EXHIBIT 31 – UPDATED ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Robert E. Miller to APPROVE; Lesylleé M. White not participating).

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 25, 2019

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

¹ Self-certification. In granting the certified relief, the Board 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.

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. 20156 of Mysa School, Inc., as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle U § 420.1(a) and Subtitle U § 320.1(a), from the use provisions of Subtitle U § 203.1(l), and under the private school plan provisions of Subtitle X § 104 and the school plan requirements of Subtitle X § 105, to permit a private school use serving 100 students and 8 staff members in an existing building in the RA-4 Zone at premises 1500 Harvard Street N.W. (Square 2577, Lot 43).

HEARING DATE: November 20, 2019
DECISION DATE: November 20, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 35 (Revised); Exhibit 4 (Original).)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 13, 2019, at which a quorum was present, the ANC voted 11-0-0 to support the application. (Exhibit 51.) ANC Commissioner Michael Wray testified in support of the application at the public hearing.

OP Report. The Office of Planning ("OP") submitted a report recommending approval of the application. (Exhibit 44.) The OP Report was based on the information provided by the Applicant pertaining to limitations on the operation that would lessen or mitigate potential undue impacts. The Board adopted these limitations as conditions of their approval.

DDOT Report. The District Department of Transportation ("DDOT") submitted a report indicating that it had no objection to the application. (Exhibit 43.) The DDOT Report requested that the Applicant finalize its pick-up and drop-off plan with DDOT and install the appropriate pick-up and drop-off signage. The Applicant testified that it has worked with DDOT to address these issues.

Persons in Support. The Board received letters in support from Clinica del Pueblo, D.C. Scottish Rite, and neighbors. (Ex. 39, 40, 45-50)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle U § 420.1(a), and Subtitle U § 320.1(a), from the use provisions of Subtitle U § 203.1(l), and under the private school plan provisions of Subtitle X § 104 and the school plan requirements of Subtitle X § 105, to permit a private school use serving 100 students and 8 staff members in an existing building in the RA-4 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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 SITE PLAN¹ AT EXHIBIT 37 AND WITH THE FOLLOWING CONDITIONS:**

1. The number of faculty/staff on site shall not exceed eight at any given time.
2. The number of students on site shall not exceed 100 at any given time.
3. Classes shall be limited to the approximately 8,392 square feet leased from the building and highlighted in the site plan at Exhibit 6.
4. Normal school day hours shall begin at 8:00 A.M. and end at 6:00 P.M.
5. Drop-off and pick-up shall occur on Harvard Street, N.W. between 15th and 16th Street, N.W., where on-street parking is prohibited except for on Sundays. Faculty/staff shall supervise drop-off and pick-up so that parents would not exit vehicles.

¹ Self-certification: In granting the certified relief, the Board 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.

6. Faculty/staff shall arrive by metro or shall have the option to purchase monthly passes to park in a neighborhood parking garage.
7. The Applicant shall work with the DDOT Safe Routes to School team to install pick-up and drop-off school signage on 15th Street, N.W. and Harvard Street, N.W.

VOTE: 4-0-1 (Frederick L. Hill, Carlton E. Hart, Lorna L. John, and Robert E. Miller 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: November 22, 2019

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

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF

BZA APPLICATION NO. 20156

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ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION CORRECTION¹ ORDER NO. 18-21(1)**

Z.C. Case No. 18-21

Hanover R.S. Limited Partnership

**(Consolidated Planned Unit Development and Related Map Amendment @
Squares 3832 and 3835)**

June 10, 2019

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on April 25, 2019, to consider the application of Hanover R.S. Limited Partnership (the “Applicant”) for a consolidated planned unit development (“PUD”) and a related Zoning Map amendment (the “Application”) for property which is located at Square 3832, Lot 15 and Square 3835, Lot 804 (collectively the “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 (Zoning Regulations of 2016, the “Zoning Regulations”, to which all references are made unless otherwise specified). For the reasons stated below, the Commission hereby **APPROVES** the Application.

FINDINGS OF FACT

Notice

1. On February 28, 2019, the Office of Zoning (“OZ”) sent notice of the hearing to:
 - Advisory Neighborhood Commission (“ANC”) 5E, the “affected” ANC pursuant to Subtitle Z § 101.8;
 - ANC Single Member District (“SMD”);
 - Office of Planning (“OP”);
 - District Department of Transportation (“DDOT”);
 - Department of Consumer and Regulatory Affairs (“DCRA”);
 - District of Columbia Housing Authority (“DCHA”);
 - Office of the Attorney General (“OAG”);
 - Department of Energy and the Environment (“DOEE”);
 - the DC Council; and
 - Property owners within 200 feet of the Property. (Exhibit [“Ex.”] 19.)
2. OZ also published notice of the hearing in the *D.C. Register* on March 8, 2019 (66 DCR 2736) as well as through the calendar on OZ’s website. (Ex. 17.)

Parties

3. The parties to the case were the Applicant and ANC 5E, the ANC in which the Property is located. There were no requests for party status.

The Property

4. The Property has a total land area of 90,293 square feet and is bounded by the Washington Metropolitan Area Transit Authority (“WMATA”) tracks to the east and 8th

¹ Corrected to remove Finding of Fact No. 95a. that was previously stated at Finding of Fact No. 92b. and to remove staff notes that were inadvertently left in Findings of Fact Nos. 61, 62, and 86.

Street, N.E. to the west. Kearny Street, N.E. is located to the northwest of the Property, and Irving Street, N.E. is located to the southwest of the Property.

5. The southern portion of the Property is presently improved with a vacant industrial building that was most recently used by a nonprofit. The northern portion of the Property is occupied by industrial uses. Approximately one-half of the Property is a machine laydown yard leased by a construction rental company. The remainder of the Property contains two free-standing, light-weight sheet metal warehouse buildings. These buildings are used predominantly to store construction equipment and building supplies. Individual warehouse bays within these structures are leased to trade contractors in the construction business.
6. Directly to the north of the Property is the District Artspace Lofts, which was approved as a PUD (Z.C. Case No. 09-08, subsequently modified by Z.C. Case Nos. 09-08A and 09-08B). The PUD included new facilities for Dance Place, which has been located in the neighborhood since 1986. The District Artspace Lofts is a four-story building that is 48 feet in height and includes open space between the buildings generally at the terminus of Kearney Street.
7. Further to the north is the Brookland-CUA Metrorail station and adjacent to the Metrorail is Monroe Street Market, which was approved as a PUD (Z.C. Case No. 08-24, subsequently modified by Z.C. Case Nos. 08-24B through 08-24C). The Monroe Street Market PUD is a development on five separate “blocks” and includes buildings with a maximum height of 90 feet.
8. These two PUDs, as well as the PUD that is the subject of the Application, create a spine of development that traverse from Michigan Avenue to the Brookland-CUA Metrorail station and down 8th Street along the WMATA tracks.
9. To the west of the Property is the Edgewood neighborhood, which is predominantly residential in character. Existing industrial uses are clustered along the east side of 8th Street, which are incompatible with the longstanding residential neighborhood to the west. Further to the south along Edgewood Street (which is a continuation of 8th Street south of Hamlin Street) is the Tolson Campus of the Hope Community Public Charter School (the “Hope Community Charter School”). Two additional schools (DC Prep Edgewood Elementary School and City Arts and Prep Public Charter School) are located south of Franklin Street.
10. Since the majority of 8th Street between the Brookland-CUA Metrorail station and the school is improved with industrial uses, the streetscape along 8th Street does not include sidewalks to provide a connection between the schools to the south and the Metrorail station and Dance Place to the north, which serve the schools’ transportation and after-school enrichment needs, respectively.

11. The area is served well by various transportation options. The Brookland-CUA Metrorail station is located 0.3 miles to the north of the Property. In addition, Michigan Avenue to the north of the Property is also well served by five Metrobus routes (80, H1, H2, H3, and H4).
12. The Metropolitan Branch Trail (“MBT”) generally traverses the western side of the WMATA tracks and Metrorail red line from Union Station up to Franklin Street. The MBT turns west along Franklin Street and terminates at 7th Street. Since the MBT begins again at the intersection of Monroe Street and 8th Street to the north of the Property, 8th Street serves as an unmarked portion of the MBT. As a result, DDOT is studying options for implementing an extension of the MBT immediately adjacent to the Property.
13. The Property is currently zoned PDR-1.

The Application

14. On October 30, 2018, the Applicant filed the Application with the Commission for the consolidated review and approval of a PUD and a related Zoning Map amendment from the PDR-1 zone to the MU-4 zone for the Property. (Ex. 1-2L.)
15. The Applicant proposes to construct two multifamily residential buildings separated by a landscaped entry plaza, with a total of approximately 377 units (the “Project”). (Ex. 2, 3A1-3A10.)
16. While the buildings will function as a single residential development, the Project includes two separate buildings in order to break down the scale of the PUD and appropriately site the Project within the surrounding residential neighborhood.
17. Though each building includes its own residential lobby accessed from the landscaped entry plaza, the amenities for the buildings’ residents will be located primarily in the north building. This includes amenity space on the ground floor as well as third-floor amenity space adjacent to the outdoor pool in the north building’s courtyard. The south building includes two outdoor courtyards above the second level, with landscaping, paving, and seating.
18. The two buildings will include approximately 325,050 square feet of gross floor area, or a density of 3.6 floor area ratio (“FAR”), calculated based on the overall Property. The maximum height of the both buildings is 65 feet as measured to the top of the parapet. Each building also includes setbacks at the sixth story and the courtyards above the second level fronting on 8th Street act as additional setbacks, breaking up the façade along 8th Street. Both buildings in the Project include a habitable penthouse with a maximum height of 12 feet and a mechanical penthouse with a maximum height of 18 feet, 6 inches. All portions of the penthouses will be set back 1:1 in accordance with the Zoning Regulations and will comply with the other penthouse requirements set forth in Subtitle C, Chapter 15.

19. The north building is “U” shaped, and the south building is “E” shaped. The massing of both buildings is weighted towards the tracks, which shields the surrounding lower-density residential uses in the vicinity of the Property from the WMATA tracks to the east. The building wings open towards the street to minimize the buildings’ scale and the double order fenestration helps to minimize the perceived height of the buildings.
20. The Project is designed within the framework of the Brookland-CUA Small Area Plan (“SAP”) and specifically within the recommendations of the Commercial Area South of Metro Station Subarea. Both buildings include a .5:1 setback at approximately 50 feet in height as called for in the SAP. (See SAP at 52 [“Building facades facing a public street in the sub area should step back in height at a ratio of one half (1/2) to one above 50 feet.”].) The buildings are further stepped back at the penthouse level and the overall building scale is compatible with the spine of development that is clustered along Michigan Avenue and 8th Street to the north of the Property.
21. The buildings’ wings include asymmetrical composition, and the materials include glass and dark panel grid projections contrasting with recessed textured punched openings in the main brick façades. This asymmetrical theme is carried up and around the building façade façades and the dark grid is also carried through to the buildings’ penthouses in order to minimize the penthouse from view.
22. Each residential building has a two-story base that relates to the two-story rowhomes across 8th Street. While the two buildings are related in the architecture, they vary slightly in brick color to create distinct identities while fostering a coherent vision for the entirety of the Property. The brick layering and detailing provided on both buildings further relate the Project to the surrounding rowhome aesthetic as does the inclusion of bays, stoops, canopies, wood doors, and street level gardens. The inclusion of private stoops along with tiered foundation plantings at the base of both buildings further compliment the scale and character of the surrounding neighborhood. The Project also includes “townhouse-style” units along 8th Street, N.E. that further activate and enliven the streetscape.
23. The Project is designed to LEED-Gold standards and the similarly intends to seek LEED- Gold certification of the Project under the LEED v4-Multifamily Midrise standard. The LEED v4-Multifamily Midrise standard is tailored to the unique aspects of multifamily buildings and includes prescriptive requirements for onsite testing and performance. In addition to the standard LEED features and credit categories, the Multifamily Midrise standard requires mandatory compartmentalization, reduced duct leakage, and verified performance of exhaust and ventilation systems, all of which are unique in comparison with LEED BD+C for New Construction.
24. The Project is designed to integrate a host of sustainable features including a minimum of 2,750 square feet of solar panels that are anticipated to generate approximately one percent of the energy for the Project.

