VOL. 72 – NO. 26 JUNE 27, 2025

District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council passes Law 26-15 to adopt measures for streamlining processes for classifying commercial properties that are to be put to residential use

- Department of Behavioral Health announces availability of the District of Columbia Opioid Response, Evidence Base or Promising Practice Mini Grants

- Office of the Chief Technology Officer announces availability of funding for the Coronavirus Capital Projects Fund (CPF)

- Board of Elections schedules a public hearing to consider proposed Initiative Measure No. 84: "Time Stability Act of 2025", which if enacted would exempt the District from observing daylight saving time

- Department of Housing and Community Development schedules a public hearing to receive community feedback on the draft of the District's Fiscal Year 2026 Annual Action Plan and the spending priorities utilizing federal entitlement funds

- D.C. Office of Neighborhood Safety and Engagement releases funding for the Consolidated Grief Support and Gun–Violence Prevention Mini-Grant

- Office of the Deputy Mayor for Planning and Economic Development cancels funding for the FY2025 DC Family Fun Destinations Program

- Public Service Commission approves Potomac Electric Power Company's Purchase of Receivables Discount Rate tariff

- D.C. Zoning Commission amends the Zoning Regulations and map to create two new Chevy Chase Neighborhood Mixed Use zones, NMU-4/CC1 and NMU-4/CC to allow low-density commercial and moderate density residential use

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 2-611 *et seq*. (2016 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative· Issuances (1 DCMR §§300, et seq.). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *District of Columbia Administrative Procedure Act*, D.C. Official Code §§2-50l *et seq*. (2016 Repl.).

All documents published in the *District of Columbia Register* must be submitted in accordance with the applicable provisions of the Rules of the Office of Documents and Administrative Issuances. Documents which are published in the *District of Columbia Register* include (1) Acts and resolutions of the Council of the District of Columbia; (2) Notices of proposed Council legislation, Council hearings, and other Council actions; (3) Notices of public hearings; (4) Notices of final, proposed, and emergency rulemaking; (5) Mayor's Orders and information on changes in the structure of the District government (6) Notices, Opinions, and Orders of District government Boards, Commissions and Agencies; (7) Documents having general applicability and notices and information of general public interest.

Deadlines for Submission of Documents for Publication

The Office of Documents and Administrative Issuances accepts electronic documents for publication using a Web-based portal. To submit documents for publication, agency heads, or their representatives, may obtain a username and password by email at dcdocuments@dc.gov. For guidelines on how to format and submit documents for publication, please email dcdocuments@dc.gov.

The deadline for filing documents for publication for District of Columbia Agencies, Boards, Commissions, and Public Charter schools is THURSDAY, NOON of the previous week before publication. The deadline for filing documents for publication for the Council of the District of Columbia is WEDNESDAY, NOON of the week of publication. If an official District of Columbia government holiday falls on Thursday, the deadline for filing documents is Wednesday. Email the Office of Documents and Administrative Issuances at dcdocuments@dc.gov to request the *District of Columbia Register* publication schedule.

Viewing the *District of Columbia Register*

The Office of Documents and Administrative Issuances publishes the *District of Columbia Register* ONLINE every Friday at www.dcregs.dc.gov. The Office of Documents does not offer paid subscriptions to the *District of Columbia Register*. Copies of the *District of Columbia Register* from October 2, 2009 to present are available at www.dcregs.dc.gov. Copies of the *District of Columbia Register* from April 2003 through July 2010 are available online in the *D.C. Register* Archive on the website for the Office of the Secretary at www.os.dc.gov. Hardcopies of the *Register* from 1954 to September 2009 are available at the Martin Luther King, Jr. Memorial Library's Washingtoniana Division, 901 G Street, NW, Washington, DC 20001. There are no restrictions on the republication of any portion of the *District of Columbia Register*. News services are encouraged to publish all or part of the *District of Columbia Register*.

Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *District of Columbia Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act*. The Administrator of the Office of Documents and Administrative Issuances hereby certifies that this issue of the *District of Columbia Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act*.

DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 26-14

"Secure DC Pretrial Detention Extension and Reporting Temporary Amendment Act of 2025"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 26-82 on First Reading and Final Reading, on February 4, 2025, and February 18, 2025, respectively. Following the signature of the Mayor on March 13, 2025, pursuant to Section 404(e) of the Charter, the bill became Act 26-22 and was published in the March 21, 2025 edition of the D.C. Register (Vol. 72, page 003110). Act 26-22 was transmitted to Congress on March 24, 2025 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 26-22 is now D.C. Law 26-14, effective June 17, 2025.

Phil Mendelson
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Month	Dates Counted
March	24,25,26,27,28,31
April	1,2,3,4,7,8,9,10,11,14,15,16,17,18,21,22,23,24,25,28,29,30
May	1,2,5,6,7,8,9,12,13,14,15,16,19,20,21,22,23,27,28,29,30
June	2,3,4,5,6,9,10,11,12,13,16

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 26-15

"Residential Building Permit Classification Temporary Amendment Act of 2025"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 26-150 on First Reading and Final Reading, on March 4, 2025, and April 1, 2025, respectively. Following the signature of the Mayor on April 24, 2025, pursuant to Section 404(e) of the Charter, the bill became Act 26-66 and was published in the May 2, 2025 edition of the D.C. Register (Vol. 72, page 005339). Act 26-66 was transmitted to Congress on May 5, 2025 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 26-66 is now D.C. Law 26-15, effective June 17, 2025.

Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
May	5,6,7,8,9,12,13,14,15,16,19,20,21,22,23,27,28,29,30
June	2,3,4,5,6,9,10,11,12,13,16

ENROLLED ORIGINAL

A RESOLUTION

26-137

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 17, 2025

To declare the existence of an emergency with respect to the need to approve the negotiated compensation matters contained in the Ninth Master Agreement between the University of the District of Columbia and the University of the District of Columbia Faculty Association/National Education Association and the associated salary schedule.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Ninth Master Agreement between the University of the District of Columbia and the University of the District of Columbia Faculty Association/National Education Association Emergency Declaration Resolution of 2025".

Sec. 2. (a) There exists an immediate need to approve the negotiated compensation matters contained in the Ninth Master Agreement between the University of the District of Columbia ("University") and the University of the District of Columbia Faculty Association/National Education Association, effective October 1, 2022, through September 30, 2025, and the associated salary schedule.

(b) The new agreement increases compensation for covered members of the University of the District of Columbia Faculty Association bargaining unit and will better enable the University to retain and attract faculty in the highly competitive postsecondary education market.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Ninth Master Agreement between the University of the District of Columbia and the University of the District of Columbia Faculty Association/National Education Association Emergency Approval Resolution of 2025 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

26-138

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 17, 2025

To approve, on an emergency basis, the negotiated compensation matters contained in the Ninth Master Agreement between the University of the District of Columbia and the University of the District of Columbia Faculty Association/National Education Association and the associated salary schedule.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Ninth Master Agreement between the University of the District of Columbia and the University of the District of Columbia Faculty Association/National Education Association Emergency Approval Resolution of 2025".

Sec. 2. Pursuant to sections 1111 and 1717(j) 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 §§ 1-611.11 and 1-617.17(j)), the Council approves the negotiated compensation matters contained in the Ninth Master Agreement between the University of the District of Columbia and the University of the District of Columbia Faculty Association/National Education Association, effective October 1, 2022, through September 30, 2025, and the associated salary schedule, which were transmitted by the Mayor to the Council on June 2, 2025.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor, the President of the University of the District of Columbia, and the Chairperson of the Board of Trustees of the University of the District of Columbia.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

26-139

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 17, 2025

To declare the existence of an emergency with respect to the need to authorize the purchase of properties Lots 809, 840, 841, 842, 843, and 848 in Square 2937.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Georgia Avenue Acquisition Authority Emergency Declaration Resolution of 2025".

Sec. 2. (a) The Mayor has observed that Lots 809, 840, 841, 842, 843, and 848 in Square 2937 are underutilized, facing foreclosure, and at risk of becoming blighted.

(b) The above-mentioned properties can be redeveloped and revitalized to the benefit of the Georgia Avenue neighborhood, especially considering the adjacent nature of the properties to a District owned site, Engine 22, located at 5760 Georgia Avenue, NW.

(c) The acquisition of these properties by the District for the purpose of redevelopment and revitalization will provide social and economic benefits to the residents of the District of Columbia and further the public interest.

(d) In light of the pending foreclosure action on these properties, emergency legislation is necessary to gain control of these properties immediately for the benefit of the Georgia Avenue corridor and to ensure that they are put to an economically advantageous purpose.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Georgia Avenue Acquisition Authority Emergency Act of 2025 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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 http://www.dccouncil.gov.

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

B26-0287 Housing with Integrity Amendment Act of 2025

Intro. 06-16-2025 by Councilmembers Lewis George, Allen, and Frumin and referred sequentially to the Committee on Public Works and Operations, and Committee of the Whole

B26-0288 Robert F. Kennedy Campus Redevelopment Act of 2025

Intro. 06-20-2025 by Chairman Mendelson, and Councilmember McDuffie and referred sequentially to the Committee on Business and Economic Development, and Committee of the Whole

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 26-0043: Request to reprogram Office of the Chief Financial Officer (OCFO) has reviewed the Mayor's request to reprogram Fiscal Year 2025 Local funds budget authority in the amount of $20,000 within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary Tuesday June 17, 2025. The funds are needed to pay staff supporting the summer camp at LaSalle-Backus Elementary School.

RECEIVED: 14-day review begins June 18, 2025

Reprog. 26-0044: Request to reprogram Fiscal Year 2025 Local funds budget authority in the amount of $20,000 within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary Tuesday June 17, 2025. The funds are needed to provide additional services and buses for Anacostia High School.

RECEIVED: 14-day review begins June 18, 2025

Reprog. 26-0045: Request to reprogram Fiscal Year 2025 Local funds budget authority in the amount of $538,485 within the Department of Health (DOH) was filed in the Office of the Secretary Tuesday June 17, 2025. Funds are needed to support revised spending plans for School-Based Health centers and the School Health Service program.

RECEIVED: 14-day review begins June 18, 2025

Reprog. 26-0046: Request to reprogram Capital funds budget authority and allotment in the amount of $281,764 from the Department of General Services (DGS) to the Metropolitan Police Department (MPD) was filed in the Office of the Secretary Wednesday June 18, 2025. This reprogramming is needed to fund the replacement of HVAC rooftop units at the DC Metropolitan Police Academy.

RECEIVED: 14-day review begins June 20, 2025

Reprog. 26-0047: Request to reprogram Fiscal Year 2025 Local funds budget authority in the amount of $44,251 within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary Friday June 20, 2025. The funds are needed to purchase E-learning equipment and furniture for Cleveland Elementary School.

RECEIVED: 14-day review begins June 23, 2025

Reprog. 26-0048: Request to reprogram Capital funds budget authority and allotment in the amount of $1,382,048 from the Department of General Services (DGS) to the District of Columbia Public Schools (DCPS) and Department of Parks and Recreation (DPR) was filed in the Office of the Secretary Friday June 20, 2025. This reprogramming is needed to fund the replacement of HVAC mechanical system replacements at various DCPS and DPR facilities.

RECEIVED: 14-day review begins June 23, 2025

Reprog. 26-0049: Request to reprogram Capital funds budget authority and allotment in the amount of $1,000,000 within the Department of Corrections (DOC) was filed in the Office of the Secretary Tuesday June 24, 2025. This reprogramming is required to fund the work related to elevator system upgrades at the DOC Correctional Treatment Facility (CTF) facility.

RECEIVED: 14-day review begins June 25, 2025

Reprog. 26-0050: Request to reprogram Fiscal Year 2025 Local funds budget authority in the amount of $88,871 within the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary Tuesday June 24, 2025. The funds are needed to purchase custodial supplies and cover overtime expenses for custodians at the Walker-Jones Education Campus.

RECEIVED: 14-day review begins June 25, 2025

Reprog. 26-0051: Request to Fiscal Year 2025 Local funds budget authority in the amount of $130,000 within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary Tuesday June 24, 2025. The funds are needed to cover tuition costs for Advanced Technical Center students.

RECEIVED: 14-day review begins June 25, 2025

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	June 27, 2025
Protest Petition Deadline:	August 11, 2025
Roll Call Hearing Date:	September 2, 2025

License No.:	ABRA-123774
Licensee:	Amelie Wine Bar, LLC
Trade Name:	Amelie
License Class:	Retailer's Class "C" Restaurant
Address:	1315 14th Street, N.W.
Contact:	Samie Didda: (415) 310-4853, samdidda@gmail.com

WARD 2 ANC 2F SMD 2F04

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 September 2, 2025 at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE
Applicant requests a Class Change from a Retailer's Class "C" Restaurant to a Retailer's Class "C" Tavern.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES AND FOR THE SIDEWALK CAFE
Sunday through Thursday 11am – 12am, Friday and Saturday 11am – 1am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISMENT**

Placard Posting Date: **June 27, 2025
Protest Petition Deadline: **August 11, 2025
Roll Call Hearing Date: **September 2, 2025

License No.: ABRA-124404
Licensee: Amparo (Dupont), LLC
Trade Name: Amparo Fondita (Dupont)
License Class: Retailer's Class "C" Restaurant
Address: 2002 P Street, N.W.
Contact: Matthew Minora (202) 625-7700, mminora@malliosobrien.com

WARD 2 ANC 2B SMD 2B02

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 **September 2, at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE
Request for a Sidewalk Café with **8 seats.

CURRENT HOURS OF OPERATION INSIDE PREMISES
Sunday through Thursday 7am – 1am, Friday and Saturday 7am –1:30am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES
Sunday through Thursday 8am – 1am, Friday and Saturday 8am – 1:30am

CURRENT HOURS OF LIVE INDOOR ENTERTAINMENT INSIDE PREMISES
Sunday through Thursday 10am – 11pm, Friday and Saturday 10am – 12am

PROPOSED HOURS OF OPERATION OUTSIDE ON THE SIDEWALK CAFE
Sunday through Thursday 7am – 11pm, Friday and Saturday 11pm – 12am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION OUTSIDE ON THE SIDEWALK CAFÉ
Sunday through Thursday 8am – 11pm, Friday and Saturday 8am – 12am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	**June 13, 2025
Protest Petition Deadline:	**July 28, 2025
Roll Call Hearing Date:	**August 18, 2025

License No.:	ABRA-124404
Licensee:	Amparo (Dupont), LLC
Trade Name:	Amparo Fondita (Dupont)
License Class:	Retailer's Class "C" Restaurant
Address:	2002 P Street, N.W.
Contact:	Matthew Minora (202) 625-7700, mminora@malliosobrien.com

WARD 2 ANC 2B SMD 2B02

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 **August 18, 2025, at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE
Request for a Sidewalk Café with **10 seats.

CURRENT HOURS OF OPERATION INSIDE PREMISES
Sunday through Thursday 7am – 1am, Friday and Saturday 7am –1:30am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES
Sunday through Thursday 8am – 1am, Friday and Saturday 8am – 1:30am

CURRENT HOURS OF LIVE INDOOR ENTERTAINMENT INSIDE PREMISES
Sunday through Thursday 10am – 11pm, Friday and Saturday 10am – 12am

PROPOSED HOURS OF OPERATION OUTSIDE ON THE SIDEWALK CAFE
Sunday through Thursday 7am – 11pm, Friday and Saturday 11pm – 12am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION OUTSIDE ON THE SIDEWALK CAFÉ
Sunday through Thursday 8am – 11pm, Friday and Saturday 8am – 12am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Placard Posting Date:	June 27, 2025
Protest Petition Deadline:	August 11, 2025
Roll Call Hearing Date:	September 2, 2025
Protest Hearing Date:	October 8, 2025

License No.:	ABCA-131901
Licensee:	SK Quality Services-US Corp.
Trade Name:	Blunt DC
Registration/License Type:	Medical Cannabis Retailer
Address:	1606 K Street, N.W.
Retailer Contact:	Michael Rothman:(202) 903-1059; mike@rothmanlegal.com

WARD 2 ANC 2C SMD 2C02

Notice is hereby given that the above-named medical cannabis retailer applicant has requested a safe-use treatment facility endorsement to be located at **1606 K Street, N.W.** Pursuant to Title 22-C of the DCMR (Medical Cannabis Program) objectors are entitled to be heard regarding the endorsement application. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the petition deadline. **The Roll Call Hearing is scheduled for September 2, 2025, at 10 a.m., Suite 4200-B, 899 North Capitol Street, N.E., Washington, DC 20002.** The **Protest Hearing date** is scheduled for **October 8, 2025, at 1:30 p.m.** All hearings before the Board are conducted virtually.

NATURE OF SUBSTANTIAL CHANGES

The existing medical cannabis retailer applicant is requesting to operate a safe-use treatment facility at **1606 K Street, N.W.** The proposed facility with approximately 5,418 square feet of space will provide cannabis flowers, cannabis concentrates, and a line of edible products and home delivery services to registered patients in Washington, D.C. The applicant is requesting to add a safe-use treatment facility endorsement to its current operations.

HOURS OF OPERATION FOR RETAILER

Sunday – Saturday 11:00 am – 7:30 pm

HOURS OF RETAILER SALES OPEN TO THE PUBLIC

Sunday – Saturday 11:30 am – 7 pm

HOURS OF OPERATION FOR SAFE-USE TREATMENT FACILTY

Sunday – Saturday 11:00 am – 7:30 pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

**RESCIND

Placard Posting Date:	June 13, 2025
Protest Petition Deadline:	July 28, 2025
Roll Call Hearing Date:	August 18, 2025
Protest Hearing Date:	October 1, 2025

License No.:	ABCA-131901
Licensee:	SK Quality Services-US Corp.
Trade Name:	Blunt DC
Registration/License Type:	Medical Cannabis Retailer
Address:	1606 K Street, N.W.
Retailer Contact:	Michael Rothman:(202) 903-1059; mike@rothmanlegal.com

WARD 2 ANC 2C SMD 2C02

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NATURE OF SUBSTANTIAL CHANGES
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HOURS OF OPERATION FOR RETAILER
Sunday – Saturday 11:00 am – 7:30 pm

HOURS OF RETAILER SALES OPEN TO THE PUBLIC
Sunday – Saturday 11:30 am – 7 pm

HOURS OF OPERATION FOR SAFE-USE TREATMENT FACILTY
Sunday – Saturday 11:00 am – 7:30 pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

**** READVERTISMENT**

Placard Posting Date:	**June 27, 2025
Protest Petition Deadline:	**August 11, 2025
Roll Call Hearing Date:	**September 2, 2025
License No.:	ABRA-088296
Licensee:	Daikaya, LLC
Trade Name:	Daikaya
License Class:	Retailer's Class "C" Restaurant
Address:	705 6th Street, N.W.
Contact:	Jeff Jackson: (202) 251-1566, jjharlem112@gmail.com

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 **September 2, 2025, at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE
Request for a Sidewalk Café with 25 seats.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

CURRENT HOURS OF LIVE INDOOR ENTERTAINMENT
Sunday through Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION OUTSIDE ON THE SIDEWALK CAFÉ
Sunday through Thursday 11am – 11pm, Friday and Saturday 11am –12am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	**May 23, 2025
Protest Petition Deadline:	**July 7, 2025
Roll Call Hearing Date:	**July 28, 2025

License No.:	ABRA-088296
Licensee:	Daikaya, LLC
Trade Name:	Daikaya
License Class:	Retailer's Class "C" Restaurant
Address:	705 6th Street, N.W.
Contact:	Jeff Jackson: (202) 251-1566, jjharlem112@gmail.com

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 **July 28, 2025, at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE
Request for a Sidewalk Café with 25 seats.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

CURRENT HOURS OF LIVE INDOOR ENTERTAINMENT
Sunday through Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION OUTSIDE ON THE SIDEWALK CAFÉ
Sunday through Thursday 11am – 11pm, Friday and Saturday 11am –12am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	June 27, 2025
Protest Petition Deadline:	August 11, 2025
Roll Call Hearing Date:	September 2, 2025
Protest Hearing Date:	October 8, 2025

License No.:	ABRA-132924
Licensee:	DreamComeTrue, LLC
Trade Name:	EB's/eebee's
License Class:	Retailer's Class "C" Restaurant
Address:	1840 6th Street, N.W.
Contact:	Manalle Mahmoud, Esq.: (202) 625-7700, mmahmoud@malliosobrien.com

WARD 2 ANC 2G SMD 2G01

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 September 2, 2025, at 10 a.m., Suite 4200 - B, 899 North Capitol Street, N.E., Washington, DC 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled for **October 8, 2025, at 1:30 p.m.**

NATURE OF OPERATION
New Retailer's Class "C" Restaurant with a Seating Capacity of 67, Total Occupancy Load of 73, and a Sidewalk Café with 19 Seats.

HOURS OF OPERATION INSIDE PREMISES
Sunday through Thursday 10am – 2am, Friday and Saturday 10am – 3am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES
Sunday through Saturday 10am – 2am

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR THE OUTDOOR SIDEWALK CAFÉ
Sunday through Thursday 10am – 1am, Friday and Saturday 10am – 2am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	June 27, 2025
Protest Petition Deadline:	August 11, 2025
Roll Call Hearing Date:	September 2, 2025
Protest Hearing Date:	October 8, 2025

License No.:	ABRA-132776
Licensee:	Slice & Pie Union Market, LLC
Trade Name:	Slice & Pie
License Class:	Retailer's Class "C" Tavern
Address:	1309 5th Street, N.E., Unit 10
Contact:	Manalle Mahmoud, Esq.: (202) 625-7700, mmahmoud@malliosobrien.com

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 September 2, 2025, at 10 a.m., Suite 4200 - B, 899 North Capitol Street, N.E., Washington, DC 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled for **October 8, 2025, at 1:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "C" Tavern with a Seating Capacity of 28 and Total Occupancy Load of 28. The Licensee is also requesting the Alcohol Carry-out and Delivery Endorsement.

HOURS OF OPERATION, HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION, AND HOURS OF ALCOHOLIC BEVERAGE CARRY–OUT AND DELIVERY

Sunday through Saturday 10am – 12am

DC BOARD OF ELECTIONS

NOTICE OF PUBLIC HEARING

TO FORMULATE SHORT TITLE, SUMMARY STATEMENT, AND LEGISLATIVE FORM FOR INITIATIVE MEASURE NO. 84

Pursuant to D.C. Official Code § 1-1001.16(c)-(d), the Board of Elections hereby gives notice of its intent to adopt the ballot language (short title, summary statement, and legislative form) for Initiative Measure No. 84. The proposed language prepared by the Board, which is included in this notice, will be provided for adoption at a regular Board meeting that will be held on Friday, August 8, 2025 at 10:30 a.m. at 1015 Half Street SE, Suite 750, Washington DC 20003. The Board will meet remotely. The adopted short title shall not exceed 15 words, and the adopted summary statement shall not exceed 100 words.

Members of the public can access the meeting by using the following information:

Join from PC, Mac, iPad, or Android:
https://us06web.zoom.us/j/82699368360
Phone one-tap:
+13126266799,,87926020719# US (Chicago)
+16468769923,,87926020719# US (New York)

Join via audio:
+1 312 626 6799 US (Chicago)
+1 646 876 9923 US (New York)
+1 646 931 3860 US
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
+1 408 638 0968 US (San Jose)
+1 507 473 4847 US
+1 564 217 2000 US
+1 669 444 9171 US
Webinar ID: 879 2602 0719
International numbers available: https://us06web.zoom.us/u/kcsa7upTGY

The Board proposes the following short title, summary statement, and legislative form for Initiative Measure No. 84:

INITIATIVE MEASURE

NO. 84

SHORT TITLE

"Time Stability Act of 2025."

SUMMARY STATEMENT

If enacted, this Initiative would exempt the District from observing daylight saving time (DST) in accordance with the federal Uniform Time Act, and establish permanent standard time (which would be equivalent to eastern standard time (EST)) year-round beginning Sunday, November 1, 2026 at 2:00 a.m.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Time Stability Act of 2025."

Sec. 2. Subchapter II of Chapter 27 of Title 28 of the District of Columbia Official Code is amended as follows:

(a) Section 28-2711 is repealed.

(b) A new section 28-2712 is added to read as follows:

"Sec. 28-2712. Time stability.

"(a) The purpose of this section is to exempt the District from observing daylight saving time and establish permanent standard time year-round.

"(b) The intent of this section is to improve safety, health, and quality of life for District residents by eliminating biannual time changes and providing a stable time zone.

"(c) The District shall opt out of observing daylight saving time as permitted by section 3(a) of the Uniform Time Act of 1966, approved April 13, 1966 (80 Stat. 107; 15 U.S.C. § 260a(a)), and shall establish permanent standard time, equivalent to eastern standard time, year-round, in accordance with subsection (d) of this section.

"(d) The District government shall implement permanent standard time on Sunday, November 1, 2026, at 2:00 a.m., thereby opting out of future daylight saving time changes.".

Sec. 3. Fiscal impact statement.

Sec. 4. Effective date.

This act shall take effect after a 30-day period of Congressional review as provided in section 16(r)(1) of the District of Columbia Election Code of 1955, effective June 7, 1979 (D.C. Law 3-1; D.C. Official Code § 1-1001.16(r)(1)).

The Short Title, Summary Statement, and Legislative Text of the proposed initiative, as submitted to the Board by the proposer of the measure, read as follows:

SHORT TITLE

"The District of Columbia Time Stability Act"

SUMMARY STATEMENT

The District of Columbia shall opt out of observing Daylight Saving Time (DST) as permitted by the Uniform Time Act, and shall establish Permanent Standard Time, equivalent to Eastern Standard Time (EST), year-round.

LEGISLATIVE TEXT

The District of Columbia Time Stability Act

Section 1. Title and Purpose

This initiative shall be known as the District of Columbia Time Stability Act. Its purpose is to exempt Washington D.C. from observing Daylight Saving Time (DST) and establish Permanent Standard Time year-round.

Section 2. Summary; Exemption from Daylight Saving Time

The District of Columbia shall opt out of observing Daylight Saving Time (DST) as permitted by the Uniform Time Act, and shall establish Permanent Standard Time, equivalent to Eastern Standard Time (EST), year-round.

Section 3. Implementation

The District of Columbia government shall implement Permanent Standard Time on Sunday, November 1, 2026, at 2:00 a.m., when the rest of the country sets clocks back to Standard Time, thereby opting out of future Daylight Saving Time changes.

Section 4. Effective Date

This initiative shall take effect upon approval by a majority of D.C. voters and completion of any necessary legislative procedures, including potential Congressional review.

Section 5. Intent

This initiative intends to improve safety, health, and quality of life for DC residents by eliminating bi-annual time changes and providing a stable time zone.

DC BOARD OF ELECTIONS

NOTICE OF RESCHEDULED PUBLIC HEARING AND RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE

The Board of Elections shall consider in a public hearing whether the proposed measure, "Homes Not Stadiums Act of 2025," is a proper subject matter for initiative at the Board's regular meeting on Friday, August 8, 2025 at 10:30 a.m., at 1015 Half Street SE, Suite 750, Washington DC 20003. By this Notice, the public hearing previously scheduled for August 6, 2025 (*see* DCR issued on June 20, 2025, Vol. 72) is rescheduled.

The Board will meet remotely. Members of the public can only access the meeting by using the following information:

Join from PC, Mac, iPad, or Android:
https://us06web.zoom.us/j/82699368360
Phone one-tap:
+13126266799,,87926020719# US (Chicago)
+16468769923,,87926020719# US (New York)

Join via audio:
+1 312 626 6799 US (Chicago)
+1 646 876 9923 US (New York)
+1 646 931 3860 US
+1 301 715 8592 US (Washington DC)
+1 305 224 1968 US
+1 309 205 3325 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
+1 408 638 0968 US (San Jose)
+1 507 473 4847 US
+1 564 217 2000 US
+1 669 444 9171 US
Webinar ID: 879 2602 0719
International numbers available: https://us06web.zoom.us/u/kcsa7upTGY

In making a proper subject matter determination, the Board does not consider the merits of a proposed measure. Instead, it may consider only whether the proposed measure meets the subject matter requirements set forth in District of Columbia law. Specifically, the Board must reject the proposed measure if it determines that:

- The measure conflicts with or seeks to amend the Title IV of the DC Home Rule Act ("the District Charter");
- The measure conflicts with the U.S. Constitution;
- The measure has not been properly filed;
- The verified statement of contributions (the measure committee's statement of organization and report of receipts and expenditures) was not timely filed;
- The measure would authorize discrimination in violation of the DC Human Rights Act;
- The measure would negate or limit a budgetary act of the DC Council; or
- The measure would appropriate funds

Those who wish to testify at the hearing on the propriety of the proposed measure in light of the above-referenced criteria should contact the Board's Office of the General Counsel at 202-727-2194 or ogc@dcboe.org and provide their name, address, telephone number, and name of the organization represented (if any) by no later than Thursday, July 31, 2025 at 4:00 p.m. Any written testimony or memoranda should be submitted for the record to the Board's Office of the General Counsel, 1015 Half Street SE, Suite 750, Washington, DC 20003 or at ogc@dcboe.org by that date and time as well. Individuals shall be permitted a maximum of three minutes for oral presentations. Representatives of organizations shall be permitted a maximum of five minutes for oral presentations.

The Short Title, Summary Statement, and Legislative Text of the proposed initiative, as submitted to the Board by the proposer(s) of the measure, read as follows:

SHORT TITLE

Homes Not Stadiums Act of 2025

SUMMARY STATEMENT

If enacted, this Initiative would preclude the lease of any portion of any land or building within the Robert F. Kennedy Memorial Stadium Campus for use as a stadium for professional athletic teams.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Homes Not Stadiums Act of 2025."

Sec. 2. Section (c) of the Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, 58 Stat. 819,611, as amended by section 714(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, 87 Stat. 774 (D.C. Official Code §1-301.01(c)), is hereby further amended by adding the following language to the end of such subsection:

"Notwithstanding any provision of this chapter to the contrary, the Mayor shall not lease or license any portion of any land or building located within or on the Robert F. Kennedy Memorial Stadium Campus, the boundaries of which are set forth in the survey conducted pursuant to section 2(d)(1) of the Robert F. Kennedy Memorial Stadium Campus Revitalization Act (Pub. L. No. 118-274), for use for operation of any stadium or arena (including accessory buildings or structures) that has as its primary purpose the hosting of professional athletic team events."

Section 3. Effective date.

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

2026 ANNUAL ACTION PLAN HEARING

Public Hearing for the District of Columbia's
FY 2026 Annual Action Plan (AAP)

The Department of Housing and Community Development (DHCD), announces a series of public hearings on "Housing and Community Development Needs in the District of Columbia". The Department is interested in receiving community feedback for the District's draft of the District of Columbia Fiscal Year 2026 Annual Action Plan and the spending priorities utilizing federal entitlement funds.

2026 Annual Action Plan Public Hearing Details:

- **Date and Time**: Monday, July 21, 2025, 6:00 PM
- **Location**: DHCD Multi-Purpose Room
  1909 Martin Luther King Jr Avenue SE, Washington, DC 20020

Residents and stakeholders are strongly encouraged to come out and participate in the development of policies and programs in the following areas: 1) affordable housing; 2) special needs housing; 3) homelessness; 4) homeownership; and 5) community development and public service activities.

If you would like to provide input during the hearing, you are encouraged to register by sending an e-mail to opm.questions@dc.gov. The public may also contact the agency at (202) 442-4382 to join the webinar, register, speak at the hearing, or ask general questions about the hearing. When registering for the hearing, please provide your name, address, telephone number, and organization affiliation, if any.

Deadline for requesting services of an interpreter is five days prior to the hearing date. Bilingual staff will provide services on an availability basis to walk-ins without registration. An American Sign Language (ASL) interpreter will be available and Spanish interpretation will be available; residents who require language interpretation in Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French must notify the agency by e-mail to opm.questions@dc.gov.

Written statements may be submitted for the record at the hearing or until the close of business, Monday, July 14, 2025. Mail written statements to Colleen Green, Director, Department of Housing and Community Development, 1909 Martin Luther King Jr., Avenue SE, Washington, DC 20020. Statements may also be sent via email to opm.questions@dc.gov.

BOARD OF ZONING ADJUSTMENT
NOTICE OF VIRTUAL PUBLIC HEARING

TIME AND PLACE: Wednesday, September 17, 2025, @9:30 a.m.
Via WebEx: https://dcoz.dc.gov/BZA09-17-2025
Via Telephone: 202-860-2110 Access Code: 2318 112 8982
Via YouTube: https://www.youtube.com/c/DCOfficeofZoning
Instructions: https://dcoz.dc.gov/release/virtual-public-hearings
Witness Sign Up: https://dcoz.dc.gov/service/sign-testify

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

WARD FIVE

Application of:	**Solid Brick Ventures, LLC**
Case No.:	**20507C**
Address:	65-85 Hawaii Avenue N.E. (Square 3674, Lots 2-7)
ANC:	**5A**
Relief:	Modification with Hearing to: • Board of Zoning Adjustment Order No. 20507 (pursuant to Subtitle Y § 704) Time Extension to: • Board of Zoning Adjustment Order No. 20507 (pursuant to Subtitle Y § 705) Special Exception under: • the new residential development requirements of Subtitle U § 421(pursuant to Subtitle X § 901.2)
Project:	To modify and extend for an additional two years, Board of Zoning Adjustment Order No. 20507, and to increase the number of dwelling units to 16 on Lots 2 through 7; of a previously approved new residential development in the RA-1 Zone.

WARD SIX

Appeal of:	**Burleith Citizens Association**
Appeal No.:	**21314**
Address:	1700 38th Street N.W. (Square 1307, Lot 859)
ANC:	**2E**
Relief:	Appeal pursuant to: • The provisions of Subtitle X § 1100
Appeal from:	The decision made on August 7, 2024, by the District of Columbia Department of Buildings Zoning Administrator, to issue Building Permit No. B2401624

WARD FOUR

Application of:	**Starcross Properties and Christopher Hauser**
Case No.:	**21338**
Address:	329 Peabody Street N.E. (Square 3733, Lot 820)
ANC:	**4B**
Relief:	Special Exceptions from: • the minimum vehicle parking requirements of Subtitle C § 701 (pursuant to Subtitle C § 703.2 and Subtitle X § 901.2) • the side yard requirements of Subtitle D § 208.2 (pursuant to Subtitle D § 5201 and Subtitle X § 901.2)
Project:	To construct a new, detached, two-story with cellar, principal dwelling unit in the R-1B Zone.

WARD FOUR

Application of:	**JNM Enterprises One, LLC**
Case No.:	**21344**
Address:	264 Carroll Street N.W. (Square 3354, Lot 829)
ANC:	**4B**
Relief:	Special Exception from: • the rear yard requirements of Subtitle G § 207.6 (pursuant to Subtitle G §§ 207.14 and 5200.1; and Subtitle X § 901.2)
Project:	To raze an existing rear structure, and to construct a new, detached, two-story 4-unit artist studio in the rear of an existing mixed-use building in the MU-4 and NMU-4/TK Zones.

PLEASE NOTE:

This public hearing will be held virtually through WebEx. Information for parties and the public to participate, view, or listen to the public hearing will be provided on the Office of Zoning website and in the case record for each application or appeal by the Friday before the hearing date. Visit https://dcoz.dc.gov/watchlive.

The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11.

To review an application and exhibits in the case record, visit the Interactive Zoning Information System ("IZIS") at https://dcoz.dc.gov/CaseRecord.

Individuals and organizations interested in any application may testify at the public hearing via WebEx or by phone and are strongly encouraged to sign up to testify at least 24 hours prior to the start of the hearing on OZ's website at https://dcoz.dc.gov/service/sign-testify or by calling Robert Reid at 202-727-5471. Pursuant to Subtitle Y, Chapter 2, the Board may impose time limits on the testimony of all individuals and organizations.

Individuals and organizations may also submit written comments to the Board by uploading submissions via IZIS at https://app.dcoz.dc.gov/Login.aspx or sent by email to bzasubmissions@dc.gov. Written comments and/or testimony must be submitted to the record at least 24 hours prior to the start of the hearing. If you are unable to use either of these means of submission, please contact Robert Reid at (202) 727-5471 for further assistance.

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

Do you need assistance to participate?

Amharic
ለመሳተፍ ዕርዳታ ያስፈልግዎታል?
የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

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

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

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

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

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

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

FREDERICK L. HILL, CHAIRPERSON
CARL BLAKE, VICE-CHAIRPERSON
CHRISHAUN SMITH, MEMBER,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
KEARA M. MEHLERT, SECRETARY, BOARD OF ZONING ADJUSTMENT
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this hearing to the Office of Open Government at opengovoffice@dc.gov .

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING[1]
Z.C. Case No. 23-25
Office of Planning
(Zoning Text and Map Amendments to create the Chevy Chase Neighborhood Mixed Use [NMU-4/CC1 & NMU-4/CC2] Zones @ Square 1859, Lots 34, 49, 50-51, 54, 74, 86, 87, 92-95, 801, 802, 804, 805, & 808; Square 1860, Lots 1, 12, 13, 15, 22-24, 800, 801, 811, 812, 814, 816, 818, 819, 821, 824, & 825; Square 1865, Lot 90; Square 1866, Lot 823; Square 1867, Lots 92 & 93; and Square 1868, Lots 68 & 69[2] [generally fronting on Connecticut Avenue, N.W. between Chevy Chase Circle, N.W. and Livingston Street, N.W.])
January 30, 2025

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code §§ 6-641.01 and 6-641.03, 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 adopts the amendments the Zoning Map and Zoning Regulations listed at the end of this notice.

The amendments are intended to accomplish the following:

- Add new text to the Zoning Regulations to create two new Chevy Chase Neighborhood Mixed Use zones, NMU-4/CC1 and NMU-4/CC2:
  - The NMU-4/CC1 zone would allow mixed use, low-density commercial and moderate density residential uses – generally ground floor retail (as would be required by the zone) and residential use above; and
  - The NMU-4/CC2 zone would allow for mixed-use and local public facility development on the District-owned property, including a moderate density level of housing;
- Map the new zones on properties generally fronting Connecticut Avenue, N.W. between Chevy Chase Circle, N.W. and Livingston Street, N.W.:
  - Rezone to the NMU-4/CC1 zone with Inclusionary Zoning Plus portions of Squares 1859, 1860, 1865, 1867, and 1868 fronting onto Wisconsin Avenue N.W.;
  - Rezone to the NMU-4/CC2 zone with Inclusionary Zoning Plus Square 1866, Lot 823;
- Rezone to RF-1 a small number of properties fronting side streets, specifically McKinley and Morrison Streets.

The Commission determined the portions of the Property rezoned to NMU-4/CC1 and NMU-4/CC2 are appropriate for Inclusionary Zoning ("IZ") Plus. The portions of the Property rezoned to NMU-4/CC1 and NMU-4/CC2 shall be indicated with an "IZ+" symbol on the Zoning Map[3]. The Commission determined that the portions of the Property rezoned to RF-1 are not appropriate for IZ Plus.

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[1] For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 23-25.
[2] This list of squares and lots is the complete and fully accurate list of properties to be rezoned and mapped as a part of this Petition. To the extent that any of the OP Reports in the Z.C. Case 23-25 record reference different squares and lots from those in this list, this list should be deemed more accurate.
[3] For the purposes of calculating an IZ Plus set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted FAR of the Property's existing MU-3A zoning is the equivalent of 1.0 FAR; and the maximum permitted FAR of the Property's existing R-1B zone is the equivalent of 0.4 FAR (Subtitle X § 502.4).

As part of the 2021 update of the Comprehensive Plan (CP), the Council approved important changes to the Future Land Use Map, the Generalized Policy Map and the Citywide and Rock Creek West Area Elements, including the Chevy Chase corridor. This new Comprehensive Plan guidance places a much stronger emphasis on the provision of new housing and new affordable housing opportunities, particularly in areas such as the Rock Creek West Planning Area where there is a lack of dedicated affordable housing. These amendments are intended to implement this Comprehensive Plan guidance.

1. **Preface**
   The Commission is not required to explain its reasoning in rulemaking cases.[4] However, it is doing so in this case because of the considerable public interest, and because it wants to ensure that a reviewing court is aware of its careful consideration of several issues.

2. **Petition**
   On October 16, 2023, the Office of Planning (OP) filed a report that served as a petition requesting amendments to the Zoning Regulations and Map (OP Setdown Report or Petition) (Exhibit [Ex.] 2).

   The OP Setdown Report stated OP's justification and reasoning for the amendments and addressed their consistency with the Comprehensive Plan. The Commission directly quotes the OP Setdown Report extensively in the summary below because it succinctly summarized the proposed amendments, their consistency with the CP, and the Commission found the reasoning highly persuasive.

   The OP Setdown Report stated the following:

   I. *RECOMMENDATION*
   The Office of Planning (OP) recommends the Zoning Commission set down for public hearing amendments to the Zoning Regulations to create the Chevy Chase Neighborhood Mixed Use zones - NMU-4/CC1 and NMU-4/CC2; and a Map Amendment to map the zones on properties generally fronting on Connecticut Avenue, NW between Chevy Chase Circle, NW and Livingston Street, NW.

   The proposed new zoning text and map amendment are not inconsistent with the Comprehensive Plan, including when viewed through a Racial Equity lens, and incorporate land use and building massing, design and use guidance from the Council adopted Chevy Chase Small Area Plan.
   …

[4] An explanation of reasons is not required by the Administrative Procedures Act in rulemaking cases (*See* D.C. Official Code § 2-505(a), *District of Columbia Hosp. Ass'n v. Barry*, 498 A.2d 216 (D.C. 1985)). Nor is it required by the Zoning Act (*See* D.C. Official Code §§6-641.01-6-641.05). This is in contrast to a contested case, where the Commission is required to issue an order that contains findings of fact and/or conclusions of law for each contested issue (*See* D.C. Official Code §2-509(e), *Lee v. District of Columbia Zoning Commission*, 411 A.2d 635 (1980)).

II. PLANNING BACKGROUND

As part of the 2021 update of the Comprehensive Plan (the Comp Plan), Council approved important changes to the Future Land Use Map (FLUM), the Generalized Policy Map (GPM) and the Citywide and Rock Creek West Area Elements, including the Chevy Chase corridor. The new Comp Plan places a much stronger emphasis on the provision of new housing and new affordable housing opportunities, particularly in areas such as the Rock Creek West Planning Area where there is a lack of dedicated affordable housing.

Rock Creek West Road Map

Based on the direction of the Comp Plan, the Office of Planning along with the Department of Housing and Community Development (DHCD) and the Office of the Deputy Mayor for Planning and Economic Development (DMPED) undertook the Rock Creek West Road Map study to examine where and how to build affordable housing within the Rock Creek West Area. The Rock Creek West Road Map identified several near term opportunities to increase the supply of affordable housing and tools that can be used to realize those opportunities. The Chevy Chase Area was identified as one of three areas in Rock Creek West where efforts should be made to increase the production of housing and affordable housing, supported by vibrant public spaces, retail and other amenities. The Roadmap identified three approaches to affordable housing production: Financial Subsidies, Land Use Regulations and Planning for Opportunity Sites. Regarding development on opportunity sites, the Roadmap provides the following guidance:

> *Planning for opportunity sites in Rock Creek West includes exploring the possibility of including mixed income housing, especially for the lowest-income households, to support the District's housing goals. Many different types of sites can be considered "opportunity sites." For example, the District can leverage the land value of underutilized parcels of District-owned land to redevelop properties and produce new affordable housing, job opportunities, and community amenities. Projects on public disposed land are required to allocate 30% of housing units as dedicated affordable if close to public transit or 20% of units for all other projects.*

Neighborhood Planning & Opportunity Sites: Neighborhood Planning can engage the community in establishing a vision and goals for redevelopment that can integrate a mix of housing options, high-quality design, public space, and community-serving amenities.

In Rock Creek West, OP's 2021-2023 neighborhood planning efforts are intended to implement the Comp Plan, particularly where land use changes have been made on Wisconsin and Connecticut Avenues that increase opportunities for residential development. These land use changes were an important step for Rock Creek West to support an equitable share of the District's growth, specifically providing for more dedicated affordable and moderate-income housing.

Chevy Chase Small Area Plan

The Comp Plan also recommended a more detailed and holistic analysis be done of the Chevy Chase corridor, looking at the physical, social, transportation, environmental, housing and economic issues of the area. After community outreach, meetings, and *conversations, the Chevy Chase Small Area Plan (CCSAP), was approved by the Council of the District of Columbia on July 12, 2022 (Resolution 24-0564). The CCSAP places great emphasis on the provision of more housing and in particular affordable housing, as well as neighborhood retail, along Connecticut Avenue NW…*

The proposed text and map amendment is the next step towards implementing the recommendations of the Comp Plan and the CCSAP. The proposed text amendment has evolved considerably over the past year as OP has worked with ANC-3/4G and members of the community on the appropriate density and heights of buildings that would accommodate additional housing and neighborhood serving retail, as established in the Comp Plan, while addressing neighborhood character and impact guidance from the CCSAP. OP greatly appreciates the work of the ANC committee and the comments received from community members– their input significantly impacted the currently proposed zoning …

III. Site and Area Description

The area covered by the proposed text and map amendment can be described as the Chevy Chase Main Street Commercial Corridor, and includes the properties fronting on both the east and west sides of Connecticut Avenue, NW, generally between Western Avenue and Oliver Street to the north and Livingston Avenue to the south … . A small number of properties face side streets – typically, they are part of larger development sites fronting Connecticut Avenue NW. The area includes a variety of lot shapes and sizes, and buildings are mostly one or two stories in height, with a variety of architectural styles. The corridor also has a variety of restaurant, retail and service uses which serve the local community.

The western side of Connecticut Avenue has mainly relatively small rectangular lots interspersed with larger lots. There are two historic buildings - the Avalon Theater at 5612 Connecticut Ave. and the Chevy Chase Arcade at 5520 Connecticut Ave.

On the east side of Connecticut Avenue, the lots are generally larger, and irregularly shaped. Most of the buildings are detached and accommodate surface parking. One of the largest lots is the District owned property at 5625 Connecticut Avenue, NW (the "Civic Site") which houses the Chevy Chase Library and the Chevy Chase Community Center, which are two of the tallest buildings along the corridor but are two stories.

…

IV. Summary of proposed Text Amendment

The proposal is to create two new Chevy Chase Neighborhood Mixed Use zones, NMU-4/CC1 and NMU-4/CC2. The proposed zoning bulk (height and density) and use parameters of the proposed zones reflect the land use policy direction of the Comp Plan. The more area-specific zoning provisions for new construction and additions address specific guidelines of the CCSAP. Much of the discussion with the ANC has been about the incorporation of these guidelines into zoning, and OP appreciates the input received, which has greatly influenced the proposal. To address the policy direction within the Comp Plan, the NMU-4/CC1 zone is based on the MU-4 zone, and the NMU-4/CC2 zone is based on the MU-4 PUD provisions.

NMU (Neighborhood Mixed-Use) zones are applied to many neighborhood commercial corridors and are intended to, among other things:

- *provide for a mix of residential, employment, retail, service, and other related uses in the area;*
- *preserve and enhance neighborhood shopping areas; encourage a general compatibility in scale between new and older buildings; and*
- *identify designated areas within which ground floor use restriction can apply.*

Other areas with NMU zoning include Cleveland Park, Woodley Park, and Macomb in Ward 3, and Takoma, Georgia Avenue, H Street NE, and Eighth Street SE in other parts of the city. Many other NMU zones are based on the MU-4 zone.

While each NMU zone is different, there are provisions that apply to all NMU zones, so would apply to the NMU-4/CC zones where they are consistent with CCSAP direction. Other proposed provisions to incorporate provisions of the CCSAP would apply only in these zones, although where appropriate, they are often based on similar provisions of other NMU zones. However, some design guidelines of the CCSAP cannot be addressed in Zoning Regulations, such as public space improvements, and therefore are not incorporated into the proposed zoning text.

…

NMU-4/CC1 Zone – Commercial Corridor

The NMU-4/CC1 zone would apply to most of the commercial corridor along this section of Connecticut Avenue. The Chevy Chase Neighborhood Mixed Use Zone NMU-4/CC1 would be mapped in Squares 1859, 1860, 1865, 1867, and 1868 on lots generally along both sides of Connecticut Avenue, NW between Western Avenue, NW and Livingston Street, NW. These properties are currently zoned MU-3A.

The NMU-4/CC1 zone would allow mixed use, low-density commercial and moderate density residential uses – generally ground floor retail (as would be required by the zone) and residential use above within the development parameters summarized on Table 1 below:

Table 1 – Summary of NMU/CC1 Zone

	Existing MU-3A Zone	Proposed NMU-4/CC1 Zone
Maximum FAR	1.0 1.2 (IZ)	2.5 3.0 (IZ+) 0.5 bonus for façade preservation
Building Height	40 ft. / 3 stories maximum	40 feet; 50 feet (IZ+) maximum 5 feet bonus for providing 18 feet tall ground floor 25 feet minimum
Maximum Penthouse Height	12 feet except 15 feet for penthouse mechanical space	12 feet except 15 feet for penthouse mechanical space
Maximum Lot Occupancy	Residential - 60% Non-residential – not limited	Residential - 60%; 75% (IZ+) Non-residential – not limited
Minimum Rear Yard	15 ft. above 25 feet No alley – 15 feet	15 feet above 25 feet No alley – 15 feet 1:1 step-back above 25 feet
Minimum Side Yard	None required; 5 feet minimum if provided.	None required. 5 feet. minimum if provided. 15 feet minimum if not separated from an R or RF zone by an alley.
Minimum Front Step-back	None required	3 feet above the third floor or a preserved façade
GAR	0.3	0.3

The proposed NMU-4/CC1 development standards would include provisions to reflect the guidelines of the CCSAP:

- *To encourage the preservation of pre-1958 building facades, an additional 0.5 FAR in density would be allowed with the addition above the façade setback at least three feet;*
- *Along the Connecticut Avenue frontage, new buildings would have a minimum height of twenty-five feet, with a minimum first floor ceiling height of fourteen feet;*
- *Along Connecticut Avenue, there would be a required setback of three feet minimum for building above a third floor; and*
- *Buildings with 18-feet floor to ceiling heights would be allowed an additional 0.5 FAR in density.*

Transition requirements, to address the relationship between new development and adjacent low density residential properties in the R and RF zones, include:

- *A 1:1 step-back from a rear lot line above 25 feet;*
- *A 15-foot wide rear yard setback; and*
- *A 15-foot wide side yard setback if there is not an alley separating the properties.*

To activate the Connecticut Avenue frontage, a number of additional provisions are proposed:

- *At least 75% of the front façade would be built to the front lot line;*
- *Minimum window area and door separations on the ground floor;*
- *Maximum window area on upper floors to avoid a "glass curtain wall" inconsistent with the existing character;*

- *Retail space required to be accessed from Connecticut Avenue and be at grade with the sidewalk; and*
- *Parking and loading could not be accessed from Connecticut Avenue.*

NMU-4/CC2 Zone – Civic Site
The NMU-4/CC2 zone would apply only to the Civic Site on Connecticut Avenue, NW between Northampton Street, NW and McKinley Street, NW, Square 1866 Lot 823. This site is currently zoned MU-3A and R-1B. The proposed zone reflects the Comp Plan and Chevy Chase Small Area Plan recommendations by providing for mixed-use and local public facility development on the District-owned property, including a moderate density level of housing. Development parameters summarized on Table 2 below:

Table 2 – Summary of NMU/CC2 Zone

	Existing MU-3A Zone	Existing R-1B Zone	Proposed NMU-4/CC2 Zone
Maximum FAR	1.0; 1.2 (IZ)	n/a	3.0; 3.6 (IZ+) Total; 1.5 Non-Residential
Maximum Building Height	40 ft. / 3 stories	1, detached	65 feet
Maximum Penthouse Height	12 feet/1 story except 15 feet for penthouse mechanical space	40 feet / 3 stories	12 feet/1 story except 15 feet for penthouse mechanical space
Maximum Lot Occupancy	Residential - 60% Non-residential – not limited	40%	Residential – 60% Non-residential - 60%
Minimum Rear Yard	15 ft. above 25 feet No alley – 15 feet	25 ft.	15 feet from grade No alley – 15 feet 1:1 step-back above 25 feet
Minimum Side Yard	None required; 6 feet minimum if provided.	8 feet	None required; 6 feet. Minimum, if provided 15 feet minimum if not separated from an R or RF zone by an alley.
GAR	0.3	n/a	0.3

The proposed NMU-4/CC2 development standards would be similar to those allowed under the MU-4 PUD, consistent with the Comp Plan but with some variations to reflect the guidelines of the CCSAP:

- *Penthouse mechanical space height would be limited to 15 feet maximum where 18.5 feet is allowed under the MU-4 PUD;*
- *Lot occupancy for both residential and non-residential uses would be limited to 60% maximum, whereas lot occupancy for non-residential uses is not limited in either the existing MU-3A zone or the MU-4 zone. This is specifically to address community concerns about the provision of open space on this site. OP acknowledges that this could limit the ability of the site to provide the level of housing anticipated by both the Comp Plan and the CCSAP; however, those documents also call for the provision of open space on District-owned properties, including this one.*

- *A 1:1 step-back from a rear lot line above 25 feet;*
- *A 15-foot wide rear yard setback; and*
- *A 15-foot wide side yard setback if there is not an alley separating the properties.*

RF-1 Zone
The proposed map amendment would also include a rezoning to RF-1 of a small number of sites fronting side streets, specifically McKinley and Morrison Streets, currently zoned R-2 or R-1B. These properties are mainly existing surface parking lots that are in common ownership with commercial properties fronting Connecticut Avenue, NW. Although generally included within the CCSAP study area, applying the proposed new mixed-use zones to these properties would not appear to be consistent with the Comp Plan, particularly the FLUM, and could introduce commercial use into the low-density neighborhood.

Following conversations with the ANC about these properties, OP is proposing to rezone them to the RF-1 zone, which would allow potential development as an appropriate transition between the low-density residential uses and the moderate density proposed NMU-4/CC1 zone. The RF-1 zone would not permit commercial use of the sites but would allow for one or two family rowhouse development. There are no site-specific guidelines proposed for these sites. Development parameters summarized on Table 2 below:

Table 2 – Summary of NMU/CC2 Zone

	Existing R-1B Zone	Existing R-2 Zone	Proposed RF-1 Zone
Maximum FAR	n/a	n/a	n/a
Maximum Principal Dwellings	1, detached	1, detached, semi-detached	2, detached, semi-detached, attached
Minimum Lot Size	50 ft. width; 5,000 sq.ft. area	30-40 ft. width; 3,000-4,000 sq.ft. area	18 ft. width; 1,800 sq.ft. area
Maximum Building Height	40 ft. / 3 stories	40 ft. / 3 stories	35 ft. / 3 stories 40 ft. by sp.ex.
Maximum Lot Occupancy	40%	40%	60%
Minimum Rear Yard	25 ft.	20 ft.	20 ft.
Minimum Side Yard	8 ft.	8 ft.	None required; 5 feet. minimum if provided

V. COMP PLAN EVALUATION

A. COMP PLAN MAPS

…

Generalized Policy Map (GPM)
The ***Generalized Policy Map (GPM) …*** *designates the majority of the corridor as being within a Main Street Mixed Use Corridor; a portion of the Civic Site is designated as Park; and the corridor is within an area designated as a Future Planning Analysis Area.*

…

Main Street Mixed Use Corridors*: These are traditional commercial business corridors with a concentration of older storefronts along the street. The area served can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian oriented environment with traditional storefronts. Many have upper-story residential or office uses. Some corridors are underutilized, with capacity for redevelopment. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. 10-A DCMR § 225.14*

Parks, Recreation, and Open Space: *This designation includes the federal and District park systems, including the National Parks, such as the National Mall; the circles and squares of the L'Enfant city and District neighborhoods; settings for significant commemorative works, certain federal buildings such as the White House and the U.S. Capitol grounds, and museums; and District-operated parks and associated recreation centers This category includes a mix of passive open space (for resource conservation and habitat protection) and active open space (for recreation). ... Zoning designations for these areas vary. The federal parklands are generally unzoned, and District parklands tend to be zoned the same as surrounding land uses. 10-A DCMR § 227.1*

Future Planning Analysis Area: *As further discussed in Sections 2503.2 and 2503.3 of the Implementation Element, areas of large tracts or corridors where future analysis anticipated to ensure adequate planning for equitable development. Boundaries shown are for illustrative purposes. Final boundaries will be determined as part of the future planning analysis process for each area. Planning analyses generally establish guiding documents. Such analysis should precede any zoning change in this area. The planning process should evaluate current infrastructure and utility capacity against full buildout and projected population and employment growth. Planning should also focus on issues most relevant to the community that can be effectively addressed through a planning process. Individual planning analyses may study smaller areas than the Analysis Area. For the purposes of determining whether a planning analysis is needed before a zoning change, the boundaries of the Future Planning Analysis Areas shall be considered as drawn. The evaluation of current infrastructure and utility capacity should specify the physical or operational capacity both inside the boundaries and any relevant District-wide infrastructure available.*

The proposed zones are not inconsistent with the GPM as they would allow a mix of uses, particularly ground floor commercial uses and upper floor residential uses, as well as a District library, community center and open space on the Civic Site. This portion of the Connecticut Avenue corridor has a pedestrian oriented environment with traditional storefronts. The potential exists for a more vibrant mixed use corridor and the capacity for redevelopment to encourage greater economic development and housing opportunities to address Comp Plan policies and neighborhood needs.

The recommended future analysis of the area has taken place and the boundaries of the planning area were determined in the CCSAP and on which the proposed zones are based. The vision of the CCSAP is to advance equity in housing and the provision of more affordable housing, a thriving retail corridor, and mix of uses in the civic core, safe and sustainable pedestrian ways and an inclusive built environment along Connecticut Avenue main street and the Chevy Chase community.

<u>*Future Land Use Map (FLUM)*</u>
The ***Future Land Use Map (FLUM)*** *… designates the area for mixed-use moderate density residential and low density commercial for the corridor, with an additional local public facilities designation on the Civic Site.*
…

Mixed Use Categories: *The Future Land Use Map indicates areas where the mixing of two or more land uses is encouraged. The particular combination of uses desired in a given area is depicted in striped patterns, with stripe colors corresponding to the categories defined on the previous pages. The Mixed Use category generally applies in the following three circumstances: a. Established, pedestrian-oriented commercial areas which also include substantial amounts of housing, typically on the upper stories of buildings with ground floor retail or office uses; b. Commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future. The pattern envisioned for such areas is typically one of pedestrian-oriented streets, with ground floor retail or office uses and upper story housing; and c. Large sites (generally greater than 10 acres in size), where opportunities for multiple uses exist but a plan dictating the precise location of these uses has yet to be prepared … 10-A DCMR § 227.20 The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other (for example, ground floor retail with three stories of housing above), the Future Land Use Map may note the dominant use by showing it at a slightly higher density than the other use in the mix … 10-A DCMR § 227.21.*

Moderate Density Residential: *This designation is used to define neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply. 10-A DCMR § 227.6*

Low Density Commercial: *This designation is used to define shopping and service areas that are generally lower in scale and intensity. 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 commercial and mixed-use buildings that range in density generally up to a FAR of 2.5, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-3 and MU-4 Zone Districts are consistent with the Low Density category, and other zones may also apply. 10-A DCMR § 227.10*

Local Public Facilities: *This designation includes land and facilities occupied and used by the District of Columbia government or other local government agencies (such as WMATA), excluding parks and open space. Uses include public schools including charter schools, public hospitals, government office complexes, and similar local government activities. Other nongovernmental facilities may be co-located on site. While included in this category, local public facilities smaller than one acre – including some of the District's libraries, police and fire stations, and similar uses – may not appear on the map due to scale. Zoning designations vary depending on surrounding uses. 10-A DCMR § 227.17*

The Future Land Use Map (FLUM) indicates that the designated area is appropriate for Mixed Use development, a combination of Moderate Density Residential and Low Density Commercial, plus Local Public Facilities on the Civic Site. The current MU-3A zone allows a mix of uses but is listed in both the Comp Plan and zoning (Subtitle G § 101.8) as a low density zone thus it does not permit the moderate density level of housing anticipated by this designation. Throughout the city, MU-4 zoned land is typically designated on the FLUM for low density commercial or a mix of low density commercial and moderate density mixed use development.

The proposed NMU-4/CC1 zone is based on the MU-4 zone which is described in zoning (Subtitle G § 101.9) as a moderate density zone. While the Comp Plan lists MU-4 as a low density zone the Framework Element also states that "other zones may also apply" and that "greater density (is) possible when complying with Inclusionary Zoning." (227.10).

As with the base MU-4 zone, the NMU-4/CC1 zone would allow an FAR of up to 2.5 with 3.0 permitted with IZ Plus, which is not inconsistent with the FLUM.

The NMU-4/CC2 zone for the Civic Site, which is based on the MU-4 PUD permissions, would allow a FAR of up to 3.0 FAR and up 3.6 FAR with IZ Plus. This higher FAR is recommended for the NMU-4/CC2 zone based on the clear policy statements regarding the provision of housing in the Comp Plan, and the need for the site to also accommodate the civic uses.

The NMU-4/CC2 zone would be not inconsistent with the FLUM, as it would achieve the policy direction to accommodate both the public facilities, including significant open space, and a moderate density level of housing. Comp Plan policy statements for this site indicate that the FLUM designation should not be interpreted as Local Public Facilities instead of a moderate density level of residential, but rather in addition to a moderate density level of residential on the site.

As such, the proposed zones are not inconsistent with both the Comp Plan GPM and FLUM particularly when read in conjunction with policy recommendations of the Comp Plan.

B. EQUITY
Part One: Racial Equity Guidance
…

As detailed below, the proposed NMU-4/CC1 and NMU-4/CC2 zones are, on balance, not inconsistent with the policies and goals of the Comp Plan, particularly when the Comp Plan is read as a whole. Given the wide range of overlapping policy topics addressed in the Comp Plan, certain Citywide Elements may have little to no applicability to this proposal or to this portion of the Rock Creek West area. The Citywide Elements that are more directly applicable to the proposal are the Land Use, Housing, Economic Development, and Community Services and Facilities Elements as well as the Rock Creek West Area Element.

Part Two: Community Outreach and Engagement
Chevy Chase Community

The community most impacted by the proposed zoning action is the area identified in the CCSAP as the area around the Chevy Chase Mixed Use Corridor along Connecticut Avenue, NW. The area is generally bounded by 41st Street NW, Military Road NW, Nevada Avenue NW, and Western Avenue NW. The area is located at the border with Maryland with the prominent Chevy Chase Circle serving as a gateway entrance into the District.

Other than the commercial corridor itself, the surrounding area is predominantly composed of single family detached houses on large lots. To the south of the existing low-density commercial corridor, along Connecticut Avenue, is an area of mid- to high-rise residential development, consistent with the medium to high density RA-4 residential zone, which permits a residential building height of 90 feet. The commercial corridor features a mix of small independent businesses, including a grocery store, pharmacy, several bank branches, and a neighborhood library and community center with a small tot lot, tennis court, and surface parking.

The proposed text amendment, once mapped, would not have any physical impacts until a property owner chooses to move forward with a development project. To date, OP has not been approached by any landowner, other than the District for the Civic Site, to discuss re-development opportunities of their lands.

Although land use changes were identified two years ago in the 2021 Comp Plan, the zoning could contribute to commercial displacement pressures for existing tenant businesses. Property owners may benefit from the zoning change as increased residential development potential at this scale may lead to higher land values on the corridor, but this could also lead to higher commercial rents causing pressure on existing businesses. More permissive development opportunities may enable existing or new tenant businesses to relocate or expand within the community, while the addition of new residents to the community would provide a larger customer base and labor force for existing businesses.

This text and map amendment would enable housing, including affordable housing, on both private and public property, which provides new opportunities and options for residents of the city and the neighborhood. The zoning enables IZ Plus, which would achieve greater dedicated housing affordability, where it presently does not exist. This would benefit current and future residents of the District by providing greater housing choice in terms of location, cost, and type. It could benefit existing residents of the neighborhood by providing opportunities to "down-size" from a single-family dwelling in their neighborhood, by providing additional opportunities for family members to live close by, and by facilitating a more diverse and inclusive community. New development would be required to include retail or service uses, and this could also be of benefit to both new and existing residents of the community.

The community would also benefit from a desired new library, recreation center and improved open space on the Civic Site.

Past and Present Racial Discrimination/Harm to Community
A history of discriminatory land use practices has led to the racially segregated landscape of Rock Creek West Planning Area today. In the Chevy Chase community, this history included the displacement of historic Black communities including the George Pointer Settlement. Captain George Pointer's family were among the early Black landowners in the area, and they lived on and farmed the site from the 1830s until they were displaced in the 1920's when their homes were taken to build the Lafayette Elementary School, for whites only, and Lafayette Park in 1928.

Other means to segregate many neighborhoods in DC including Chevy Chase included restricted housing (restrictive covenants) based on race, the establishment of covenants to prohibit residential developments other than single family detached homes, and the creation of the Federal Housing Administration Grading Map of 1937, which used race as a criterion for loan approvals.

In recent years, community organizations as well as the ANC have documented the exclusive legacy of Chevy Chase, economically and racially, and are leading research projects and truth-telling efforts to convey a more complete story of the neighborhood's history. One such project highlights the displaced George Pointer community.

Chevy Chase residents spearheaded the effort to rename Lafayette Park to Lafayette-Pointer Park, and the recreation center to Lafayette-Pointer Recreation Center in 2021 to honor the Captain George Pointer family. Community-led efforts have also focused on renaming the Francis Newlands memorial fountain in the center of the prominent Chevy Chase Circle, a federal property.

Chevy Chase is a high opportunity area with many public and private amenities but is increasingly out of reach for a range of household incomes. Homeowners in the CCSAP study area are overwhelmingly white and wealthy compared with the District as a whole.

New housing would provide new opportunities for non-white households to live in the neighborhood. As of early 2022, there were no dedicated affordable housing units within the CCSAP study area, either through subsidy or inclusionary zoning. Existing housing subsidies, such as the federal mortgage interest tax deduction and municipal Homestead and Senior Citizen property tax deductions benefit homeowners in the CCSAP study area.

Community Participation/Outreach Efforts .
Throughout the 12-month CCSAP process, OP engaged in robust community engagement and outreach, including attending or leading 45 community events or meetings related to CCSAP topics. OP continues to be committed to a robust community engagement process throughout the text and map amendment process towards implementing the recommendations of the Comp Plan and the CCSAP. The following are the engagements to date, not including one-on-one discussions and email exchanges:

August 10, 2022	*OP Director met with ANC representatives and decision was taken that the ANC would convene a subcommittee to work with OP on the initial draft text amendment prior to having a full community roll out.*
September 13, 2022	*OP met with the ANC subcommittee to discuss the Comp Plan, CCSAP and Zoning recommendations. The subcommittee included members of the ANC, as well as other community members invited by the ANC.*
November 2, 2022	*OP submitted a draft zoning text to the ANC subcommittee for review.*
November 9, 2022	*Continued discussions about the draft zoning text with the ANC subcommittee.*
December 9, 2022	*OP met with ANC subcommittee to discuss changes based on their previous comments.*
February 14, 2023	*OP met with remaining ANC subcommittee members to review a further draft of the zoning.*
March 1, 2023	*ANC released the draft text amendment to the public.*
March 10, 2023	*OP met with the Councilmember to discuss draft zoning for the Civic site.*
May 17, 2023	*OP made a presentation of the draft zoning at an ANC meeting focused on the text amendment process but also fielded questions on the draft zoning.*

May 31, 2023	*OP met with ANC Chairperson regarding public meetings and participation going forward.*
June 12, 2023	*OP sent out emails to assist ANC in notifications of a second OP presentation to be made at its June 26 meeting.*
June 21, 2023	*OP met with ANC Chairperson and ANC Single Member District representative to finalize format and information to be presented by OP presentation at June 26 meeting.*
June 26, 2023	*OP gave a presentation to the community at ANC public meeting on revised draft text, based on previous discussions, for the new zones with illustrations.*
August 7, 2023	*OP updated the ANC subcommittee members of changes to the proposal based on community feedback at and following the last ANC presentation.*
September 11, 2023	*OP provided an update at an ANC meeting, particularly to discuss timing of the OP report; the need to "translate" the proposal into the new zone name and format approved by the Zoning Commission; and amendments to the draft zoning text based on based on prior community input.*

Community Priorities and Impact on Zoning Action
The planning process that preceded this proposed text and map amendment filing revealed mixed feelings and expectations in the community about the future of Chevy Chase. Some community members are supportive of prospective changes that the zoning action may facilitate and advocate for broader, more permissive zoning changes. Others have expressed strong opinions that the zoning actions could result in a negative physical change in the built environment along Connecticut Avenue. Some residents have expressed an opposition to the provision of new housing particularly on the Civic Site. Throughout, OP has noted that zoning is not a new planning process, which can be used to circumvent Comp Plan policy or CCSAP guidance. However, much of the discussion has been about how to interpret that guidance into zoning, which has been very productive and has resulted in substantive changes to the proposed amendments.

In the first draft of the proposed text amendment presented to the community, OP proposed the NMU-4/CC1 … zone, based on the MU-4 standards, for the majority of the corridor fronting on Connecticut Avenue. Most feedback was received by the ANC subcommittee, prior to community meetings, regarding transitions from the lower density residential areas, articulation, preservation, and setbacks of front facades, and public space improvements. There appeared to be support for the inclusion of IZ+. OP responded to the concerns by:

- *amending the proposal for rear and side setbacks to require a 15-foot setback where commercial properties abut residentially zoned properties and are not separated by an alley;*
- *adding a provision to encourage the preservation of existing building facades, in return for a 0.5 FAR bonus;*
- *amending front façade guidelines by requiring a three foot (3 ft). setback above the third floor or above a preserved façade, and setting a limit on glazing for upper, residential floors to ensure streetscape compatibility;*
- *strengthening a 1:1 required setback from the rear lot line to provide a better transition from low density residential properties; and*

- *adding a minimum height requirement of 25 feet. This is the first time this provision has been proposed in DC but would help to address CCSAP guidelines about a consistent street wall along Connecticut Avenue.*

The initial zone for the Civic Site was originally proposed by OP to be based on the MU-5A zone. This was based on the somewhat unique FLUM designation and policy language in the Comp Plan and other housing related planning documents to maximize the density on the site to accommodate and prioritize affordable housing in addition to the public facilities.

The initially proposed zone would allow a FAR of up to 3.5/4.2 with IZ+, and a maximum height of 70 feet with IZ + in addition to an 18.5-foot high penthouse. The strong feedback received from the community – including supporters of the rezoning - was that the proposed height and density were more than anticipated through the planning processes and could be inconsistent with the Comp Plan. Based on those concerns, the proposal was revised to use the MU-4 PUD standards which reduced the FAR to 3.0/3.6 with IZ+, a building height of 65 feet plus 15-foot penthouse height for mechanical space and 12-foot for habitable space. To further reduce the height permissions under the proposed zone, the 5-foot height bonus recommended for an 18-foot high ground floor was not proposed for the new zone.

Through the community discussion process, additional feedback and concerns resulted in other changes of substance to the zoning for the Civic Site:

- *The originally proposed lot occupancy, limiting residential uses to 80% with no limit on non-residential uses, is the typical requirement for MU (including the current MU-3A zone) and NMU zones. OP had not proposed a change to this standard, to ensure maximum flexibility for the design of buildings on this site, and to more fully address Comp Plan and other planning policies to maximum housing. However, this was strongly opposed, with ANC and community members, including supporters of a rezoning, noting that this could result in a loss of open space on the site, and could be interpreted as being inconsistent with Comp Plan language about preserving open space.*

In response, OP proposed a lot occupancy of 80% for all uses, not just residential. This too met with considerable opposition from all sides. In the current draft, OP is proposing 60% lot occupancy for all uses on the Civic Site. While this could limit Comp Plan direction to maximize housing on the site, it would ensure an amount of open space on the site that is not inconsistent with the amount of green space on the site now.

- *A minimum rear yard of 15 feet was added,*
- *A minimum side setback of 15 feet was added where the site abuts residentially zoned properties and are not separated by an alley;*
- *The 1:1 step-back provision, intended to provide a transition from Civic Site construction to the lower density residential area to the east, was strengthened.*

Potential Impact of the Proposed Zoning Action
There is no expectation that local residents will be displaced, either directly or indirectly, as a result of the proposed text and map amendment. There are no residences on the Civic Site or on this section of the corridor. This zoning action would continue to enable mixed-use redevelopment on the commercial properties and the Civic Site, but with a more substantial residential component including introducing dedicated affordable housing into the neighborhood, consistent with Comp Plan policy direction.