25. The green area ratio (“GAR”) will be met by way of intensive and extensive green roof, bioretention, permeable pavers, grass and plantings, and solar panels. These best management practices will be implemented throughout the Project, both on and around the proposed buildings.
26. The below-grade parking garage provides approximately 186 parking spaces, which exceeds the 63 spaces required for the Project. (*See* Subtitle C § 702.1.) the Project includes two loading berths at 30 feet, two 100-square-foot platforms, and one service/delivery space at 20 feet. The loading berths have been designed to achieve front-in/front-out access from the public street for all loading vehicles.
27. The Project includes 125 long-term bicycle parking spaces in an enclosed bike storage area in the below-grade garage and will include 20 short-term bicycle parking spaces in the public space adjacent to the Property.
28. All access to parking and loading for the Project is from a curb cut on the north side of the Property along 8th Street, N.E. A private driveway provides access to the parking garage entrance on the north side of the north building on the Property, and the loading facilities will be located along the eastern portion of the Property adjacent to the WMATA tracks. All truck turning maneuvers will occur on the Property. Locating the parking entrance and loading facilities away from 8th Street minimizes pedestrian and vehicular conflicts as well as conflicts with the MBT that may be located adjacent to the Property.
29. The proposed buildings will be separated by a landscaped entry plaza that aligns with Jackson Street and breaks up the massing of the Project. This plaza will be the focal point at the terminus of Jackson Street while also masking views of the WMATA tracks to the east. The plaza features a wedged geometry that widens from the WMATA tracks towards 8th Street. The plaza width ranges from 30 feet to 55 feet similar to the Arts Walk at Monroe Street Market and includes approximately 5,150 square feet.
30. The leasing office and the amenity spaces of both buildings will be oriented towards the plaza to activate this space. The plaza will be well-lit and landscaped and will include seating for the public and buildings’ residents. In addition, the primary residential entrances are located in the central landscaped entry plaza separating the two buildings. At the request of the Department of Parks and Recreation (“DPR”), the Applicant will provide a public drinking fountain in the entry plaza for use by runners, bikers and pedestrians.
31. Since the entry plaza is located between the two residential buildings, the plaza has been designed for more passive use in order to limit noise and activity that may impact the adjacent residential units. As a result, the plaza includes several types of seating to host groups of various sizes and provides ample opportunities for neighbor interaction, while also limiting any adverse impacts on the building’s residents.

32. Layers of evergreen trees and shrubs will be mixed in with leafy deciduous planting to provide year-round tree cover. Drip irrigation is proposed for all plantings, which is a best management practice to promote plant health while preserving water. Several bio-retention planters will utilize roof runoff for irrigation as they filter the water and slow the conveyance and impact on the public storm sewer. The extensive use of permeable pavers for the driveway on the northern portion of the Property will greatly reduce storm runoff and reinforce the Applicant's commitment to green practices. The Project also includes a landscaped dog run in the rear of the south building that will be made available to the buildings' residents
33. The Property site is located in a connected, previously developed neighborhood with connections to existing infrastructure, services and public transportation options, such as the MBT, which is a vital artery for alternative forms of transportation and commuting throughout the District.
34. The Project includes improvements to the public space along 8th Street adjacent to the fronts of each building, which will enliven the streetscape and provide a safe walking environment both for residents in the area as well as the children that travel between Dance Place to the north of the Property and the Hope Community Charter School to the south of the Property. The 8th Street streetscape includes an eight-foot-wide planting strip with ornamental trees. (Ex. 25A1-25A6, Sheets L03-L07.) Moreover, the 8th Street sidewalk will be 10 feet wide and will be improved with benches and bicycle racks. The Applicant will also provide a one-foot clearance on both sides of the Property's proposed sidewalk to accommodate the future design and location of the MBT.

First Application Revision – Response to Comments at Setdown

35. On February 25, 2019, the Applicant submitted a Prehearing Submission which included revised architectural drawings in response to questions raised by OP Setdown Report and the Commission at the setdown meeting, including: (Ex. 13-15J.)
 - a. Additional information regarding vinyl windows and cementitious panels;
 - b. Additional information regarding the proposed landscaping for the project, including additional information on the landscape entry plaza;
 - c. Additional information regarding the Applicant's environmental and LEED commitments;
 - d. Updated information regarding the Applicant's proffered public benefits and project amenities;
 - e. Updated information regarding the Applicant's community outreach;
 - f. Updated information regarding the Applicant work with relevant District agencies; and

- g. Additional information regarding the provision of three-bedroom units in furtherance of the District's goals of providing more family-sized affordable units.
36. In response to comments from the Commission during the Setdown meeting, the Applicant replaced the proposed cementitious panels with metal panel and stucco. ACM metal panel is included on the base and middle of the buildings, and corrugated metal is included on the top of the buildings.
37. The proposed stucco is a full three-coat stucco system with a 7/8" thickness. The Applicant is not proposing an exterior insulation and finish system ("EIFS"), which is meant to resemble stucco. The proposed stucco is comprised of a lath, brown and scratch coat, and a finish coat. In addition to the traditional stucco installation, the Applicant is proposing to use a continuous drainage mat that works by creating an air gap that promotes rapid drainage of potential moisture. As a result, the proposed stucco is a high quality and long-lasting material that will age appropriately over time since it includes an integral color to prevent it from fading.
38. The Applicant's Statement explained that the proposed vinyl windows are low-profile and a dark color. These modern vinyl windows are steel-reinforced, which allows for a slimmer profile than traditional vinyl windows and provides for increased durability. While the proposed windows are a dark color, technological advancements in vinyl window construction allow them to be fade- and scratch-resistant such that they are more durable than traditional white or beige vinyl windows. In addition, the vinyl windows provide comparable or better energy efficiency than aluminum windows. As a result, the proposed vinyl windows are also a high quality and long-lasting material.
39. The Applicant also revised the design such that Juliette- and full-sized balconies are included on approximately half the units. The addition of balconies provides additional outdoor space for the building's residents and also enhances the residential character of the building.
40. The Application stated that the Applicant attended an Interagency PUD meeting (the "Interagency Meeting") on February 6, 2019. Representatives from the DOEE, DHCD, OP's Design Development Team, the Office of the State Superintendent of Education ("OSSE"), and Fire and Emergency Medical Services Department Emergency ("FEMS") attended the meeting.
41. The Application stated that at the Interagency Meeting, representatives of FEMS raised certain questions regarding fire hydrants, fire truck access to the Property, and emergency responder radio coverage. In subsequent discussions, the Applicant's team confirmed that the Property complies with the fire hydrant requirements of the DC Fire Code (IFC § 507). Additionally, the Applicant confirmed that the Property has been designed to provide the required access for fire trucks (IFC § D103) and apparatuses. Moreover, the

Applicant confirmed that it will comply with DC Fire Code § 510.1, which requires emergency responder radio cover in new buildings. (Ex. 15.)

42. The Application stated that at the Interagency Meeting, DOEE discussed the Applicant's LEED proffer, including the Applicant's previous success with achieving LEED certification, compliance with the GAR requirements, and the Applicant's sustainable design features, including the provision of solar panels. (Ex. 15.)

Second Application Revision

43. On April 4, 2019, the Applicant submitted a Supplemental Prehearing Submission with revised architectural drawings, which provided updated information regarding: (Ex. 25-25F.)

- a. The proposed landscaping for the Project, including additional information on the landscaped entry plaza in response to OP's requests for additional information at the Interagency Meeting;
- b. Access to the Project and a revised loading dock layout due to the elongation of the access drive along the eastern portion of the Property;
- c. Revised building materials (replacing stucco and masonry segments with metal panels) and taller courtyard guardrails;
- d. The Applicant's proffered public benefits and project amenities, specifically updates to the contributions to McKinley Tech Track Club and 1way2rise;
- e. Revised development flexibility which would permit the Applicant to make changes to the streetscape features and to vary the approved sustainable features of the Project;
- f. An updated list of witnesses;
- g. A revised certificate of service for the Applicant's Prehearing Submission; and
- h. The Applicant's Transportation Demand Management ("TDM") measures.

Third Application Revision – Response to OP's Hearing Report

44. The Applicant also submitted a separate response to the OP Hearing Report on April 25, 2019, which included: (Ex. 33.)

- a. A revised inclusionary zoning ("IZ") unit location plan showing the MFI levels for each unit and designating one of the "townhouse" style units as an IZ unit;

- b. Additional information regarding the landscaped entry plaza including the Applicant's commitment to provide a water fountain for runners, bikers, and pedestrians; and
 - c. A revised signage plan that includes the materials for the proposed signage.
45. In response to DHCD's comments contained in the OP Hearing Report, the Applicant revised the IZ unit location plan to include an IZ unit as a "townhouse style" unit along 8th Street, N.E. These "townhouse style" units are designed to mimic the design of townhouses on the exterior but are single level units with an in-board bedroom (constituting a one-bedroom unit under the Building Code and as a studio for IZ purposes). Each unit includes access from the interior corridor as well as 8th Street, N.E. (Ex. 33.)

Development Flexibility Requested - Map Amendment and GAR Flexibility

46. The Property is currently zoned PDR-1. The Application requests to rezone the Property from the PDR-1 Zone to the MU-4 Zone to allow for the proposed development. Subtitle X § 303.12 provides that a PUD-related Zoning Map amendment shall be considered flexibility against which the Commission shall weigh the benefits of the PUD.
47. The PDR-1 zone is intended to permit medium-density commercial and production distribution, and repair ("PDR") activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones. (Subtitle J § 200.2.)
48. The PDR-1 zone permits a maximum height of 50 feet, with a maximum height of 60 for a PUD. (Subtitle J § 203.1; Subtitle X § 303.7.) The PDR-1 zone permits a maximum FAR of 2.0 for restricted uses and 3.5 FAR for permitted uses. (Subtitle J § 202.1.) The maximum FAR for a PUD in the PDR-1 Zone is 2.4 for restricted uses and 4.2 for permitted uses. (Subtitle X § 303.3.)
49. Multifamily residential use is not permitted in the PDR-1 zone. New residential uses are limited to either: (1) an apartment unit for a caretaker watchman, or janitor employed on the premises; or (2) an apartment unit that is integrated with and accessory to an artist studio. (Subtitle U § 801.1(v).)
50. The MU-4 zones are intended to permit moderate-density mixed-use development. (Subtitle G § 400.3(a).) In addition, the MU-4 zones are located in low- and moderate-density residential areas with access to main roadways or rapid transit stops. (Subtitle G § 400.3(c).)
51. The MU-4 zone permits a maximum matter-of-right height of 50 feet, with no limit on the number of stories. (Subtitle G § 403.1.) The maximum permitted FAR is 2.5, with up to 3.0 FAR for IZ projects, and with a maximum non-residential FAR of 1.5. (Subtitle G § 402.1.)

52. Under the PUD guidelines for the MU-4 zone, the maximum height is 65 feet and the maximum FAR is 3.6, with a maximum non-residential FAR of 2.01. (Subtitle X §§ 303.7, 303.3.)
53. A tabulation of the PUD's development data is included on Sheets G08 and G09, titled "Zoning Analysis", submitted with the Applicant's Supplemental Prehearing Submission, and marked as Exhibit 25A of the record. The architectural drawings titled "Hanover 8th Street," prepared by KTG Architecture and dated April 4, 2019, and marked as Exhibits 25A1-28A6 of the record, as revised by the "Revised Signage Plan," marked as Exhibit 33B, are collectively referred to hereinafter as the "Plans."
54. The Applicant also requests technical flexibility to allow the GAR requirements to be satisfied based on the entire Property and not based on each individual building and theoretical lot, as would otherwise be required. (Subtitle C § 302.4.) The minimum GAR of 0.3 is met for the Property, which is consistent with the Zoning Regulation.

Project Impacts

55. The Application contends that the Project will not result in unacceptable impacts on the surrounding area or on the operation of city services and facilities, but instead the impacts are either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project.
56. With respect to transportation issues, the Applicant prepared a Comprehensive Traffic Assessment ("CTR") to evaluate potential impact. (Ex. 22.) The CTR identified potential adverse impacts and proposed mitigation for the same. DDOT evaluated those impacts and the proposed mitigation and requested additional mitigation, to which DDOT and the Applicant came to agreement. (Ex. 32.) At the hearing, DDOT confirmed its determination that the identified project impacts were capable of being mitigated through the Applicant's robust TDM Plan and the Loading Management Plan discussed below. (Transcript of the April 25, 2019 Public Hearing ["Hrg. Tr."] at 67.)

Transportation Mitigations

57. Transportation Demand Management: The Applicant will provide a TDM Plan as follows:
 - a. The Applicant will identify a TDM Leader (for planning, construction, and operations) at the building, who will act as a point of contact with DDOT/Zoning Enforcement with annual updates. The TDM Leader will work with residents to distribute and market various transportation alternatives and options. The TDM Leader shall receive training from goDCgo to learn about TDM conditions for the Project and available options for implementing the TDM Plan. The TDM Leader will also subscribe to goDCgo's residential newsletter;
 - b. The Applicant will share the full contact information of the TDM Leaders for the Project with DDOT and goDCgo (info@godcgo.com);

- c. The Applicant will provide TDM materials to new residents in the Residential Welcome Package materials, which at a minimum shall the Metrorail pocket guide, Capital Bikeshare coupon or rack card, Guaranteed Ride Home (“GRH”) brochure, and the most recent DC Bike Map;
- d. The Applicant will work with DDOT and goDCgo (DDOT’s TDM program) to implement TDM measures at the Property;
- e. The Applicant will post all TDM commitments online for easy reference;
- f. The Applicant will exceed Zoning requirements by providing 125 long-term bicycle parking spaces in the Project’s garage. The long-term bicycle storage room will accommodate non-traditional bicycles including, but not limited to cargo, tandem, and children’s bicycles;
- g. The Applicant will provide 20 short-term bicycle parking spaces along 8th Street, N.E. adjacent to the Property;
- h. All parking on the Property will be priced at market rates, at minimum, defined as the average cost for parking in a one-quarter-mile radius from the Property;
- i. The Applicant will unbundle the cost of residential parking from the cost of lease or purchase of each unit;
- j. The Applicant will provide a \$100 SmarTrip Card for the first two years of occupancy of the buildings to each incoming unit. A proactive marketing strategy shall be provided to ensure residents are aware of this benefit;
- k. The Applicant will provide a bicycle repair station to be located in the bicycle storage room;
- l. The Applicant will provide an on-site business center to residents with access to internet services;
- m. The Applicant will install a Transportation Information Center Display (electronic screen) within the residential lobby of each building. At a minimum the Transportation Information Center Display shall include information about nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital Bikeshare locations indicating the availability of bicycles.
- n. The Applicant will provide at least seven shopping carts in the residential buildings for residents to use for running errands and grocery shopping;

- o. The Applicant will provide at least three vehicle charging stations within the Project's garage;
 - p. The Applicant will not lease unused residential parking spaces to anyone aside from buildings' tenants;
 - q. The Applicant will install two expansion plates of four docks each to the Capital Bikeshare station at 10th and Monroe Street, N.E. The maximum amount the Applicant will pay for this benefit is \$12,000;
 - r. The Applicant will offer a one-year Capital Bikeshare membership to each unit during the initial lease up; and
 - s. The Applicant will provide residents who wish to carpool with detailed carpooling information and will refer them to other carpool matching services sponsored by Metropolitan Washington Council of Governments ("MWCOG") or other comparable service if MWCOG does not offer this in the future.
58. Loading Management: The Applicant will provide a Loading Management Plan as follows:
- a. A loading dock manager will be designated by building management. The dock manager shall coordinate with vendors and tenants to schedule deliveries and will be on duty during delivery hours;
 - b. All residents will be required to schedule deliveries that utilize the loading docks – defined here as any loading operation conducted using a truck 20 feet in length or larger;
 - c. The dock manager(s) will schedule deliveries for trucks using the loading berths such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when a berth will be available so as to not impede the drive aisle that passes in front of the loading dock;
 - d. The dock manager(s) will monitor inbound truck maneuvers and will ensure that trucks accessing the loading dock do not block vehicular traffic except during those times when a truck is actively entering the loading facilities;
 - e. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to the Title 20, Chapter 9, Section 900 (Engine Idling), of the District of Columbia Municipal Regulations ("DCMR"), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and

- f. The dock manager(s) will be responsible for disseminating suggested truck routing maps to residents and to drivers from delivery services that frequently utilize the loading dock. The dock manager(s) will also distribute flyers materials as DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with idling laws. The dock manager(s) will also post these documents in a prominent location within the service area.

Public Benefits and Amenities

59. The Application presented the following public benefits to balance the requested development flexibility and potential project impacts:

- Housing, including affordable housing,
- Transit-oriented development,
- Accommodation of the MBT, and
- Support for the arts-related uses,

All of which are supported by the Comprehensive Plan ("CP") (Title 10-A of the DCMR) and the Small Area Plan ("SAP").

CP Consistency

60. The Application asserted that the Project met the standards for a PUD approval and was not inconsistent with the CP, various aspects of which would be furthered by the Project, as follows.

Urban Design and Architecture (Subtitle X § 305.5(a)); Site Planning and Efficient Economical Land Utilization (Subtitle X § 305.5(c))

61. The Project is designed to be compatible with the adjacent residential community as the building design is also oriented away from the neighboring residences to the north and west. Moreover, the buildings are set back at the sixth story in accordance with the SAP. (See SAP at 52 ["Building facades facing a public street in the sub area should step back in height at a ratio of one half (1/2) to one above 50 feet."] .) In addition, the replacement of an underutilized site with the Project constitutes a significant benefit since it increases safety in the Edgewood neighborhood and replaces a use that is not compatible with the surrounding residential community. The Project will also bring the Property into compliance with the goals of the Future Land Use Map ("FLUM") and CP, since the current PDR zoning is inconsistent with the Property's designations as Moderate Density Residential and Low Density Commercial on the FLUM.

Housing (Subtitle X § 305.5(f)) and Affordable Housing (Subtitle X § 305.5(g))

62. The Project results in the creation of new housing consistent with the goals of the Zoning Regulations, the CP, the SAP, and the FLUM. Overall, the Project will replace an underutilized industrial site with approximately 377 units. This amount of housing exceeds the amount that would have been provided if the Property was developed as a

matter of right under the existing PDR zoning as no multifamily residential use is permitted in PDR Districts. (Subtitle X § 305.5(f)(1).)

63. The Applicant will set aside approximately 12% of the net residential floor area (approximately 35,322 square feet of net residential floor area) of the overall Project (i.e., based on the residential use provided in both the building and the penthouse) as affordable units at varying levels of the MFI, which will create a mixed-income community. Based on this net residential floor area, it is anticipated that approximately 47 units will be set aside as IZ units. The affordable housing will be set aside as follows: 6% of the affordable net residential floor area at 30% MFI, 14% of the affordable net residential floor area at 50% MFI, 67% of the affordable net residential floor area at 60% MFI, and 13% of the affordable net residential floor area at 80% MFI.
64. The Project creates a greater amount of IZ units that are reserved at the deeper levels of affordability than would be required for a matter-of-right development in the MU-4 zone. This affordable housing represents a substantial increase in the amount of affordable residential floor area when compared to the fact that no affordable housing would be generated if the Property was developed as a matter of right. (Subtitle X § 305.5(g) [“Affordable housing; except that affordable housing provided in compliance with the Inclusionary Zoning requirements of Subtitle C, Chapter 22, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning.”].)
65. The Applicant will reserve two of the three-bedroom units in the Project as IZ units. In addition, the Applicant will reserve one of the “townhouse-style” units on the ground floor fronting on 8th Street, N.E. as an IZ unit.

Environmental and Sustainable Benefits (Subtitle X § 305.5(k))

66. The Project is designed to integrate a host of sustainable features including a minimum of 2,750 square feet of solar panels that are anticipated to generate approximately one percent of the energy for the Project. The Project is designed to LEED-Gold standards and the similarly intends to seek LEED-Gold certification of the Project under the LEED-v4 Multifamily Midrise standard.

Streetscape Plans (Subtitle X § 305.5(l))

67. The Applicant has focused on creating a pedestrian-friendly streetscape, especially along 8th Street, N.E. The design proposal includes substantial streetscape improvements including new paving for the sidewalks, street lighting fixtures, new and replacement shade trees, and 20 bike parking spaces in public space. Since the Property is presently improved with industrial uses, the streetscape adjacent to the Property is unimproved. In addition, a majority of the streetscape along 8th Street is also unimproved, which provides an unsafe environment for the students at the Hope Community Public Charter School and at those schools further to the south who commute to school via the Brookland-CUA Metrorail station or who use the after-school enrichment programs at Dance Place. As a

result, the Project will include substantial streetscape improvements that will help provide safe pedestrian access for students attending school in the vicinity of the Project.

Transportation Features (Subtitle X § 305.5 (o))

68. The Applicant worked with DDOT to ensure that the Project coordinates with potential future improvements to the MBT that are planned for 8th Street adjacent to the Property. Specifically, the Applicant will provide a one-foot clearance on both sides of the Property's proposed sidewalk to accommodate the future design and location of the MBT.
69. The Project has been designed to create safe vehicular and pedestrian access and to use the existing public transportation network. In addition to its proximity to the MBT, the Project is proximate to multiple bus routes and has access to the Brookland-CUA Metrorail station.
70. The Applicant has studied the anticipated parking demand and has sought to provide the appropriate number of parking spaces to accommodate expected demand, which exceeds the base requirement under the Zoning Regulations. The Applicant will also provide TDM measures in excess of the mitigations required as a result of the Project.
71. Based on discussions with the community, the Applicant has agreed to remove the PUD from the District's Residential Parking Permit ("RPP") program in order to alleviate on-street parking concerns of the surrounding neighborhood. The Applicant will include a rider in all residential leases that restricts residential tenants from obtaining RPPs.
72. In an effort to monitor whether residents are abiding by this lease restriction, the Applicant will require that the PUD's property manager submit a request pursuant to the Freedom of Information Act, DC Code §§ 2-531 to 2-539 to the District of Columbia Department of Motor Vehicles annually to confirm whether any building tenant has registered a vehicle at the address of the PUD. If the property manager determines that any car has been registered by a tenant and/or that the tenant has received an RPP, the property manager will notify the tenant that it must surrender the RPP in accordance with the residential lease rider.

Uses of special value to the neighborhood or the District of Columbia as a whole (Subtitle X § 305.5(q))

73. Beacon House: The Applicant will contribute \$10,000 to Beacon House, which engages over 300 boys and girls in the Edgewood neighborhood annually in an award-winning program. The Applicant's contribution will support Beacon House's summer camp, which serves approximately 90 children over five weeks. The camp seeks to address demand from the Edgewood community for a low-cost, high-quality summer camp and includes academic, athletic, arts, cultural and other lessons. The Applicant's contribution will cover the full cost of attendance for at least eight campers. The Applicant will comply with Subtitle X § 305.3(d) such that no final certificate of occupancy for the PUD will be issued unless the Applicant provides proof to the Zoning Administrator that the

items or services funded have been or are being provided.