Displacement pressures on existing businesses could be intensified by the proposed text and map amendment. These could be mitigated through recommendations in the CCSAP that are not within the purview of zoning but which would support a thriving retail corridor, such as technical assistance administered by the Main Street organization. In addition, the new regulations would require the provision of ground floor retail space which could accommodate existing businesses and provide opportunities for larger or better space.

In summary, these changes appear to have been received as generally positive steps by the ANC subcommittee, although ANC members and many community members have indicated opposition to aspects of the zoning, mainly on the grounds of intensified use, building height/scale; consistency with the low density residential areas, traffic impacts, and an opposition to the provision of new housing especially on the Civic Site.

Concerns have also been raised that some of the CCSAP guidelines have not been incorporated into the proposed zoning text – this is typically because some of the guidelines are beyond the scope of what zoning can or typically does regulate. Examples include guidelines pertaining to streetscape design, which is not within the jurisdiction of zoning to regulate, and guidelines related to required façade materials of buildings, something that is not currently regulated in zoning and which would be very difficult to craft in a meaningful, comprehensive way and more difficult to administer. A full list of the CCSAP guidelines with an OP response is provided as Attachment 1 to the OP Setdown Report.

Part Three: Disaggregated Data Regarding Race and Ethnicity
The data below compares the demographic information for the Rock Creek West (RCW) Planning Area with District-wide information, disaggregated by race and ethnicity retrieved from the DC Demographic Data Hub at https://opdatahub.dc.gov/. The data is from the last two 5-year American Community Surveys (ACS DATA) conducted by the US Census to demonstrate the trajectory of demographic change over time. This proposed map and text amendment would implement the Chevy Chase Small Area Plan (CCSAP), approved by Council in 2022, which also included a racial equity analysis comparing the RCW Planning Area, District, and smaller study area of census tracts (001100.1, 001401.1, and 001401.2) in the immediate area of the CCSAP.

Race or Ethnicity
The population data of RCW showed a slight decrease between 2016 to 2021, compared with the growth in population of the District as a whole. RCW retains the highest percentage of white residents and lowest percentage of Black or African American residents of all 10 planning areas, although the percentage of both Black and Hispanic residents rose slightly from 2016 to 2021.
…

Median Income
RCW residents maintained a higher median income than the District as a whole between 2016 and 2021, but the data reveals specific nuances when disaggregated by race and ethnicity. In particular:
- *The median income of Black or African American population in RCW decreased by 16.8% between 2016 and 2021. RCW was one of only two planning areas (along with Central Washington) where the median income of Black or African Americans did not increase during this time period.*
- *Meanwhile, the median income for white households rose at a rate higher than that of the planning area as a whole.*
- *The median income of RCW's Asian population increased but remains slightly below the median of the District-wide Asian population.*

…

Median Age
The median age of the RCW Planning Area is increasing compared to the District as a whole. Between 2016 and 2021 it was the second highest among the 10 planning areas (moderated by a large population under 18 years of age). RCW's relatively smaller population that identifies as Black or African American is the only group with a median age that has decreased in the planning area.
…

Housing Tenure
In 2012-2016, RCW has the second highest percentage of owner-occupied housing of the District's 10 planning areas at 55.1%, much higher than the Districtwide average of 40.7%. In RCW, 59.8%, of owner-occupied housing was by white households, compared with 29.3% by Black and African American households, the lowest of all races. In 2017-2021, the Districtwide owner occupancy has a slight increase to 41.5% while owner occupancy in the RCW decreased to slightly to 53.5%. However, home ownership for whites, Some Other Race and Hispanics or Latino showed a small decrease while there was an increase for Blacks, Asian, and Two or More Races. The largest increase in home ownership was for the Two or more Races households which had a 12.9% increase.
…

Vulnerable or Special Populations
The percentage of persons 65 years or older in the planning area is about 8% higher than the Districtwide percentage. However, persons under 18 years in the planning

area is generally the same as the Districtwide percentage. It is possible that in a planning area with an above average percentage of over-65 residents, the presence of universities may contribute to the percentage of younger population remaining generally the same as the District-wide average. Although perhaps a misnomer, the disability rate Districtwide has remained fairly constant while that of the Planning Area continues to be lower than the Districtwide rate.

…

Progress Toward Meeting the Mayor's 2025 Housing Equity Goals
The RCW Planning Area has the least amount of dedicated affordable housing and therefore the most ambitious target for meeting the Mayor's 2025 affordable housing goal of 1,990 new affordable units. Since 2019, the RCW Planning Area has made the least amount of progress of the District's 10 planning areas in meeting the goal, achieving only 3.6% of the target (http://open.dc.gov/36000by2025/). The proposed text and map amendment would increase opportunities for new residential development in RCW and through IZ Plus, a greater amount of dedicated housing affordability in a neighborhood and planning area where it presently does not exist.

…

Intersectionality of Data
The proposed text and map amendment would provide new opportunities for the provision of new housing - both rental and ownership, and both market rate and affordable - in RCW, which presently provides limited housing options for the majority of the planning area's relatively small but growing racial diversity of residents, as well as housing for more moderate and lower income residents of all racial and ethnic backgrounds.

Most of the rental housing stock in RCW is in larger multifamily buildings, none of which are within the area of the proposed text amendment. The majority of households that identify as Black or African American, Asian, Some Other Races, and Two or More Races, live in multifamily, rental buildings. The CCSAP noted that between 60-90% of minimum Washington Metropolitan Statistical Area Median Family Income (MFI) was needed to own or rent a home in a multifamily building, while a minimum of 184% of MFI was needed to own a detached or semi-detached home.

From a land use equity perspective, the housing that provides for the racial as well as income diversity in RCW accounts for a much smaller proportion of land area. In the CCSAP area specifically, it was noted that 65% of the homes were in multifamily buildings that only occupied seven percent of the land area, while 35% of the homes were single family dwellings, on 83% of the land area. This proposed text and map amendment would permit additional multifamily housing on the remaining 10% of the study area's property that is presently only commercial.

Part Four: Criteria to Evaluate through a racial equity lens
Zoning Commission Evaluation Factors

…

Table 11 below provides the OP response to themes/questions from the Racial Equity Tool, based on Comp Plan policies related to racial equity, that are anticipated to have positive or negative impacts and/or outcomes as a result of the proposed text and map amendment.

Table 11 Proposed Zoning Action / Racial Equity

Factor	Question	OP Response
Direct Displacement	Will the zoning action result in displacement of tenants or residents?	The text and map amendment would not result in the direct displacements of residents - OP is not aware of any exiting residences in the area subject to this zoning. The zoning action itself would have no physical impact until a property owner chooses to move forward with a redevelopment. While this could foster the displacement of existing businesses, the text and map amendment would also provide opportunities that may enable existing or new businesses to relocate or expand within the community.
Indirect Displacement	What examples of indirect displacement might result from the zoning action?	OP does not anticipate indirect displacement of residents as a result of this zoning action. While the proposal is not supported by some area residents, the amendments provide opportunities for existing residents to stay in the neighborhood if they downsize. Likewise, OP does not anticipate indirect displacements of businesses. Rather, additional residents being able to live along the Connecticut Avenue corridor could benefit local businesses by increasing their customer base and labor pool in close proximity.
Housing	Will the action result in changes to: ▪ Market Rate Housing ▪ Affordable Housing ▪ Replacement Housing	The text and map amendment would enable additional market rate housing on both private and public property along the corridor, and new dedicated affordable housing which does not currently exist. This could benefit current and future residents of the area and the city as a whole by providing greater housing choice in terms of housing cost and type. In general, the provision of market rate and affordable housing should help to ease upward pressure on housing costs in the area. The proposal also includes provisions to lessen impacts of new development on adjacent single family areas.
Physical	Will the action result in changes to the physical environment such as: ▪ Public Space Improvements ▪ Infrastructure Improvements ▪ Arts and Culture ▪ Environmental Changes ▪ Streetscape Improvements	The CCSAP outlines a number of streetscape and public space improvements envisioned for this portion of the Connecticut Avenue Corridor. While many of these are outside the scope of zoning, as they apply to sidewalk and roadway treatments, the proposed zoning text includes many design and siting related guidelines, not present in current zoning, to foster an improved streetscape. Any new construction would be held to all current and applicable zoning regulation and DOEE environmental standards. The proposal would facilitate an improved library and community center and open space with corresponding arts and cultural activities to serve the residents of the area.
Access to Opportunity	Is there a change in access to opportunity? ▪ Job Training/Creation ▪ Healthcare ▪ Addition of Retail/Access to New Services	If the zoning action leads to redevelopment of sites, it could result in a temporary increase in construction jobs and a permanent increase in jobs in expanded and new retail and service facilities on the corridor. Overall, the proposal could result in new or improved retail and services for new and existing residents of the area. While healthcare uses would not be required by the zoning, they would be permitted and would be more likely in redevelopment projects.

C. [*COMP Plan Policies*, including those related to racial equity, omitted for brevity]

D. ROCK CREEK WEST AREA ELEMENT

The subject property is in the Rock Creek West Area Element which outlines planning and development priorities including:

- *increasing affordable and moderate income housing units within new market rate projects;*
- *attracting retail uses to provide a wider range of neighborhood serving retail;*
- *encouraging developments that would improve the vibrancy of a pedestrian oriented corridor; and*
- *supporting improvements to common open spaces and public facilities.*

The proposed zoning text and map amendment would allow for more housing and affordable housing while also providing for more retail opportunities, as well as a new library, community center and public open space. The proposed density, greater than existing and consistent with the Comp Plan, would allow for more housing to support businesses, while zoning to incorporate the CCSAP guidelines would encourage a vibrant pedestrian corridor.

Policy RCW-1.1.2: Economic Development

Given the strength of the private market within Rock Creek West, carefully consider public-private partnerships that provide public space and community amenities and support additional mixed-use development in the area. 2308.3

The proposed zoning would allow for mixed use developments, including housing and affordable housing, by the private sector along the corridor, along with expanded opportunities for retail and service uses. Through the redevelopment of the Civic Core, public private development would result in new mixed-use development furthering the housing and affordable housing goals of the Comp Plan.

Policy RCW-1.1.4: Infill Development

Recognize the opportunity for infill development within the areas designated for commercial land use on the Future Land Use Map. When such development is proposed, work with ANCs, residents, and community organizations to encourage mixed-use projects that combine housing, including affordable housing, neighborhood-serving retail, and commercial uses. Design transitions between large- and small-scale development to ameliorate the appearance of overwhelming scale and to relate to context of lower-scale surrounding neighborhoods. 2308.5

Along the corridor there are a number of underutilized properties which could be redeveloped to utilize the additional height and density permitted by the Comp Plan and allowed under the proposed zones to create mixed use projects with ground floor retail and housing above. The proposed zones include required rear and side setback and step-back provisions to transition the scale of the commercial corridor (where 50 feet of height would be permitted) and Civic Site (where 65 feet would be permitted) to the low density residential areas (where 40 feet of height is permitted).

Policy RCW-1.1.5: Preference for Local-Serving Retail
Support new commercial development in the Planning Area that provides the range of goods and services necessary to meet the needs of local residents. Such uses are preferable to the development of new larger-scale or big box retail uses that serve a regional market. Destination retail uses are not appropriate in smaller- scale commercial areas, especially those without Metro access. Regardless of scale, retail development should be planned and designed to mitigate traffic, parking, and other impacts on adjacent residential areas. 2308.6

The proposed zoning would require ground floor retail along the corridor, except on the Civic Site where local public facilities would be required. The guidelines include ones, such as fenestration and door spacing, requirements that would encourage smaller scale retail. The regulations also include requirements that the floor level of retail be at grade with the sidewalk, and for parking and loading access from the rear and not from Connecticut Avenue, to mitigate impacts and create a vibrant streetscape.

Rock Creek West Policy Focus Area
The Rock Creek West Area Element contains three policy focus areas with additional guidance and direction to that provided in the Citywide and Area Elements and recommends Future Planning Analysis Areas, one of which is the Chevy Chase corridor on the upper portion of the Connecticut Avenue Corridor.
…

RCW-2 Policy Focus Areas 2310
The Comp Plan has identified three areas in Rock Creek West as Policy Focus Areas, indicating that they require a level of direction and guidance above that in the prior section of this Area Element and in the Citywide Elements. These areas are shown in Map 23.1 and are listed in Figure 23.3. The policy focus areas include:
- *Connecticut Avenue corridor*
- *Wisconsin Avenue corridor*
- *Van Ness Commercial District. 2310.1*

Two Future Planning Analysis Areas are located along Connecticut Avenue NW and Wisconsin Avenue NW. Within those Analysis Areas, additional finer- grained small area plans are needed at Friendship Heights, Tenleytown, Chevy Chase, Cleveland Park, Forest Hills, and Woodley Park, and may be appropriate at other areas. 2310.4

The CCSAP provided the planning analysis. The proposed text and map amendment is the next step in implementing the recommendations of the Comp Plan and the CCSAP for this policy focus area.

Policy RCW-2.1.1: Connecticut Avenue NW Corridor
Sustain the high quality of the Connecticut Avenue NW corridor. The positive qualities of the corridor, particularly its architecturally appealing, older apartment buildings; green spaces; trees; and walkable neighborhood shopping districts, should be

conserved and enhanced. Continued efforts to improve traffic flow and parking should be pursued, especially in the commercial districts. 2311.5

The proposed zoning encourages the retention of positive qualities of the corridor through the proposed incentive for projects which retain their front façade. Other guidelines include ones to provide fenestrations minimums for the ground floor and maximums for upper stories, consistent with existing patterns, and step-back above a preserved façade or at the third floor level. Many other CCSAP guidelines will be implemented as part of any new development through the Public Space Review process.

Policy RCW-2.1.2: Infill Development
Recognize the opportunity for additional housing, including new affordable and moderate-income units, with some retail and limited office space along the Connecticut Avenue NW corridor. 2311.6

The new zones offer opportunities for additional housing, including affordable housing and moderate income units, through the application of IZ+ to new developments. The proposed zoning also continues to permit most forms of retail and office uses along the corridor.

VI. Chevy Chase Small Area Plan

The 2021 Comp Plan update amended Citywide and Area policies as well as the Future Land Use Map and the Generalized Policy Map designations along the Connecticut Avenue NW mixed use corridor, between Western Avenue and Livingston Street. The amendments are specifically to encourage the provision of opportunities for more housing, including affordable housing, as well as new civic facilities and neighborhood serving retail and services.

Following the Rock Creek West Roadmap, in 2020, ANC 3/4G passed a resolution requesting a Small Area Plan for the Chevy Chase "Gateway," to be developed through a community-led planning process. OP initiated the Chevy Chase Small Area Plan (CCSAP) in March of 2021. As noted in the CCSAP, a small area plan is intended to:

- *Supplement the Comprehensive Plan by providing land use and urban design guidance for the development of city blocks, corridors, and neighborhoods.*
- *Engage residents to develop strategic priorities that will shape future development in their neighborhoods.*
- *Guide capital budget decisions and agency investment priorities (p. 7)*

Following analysis and discussions with the ANC, community groups, individuals, the Chevy Chase Main Street Organization, and other district agencies, a draft CCSAP plan was forwarded to Council. A Council public round table regarding the CCSAP was held on July 5, 2022. The CCSAP was approved by Council on July 12, 2022 (Resolution 24-0564).

Generally, the CCSAP outlines how any new development could look and function to support the commercial district and provide new housing options, including affordable housing. The CCSAP is intended to provide a "community-informed vision in advance of future development proposals within the neighborhood and in relation to broader local and metropolitan growth patterns." (p. 2). It's vision " . . . is to advance more equitable and environmentally sustainable growth along the Connecticut Avenue corridor to support an inclusive Chevy Chase community and thriving commercial main street." (p. 2). The Plan frames success in achieving this vision around six themes, all of which this zoning action would further:
1. An inviting social and cultural character;
2. An inclusive built environment;
3. A reimagined civic core;
4. A thriving retail corridor;
5. An equitable housing strategy; and
6. Safe and sustainable mobility (p. 16)

For the Zoning Commission, the CCSAP provides guidance to supplement Comp Plan direction regarding density and use mix for new zoning established for the area, and it can guide the review of discretionary development proposals. The proposed new neighborhood commercial zones for the corridor incorporate many of the guidelines pertaining to building use and form. …
…

Zoning Response to CCSAP Guidance
The CCSAP does not recommend specific zoning designations or regulations to implement the policies of the Comp Plan or the CCSAP guidance.

The CCSAP urban design guidelines were assessed to see which should be incorporated into proposed Zoning Regulations. Those guidelines were built upon and supplement the Urban Design Guidelines of the Comp Plan. The aim is for the creation of zoning to address Comp Plan direction, particularly to increase housing opportunities, and simultaneously provide provisions that address streetscape, neighborhood character, and activation guidelines of the CCSAP.

The proposed zoning along the corridor is intended to address these goals through the provision of requirements, such as the following:
- *Require ground floor retail, service, or public facility uses;*
- *Require building setbacks and step-backs;*
- *Encourage the preservation of building facades;*
- *Encourage a strong relationship between retail spaces and the street; and*
- *Govern the location of commercial and residential entrances and access to parking and loading.*

Many of the recommended provisions are consistent with all or some other Neighborhood Commercial zones; a few would be unique to this area.

> *Not every provision of the CCSAP is relevant to zoning for this area or could be implemented through zoning. Provisions that are outside the scope of the Zoning Regulations would be relevant to other approval processes, which is typical for small area plans. The design guidelines are intended to be used by various entities including private property owners, developers, design professionals, District agencies and community groups as they review proposals. They could also be used by the Zoning Commission in the review of a discretionary review process such as a PUD.*
>
> *VII. SUMMARY OF PLANNING CONTEXT ANALYSIS*
>
> *On balance, the proposed text amendment is not inconsistent with the 2021 Comp Plan, including the building density and use indicated on the FLUM, and with the CCSAP. The FLUM, read in conjunction with the Comp Plan text, provides a clear and definitive set of related policy objectives in support of the proposed zoning, in particular the very strong policy language to provide housing and affordable housing, and the policy language to preserve open space for the community – the current proposal would allow both.*
>
> *The proposed zoning text and map amendment would permit the provision of new housing and affordable housing along this portion of Connecticut Avenue NW. The proposal would also encourage the expansion of neighborhood retail uses, and establish a suite of building setbacks, step-backs and design guidelines to ensure an active and welcoming streetscape along Connecticut Avenue, and to lessen potential impacts on the adjacent residential uses.*

3. **ANC Setdown Report**

   The property is within the boundary of ANC 3/4G.

   On November 8, 2023, ANC 3/4G submitted a letter requesting the Commission to postpone consideration of setdown of the case as scheduled for November 9, 2023. The ANC stated that they required additional time to "complete our community engagement and issue our further resolution on OP's proposals." (Ex. 4).

4. **Commission Setdown Meeting**

   At its November 9, 2023 public meeting, the Commission considered the OP Setdown Report, OP's presentation at the meeting, and the ANC Setdown Report.[5]

   The Commission considered the request for postponement in the ANC Setdown Report, and decided to proceed with setdown because it was convinced by the evidence presented in OP's Setdown Report that OP had done significant outreach and engagement with the ANC already and given it ample time to reach a position on the proposal.

   The Commission asked OP whether it served a copy of the Petition on the ANC. OP stated in response that it sent a copy of the Petition to the ANC Chair, and had received a response acknowledging receipt, but conceded that OP had not reviewed the notice regulations before

[5] Subtitle Z § 500.9.

filing it, the implication being that OP did not meet all of the notice requirements of the Zoning Regulations prior to set down.

The Commission decided to waive[6] the pre-setdown notice requirements of Subtitle Z §§ 304.5, 304.8, 305.6, 500.3, and 500.7[7], which require the Petitioner to serve notice of its intent to file a petition on the affected ANC and all owners of property within two hundred feet (200 ft) of the Property forty-five (45) days before filing the Petition, and to serve a copy of the Petition on the Office of Planning, and the affected ANC, at the time the Petition is filed; and require the Office of Zoning Director to refer a copy of a Petition accepted for filing to OP, the District Department of Transportation, and the affected ANC. The Commission granted these waivers for the following reasons. OP is the Petitioner in this case, so it had actual notice of the Petition. There was ample evidence that the ANC had extensive actual notice of the Petition, and that the Commission planned to consider setting it down at its November 9th public meeting. The OP Setdown Report provided evidence[8] that it had extensive interactions with the affected ANC prior to filing the Petition, including several meetings to discuss the petition over a period of more than a year to discuss the contents of the Petition. OP testified that it provided a copy of the Petition directly to the ANC Chair prior to filing it, who acknowledged receipt. And the ANC sent a letter to the Commission discussing the Petition for the Commission to consider at its setdown meeting. The Commission therefore concluded that both OP and the ANC had actual notice of the Petition prior to the filing, and it was appropriate to waive the rules because the actual notice constituted both good cause for the waiver and lack of prejudice to the affected parties. The extensive public outreach that OP did prior to filing its Petition was adequate to ensure that there was public awareness that it would be filing the Petition. Considering all of these factors, the Commission concluded that the waivers were appropriate.

The Commission decided to set down the proposed text and map amendments for a public hearing as a rulemaking case because it presented issues for resolution at a public hearing that potentially affect large numbers of persons and property.[9] The case involved two (2) components. First, amendments to the text of the Zoning Regulations. The Zoning Regulations provide that all text amendments are to be decided as rulemaking cases.[10] Second, amendments to the Zoning Map. The Zoning Regulations give the Commission discretion to decide map amendments as either rulemakings or contested cases, depending on the circumstances, and

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6 The Commission has the authority to grant the waivers pursuant to Subtitle Z § 101.9, which provides that the Commission may, for good cause shown, waive any of the provisions of this subtitle if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

7 The Commission incorrectly cited Subtitle Z § 304.11 and omitted several regulations in its motion. The Commission notes that it intended to and did waive Subtitle Z § 304.5 in this motion, but acknowledges that in its response to a complaint at Exhibit 61 in the case record the Commission asserted that Subtitle Z § 304.5 does not reference petitions (i.e., rulemaking cases) and therefore does not apply to this case which is a rulemaking. The Zoning Regulations were amended in Z.C. Order No. 22-25, effective August 2, 2024, and several changes to the Commission's notice rules were adopted as of the effective date. The waivers the Commission granted at setdown on November 9, 2023 were based on the Zoning Regulations in effect as of November 9, 2023 before Z.C. Order No. 22-25 became effective.

8 This interaction is fully described below in the description of OP's community outreach efforts in its Setdown Report above. The ANC also submitted a Setdown Report prior to the meeting, showing that it was aware of the Petition.

9 *See* Subtitle Z § 201.5.

10 Subtitle Z § 201.5(a).

lay out what the Commission should consider when exercising this discretion.[11] The Commission believed that because the map amendments are for an entire commercial corridor in Chevy Chase they present issues that are legislative in nature and present issues that affect large numbers of persons and properties. The Commission concluded it should hear the map amendment portion of the case as a rulemaking pursuant to Subtitle Z, § 201.7(a), because the Petition was initiated by OP, a public agency, and it involves multiple properties comprising the Chevy Chase commercial district. The Commission further believed that hearing both the text amendments and map amendments at the same time in a single, combined hearing would be more efficient, and make it more understandable for the public when commenting, and for the Commission to consider the public comments and decide the case.

The OP Setdown Report served as the Pre-hearing Filing required by Subtitle Z § 501.

5. **Public Hearing Notice**
After the Commission set the case down for a hearing, the Office of Zoning (OZ) sent notice of the April 29, 2024 public hearing, in accordance with Subtitle Z, § 502 of the Zoning Regulations. To do so, OZ published notice of the public hearing in the March 8, 2024 *District of Columbia Register* (71 DCR 002373 *et seq*)., posted it on the calendar on OZ's website, and on February 29, 2024 provided a copy to the affected ANC. OZ was not required to post the property in accordance with Subtitle Z, § 502.3[12], because that rule applies to map amendments where the property is owned by the Petitioner, and in this case, OP is the Petitioner and does not own the Property. OZ also provided additional notice of the public hearing beyond what was required by the Zoning Regulations. It served a copy of the public hearing notice on the Single Member District representative for ANC3/4G05, the Single Member District representative for ANC3/4G06, Councilmember Matthew Frumin, the Office of ANCs, the OP, DDOT, DOB, DOEE, as well as property owners within two hundred feet (200 ft)., and the At-large Councilmembers (Ex. 16-17A).

6. **ANC Hearing Report**
On April 28, 2024, ANC 3/4G submitted a resolution, dated April 25, 2024, that states it takes the following positions with respect to the proposed zoning changes:[13]

- "It supports the proposed framework for the NMU-4/CC1 and RF-1 zones but concludes the maximum allowable height with permissible penthouses and various height bonuses for the NMU-4/CC1 zone of 70 feet and lot occupancy of 60 percent for residential or 75 percent with affordable housing and unlimited for non-residential are outsized and would permit development that is out of scale with the current commercial corridor.
    - It asks the Zoning Commission to reduce the maximum allowable height to 60 feet.
    - It calls for a uniform lot occupancy maximum of 60 percent.

[11] *See* Subtitle Z §§ 201.2, 201.5, 201.7, 201.9.
[12] The Zoning Regulations were amended in Z.C. Order No. 22-25, effective August 2, 2024, and several changes to the Commission's notice rules were adopted as of the effective date. The public hearing notice provided by OZ in this case was in accordance with the Zoning Regulations in effect as of February 29, 2024 before Z.C. Order No. 22-25 became effective.
[13] Also attached to the April 28, 2024 ANC 3/4G resolution was a "minority report" that outlined the position of one ANC Commissioner who supports OP's amendments as proposed (Ex. 175).

  - It reserves judgement on the proposed maximum floor area ratios, side yard requirements and inclusion by reference of District parking minimums and maximums."
- It "[]recognizes that OP has made changes to its proposal for the NMU-4/CC2 zone covering the Community Center-Library site, it believes that the 80-foot proposed building height maximum with penthouses bonuses could result in a building or buildings out of scale with the rest of the commercial corridor.
- Therefore, it asks the Zoning Commission to eliminate the NMU-4/CC2 zone and apply the NMU-4/CC1 provisions modified as above to the entire upper Connecticut Avenue commercial corridor, including the Community Center-Library site."
- It "[]favors ensuring the same amount or more green/open space in the upper Connecticut Avenue commercial corridor to include the square footage of non-parking space at the Community Center-Library site as well as sidewalks and tree boxes along the Avenue. It asks the Zoning Commission to include protections in the rezoning it approves to protect these spaces."
- It "[]recognizes the continuing need for vehicle transportation, especially among the community's substantial population of post-65 residents and those of all ages who are disabled. It asks the Zoning Commission to ensure adequate parking along the entire length of the upper Connecticut Avenue corridor by, among other things, requiring that any parking lost to development in the proposed RF-1 zones be replaced." (Ex. 175).

7. **OAG Report**

   On April 24, 2024, OAG submitted a report recommending that the Commission, "approve the Office of Planning's … proposed rezoning of upper Connecticut Avenue, N.W., because it will implement the equitable development directives of the Comprehensive Plan … including its Generalized Policy and Future Land Use Maps, the Chevy Chase Small Area Plan, and other public planning guidance, namely the Housing Equity Report and the Rock Creek West Roadmap. By tripling the permitted density along eight blocks of upper Connecticut Avenue, centered around the redevelopment of the Civic Core's public library and recreation center, the proposed rezoning will help achieve a central objective of the CP and District planning: the development of new housing, both affordable and market-rate, in high-cost, amenity-rich areas, specifically including Chevy Chase. And it will do so in a manner that supports and enhances the existing commercial corridor while protecting the abutting, low-density residential neighborhoods with transitional buffers. In short, the proposed rezoning demonstrably advances the District's firmly established land use policies—both for the city in general and Chevy Chase in particular." (Ex. 146).

8. **OP Hearing Report**

   OP submitted a Hearing Report (OP Hearing Report) (Ex. 87), and testified in support of the Proposed Text and Map amendments at the public hearings on both April 29, 2024 and May 23, 2024. The OP Hearing Report is summarized below:

   Recommendation

   OP recommended approval of the proposed Text and Map Amendments and largely reiterated and expanded upon the statements and conclusions in the OP Setdown Report.

Actions since setdown
In addition, the OP Hearing Report explained the actions OP had taken since the Commission set down the proposal for a public hearing, namely:

- *Amendments to the proposed zoning regulations and analysis:*
    - *Added a clarification within the proposed NMU-4/CC2 (Civic Site) that the rear yard shall be measured from the east (Connecticut Avenue) lot line.* (See Attachment 2 to the OP Hearing Report, § 1006.2)
    - *Removed the requirement within the proposed NMU-4/CC2 (Civic Site) that access to parking, loading and trash collection be from the adjacent alley as the alley is narrow and would be adjacent to the low-density homes in the R-1B Zone. The new requirement would allow access from either Northampton Street or McKinley Street. Vehicular access would be prohibited along Connecticut Avenue NW.* (See Attachment 2 to the OP Hearing Report, § 1010.1(b))
    - *Updated the information relating to the progress being made by the Rock Creek West Area in meeting the Mayor's 2025 Housing Equity Goals.*

- *Community Outreach – in addition to responding to various enquiries:*
    - *Attended ANC Meeting on March 27, 2024 presented the proposal, took comments and answered questions from ANC members and residents of the area on the proposed text amendment. Summaries of the planning/zoning process, and of the proposed zoning were made available.*
    - *The presentation was subsequently modified to address some community comments and questions, and forwarded to the ANC representatives and posted on the OP website. Summaries of the planning/zoning process, and of the proposed zoning were also uploaded.*
    - *Convened a virtual meeting on March 28, 2024 with a representative of the Chevy Chase Main Street businesses and provided information, answered questions, and provided newsletter language on the proposed text amendment.*
    - *Attended the ANC Meeting on April 11, 2024 to hear ANC and community discussions.*
    - *Attended the ANC Meeting on April 17, 2024 to hear ANC deliberations.*
    - *Multiple meetings with the community have also been organized by DMPED with respect to the ongoing RFP for the Civic Site. These have included presentations and discussions at ANC meetings, and at community meetings organized by DMPED.*

Potential Inconsistencies with Specific Comp Plan Policies
In addition, the OP Hearing Report discussed potential inconsistencies with specific Comp Plan policies. It stated the following:

If approved, this map amendment could provide an opportunity for new development consistent with the intent of the Comp Plan and Chevy Chase Small Area Plan. Through the RFP process for the Civic Site, there has been and will continue to be additional opportunities for the development to address community concerns and policy objectives.

Policy LU-2.1.4: Rehabilitation Before Demolition
In redeveloping areas characterized by vacant, abandoned, and underused older buildings, generally encourage rehabilitation and adaptive reuse of architecturally or historically significant existing buildings rather than demolition. 310.11

While retention, at least of the façade, of existing commercial buildings is encouraged and incentivized in the NMU-4/CC-1 zone, the nature of the existing and the likely new development on the Civic Site would indicate that rehabilitation of the existing buildings is unlikely. Unlike the existing buildings, it is likely that parking would be placed underground, and new housing opportunities would be provided above grade. While the benefits of the potential new development would outweigh this policy statement, any development would be encouraged to use best practices for both demolition (to reduce off-site impacts) and reuse of the existing materials on the site.

Policy ED-3.2.6: Commercial Displacement
Avoid displacement of small, minority, and local businesses due to rising real estate costs. Develop programs to offset the impacts of rising operating expenses on small businesses in areas of rapidly rising rents and prices. Also consider enhanced technical support that helps long-standing businesses grow their revenues and thrive in the strengthening retail economy. 714.11

The proposed map amendment could impact small business retention in the existing structures. Like most commercial corridors, there are typically some vacant spaces available for businesses that need to relocate. However, should a commercial building with a retail tenant choose to redevelop it could lead to a displacement, at least temporarily, for some small businesses. While the rezoning could also result in additional new commercial space on the site, it could be at a higher cost to small and minority-owned businesses. However, redevelopment could also create new retail opportunities, and an increased population base to support small and minority-owned businesses in the area. On balance, while the rezoning could have some impacts on existing businesses, overall, the impact should be minimal or mitigated by the increased population base to support local businesses.

Policy UD-4.2.3: Continuity and Consistency of Building Frontages
The proposed zoning does include a requirement that any new development on a commercial site, within the NMU-4/CC-1 zone, must be located at the front lot line to ensure continuity and consistency of building frontages. Additional provisions limit surface parking next to the street, prohibit curb cuts from Connecticut Avenue, and require that new buildings provide ground floor commercial space level with the sidewalk – all to further this policy. However, the NMU-4/CC-2 zone, for the large Civic site, does not include the provision that it be located at the front lot line. While other provisions, mainly the rear setback and step-backs, would encourage development closer to Connecticut Avenue than the rear lot line abutting existing residences, the presence of existing green space (part of which is located on public space, within the Connecticut Avenue right-of-way) and at least one Heritage Tree towards the front of the site indicated that greater flexibility for building placement was warranted. As such,

although the provisions would not further this policy for the Civic Site, other important factors outweigh this.

Finally, some concerns have been raised that modifications made to reduce the potential density, lower potential lot occupancy, and increase setbacks and step-backs on the Civic Site could be inconsistent with various Comp Plan policies to prioritize the production of new housing, including affordable housing, on city-owned sites, on a major corridor, in a high-cost and high-priority area. The changes would reduce the amount of housing compared to the maximum potential under Comp Plan guidance but are intended to balance the proposed development with other Comp Plan policy statements related to transitioning development down to lower density residential area, and to provide open, green space on this property. Many community members have argued for larger reductions, or elimination of housing on the civic site altogether. Changes such as those would be clearly inconsistent with the clear direction of the Comp Plan, the small area plan and all other relevant planning documents and would, therefore, not be supported by OP.

<u>Potential Impact of the Proposed Zoning Action</u>
The OP Hearing Report also addressed the potential impact of the proposed zoning action, which is stated as follows:

There is no expectation that local residents will be displaced, either directly or indirectly, as a result of the proposed text and map amendment. There are no residences on the Civic Site or on this section of the corridor. This zoning action would continue to enable mixed-use redevelopment on the commercial properties and the Civic Site, but with a more substantial residential component including introducing dedicated affordable housing into the neighborhood, consistent with Comp Plan policy direction.

Some residents have expressed an opinion that this zoning action would jeopardize rent controlled units elsewhere on this corridor, presumably within the RA-4 zone. Rent controlled units are not dedicated affordable units; rents can be raised, and units can be vacated to allow a redevelopment of those buildings. While this could be a concern for existing rent-controlled buildings within the area to be rezoned, there are no residences within the area to be rezoned. The change in zoning should have limited if any impact on multi-family buildings, rent controlled or not, other than to potentially provide more options for housing in the neighborhood.

Displacement pressures on existing businesses could be intensified by the proposed text and map amendment. These could be mitigated through recommendations in the CCSAP that are not within the purview of zoning but which would support a thriving retail corridor, such as technical assistance administered by the Main Street organization. In addition, the new regulations would require the provision of ground floor retail space which could accommodate existing businesses and provide opportunities for larger or better space.

These changes appear to have been received as generally positive steps by some members of the ANC and community members, while other members of the ANC and community have indicated opposition – sometimes very strong opposition - to aspects of the zoning, mainly on the grounds of intensified use, building height/scale, consistency with the low density residential areas, traffic impacts, and an opposition to the provision of new housing on the Civic Site.

Concerns have also been raised that some of the CCSAP guidelines have not been incorporated into the proposed zoning text. Guidelines pertaining to streetscape design are not within the jurisdiction of zoning to regulate; rather they would be administered through the Public Space Permitting process. Other guidelines are simply impractical to administer through zoning, such as guidelines related to requiring specific façade materials of buildings - something that is not currently regulated in zoning and which would be very difficult to craft in a meaningful, comprehensive way and more difficult to administer.