74. Edgewood Street Festival: The Applicant will contribute \$24,000 to the Edgewood Civic Association for the creation of an Edgewood Street Festival. There is currently no street festival in the Edgewood neighborhood and the Applicant's contribution will fund a festival that will bring together the residents of the surrounding neighborhood and highlight all that Edgewood has to offer. Specifically, the Applicant's contribution will fund various elements, including but not limited to, the cost of an event coordinator, equipment rental, food and beverage services, activities, and required permits. The contribution will be spread out over three years (\$8,000 per year), which is estimated to fund the event in large part. The Applicant anticipates that, at a minimum, the first two years of contributions will be made prior to the issuance of a final certificate of occupancy for the PUD. Thus, the Applicant will comply with Subtitle X § 305.3(d) such that no final certificate of occupancy for the PUD will be issued unless the Applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided. In the likely event that the third annual contribution cannot be made prior to the issuance of the final certificate of occupancy, the Applicant will fully fund an escrow account setting forth delivery of the funds for the final year and will provide evidence of that escrow account prior to the issuance of a final certificate of occupancy for the Project in accordance with Subtitle X § 305.3(d).
75. Hope Community Public Charter School, Tolson Campus: The Applicant will contribute \$50,000 to the Hope Community Charter School to help revitalize the school's campus. The Hope Community Charter School is located in the Edgewood neighborhood, just south of the Property, and is the learning community for 470 scholars in grades PK3 through 8. The majority of the students at the Hope Community Charter School are from Ward 5. The Applicant's contribution will help revitalize the school's outdoor space to the north side of its building. This new multipurpose outdoor space will promote and support outdoor activities as well as support the Hope Community Charter School's programming, afterschool athletics, and activities programs. Specifically, the Applicant's contribution will fund the following: (i) \$30,000 to resurface, seal, and paint blacktop on the north side of the Hope Community Charter School building; (ii) \$5,000 to remove the concrete platform in front of the Hope Community Charter School building entrance that has been an ongoing safety concern; (iii) \$4,000 to purchase and install two in ground basketball hoops; (iv) \$600 to purchase and install a bicycle rack; (v) \$3,000 to purchase large planters, supplies, and tools to create a garden space for the STEAM program; (vi) \$6,600 to repair and improve fencing on north side of the school building; and (vii) \$1,400 for minor landscaping on west side of the school building. In the event that there are excess funds, those funds will be used to paint an artistic mural on the front entrance side of the Tolson Campus building. The estimated cost of the mural is between \$5,000 and \$7,000. The Applicant will comply with Subtitle X § 305.3(d) such that no final certificate of occupancy for the PUD will be issued unless the Applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.

76. McKinley Tech Track Club (Fast Lane): The Applicant will contribute \$20,000 to a non-profit organization that supports the McKinley Tech Track Club (Fast Lane). Specifically, the Applicant's contribution will fund the following: (i) \$5,200 for the Track Club's participation in the Penn Relays Meet including bus transportation and lodging costs; (ii) \$10,750 for the Track Club's participation in the National Capitol Invitational Meet including a timer, security, officials, venue fees, clerks, and a starter; (iii) \$1,850 for uniforms and equipment; and (iv) \$2,200 for other meet and administrative fees. The Penn Relays is the world's first and most widely recognized annual meet hosted at the University of Pennsylvania. Over the course of the three-day meet, top high school, collegiate, and professional athletes compete in the events. The National Capitol Invitational Meet is hosted at McKinley Technology High School. While the meet was hosted in 2017, it was not hosted in 2018 as a result of a lack of funds. The Applicant's contribution will provide vital funds to ensure that the meet can remain an annual event. The Applicant's contribution will fund the above expenses during the school year in which the donation is made or in the school year immediately following the school year in which the donation is made. In the event that there are excess funds, those funds will be devoted to additional meet and administrative fees. While the above breakdown is the intended distribution of the contribution, the actual distribution of the funds may vary based on the actual costs at the time the funds are spent. The Applicant will comply with Subtitle X § 305.3(d) such that no final certificate of occupancy for the PUD will be issued unless the Applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.
77. 1way2rise: The Applicant will contribute \$20,000 to 1way2rise, which will fund tutoring and afterschool services that will occur during the construction of the Project. 1way2rise is a non-profit organization licensed to do business in the District of Columbia. Its mission is to educate at-risk, teens and adults through technology training, job training, and sports development programs. The focus of the programming is intended for families and residents of ANC 5E. Specifically, the Applicant's contribution will fund the following:
- a. \$14,500 for educational supplies and programming for the afterschool youth and teen tutoring services, which may include but not be limited to book bags, pens, pencils, composition books, flash drives, lecturer and workshop fees, facility rental fees, and volunteer expenses;
 - b. \$4,000 for sporting equipment, which may include but not be limited to rugby equipment, tennis equipment, lacrosse equipment, and chess equipment; and
 - c. \$1,500 for STEM/robotics supplies and equipment, which may include but not be limited to scientific calculators.

In the event that there are excess funds, those funds will be used for miscellaneous educational expenses related to the afterschool program or a scholarship for one senior at McKinley Technology High School who is pursuing post-secondary education. In the

event 1way2rise is unable to administer these services, the Applicant will contribute \$20,000 to Beacon House for the provision of similar services. The Applicant will comply with Subtitle X § 305.3(d) such that no final certificate of occupancy for the PUD will be issued unless the Applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.

Arts Uses in Furtherance of the Brookland-CUA Small Area Plan (Subtitle X § 305.5(r))

78. To foster artistic uses in the neighborhood as called for in the SAP, the Applicant will contribute \$75,000 to Dance Place. Dance Place is an important arts-focused nonprofit in the neighborhood that offers performances, dance classes for adults and kids, and arts in education programs for youth.
79. The Applicant's contribution will help fund the Energizers Program that is centered on-site at Dance Place's home campus in Ward 5. This program targets youth from the surrounding neighborhood and includes an after-school program, a teenage leadership program, as well as a creative arts camp during the summer months.
80. The Applicant's contribution will be \$25,000 per year for three years (\$75,000 total). Specifically, the \$25,000 per year will fund eight scholarships for camp, 20 weeks of job training for 14 teenagers, and five scholarships for the Energizers Afterschool Program.
81. The multi-year support ensures the continued delivery of these services and on-going value to the neighborhood, and the multi-year nature of the contribution is critical to Dance Place to ensure the funding provides the greatest amount of support to these programs.
82. The Applicant intends to commence the initial contribution prior to the issuance of a building permit for the Project and will continue annual contributions for the following two years.
83. The Applicant anticipates that, at a minimum, the first two years of contributions will be made prior to the issuance of a final certificate of occupancy for the PUD. Thus, the Applicant will comply with Subtitle X § 305.3(d) such that no final certificate of occupancy for the PUD will be issued unless the Applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.
84. In the likely event that the construction timeframe and the fiscal years for Dance Place do not align in such a way as to allow the third annual contribution to be accepted and used by Dance Place prior to the issuance of the final certificate of occupancy, the Applicant will fully fund an escrow account setting forth delivery of the funds for the final year and will provide evidence of that escrow account prior to the issuance of a final certificate of occupancy for the Project in accordance with Subtitle X § 305.3(d).

Design Flexibility from the Final Plans

85. The Applicant also requests design flexibility to make minor modifications to the final plans in the following additional areas:
- a. To provide a range in the number of units of 377 plus or minus 10%;
 - b. To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, escalators, and toilet rooms elevators, provided that the variations do not change the exterior configuration of the building;
 - c. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations;
 - d. 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 the approved plans;
 - e. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the approved plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
 - f. To vary the color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved plans;
 - g. To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of the IZ units will substantially conform to the layout shown on the IZ Unit Location Plan included as Exhibit 33A of the record;
 - h. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division; and
 - i. To vary the approved sustainable features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the minimum required for the LEED standard specified by the order.

Responses to Application

Office of Planning (“OP”)

86. On December 7, 2018, OP submitted a report recommending setdown of the Application. (Ex. 11.)

87. The OP Setdown Report stated that the Project “would generally not be inconsistent with the maps and written elements of the Comprehensive Plan.” (Ex. 11 at 1.) OP requested that the Applicant provide:
- a. An IZ unit location plan;
 - b. A proposed lighting and signage plan;
 - c. Detailed plans for the landscaped entry plaza; and
 - d. Additional information and specificity regarding the Applicant’s proffered public benefits and project amenities.
88. The Applicant provided the information and clarification requested in the OP Setdown Report in its Pre-Hearing Statement of February 25, 2019. (Findings of Fact [“FF”] at 35-42.)
89. On April 15, 2019, OP submitted a hearing report. (Ex. 29.) The OP Hearing Report determined that the PUD “would not be inconsistent with the Comprehensive Plan.” (Ex. 29 at 5.) The OP Hearing Report recommended approval of the Application and advised the Applicant:
- a. To submit a revised IZ unit location plan, which includes the median family income (“MFI”) levels for each IZ unit;
 - b. To reconsider the provision of vinyl windows; and
 - c. Indicate the material for the proposed signage. (Ex. 29.)
90. The OP Hearing Report noted that the Application was referred to DOEE, DDOT, DHCD, DPR, the Department of Public Works, the DC Public Schools, FEMS, the Metropolitan Police Department, the Washington Metropolitan Area Transit Authority, DC Water, the DC Public Library, OSSE, the Department of Aging and Community Living (“DACL”), and the Department of Employment Services.
91. Other than DDOT, which submitted its comments directly to the record, DHCD, and DACL, no District agency submitted comments expressing concerns regarding potential impacts of the project.
92. DHCD submitted two comments to OP that were appended to the OP Hearing Report. (Ex. 29, Appendix B.)
- a. DHCD discussed the Applicant’s IZ proffer and commented on the Applicant’s commitment to providing three-bedroom IZ units; and

- b. DHCD also requested that one of the “townhouse-style” units along 8th Street be reserved as an IZ unit.
93. DACL requested, in comments to OP, that an IZ unit be reserved for residents that are ages 65 years or older. (Ex. 29.)
94. The Applicant responded to the comments of OP and DHCD in its Supplemental Pre-Hearing Statement of April 25, 2019. The Applicant provided additional information regarding the location and MFI levels of the designated IZ units and clarified that the entry plaza is intended for more “passive uses” but that the Applicant will provide a water fountain for public use. (FF 45-46.)

Department of Transportation

95. On April 15, 2019, DDOT submitted a hearing report (the “DDOT Report”), which expressed no objection to the Application subject to the Applicant implementing the loading management plan proposed in the CTR and the Applicant enhancing the TDM measures to include the following elements: (Ex. 28.)
 - a. Provide three charging stations in the garage for any additional electric vehicle (“EV”) stations in the future;
 - b. The Applicant will not lease unused residential parking spaces to anyone aside from tenants of the building;
 - c. Install two expansion plates of four docks each to the Capital BikeShare station at 10th and Monroe, to bring it up to DDOT minimum size;
 - d. Distribute welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, Capital Bikeshare coupon or rack card, GRH brochure, and the most recent DC Bike Map;
 - e. Transportation Coordinators will receive TDM training from goDCgo to learn about TDM conditions for this project and available options for implementing the TDM Plan;
 - f. Provide a Transportation Information Center Display that, at a minimum, should include information about nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital Bikeshare locations indicating the availability of bicycles;
 - g. Installation of Transportation Information Center Display screens in the lobbies of each of the two residential buildings;

- h. Provide residents who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by MWCOG or other comparable service if MWCOG does not offer this in the future;
 - i. Transportation coordinator will subscribe to goDCgo's residential newsletter;
 - j. Long-term bicycle storage rooms should accommodate non-traditional-sized bikes including cargo, tandem, and kids' bikes;
 - k. Provide bicycle repair stations to be located within the bicycle storage room;
 - l. Provide one shopping cart (utility cart) for every 50 residential units to encourage residents to walk to the grocery shopping and run errands. The Applicant is recommended to provide seven carts for the development; and
 - m. Dedicate two parking spaces in the vehicle parking garage for carsharing services to use with right of first refusal. If an agreement has not been reached with a carsharing service to occupy all of the dedicated spaces, the Applicant will provide a one-year Capital Bikeshare membership to each resident after the building has opened.
96. The Applicant responded to the DDOT Report by memorandum dated April 24, 2019, prepared by Gorove/Slade Associates and as supplemented by the testimony of Mr. Andres at the hearing. (Ex. 32-32A.) The Applicant agreed to all of DDOT's additional TDM measures except in lieu of providing carshare space within the Project's parking garage, the Applicant will offer a one-year Capital Bikeshare membership to each unit at the initial lease up.