Progress Toward Meeting the Mayor's 2025 Housing Equity Goals
Also, the OP Hearing Report discussed the Rock Creek West (RCW) Planning Area progress toward meeting its affordable housing goal, stating the following:

The RCW Planning Area has the least amount of dedicated affordable housing and therefore the most ambitious target for meeting the Mayor's 2025 affordable housing goal of one thousand nine hundred ninety (1,990) new affordable units. DMPED provided an update at the end of February 2024 which shows that the RCW Planning Area has made the least amount of progress of the District's ten (10) planning areas in meeting the goal, achieving only ten and one-tenths percent (10.1%) of the target. The proposed text and amendment would increase opportunities for new residential development in RCW and through IZ Plus, a greater amount of dedicated housing affordability in a neighborhood and planning area where it presently does not exist.

Discussion of issues related to IZ Plus designation for the NMU-4/CC1 and NMU-4/CC2 and lack of IZ Plus designation for RF-1
OP stated that it was recommending IZ Plus apply to the new NMU-4/CC1 and CC2 zones.

In its discussion of the reasons for the proposed RF-1 zoning, OP stated that it was proposing RF-1 zoning without IZ Plus for a small number of sites fronting side streets that are currently zoned R-2 or R-1B. OP further stated the reason for this was to provide an appropriate transition to the lower density zoning adjacent to these sites, that a higher intensity zone would be inconsistent with the Comprehensive Plan FLUM guidance, and that the community objected to even this relatively modest proposed change to the current zoning.

9. **Pre-hearing submissions from the public**
Prior to the April 24, 2024 public hearing, the Commission received extensive written comments on the proposed Text and Map Amendments from members of the public:

A. Comments in support

- Comments from individuals in support of the Text and Map Amendments asserted the following reasons for their support:[14]
  - Support for the additional affordable housing that would be facilitated by the Text and Map amendments;
  - Addressing Legacies of Housing Segregation in Chevy Chase;
  - Enhancing the quality of public life by guiding building designs that support a vibrant, pedestrian-scale street and inviting public spaces;
  - Align with the District's Comprehensive Plan and the Chevy Chase Small Area Plan, but they also adhere to the principles outlined in the American Planning Association's Equity in Zoning Policy Guide;
  - The Chevy Chase Neighborhood Library and the neighboring community center are in dire need of modernization;
  - Promote greater socio-economic diversity and inclusion within the community;
  - Promote sustainable urban development;
  - The relative affluence found in Chevy Chase offers significant advantages to residents of other parts of D.C.;
  - Compatible with the goals of Chevy Chase residents in such matters as density, building height, recreation, green open space, and parking;
  - In need of experienced and qualified developers who will bid in a fair and open process. This process must not be compromised by any influence on DC politicians; and
  - Beneficial to businesses by providing additional potential customers.

B. Comments in opposition

- Comments from individuals in opposition to the Text and Map Amendments asserted the following reasons for their opposition:[15]
  - Concerns about the effects of the amendments on the health of the commercial district, by encouraging redevelopment and displacing existing businesses;
  - Concerns about the effect of the additional height and density on the community character and livability;
  - Skepticism and concerns about the RFP and land disposition process that is happening concurrently with this zoning case to redevelop the Civic Site; and
  - Belief that the upzoning would not adequately address or solve the affordable housing problem.

C. Chevy Chase Voice Inc. comments and responses thereto

- Chevy Chase Voice Inc. submitted several documents that were filed in other fora questioning several aspects of the Commission's decision to set down and hear the case as a rulemaking rather than contested case. The Commission addresses them here to further explain its decision to hear this case as a rulemaking. Because the documents

[14] Hundreds of submissions were filed to the record in this case. The following list is a summary of the issues highlighted in letters of support but not intended to be an exhaustive list of all comments in support received prior to the public hearing.

[15] Hundreds of submissions were filed to the record in this case. The following list is a distillation of the issues highlighted in letters of opposition but not an exhaustive list of all comments in opposition received prior to the public hearing.

were filed in other fora, the Commission did not respond directly, but instead the OZ filed responses on behalf of the Commission. The Commission concurs with the positions taken by OZ:

1. March 12, 2024 Complaint to the District of Columbia Office of Open Government alleging Violation of the Open Meetings Act (Ex. 18).

   The Complaint asserts that:
   - The Commission's November 9, 2023 public meeting, violated the Open Meetings Act, specifically D.C. Official Code § 2-576, because notice of the public meeting was not published in the *District of Columbia Register* as required by the Act;
   - OP failed to serve Notice of Intent to file the petition on property owners within two hundred feet (200 ft). as required by the Zoning Regulations, specifically Title 11 of the District of Columbia Municipal Regulations (DCMR) Subtitle Z § 304.5; and
   - The Commission wrongfully set down the map amendment portion as a rulemaking case and should have set down the map amendment as a contested case. Specifically, because Subtitle Z § 201.2(e) of the Zoning Regulations describes contested case map amendments as "filed by the property owner or owners for a single property or for multiple properties that are contiguous or are only separated by a street or alley," and the map amendment meets this definition.

2. OZ filed a response with the Office of Open Government (Ex. 61).

   OZ's response asserts that:
   - OZ published a Schedule of Monthly Open Meeting Dates for calendar year 2023 in the *District of Columbia Register* on December 16, 2022, including notice of the November 9, 2023 public meeting;
   - The language of Subtitle Z § 304.5 specifically references applications (which refers to contested cases) and does not reference petitions (which refers to rulemakings). The map amendment that was filed as a part of Z.C. Case No. 23-25 was filed as a petition and not an application. Therefore, the notice requirements of Subtitle Z § 304.5 do not apply to Z.C. Case No. 23-25; and
   - Though the contested case map amendment criteria described in Subtitle Z § 201.2(e) is met by the map amendment, it also meets the rulemaking case map amendment criteria set forth in Subtitle Z § 201.7(a) because it was initiated by a public agency, OP, and it involves a neighborhood, Chevy Chase. Under Subtitle Z § 201.9, the Commission has discretion in setting down a map amendment case as a rulemaking or a contested case. The Commission, in its discretion under the Zoning Regulations, determined that the map amendment was more appropriately a rulemaking case. OZ contends that the Commission acted within its authority and did not violate Subtitle Z § 201.2(e) by setting down the map amendment in Z.C. Case No. 23-25 as a rulemaking case.

3. March 14, 2024 Complaint to the District of Columbia Office of Open Government alleging Violations of the Open Meetings Act (Ex. 64).

   The Complaint asserts that:
   - The Commission is holding illegal closed meetings in violation of the Open Meetings Act, specifically D.C. Official Code § 2-575, because the Commission holds stand-alone closed meetings without first convening an open meeting, voting to go into closed session, and providing a reason for going into closed session.
   - The Complaint raises concerns about whether proper electronic recordings and minutes are being made by the Commission of each closed meeting.

4. OZ filed a response with the Office of Open Government (Ex. 62).

   OZ's response asserts that:
   - By letter dated July 23, 2019, the Commission's legal counsel, OAG's Land Use Section of the Commercial Division, received a legal opinion letter from the Office of the Attorney General Legal Counsel Division, in response to a request for advice on whether the Commission's closed meeting procedures complied with the Open Meetings Act (Act). The Legal Counsel Division legal opinion letter (LCD Opinion) provided a thorough legal analysis of the Commission's closed meeting procedures and reached the following three main conclusions:
     - The Commission's closed meeting procedures comply with the notice, approval, and meeting conduct requirements of the Act;
     - The Act does not prohibit the Commission from conducting stand-alone closed meetings, and the Act does not require the Commission to return immediately to open session after it finishes a closed meeting to put on the record any official action taken during the closed meeting because the Commission cannot take official action in a closed meeting as § 742(a) of the Home Rule Act requires that all official Commission actions be taken at open meetings; and
     - The Act and the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (BEGA Act) confirm that the opinions issued by the Office of Open Government (OOG) are advisory opinions and carry no binding force; and
   - OZ records every closed meeting held by the Commission. However, because the purpose of the closed meetings is to receive legal advice from counsel, the closed meetings are protected by attorney-client privilege, under D.C. Official Code § 2-575(b)(4)(A). Though the privilege is waivable, the Commission has elected not to waive the privilege in these circumstances because the primary concern raised in the Complaint is whether the closed meeting on November 9, 2023, was recorded and whether the closed meetings that have followed were recorded, not the content of the closed meeting on November 9, 2023. OZ can

confirm that the Commission did hold a closed meeting on November 9, 2023, at 3:15 p.m. and the closed meeting was recorded, and all closed meetings that followed were recorded, in accordance with the Act, specifically D.C. Official Code § 2-578.

5. April 3, 2024 letter stating that Chevy Chase Voice Inc. intends to sue if the Commission proceeds with hearing the case as a rulemaking instead of as a contested case (Ex. 30B).

The Commission responded to this threat to sue by stating that the map amendment in Z.C. Case No. 23-25 meets the rulemaking case map amendment criteria set forth in Subtitle Z § 201.7(a) because it was initiated by a public agency, OP, and it involves a neighborhood[16], Chevy Chase. Under Subtitle Z § 201.9, the Commission has discretion in setting down a map amendment case as a rulemaking or a contested case. In this case the Commission exercised its discretion under the Zoning Regulations and determined that the map amendment was more appropriately a rulemaking case. The Commission acted within its authority and did not violate Subtitle Z § 201.2(e) by setting down the map amendment in Z.C. Case No. 23-25 as a rulemaking case (Ex. 61).

D. David Brown submitted a letter on April 28, 2024 on behalf of neighboring property owners opposed to the Petition (Ex. 170), which asserted the following:
- The Civic Center site is singled out for its own zone, and should therefore be heard and decided as a contested case because:
  - The Commission gave little thought to this issue at set down;
  - The response that OZ made to OOG at Ex. 61 goes into greater detail about the ZC's decision to setdown as rulemaking, but was not actually adopted by the Commission; and
  - The Civic site is a single property. Cites Subtitle Z § 201.2(e), which states that single property rezoning should be contested cases (Also cites *Schneider v. D.C. Zoning Commission*, 383 A.2d 324, 325 (D.C. 1978)).
- The petition was procedurally deficient because it creates new zones, and:
  - Not accompanied by "evidence of community support for the zone including property owners within the defined area" and "relevant civic community and business groups" (Subtitle X, §400.6(a));
  - Under Subtitle X, 400.7, "an affected property owner in opposition shall be given an equal amount of time as the property owner to present their opposition";
  - Petition to create a new zone must comply with the procedural requirements for both a map amendment (Subtitle Z § 304) and text amendment (Subtitle Z § 305; X §401.1);
  - The map amendment process includes the obligation to furnish the Commission with self-stick name and address labels "of the owners of all property located within two hundred feet (200 ft). of the subject property (Subtitle Z § 304.7(f)); and

[16] The Commission notes that the rezoning also qualifies as a rulemaking because it involves multiple properties forming a commercial corridor for the Chevy Chase neighborhood. *See* Subtitle Z, § 201.7(a).

        - The letter further alleges that:
            - The OP Setdown Report does not address compliance with Chapter 4, Subtitle X;
            - No address labels were provided;
            - Obligation to present evidence of significant community support was not addressed; and
            - Instead, there was a short, generalized discussion of OP outreach to the community, and generic statements of quite mixed community reaction overall (OP Setdown Report at 17-18):
                - "this was particularly glaring with respect to the Civic Site, as OP noted that there was "strong feedback" to the original iteration of the development standards under the proposed rezoning."
                - "OP submitted no evidence showing support from property owners living near the Civic Site for the revised standards of the NMU-4/CC2 zone as finally configured in the draft text amendment in the OP Report."
    - Civic Site rezoning is inconsistent with 2021 CP revisions and CCSAP:
        - Claims the NMU-4/CC1 zoning is inconsistent with 2021 FLUM designation of low density commercial and moderate density residential:
            - Argues that it is consistent with low density commercial because low density commercial specifically mentions MU-4; and
            - Argues that it is not consistent with moderate density residential because "the FLUM makes clear that the primary focus is on low rise apartment buildings at an FAR of up to 1.8 FAR (exclusive of any Inclusionary Zoning bonus)"; and
        - Claims NMU-4/CC2 zoning is inconsistent with 2021 FLUM designation because by right FAR is 20% higher that MU-4 (to 3.0 FAR) and height is 30% higher than MU-4 (to 65 feet), which Brown argues is therefore inconsistent with FLUM, which envisions residential use at moderate density; and
    - Choice between rulemaking and contested case is inconsistent with CCSAP because CCSAP calls for "coordinated approach rooted in community engagement …" claims the community engagement process is "severely compromised" and the NMU-4/CC2 zone allows a height and density that's the equivalent of a PUD in the NMU-4/CC1 zone. However, when the City accepts redevelopment plans for the Civic Site (under the proposed new NMU-4/CC2 zone), it can go straight to the permitting process without any community input, which is exactly the opposite of what was promised for the Civic Site redevelopment in the CCSAP.

10. **<u>Public Hearings</u>**
    The Commission held a hearing on April 29, 2024, on the Petition, and continued that hearing on May 23, 2024, to allow all interested persons to testify.

    <u>April 29, 2024 hearing</u>
    At the beginning of the April 29, 2024 hearing, the Commission considered the arguments made by Chevy Chase Inc. and David Brown in favor of converting the case from a rulemaking to a contested case. The Commission decided to proceed with hearing the case as a rulemaking because the text amendments must be heard as rulemakings under the Zoning Regulations, and

the Commission continued to believe that the map amendment portion was appropriately setdown as a rulemaking.

The Commission believes that this case is legislative in nature because it involves issues for resolution that affect large numbers of persons, and a large number of properties. The case involves rezoning an entire commercial corridor, with the Civic Site at the center of that corridor. Therefore, this situation squarely fits within the criteria for a rulemaking case established by Subtitle Z § 201.5.

The Commission stated that the Zoning Regulations authorize the Commission to exercise discretion in determining whether to hear map amendment cases as either rulemakings or contested cases, and that the Regulations explicitly provide that cases initiated by public agencies that involve "a neighborhood, commercial district, or other geographic area encompassing multiple properties", as in this case, are properly characterized as rulemaking cases (*See* Subtitle Z §§ 201.7(a)). This regulation further supports the Commission's decision to hear the case as a rulemaking, because the case includes text and map amendments initiated by public agency to amend the zoning map for an entire commercial district. So, it squarely fits within one of the explicit examples provided of a rulemaking case.

The Commission further believes that the Civic Center Site is not "singled out" as the opponents contend. To the contrary, it is part of a cohesive rezoning of a multi-block long commercial corridor containing over forty (40) properties with multiple owners. It involves several different zone districts. It also involves new zoning text. The policy reasons stated in the various OP Reports have broad impacts. When rezoning commercial corridors, the Commission believes that it is more appropriate to consider the whole thing together, then it is to break the case up into constituent parts to be judged individually.

The Commission therefore continued to believe that it should hear the case as a rulemaking.

The Commission considered the allegation by Mr. Brown that the Petition was deficient because it was not accompanied by evidence of community support for the zone including property owners within the defined area and relevant civic community and business groups. The Commission believes that the discussion of community outreach in the OP Setdown Report was sufficient to meet the requirement that the Petition is accompanied by evidence of community support.[17] OP stated in the Setdown Report that there was substantial community support for the Petition and discussed the nature of that support. The OP Setdown Report also discussed that there was community opposition. The Commission does not interpret the rule cited by Mr. Brown as requiring unanimous support in the community, nor does it believe that the discussion must identify with particularity who the supporters are, and where they own property. The Commission therefore believes the general statements provided by OP are sufficient under the circumstances.

The Commission considered the allegation by Mr. Brown that the Petition was deficient because it did not allow for equal time for affected property owners in opposition to present

[17] Subtitle X, § 400.6(a).

their opposition. The rule cited by Mr. Brown, Subtitle X, § 400.7,[18] only applies to cases where the Petitioner seeks a rezoning that reduces development standards or property rights. Here, the requested rezoning increases the development standards, so the rule does not apply.

The Commission also considered the procedural defects alleged by Chevy Chase Inc. in its letters to the Commission, and in other fora, as well as the procedural defects alleged by Mr. Brown. As the Commission discussed above when it setdown the case, there was ample evidence presented by OP that there was actual notice of the case in the affected community. Since that time, OP continued its outreach to the community, as discussed in the OP Hearing Report. Over 100 comments were entered into the record by community members. The Commission therefore believes that it is appropriate to waive the procedural defects cited by Chevy Chase Inc., and David Brown, to the extent that they apply to this case.

The Commission heard testimony from OP, ANC 3/4G, and persons in support of the Petition.

At the hearing, OP walked through the proposal, addressed its consistency with the CP, and also addressed how the proposal met the elements of Subtitle X § 400 that apply to new zones.

In response to a question from the Commission, OP stated that it made several changes to the proposed text in response to comments from the ANC, including:

- For the Civic Site's proposed NMU-4/CC-2 zone, reducing the maximum FAR, maximum penthouse height, maximum lot occupancy; and increased the size of the required rear yard; and
- For the proposed NMU-4/CC-1 zone, added 0.5 FAR bonus for retention of pre-1958 facades, added a mandatory three-foot setback when adding to and retaining the façade, where the property abuts low density residential uses requiring a fifteen foot (15 ft.) rear yard, and providing setbacks for upper floors.

(April 29, 2024 Tr. at 29-32).

OP stated that it had not yet had an opportunity adequately digest the substance in order to respond to the ANC counter proposal that was submitted the day before the hearing (April 29, 2024 Tr. at 32-36).

In response to a question from the Commission, OP stated that it wanted to get some direction from the Commission about its proposal before considering further changes (April 29, 2024 Tr. at 47-48).

OAG testified in support of the proposal.

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[18] "If the proposed new zone involves a reduction in any development standard or property right, an effected property owner in opposition shall be given an equal amount of time as the petitioner to present their opposition. The opposing property owner shall not be required to meet the same burden as that of significant community support." (Subtitle X, § 400.7).

ANC 3/4G testified that there was a split within the ANC and that it was seeking a compromise that all could support. It discussed the elements of what it described as its own proposal, that includes the elements listed above herein, which are:

- "It supports the proposed framework for the NMU-4/CC1 and RF-1 zones but concludes the maximum allowable height with permissible penthouses and various height bonuses for the NMU-4/CC1 zone of 70 feet and lot occupancy of 60 percent for residential or 75 percent with affordable housing and unlimited for non-residential are outsized and would permit development that is out of scale with the current commercial corridor:
    - o It asks the Commission to reduce the maximum allowable height to 60 feet;
    - o It calls for a uniform lot occupancy maximum of 60 percent;
    - o It reserves judgement on the proposed maximum floor area ratios, side yard requirements and inclusion by reference of District parking minimums and maximums."
- It "[]recognizes that OP has made changes to its proposal for the NMU-4/CC2 zone covering the Community Center-Library site, it believes that the 80-foot proposed building height maximum with penthouses bonuses could result in a building or buildings out of scale with the rest of the commercial corridor.
- Therefore, it asks the Zoning Commission to eliminate the NMU-4/CC2 zone and apply the NMU-4/CC1 provisions modified as above to the entire upper Connecticut Avenue commercial corridor, including the Community Center-Library site.";
- It "[]favors ensuring the same amount or more green/open space in the upper Connecticut Avenue commercial corridor to include the square footage of non-parking space at the Community Center-Library site as well as sidewalks and tree boxes along the Avenue. It asks to Zoning Commission to include protections in the rezoning it approves to protect these spaces."; and
- It "[]recognizes the continuing need for vehicle transportation, especially among the community's substantial population of post-65 residents and those of all ages who are disabled. It asks the Zoning Commission to ensure adequate parking along the entire length of the upper Connecticut Avenue corridor by, among other things, requiring that any parking lost to development in the proposed RF-1 zones be replaced."

Several individuals testified in support of the proposal.

<u>May 23, 2024 Hearing</u>

At the May 23, 2024 continued public hearing, the Commission heard from individuals and organizations opposed to the petition. The testimony included the following[19].

- Concerns about the effects of the amendments on the health of the commercial district, including testimony by Robert Gordon who represents the Chevy Chase business association. He testified that he believes that upzoning the district will encourage redevelopment and displace existing businesses;
- Concerns about the effect of the additional height and density on the community character and livability;

[19] This is a summary and distillation of the arguments raised by the opposition in their testimony. It is not an exhaustive list of all the opposition testimony.

- Skepticism and concerns about the RFP and land disposition process that is happening concurrently with this zoning case to redevelop the Civic Site (also referred to as the Community Center-Library Site; and
- Belief that the upzoning would not adequately address or solve the affordable housing problem.

At the conclusion of the May 23, 2024 public hearing, the Commission asked OP to provide a supplemental report that addressed the following issues:

A. Potential impacts on retail and office uses along the corridor;
B. Changes made to the proposed text amendment as a result of suggestions by the ANC or others;
C. Potential loss of housing with the ANC proposal compared to the OP proposal on Civic Site;
D. Illustrations showing the OP proposal and the ANC's latest proposal;
E. Status of the Chevy Chase Civic Site RFP; and
F. Livability.

In addition, the Commission asked the ANC to consider whether other alternatives could unify its proposal with OP's.

11. **<u>OP Supplemental Report</u>**

On July 1, 2024, OP submitted a supplemental report that addressed the six issues requested by the Commission at the conclusion of the hearing (Ex. 297):

A. <u>Potential impacts on retail and office uses along the corridor</u>

<u>OP response</u>

The report provided statistical analysis of retail and office vacancy rates. With respect to retail space, OP concluded that the corridor has low retail vacant space, and is considered very low when compared to District wide over the last ten years. OP also concluded that available retail space in the corridor is considered low compared to District wide, which is relatively high when compared to rates over the last ten years. The report also stated that OP acknowledged in its Hearing Report that displacement pressures on retail businesses could be intensified by the amendments. The report further stated that these pressures could be mitigated over the long term because the proposed regulations would require the provision of ground floor retail space in any new building, something not required in current zoning. This could, over the long term, provide opportunities for relocation of existing businesses, and for new retail and service options in the neighborhood.

With respect to office space, OP concluded that the amount of vacant space in the corridor is high when compared to District wide. Both the office vacancy rate and space availability for the corridor and District wide are considered high.

The OP Supplemental Report further concluded that The CCSAP also includes guidelines to "attract commercial uses that activate the corridor" (5.1) but to also "support continuity of operations for small businesses…during times of change" (5.3). While not within the scope of zoning, initiatives noted in the CCSAP to support a thriving retail and office corridor could include technical assistance and the promotion of independent businesses by the Chevy Chase Main Street, grant assistance, working with businesses during lease negotiation, and promoting interim uses of any vacant space.

B. <u>Changes made to the proposed text amendment as a result of suggestions by the ANC or others</u>

<u>OP response</u>
The OP Supplemental Report provided a chart listing the changes OP made to the proposed text amendment as a result of the OP's dialogue with the ANC and community, including the original proposal, the setdown proposal, and the public hearing proposal along with some aspects of the zoning that did not change for clarity. The report noted several changes made between the original proposal and setdown; and two changes that were made between setdown and the public hearing. Specifically, with regard to the proposed NMU-4/CC2 zone defining the east lot line as the rear lot line for purposes of rear yard measurement; and clarifying the trash collection, loading and parking access will be from McKinley or Northampton only. See full chart listing changes immediately below:

Commercial Corridor	Original Proposal	Set down Proposal	Public Hearing Proposal
NMU-4/CC1 zone	Based on MU-4 zone	unchanged	unchanged
FAR	2.5 3.0 IZ+ max.	unchanged	unchanged
Pre-1958 façade retention	0.5 FAR bonus for retention of façade	unchanged	unchanged
Building Height	40 ft.; 50 ft. IZ+ max.	unchanged	unchanged
Minimum Building Height	-	25 ft. min.	unchanged
Penthouse Height	12 ft. max. 15 ft. for mechanical	unchanged	unchanged
Ground Floor Retail Height	14 ft. min.	14 ft. min. 5 ft. bonus for an 18-foot tall ground floor	unchanged
Lot Occupancy	60% residential; 75% IZ+ max. Nonresidential not regulated	unchanged	unchanged
Rear Yard	15 ft from a point 25 ft. up from the rear lot line if there is an alley; 15 ft. min. if no alley	unchanged	unchanged
Rear Step-back	1:1 setback from a point 25 ft above grade at the rear lot line	unchanged	unchanged
Side Yard	None required; 6 ft. min. if provided	None required; 6 ft. min. if provided, or 15 ft. foot min. if abutting residentially zoned properties and not separated by an alley	unchanged

Commercial Corridor	Original Proposal	Set down Proposal	Public Hearing Proposal
Upper Level Glazing	-	Limitations on glazing on upper floors	unchanged
Front Façade Upper Stories Step-back	1:1 step-back above 35 ft.	3 ft. step-back above the third floor or above a preserved façade	unchanged
Trash collection, loading and parking access	From the alley where existing; not from Connecticut Avenue NW	unchanged	unchanged

Civic Site	Original Proposal	Set down Proposal	Public Hearing Proposal
NMU-4/CC2 zone	Based on MU-5A zone	Based on MU-4 PUD	unchanged
FAR	3.5 4.2 IZ+ max.	3.0 3.6 IZ+ max.	unchanged
Building Height	65 ft.; 70 ft. IZ+ max.	65 ft. max. including IZ+	unchanged
Penthouse Height	12 ft. habitable; 18.5 ft. mechanical max.	12 ft. habitable 15 ft. mechanical max.	unchanged
Lot Occupancy	80% residential max. 80% nonresidential	60% residential 60% nonresidential	unchanged
Rear Yard	15 ft from a point 25 ft. up from the rear lot line if there is an alley; 15 ft. min. if no alley	15 ft. from rear lot line	Define east lot line as rear lot line
Rear Step back	1:1 setback from a point 45 ft. above grade at the rear lot line	1:1 setback from a point 25 ft above grade at the rear lot line	unchanged
Side Yard	None required; 6 ft. min. if provided	None required; 6 ft. min. if provided, or 15 ft. foot min. if abutting residentially zoned properties and not separated by an alley	unchanged
Trash collection, loading and parking access	From the alley where existing; not from Connecticut Avenue NW	unchanged	From Mckinley or Northampton Street only

Other Lots	Original Proposal	Set down Proposal	Public Hearing Proposal
R-1-B and R-2 zones	Retain zoning or include in new mixed-use zones	Rezone to RF-1, a transition zone	unchanged

The OP Supplemental Report also listed the extensive outreach that OP did to engage with the ANC, which is also outlined in the OP Setdown Report and discussed in detail above herein.

C. <u>Potential loss of housing with the ANC proposal compared to the OP proposal on Civic Site</u>

<u>OP response</u>
The OP Supplemental Report stated that adopting the ANC proposal would result in an estimated loss of 87 units, and 26 affordable units on the Civic Site, and an estimated loss of 9 dwelling units and 1 affordable unit on the commercial corridor. OP noted the difficulty in addressing the housing potential or lost housing potential based on proposed

zoning for the Civic Site and the commercial corridor because of varied programming scenarios.

D. Illustrations showing the OP proposal and the ANC's latest proposal

OP response
The OP Supplemental Report stated that it was OP's understanding that an ANC alternative proposal was proposed but was not adopted by the ANC, and there is not a new proposal in the record. The OP Supplemental Report therefore provided illustrations comparing the OP proposal to the original ANC proposal.

E. Status of the Chevy Chase Civic Site RFP

OP response
The OP Supplemental Report states that the:

"Chevy Chase Civic Site RFP (RFP) was opened on January 17, 2024, with a due date of April 18, 2024. The due date was subsequently amended to extend to April 28, 2024 and again to August 28, 2024. The RFP specifies that the proposal for the "Development Parcel must include housing and the replacement of the Library and Community Center on the Development Parcel ("Required Uses).." (page 2 of 51). The RFP outlines some of the development standards that were in the OP Set down report, but also states that respondents should assume the NMU-4/CC2 zone in their proposals (page 7 of 51)."

F. Livability

OP response
OP noted that livability is a subjective term and described it as "the sum of the factors that add up to a community's quality of life- including the built and natural environments, economic prosperity, social stability and equity, educational opportunity, and cultural, entertainment and recreation possibilities." OP stated that the proposal would add much needed affordable housing, which OP believes is an important component of livability. The OP Supplemental Report also concluded that the CCSAP urban design guidelines and requirements for any redevelopment of the site, along with the additional requirements of the zoning regulations, would promote buildings, uses and spaces that create social stability, equity, and improved cultural, entertainment and recreation opportunities.

12. **Proposed Action**
At its July 11, 2024 public meeting, the Commission considered the case record, including the supplemental report from OP the Commission requested at the end of the second hearing (discussed above) and the report submitted by the ANC Single Member District Representative for ANC 3G05 (Ex. 298). The ANC did not file a post hearing submission to address the Commission's request of whether other alternatives could unify its proposal with OP's. However, the ANC Single Member District Representative's report explained that based on his time serving the immediate neighbors of the site, he believes the community priorities are maintaining the existing square footage of the community center, library, and open space on the site; concentrating taller buildings towards Connecticut Avenue and McKinley; requiring

an equal number of affordable and market rate units if market rate units are allowed on the site; and prohibiting retail uses on the site.

In its discussion of the merits of the case, the Commission concluded that the Text and Map Amendments will create room for affordable housing, and in doing so advance important Comprehensive Plan policies, including policies specific to the Rock Creek West Area Element, as well as goals of the Chevy Chase Small Area Plan. In addition, the Commission noted that allowing the construction of additional housing will activate the area at night, which would benefit existing businesses and enhance public safety. The Commission also concluded that the height and setbacks proposed are sufficient to address concerns about preserving neighborhood character.

The Commission noted that it was concerned that approving the case could create displacement pressures with negative consequences for existing businesses, and that this was a significant downside to approval. The Commission believes that these concerns are partially mitigated by the fact that the Text and Map Amendments require ground floor retail uses, which could enable existing or new tenant businesses to relocate or expand within the community, and that other non-zoning tools available through the government to protect existing retail businesses that are mentioned in the CCSAP could also partially mitigate the effects of the Text and Map Amendments.

The Commission acknowledged that there was not a consensus within the community, and the ANC was split. The Commission did not find the ANC's counter-proposal persuasive because it would result in the reduction of the potential amount of housing and affordable housing that could be produced, and would not facilitate upgrading and replacing civic uses to the same degree as the OP proposal, which are the major policy reasons for the case (July 11, 2024 Meeting Tr. at 42-58).

The Commission voted to take **PROPOSED ACTION** to adopt the Text and Map Amendments and to authorize the publication of a Notice of Proposed Rulemaking (NOPR) to amend the Zoning Regulations and Zoning Map, as proposed by OP in its Hearing Report.

VOTE (July 11, 2024): 4-0-1	(Anthony J. Hood, Robert E. Miller, Joseph S. Imamura, and Tammy Stidham to **APPROVE;** 3rd Mayoral Appointee seat vacant, not voting)

13. **National Capital Planning Commission (NCPC) Referral and Response**

After the July 11 meeting, the Commission referred the proposed Text and Map Amendments to the NCPC on July 12, 2024 for the thirty (30)-day review period required by § 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2)); D.C. Official Code 6-641.05 (2018 Repl)) (Ex. 299).

In response, NCPC submitted a report, dated September 5, 2024, stating that the proposed Text and Map Amendments to create the Chevy Chase Neighborhood Mixed Use Zones are not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital and would not adversely impact any identified federal interest (Ex. 300; 300A).

14. **Proposed Rulemaking Notice and Comments**

The NOPR was published in the *District of Columbia Register* on November 1, 2024 (*See* Ex. 301, 302). The Commission received over one hundred fifty (150) comments in response to the NOPR expressing both support and opposition.

A. Support

The Commission found the written comments from the Washington Interfaith Council particularly persuasive. It stated support for the proposal for the following two (2) reasons:

- The connection to development of affordable housing:
    - :The current zoning for the Civic Core Site allows for just 55 feet in height (including penthouse); therefore, adding housing on the site while retaining green space can only be realized if height restrictions are lifted. It is important to note that in developing its proposal, the Office of Planning (OP) took note of feedback from the Advisory Neighborhood Commission for the affected site (ANC 3/4G) and community members by reducing its initial proposal for total maximum height (including penthouse) from 93.5 feet to 80 feet in the setdown report. This change reflected OP's willingness to accommodate concerns that increased height limits should not create future buildings that are out of character with surrounding commercial buildings and private residences. The OP report also substantially increases the minimum floor area ratio, allowing for the density necessary to build multifamily housing."; and
- Consistency with the Comprehensive Plan and CCSAP"
    - "Second, the changes clearly carry out the intent and needed policy changes described in the Comprehensive Plan and the Chevy Chase SAP, both of which were informed by substantial community input and approved by the DC Council. … The SAP placed a heavy emphasis on affordable housing–in part to recognize the imperative to address Chevy Chase's history of deliberate exclusion and displacement of Black Washingtonians. Specifically, the SAP recommended expanding housing options in Chevy Chase to: accommodate a greater range of incomes, ages, and racial diversity to advance the District's housing equity goals, support the commercial main street, and enhance the social and economic well-being of the community."

(Ex. 311).

The Commission also received many other comments from individuals in support[20] and found the following to represent an overall summary of the most persuasive comments in support:

- "The Commission should take into account the primacy of the needs of the entire population of the District of Columbia, and not limit its understanding of need to a small sector of the population in the upper Northwest segment.";
- "Some will argue to you that the "character" of the Connecticut Avenue corridor in the neighborhood must be maintained for "historical" reasons. However, it is not important

[20] The Commission received over forty (40) comments in support in response to the NOPR. The comments listed represent a summary of the points the Commission found the most persuasive, but is not an exhaustive list of all the points raised.

to cater to an ephemeral and subjective perception of the area at the expense of increased housing opportunities that will benefit the population of residents and families that have been disadvantaged by the actual historic exclusion from the Chevy Chase area by policy and economic circumstance."; and

- "I have been involved in every step of this process from the Comp Plan amendments to the Small Area Plan to the zoning, and I applaud OP and everyone who stood up for Smart Growth principles and equitable development. The plan, the zoning, and the RFP currently under consideration are all excellent examples of enlightened planning including substantial community input. Not everyone is happy, but isn't that always the case when inevitable change comes to established neighborhoods?

B. <u>Opposition</u>

The Commission received many comments in opposition, some submitted by individuals who submitted similar comments before or at the hearing. The vast majority of the opposition comments listed several similar themes, which are listed in numbered paragraphs, with representative examples of the comments listed as bullet points below. [21]

1. Belief that the case should have been set down and heard as a contested case instead of as a rulemaking:
   - "Zoning case 23-25 was set down improperly; Chevy Chase residents deserve their rights to a contested case."

2. Belief that development concept involves the improper use/transfer of public land:
   - "We oppose giving private developers building rights on public lands that are actively in public use. To declare such lands "surplus" is not only illogical but dishonest.";
   - "I am opposed to giving private developers building rights on public lands that is still used for public purposes. In passing the proposed rezoning you would be providing a gift of public land - the Chevy Chase Commons Park, Library and Community Center - to developers for their personal profit.";
   - Opposition based on the notion that publicly owned land will be "given over" to private developers;
   - "The city's stated plans to 'surplus' the Public Library and Community Center in Chevy Chase for private development is shameful. Forcibly converting public lands--set aside decades ago for the express purpose of educating and providing respite for the neighborhood--is anti-democratic. It smacks of the crony development more common during the Barry years.";
   - Belief that the District is "providing the gift of public land.";
   - "History has shown that, once this public land has been turned over to private developers, they will charge high rents and make big profits.";

[21] Because of the large number of comments, the Commission has not provided citations to exhibit numbers. The listing of opposition issues provided herein is intended to summarize the main opposition arguments raised among numerous filings to the record.

- "Worst of all, our public land -the library and the community center - is consistently and fully used by our diverse community. If cynically given away in this fashion it can never be reclaimed.";
- Belief that the rezoning will result in the "gift of public land to private developers for personal profit"; and
- Opposed to giving private developers building rights on public lands still used for public use.