Advisory Neighborhood Commission

97. ANC 5E submitted a resolution indicating that at a duly noticed public meeting on November 20, 2018, at which notice was properly given and a quorum was present, ANC 5E voted to support the Application subject to the provisions of the Community Benefits Agreement (the "ANC Report"). (Ex. 10.) The ANC Report did not state any issues or concerns with the Application.

Edgewood Civic Association ("ECA")

98. The ECA reviewed the Project and community benefits package at several meetings, including its September 24, 2018 and October 22, 2018 public meetings.
99. As noted in the ANC Report, at its October 22, 2018 public meeting, the ECA voted unanimously to support the Project and the community benefits proffered by the Applicant. (Ex. 10.)

Persons in Support

100. A total of 15 residents in the neighborhood surrounding the Property signed a letter in support of the Project. (Ex. 26.)

Persons in Opposition

101. Derek Schultz submitted a letter in opposition to the Project and noted his concerns including:

- a. The overall height and massing of the Project;
- b. The heights the proposed street trees and their interference with the overhead power lines;
- c. Traffic calming measures along 8th Street; and
- d. The proposed exterior materials and compatibility with the surrounding residential neighborhood. (Ex. 30.)

Setdown Meeting of December 17, 2018

102. At the public meeting on December 17, 2018, OP presented the Application and recommended that the Commission set it down for a public hearing. OP noted that the proposal appeared to not be inconsistent with the proposed zoning district and with the CP. (Transcript of December 17, 2018 Public Meeting [“Mtg. Tr.”] at 33.)

103. Commissioners May and Turnbull noted their concerns regarding the Project’s material choices, including the “extensive use” of cementitious panels and with the use of vinyl windows. (Mtg. Tr. at 33-35.)

104. Commissioner Miller reiterated OP’s request that some of the three-bedroom units be designated as IZ units. (Mtg. Tr. at 34)

105. The Commission voted to set down the case for a hearing with its comments noted in the record. (Mtg. Tr. at 35.)

Public Hearing of April 25, 2019

106. The Applicant presented five principal witnesses at the hearing, including Dan Gordon, on behalf of the Applicant; Aaron Wilke, an expert in landscape architecture, on behalf of GWH Landscape Architects; Benjamin Kasdan, an expert in architecture, on behalf of KTG Architecture + Planning, the architects for the Project; Erwin N. Andres, an expert in transportation planning and analysis, on behalf of Gorove/Slade Associates, Inc.; and Shane L. Dettman, an expert in land use and zoning, on behalf of Holland & Knight LLP. Based upon their professional experience, as evidenced by the resumes submitted for the record, Mr. Wilke, Mr. Kasdan, Mr. Andres, and Mr. Dettman were qualified by the Commission as experts in their respective fields.

107. Anne Fothergill testified on behalf of OP in support of the Project. (Hrg. Tr. at 39) Ms. Fothergill reiterated that OP “recommend[s] approval of this PUD and related map amendment.” (Hrg. Tr. at 65.) Ms. Fothergill stated that “[OP] did raise some concerns and questions for clarification, and the applicant has mentioned that they have provided clarification and additional information that we requested.” (Hrg. Tr. at 65.)
108. Cynthia Lin of DDOT testified that “the [A]pplicant addressed all of the Comments in DDOT’s April 15, 2019, staff report.” (Hrg. Tr. at 67.) As a result, Ms. Lin testified that “DDOT has no objection to the approval of the consolidated PUD and related map amendment application.” (Hrg. Tr. at 68.)
109. ANC Commissioner Nick Cheolas (the Single Member District Representative) testified on behalf of ANC 5E and indicated that the ANC supported the Project, stating that “converting light commercial and industrial space into home for people, particularly in the Edgewood...is a good thing.” (Hrg. Tr. at 71.)
110. Gordon Chaffin also testified in support of the Project, specifically noting the need for new development providing IZ units. (Hrg. Tr. at 79-81.)
111. Derek Schultz testified in opposition to the Project and reiterated the concerns raised in his written testimony. (Hrg. Tr. at 82-85.)
112. In response to the issues regarding the height and massing of the project, the Applicant explained that the Project was in line with the recommendations of the SAP which recommended moderate density, infill development and that the use of setbacks was expected to mitigate impacts on the surrounding residential areas from the height of the new buildings. (Hrg. Tr. at 43-45.)
113. In response to Mr. Schultz’s testimony expressing concerns that the overhead electrical and telecommunications lines would prevent large shade trees from reaching full maturity and height and suggesting that the lines should be underground, Mr. Dan Gordon stated:

[T]he trunk line along 8th Street runs down the east side of the street, which is the side of the street on which we’re building our building. There is no trunk line that runs down the west side of the street... In order to bury all of those we would have to tear up every single yard. We have to underground two different sets of transformers. We would have to get easements from the apartment building and all lived in different row houses. We really did look at this and aesthetically we understand why the neighborhood wanted it. But it very honestly would be a logistical nightmare to try and do this. So, it's an unfortunate situation where it just would be a very, very challenging, close to impossible logistically to accomplish this.

(Hrg. Tr. at 50-51.)

114. In response to the concerns regarding the proposed building materials, the Applicant provided testimony clarifying the type of stucco to be used and provided additional information about the proposed vinyl windows. (Hrg. Tr. at 16-18.)
115. In response to the Commission's additional comments regarding the use of vinyl windows, Stephen Luna testified on behalf of the Applicant that the Applicant has used vinyl windows on many of their residential midrise projects and that "these windows are actually steel reinforced much like some of the commercial projects that you would get in a curtain wall." (Hrg. Tr. at 23.) Mr. Luna also testified that the use of steel helps with the rigidity of the windows, which allows for the incorporation of "larger glass windows..." and that the Applicant has not had any issues with vinyl windows "on a consistent basis." (*Id.* at 24-25.) Mr. Kasdan testified that the vinyl windows "are indistinguishable from an aluminum window from any kind of vantage point." (*Id.* at 18.) Moreover, the proposed vinyl windows are low-profile and a dark color. These modern vinyl windows are steel-reinforced, which allows for a slimmer profile than traditional vinyl windows and provides for increased durability. While the proposed windows are a dark color, technological advancements in vinyl window construction allow them to be fade- and scratch-resistant such that they are more durable than traditional white or beige vinyl windows.
116. The Commission requested additional information regarding whether specific IZ units could be set aside for senior housing. (Hrg. Tr. at 36-37.)
117. At the request of the Commission, OP stated that it would reach out to DHCD and DACL about the implementation of senior IZ units. (Hrg. Tr. at 65.)
118. At the conclusion of the hearing, the Commission took proposed action to approve the Application. The Commission left the record open for the Applicant's Post-Hearing Submission, as well as ANC 5E's, OP's, and DDOT's response to the Applicant's Post-Hearing Submission.

Post Hearing Submissions

119. The proposed action was referred to the National Capital Planning Commission ("NCPC") on April 30, 2019, pursuant to § 492 of the Home Rule Act. NCPC's Director of Urban Design and Plan Review, by letter dated May 28, 2019, found that the Project was exempt from NCPC review. (Ex. 45.)
120. On May 9, 2019, the Applicant submitted a Post-Hearing Submission in response to the Commission's comments at the hearing. (Ex. 41.) The Post-Hearing Submission included:
 - a. Additional information regarding the Applicant's proffer to remove the PUD from the District's RPP program in order to address concerns raised by the community about potential on-street parking by residents of the Project;

- b. Additional information on the provision of a senior IZ unit; and
 - c. A summary of how the Project complies with the PUD standards of Subtitle X § 304 and the Applicant's mitigations of the Project's adverse impacts.
121. The Applicant engaged with OP, DACL and DHCD to determine whether the Applicant can set aside one of the IZ units for senior residents. While the Applicant was prepared to make this commitment, as confirmed in the OP Supplemental Report, DHCD indicated that it is unable at this time to administer IZ units that are set aside for seniors because its rules only provide for certification as to income and household size. DACL also indicated that it does not currently have a program in place to administer affordable units that are set aside for seniors. Based on the discussions among the agencies and given the importance of senior housing in the District, DHCD and DACL indicated that they would work together to determine how to implement such programs going forward. However, at this time, the agencies agreed that without a program in place, the set aside for this project could not be administered. (Ex. 4, 43.)
122. As requested by the Commission, on May 16, 2019, OP submitted a supplemental report. (Ex. 43.) The OP Supplemental Report indicated that neither OP, nor DHCD, had any concerns regarding the Applicant's IZ unit location plan. In addition, the OP Supplemental Report again recommended approval of the Applicant.

CONCLUSIONS OF LAW

1. Pursuant to Subtitle X § 300.1, 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.
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider the Application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, 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.

Compliance with PUD Standards

3. The Commission concludes that the Application complies with the standards for a PUD set forth in Subtitle X, Chapter 3.
4. The Property, of approximately 90,293 square feet, exceeds the minimum area requirements of 15,000 square feet for a PUD in the MU-4 zone. (Subtitle X § 303.1.)
5. In deciding a PUD application, the Commission must “judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” (Subtitle X § 304.3.) Moreover, pursuant to Subtitle X § 304.4, the Commission must find that the proposed development:
 - a. Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;
 - b. Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and
 - c. Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.
6. The Commission concludes that the Project is of exceptional merit and in the best interest of the city. The Project will significantly improve the existing area by virtue of the exceptional architectural design and the replacement of an underutilized site with uses that are not inconsistent with the CP or the SAP. The Project offers a high level of public benefits and project amenities. The Commission concludes that with these benefits and amenities, when compared with the amount of development flexibility requested and project impacts, the Application satisfies the balancing test required in Subtitle X § 304.3, as is further discussed below.

Not Inconsistent with the Comprehensive Plan (“CP”)

7. As set forth in the Applicant’s Summary of Compliance with the CP and the reports of the OP, the Commission finds the Project not inconsistent with the objectives and policies of the CP, including the land use designation assigned to the Property on the FLUM, and the general policy designation on the Generalized Policy Map (the “GPM”). (Ex. 2H, 11, 29.)
8. The purposes of the CP are six-fold:
 - a. To define the requirements and aspirations of District residents, and accordingly influence social, economic, and physical development;

- b. To guide executive and legislative decisions on matters affecting the District and its citizens;
 - c. To promote economic growth and jobs for District residents;
 - d. To guide private and public development in order to achieve District and community goals;
 - e. To maintain and enhance the natural and architectural assets of the District; and
 - f. To assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Official Code §1-245(b).)
9. The Commission concludes that the Project significantly advances these purposes by promoting the social, physical and economic development of the District through the provision of two high-quality residential buildings on the Property. The proposed buildings will help improve the surrounding neighborhood through the replacement of incompatible industrial uses and will assist the District in achieving its housing and transportation goals by providing new housing, including affordable housing, and improvements to the public space adjacent to the Property. The Applicant is also working with DDOT to ensure that the Project coordinates with potential future improvements to the MBT that are planned for 8th Street adjacent to the Property.

Future Land Use Map (“FLUM”):

10. The FLUM, which represents the land use policies set forth in the Land Use Element, sets forth a generalized depiction of intended land uses over a period of approximately 20 years. (D.C. Official Code §1-306.02.) The Framework Element of the CP states that the FLUM is not a zoning map. (CP § 226.1(a); *see also* Z.C. Order No. 11-13, Z.C. Order No. 10-28.) Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the FLUM does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. (*Id.*) By definition, the FLUM is to be interpreted broadly. (*Id.*) Decisions on requests for rezoning shall be guided by the FLUM read in conjunction with the text of the CP (Citywide and Area Elements) as well as SAP pertaining to the area proposed for rezoning. (*Id.* at § 226(1)(d).)
11. The FLUM designates the Property as Mixed Use (Low Density Commercial/Moderate Density Residential). A “Mixed Use” designation on the FLUM is not intended to be interpreted in terms of its separate land use designation. Rather, “Mixed Use” on the FLUM is a specific land use category unto itself and is assigned to areas where the mixing of two or more land uses is encouraged but is not mandatory. It is generally applied to:
 - a. Established, pedestrian-oriented commercial areas that also include substantial amounts of housing;

- b. Commercial corridors or districts which may not currently contain substantial amounts of housing but where more housing is desired, such as the Property; and
- c. Large sites where opportunities for multiple uses exist but a plan dictating the precise location of these uses has yet to be prepared.

(CP § 225.18.)

12. The Low Density Commercial designation is used to define shopping and service areas that are generally low in scale and character. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts that draw from a broader market area. Their common feature is that they are comprised primarily of one- to three-story commercial buildings. The corresponding zone districts are generally C-1 and C-2-A, although other districts may apply. (CP § 225.8.)²
13. The Moderate Density Residential designation is used to define the District's row house neighborhoods and its low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. The R-3, R-4, and R-5-A Zone Districts are generally consistent with the Moderate Density Residential category; the R-5-B Zone District and other zones may also apply in some locations.(CP § 225.4.)³
14. The Commission finds that the Applicant's proposal to rezone the Property to MU-4 is not inconsistent with the Mixed Use FLUM designation for the Property. For areas with a Mixed Use designation, the general density and intensity of development is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other, the FLUM may note the dominant use by showing it at a slightly higher density than the other use(s) in the mix. (CP § 225.19.) In this case, the Property is designated as Mixed Use (Low Density Commercial/Moderate Density Residential); and therefore, the desired outcome favors greater residential use than commercial use.
15. The proposed MU-4 zoning is not only expressly identified as corresponding to the Low Density Commercial component of the Property's land use designation on the FLUM, but is also described within the Zoning Regulations as being "intended to permit moderate-density mixed-use development" and "be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops." (Subtitle G § 400.3.)

² The current CP was adopted prior to the Zoning Regulations and thus refers to the zone districts contained in the 1958 Zoning Regulations. Under the Zoning Regulations, the zone districts that correspond to those identified in the Framework Element description of the Low-Density Commercial designation include MU-3 and MU-4.

³ Under the Zoning Regulations, the corresponding zones would be R-3, RF-1, and RA-1, with RA-2 applying in some locations.

16. Furthermore, consistent with the FLUM's desired outcome for greater residential than commercial density on the Property, the MU-4 zone favors residential development by allowing all permitted density to be devoted to residential use while limiting the amount of density that can be devoted to non-residential use. (*See* Subtitle G § 400.3(a).) Since the PDR-1 zone would not permit residential use, the Commission finds the existing zoning is inconsistent with the FLUM designation.
17. In addition, the density and height permitted under the requested MU-4 zone do not substantially differ from the density and height permitted under existing zoning. Specifically, if the Applicant proposed a PUD within the existing PDR-1 zone, the maximum FAR would be 4.2 (for permitted uses) and the maximum building height would be 60 feet. The MU-4 zone permits a maximum overall density of 3.6 FAR, of which 2.01 FAR can be devoted to non-residential use, and a maximum building height of 65 feet. As a result, the maximum permitted density for a PUD in the MU-4 zone is less than that permitted under existing zoning, and the building height permitted for a PUD in the MU-4 zone is only five feet greater than what is permitted for a PUD under existing zoning.
18. Pursuant to the Home Rule Charter, zoning shall not be inconsistent with the CP. The existing PDR zoning of the Property is inconsistent with the Mixed Use designation on the FLUM. The Project will bring the zoning of the Property into conformance with the CP.
19. As shown on the 2006 version of the FLUM, the area between 8th Street, N.E. and the CSX/WMATA tracks from Monroe Street to Rhode Island Avenue was designated as PDR.

Brookland-CUA Small Area Plan

20. The CP requires zoning to be "interpreted in conjunction with...approved Small Area Plans." (CP § 266.1(d).) The CP also states that small area policies appear in "separately bound Small Area Plans for particular neighborhoods and business districts. As specified in the city's municipal code, Small Area Plans provide supplemental guidance to the CP and are not part of the legislatively adopted document." (CP § 104.2.) The SAP encourages moderate-density mixed-use development on vacant and underutilized properties and, consistent with the Upper Northeast Area Element, calls for long-term land use changes on industrially zoned land in the station vicinity, particularly in the area to the southwest along 8th Street. (SAP at 11.)
21. In March 2009, the Council adopted the SAP in response to a 2006 Industrial Land Use Study prepared by OP titled "Industrial Land in a Post-Industrial City". The SAP contains land use change recommendations for the area south of the Brookland-CUA Metrorail station, and specifically states that "development south of Kearny Street should consist of low to moderate density residential and limited commercial facilities." (SAP at 52.)

22. The SAP generally references moderate-density development as having building heights between 60 and 70 feet, with appropriate heights to transition to adjacent lower-scale residential structures. (*Id.* at 47.) Moreover, the SAP specifically calls for building setbacks of ½ to one above 50 feet, which the Applicant is providing. (*Id.* at 52.)
23. As such, the Commission finds that the Applicant’s proposal, and specifically the proposed Zoning Map amendment, is consistent with the SAP since it consists of moderate-density zoning and development with limited commercial facilities.
24. The SAP also encourages “work with community residents and ANCs to address design and scale issues of new development through the PUD process.” (*See* SAP at p. A3, note 3.) The Commission concludes that the Applicant has engaged in extensive community outreach, which has informed elements of the Project’s design as well as the proffered public benefits and project amenities.
25. The PUD also includes the fulfillment of the Commercial Area South of Metro Station subarea’s “Framework Plan,” which calls for new residential infill development, improved streetscape, landscape and lighting, integration of MBT, and buffering and screening from tracks and PDR uses. In addition, the Applicant will contribute \$75,000 to Dance Place for their Energizers Program as detailed in the Applicant’s statement in support of the Application. This contribution will foster artistic uses in the neighborhood as called for in the SAP. (SAP at 52.)

Upper Northeast Area Element (“UNE”):

26. The Property is located within the boundaries of the Upper Northeast Area Element. The UNE calls for capitalization on the presence of the Metro station at Brookland-CUA to provide new transit-oriented housing. (*See* Policy UNE-1.1.3 Metro Station Development.)
27. The Project includes the creation of approximately 377 dwelling units, including approximately 47 IZ units, within 0.3 miles of the Brookland-CUA Metro station.
28. In addition, the UNE encourages compatible residential infill development that is consistent with the FLUM and includes housing for persons of low incomes. (*See* Policy UNE-1.1.2: Compatible Infill.)
29. As stated above, the proposed MU-4 is consistent with the FLUM and the PUD includes units that will be reserved for households at varying levels of MFI, including for households earning equal to or less than 30% MFI. The UNE also supports long-term land use changes on industrially zoned land in the station vicinity, particularly southwest of the Brookland-CUA Metro station along 8th Street. (*See* Policy UNE-2.6.3: Long-Term Land Use Changes.)
30. As a result, the Commission finds that the Project is not inconsistent with the policies of the UNE.

Generalized Policy Map (“GPM”):

31. The purpose of the GPM is to categorize how different parts of the District may change between 2005 and 2025. It highlights areas where more detailed policies are necessary, both within the CP and in follow-up plans, to manage this change. (CP § 223.1.) The GPM is intended to “guide land use decision-making in conjunction with the Comprehensive Plan text, the FLUM, and other Comprehensive Plan maps.” (*Id.* at § 223.2.) Boundaries on the map are to be interpreted in concert with these other sources, as well as the actual physical characteristics of each location shown. (*Id.*)
32. The GPM designates the Property as a Neighborhood Conservation Area. The guiding philosophy for Neighborhood Conservation Areas is to conserve and enhance established neighborhoods. The diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area. Densities in Neighborhood Conservation Areas are guided by the FLUM. (CP § 223.5.)
33. The proposed Zoning Map amendment will help implement the policies embodied in the GPM by allowing for a new residential development that is not inconsistent with the FLUM, is consistent with the height and density contemplated in the SAP, and fits in well with surrounding development patterns and land uses.

Compliance with Guiding Principles of the Comprehensive Plan:

34. Through its consistency with the policies of the citywide and area elements of the CP, the Commission finds the Project to be not inconsistent with the CP guiding principles relating to managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as follows:

Managing Growth and Change

35. The Project is consistent with several of the principles that focus on overcoming physical, social, and economic obstacles to ensure that the benefits and opportunities available to District residents are equitably distributed. Specifically, the CP encourages, growth in both residential and non-residential sectors, with residential uses comprising a range of housing types to accommodate households of varying sizes and income levels, and nonresidential uses that include services that support residents.
36. The CP also states that redevelopment and infill opportunities along corridors and near transit stations are an important part of reinvigorating and enhancing District neighborhoods as well as the surrounding region.
37. The Commission finds the Project will replace an underutilized industrial site that is incompatible with the surrounding residential community with two residential buildings including affordable housing units in proximity to public transportation. The proposed buildings will help grow the District’s tax base and help reinvigorate the existing

neighborhood fabric. The new residential units will greatly assist in addressing the continuing demand for additional housing, including affordable housing, in the District.

Creating Successful Neighborhoods:

38. One of the guiding principles for creating successful neighborhoods is to protect and stabilize neighborhood businesses, retail districts, parks, and other facilities, and to reinforce neighborhood identity and provide destinations and services for residents.
39. In addition, noting the crisis of affordability that has resulted from the continued housing boom in the District, the guiding principles recognize the importance of preserving existing affordable housing and producing new affordable housing to avoid deepening of racial and economic divides in the city. Citizen participation and quality, responsive neighborhood services are also recognized as keys ingredients to creating successful neighborhoods, such participation includes garnering public input in decisions about land use and development, from development of the CP to implementation of the CP's elements.
40. The Application notes that the Applicant attended approximately nine community meetings to solicit feedback from the surrounding community prior to filing this Application. The Applicant also states that it will continue to work closely with ANC 5E, the ECA, and other neighborhood stakeholders and associations to ensure that the Project provides uses that respond to the neighborhood's current demands.
41. The Commission concludes that the Project responds to the community's input by providing a substantial number of additional residential units, including affordable units at various levels of MFI, within a walkable environment that is in close proximity to several modes of transit, including Metrorail and the MBT.

Increasing Access to Education and Employment:

42. The CP recognizes the importance of improving access to education and jobs by capitalizing on the city's location at the center of the region's transportation systems. Providing more efficient, convenient, and affordable transportation for residents increases resident access to jobs within the District and the surrounding region.
43. The Project will advance the District's goals of improving access to jobs and education by redeveloping an underutilized site with two residential buildings that will provide a substantial amount of new housing adjacent to the MBT, and in close proximity to other modes of public transportation. The close proximity to transit will increase residents' ability to access educational opportunities and jobs without owning a vehicle and without the added expenses associated with vehicle ownership. This is especially relevant to those residents living in the affordable dwelling units that will be integrated into the Project

Connecting the City:

44. The Property is well served by public transportation, including numerous Metrobus routes and is in close proximity to the Brookland-CUA Metrorail station (0.3 miles).

45. The Project includes streetscape improvements that will improve mobility and circulation around the Property and throughout the neighborhood, including for students walking from the schools to the south of the Property to the after-school enrichment programs at Dance Place and the Metrorail station. The streetscape and landscape design for the Project fosters a pedestrian-friendly environment along the perimeter of the Property. The Applicant is also working with DDOT to ensure that the Project coordinates with potential future improvements to the MBT that are planned for 8th Street adjacent to the Property.

Building Green and Healthy Communities:

46. The Commission finds that the Project is consistent with the CP's guiding principles pertaining to building green and healthy communities.
47. A major component to successfully building green and healthy communities is the use of sustainable building construction and renovation techniques that minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment.
48. The Project is designed to integrate a host of sustainable features including a minimum of 2,750 square feet of solar panels that are anticipated to generate approximately one percent of the energy for the Project.
49. In addition, the Project is designed to LEED-Gold standards under the LEED-v4 Multifamily Midrise standard and the Applicant intends to seek LEED certification for the Project.