3. Issues with RFP process for future redevelopment of the Site:
   - "The RFP process was flawed. I am opposed to locating an outsized 80-foot building height and 60% lot coverage at the site and eliminating the ball court, children's play area, reading area outside the library and community center and all possible on-site parking. Important community resources that will be lost and the character of the low-rise commercial area will be forever lost. The zoning proposed is completely out of sync with existing land uses and the neighborhood. We do not want Connecticut Ave to be turned into a high-rise canyon.";
   - "The development proposal will result in higher rents and negatively impact the many small businesses on Connecticut Ave. Chevy Chase small businesses will be displaced just as small business have been lost in every other densified and gentrified DC neighborhood.";
   - Belief that the redeveloped library will be of a lower quality, and related comparison to the M Street library which is viewed of as low-quality space;
   - Belief that the redeveloped community center will not be as good as the current one, and/or will not provide necessary public services;
   - Concerns about a "flawed RFP process;"
   - Concern that RFP shows "no above ground parking;"
   - Concern that RFP calls for tall building;
   - Belief that the "community" would not benefit from increased height and density, but "developers" will;
   - Opposition to building housing on top of library because it is "structurally a bad idea" – citing M Street library issues;
   - Belief that the rezoning will result in elimination of "ball court, children's play area, reading area outside the library and community center" and on-site parking;
   - Belief that relocating play area and ball court on top of proposed building is inappropriate;
   - Rezoning is "inextricably linked" to redevelopment proposal;
   - RFP include potential commercial use of the space, belief that these uses are "out of sync" with existing land uses;
   - The citizens of the District of Columbia own very few properties like these in our part of town. While the buildings are aging and in need of upgrade, the property on which they sit is unique and irreplaceable. It serves as an outdoor informal gathering place, close to commercial amenities, but sufficiently separated to provide a place for conversation, contemplation, tranquility and enjoyment among the wonderfully mature trees and gardens; and

- "While both buildings on this property would benefit significantly from renovations and other investment, this area, which includes two important facilities, a patch of green space, some outdoor play space and some accessible parking space is an important community resource. If additional higher density housing is erected on other available nearby sites, it will become even more important. Rather than hand this land over to development that will not serve the public interest long term, the city should be funding restoration work and community programs that benefit the children and families of this neighborhood. Rebuilding smaller facilities inside an outsized building that would consume the majority of the space on that site is short-sighted and unnecessary when other nearby properties are available that could provide the housing options being sought."
- "The DMPED RFP process has been a sham. Here's why:
  - Despite overwhelming community pushback, DMPED is proposing an outsized 80 foot building height and 60% lot coverage. This will result in the loss of vital green space and an increase in the heat island effect.
  - According to the RFP, prospective developers are given points for minimizing the amount of parking at the site. Chevy Chase has the highest concentration of older adults in the city and many, like me, live miles away from the library and community center. Parking is critical to me and my neighbors in Hawthorne and Barnaby Woods who regularly use these facilities. Even Ward 3 Councilmember Frumin has said he will not support this project if it doesn't have adequate parking.
  - The proposed upzoning will not make a noticeable difference in the stock of affordable housing. DC's definition of affordable housing is not truly affordable for those who need it. This is really a luxury housing project with a handful of affordable units.
  - I reject the notion that Chevy Chase does not have enough affordable housing units and is not sharing in the distribution of these units. The DC government does not count the rent controlled and Section 8 housing in the many apartment buildings along Connecticut Ave. I find this manipulative and disingenuous."

4. Rezoning will be detrimental to small businesses in neighborhood:
   - "The inclusion of commercial use of the space would be detrimental to neighborhood small businesses.";
   - "The development proposal will result in higher rents and negatively impact the many small businesses on Connecticut Ave. Chevy Chase small business will be displaced just as small business have been lost in every other densified and gentrified DC neighborhood.";
   - Belief that small businesses will be priced out of commercial spaces;
   - Related concern that existing small businesses will be forced out and/or displaced in redevelopment;
   - Owner of neighborhood restaurant writes that, "if the upzoning is enacted, local landlords will take advantage of the greater building heights to take steps to redevelop their properties. Old building will need to be razed. We foresee that we can be pushed out of our locations for 2-3 years during the reconstruction period.

That will put us out of business. After that, there is no reassurance that we will be able to afford the increased rent that will be charged. We foresee that mom-and-pop stores will not be able to compete with national chain stores. This will harm current tenants and undo the unique nature of Chevy Chase."; and

- Belief that other existing commercial spaces would be better for commercial uses.

5. Belief that the additional affordable housing provided by Project does not justify rezoning:
   - "It is clear that what is proposed will NOT result in affordable or low-cost housing; there are other and better potential sites for affordable housing in the neighborhood.";
   - "I am in favor of development to create more affordable housing in appropriate locations, but not on Connecticut Ave between Livingston St and Chevy Chase Circle. For example, I do not oppose the construction of apartments on the site of the Lisner Home, which is one block from my home, or the former site of Mazza Gallerie. The Friendship Heights area, where high-rise office and apartment buildings already predominate and most businesses are national chains, is an excellent example of an appropriate location for additional development. Connecticut Avenue, with its low-rise buildings, some of which have historical significance, and many small businesses, is not, and I have no confidence that the proposed development on Connecticut Ave will result in more affordable housing.";
   - "This rezoning does nothing to lower housing costs in DC. You will, by upzoning Chevy Chase, lose 1000s of Naturally Occurring Affordable Homes in rent-controlled buildings. Our Chevy Chase workforce - teachers, police, retail workers, etc. - will be displaced by your actions, as workforce housing has been lost in every other densified and gentrified DC neighborhood. You will displace the Chevy Chase small businesses just as small businesses have been lost in every other densified and gentrified DC neighborhood.";
   - Belief that the proposal will result in middle income rent payers being priced out of market;
   - Belief that the rezoning will not result in more affordable housing;
   - "If 20% of this building should be for low income housing we are talking about 10 apartments. It doesn't seem like this is going to in any way make a dent in the affordability problem facing the city, nor significantly move the needle in regards to economically diversifying Chevy Chase.";
   - Belief that rentals in new buildings will be priced out of reach; and
   - "DC landlords are given way too much latitude in deciding who gets affordable housing. DC does not regulate this process leading to abuses."

6. Belief that Commission is biased against neighborhood:
   - "The proposed upzoning across Ward 3, including Case 23-25, has been framed by the DC Office of Planning as a corrective measure to historic housing injustices and an effort to foster affordable housing. Chevy Chase Voice contends that these

arguments are simply tactics to shame and intimidate residents into accepting harmful policies.";

- "While the Commission, through its Director Sara Bardin, asserted, erroneously, that it had absolute discretion to set down the Case in the manner of its choosing, Chair Hood made it absolutely clear that he felt personal irritation with and animus against citizens of the District of Columbia residing in "Ward 3—West of the Park," and that his intention was to avoid personal inconvenience and discomfort that he might experience, if those citizens were accorded their proper right to engage fully in the zoning process. While Chair Hood may feel that his convenience is of greater value than the rights DC citizens affected by his actions, this brazenly autocratic behavior undermines public confidence in the objectivity and evenhandedness of the Zoning Commission and brings disrepute upon the Government of the District of Columbia in condoning his behavior."; and
- "Moreover, I am opposed to a zoning process in which the Chairperson of the Zoning Commission publicly and shockingly denigrates the residents of Chevy Chase and the area of Rock Creek West and unapologetically shows his deep bias against the area. He has done this publicly in recorded sessions not once - or twice - but at least three times, even doubling down on statements when their bias was pointed out to him, saying he would not retract his statements or apologize for them. At a minimum, Mr. Hood should not be permitted to have any role in or take any action concerning zoning anywhere in "Rock Creek West" given his clear animus towards the community."

7. Other issues:
   - "Survey showing that a majority of Chevy Chase residents are opposed to upzoning.";
   - Belief that rezoning will change the character of the community;
   - Dislike of character of Friendship Heights density and concern that it will occur in Chevy Chase;
   - Belief that 80-foot building height with 60 % lot occupancy is "outsized";
   - Lack of "feasibility studies" regarding infrastructure;
   - Concerns about loss of mature trees on site;
   - Concern about traffic being re-routed to side streets; and
   - Concerns about increased parking demand.

15. **Second ANC Resolution**

On December 13, 2024, following the November 1st publication of the NOPR, ANC 3/4G submitted a letter attaching a further resolution. The letter stated that the resolution, adopted at its regularly scheduled December 9, 2024 meeting, modified its prior April 28 resolution (which was dated April 25, 2024 and at Ex. 175 in the case record). The letter noted that like the community, the ANC remains divided on this proposal as evidenced by the ANC vote on the resolution of 4-1-1 but believes pursuing a middle path as proposed in the resolution is the most effective way forward. The Resolution states that the ANC reaffirms the positions taken in its April 28 resolution, but modifies it in two ways (which call for changes to the proposed text):

- It raises the maximum allowable building height with permissible penthouses and various height bonuses that the ANC seeks for the modified NMU-4/CC1 zone from sixty feet (60 ft.) to sixty-five feet (65 ft.) to address concerns about floor loss and crowded mechanical space that OP described at the April 29th public hearing; and
- It adjusts its call for a uniform lot occupancy maximum of sixty percent (60%) to take into account the needs for affordable housing incentives and the ability to create continuous retail storefront along Connecticut Avenue. The ANC now calls for sixty percent (60%) lot occupancy for residential or seventy-five percent (75%) with inclusionary zoning and up to one hundred percent (100%) lot occupancy for non-residential:
    - Because of the need to ensure adequate open space at the Community Center Library site, ANC seeks a uniform sixty percent (60%) lot occupancy maximum for that site.

(Ex. 469, 469A).

16. **<u>OP Second Supplemental Report (Ex. 470).</u>**

On December 17, 2024, OP submitted a supplemental report responding to the Second ANC Resolution (Ex. 470):

- OP states that it opposes the changes suggested in the new ANC resolution;
- OP states that it does not support the changes suggested in the new resolution because the OP proposal:
    - Is not inconsistent with, and furthers, policy direction of the Comprehensive Plan (Comp Plan) including the Future Land Use Map, Generalized Policy Map, Citywide Elements, and Rock Creek West Area Element and Connecticut Avenue Policy Focus Area;
    - Incorporates the land use and design criteria of the Chevy Chase Small Area Plan (CCSAP); and
    - Would further objectives of other important policy documents, including the Rock Creek West Roadmap and the 2025 Housing Equity Goals;
- OP states it is opposed to the ANC's support for eliminating the NMU-4/CC-2 zone for the Civic Site, and instead applying the NMU-4/CC-1 zone to the Civic Site as well as the rest of the corridor, because it believes:
    - This would be less consistent with the Comprehensive Plan and CCSAP direction;
    - Both CC zones have MU-4 as the base, but the NMU-4/CC-1 zone includes design related requirements specific to the guidelines for the corridor which would not be appropriate for the civic site, while the NMU-4/CC-2 zone includes different criteria for the civic site that would be lost under a single zone approach. "This modified proposal [of increasing the maximum building height for the NMU-4/CC-1 zone from 60 to 65 feet] would be generally consistent with the OP proposal for the NMU-4/CC-1 zone. However, it would remain significantly lower than the proposal for the NMU-4/CC-2 zone for the civic site - a building maximum height of 65 feet, plus a penthouse of 12 feet max. for habitable or 15 feet for mechanical space, for a total maximum of 80 feet to the top of a penthouse. Particularly when combined with the lot occupancy restriction and set back and step-back proposals for the civic site, the ANC proposed change would limit the ability to replace existing civic facilities and provide the housing and affordable housing opportunities envisioned in the policy and planning direction for this site. As such, OP would not support this change."

- OP also notes that the modified proposed lot occupancy from uniform 60% maximum for all uses to 60% for residential or 75% with IZ and up to 100% for non-residential appears consistent with the OP proposal for the NMU-4/CC-1 zone; and

- OP also notes that the modified proposed uniform 60% maximum for all uses on the Community Center-Library site appears consistent with the OP proposal for the NMU-4/CC-2 zone.

17. **Final Action**

At its January 30, 2025 public meeting, the Commission considered the case record, including the NCPC report, the ANC Second Resolution and the response thereto by OP, as well as the public comments in support and in opposition to the NOPR (January 30, 2025 Tr. at 29-45).

With respect to the ANC Second Resolution, the Commission was persuaded by OP's response that the alternative proposed by the ANC would be less consistent with the policy guidance of the Comprehensive Plan and CCSAP.

With respect to the public comments received, the Commission concluded that the letters in support were highly persuasive, particularly the letter submitted by the Washington Interfaith Council.

With respect to the comments in opposition, the Commission concluded as follows:

1. Belief that the case should have been set down and heard as a contested case instead of as a rulemaking.
   Commission response: the Commission has addressed this issue several times by stating that it has the authority under the Zoning Regulations to hear the case as a rulemaking. A more complete discussion is above in Section 4, Commission Setdown Report, Section 10, Public Hearing, and in the Conclusions section below.

2. Belief that development concept involves the improper use/transfer of public land.
   Commission response: the disposition of public land is not within the Commission's purview. The Commission only has the power to zone.

3. Issues with RFP process for future redevelopment of the Site
   Commission response: the RFP process is not within the Commission's purview. The Commission only has the power to zone.

4. Rezoning will be detrimental to small businesses in neighborhood.
   Commission response: this is a judgment call for the Commission and involves weighing conflicting Comprehensive Plan guidance, and other factors. Ultimately the Commission concludes that the policy guidance cited by OP outweighs the possible harm to small businesses caused by potential displacement; a more complete discussion is above in OP Reports under Section 2, Petition and Section 8, OP Hearing Report and in the Conclusions section below.

5. Belief that the additional affordable housing provided by Project does not justify rezoning
   Commission response: this is a judgment call for the Commission and involves weighing conflicting Comprehensive Plan guidance. The Commission concludes that the policy guidance cited by OP outweighs the policy guidance cited by the opponents; a more complete discussion is above in OP Reports under Section 2, Petition and Section 8, OP Hearing Report and in the Conclusions section below.

6. Belief that Commission is biased against neighborhood
   Commission response: the Commission decided this case in accordance with the Zoning Regulations. The Commission acknowledges the argument raised by opponents that Chairman Hood should have disqualified himself from participating in this case because of statements he has made specific to Ward 3. The Commission takes its Rules of Ethics under Subtitle Z, § 105 of the Zoning Regulations seriously and firmly believes (i) Chairman Hood was not required to disqualify himself from this case based on the requirements set forth in Subtitle Z, § 105.8; and (ii) this case was decided in accordance with the requirements of the Zoning Regulations, inclusive of the Rules of Ethics applicable to the Commission.

7. Other issues
   - Survey showing that a majority of Chevy Chase residents are opposed to upzoning;
   - Belief that rezoning will change the character of the community;
   - Dislike of character of Friendship Heights density and concern that it will occur in Chevy Chase;
   - Belief that eighty (80)-foot building height with sixty percent (60%) lot occupancy is "outsized.";
   - Lack of "feasibility studies" regarding infrastructure;
   - Concerns about loss of mature trees on site;
   - Concern about traffic being re-routed to side streets; and
   - Concerns about increased parking demand.

   Commission response: these issues are judgment calls for the Commission and involve weighing conflicting Comprehensive Plan guidance. The Commission concludes that the weight of the policy guidance cited by OP justifies the rezoning despite these issues; a more complete discussion is above in OP Reports under Section 2, Petition and Section 8, OP Hearing Report and in the Conclusions section below.

18. **Conclusions**
    Pursuant to Subtitle X §§ 500.3 and 1300.2, the Commission shall find that a map amendment and a text amendment petition are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site; and the Zoning Commission shall find that petitions for creation of a new zone shall be consistent with the conditions of Subtitle X § 400.

    Notice
    Opponents alleged the Commission failed to comply with several applicable notice requirements of the Zoning Regulations.

The Commission begins by noting that it has fully complied with the notice requirements of the Zoning Act and District Administrative Procedure Act. The Zoning Act requires that before it can amend the zoning regulations or maps, the Commission must publish a public hearing notice thirty (30) days prior to the meeting, and comply with some other requirements, all of which were met in this case (D.C. Official Code § 6-641.03; 6-641.05(a)(1)(A)). The Zoning Act further requires that the Commission hold the hearing and allow public comment (D.C. Official Code § 6-641.03, 6-641.05(a)(1)(A)). It then requires that the Commission send the proposed action to NCPC for comment (6-641.05(a)(1)(B)). The Commission has also fully complied with the notice and comment requirements of the District Administrative Procedure Act by both publishing a notice of proposed rulemaking for public comment for thirty (30) days and referring the proposed action to NCPC for comment, and considering those comments received before taking final action (D.C. Official Code § 2-505(a)). All of these provisions were met.

The Commission has imposed heightened notice requirements in the Zoning Regulations. As discussed above, OP and the Commission did not comply with all of those requirements. However, OP demonstrated to the Commission that it undertook a good faith effort at community outreach that provided notice that in many ways far exceeded the requirements of the Zoning Regulations. In addition, there was ample evidence that the affected public had actual notice of the case, and actively participated through written comments before the hearings, testimony at the hearings, and written comments submitted in response to the notice of proposed rulemaking. The Commission has the authority to waive the notice requirements of the Zoning Regulations, and did so in this case; the discussion of the notice requirement waivers granted by the Commission in this case are discussed in detail above under Section 4, Commission Setdown Meeting. The Commission hereby also waives any notice requirements of the Zoning Regulations that were not explicitly considered by the Commission at its meetings or hearings[22].

<u>Decision to proceed as rulemaking vs. contested case</u>
Opponents alleged that the Commission should hear and decide the map amendment portion of the case as a contested case. Opponents also alleged that the Commission should hear the map amendment for Civic Site property as a separate contested case.

The Zoning Regulations contemplate the Commission will use its discretion and decide whether to decide map amendment cases as rulemakings or contested cases based on the circumstances of the case (*See* Subtitle Z, §§ 201.2, 201.5, 201.7, and 210.9). The Commission must make this determination in advance *(Schneider v. District of Columbia Zoning Commission*, 383 A.2d 324 (1978)).

[22] The Zoning Regulations were amended in Z.C. Order No. 22-25, effective August 2, 2024, and several changes to the Commission's notice rules were adopted as of the effective date. The waivers the Commission granted at setdown on November 9, 2023 and the waivers of any notice requirements of the Zoning Regulations that were not explicitly considered by the Commission at its meetings or hearings are based on the Zoning Regulations in effect before Z.C. Order No. 22-25 became effective. The Commission's procedural rulings and proposed action in this case preceded the August 2, 2024 effective date of Z.C. Order No. 22-25.

Here, the Commission determined that the map amendment case should be heard and decided as a rulemaking. The Commission believes that this case is legislative in nature because it involves issues for resolution that affect large numbers of persons, and a large number of properties. The case involves rezoning an entire commercial corridor, with the Civic Site at the center of that corridor. Therefore, this situation squarely fits within the criteria for a rulemaking case established by Subtitle Z § 201.5.

The case was initiated by a public agency, includes multiple properties, and the properties make up a neighborhood commercial corridor, so it also fits squarely within the type of case that the Zoning Regulations explicitly contemplate would be heard as a rulemaking under Subtitle Z § 201.7(a). The case also includes text amendments, which the Zoning Regulations explicitly provide should be heard as a rulemaking cases under Subtitle Z § 201.5(a). Hearing both the text and map amendments together would allow interested members of the community to present their concerns at a single hearing, and would also allow the Commission to more efficiently consider the issues in a single case, a further reasons for hearing and deciding this case as a rulemaking.

The Commission revisited this decision at the beginning of the first hearing, after the Commission's decision made at setdown was criticized by opponents in written submissions. One group of opponents also suggested that the Commission should consider the proposed map amendment for the Civic Site separately because it was a single property, and the Petitioner requested a more intense zoning designation for that property.

The Commission decided to stick with its previous decision to hear the entire case as a rulemaking.

The Commission believes this case is legislative in nature, and involves broader issues of public policy, not a rezoning that presents issues for resolution that have only a limited scope of impact (S*ee* Subtitle Z, § 201.2, 201.5). It encompasses a multi-block long commercial corridor containing over forty (40) properties with multiple owners. It involves several different zone districts. It also involves new zoning text. The policy reasons stated in the various OP Reports have broad impacts.

The Commission stated that the Zoning Regulations authorize the Commission to exercise discretion in determining whether to hear map amendment cases as either rulemakings or contested cases, and that the Regulations explicitly provide that cases initiated by public agencies that involve "a neighborhood, commercial district, or other geographic area encompassing multiple properties", as is the exact situation here, are properly characterized as rulemaking cases (Subtitle Z, § 201.7(a)). This regulation further supports the Commission's decision to hear the case as a rulemaking, because the case involves text and map amendments initiated by public agency to amend the zoning map for an entire commercial district. So, it squarely fits within one of the explicit examples provided of a rulemaking case.

The Commission further believes that the Civic Center Site is not "singled out" as the opponents contend. To the contrary, it is part of a cohesive rezoning of the entire corridor, which involves multiple zoning designations, and new text. When rezoning commercial corridors, the Commission believes that it should consider the whole corridor cohesively, not break it up into constituent parts to be judged separately.

For these reasons, the Commission concludes it appropriately heard and decided this case as a rulemaking (*See* Section 4, Commission Setdown Meeting and Section 10, Public Hearings).

Amendments are not inconsistent with Comprehensive Plan

The Commission largely agrees with OP that the amendments are consistent with the Comprehensive Plan for the reasons set forth in the OP Reports, as summarized above in Section 2, Petition; Section 8, OP Hearing Report; Section 11, OP Supplemental Report; and Section 16, OP Second Supplemental Report.

The Commission agrees with the opponents that the densities of the new NMU-4/CC2, and to a lesser extent the new NMU-4/CC1 zone, are at the upper range of, or exceed, the density guidance on the FLUM. However, the FLUM guidance contemplates higher density ranges when complying with IZ and IZ Plus would apply to both new zones. In addition, as a District-owned property, the new NMU-4/CC-2 zone for the Civic Site would be subject to the requirements of District Law 10-801, which requires a higher affordable housing set-aside and affordability requirements than IZ Plus. The Commission also acknowledges that there are additional Comprehensive Plan policies, and CCSAP policies, that are potentially inconsistent with the map and text amendments.

The Commission considered all of the CP policy guidance and concludes that any potential CP inconsistencies are outweighed by the clear CP policy guidance identified in the case record that favors more intense zoning to accomplish multiple, sometimes competing, goals, particularly for the Civic Site. The Commission agrees with OP that the proposed zoning is an appropriate compromise. The Commission believes that any inconsistent CP policies are outweighed by the guidance of the 2021 update of the CP, including the changes to the Future Land Use Map and the Generalized Policy Map; Citywide Elements, including policy goals of the Land Use, Housing, Economic Development, and Community Services and Facilities Elements; and Rock Creek West Area Element policies, inclusive of the Chevy Chase corridor, all of which are cited in the OP Reports, primarily the OP Setdown Report, as summarized above (*See* Section 2, Petition and Section 8, OP Hearing Report). This new CP guidance placed a much stronger emphasis on the provision of new housing and new affordable housing opportunities, particularly in areas such as the Rock Creek West Planning Area where there is a lack of dedicated affordable housing. The provision of additional density for the corridor, and the Civic Site, allows it to meet these housing and affordable housing goals, while also accommodating important civic uses on the Civic Site. The Commission recognizes that some compromise is necessary to accomplish all of these goals, and finds the balance struck by the OP proposal reasonable overall.

The Commission therefore concludes that when all of the relevant CP policy guidelines are considered, the proposal is not inconsistent with the Comprehensive Plan because the inconsistent CP policies are outweighed by other policies that would be advanced by the proposal. The Commission further notes that the proposal would further objectives of the

CCSAP, the Rock Creek West Roadmap, the 2025 Housing Equity Goals for the RCW Planning Area, and the Connecticut Avenue Policy Focus Area.

The Commission concludes that the proposal would further CP racial equity goals and advance racial equity. The Commission reaches this conclusion based on the OP Reports, specifically the OP Setdown and Hearing Reports, which included responses to the four (4) components of the Commission's Racial Equity Tool, including Community Outreach and Engagement and Disaggregated Race and Ethnicity Data, and are summarized in detail above. The Commission notes the following from the OP Reports in reaching its racial equity conclusions.

Displacement - The proposal would not result in any direct displacement of residents as there is no current residential use on the Property site. However, the Commission acknowledges that the proposal could result in commercial displacement impacts for small local businesses, particularly. The Commission is hopeful that such impacts could be mitigated by the provision of ground floor uses in the proposal, which could facilitate relocation and expansion opportunities for existing business. The Commission also notes that non-zoning government tools, such as technical assistance programming, to protect retail businesses are mentioned in the CCSAP. However, to the extent that the proposal is inconsistent with CP policy guidance to prevent commercial displacement, the Commission finds such inconsistencies to be outweighed by the CP policies that would be advanced by the proposal.

Community Outreach and Engagement - The Commission finds the community outreach and engagement conducted by OP sufficient, as summarized in the OP Setdown and Hearing Reports above, and inclusive of meetings with ANC representatives and the ANC subcommittee, attendance at ANC public meetings, a meeting with a representative of the Chevy Chase Main Street businesses, and one-on-one discussions and emails, as well as multiple meetings separately organized by DMPED; the OP outreach efforts began in August 2022 and continued through March 2024. The Commission notes that community input resulted in changes to the OP proposal prior to setdown of the Petition, specifically adding rear and side setbacks where commercial properties abut residentially zoned properties not separated by an alley, and other provisions intended to provide transition to lower density residential areas for both proposed zones; and for the Civic Site, a reduction in maximum lot occupancy from eighty percent (80%) to sixty percent (60%) for all uses. These pre-setdown changes to the proposed zones are discussed in detail in the summary of the OP Setdown Report above under Section 2, Petition. Then between setdown and the public hearing, OP made two additional changes to the proposed NMU-4/CC-2 zone for the Civic Site, specifically defining the east lot line as the rear lot line for purposes of rear yard measurement; and clarifying the trash collection, loading and parking access will be from McKinley or Northampton only and prohibited along Connecticut. These changes and all OP changes are outlined in a chart included in the OP Supplemental Report at Ex. 297 included herein above under Section 11, OP Supplemental Report. The Commission recognizes that, despite the changes made by OP in response to community input, many community members remain opposed to the proposed zones and do not believe OP's changes were sufficient to reflect community input and concerns. The Commission acknowledges the considerable opposition to the proposed zones. Nevertheless, the Commission finds the NMU-4/CC-1 and NMU-4/CC-2 zones, as revised, to represent a reasonable compromise between both OP and community participants/stakeholders.

Disaggregated Race and Ethnicity Data - The OP Setdown and Hearing Reports, summarized in Sections 2 and 8 above, included disaggregated race and ethnicity data for the Rock Creek West (RCW) Planning Area noting the following trends for the 2016-2021 time period:

- Population - The RCW Planning Area retains the highest percentage of white residents and the lowest percentage of Black residents of all ten (10) planning areas; however, the percentage of Asians, Blacks, and Hispanics rose during the time period;
- Median Income - The RCW Planning Area was one of only two (2) planning areas (along with Central Washington) where the median income of Black or African Americans did not increase during this time period. Meanwhile, the median income for white households rose at a rate higher than that of the planning area as a whole;
- Median Age - The median age of the RCW Planning Area is increasing compared to Districtwide and it has the second highest median age among the ten (10) planning areas; and
- Housing Tenure - The RCW Planning Area has the second highest percentage of owner-occupied housing of the District's ten (10) planning areas at fifty-five and one-tenths percent (55.1%) compared to forty and seven-tenths percent (40.7%) Districtwide.

Progress Toward the Mayor's 2025 Housing Equity Goals - The RCW Planning Area has the least amount of dedicated affordable housing and as of the end of February 2024 (based on the DMPED thirty-six thousand (36,000) by 2025 Dashboard) had made the least amount of progress of the District's ten (10) planning areas of achieving the goal of one thousand nine hundred ninety (1,990) new affordable units, achieving ten and one-tenths percent (10.1%) of the target.

The Commission is encouraged that the provision of increased density on this Property site will facilitate new housing opportunities- both market rate and affordable and both rental and ownership- within the RCW Planning Area on a site where no housing currently exists. The Commission notes that most of the rental housing stock in the RCW Planning Area is in larger multifamily buildings, none of which are in the area of the proposed amendments. The proposal would facilitate more housing options for District residents, including the RCW Planning Area's small but growing racial diversity of residents, as well as housing opportunities for moderate and lower income residents of all racial and ethnic backgrounds, in a pedestrian oriented location. The Commission is hopeful that the future development facilitated by the proposal will provide an improved library and community center and open space with corresponding community serving activation; could help to ease upward pressure on housing costs in the area; and could result in new or improved retail services in the corridor along with permanent job opportunities.

<u>New zones comply with petitions for new zones requirements of Subtitle X, § 400</u>
The Commission finds that the new zones comply with the requirements of Subtitle X, § 400. For the reasons stated above herein, the Commission finds that the new zones are for a well-defined geographic area of the Chevy Chase neighborhood; the new zones are not inconsistent

with the CP or with the CCSAP; the new zones have appropriate development standards such that they will not result in adverse impacts on the environment or adjacent lands nor will they result in undue diminution of property rights; the Petition included evidence of significant community support for the new zones, as discussed in more detail immediately below; and the Petition included information documenting how the new zones would change development standards (*See* Subtitle X, § 400.1-400.6).

<u>Alleged deficiencies with requirements of Subtitle X, § 400 that apply to petitions for new zones</u>

Opponents argued that the OP Setdown Report did not meet the requirement of Subtitle X § 400.6(a) that a petition for a new zone be accompanied by evidence of community support including property owners within the defined area and relevant civic community and business groups. The Commission believes that the OP Setdown Report met this requirement with the evidence of community outreach and engagement and a support narrative description, although just barely. The evidence was later supplemented by OP in its Hearing Report, and there was ample support of members of the community provided in the case record. The Commission acknowledges that this support was far from unanimous, and there was also ample community opposition.

Opponents also argued that the Commission did not comply with the requirement of Subtitle X § 400.7 that Commission give equal time to affected property owners to present their opposition. The Commission believes that this provision does not apply in this case because this case is an upzoning, not a downzoning, and that provision by its own terms applies only when the Commission is considering a proposed new zone that "involves a reduction in any development standard or property right."(Subtitle X, § 400.7).

Several opponents further argued that a petition to create a new zone must comply with all of the procedural requirements for both a map and text amendment under Subtitle Z, including self-stick name and address labels for all property owners within two hundred feet (200 ft). of the subject property, and that these requirements were not met. As discussed above, the Commission acknowledges that OP did not meet all of these requirements, but the Commission decided to waive the requirements that were not met because OP substantially complied with many of the notice requirements, performed substantial community outreach and engagement that in other ways exceeded the requirements, and there was overwhelming evidence of actual notice in the affected community.

<u>"Great Weight" to the Recommendations of OP</u>

The Commission must give "great weight" to the recommendations 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). and Subtitle Z § 504.6 (*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 adopt the proposed Text and Map Amendments persuasive and concurs in that judgment based on the analyses in the OP Reports detailed above. The Commission also notes its agreement with OP's recommendation to rezone a small number of sites fronting side streets, specifically McKinley and Morrison Streets, to the RF-1 zone, which is included in this proposal.

IZ Plus
The Commission also finds OP's recommendations as to the applicability of IZ Plus persuasive and concurs in OP's judgment. The Commission notes that the petition involves two components. First, the creation of two (2) new zones, NMU-4/CC1 and NMU-4/CC2, with text amendments and map amendments to map the new zones; and second, the map amendment to RF-1 of properties fronting McKinley and Morrison Streets with map amendments.

With respect to the first component, the Commission believes that Subtitle X § 502.1(b), which automatically applies IZ Plus to a map amendment that results in a higher maximum FAR, does not automatically apply because this component is both a text amendment to create development standards for the new zones as well as a map amendment to map the new zones. However, in these factual circumstances, the Commission finds it appropriate for IZ Plus to apply because doing so would advance numerous Comprehensive Plan policies, as discussed above. The Commission notes that consistent with the map amendment specific rule under Subtitle X § 502.1(b), the new NMU-4/CC1 and NMU-4/CC2 zones would allow a higher maximum FAR than the existing MU-3A and R-1B zoning on the Property site.

With respect to the second component, which is only a map amendment, IZ Plus automatically applies, pursuant to Subtitle X § 502.1(b), because the proposed RF-1 zone allows a higher maximum FAR than the existing R-2 and R-1B zoning on the sites. However, OP recommends that IZ Plus not apply to the proposed rezoning of the sites to RF-1 because the properties involved are existing surface parking lots in common ownership with commercial properties fronting Connecticut Avenue, NW and the objective of rezoning them is to provide a transition between the existing low-density residential use and the mixed-use zoning proposed under the two new zones, which is too intense for these sites. The Commission finds that the RF-1 zone would strike an appropriate balance for transition purposes as it allows residential one or two family development, but would not permit commercial use. Accordingly, the Commission agrees with OP that IZ Plus should not apply to the sites proposed for rezoning to RF-1.

"Great Weight" to the Written Reports of the ANC 3/4G
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) (2012 Repl)) and Subtitle Z § 505.1 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)).

ANC 3/4G submitted three reports that were approved by the entire ANC, a November 8, 2023 letter, an April 28, 2024 resolution, and a December 13, 2024 resolution. The Commission considered all three, and the Commission's responses to the issues and concerns raised in the reports are listed below:

November 8, 2023 letter

On November 8, 2023, ANC 3/4G submitted a letter requesting the Commission postpone consideration of setdown of the case as scheduled for November 9, 2023. The ANC stated that they required additional time to "complete our community engagement and issue our further resolution on OP's proposals." (Ex. 4).

> *Commission response*
>
> The Commission felt it was appropriate to consider setdown at the November 9, 2023 public meeting because it was convinced by the evidence presented in OP's Setdown Report that OP had done significant outreach and engagement with the ANC well in advance of the public meeting and given it ample time to reach a position on the proposal.

April 28, 2024 resolution

On April 28, 2024, ANC 3/4G submitted a resolution, dated April 25, 2024, that states it takes the following positions with respect to the Text and Map Amendments (Ex. 175):

- ANC 3/4G "supports the proposed framework for the NMU-4/CC1 and RF-1 zones but concludes the maximum allowable height with permissible penthouses and various height bonuses for the NMU-4/CC1 zone of 70 feet and lot occupancy of 60 percent for residential or 75 percent with affordable housing and unlimited for non-residential are outsized and would permit development that is out of scale with the current commercial corridor." It asks the Zoning Commission to reduce the maximum allowable height to sixty feet (60 ft.), calls for a uniform lot occupancy maximum of sixty percent (60%), and reserves judgement on the proposed maximum floor area ratios, side yard requirements and inclusion by reference of District parking minimums and maximums.";
- ANC 3/4G "recognizes that OP has made changes to its proposal for the NMU-4/CC2 zone covering the Community Center-Library site, it believes that the 80- foot proposed building height maximum with penthouses bonuses could result in a building or buildings out of scale with the rest of the commercial corridor.";
- "Therefore, it asks the Zoning Commission to eliminate the NMU-4/CC2 zone and apply the NMU-4/CC1 provisions modified as above to the entire upper Connecticut Avenue commercial corridor, including the Community Center-Library site."; and
- "The ANC favors ensuring the same amount or more green/open space in the upper Connecticut Avenue commercial corridor to include the square footage of non-parking space at the Community Center-Library site as well as sidewalks and tree boxes along the Avenue. It asks the Zoning Commission to include protections in the rezoning it approves to protect these spaces."; and
- "The ANC recognizes the continuing need for vehicle transportation, especially among the community's substantial population of post-65 residents and those of all ages who are disabled. It asks the Zoning Commission to ensure adequate parking along the entire length of the upper Connecticut Avenue corridor by, among other things, requiring that any parking lost to development in the proposed RF-1 zones be replaced."

Commission response:
The Commission responds to the first three issues and concerns together because they concern a common topic, namely the appropriate zoning envelope for the affected properties. At the request of the Commission, OP provided an analysis that compared the zoning envelope of the Text and Map Amendments with the ANC's alternative proposal. The analysis also compared the number of market and affordable rate housing units that would result in the respective proposals. Based on this comparison, the Commission is convinced that any negative impacts of the larger zoning envelope proposed by the Text and Map Amendments would be minimal on neighboring properties and neighborhood character especially given the respective development standards of the proposed zones, which include buffering and transition provisions toward lower density residential areas along with other provisions to preserve neighborhood character. However, the Commission finds that the ANC's more restrictive proposal would substantially reduce the amount of housing that could be produced on the overall site, and undermine the potential of these amendments to fulfil CP policy goals and objectives. Further, the Commission does not believe the proposed NMU-4/CC2 zoning's development standards are out of scale with the corridor.