CP Land Use Element:

50. As set forth in the Applicant's Summary of Compliance with the CP and the reports of OP, the Commission finds the Project not inconsistent with the objectives and policies of the Land Use Element. (Ex. 2H, 11, 29.)
51. Specifically, the Commission finds that Project furthers the following policies and objectives of Land Use Element: Policy LU-1.3 Transit-Oriented and Corridor Development; Policy LU-1.3.1: Station Areas as Neighborhood Centers; Policy LU-1.3.2: Development Around Metrorail Stations; Policy LU-1.3.3: Housing Around Metrorail Stations; Policy LU-1.3.4: Design to Encourage Transit Use; Policy LU-1.4.1: Infill Development; Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods; and Policy LU-2.2.4: Neighborhood Beautification.

CP Transportation Element:

52. As set forth in the Applicant's Summary of Compliance with the CP and the reports of OP, the Commission finds the Project not inconsistent with the objectives and policies of the Transportation Element. (Ex. 2H, 11, 29.)

53. Specifically, the Commission finds that Project furthers the following policies and objectives of Transportation Element: Policy T-1.1.4: Transit-Oriented Development; Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning; Policy T-2.3.3: Bicycle Safety; Policy T-2.4.1: Pedestrian Network; Policy T-2.4.2: Pedestrian Safety; and Policy T-3.1.1: Transportation Demand Management (TDM) Programs.

CP Housing Element:

54. As set forth in the Applicant's Summary of Compliance with the CP and the reports of OP, the Commission finds the Project not inconsistent with the objectives and policies of the Housing Element. (Ex. 2H, 11, 29.)
55. Specifically, the Commission finds that Project furthers the following policies and objectives of Housing Element: Policy H-1.1.1: Private Sector Support; Policy H-1.1.3: Balanced Growth; Policy H-1.1.5: Housing Quality; and Policy H-1.2.3: Mixed Income Housing.

CP Environmental Protection Element:

56. As set forth in the Applicant's Summary of Compliance with the CP and the reports of OP, the Commission finds the Project not inconsistent with the objectives and policies of the Environmental Protection Element. (Ex. 2H, 11, 29.)
57. Specifically, the Commission finds that Project furthers the following policies and objectives of Environmental Protection Element: Policy E-1.1.1: Street Tree Planting and Maintenance; Policy E-1.1.3: Landscaping Policy E-2.2.4: Alternative Energy Sources Landscaping; Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff; and Policy E-3.2.1: Support for Green Building.

CP Urban Design Element:

58. As set forth in the Applicant's Summary of Compliance with the CP and the reports of OP, the Commission finds the Project not inconsistent with the objectives and policies of the Urban Design Element. (Ex. 2H, 11, 29.)
59. Specifically, the Commission finds that Project furthers the following policies and objectives of Urban Design Element: Policy UD-2.2.1: Neighborhood Character and Identity; Policy UD-2.2.5: Creating Attractive Facades; Policy UD-2.2.7: Infill Development; Policy UD-3.1.11: Private Sector Streetscape Improvements; and Policy UD-3.2.5: Reducing Crime Through Design.

CP Arts and Culture Element:

60. As set forth in the Applicant's Summary of Compliance with the CP and the reports of OP, the Commission finds the Project not inconsistent with the objectives and policies of the Arts and Culture Element. (Ex. 2H, 11, 29.)

61. Specifically, the Commission finds that Project furthers the following policies and objectives of Arts and Culture Element: Policy AC-1.1.1: Enhancement of Existing Facilities; and Policy AC-2.2.2: Neighborhood Fairs.

Contested Issues

62. With regard to the contested issues raised during the hearing, the Commission concludes as follows:
63. With respect to the overall height and massing and the proposed exterior materials, the Commission finds that the proposed height and massing as well as the proposed exterior materials are consistent with the surrounding residential neighborhood. Specifically, each building includes a setback at approximately 50 feet as recommended in the SAP. Moreover, the buildings include courtyards at the third floor in order to break down the massing of each building. Finally, the building façade along 8th Street, N.E. has been designed such that it resembles townhomes with the inclusion of stoops, bays, and individual entrances, which are found throughout the surrounding residential neighborhood. As stated in the OP Hearing Report, “[t]he proposed buildings have been designed to provide a transition to the residential buildings of lower height and smaller scale and density across the street on the west side of 8th Street.” (Ex. 29 at 11.)
64. With respect to the proposed materials, the Commission finds that all of the proposed materials are found in the immediate context, including stucco which is utilized on Dance Place directly to the north of the Property. While the proposed brick is not the exact color as the brick on the townhomes located across the street from the Property, the materials provided are complimentary to the surrounding residential community. Moreover, the Commission finds that the proposed design relates to the current industrial uses of the Property while providing for a design that is also compatible with the existing townhomes located across 8th Street from the Property.
65. In response to the concerns about the presence of the existing above-ground power lines, the Commission credits the hearing testimony of Mr. Gordon and concludes that it would not be practical for the Applicant to underground the power lines. In addition, the provided streetscape trees will be in accordance with DDOT standards for trees located underneath power lines.
66. With regards to the claims of existing unsafe speeds of cars traveling along 8th Street and the general hostile environment for pedestrians, the Commission acknowledges the legitimate concerns regarding unsafe speeds, but concludes that this issue is not a result of the Project but is an existing condition of the neighborhood. The Commission also concludes that the TDM plan provided by the Applicant mitigates any potential adverse effects on the surrounding area from the Project. In addition, the Project includes substantial streetscape improvements adjacent to the Property, including the construction of sidewalks where none exist, which will help provide safe pedestrian access for students attending schools in the vicinity of the Project.

67. Development of the Property carries out the purposes of Subtitle X, Chapter 3, to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
68. Approval of the PUD is appropriate because the Project is consistent with the present character of the area and is not inconsistent with the CP. In addition, the Project will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
69. The Commission concludes that the Project complies with the applicable height, bulk, and density standards of the Zoning Regulations. The mix of uses for the Project is appropriate for the Property.
70. The Commission concludes that the Applicant's requests for flexibility are not inconsistent with the CP. Moreover, the PUD benefits and amenities are reasonable tradeoffs for the requested development flexibility.
71. As stated in the OP Hearing Report, the Application was referred to the DOEE, DDOT, DHCD, DPR, the Department of Public Works, the DC Public Schools, FEMS, the Metropolitan Police Department, WMATA, DC Water, the DC Public Library, OSSE, DACL/DCOA, and the Department of Employment Services. Other than DDOT, no District agency submitted comments expressing concerns regarding potential impacts of the project. (Ex. 29.)
72. To the extent that the rezoning of the Project and the slight increase in height resulted in potential adverse impacts, the Applicant has mitigated such impacts by incorporating design gestures that are supported by the SAP, including building includes a setback at approximately 50 feet. Moreover, the buildings include courtyards at the third floor in order to break down the massing of each building from neighboring residential properties along 8th Street. Finally, the building façade along 8th Street, N.E. has been designed such that it resembles townhomes with the inclusion of stoops, bays, and individual entrances, which are found throughout the surrounding residential neighborhood.
73. The Commission also notes that the monetary contributions proffered by the Applicant comply with the requirements of Subtitle X § 305.3(d) since the items or services funded can be provided prior to the issuance of certificate of occupancy for the Project. With respect to the Applicant's contributions to Dance Place and the ECA, the first two years of the Applicant's contributions are public benefits since they will occur prior to the issuance of a certificate of occupancy for the Project in accordance with Subtitle X § 305.3(d). With respect to the Applicant's contributions to Beacon House, the Hope Community Charter School, the McKinley Tech Track Club, and 1way2rise, the Commission finds that these proffers comply with the requirements of Subtitle X §

305.3(d) since the items or services funded can be provided prior to the issuance of certificate of occupancy for the Project.

74. Given the minimal amount of impacts resulting from the rezoning, the public benefits and project amenities outweigh the degree of development incentives requested in this case.
75. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

“Great Weight” to the Recommendations of OP

76. Pursuant to § 13(d) 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)), the Commission must give “great weight” to the recommendation of OP.
77. As explained above, the Commission finds persuasive OP’s recommendations, in its reports and testimony, to grant the Application subject to the conditions and concurs in that judgement.

“Great Weight” to the Written Report of the ANC

78. Pursuant to § 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)) and Subtitle Z §406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy this 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. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
79. As the ANC Report expressed no issues or concerns with the Application, there are no issues or concerns to which the Zoning Commission can give great weight. (*See Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application for a Consolidated PUD and the related Zoning Map amendment to rezone the Property from the PDR-1 zone to the MU-4 zone, subject to the following guidelines, conditions, and standards (whenever compliance is required prior to, on, or during a certain time, the timing of the obligation is noted in **bold and underlined text**):

A. PROJECT DEVELOPMENT

1. The PUD shall be developed in accordance with the plans titled “Hanover 8th Street,” prepared by KTG Architecture + Planning, dated April 4, 2019, and marked as Exhibits 25A1-25A6 of the record, as revised by the “Revised Signage Plan,” marked as Exhibit 33B of the record (collectively, the “Approved Plans”).
2. The Applicant is granted flexibility from the GAR requirements of the Zoning Regulations, consistent with the Approved Plans and as discussed in the Zoning Flexibility section of this Order.
3. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a. To provide a range in the number of units of 377 plus or minus 10%;
 - b. To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, escalators, and toilet rooms elevators, provided that the variations do not change the exterior configuration of the building;
 - c. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations;
 - d. 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 the Approved Plans;
 - e. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Approved Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
 - f. To vary the color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the Approved Plans;
 - g. To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of the inclusionary units will substantially conform to the layout shown on the IZ Unit Location Plan included as Exhibit 33A of the record;
 - h. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division; and

- i. To vary the approved sustainable features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the minimum required for the LEED standard specified by the order.

B. PUBLIC BENEFITS

- 1. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall construct an approximately 5,150-square-foot landscaped, publicly-accessible entry plaza with improvements as shown on Sheets L08 through L09 of the Approved Plans. (Ex. 25A5.)
- 2. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall install a public drinking fountain in the entry plaza for use by runners, bikers, and pedestrians.
- 3. The Applicant shall provide the affordable housing as set forth in this condition:
 - a. **For the life of the Project**, the Applicant shall provide the following housing and affordable housing set forth in the following chart:

Residential Unit Type	Net Residential Square Feet/ Percentage of Total	Units	Reserved for household earning equal to or less than	Affordable Control Period	Affordable Unit Type
Total	294,347 (100%)	377	N/A	N/A	N/A
Market Rate	259,025 sf (87.9%)	341	Market Rate	N/A	Rental
IZ	4,592 sf (1.6%)	6*	Up to 80% MFI	Life of the project	Rental
IZ	23,666 sf (8%)	31*	Up to 60% MFI	Life of the project	Rental
IZ	4,945 sf (1.7%)	6*	Up to 50% MFI	Life of the project	Rental
IZ	2,119 sf (0.7%)	3*	Up to 30% MFI	Life of the project	Rental

*The number of IZ units is approximate based on the current dwelling unit count and layout. In accordance with the flexibility requested by the Applicant, the mix of IZ units may change if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of

the inclusionary units substantially conforms to the layout shown on the IZ Unit Location Plan included as Exhibit 33A of the record;

- b. **For the life of the Project**, the Applicant shall reserve two of the three-bedroom units as IZ units;
 - c. **For the life of the Project**, the Applicant shall reserve one of the “townhouse style” units on the ground floor fronting on 8th Street, N.E. as an IZ unit; and
 - d. The covenant required by D.C. Official Code §§ 6-1041.05(a)(2) (2012 Repl) shall include a provision or provisions requiring compliance with this Condition.
4. **The Applicant shall submit with its building permit application**, a checklist evidencing that the Project has been designed to LEED-Gold standards under the LEED-v4 Multifamily Midrise standard.
 5. **Prior to issuance of a final certificate of occupancy for the Project**, the Applicant shall provide a signed affidavit to the Zoning Administrator evidencing that the Applicant has registered the Project under the LEED-v4 for Multifamily Midrise standard. The signed affidavit shall also include the steps taken by the Applicant towards certification of the Project under the LEED- v4 for Multifamily Midrise standard.
 6. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall install approximately 2,750 square feet of solar panels on the building’s roof, as shown on Sheet A20 through A22 of the Approved Plans. (Ex. 25A3.)
 7. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall construct the streetscape and landscape improvements as shown on Sheets L02 through L10 of the Approved Plans. The sidewalk shall be 10 feet wide. All sidewalks and elements in public space shall be built to DDOT standards and shall be subject to DDOT approval. (Ex. 25A4-25A5.)
 8. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall provide a one-foot clearance on both sides of the Property’s proposed sidewalk, to accommodate the future design and location of the MBT.
 9. **During the operation of the Project’s buildings**, the Applicant shall include a rider in all residential leases that restricts residential tenants from obtaining RPPs. In an effort to monitor whether residents are abiding by this lease restriction, the Applicant shall require that the PUD’s property manager submit a request pursuant to the Freedom of Information Act, DC Code §§ 2-531 to 2-539 to the District of Columbia Department of Motor Vehicles annually to confirm whether any building tenant has registered a vehicle at the address of the PUD. If the property manager determines that any car has been registered by a tenant and/or that the tenant has received an RPP, the property manager

shall notify the tenant that it must surrender the RPP in accordance with the residential lease rider.

10. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall contribute \$50,000 to Dance Place, which represents two years of the Applicant's contribution. The Applicant's contribution of \$25,000 per year shall fund eight scholarships for camp, 20 weeks of job training for 14 teenagers, and five scholarships for the Energizers Afterschool Program. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and that the items described in this condition have been or are being provided **prior to the issuance of a final certificate of occupancy for the Project**.
11. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has created an escrow account and funded it with \$25,000, which represents the third year of the Applicant's contribution. The escrow account shall be structured such that the funds shall be released to the Dance Place to fund eight scholarships for camp, 20 weeks of job training for 14 teenagers, and five scholarships for the Energizers Afterschool Program.
12. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall contribute \$10,000 to the Beacon House to support the Beacon House's summer camp. The Applicant's contribution shall fund the cost of attendance for at least eight campers in the Beacon House's 2020 summer camp program. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and that the items described in this condition have been or are being **provided prior to the issuance of a final certificate of occupancy for the Project**.
13. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall contribute at least \$16,000 to the Edgewood Civic Association, which represents two years of the Applicant's contribution. The Applicant's contribution (anticipated to be approximately \$8,000 per year) shall fund various elements of the Edgewood Street Festival, including but not limited to, the cost of an event coordinator, equipment rental, food and beverage services, activities, and required permits. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and that the items described in this condition have been or are being provided **prior to the issuance of a final certificate of occupancy for the Project**.
14. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has created an escrow account and contributed the remaining funds, up to a total contribution of \$24,000. The escrow account shall be structured such that the funds shall be released to the Edgewood Civic Association to fund various elements of the third year of the Edgewood Street Festival, including but not limited to, the cost of an event coordinator, equipment rental, food and beverage services, activities, and required permits.

15. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall contribute \$20,000 to a nonprofit organization that supports the McKinley Tech Track Club (Fast Lane), which shall fund the following:
- a. \$5,200 for the Track Club's participation in the Penn Relays Meet including bus transportation and lodging costs;
 - b. \$10,750 for the Track Club's participation in the National Capitol Invitational Meet including a timer, security, officials, venue fees, clerks, and a starter;
 - c. \$1,850 for uniforms and equipment; and
 - d. \$2,200 for other meet and administrative fees.

In the event that there are excess funds, those funds shall be devoted to additional meet and administrative fees. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and that the items described in this condition have been or are being provided **prior to the issuance of a final certificate of occupancy for the Project**.

16. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall contribute \$20,000 to 1way2rise, which shall fund the following:
- a. \$14,500 for educational supplies and programming for the afterschool youth and teen tutoring services, which may include but not be limited to book bags, pens, pencils, composition books, flash drives, lecturer and workshop fees, facility rental fees, and volunteer expenses;
 - b. \$4,000 for sporting equipment, which may include but not be limited to rugby equipment, tennis equipment, lacrosse equipment, and chess equipment; and
 - c. \$1,500 for STEM/robotics supplies and equipment, which may include but not be limited to scientific calculators.

In the event that there are excess funds, those funds shall be used for miscellaneous educational expenses related to the afterschool program or a scholarship for one senior at McKinley Technology High School who is pursuing post-secondary education. In the event 1way2rise is unable to administer these services, the Applicant shall contribute \$20,000 to Beacon House for the provision of similar services. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and that the items described in this condition have been or are being provided **prior to the issuance of a final certificate of occupancy for the Project**.

17. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall contribute \$50,000 to the Hope Community Charter School, which shall fund the following:
- a. \$30,000 to resurface, seal, and paint blacktop on the north side of the Hope Community Charter School building;
 - b. \$5,000 to remove the concrete platform in front of the Hope Community Charter School building entrance that has been an ongoing safety concern;
 - c. \$4,000 to purchase and install two in ground basketball hoops;
 - d. \$600 to purchase and install a bicycle rack;
 - e. \$3,000 to purchase large planters, supplies, and tools to create a garden space for the STEAM program;
 - f. \$6,600 to repair and improve fencing on north side of the school building; and
 - g. \$1,400 for minor landscaping on west side of the Hope Community Charter School building.

In the event that there are excess funds, those funds shall be used to paint an artistic mural on the front entrance side of the Hope Community Charter School building. The Applicant shall provide proof to the Zoning Administrator that the funds have been donated and that the services described in this condition have been or are being provided **prior to the issuance of a final certificate of occupancy for the Project**.

18. **During the operation of the Project (unless otherwise noted)**, the Applicant shall provide a TDM Plan as follows:
- a. The Applicant shall identify a TDM Leader (for planning, construction, and operations) at the Project, who will act as a point of contact with DDOT/Zoning Enforcement with annual updates. The TDM Leader shall work with residents to distribute and market various transportation alternatives and options. The TDM Leader shall receive training from goDCgo to learn about TDM conditions for the Project and available options for implementing the TDM Plan. The TDM Leader shall also subscribe to goDCgo's residential newsletter;
 - b. The Applicant shall share the full contact information of the TDM Leaders for the Project with DDOT and goDCgo (info@godcgo.com);
 - c. The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials, which at a minimum shall the Metrorail pocket

- guide, Capital Bikeshare coupon or rack card, Guaranteed Ride Home (“GRH”) brochure, and the most recent DC Bike Map;
- d. The Applicant shall work with DDOT and goDCgo (DDOT’s TDM program) to implement TDM measures at the Property;
 - e. The Applicant shall post all TDM commitments online for easy reference;
 - f. The Applicant shall exceed Zoning requirements by providing 125 long-term bicycle parking spaces in the Project’s garage. The long-term bicycle storage room shall accommodate non-traditional bicycles including, but not limited to cargo, tandem, and children’s bicycles;
 - g. The Applicant shall provide 20 short-term bicycle parking spaces along 8th Street, N.E. adjacent to the Property;
 - h. All parking on Property shall be priced at market rates, at minimum, defined as the average cost for parking in a quarter-mile radius from the Property;
 - i. The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase of each unit.
 - j. The Applicant shall provide a \$100 SmarTrip Card for the first two years of occupancy of the Project to each incoming unit. A proactive marketing strategy shall be provided to ensure residents are aware of this benefit;
 - k. The Applicant shall provide a bicycle repair station to be located in the bicycle storage room;
 - l. The Applicant shall provide an on-site business center to residents with access to internet services;
 - m. The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobby of each building of the Project. At a minimum, the Transportation Information Center Display shall include information about nearby Metrorail stations and schedules, Metrobus stops and schedules, car sharing locations, and a bicycle icon indicating the availability of bicycles;
 - n. The Applicant shall provide at least seven shopping carts in each building of the Project for residents to use for running errands and grocery shopping;
 - o. The Applicant shall provide at least three vehicle charging stations within the Project’s garage;

- p. The Applicant shall not lease unused residential parking spaces to anyone aside from Project's tenants;
 - q. The Applicant shall install two expansion plates of four docks each to the Capital BikeShare station at 10th and Monroe Streets, N.E. The maximum amount the Applicant will pay for this benefit is \$12,000;
 - r. The Applicant shall offer a one-year Capital Bikeshare membership to each unit during the initial lease up; and
 - s. The Applicant shall provide residents who wish to carpool with detailed carpooling information and will refer them to other carpool matching services sponsored by MWCOG or other comparable service it MWCOG does not offer this in the future.
19. **During the operation of the Project**, the Applicant shall provide a Loading Management Plan as follows:
- a. A loading dock manager shall be designated by the Project's management. The dock manager shall coordinate with vendors and tenants to schedule deliveries and will be on duty during delivery hours;
 - b. All residents shall be required to schedule deliveries that utilize the loading docks – defined here as any loading operation conducted using a truck 20 feet in length or larger;
 - c. The dock manager(s) shall schedule deliveries for trucks using the loading berths such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver shall be directed to return at a later time when a berth will be available so as to not impede the drive aisle that passes in front of the loading dock;
 - d. The dock manager(s) shall monitor inbound truck maneuvers and shall ensure that trucks accessing the loading dock do not block vehicular traffic except during those times when a truck is actively entering the loading facilities;
 - e. Trucks using the loading dock shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to Title 20, Chapter 9, Section 900 (Engine Idling) of the DCMR, the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and
 - f. The dock manager(s) shall be responsible for disseminating suggested truck routing maps to residents and to drivers from delivery services that frequently

utilize the loading dock. The dock manager(s) will also distribute flyers materials as DDOT’s Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with idling laws. The dock manager(s) shall also post these documents in a prominent location within the service area.

D. MISCELLANEOUS

1. **During construction of the Project**, the Applicant shall abide by the terms of the Construction Management Plan. (Ex. 2K.)
2. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
3. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three years of the effective date of this Order.
4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, 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.

Proposed Action

VOTE (April 25, 2019): 5-0-0 (Robert E. Miller, Michael G. Turnbull, Anthony J. Hood, Peter A. Shapiro, and Peter G. May to **APPROVE**)

Final Action

VOTE (June 10, 2019): 5-0-0 (Michael G. Turnbull, Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, and Peter G. May to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order became final and effective upon the original publication date in the *D.C. Register*; that is, on November 22, 2019.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 19-28
(Square 417, LLC – Zoning Map Amendment
@ Square 417, Lots 53 and 54 [1840 7th Street, N.W.]
November 21, 2019

THIS CASE IS OF INTEREST TO ANC 1B and 6E

On November 15, 2019, the Office of Zoning received an application from Square 417, LLC, (the “Applicant”) for approval of a map amendment for the above-referenced property.

The property that is the subject of this application consists of Lots 53 and 54 in Square 417 in northwest Washington, D.C. (Ward 1), on property located at 1840 7th Street, N.W. The property is currently zoned RF-1. The Applicant is proposing a map amendment to rezone the property to the ARTS-3 zone.

The RF-1 zone is intended to provide for areas predominantly developed with attached row houses on small lots within which no more than two dwelling units are permitted. The RF-1 zone allows a maximum 35 feet¹ in height within three stories (60 feet for places of worship); a maximum lot occupancy 60% for most residences and places of worship (40% for all other structures); and requires a 20-foot rear yard.

The ARTS-3 zone is intended to permit medium-density, mixed-use development, with a focus on employment. The ARTS-3 zone allows a maximum height of 65 feet² and 45 feet for a public recreation center (75 feet for Inclusionary Zoning [“IZ”]); maximum lot occupancy of 75% and 20% for a public recreation center (80% with IZ); and maximum density of 4.0 floor area ratio (“FAR”) (4.8 with IZ).

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

¹ A building or structure may be erected to a height not exceeding 90 feet, provided the building or structure shall be removed for all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

² In the underlying ARTS-3 zone, a building may be constructed up to 75 feet in height if it meets certain restrictions on its penthouse and certain conditions related to its construction should it abut an R, RF, or RA zone.

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