Concerning the fourth issue/concern related to the amount of green and open space, the Commission responds that there was testimony at the public hearing that the amount of non-parking open space currently on the Civic Site is approximately forty percent (40%) of the lot area (April 29 Tr. at 128-129). The Commission therefore believes that the sixty percent (60%) lot occupancy limit proposed for the Civic Site roughly meets this request, and adequately protects the need for green and open space.

Concerning the fifth issue/concern regarding the adequacy of parking supply, the Commission is convinced there is adequate parking supply in the neighborhood, and that the number of properties being rezoned will not have a significant impact on the supply of parking spaces. In addition, future development on the site would have to comply with onsite parking requirements.

December 13, 2024 ANC Resolution
On December 13, 2024, ANC 3/4G submitted a letter attaching a further resolution. The letter stated that the resolution modified its prior April 28 resolution. The letter noted that like the community, the ANC remains divided on this proposal as evidenced by the ANC vote on the resolution of 4-1-1 but believes pursuing a middle path as proposed in the resolution is the most effective way forward. The Resolution states that the ANC reaffirms the positions taken in its April 28 resolution, but modifies it in two ways (which call for changes to the proposed text):

- It raises the maximum allowable building height with permissible penthouses and various height bonuses that the ANC seeks for the modified NMU-4/CC1 zone from 60 feet to 65 feet to address concerns about floor loss and crowded mechanical space that OP described at the April 29th public hearing; and
- It adjusts its call for a uniform lot occupancy maximum of sixty percent (60%) to take into account the needs for affordable housing incentives and the ability to create continuous retail storefront along Connecticut Avenue. The ANC now calls for sixty percent (60%) lot occupancy for residential or seventy-five percent (75%) with inclusionary zoning and up to one hundred percent (100%) lot occupancy for non-residential:

- Because of the need to ensure adequate open space at the Community Center Library site, ANC seeks a uniform sixty percent (60%) lot occupancy maximum for that site.

(Ex. 469, 469A)

Commission response:
The Commission does not find this advice persuasive for the following reasons, most of which are outlined in the OP Second Supplemental Report, which the Commission finds persuasive.

The Commission would prefer to approve the OP proposal without considering further modifications because it believes the OP proposal is not inconsistent with, and furthers, policy direction of the Comprehensive Plan including the Future Land Use Map, Generalized Policy Map, Citywide Elements, the Rock Creek West Area Element and the Connecticut Avenue Policy Focus Area. It further believes the OP proposal incorporates the land use and design criteria of the CCSAP, and would further objectives of other important policy documents, including the Rock Creek West Roadmap and the 2025 Housing Equity Goals.

In addition, the Commission does not support eliminating the NMU-4/CC-2 zone for the Civic Site, and instead applying the NMU-4/CC-1 zone to the Civic Site, because it believes the NMU-4/CC-1 zone includes design related requirements specific to the guidelines for the corridor which would not be appropriate for the Civic Site, while the NMU-4/CC-2 zone includes different criteria for the Civic Site that would be lost under a single zone approach. The ANC proposed change would limit the ability to replace existing civic facilities and provide the housing and affordable housing opportunities envisioned in the policy and planning direction for this Property site.

Finally, the Commission notes that OP already included several modifications to its original proposal in an effort to address the issues raised by the ANC, and is entitled to an up or down vote on the ANC's new proposal.

At its January 30, 2025 public meeting, the Commission voted to take **FINAL ACTION** to:

- Adopt the Text and Map Amendments Petition as advertised in the Notice of Proposed Rulemaking; and
- Authorize the publication of a Notice of Final Rulemaking.

Vote (January 30, 2025): 4-0-1 (Anthony J. Hood, Joseph Imamura, Robert E. Miller, and Tammy Stidham to **APPROVE**; Gwen Wright, not participating, not voting)

The complete record in the case can be viewed online at the Office of Zoning's Interactive Zoning Information System (IZIS), at https://app.dcoz.dc.gov/Content/Search/Search.aspx.

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 23-25 shall become final and effective upon publication in the *District of Columbia Register*; that is, on June 27, 2025.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (THE "ACT"). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE 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. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER

Zoning Map amendments

The following amendments to the Zoning Map are hereby adopted:

Square	LOT(S)	FROM	TO
Square 1866	823	MU-3A and R-1B (split zoned)	NMU-4/CC2 with IZ+
Square 1865	90	MU-3A	NMU-4/CC1 with IZ+
Square 1867	92	MU-3A and R-1B (split zoned)	NMU-4/CC1 with IZ+
Square 1868	68	MU-3A	NMU-4/CC1 with IZ+
	69	MU-3A and R-1B (split zoned)	The portion of the lot currently zoned MU-3A to NMU-4/CC1 with IZ+ and the portion currently zoned R-1B to RF-1
Square 1860	1, 12, 13, 15, 22-24, 800, 801, 811, 812, 814, 816, 818, 819, 821, 824, 825	MU-3A	NMU-4/CC1 with IZ+
Square 1859	34, 54, 74, 86, 87, 93, 94, 801, 802, 804, 805, 808	MU-3A	NMU-4/CC1 with IZ+
Square 1859	95	MU-3A and R-2 (split zoned)	The portion of the lot currently zoned MU-3A to NMU-4/CC1 with IZ+ and the portion currently zoned R-2 to RF-1
Square 1859	49, 50, 51, 92	R-2	RF-1
Square 1867	93	R-1B	RF-1

The Commission determined the portions of the Property rezoned to NMU-4/CC1 and NMU/CC2 are appropriate for Inclusionary Zoning ("IZ") Plus. The Commission determined that the portions of the Property rezoned to RF-1 are not appropriate for IZ Plus.

Consistent with Subtitle X § 502.4, for the purposes of calculating an IZ+ set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted FAR of the property's existing MU-3A zoning is the equivalent of 1.0 FAR; and the maximum permitted FAR of the property's existing R-1B zone is the equivalent of 0.4 FAR.

TEXT AMENDMENT

The following amendments to the text of the Zoning Regulations were adopted.

I. Amendments to Subtitle H, NEIGHBORHOOD MIXED-USE (NMU) ZONES

A new Chapter 10, CHEVY CHASE NEIGHBORHOOD MIXED-USE ZONES – NMU-4/CC1 and NMU-4/CC2, is added to Subtitle H, NEIGHBORHOOD MIXED-USE (NMU) ZONES, to read as follows:

CHAPTER 10 CHEVY CHASE NEIGHBORHOOD MIXED-USE ZONES – NMU-4/CC1 and NMU-4/CC2

1000 PURPOSE AND INTENT

1000.1 The purposes of the NMU-4/CC1 and NMU-4/CC2 zones shall be those of the MU-4 zone as set forth in Subtitle G § 101, those of the Neighborhood Mixed-Use zones, as set forth in Subtitle H § 101, and the following:

(a) Implement the policies and goals of the Chevy Chase Small Area Plan as approved by the Council of the District of Columbia, effective July 12, 2022 (PR-0564);

(b) Permit mixed-use development at a moderate density;

(c) Permit reimagining of the Chevy Chase Community Center and Library site, including mixed-income housing and community gathering space.

(d) Establish design guidelines that encourage sustainable, well designed new development that is compatible with the surrounding built environment and contributes to the main street character;

(e) Establish Connecticut Avenue, N.W. between Western Avenue, N.W. and Livingston Street, N.W. as an attractive, active, pedestrian-oriented commercial corridor with a convenient mix of neighborhood-serving shops and services;

(f) Allow and encourage residential development to help meet the need for housing, by accommodating a greater range of resident diversity to advance the District's housing equity goals, and by mapping both the NMU-4/CC1 and NMU-4/CC2 zones as subject to IZ Plus.

1000.2 The NMU-4/CC1 zone is intended to permit mixed-use development at a moderate density.

1000.3 The NMU-4/CC2 zone is intended to permit mixed-use development and institutional uses at a moderate density.

1001 DEVELOPMENT STANDARDS

1001.1 The MU-4 zone development standards in Subtitle G, Chapter 2 shall apply to the NMU-4/CC1 and NMU-4/CC2 zones except as specifically modified by this chapter. In the event of a conflict between the provisions of this chapter and other regulations of this title, the provisions of this chapter shall control.

1002 DESIGNATED USE AREA

1002.1 In the NMU-4/CC1 and NMU-4/CC2 zones, the designated use area shall include any lot that fronts onto Connecticut Avenue, NW. Within this area, designated uses shall be provided pursuant to Subtitle H § 6001.

1003 DESIGNATED ROADWAY

1003.1 In the NMU-4/CC1 and NMU-4/CC2 zones, the designated roadway shall be Connecticut Avenue, N.W.

1004 DENSITY

1004.1 In the NMU-4/CC2 zone, the maximum permitted floor area ratio (FAR) shall be as set forth in the following table:

TABLE H § 1004.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum Total FAR	Maximum Non-Residential FAR
NMU-4/CC2	3.0 3.6 (IZ)	1.5

1004.2 In the NMU-4/CC1 zone, new construction that preserves an existing façade constructed before 1958 is permitted an increase of 0.5 FAR to the maximum permitted density.

1005 HEIGHT

1005.1 In the NMU-4/CC1 and NMU-4/CC2 zones, the maximum permitted building height, not including a penthouse or rooftop structure, shall be as set forth in the following table:

TABLE H § 1005.1: MAXIMUM HEIGHT

Zones	Maximum Height, Not Including Penthouse or Rooftop Structure (ft).
NMU-4/CC2	65 65 (IZ)

1005.2 Buildings along the designated street should have a minimum height of twenty-five feet (25 ft)..

1006 REAR YARD

1006.1 The requirements of Subtitle G § 207.8 shall not apply to the NMU-4/CC2 zone.

1006.2 In the NMU-4/CC2:

(a) The rear yard shall be measured from the east-most lot line of the existing property; and

(b) The depth of the required rear yard shall be measured as the mean horizontal distance between the rear line of a building and the rear lot line abutting an alley or an R or RF zone.

1007 SIDE YARD

1007.1 In the NMU-4/CC1 and NMU-4/CC2 zones, no side yard is required for a building or structure other than a detached or semi-detached single household dwelling; however, if a side yard is provided it shall be at least two inches (2 in). wide for each one foot (1 ft). of height of building but no less than six feet (6 ft)..

1007.2 Notwithstanding Subtitle H § 1007.1, where an NMU-4/CC1 or NMU-4/CC2 zone is not separated by an alley from an R or RF zoned property, a side yard shall be provided of least fifteen feet (15 ft)..

1008 LOT OCCUPANCY

1008.1 In the NMU-4/CC2 zone, the maximum permitted lot occupancy for both residential use and all other uses shall be as set forth in the following table:

TABLE G § 1008.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Percentage of Lot Occupancy Residential Use (%)	Maximum Percentage of Lot Occupancy All Other Uses (%)
NMU-4/CC2	60 60 (IZ)	60

1009 DESIGN REQUIREMENTS CHEVY CHASE NEIGHBORHOOD NMU-4/CC1 MIXED-USE ZONE

1009.1 In the NMU-4/CC1 zone, the following design requirements shall apply to a new building or addition on any lot fronting onto Connecticut Avenue, N.W., Livingston Street, N.W., McKinley Street, N.W., or Northampton Street, N.W.:

(a) No part of the building, including the penthouse or rooftop structure, shall project above a plane drawn at a forty-five degree (45°) angle from a line located twenty-five feet (25 ft). directly above a rear property line that abuts an alley, or zone boundary line with an R or RF zone;

(b) A set back of not less than three feet (3 ft). shall be provided from the building façade along Connecticut Avenue, N.W. for:

(1) Any portion of a building or structure above the third story; or

(2) Any portion of a building or structure above a retained building façade pursuant to Subtitle H § 1009.1;

(c) Buildings shall be designed and built so that not less than seventy-five percent (75%) of the street wall at the street level shall be constructed to the property line abutting the street right-of-way, not including permitted projections into public space;

(d) Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft). on average for the linear frontage of the building;

(e) Not less than fifty percent (50%) of the surface area of the street wall at the ground level of each building shall be devoted to display windows having clear or clear/low emissivity glass and to entrances to commercial uses or to the building;

(f) Security grilles shall have no less than seventy percent (70%) transparency;

(g) Not more than fifty percent (50%) of the front façade of each building above the ground level, or for a building which is retaining an existing façade, above the façade to be retained, may be devoted to windows or glazing of any type;

(h) The ground floor level of each new building or building addition shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft).;

(i) A building which provides a ground floor level clear floor-to-ceiling height of eighteen feet (18 ft). or more shall be permitted an additional five feet (5 ft). of building height over that permitted in the zone;

(j) Each space devoted to a designated use with frontage on Connecticut Avenue, N.W. shall have an individual public entrance directly at grade with the public sidewalk along Connecticut Avenue, N.W.;

(k) On a corner lot that fronts onto both Connecticut Avenue, N.W. and a side street, any entrance to residential portions of the building shall be located on the side street;

(l) Vehicle parking, loading and trash collection shall be accessed from the alley where an alley of exists. Trash and recycling rooms shall be located internal to the building, and located at-grade level of the building; and

(m) Vehicle parking spaces shall be located below or at grade. If at grade, no portion of the parking shall be within twenty feet (20 ft). of the Connecticut Avenue right of way and shall be screened along Connecticut Avenue with designated uses.

1009.2 The requirements of Subtitle H §§ 1009.2(c) through (i) shall not apply to a building preserving a front façade pursuant to Subtitle H § 1009.2.

1010 DESIGN REQUIREMENTS CHEVY CHASE NEIGHBORHOOD NMU-4/CC2 MIXED-USE ZONE

1010.1 In the NMU-4/CC2 zone, the following design requirements shall apply to any building fronting onto Connecticut Avenue, N.W.:

(a) No part of the building, including the penthouse or rooftop structure, shall project above a plane drawn at a forty-five degree (45°) angle from a line located twenty-five feet (25 ft). directly above the rear property;

(b) Vehicle parking, loading and trash collection shall be accessed only from adjacent streets, except Connecticut Avenue, N.W. Trash and recycling rooms shall be located internal to the building and located at-grade level of the building; and

(c) Vehicle parking spaces shall be located below or at grade. If at grade, no portion of the parking shall be within twenty feet (20 ft). of the Connecticut Avenue right of way and shall be screened along Connecticut Avenue with designated uses.

CHAPTER 10 THROUGH CHAPTER 12 [RESERVED], Subtitle H, NEIGHBORHOOD MIXED-USE (NMU) ZONES, is amended to read as follows:

CHAPTERS ~~10~~11 through ~~12~~51 [RESERVED]

The table in Subtitle H § 6000.8 of § 6000, GENERAL USE PERMISSIONS, of CHAPTER 60, USE PERMISSIONS FOR NEIGHBORHOOD MIXED USE (NMU) ZONES, of Subtitle H, NEIGHBORHOOD MIXED USE (NMU) ZONES is amended to read as follows:

6000.8 Use groups for the NMU zones are as follows:

TABLE H § 6000.8: NMU USE GROUPS

Use Group A	Use Group B	Use Group C
NMU-3A/MW	… NMU-4/CC1 NMU-4/CC2	NMU-5A/WP …

Subsections 6001.3(b) and 6001.4(f), (g), and (h) of § 6001, DESIGNATED AND RESTRICTED USES of CHAPTER 60, USE PERMISSIONS FOR NEIGHBORHOOD MIXED USE (NMU) ZONES, of Subtitle H, NEIGHBORHOOD MIXED USE (NMU) ZONES are amended to read as follows:

6001.3 The designated uses shall occupy …

(b) Except in the NMU-4/CC1, NMU-4/CC2, NMU-4/H-H, NMU-4/H-A, NMU-4/H-R, NMU-5A/H-H, NMU-5A/H-R, NMU-6B/H-H, NMU-7B/H-H, NMU-7B/ES, NMU-7B/H-A, and NMU-8B/H-H zones…

6001.4 The following conditions shall apply …

(f) In the NMU-4/H-A and NMU-7B/H-A zones, designated uses shall be limited to uses within the arts, design and creation, and the eating and drinking use categories; and

(g) In the NMU-4/CC2 zone, designated uses shall also include Local Government and Parks and Recreation uses; and

(h) In all NMU zones, animal sales, care, and boarding as a matter-of-right designated use …

II. Amendments to Subtitle W, SPECIFIC ZONE BOUNDARIES

A new § 124, CHEVY CHASE MIXED USE-ZONES, is added to the Chapter 1, BOUNDARIES, of Subtitle W, SPECIFIC ZONE BOUNDARIES, to read as follows:

124 CHEVY CHASE NEIGHBORHOOD MIXED-USE ZONES

124.1 The Chevy Chase Neighborhood Mixed Use Zone NMU-4/CC1 IZ+ shall be mapped in Squares 1859, 1860, 1865, 1867, and 1868 on lots generally along Connecticut Avenue, N.W., between Western Avenue, N.W. and Livingston Street, N.W., and identified in the Comp Plan and Chevy Chase Small Area Plan for mixed-use development.

124.2 The Chevy Chase Neighborhood Mixed Use Zone NMU-4/CC2 IZ+ shall be mapped in Square 1866 Lot 823 on Connecticut Avenue, N.W. between Northampton Street, N.W. and McKinley Street, N.W., and identified in the Comp Plan and Chevy Chase Small Area Plan for mixed-use and local public facility development.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health Care Finance ("DHCF"), pursuant to the authority set forth in Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6)), and in An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), and Mayor's Order 2024-115, dated July 1, 2024, hereby gives notice of his intent to adopted the following proposed amendments to Chapter 98 (Financial Eligibility for Long Term Care Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*.

DHCF is the single state agency responsible for the administration of the State Medicaid program under Title XIX of the Social Security Act and Children's Health Insurance Program under Title XXI of the Act in the District. A personal needs allowance ("PNA") is the standard amount of funds retained each month by a beneficiary in an institutional setting, which serves as a post-eligibility income deduction; reducing the amount of money the beneficiary must contribute to institutional care. The PNA may be used to pay for the personal needs of the beneficiary not covered by Medicaid or Medicare (for dually eligible beneficiaries), such as clothing, cosmetics, or hobbies, and the institutional facility cannot access the beneficiary's PNA. Under 42 CFR § 435.832(b) and (c)(1), the PNA applies to the following institutional settings: nursing facilities; intermediate care facilities for individuals with intellectual disabilities; and adult foster care homes. Adult foster care homes include certified residential facilities and adult living facilities and receive the Optional State Supplemental Payment ("OSSP"), which provides a supplement to eligible individuals who reside in adult foster care homes.

In April 2021, the District's Long-Term Care Ombudsman conducted research to review PNA amounts across the United States. The Long-Term Care Ombudsman found that the District had the second highest cost of living and that 25% of other states had a PNA that was equal to or higher than the District's, and states with a lower cost-of-living offered a PNA greater than the District's. Parity concerns across institutional settings were also found.

The Centers for Medicare and Medicaid Services ("CMS") provided temporary COVID-19 Public Health Emergency authority to increase the PNA for eligible individuals through May 11, 2024, from $70 to $100 for an individual in a nursing facility not receiving a pension from the Department of Veterans Affairs ("VA"), from $90 to $100 for an individual in a nursing facility receiving a pension from the VA, and from $140 to $200 for a couple institutionalized in a facility. The PNA for individuals in nursing facilities who received supplemental security income (SSI) and individuals in an intermediate care facility for individuals with intellectual disabilities who received SSI increased from $70 to $100.

In June 2024, CMS approved a permanent change to the PNA in the District's State Plan for Medical Assistance ("State Plan"). The approved amendment continued the increased rates adopted under the temporary COVID-19 PHE authority and included increased rates for individuals in the OSSP program, factoring in the federal Cost-of-Living Adjustment ("COLA") for calendar year 2024, and every year thereafter starting in January 2025. The final PNA approved by CMS was $134.16 for individuals in the OSSP program in assisted living and certified residential facilities, $103.20 for individuals across all institutional settings, and $206.40 for couples in institutionalized settings, which incorporates the federal COLA for calendar year 2024.

The proposed rulemaking corresponds to the amendment to the District's State Plan, to provide permanent authority to increase the PNA standard and set annual increases tied to the federal COLA. If the proposed rule is adopted, DHCF projects an increase in Medicaid expenditures in Fiscal Years 2024 and 2025 of $576,624 and $1,633,332, respectively.

Chapter 98, FINANCIAL ELIGIBILITY FOR LONG TERM CARE SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Paragraph (a) of Subsection 9804.4 of Section 9804, POST-ELIGIBILITY TREATMENT OF INCOME, is amended to read as follows:

(a) A Personal Needs Allowance, the amount of which shall be annually posted by DHCF on its website at https://dhcf.dc.gov/page/general-information-0, and shall be equal to:

(1) One hundred and three dollars and twenty cents ($103.20) starting on January 1, 2024, and adjusted annually thereafter by the federal cost-of-living adjustment (COLA) for that year published by the Social Security Administration, for any beneficiary:

(A) In a nursing facility;

(B) Who receives waiver-funded residential support through the District Department on Disability Services (DDS) and receives Social Security benefits;

(C) In an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) who receives supplemental security income (SSI); and

(D) In an ICF/IID who receives Social Security Disability Income (SSDI);

(2) Two hundred and six dollars and forty cents ($206.40) starting on January 1, 2024, and adjusted annually thereafter by the federal COLA for that year published by the Social Security Administration, for a couple if each individual spouse is institutionalized in a nursing facility; or

(3) One hundred and thirty-four dollars and sixteen cents ($134.16), and adjusted annually thereafter by the federal COLA for that year published by the Social Security Administration, for any beneficiary who is:

(A) Enrolled in the Home and Community Based Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD) and receives Optional State Supplemental Payments (OSSP); or

(B) In a community residence facility or assisted living residence and receives SSI;

Comments on the proposed rule shall be submitted, in writing, to Melisa Byrd, Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001 or via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *District of Columbia Register*. Copies of the proposed rule may be obtained from the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF THIRD PROPOSED RULEMAKING

RM40-2024-01, IN THE MATTER OF 15 DCMR CHAPTER 40 – DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULES,

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code Sections 2-505 and 34-802,[1] hereby gives notice of its intent to amend Chapter 40 (District of Columbia Small Generator Interconnection Rules) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after the publication of this Notice in the *District of Columbia Register*.

2. On November 22, 2024, the Commission published a Notice of Proposed Rulemaking (NOPR) initiated by Order No. 22312 in the *District of Columbia Register* (71 DCR 014226) amending 15 DCMR 4005.6. On March 14, 2025, the Commission published a Second NOPR in the *District of Columbia Register* (72 DCR 002838). The following revisions have been made in response to comments on the Second NOPR: changing the name of the accounting report from Detailed Accounting Discrepancy Report to Interconnection Cost Variance (ICV) Report, replacement of the word "discrepancy" with "variance", clarification of a threshold cost variance for interconnection projects that require an ICV Report, clarification on the Commission's review of late documents to interconnection customers, clarification on the rules' applicability to CREFs, and rewritten reporting requirements for Level 4 interconnections.

The proposed modifications to Sections 4005, 4008, and 4099 are shown by **underline** and the deletions by ~~**strikethrough**~~.

Chapter 40, DISTRICT OF COLUMBIA SMALL GENERATOR INTERCONNECTION RULES, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

Subsection 4005.6 of Section 4005, LEVEL 2 INTERCONNECTION REVIEWS, is amended to read as follows:

4005.6 Modifications to Level 2 Interconnection Review Process:

(a) If the Interconnection Request requires only the addition of Interconnection Facilities to the Electric Distribution System, a ~~**non-binding good faith**~~ cost estimate and construction schedule for such upgrades, along with an Approval to Install, shall be provided **by the EDC** within fifteen (15) business days after notification of the Level 2 Interconnection Review

[1] D.C. Official Code §§ 2-505 and 34-802.

results. **The cost estimate and construction schedule shall include a timeline for the expected completion of the addition of Interconnection Facilities to the Electric Distribution System and an itemization of estimated costs that, at a minimum, includes a breakdown of labor, operations and maintenance, and capital expenditures for each job activity and proposed piece of equipment.**

(b) If the Interconnection Request requires more than the addition of Interconnection Facilities to the Electric Distribution System the EDC ~~may elect to~~ **shall** either provide a ~~non-binding good faith~~ cost estimate and construction schedule for such upgrades within thirty (30) business days after notification of the Level 2 Interconnection Review results, or ~~the EDC may~~ notify the Interconnection Customer **within thirty (30) business days** that the EDC will need to complete a Facilities Study under Subsection 4007.2, paragraphs (d)(3), to determine the necessary Distribution System Upgrades and **to** complete the construction. **The cost estimate shall include an expected timeline for the completion of the Interconnection Facilities and/or Distribution System Upgrades, and an itemization of estimated costs that, at a minimum, includes a breakdown of labor, operations and maintenance, and capital expenditures for each job activity and proposed piece of equipment.**

…

(d) The EDC shall provide the following information to the Interconnection Customer regarding the Interconnection Facilities or Distribution System Upgrade costs:

(1) The invoice containing actual unit costs of the Interconnection Facilities and Distribution System Upgrades shall be sent to the Interconnection Customer within 90 days of the completion of the Interconnection Facilities and/or Distribution System Upgrades. The invoice to the Interconnection Customer shall include an itemization of costs that, at a minimum, includes the exact breakdown of labor, operations and maintenance, and capital expenditures for each job activity and installed piece of equipment.

(2) If the actual costs for the entire project are more than twenty-five (25) percent above the initial cost estimate, the EDC shall send the Interconnection Customer an interconnection cost variance report on the cost variance between the initial cost estimate and the actual costs incurred within 120 days after the completion of the Interconnection Facilities and/or Distribution System Upgrades. The Interconnection Cost Variance Report

shall include an itemization of costs, variances and an explanation for each variance that, at a minimum, includes the exact breakdown of labor, operations and maintenance, and capital expenditures for each job activity and installed piece of equipment. The Interconnection Cost Variance Report shall be prepared at the EDC's expense.

(3) For each late invoice and/or late Interconnection Cost Variance Report, the EDC shall be fined a penalty under D.C. Code § 34-706, unless the Commission determines after review of the EDC's reporting in accordance with Subsection 4008.4, that the EDC's violation does not warrant a financial penalty.

(e) The Interconnection Customer shall be responsible for the actual costs of Interconnection Facilities and/or Distribution System Upgrades up to twenty-five (25) percent above the cost estimate governed by Subsection 4005.6 (a-b). This rule shall not be applicable to Interconnection Facilities and/or Distribution System Upgrades for CREFs.

(f) The EDC may track cost overruns that are twenty-five (25) percent above the initial cost estimate and request recovery of the account balance in a Rate Case, subject to the Commission's review. The EDC may be able to recover from ratepayers the net cost overruns if the Commission determines that such costs were prudently incurred. Net cost overruns deemed imprudently incurred shall not be recovered from District ratepayers.

Subsections 4008.4 and 4008.5 of Section 4008, TECHNICAL REQUIREMENTS, is amended to read as follows:

4008.4 The EDC shall maintain records of the following for a minimum of three (3) years:

(f) All itemized cost estimates and actual itemized costs in invoices for completed Level 2 and Level 3 interconnections. All cost estimates and actual costs in invoices for completed Level 4 interconnections. For each interconnection request where actual costs are more than twenty-five (25) percent above the initial cost estimate, the EDC shall include a description of the cause(s) for the inaccurate estimate, a variance description, and an explanation of how the EDC has or will mitigate this cost variance.

(g) The number of late invoices and/or number of late Interconnection Cost Variance Reports, the number of days the invoices and/or reports were delayed, and any explanation for the delay.

4008.5 The EDC shall provide a report to the Commission containing the information required in Subsection 4008.4, paragraphs (a)-(**g**) within ninety (90) calendar days of the close of each year.

Subsection 4099.1 of Section 4099, DEFINITIONS, is amended to read as follows:

4099.1 When used in this chapter, the following terms and phrases shall have the following meaning:

…

"Interconnection Cost Variance Report" – means a report prepared by the EDC and sent to the Interconnection Customer that provides itemized detail on the cost variances between the initial cost estimate and the actual costs incurred for the addition of Interconnection Facilities and/or Distribution System Upgrades.

3. Any person interested in commenting on the subject matter of this proposed rulemaking action may submit written comments not later than thirty (30) days after publication of this notice in the *District of Columbia Register* addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 and sent electronically on the Commission's website at https://edocket.dcpsc.org/public/public_comments. Copies of the proposed rules may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket" tab, click on "Search Current Dockets," and input "RM40" as the case number. Copies may also be purchased at cost by contacting the Commission Secretary at the address provided above. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 626-5150 or send an email to psc-commissionsecretary@dc.gov. After the comment period has expired, the Commission will take final action on this rulemaking.

A TRUE COPY: **BY DIRECTION OF THE COMMISSION:**

CHIEF CLERK: **BRINDA WESTBROOK-SEDGWICK**
COMMISSION SECRETARY

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance ("DHCF" or "Department"), pursuant to the authority set forth in Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109); D.C. Official Code § 7-771.05(6) An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 and Mayor's Order 2024-115, dated July 1, 2024, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 102 (*My Health GPS* Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

DHCF is the single state agency responsible for the administration of the State Medicaid program under Title XIX of the Social Security Act and the Children's Health Insurance Program under Title XXI of the Social Security Act in the District. As the single state agency, DHCF is also responsible for supervising and administering the District of Columbia State Plan (State Plan) for Medical Assistance pursuant to 42 U.S.C. §§ 1396 *et seq.*.

The *My Health GPS* program was established by DHCF as a Health Home program under the authority of Section 1945 of the Social Security Act to address the unmet care management needs of District Medicaid beneficiaries who have three (3) or more chronic conditions. Historically, many of these beneficiaries have not received comprehensive care management services, resulting in the preventable utilization of fire and emergency medical services, avoidable emergency department services and hospital admissions, and poor health outcomes. To meet the healthcare needs of this vulnerable population, the comprehensive care management services offered through the *My Health GPS* program are delivered by an interdisciplinary team, embedded in the primary care setting, that coordinates patient-centered and population-focused care.

Since the program was launched on July 1, 2017, twelve (12) primary care organizations were approved as *My Health GPS* entities, and these organizations have enrolled over eighty-five hundred (8,500) beneficiaries. To improve access to and quality and sustainability of *My Health GPS* services, the Director of DHCF is, through this rulemaking, making programmatic and reimbursement changes to the *My Health GPS* program on an emergency basis and proposing to make such changes on a permanent basis.

In this rulemaking, DHCF is amending Section 10207 to update the *My Health GPS* reimbursement rate methodology and frequency. In place of the current two (2) per-member-per-month rates based on different acuity levels, DHCF is implementing a single rate for all acuity levels that will be reimbursable quarterly to providers who provide at least one (1) authorized *My Health GPS* activity that quarter. While reimbursement will not differ based on acuity level, under the new per-member-per-quarter rate methodology, there are two (2) rates based on the scope of services provided during the visit. One rate claim is for the quarter when the *My Health GPS* entity either develops the initial care plan or completes the required annual update of the care plan, which requires additional time and resources. The second rate supports the remaining three (3) quarters when *My Health GPS* services are provided to support the care plan.

In addition, DHCF is amending Sections 10205 and 10207 to eliminate the link between the acuity level and the reimbursement rates for the Health Home services and shift enrollees of the *My Health GPS* program to a single acuity level, which would replace the current low and high acuity levels. DHCF will continue to use the nationally recognized risk stratification tool to provide acuity data for the *My Health GPS* enrollees. DHCF will encourage providers to consider the acuity levels when stratifying the beneficiaries as well as informing the enrollee's assessment and development of the care plan.

This rulemaking also amends the staffing requirement in Section 10205. This change will streamline the staffing model from the two (2) acuity-based staffing requirements to one (1) staffing requirement. The new staffing requirement allows for staff to participate based on a population of four hundred (400) enrollees; specific practitioner requirements to deliver the health home services are also outlined in this section.

DHCF is also amending Sections 10206 and 10207 to clarify that the in-person requirement for assessments is limited to only the initial assessment. All subsequent biopsychosocial assessments may be completed in the setting selected by the beneficiary, through in-person, video conference or other electronic modality, or telephone, in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (Pub.L. 104-191, Aug. 21, 1996, 110 Stat. 1936) (HIPAA).

After evaluating the operational and administrative requirements to implement pay-for-performance, DHCF is removing mentions of the program from Sections 10208, 10209, and 10299.

This rulemaking also revises Section 10201 to include all Home and Community-Based Services waivers with case management services and how receipt of these services impacts eligibility for the *My Health GPS* program.

This rulemaking removes Section 10209 in its entirety, as the provider incentive payment from 2017 is no longer applicable to any future *My Health GPS* services.

Finally, this rulemaking makes conforming amendments to other regulations based on the changes set forth above.

Emergency rulemakings are promulgated only for the immediate preservation of public peace, health, safety, welfare, or morals, pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)). These changes are needed on an emergency basis in order to maintain the health and welfare of this vulnerable population of District residents by preventing increased morbidity and mortality rates resulting from unmet healthcare needs. These changes are needed to incentivize providers to remain with the *My Health GPS* program and to sustain access to life-saving care coordination services.

There is no aggregate fiscal impact in Medicaid expenditures as a result of these changes in FY 2025 or FY 2026.
These emergency and proposed rules correspond to a related State Plan amendment (SPA), which was approved by CMS on June 12, 2024, with an effective date of May 12, 2024.

These emergency rules were adopted by the Director of DHCF on June 10, 2025, and shall become effective upon publication in the *District of Columbia Register*. The emergency rules will remain in effect for one hundred and twenty (120) days or until October 9, 2025, unless superseded by publication of a Notice of Final Rulemaking in the *District of Columbia Register*.

The Director also gives notice of his intent to take final rulemaking action to adopt these emergency and proposed rules not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

Chapter 102, *MY HEALTH GPS* PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 10201, ELIGIBILITY CRITERIA, is amended as follows:

Subsections 10201.2 and 10201.3 are amended to read as follows:

10201.2 The following categories of beneficiaries shall not be eligible for the *My Health GPS* program:

(a) Beneficiaries enrolled in the Home and Community-Based Services (HCBS) Waiver for the Elderly and Individuals with Physical Disabilities, as described in Chapter 42 of Title 29 of the District of Columbia Municipal Regulations (DCMR);

(b) Beneficiaries enrolled in the HCBS Waiver for Persons with Intellectual and Developmental Disabilities, as described in Chapter 19 of Title 29 DCMR;

(c) Beneficiaries enrolled in the HCBS Waiver for Individual and Family Support, as described in Chapter 90 of Title 29 of the DCMR;

(d) Beneficiaries residing in a nursing facility;

(e) Beneficiaries residing in an Intermediate Care Facility for Individuals with Intellectual Disabilities;

(f) Beneficiaries enrolled in the *My DC Health Home* program, as described in Chapter 25 of Title 22-A DCMR;

(g) Beneficiaries enrolled in a Dual-Eligible Special Needs Plan (D-SNP) under the District Dual Choice program; and

(h) Beneficiaries enrolled in other case management programs that would be duplicative of the *My Health GPS* program.

10201.3 A beneficiary who is eligible for more than one Health Home program in the District of Columbia may choose to enroll in one of the programs but may not be concurrently enrolled in more than one Health Home program.

A new Subsection 10201.5 is added to read as follows:

10201.5 A Medicaid beneficiary is considered enrolled in the *My Health GPS* program when the following conditions are met:

(a) The beneficiary has completed an initial assessment; and

(b) The *My Health GPS* provider has submitted a claim and has received payment for this assessment.

Section 10202, BENEFICIARY ASSIGNMENT AND ENROLLMENT, is amended as follows:

Subsections 10202.2 and 10202.3 are amended to read as follows:

10202.2 A beneficiary shall only be assigned to a single *My Health GPS* entity at any time in accordance with the process set forth below:

(a) An eligible beneficiary shall be assigned to the *My Health GPS* entity that currently provides the beneficiary's primary care services or to a *My Health GPS* entity that is part of a corporate entity that currently provides the beneficiary's primary care services; or

(b) If the beneficiary has a relationship with more than one (1) *My Health GPS* entity, as determined by the Department of Health Care Finance (DHCF) through a review of Medicaid claims submitted during the past twelve (12) months, the beneficiary shall be assigned to the *My Health GPS* entity seen most frequently during the review period; or

(c) If a beneficiary who meets the criteria described in (b) has seen multiple *My Health GPS* entities with equal frequency during the review period, the beneficiary shall be assigned to the entity seen most recently during the review period; or

(d) If the beneficiary does not have a prior relationship with any *My Health GPS* entity, as determined by DHCF through a review of Medicaid claims submitted during the past twelve (12) months, the beneficiary shall be assigned to a *My Health GPS* entity based on the entity's capacity to serve additional beneficiaries and the geographic proximity of the beneficiary to the entity.

10202.3 The initial assignment of eligible beneficiaries shall occur after the prospective entity has successfully completed the application process and received approval to become a *My Health GPS* provider from DHCF. Eligible beneficiaries who enter the program after the initial assignment period shall be assigned on a time basis established in accordance with guidance published to the DHCF website or within thirty (30) days of receipt of a referral from a *My Health GPS* provider, whichever is earlier..

Subsection 10202.5 is amended to read as follows:

10202.5 DHCF shall provide any other provider furnishing primary care services to an eligible beneficiary with:

(a) Notification that the beneficiary served by the provider has been determined eligible for the *My Health GPS* program and assigned to a *My Health GPS* entity;

(b) A clear explanation of the benefits of the *My Health GPS* program and the services provided; and

(c) Information regarding the *My Health GPS* entity to which each beneficiary has been assigned.

Subsections 10202.9, 10202.10, and 10202.11 are amended to read as follows:

10202.9 DHCF may reassign a beneficiary from the *My Health GPS* program if:

(a) A beneficiary is assigned to a *My Health GPS* entity that has not submitted an initial claim for a person-centered care plan in accordance with § 10207.12 within the first two (2) quarters following the effective date of the beneficiary assignment, as described in § 10202.3; or

(b) DHCF determines through an internal review, at least annually, that the beneficiary is no longer actively participating in the *My Health GPS* program and the beneficiary's *My Health GPS* entity has not submitted claims for reimbursement of Health Home services by the quarter in which the beneficiary's next annual assessment and care plan fall.

10202.10 If DHCF reassigns a beneficiary to a new *My Health GPS* entity, DHCF shall notify the entity to which the beneficiary was previously assigned of the reassignment in writing, including the following information:

(a) A clear statement explaining why the beneficiary has been re-assigned;

(b) Specific reference to the applicable sections of the rules, statute or provider manual; and

(c) The effective date of the re-assignment.

10202.11 The effective date of a beneficiary's enrollment in the *My Health GPS* program shall be the date on which the *My Health GPS* provider completes the components of the beneficiary's person-centered care plan in accordance with § 10207.12.

Subsection 10202.12 is deleted in its entirety.

Section 10203, BENEFICIARY DISENROLLMENT, is amended as follows:

Subsection 10203.1 is amended to read as follows:

10203.1 DHCF shall disenroll a beneficiary from the *My Health GPS* program if DHCF determines that the beneficiary no longer meets the eligibility requirements as set forth under § 10201.

Subsection 10203.5 is amended to read as follows:

10203.5 DHCF shall issue a reconsideration decision no more than thirty (30) calendar days from the date of receipt of the documentation required in § 10203.3**.**

Subsection 10203.8 is amended to read as follows:

10203.8 DHCF shall not disenroll a beneficiary from the *My Health GPS* program while a Fair Hearing is pending if the beneficiary files the Fair Hearing request prior to the effective date of the proposed action to disenroll the beneficiary.

Section 10204, *MY HEALTH GPS* ENTITY APPLICATION PROCESS, is amended as follows:

Subsections 10204.3 through 10204.5 are amended to read as follows:

10204.3 In addition to the minimum requirements set forth in §§ 10204.1 and 10204.2, each applicant shall be required to:

(a) Provide a copy of the National Committee for Quality Assurance (NCQA) Patient-Centered Medical Home (PCMH) Recognition designation or proof that the organization has initiated the NCQA PCMH application process for the prospective *My Health GPS* entity; provided, that an applicant submitting this proof of initiation must subsequently, within twelve (12) months of the date of application for *My Health GPS* status, submit proof that it has been granted PCMH recognition ;

(b) Demonstrate use of certified electronic health record (EHR) technology to support the creation and execution of a person-centered care plan for each beneficiary;

(c) Provide twenty-four (24) hour, seven (7) days per week access to clinical advice, including culturally appropriate translation and interpretation services for beneficiaries with limited English proficiency;

(d) Demonstrate the availability of an interdisciplinary team with sufficient capacity to serve eligible beneficiaries including, at a minimum, qualified practitioners to fill each of the roles described in §§ 10205.3 and 10205.4;

(e) Demonstrate the ability to deliver all *My Health GPS* services in accordance with the requirements described in § 10206, either directly through the organization or through a subcontractor;

(f) Establish and maintain data sharing agreements with other healthcare providers, as necessary, to comply with all applicable requirements of the Health Insurance Portability and Accountability Act of 1996, effective August 21, 1996 (Pub. L. 104-191; 110 Stat. 1936) (HIPAA); and

(g) Provide proof of enrollment as a participating organization with the designated District of Columbia Health Information Exchange (DC HIE), as defined in 29 DCMR § 8799.1, with which the *My Health GPS* Entity shall send and receive clinical information including admission, discharge, and transfer messages as well as continuity of care documents for patients in their panel. The *My Health GPS* Entity shall use tools within the Designated DC HIE to conduct care coordination, inform targeted interviews, and monitor performances in quality measures.

10204.4 DHCF shall review applications from organizations described in § 10204.1 to become *My Health GPS* entities on an ongoing basis.

10204.5 A prospective *My Health GPS* entity shall not be eligible for the initial assignment of eligible beneficiaries as described in § 10202.3 until the application described in § 10204.4 is approved by DHCF.

Section 10205, *MY HEALTH GPS* PROVIDER REQUIREMENTS, is amended as follows:

Subsections 10205.3 through 10205.14 are amended to read as follows:

10205.3 Each *My Health GPS* provider shall comprise, at a minimum, the following practitioners, or comparable practitioners, as approved by DHCF on a case-by-case basis, as set forth below:

(a) A Health Home Director, who has a Master's level education in a health-related field;

(b) A Nurse Care Manager, who has an advanced practice nursing license or a Bachelor of Nursing degree with appropriate care management experience;

(c) A Social Worker (Care Coordinator), who has a Bachelor's degree in social work or has a Bachelor's degree in a health-related field with at least three (3) years' experience in a healthcare or human services field; and

(d) A Peer Navigator, who is a health educator capable of linking beneficiaries with the health and social services they need to achieve wellness. This individual has either completed at least forty (40) hours of training, or has at least six (6) months of experience, in community health.

10205.4 For *My Health GPS* providers, the following minimum staffing ratios are required per 400 beneficiaries:

(a) Health Home Director: One half (0.5) full-time employee;

(b) Nurse Care Manager: Two (2) full-time employees;

(c) Social Worker (Care Coordinator): One (1) full-time employee; and

(d) Peer Navigator: One (1) full-time employee.

10205.5 Each *My Health GPS* entity shall demonstrate that all its *My Health GPS* providers comply with the minimum staffing ratios set forth in § 10205.4 no later than the end of the second quarter following the effective date of the entity's enrollment in the *My Health GPS* program. A *My Health GPS* entity shall continue to comply with all minimum staffing ratios for the duration of the entity's enrollment in the program.

10205.6 If a *My Health GPS* provider fails to comply with the minimum staffing ratio set forth in § 10205.4, the entity shall only be allowed to retain the beneficiaries who were enrolled with the provider before the provider's staffing ratio exceeded the maximum permitted ratio. Any remaining beneficiaries shall be re-assigned to another *My Health GPS* provider.

10205.7 If all *My Health GPS* providers within a *My Health GPS* entity have maximized capacity to serve the entity's enrolled beneficiaries in accordance with the staffing ratio outlined in § 10205.4 and the entity is contacted by a beneficiary who wishes to receive *My Health GPS* services from any of its *My Health GPS* providers, the entity shall notify DHCF within one (1) business day of receiving the beneficiary's request. DHCF will reassign the beneficiary to a *My Health GPS* provider that has capacity.

10205.8 If beneficiaries are re-assigned to another *My Health GPS* entity pursuant to § 10205.6, DHCF shall notify the entity to which the beneficiaries were previously assigned of the re-assignment in writing consistent with the requirements set forth in § 10202.11.

10205.9 If DHCF re-assigns a beneficiary to a new *My Health GPS* entity, DHCF shall inform the beneficiary of the re-assignment in accordance with § 10202.10.

10205.10 Each *My Health GPS* provider shall conduct outreach to each beneficiary in accordance with the following timeframes:

(a) The provider shall conduct outreach by the end of the third quarter following the effective date of the entity's enrollment for all beneficiaries initially assigned to the entity as described in § 10202.3; and

(b) The provider shall conduct outreach by the end of the third quarter following the effective date of the beneficiary's assignment for all beneficiaries subsequently assigned to the entity as described in § 10202.3.

10205.11 Each *My Health GPS* provider shall document the outreach activity performed pursuant to § 10205.10 by including the following information in each beneficiary's EHR or use the tools approved by DHCF:

(a) The date and time the activity was performed;

(b) The identity of the *My Health GPS* provider staff member who performed the activity;

(c) A description of the setting in which the activity was performed; and

(d) A description of the activity, including mode of communication.

10205.12 In order to maintain enrollment as a *My Health GPS* entity, each organization described in § 10204.1 shall:

(a) Participate in all activities scheduled by DHCF to support the successful implementation of the *My Health GPS* program, including:

(1) Trainings to foster professional competency and development of best practices related to person-centered planning, chronic disease self-management, and related topics;

(2) Continuous quality improvement tasks, monitoring, and performance reporting;

(3) District-wide initiatives to support the exchange of health information; and

(4) Evaluation required by the Centers for Medicare and Medicaid Services (CMS), DHCF, or its agent;

(b) Maintain compliance with all requirements set forth in this chapter; and

(c) Maintain compliance with all terms and conditions set forth in the entity's DC Medicaid provider agreement including all modifications, as well as with all applicable federal and District laws.

10205.13 Each *My Health GPS* entity shall enter into a Memorandum of Agreement (MOA) or delegation agreement with each D.C. Medicaid Managed Care Plan (MCP). The MOA shall set forth the division of responsibilities between the MCP and the *My Health GPS* entity.

Section 10206, *MY HEALTH GPS* SERVICES, is amended as follows:

Subsection 10206.1 is amended to read as follows:

10206.1 Each *My Health GPS* provider shall provide the following services to eligible beneficiaries:

(a) Comprehensive Care Management, as described in § 10206.3;

(b) Care Coordination, as described in § 10206.4;

(c) Health Promotion, as described in § 10206.5;

(d) Comprehensive Transitional Care, as described in § 10206.6;

(e) Individual and Family Support Services, as described in § 10206.7; and

(f) Community and Social Support Services, as described in § 10206.8.

Subsections 10206.3 and 10206.4 are amended to read as follows:

10206.3 Comprehensive Care Management shall consist of the creation, documentation, execution, and maintenance of a person-centered plan of care.

(a) Activities included in the delivery of Comprehensive Care Management services include the following:

(1) Conducting a comprehensive biopsychosocial needs assessment to collect behavioral, primary, acute, and long-term care information

from all health and social service providers appropriate for a particular beneficiary, including providers specific to pediatric beneficiaries, to inform development of the person-centered plan of care;

(2) Developing a person-centered care plan that reflects any unique cultural needs of the beneficiary and is developed in a language or literacy level that the beneficiary can understand, that is documented and maintained in the *My Health GPS* provider's certified EHR system and includes the following components:

(A) A list of the beneficiary's chronic conditions;

(B) Issues identified during the comprehensive biopsychosocial needs assessment described in paragraph (a) of this subsection;

(C) Identification of the beneficiary's strengths and needs;

(D) Individualized specific, measurable, attainable, realistic, and timed goals that address the beneficiary's chronic conditions and the issues identified during the assessment;

(E) Identification of interventions needed to support the beneficiary in meeting the individualized goals; and

(F) A plan to review the beneficiary's progress toward the individualized goals at set intervals and to revise the person-centered care plan as appropriate;

(3) Updating the person-centered care plan in the *My Health GPS* provider's certified EHR system as follows:

(A) Annually;

(B) Each time the beneficiary has a significant change in health condition; and

(C) Within fifteen (15) days of discharge each time the beneficiary has an unplanned inpatient stay; and

(4) Monitoring the beneficiary's health status and documenting the beneficiary's progress toward the goals contained in the person-centered plan of care, including amending the care plan as needed.

(b) The initial assessment and care plan shall be done in-person. The subsequent assessments, care plans, and quarterly visits can be delivered through telehealth according to applicable HIPAA requirements.

10206.4 Care Coordination shall consist of implementation of the person-centered care plan through appropriate linkages, referrals, and coordination with needed services and supports. Care Coordination services include the following:

(a) Scheduling appointments and providing telephonic appointment reminders;

(b) Assisting the beneficiary in navigating health and social services systems, including behavioral health and housing supports as needed;

(c) Providing community-based outreach and follow-up, including face-to-face contact with beneficiaries in settings in which they reside, which may include shelters, the streets, or other locations for homeless beneficiaries;

(d) Providing outreach and follow-up through telehealth to beneficiaries who do not require in-person contact;

(e) Ensuring that all regular screenings are conducted through coordination with primary care or other appropriate providers;

(f) Ensuring that medication reconciliation has been completed;

(g) Assisting with transportation to routine and urgent care appointments;

(h) Assisting with transportation for health-related activities;

(i) Assisting with the completion of requests for durable medical equipment;

(j) Obtaining health records and consultation reports from other providers;

(k) Participating in hospital and emergency department transitions of care;

(l) Coordinating with Fire and Emergency Medical Services and DHCF initiatives to promote appropriate utilization of emergency medical and transport services;

(m) Facilitating access to urgent care appointments and ensuring appropriate follow-up care;

(n) Ensuring that the beneficiary is connected to and maintains eligibility for any public benefits to which the beneficiary may be entitled, including Medicaid; and

(o) Providing support to children transitioning from a pediatric practice to an adult practice.

Subsection 10206.6 is amended to read as follows:

10206.6 Comprehensive Transitional Care shall consist of the planned coordination of transitions between healthcare providers and settings in order to reduce emergency department and inpatient admissions, readmissions, and length of stay. Comprehensive Transitional Care services shall include the following:

(a) Conducting outreach to the beneficiary prior to discharge or within forty-eight (48) hours after discharge to support transitions from inpatient to other care settings, including the following activities:

(1) Reviewing the discharge summary and instructions;

(2) Ensuring that medication reconciliation has been completed;

(3) Ensuring that follow-up appointments and tests are scheduled and coordinated;

(4) Assessing the patient's risk status for readmission or other failure to obtain appropriate community-based care;

(5) Arranging for follow-up care, if indicated in the discharge plan;

(6) Planning for appropriate clinical care post-discharge, including home health services or other necessary skilled care;

(7) Planning for appropriate housing support services post-discharge, including facilitating linkages to temporary or permanent housing;

(8) Arranging transportation for transitional care and follow-up appointments as needed; and

(9) Scheduling appointments for the beneficiary with a primary care provider or appropriate specialist(s) within one (1) week of discharge.

Subsection 10206.8 is amended to read as follows:

10206.8 Community and Social Support Services shall consist of the process of connecting beneficiaries to resources to help them overcome access or service barriers, increase self-management skills, and achieve overall health, as identified in the person-centered plan of care, and ensuring that the referral is completed. Referrals to

Community and Social Support Services may include:

(a) Wellness programs, including smoking cessation, fitness, and weight-loss programs;

(b) Support groups specific to the beneficiary's chronic condition(s);

(c) Substance abuse treatment services, including support groups, recovery coaches, and twelve (12)-step programs;

(d) Housing resources, including tenancy sustaining services;

(e) Social integration services, including psychiatric rehabilitation and peer support or consumer-run programs to foster recovery and community re-integration;

(f) Public assistance programs, such as Temporary Assistance for Needy Families or the Supplemental Nutrition Assistance Program;

(g) Social Security benefits;

(h) Employment and educational programs or training;

(i) Legal assistance resources;

(j) Faith-based organizations; and

(k) Childcare.

Section 10207, REIMBURSEMENT, is amended to read as follows:

10207 REIMBURSEMENT

10207.1 DHCF shall reimburse *My Health GPS* entities for the provision of covered *My Health GPS* services described in § 10206 using a per-member-per-quarter (PMPQ) payment structure that aligns with the quarters of the calendar year.

10207.2 A *My Health GPS* entity shall be eligible to receive only one of the following two (2) rates, per quarter, for each beneficiary enrolled in the *My Health GPS* program:

(a) A PMPQ reimbursement rate for the initial comprehensive assessment and the development of the person-entered care plan. The rate also applies to the annual reassessment and care plan revision. Following the initial assessment, this PMPQ shall be available no earlier than the quarter in which the beneficiary's annual reassessment falls; and

(b) A PMPQ reimbursement rate for the three (3) quarters in which an initial assessment or annual reassessment is not performed.

10207.3 The PMPQ rate set forth in § 10207.2(a) shall be higher than the PMPQ rate set forth in § 10207.2(b), reflecting the additional *My Health GPS* provider staff and resources required to complete the needs assessment and care plan update.

10207.4 DHCF shall use a nationally recognized risk adjustment tool to identify the acuity level of each beneficiary in accordance with guidance published on the DHCF website. Based upon the results of the analysis, DHCF shall provide the data for each beneficiary to the assigned *My Health GPS* provider. The identified acuity levels are not related to the PMPQ rates but shall be used by the providers to stratify their population and develop priority and engagement strategies.

10207.5 DHCF shall publish guidance on the methodology used to identify the acuity level of each beneficiary on the DHCF website at dhcf.dc.gov.

10207.6 DHCF will update and provide the beneficiaries' revised acuity level, annually, to the *My Health GPS* provider, consistent with the procedure set forth in §10207.4.

10207.7 The base PMPQ rates for the rates set forth in § 10207.2 shall be established based on the staffing model described in §§ 10205.3 and 10205.4, and adjusted to take into account regional salaries, including fringe benefits. The rates shall also take into account the average expected service intensity for beneficiaries and shall be determined in accordance with the requirements of 42 USC § 1396a(a)(30)(A).

10207.8 Two (2) payment enhancements shall be added to each PMPQ rate set forth in § 10207.2 to:

(a) Reflect the *My Health GPS* provider's overhead or administrative costs; and

(b) Support the *My Health GPS* provider in procuring, using, or modifying health information technology.

10207.9 DHCF shall review the PMPQ rates set forth in § 10207.2 on an annual basis to ensure that the rates are consistent with requirements set forth in 42 USC § 1396a(a)(30)(A).

10207.10 The PMPQ rates set forth in § 10207.2 shall be established and listed in the D.C. Medicaid fee schedule, available at: https://dc-medicaid.com

10207.11 In order to receive the first PMPQ payment for an eligible beneficiary, a *My Health GPS* provider shall:

(a) Outreach and inform the beneficiary about available *My Health GPS* program services;

(b) Obtain the beneficiary's informed consent to receive *My Health GPS* program services in writing; and

(c) Complete the following components of the person-centered care plan in accordance with the standards for Comprehensive Care Management set forth in § 10206.3(a)(2):

(1) Conduct an in-person needs assessment in accordance with § 10206.3(a);

(2) Enter available clinical information and information gathered at the in-person needs assessment into the person-centered care plan, which shall include individualized goals pursuant to § 10206.3(a)(2)(iv); and

(3) Retain documentation demonstrating the delivery of each of the activities described in (1) and (2) above.

10207.12 In order to receive a subsequent PMPQ payment for an eligible beneficiary, a *My Health GPS* provider shall review the completed person-centered care plan in accordance with the standards set forth in § 10206.3, provide a copy of the completed plan of care to the beneficiary, and provide a *My Health* GPS service as follows:

(a) Deliver at least one (1) *My Health GPS* program service to the beneficiary within the calendar quarter; and

(b) Complete the annual reevaluation of the care plan no earlier than the anniversary quarter of the last assessment and care plan update performed.

10207.13 For the initial and annual evaluation of the assessment and care plan PMPQ payments set forth in § 10207.2(a), a maximum of one (1) initial and annual PMPQ payment is claimable annually per beneficiary, regardless of whether the beneficiary elects to receive additional services from a different *My Health GPS* entity or withdraws from the program and later re-enrolls.

10207.14 Each *My Health GPS* provider shall document each program service and activity provided in each beneficiary's EHR. Any Medicaid claim for program services shall be supported by written documentation in the EHR that clearly identifies the following:

(a) The specific service(s) rendered and descriptions of each identified service sufficient to document that each service was provided in accordance with the requirements set forth in § 10206;

(b) The date and time the service(s) were rendered;

(c) The *My Health GPS* provider staff member who provided the service(s);

(d) The setting in which the service(s) were rendered;

(e) The beneficiary's person-centered care plan provisions related to the service(s) provided; and

(f) Documentation of any further action required for the beneficiary's well-being as a result of the service(s) provided.

10207.15 Each claim for a *My Health GPS* service shall meet the requirements of § 10206 and shall be documented in accordance with § 10207.14 in order to be reimbursed.

Section 10208, QUALITY REPORTING REQUIREMENTS, is amended to read as follows:

10208 QUALITY REPORTING REQUIREMENTS

10208.1 Each *My Health GPS* entity shall report to DHCF as outlined in the policy guidance document available at https://dhcf.dc.gov/page/my-health-gps-program-forms-and-materials on the following measure set, in accordance with 42 USC § 1396w-4(g).:

CMS "Health Home Quality Reporting," which may be located on the CMS website at:
https://www.medicaid.gov/resources-for-states/medicaid-state-technical-assistance/health-home-information-resource-center/health-home-quality-reporting/index.html

10208.2 Each *My Health GPS* entity shall utilize certified EHR technology to collect and report all data required for the quality measures described in § 10208.1.

10208.3 Each *My Health GPS* entity shall submit hybrid data as required by CMS and DHCF in accordance with protocols outlined in the *My Health GPS* provider manual, based on current required performance measures, available here: https://dhcf.dc.gov/page/my-health-gps-program-forms-and-materials.

10208.4 Each *My Health GPS* entity shall report each sentinel event to DHCF within twenty-four (24) hours of occurrence in accordance with the procedure set forth in the *My Health GPS* provider manual.

10208.5 Each *My Health GPS* entity may also be required to submit an annual program evaluation report to DHCF, which may include the following components:

(a) The *My Health GPS* entity's approach to delivering services;

(b) Barriers to the current delivery of *My Health GPS* services;

(c) Interventions unique to the *My Health GPS* entity; and

(d) Strategies to improve future delivery of *My Health GPS* services.

Section 10209, INCENTIVE PAYMENTS, is repealed and reserved.

Section 10210, AUDITS AND REVIEWS, is amended as follows:

Subsection 10210.1 is amended to read as follows:

10210.1 DHCF shall perform audits of *My Health GPS* entities to ensure that Medicaid payments for *My Health GPS* services are consistent with efficiency, economy, and quality of care, and made in accordance with Federal and District conditions of payment.

Subsections 10210.3 and 10210.4 are amended to read as follows:

10210.3 DHCF shall perform audits of claims submitted by *My Health GPS* entities, including using statistically valid scientific sampling, to determine the appropriateness of *My Health GPS* services rendered and billed to Medicaid to ensure that Medicaid payments can be substantiated by documentation that meets the requirements set forth in § 10207.14 and are made in accordance with all requirements of this chapter and all other applicable Federal and District laws.

10210.4 If DHCF determines that any claim(s) submitted by a *My Health GPS* entity were not submitted in accordance with all requirements of this chapter and all other applicable Federal and District laws, DHCF shall deny the identified claim(s) and recoup those monies erroneously paid to a *My Health GPS* entity following the period of administrative review, as set forth in § 10210.6.

Subsection 10210.10 is amended to read as follows:

10210.10 In lieu of the offset of future Medicaid payments, the *My Health GPS* entity may choose to send a certified check made payable to the District of Columbia Treasurer in the amount of the funds to be recouped within thirty (30) calendar days following the period of administrative review as set forth in § 10210.6.

Section 10211, *MY HEALTH GPS* SANCTIONS, WITHDRAWAL AND TERMINATION, is amended as follows:

Subsection 10211.3 is amended to read as follows:

10211.3 If a *My Health GPS* entity is notified of a non-compliance issue as set forth in § 10211.2 and fails to submit a proposed CAP within the timeframe identified in the notification, DHCF shall notify the entity of the failure to submit the proposed CAP and may impose the following sanctions:

(a) Deny further assignment of beneficiaries;

(b) Seek repayment from the *My Health PS* entity for services rendered during the time period of non-compliance; or

(c) Terminated the entity's participation in the *My Health GPS* program.

Subsection 10211.10 is amended to read as follows:

10211.10 DHCF may extend the thirty (30) day period prescribed in § 10211.9 for good cause on a case-by-case basis.

Subsection 10211.13 is amended to read as follows:

10211.13 If a *My Health GPS* entity wishes to withdraw from the program or to remove a provider from the *My Health GPS* portion of its D.C. Medicaid Provider Agreement, the entity shall take the following action:

(a) If the entity wishes to withdraw from the program, the entity shall give ninety (90) days written notice of the intended withdrawal to DHCF, which includes a comprehensive plan for transferring all of the entity's affected beneficiaries to another *My Health GPS* provider or entity. Further guidance will be provided in the policy guidance documents available at https://dhcf.dc.gov/page/my-health-gps-program-forms-and-materials.

(b) If the entity wishes to remove a provider from the *My Health GPS* portion of its D.C. Medicaid Provider Agreement, the entity shall give ninety (90) days written notice of the intended removal to DHCF, which includes a comprehensive plan to transfer all of the entity's affected beneficiaries to another *My Health GPS* provider or entity and execute a modified *My Health GPS* Agreement.

Section 10299, DEFINITIONS, is amended to read as follows:

Subsection 10299.1 is amended to read as follows:

10299 DEFINITIONS

10299.1 When used in this chapter, the following terms shall have the meanings ascribed:

Assigned Beneficiary – An individual who is eligible based on the *My Health GPS* eligibility criteria and has been designated to a *My Health GPS* provider.

Beneficiary – An individual deemed eligible for and in receipt of services provided through the District Medicaid program.

Best Practice Protocols – Documented policy and procedure that outlines how the *My Health GPS* provider team shall provide care coordination services, using clinical methods, processes, and interventions that will improve the quality of care delivered.

Care Plan – A living document developed in conjunction with the beneficiary and the *My Health GPS* team that contains the beneficiary's goals, wants, and needs along with objectives and interventions that will assist in meeting the goals. This document guides the delivery of *My Health GPS* services.

Chronic Conditions – Health conditions or diseases that are long-lasting but manageable with proper care and coordination. DHCF has identified the chronic conditions eligible for the *My Health GPS* program in § 10201.1.

Comprehensive Biopsychosocial Assessment (Needs Assessment) – The collection and documentation of beneficiary information gathered through an assessment by a qualified clinician that identifies the beneficiary's strengths, weaknesses, risk, and needs.

Corporate Entity – An organization that holds a single Employer Identification Number, as defined in 26 CFR § 301.7701-12.

Corrective Action Plan (CAP) – Sanction issued with the purpose of identifying, addressing, and notifying providers of their non-compliance with the program.

Disenrollment – The process by which DHCF removes previously eligible beneficiaries from the *My Health GPS* program due to the loss of their eligibility for the program.

Fair Hearing – A procedure whereby the District provides an opportunity for a hearing to any person whose claim for assistance is denied consistent with the requirements set forth in 42 CFR § 431.200 *et seq*.

Federally Qualified Health Center (FQHC) – An organization that meets the definition set forth in Section 1905(l)(2)(B) of the Social Security Act (42 USC § 1396d(1)(2)(B)).

Hybrid Data – A combination of administrative data (i.e. claims, encounters, and vital records) and clinical data contained in medical records.

***My Health GPS* Entity –** A primary care clinical individual practice, primary care clinical group practice, or Federally Qualified Health Center currently enrolled as a District Medicaid provider that incorporates a *My Health GPS* provider into its primary care service delivery structure.

***My Health GPS* Provider** – An approved interdisciplinary team that delivers *My Health GPS* services within a *My Health GPS* entity.

Opt Out – The process by which an eligible beneficiary chooses not to participate in the *My Health GPS* program.

Outreach – Active and progressive attempts at beneficiary engagement, including direct communication (*i.e.* face-to-face, mail, email, telephone) with the beneficiary or the beneficiary's designated representative.

Per-Member-Per-Quarter (PMPQ) – The reimbursement rate cadence paid to the *My Health GPS* program-approved providers for completing *My Health GPS* services based on the program requirements.

Primary Care Practice (individual and group) – Located within a primary care setting, medical practitioners that provide holistic, preventative medical care to beneficiaries.

Primary Care Setting – Entry point for beneficiaries that focuses on the overall health needs of the beneficiaries.

Provider Change – The process by which a *My Health GPS* beneficiary chooses to move from their currently assigned *My Health GPS* provider to another *My Health GPS* provider of their choice.

Sentinel Event – Any unanticipated event in a healthcare setting resulting in death or serious physical or psychological injury to a patient and which is not related to the natural course of the patient's illness.

Withdrawal – The process by which a *My Health GPS* enrolled beneficiary chooses not to continue to participate in the *My Health GPS* program.

Comments on the subject matter of this proposed rule shall be submitted, in writing, to Melisa Byrd, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.gov, within thirty (30) days after the date of publication of this notice in the *District of Columbia Register*. Additional copies of the proposed rule may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2025-078
June 24, 2025

SUBJECT: Designation of Special Event Area — 4th of July Celebration with the U.S. Air Force Band

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as the Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 792, Pub. L. 93-198, D.C. Official Code § 1-204.22(11), and pursuant to 19 DCMR § 1301.8, it is hereby **ORDERED** that:

1. This Order applies to certain activities associated with the District's 4th of July Celebration with the U.S. Air Force Band event to celebrate the 249th anniversary of the signing of the Declaration of Independence in 1776.

2. From Wednesday, July 2, 2025, at 8:00 p.m. through Saturday, July 5, 2025, at 11:00 a.m., the following areas shall be designated as a Special Event Area to be used as staging and event grounds and shall be closed to vehicular traffic and parking:

   a. Pennsylvania Avenue, NW, between 12th Street, NW, and 14th Street, NW; and

   b. 13th Street, NW, between E Street, NW, and Pennsylvania Avenue, NW.

3. From Thursday, July 3, 2025, at 6:00 p.m., through Saturday, July 5, 2025, no later than 11:00 a.m., the following streets shall be closed to parking:

   a. The north and south curb lanes of Pennsylvania Avenue, NW between 12th Street, NW, and 14th Street, NW, including the south curb lane of Pennsylvania Avenue, NW on the north side of Freedom Plaza, between 13th Street, NW and 14th Street, NW;

   b. The north and south curb lanes of E Street, NW between 12th Street, NW and 13th Street, NW; and

   c. The east curb lane of 13th Street, NW, between E Street, NW and F Street, NW.

4. The Government of the District of Columbia is authorized to operate the Special Event Area designated by this Order and to conduct necessary and appropriate activities relating to the 4th of July Celebration with the U.S. Air Force Band event.

5. This Order is an authorization for the closure of the designated streets only. The operating entity shall secure and maintain all other licenses and permits applicable to the activities associated with the operation of the event on the designated streets. All building, health, life, and safety, and use of public space requirements shall remain applicable to the Special Event Area designated by this Order.

6. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2025-079
June 24, 2025

SUBJECT: Appointments — Board of Trustees of the University of the District of Columbia

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974, 88 Stat. 1424, Pub. L. 93-471, D.C. Official Code § 38-1202.01, pursuant to the Board of Trustees of the University of the District of Columbia Michael Dannenberg Confirmation Resolution of 2025, effective June 3, 2025, Resolution PR26-0168, pursuant to the Board of Trustees of the University of the District of Columbia David Croom Confirmation Resolution of 2025, effective June 3, 2025, Resolution PR26-0169, pursuant to the Board of Trustees of the University of the District of Columbia Dr. Abidemi Oyedele Confirmation Resolution of 2025, effective, Resolution PR26-0170, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **MICHAEL DANNENBERG** is appointed as member of the Board of Trustees of the University of the District of Columbia ("Board"), filling a vacant seat formerly held by Charlene Drew Jarvis, for the remainder of an unexpired term to end May 15, 2028.

2. **DAVID CROOM** is appointed as member of the Board, filling a vacant seat formerly held by Erroll Schwartz, for the remainder of an unexpired term to end May 15, 2028.

3. **DR. ABIDEMI OYEDELE** is appointed as member of the Board, filling a vacant seat formerly held by Reginald Felton, for the remainder of an unexpired term to end May 15, 2029.

4. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 3, 2025.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2025-080
June 25, 2025

SUBJECT: Appointment — State Superintendent of Education

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), pursuant to section 2 of the State Education Office Establishment Act of 2000, effective October 21, 2000, D.C. Law 13-176, D.C. Official Code § 38-2601, pursuant to the State Superintendent of Education Dr. Antoinette Mitchell Confirmation Resolution of 2025, effective May 6, 2025, PR26-0165, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **DR. ANTOINETTE MITCHELL** is appointed as the State Superintendent of Education, Office of the State Superintendent of Education, for a term to end four (4)-years from the date of confirmation.

2. This Order supersedes Mayor's Order 2025-047, dated March 28, 2025.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to the date of confirmation.

Muriel Bowser

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett

KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FUNDING AVAILABILITY

District of Columbia Opioid Response (DCOR) Evidence Base or Promising Practice Mini-Grants

The District of Columbia, Department of Behavioral Health (DBH) is soliciting applications from qualified applicants for services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of DBH's intent to make funds available for the purpose described herein. The applicable Request for Application (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria, and DBH terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	District of Columbia Opioid Response (DCOR) Evidence Base or Promising Practice Mini-Grants
Funding Opportunity Number:	RFA RM0 MG062725
Opportunity Category:	Competitive
DBH Branch/Division Unit:	Adult Services Administration
DBH Administrative Unit	State Opioid Response Program
Program Contact:	Maura Gaswirth maura.gaswirth1@dc.gov
Program Description:	This RFA identifies opportunities for grantees from all eight (8) wards in the District of Columbia to implement an evidence-based or promising practice to address opioid and stimulant use. Interventions can focus on prevention, harm reduction, treatment, or recovery.
Eligible Applicants:	Eligible entities that can apply for grant funds under this RFA are: 1. Non-profit, community-based organizations located in the District of Columbia. . 2. Physically located and currently operating in the District of Columbia.
Anticipated Number of Awards:	Up to 20 awards
Anticipated Amount Available:	$1,000,000
Floor Award Amount:	N/A
Ceiling Award Amount:	$50,000

Funding Authorization:

Legislative Authorization:	Title II Division H of the Consolidated Appropriations Act 2020
Associated CFDA#:	93.788
Associated Federal Award ID#:	1H79TI085728
Cost Sharing/Match Required?	No
RFA Release Date:	Friday, June 27, 2025
Pre-Application Conference (Date):	Thursday, July 3, 2025
Pre-Application Conference (Times):	9:30 am ET
Pre-Application Conference (Microsoft Teams):	**https://teams.microsoft.com/l/meetup-join/19%3ameeting_Nzk3ODY1MTQtMWU0Yy00MmJkLWExNjMtOTA4ODhkYjNhNGEz%40thread.v2/0?context=%7b%22Tid%22%3a%228fe449f1-8b94-4fb7-9906-6f939da82d73%22%2c%22Oid%22%3a%224c1e6918-b11e-48fa-b371-69115217a95c%22%7d**
Letter of Intent Due Date:	Thursday, July 3, 2025
Application Deadline Date:	Friday, July 11, 2025
Application Deadline Time:	12:00 PM ET
Links to Additional Information about this Funding Opportunity:	Serve DC: https://communityaffairs.dc.gov/content/community-grant-program#4 DBH RFA Opportunities: https://dbh.dc.gov/page/request-applications-01

Notes:

A. **DBH reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.**
B. **Awards are contingent upon the availability of funds.**
C. **Individuals are not eligible for DBH grant funding.**
D. **Applicants must have a UEI#, Tax ID#, and be registered in the federal Systems for Award Management (SAM).**
E. **Contact the program manager assigned to this funding opportunity for additional information.**
F. **Due to the change in focus of the grant and the need for funds to be spent by the end of the fiscal year (FY25), this is being posted less than two weeks apart.**

OFFICE OF THE CHIEF TECHNOLOGY OFFICER

NOTICE OF FUNDING AVAILABILITY/REQUEST FOR APPLICATIONS

District of Columbia's Coronavirus Capital Projects Fund (CPF)

The DC Office of the Chief Technology Officer (OCTO) invites interested persons to review its Coronavirus Capital Projects Fund Notice of Funding Availability and Request for Applications (NOFA/RFA). The NOFA/RFA is available online at: https://www.techtogetherdc.com/. For more information, please contact Kevin Hughes at octo.grants@dc.gov.

THE CLEMENCY BOARD OF THE DISTRICT OF COLUMBIA

NOTICE OF CLOSED MEETING

On Friday, July 11, 2025, at 10:30 a.m., the Clemency Board of the District of Columbia will hold a closed meeting to discuss confidential applications (Open Meetings Act, D.C. Official Code Section 2-575(b)(1)), pursuant to the Open Meetings Act, D.C. Code Section 2-575(b).

The meeting will be virtual via Webex. 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.

For additional information, please contact Kimberly Ulan, Staff Director and Associate General Counsel at (202) 727-2292 or kimberly.ulan@dc.gov.

THE CLEMENCY BOARD OF THE DISTRICT OF COLUMBIA

NOTICE OF PUBLIC MEETING

The Clemency Board of the District of Columbia will hold a meeting on Friday, July 11, 2025, at 10:30 a.m. The meeting will be held via Webex. Below is the draft agenda, meeting link, and log-in numbers for this meeting. The final agenda will be posted on the Clemency Board's website at https://clemency.dc.gov/.

AGENDA

1. Welcome and Call to Order
2. Old Business
3. New Business
4. Public Comments
5. Closed Session
6. Adjournment

Meeting Link:

https://dcnet.webex.com/dcnet/j.php?MTID=m257421195c12d272876e0d57f6bb5444

Registration: Please press Ctrl and click the link above to pre-register for the meeting.

Registration password: This meeting does not require a password for registration.

Webinar number (access code)**:** 2302 449 5040

Webinar password: maPXx22J3sf (62799225 when dialing from a phone or video system)

Join by phone: +1-202-860-2110 United States Toll (Washington D.C.) or
+1-650-479-3208 Call-in number (US/Canada)

Join by mobile device (attendees only): +1-202-860-2110,,23024495040#62799225# US Toll (Washington D.C.); or +1-650-479-3208,,23024495040#62799225# Call-in toll number US/Canada

Some mobile devices may ask attendees to enter a numeric password.

Join from a video system or application: Dial 23024495040@dcnet.webex.com

You can also dial: 173.243.2.68 and enter your webinar number.

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.

For additional information, please contact Kimberly Ulan, Staff Director at (202) 727-2292 or Kimberly.Ulan@dc.gov.

CRIMINAL JUSTICE COORDINATING COUNCIL

PREARREST DIVERSION TASK FORCE MEETING

AGENDA

Wednesday, June 25, 2025 | *12:30 pm – 1:30 pm* |
Meeting location: *441 4th St. NW, Washington, D.C. 20001, 11th Floor, Room 1114*

PURPOSE OF THE PREARREST DIVERSION TASK FORCE
The purpose of the Prearrest Diversion Task Force is to review and assess best practices around prearrest diversion and to make recommendations for implementing prearrest diversion of certain misdemeanor crimes in the District of Columbia.

PRESENTERS

Meeting Facilitator: Adam Schutzman, Policy Analyst, CJCC

Presenters: MPD, DBH

MEETING TOPICS	presenter
Welcome and Introduction	**CJCC**
1. Determination of goals and objectives for the prearrest diversion task force. a. Legislative goals and objectives b. Recommendations for agency implementation	
Discussion	
1. Presentation on Pre-Arrest Diversion Pilot Program of 2018. a. MPD and DBH will provide information on the pre-arrest diversion pilot program including background, resource allocation, training, data, implementation, collaboration and recommendations.	**MPD, DBH**
2. Process for selection of Prearrest Task Force Chairperson and for selection of community-based partners	**ALL**
3. Discuss the type of information needed for the task force to make informed recommendations about prearrest diversion	**ALL**

Scheduling

1. Schedule monthly meetings going forward. **ALL**

ATTACHMENTS

Please read the following documents included in the email with this agenda prior to attending the Task Force meeting.

- **District of Columbia Pre-Arrest Diversion Pilot Program 1 Pager**
- **Pre-Arrest Diversion: Connecting Police Community Contacts with District Services, Overview of the 2018 Pilot Period**

Previous Meeting Action Items	**Person/Agency**	**Deadline**
N/A	N/A	N/A

Please note: the Prearrest Diversion Task Force is subject to the open meetings act

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

ANNOUNCES JUNE 30, 2025 PUBLIC MEETING

FOR THE DISTRICT OF COLUMBIA EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN STATE COUNCIL

The Office of the State Superintendent of Education (OSSE) hereby announces that it will hold a public meeting of the District of Columbia Educational Opportunity for Military Children State Council ("Council") as follows:

MONDAY, JUNE 30, 2025
10:00 AM -11:00 AM (EST)

Please join the MS TEAMS meeting from your computer, tablet or smartphone.
Join the Meeting

You can also dial in using your phone.
Access Code: 712-123-774# United States: +1 (202) 594-9550

The draft agenda for the above-referenced meeting is the following:

I. Welcome and Introductions (5 Mins.)
II. Military Interstate Children's Compact Commission (MIC3) Operations and Updates (20 Mins.)
  a. DC's Citation Correction
  b. Presentation and Discussion on Proposed MIC3 Dues Increases
III. Presentation on Proposal for Purple Star Schools in DC (20 Mins.)
IV. Other Business and Announcements (15 Mins.)
V. Adjournment

For additional information, please contact:

Joseph Hood, Policy Analyst
State Council Chairman-Designee
Office of the State Superintendent of Education
1050 First St. NE, Third Floor, Washington, DC 20002
202-262-8883 or joseph.hood@dc.gov

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. All agendas, whether draft or final must include the statement. The statement is required pursuant to 3 DCMR § 10409.2.

Page **1** of **1**

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in (1) one Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2).

VACANT: 3E07

Petition Circulation Period: **Monday, June 30, 2025 through Monday, July 21, 2025**
Petition Challenge Period: **Thursday, July 24, 2025 through Wednesday, July 30, 2025**

Note: The deadline to file petitions or challenges is **4:45 p.m.** on the date listed above.

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions by email at candidate@dcboe.org or in-person during office hours at the following location:

D.C. Board of Elections
1015 Half Street, SE, Suite 750
Washington, DC 20003

For more information, the public may call **202-727-2525**.

FRIENDSHIP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Friendship Public Charter School is seeking bids from prospective vendors to provide;

- Comprehensive educational and academic consulting services for a K–12 public school system. The selected partner will support the development, implementation, and evaluation of strategies that enhance instructional quality, accelerate student achievement, and strengthen school and district-wide academic performance.

The competitive Request for Proposal can be found on FPCS website at http://www.friendshipschools.org/procurement/. Proposals are due no later than **4:00 P.M., EST, Friday, July 25, 2025**. No proposals will be accepted after the deadline. Questions can be addressed to ProcurementInquiry@friendshipschools.org .

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DEPARTMENT OF HEALTH

PUBLIC NOTICE

D.C. Board of Acupuncture, Chiropractic and Naturopathic Physicians Meeting

The District of Columbia Board of Acupuncture, Chiropractic and Naturopathic Physicians ("Board") hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) ("Act").

The Board's regular meetings shall now be conducted on the second Tuesday of every other month starting on July 8, 2025. The meetings will be held from 1:30 PM to 3:30 PM and will be open to the public from 1:30 PM until 2:30PM 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, D.C. Official Code § 2-574(b), the meetings will be closed from 2:30 PM until 3:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and/or violations of law or regulations.

The meetings will be held at 2201 Shannon Place, SE, Second Floor, Washington, DC 20020 unless otherwise indicated. Visit the Department of Health Events link at http://doh.dc.gov/events and the Board webpage at https://dchealth.dc.gov/service/licensing-boards for additional information.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF CANCELLATION OF PUBLIC MEETING

District of Columbia Combat Sports Commission

The District of Columbia Combat Sports Commission cancelled its monthly meeting scheduled on Wednesday, June 11, 2025.

Notice of future meetings will be posted on the Department of Licensing and Consumer Protection's website, https://dlcp.dc.gov/service/dlcp-board-meetings9.

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.

DC OFFICE OF NEIGHBORHOOD SAFETY AND ENGAGEMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

Consolidated Grief Support and Gun–Violence Prevention Mini-Grant

RELEASE DATE: Wednesday, June 25, 2025

DUE: Tuesday, July 22, 2025

The Office of Neighborhood Safety and Engagement's (ONSE) mission is to foster community-based strategies to help prevent violence and increase public safety. The ONSE is accepting applications for FY (Fiscal Year) 2025. Funding for this initiative has been allocated pursuant to the D.C. Official Code § 7-2411(f).

To fulfill our mission, the Family Survivor Support (FSS) and Violence Intervention (VI) divisions seek applications for funding under the *Consolidated Grief and Bereavement Support and Gun Violence Prevention* mini-grant.

The ONSE intends to issue up to twenty-five (25) grants under the following program areas:

- Grief and Bereavement Support- up to $100,000
- Violence Prevention- up to $150,000

Applicants may request up to $10,000 in funding to support the implementation of their proposed activities. The ONSE reserves the right to, without notice, reduce, cancel, or increase funding based on availability.

GENERAL INFORMATION

FUNDING: Local, Competitive

SUBMISSION:

https://www.zoomgrants.com/zgf/Office_of_Neighborhood_Safety_and_Engagement/FY25_Grief_Support_and_Violence_Prevention_Mini-Grant

ANTICIPATED NUMBER OF AWARDS: 25

AWARD AMOUNT: $10,000

APPLICATION DEADLINE: Tuesday, July 22, 2025, 8:00 pm EST

AWARD PERIOD: August 1 – September 30, 2025

INFORMATION SESSION: Virtual – July 8 @ 2:00 - 3:00 pm EST.

Click on the link.

PROGRAM CONTACT EMAIL ADDRESS: onse@d.c.gov

PROGRAM DESCRIPTION: The primary focus of the RFA is to support initiatives that contribute to addressing grief, loss, and violence prevention in the District of Columbia.

There are two funding opportunities. Applicants may apply for Grief and Bereavement Support or Gun Violence Prevention. Applicants must choose only **one**. Multiple applications will not be accepted.

TARGET POPULATION: This funding is targeted for youth (8-17) and individuals between the ages of 18 – 35 who are at the highest risk of violence and are often resistant and/or not eligible for other services.

ELIGIBLE APPLICANTS: Community-based non-profit organizations, clergy groups, individuals, or small businesses in the District of Columbia are eligible to apply. Applicants must have a District of Columbia business license and a history of providing services in the District of Columbia. For-profit organizations are eligible but may not include profit in their grant application. For-profit organizations may also participate as subcontractors to eligible applicants.

DISTRICT OF COLUMBIA
OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

FY25 DC FAMILY FUN DESTINATIONS

NOTICE OF CANCELLATION OF
FUNDING AVAILABILITY
For RFA Identification No.: DMPED – FY25 – DCFFD

This notice cancels and supersedes the notice of funding availability published in the DC Register on Friday, May 30, 2025 at 72/22 DCR N141215

The text of the cancelled notice follows:

Background:
The Office of the Deputy Mayor for Planning and Economic Development ("**DMPED**") invites the submission of applications from qualified organizations for the FY25 DC Family Fun Destinations Program ("**DC Family Fun Destinations Program**" or "**Program**"). The purpose of the Program is to promote the development of permanent or semi-permanent family-friendly attractions in Washington, DC ("**District**").

Purpose:
The Program will provide grants for the purpose of creating or enhancing public spaces, exhibits, or activities that will attract families to the District's Central Business District. The Program will incentivize the development or enhancement of permanent or semi-permanent attractions that will drive foot traffic, offer a new experience to the surrounding neighborhood, and create economic impact. The term "attraction" means an indoor or outdoor facility or space that is open to the public for cultural, recreational, or entertainment uses. Example projects include community-gathering spaces, performance or creative space, outdoor game or music infrastructure, public art, activities for children and families (e.g., a children's garden, play equipment, etc.), and immersive, interactive, or virtual reality experiences.

Project Requirements:
- Projects must be active for a minimum of 30 consecutive days at a project site or 30 consecutive days across multiple project sites, with a preference for kids play immersive play experiences.
- Projects must be in the Central Business District (to be further described in the RFA).
- Applicants should clearly demonstrate how projects will be appealing and accessible to children and families.
- Projects must be complete and open to the public no later than September 30, 2025, with preference for projects that can open less than 45 days after grant award.
- Applications for projects intended to be permanent must include a plan for long-term financial sustainability and maintenance.

- Applications should demonstrate a high level of community engagement in response to community needs.
- Projects must abide by all District laws and regulations.
- Applicants should demonstrate site control or site approval, including a plan to acquire permits or approvals for the use of outdoor space, or a Letter of Intent for leased space.
- Applicants must demonstrate a financial match of at least 30% of the Project costs.
- Preference will be given to Projects that occupy vacant commercial space or occupy outdoor space.

The Program will be funded pursuant to the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 12, 2012 (D.C. Law 19-168; D.C. Official Code § 1-328.04(x)), and the "American Rescue Plan Act of 2021", effective March 11, 2021 (Public Law No: 117-2) (as may be amended or extended, "**ARPA**"). The Program is also supported by the Economic Development Administration State Tourism Grant Program.

Eligible applicants:
Non-profit organizations or associations, including:
- Creative/cultural, community or faith-based nonprofit organizations.
- organizations with placemaking and/or community development experience; and

Individuals and for-profit entities are not eligible to receive grants. No grant funds expended by the awardee may be used to subsidize or defray the operating costs of for-profit businesses. However, eligible applicants may partner with for-profit business entities, schools, and other non-profit organizations on the development of the project.

Additional details about eligibility and criteria for selecting applicants will be included in the RFA.

Anticipated Number of Awards: DMPED anticipates making 1 to 3 awards, ranging from $100,000 up to $1,420,486.00 million, and will fund up to 30% of project cost (applicant must demonstrate private funding commitments and/or other support). Applicant to request funding amount at time of application with need demonstrated by budget documents. Based on an internal review panel of recommendations, the resources available, and the goals of the Program, DMPED will make the final funding decision. DMPED will award up to **$1,420,486.00** in total grants to be disbursed to successful applicants of the Grant.

Grant Information Session: DMPED will host a virtual information session on Friday, May 16, 2025. Please check the https://dmped.dc.gov/ website for more details.

Contact Name: DMPED Grants Team **Phone:** (202) 727-6365 **Email:** dmped.grants@dc.gov.

Availability of RFA: The RFA and grant application will be released on Friday, June 6, 2025, and posted at https://dmped.dc.gov/.

Application Process: The grant application process will include an initial screening of applicants, a review panel process, and a final review to determine the final funding decision. Each step will be further described in the RFA.

Grant Application Deadline for Electronic Submission: Applicants must submit a completed online application to DMPED via the Grant Vantage system no later than 12:00 PM/ET on ***Friday, June 27, 2025***.

Period of Performance: All projects funded by this Program must be complete and open to the public no later than September 30, 2025.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

PEPPOR-2024-01, PEPCO PURCHASE OF RECEIVABLES,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 2-505 and 34-802 of the District of Columbia Code,[1] of its final action approving the Potomac Electric Power Company's (Pepco) Purchase of Receivables (POR) Discount Rate tariff.

2. On March 17, 2025, Pepco filed a tariff amendment modifying the POR Discount Rate for Residential customers and Small Commercial Customers.[2] The POR program is currently available to retail electricity suppliers with customers in the District. Pepco proposes to amend the following tariff pages to reflect the update to its POR Discount Rate in compliance with Order No. 22379.

ELECTRICITY SUPPLIER COORDINATION TARIFF, P.S.C. of D.C. No.1
(Former) Tenth Revised Page No. i
Tenth Revised Page No. ii
Tenth Revised Page No. iii
Tenth Revised Page No. iv
Sixth Revised Page No. 41
Sixth Revised Page No. 42

(New) Eleventh Revised Page No. i
Eleventh Revised Page No. ii
Eleventh Revised Page No. iii
Eleventh Revised Page No. iv
Seventh Revised Page No. 41
Seventh Revised Page No. 42

3. Pepco will apply a discount rate of 11.3079% on the receivables associated with Residential Customers on Schedules R and MMA; 0.0000% with Small Commercial Customers on Schedules GS-LV-ND, T, SL, TS, TN, and OL-LED; and 0.0000% with Large Commercial Customers on Schedules GS-LV, GS-3A, MGT-LV, GT-LV, GT-3A, GT-3B, and RT.

4. In Attachments B through D of the Update Pepco describes how the Discount Rates are derived using the POR data for the period January through December

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[1] D.C. Code § 2-505 and D.C. Code § 34-802.

[2] *PEPPOR-2025-01, Potomac Electric Power Company's Purchase of Receivables Program*, Potomac Electric Power Company's Revised POR Discount Rate Tariff Update, filed March 17, 2025.

2023. Attachment B of the Update is a summary showing the results of the Write-Offs, including Reinstatements, and Late Payment Revenues expressed as a percentage of Third-Party Supplier Revenues for Residential Customers served under Schedules R and MMA, Small Commercial customers served under Schedules GS-LV-ND, T, SL, TS, TN and OL-LED, and Large Commercial customers served under Schedules GS-LV, GS-3A, MGT-LV, GT-LV, GT-3A, GT-3B, and RT. Pepco uses Calendar Year 2022 as a proxy of ongoing costs, consistent with the Commission's direction in Order No. 22379.[3]

5. Attachment C lists from January through December 2023, by month and by customer type, Electric Revenues Billed, less POR Discounts, Net Electric Revenues Billed, Late Payment Revenues, and Write-Offs, net of Reinstatements. Attachment D provides detailed calculations by customer type for the Reconciliation and Interest Factor. Pepco requests that the Commission accept these proposed POR Discount Rates with an effective date of May 1, 2025.

6. On March 28, 2025, the Commission published a Notice of Proposed Tariff ("NOPT") in the D.C. Register inviting public comment on Pepco's tariff amendment within 30 days.[4] No parties timely filed comments in response to the NOPT, but the Retail Energy Supply Association filed comments on May 2, 2025. The Commission, at its regularly scheduled Open Meeting, held on June 18, 2025, took final action approving Pepco's POR Discount Rate update. The updated rates shall become effective upon publication of this Notice of Final Tariff in the *D.C. Register*.

A TRUE COPY: **BY DIRECTION OF THE COMMISSION:**

CHIEF CLERK: **BRINDA WESTBROOK-SEDGWICK**
COMMISSION SECRETARY

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3 *PEPPOR-2024*-01, POR Supplier Discount Rate Update at Attachment B.

4 *72 D.C. Reg.* 003584-003586 (March 28, 2025).

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after September 1, 2025.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 899 North Capitol Street, Suite 8100, Washington, D.C. 20002 within seven (7) days of the publication of this notice in the *D.C. Register* on June 27, 2025. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

Adeniyi	Abiola	X-Elio North America Holdco, LLC 1255 23rd Street, NW, Suite 300	20037
AlSaud	Deputy Prime Minister Crown Princess Dr. M.	Self (Dual) 3 Tingey Square, SE, #912	20037
Baldwin	Elizabeth	Gina Lynn Law 1008 Pennsylvania Avenue, SE	20003
Barry	Steven Joseph	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Brown	Renee Nicole	Chase Bank 1120 G Street, NW	20005
Calaway	Christian	National Audubon Society 1828 L Street, NW, Suite 200	20036
Cromartie	Harold	D.C. Registered Agency, Inc. 2300 N Street, NW, Suite 300	20037
Curry	Madison	Outten & Golden, LLP 1225 New York Avenue, NW	20005
Davis	Marcia Renee	Mayor"s Office on Returning Citizen Affairs 2100 Martin Luther King Jr. Avenue, SE, Suite 100	20020
Dayan	Rebecca L.	Legal Aid DC 1331 H Street, NW, Suite 350	20005
Derricott	Jazmine	TD Bank 905 Rhode Island Avenue, NE	20018
Dominguez-Isdith	Magnolia	Children's National Hospital 111 Michigan Avenue, NW	20010
Dove	Tracy	District Steno	

		7135 8th Street, NW	20012
Griffin	Mark G.	Griffin & Griffin, LLP 1320 19th Street, NW, Suite 800	20036
Hamilton	Kesia M.	KMH Consulting 4110 18th Street, NW	20011
Harris	Ariel	Self 1901 Otis Street, NE	20018
Hendrix	Shelva	Self 6130 13th Street, NW	20011
Hernandez	Astrid Z.	International City County Management Association 777 North Capitol Street, NE, Suite 500	20002
Hill	Joan P.	National Child Research Center 3209 Highland Place, NW	20008
Hillier	Dawn A.	Neal R. Gross & Co., Inc. 1716 14th Street, NW	20009
Jesch	Fatiah V.	Werner Ahari & Mangel, LLP 2112 Pennsylvania Avenue, NW, Suite 200	20037
Johnston	Wala	Self 2022 Maryland Avenue, NE	20002
Keller	Susan	Jeffrey J. Kimbell & Associates, Inc. 401 9th Street, NW, Suite 920	20004
Lassiter-Kidane	Danyell	Consigli Construction Co., Inc. 1825 K Street, NW, Suite 1000	20006
Love	Laura Jane	Strategic Marketing Innovations 200 Massachusetts Avenue, NW, Suite 510	20001

Maguigad	Coralyn Cassidy	Penn Washington, University of Pennsylvania 101 Constitution Avenue, NW, Suite 600W	20001
Margolis	Jacob Louis	Cohen & Gresser, LLP 2001 Pennsylvania Avenue, NW, Suite 300	20006
Massey	Amber M.	International City County Management Association 777 North Capitol Street, NE, Suite 500	20002
Maunga	Sylvie M.	Mayor's Office on Returning Citizen Affairs 2100 Martin Luther King Jr. Avenue, SE, Suite 100	20020
McElroy	Kiera	Ryan 2050 M Street, NW, Suite 800	20036
Mena	Danielle	Monumental Sports and Entertainment 601 F Street, NW	20004
Newson	LaToya	U. S. Equal Employment Opportunity Commission 131 M Street, NE	20507
Oliver	Sheila	Chase Bank 3100 14th Street, NW, Suite 118	20010
Paglio	Peter	Self (Dual) 3750 39th Street, NW, #D148	20016
Pearson	Abrielle	Barnes & Thornburg, LLP 555 12th Street, NW, Suite 1200	20004
Pearson	Kevina Shemayah	National Association of Letter Carriers 100 Indiana Avenue, NW	20001
Pope III	Thomas E.	Citibank 1258 Wisconsin Avenue, NW	20007

Prestwood	Troy D.	Self 2317 16th Street, SE, #101	20020
Riliey	Ashley	Self 2627 Adams Mill Road, NW, #103	20009
Sanders Jr.	Michael	Children's National Hospital 111 Michigan Avenue, NW	20010
Schantz	Melody L.	Franklin Karibjanian & Law 1101 17th Street, NW, Suite 820	20036
Seide	Jordyn P.	Mayor's Office on Returning Citizen Affairs 2100 Martin Luther King Jr Avenue, SE	20020
Slattery	Jim	Executive Office of the Mayor 1350 Pennsylvania Avenue, NW, Suite 300	20004
Smith	Brianna	The Washington Times 3600 New York Avenue, NE	20002
Welch	Madeline	Self 4931 Fitch Place, NE	20019
Yanes	Dehbia	Bank of America 1800 K Street, NE	20006
Yim	Ashley	Jones Lang Lasalle 2020 K Street, NW, Suite 1100	20006

DISTRICT OF COLUMBIA STATE ATHLETICS COMMISSION

SUMMER MEETING VIA TEAMS

July 1, 2025
6:00pm – 7:00pm

Join Teams Meeting

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZDZhNDU3OTYtMWQ5Mi00NTdhLThlNDMtMWMxZGFjZGZhMDFm%40thread.v2/0?context=%7b%22Tid%22%3a%228fe449f1-8b94-4fb7-9906-6f939da82d73%22%2c%22Oid%22%3a%22fb0c1b64-138a-4404-9103-b878251b8c84%22%7d

DCSAC Summer Meeting

I. Call to Order

II. Ascertainment of Quorum

III. Approval of Minutes from April 22, 2025

IV. Director's Update

   a. Spring State Championship Season Recap
   b. DC Live – Girls and Boys
   c. SY25/26 Handbook
   d. Fall Season

V. New Business from the Floor

VI. Adjournment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA Application No. 20821-A
1717 E Street NE, LLC
1717 E Street, NE (Square 4546, Lots 198 and 199)

HEARING DATES (20821):	December 21, 2022 and March 22, 2023
DECISION DATE (20821):	March 22, 2023
ORDER ISSUANCE DATE (20821):	March 27, 2023
DECISION DATE (20821-A):	June 11, 2025

SUMMARY ORDER ON REQUEST FOR ONE-YEAR TIME EXTENSION

ORIGINAL APPLICATION. In Application No. 20821, the Board of Zoning Adjustment ("**Board**" or "**BZA**") approved the request by 1717 E Street NE, LLC (the "**Applicant**") for special exception, area variance, and use variance relief to combine three lots into one record lot, create two theoretical lots on the record lot, and construct a semi-detached, three-story, 3-unit apartment house on each theoretical lot in the RF-1 zone. The Board issued Order No. 20821 on March 27, 2023 (the "**Order**," Exhibit 3). Pursuant to Subtitle Y § 604.11, the Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became final.

REQUEST FOR ONE-YEAR TIME EXTENSION. On March 26, 2025, the Applicant submitted a request that the Board grant a one-year extension of Order No. 20821. (Exhibits 1-5.)

NOTICE OF THE REQUEST. Pursuant to Subtitle Y § 705.2(a), the Applicant provided proper and timely notice of the request for time extension to the parties to the underlying case. (Exhibit 5.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 7D.

ANC REPORT. The ANC did not submit a report to the record.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the time extension. (Exhibit 7.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

CONCLUSIONS

This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.2(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.2(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.2(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, the Board finds that the Applicant has met the criteria of Subtitle Y § 705.2 to extend the validity of the underlying order.

Pursuant to Subtitle Y § 705.4, the Board's decision on the request shall be in writing and shall become final and effective upon its filing in the record and service upon the parties.

DECISION

It is therefore **ORDERED** that the request for a one-year time extension to the validity of the Board's approval in Order No. 20821 is hereby **GRANTED**, and the Order shall be valid until **March 27, 2026**.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Gwen M. Wright 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: June 17, 2025

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

BZA Application No. 20915A
Takoma Lot 5, LLC
6905 Willow Street, N.W. (Square 3359, Lot 52)

HEARING DATE (20915(1)): June 14, 2023
DECISION DATE (20915(1)): June 14, 2023
ORDER ISSUANCE DATE (20915(1)[1]): June 21, 2023
DECISION DATE (20915(1)-A): June 4, 2025

SUMMARY ORDER ON REQUEST FOR TWO-YEAR TIME EXTENSION

ORIGINAL APPLICATION. In Application No. 20915, the Board of Zoning Adjustment ("**Board**" or "**BZA**") approved the request by Takoma Lot 5, LLC (the "**Applicant**") for a special exception from the matter-of-right uses of Subtitle U § 401, pursuant to Subtitle U § 421 and Subtitle X § 901.2 to construct a new detached, three-story 9-unit apartment house in the RA-1 zone. The Board issued Order No. 20915 on June 20, 2023, and issued Corrected Order No. 20915(1) on June 21, 2023 (the "**Order**," Exhibit 3). Pursuant to Subtitle Y § 604.11, the Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became final.

REQUEST FOR TWO-YEAR TIME EXTENSION. On April 8, 2025, the Applicant submitted a request that the Board grant a two-year extension of Order No. 20915(1). (Exhibits 1-7.)

NOTICE OF THE REQUEST. Pursuant to Subtitle Y § 705.2(a), the Applicant provided proper and timely notice of the request for time extension to the parties to the underlying case. (Exhibit 5.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 4B.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 5, 2025, at which a quorum was present, the ANC voted to support the request. (Exhibits 11, 11A.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the time extension. (Exhibit 9.)

[1] The order number 20915(1) reflects the Corrected Order. For purposes of this time extension, the Corrected Order is the order being extended.

<u>DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT</u>. DDOT did not submit a report regarding this application for time extension.

<u>PERSONS IN SUPPORT</u>. The Board received a letter in support of the application from two neighbors, who are also former ANC Commissioners for SMDs 4B-04 (currently vacant) and 4B-02. (Exhibit 10.)

CONCLUSIONS

This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.2(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.2(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.2(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, the Board finds that the Applicant has met the criteria of Subtitle Y § 705.2 to extend the validity of the underlying order.

Pursuant to Subtitle Y § 705.4, the Board's decision on the request shall be in writing and shall become final and effective upon its filing in the record and service upon the parties.

DECISION

It is therefore **ORDERED** that the request for a two-year time extension to the validity of the Board's approval in Order No. 20915(1) is hereby **GRANTED**, and the Order shall be valid until **<u>June 21, 2027</u>**.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, 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: June 12, 2025

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. 21047 of Kesher Israel Congregation of Georgetown, pursuant to 11 DCMR Subtitle X, Chapter 9 for a special exception under Subtitle C § 1506.1 from the penthouse setback requirements of Subtitle C § 1504.1 and, pursuant to Subtitle X § 1002, for area variances from the rear yard requirements of Subtitle D § 207.1 and from the lot occupancy requirements of Subtitle D § 210.1 to allow a three-story addition to three existing attached or semi-detached buildings devoted to religious and accessory office and education uses in the R-3/GT zone at 2801 and 2803 N Street, N.W. and 1308 28th Street, N.W. (Square 1235, Lots 161, 163, and 800).

HEARING DATE: February 28, 2024
DECISION DATE: March 13, 2024

DECISION AND ORDER

This self-certified application was filed on October 17, 2023 on behalf of Kesher Israel Congregation of Georgetown, the Georgetown Synagogue-Kesher Israel Congregation, and Samuel J. Rosenstein Trustees (collectively, the "Applicant"), the owners of the property that is the subject of the application. Following a public hearing, the Board voted to approve the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. In accordance with Subtitle Y §§ 400.4 and 402.1, the Office of Zoning provided notice of the application and of the public hearing by letters dated November 7, 2023 to the Applicant, the Office of Planning ("OP") and the Historic Preservation Office, the District Department of Transportation, the Department of Buildings, Advisory Neighborhood Commission ("ANC") 2E, the ANC in which the property is located, Single Member District ANC 2E06, the Office of Advisory Neighborhood Commissions, the Councilmember for Ward 2 as well as the Chairman and the at-large members of the D.C. Council, and the owners of all property within 200 feet of the subject property. Notice was sent to the Commission of Fine Arts by November 14, 2023. Notice was published in the *D.C. Register* on November 24, 2023 (70 DCR 015307) as well as through the calendar on the Office of Zoning website.

Parties. Pursuant to Subtitle Y § 403.5, the Applicant and ANC 2E were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application submitted by Luis deBaca, the owner of the property abutting the subject property to the north. (Exhibit 22.) The Board also granted a request for party status conditionally in support of the application submitted by Jennifer Arndt, the owner of the property abutting the subject property to the west. (Exhibits 41, 41A.)

Applicant's Case. The Applicant provided evidence and testimony in support of the application including from Rabbi Hyim Shafner, representing Kesher Israel Congregation of Georgetown, Aaron Tessler, a congregant and vice president of Kesher's board of directors, Steven Kleinrock, an expert in architect, and Shane Dettman, an expert in zoning and land use planning.[1]

OP Report. By memorandum dated February 15, 2024, the Office of Planning recommended approval of the special exception and area variances requested by the Applicant. (Exhibit 28.)

ANC Report. By letter dated February 7, 2024, ANC 2E indicated that at duly noticed public meeting held on January 29, 2024, where a quorum was present, ANC 2E approved a resolution in support of the application with conditions. (Exhibit 20.)

Party in support with conditions. The party conditionally in support of the application initially opposed the Applicant's proposal, citing especially structural concerns as well as privacy and noise impacts, but subsequently indicated support for approval of the application with the conditions proffered by ANC 2E. (Transcript of February 28, 2024 at 112.)

Party in opposition. The party in opposition asserted that approval of the application would negatively affect the use of the abutting property by harming the structural integrity of the dwelling, by altering the residential appearance and character of the semi-detached building by allowing a substantially larger institutional structure on the abutting lot owned by the Applicant, and by raising concerns about security. The party in opposition asked the Board to adopt the conditions proffered by ANC 2E. (Exhibit 22.)

Persons in support. The Board received letters and heard testimony in support of the application from the Applicant's congregants, residents living near the subject property, and organizations including nearby religious institutions and the Citizens Association of Georgetown.

FINDINGS OF FACT

1. The property that is the subject of this application comprises three contiguous lots in Square 1235, one corner lot and two interior lots that abut the corner lot to the north and west. The corner lot (Lot 800) is located at the northwest corner of the intersection of 28th and N Streets N.W., with the address 2801 N Street, N.W. The abutting lot to the north (Lot 161) is located on the west side of 28th Street, with the address 1308 28th Street. The abutting lot to the west (Lot 163) is on the north side of N Street with the address 2803 N Street, N.W.

2. The subject property is rectangular, with a total lot area of approximately 6,055 square

[1] The Board also recognized a witness proffered by the Applicant, Kenneth Hill, as an expert in structural engineering.

feet.[2] (Exhibit 14.) The subject property has approximately 60 feet of frontage along N Street N.W. and approximately 100 feet of frontage along 28th Street N.W. (Exhibits 15, 21A1.)

3. The corner lot (Lot 800) is improved with a building built in 1931 as an orthodox synagogue.[3] The building contains approximately 4,802 square feet of gross floor area configured as two stories and a mezzanine, and is approximately 37 feet in height. The Lot 800 building is attached to the building on the abutting lot to the west, and is built to the lot lines along N and 28th Streets. The building extends approximately 60 feet along 28th Street, creating an irregular rear yard of 20 feet at its widest point.

4. The building on Lot 800 contains a projecting bay window on its east façade (facing 28th Street) as well as a projecting portico above the primary entrance on the south façade (on N Street). The only exterior modification made to the building since its construction was the installation of unenclosed fire egress stairs to the rear of the building in 1967. (Exhibit 12.)

5. The interior of the synagogue building has not changed significantly since its construction. The first floor contains restrooms, a community room/library, a small kitchen, and a staircase leading to the second floor and mezzanine. The main sanctuary is located on the second floor, with additional congregant gallery seating located on the mezzanine. The second and third floors are accessible by an internal staircase and the external egress stairs. (Exhibits 12, 21A1, 21A2.)

6. Lot 161 is improved with a semi-detached building that was constructed circa 1899. The two-story building contains approximately 1,834 square feet of gross floor area. The building is attached to a similar two-story building to the north, and has a narrow side yard on the south side of the lot. The building extends approximately 45 feet, creating a rear yard of approximately 15 feet.

7. The building on Lot 161 was formerly used as a principal dwelling and was acquired by the Applicant in 1992 for use as an annex to the synagogue on the adjoining Lot 800. In 2005 the Applicant completed the construction of a mikvah in the lowest level of the building.[4] The upper floors contain administrative offices. (Exhibits 12, 21A1, 21A2.)

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[2] Each of the three existing lots is rectangular. Lots 163 and 800 are each approximately 30 feet wide and 80 feet deep, with lot areas of approximately 2,400 square feet. Lot 161 is approximately 20 feet wide and 60 feet deep, with a lot area of approximately 1,200 square feet. (Exhibits 15, 21A1.)

3 The Applicant purchased Lot 800 in 1915 and converted an existing dwelling for use as a synagogue until a larger building was needed. The existing building has operated as an Orthodox Jewish congregation since 1931. (Exhibit 12; Transcript of February 28, 2024, at 123.)

[4] Construction of the mikvah, which the Applicant described as a "ritual bath," entailed an increase of approximately 18 inches in the elevation of the first floor and associated framing, which was altered to raise the ceiling height in the lowest level of the building. (Exhibit 12.)

8. Lot 163 is improved with a semi-detached building constructed as a principal dwelling circa 1877. The two-story building is approximately 15 feet wide and contains approximately 1,751 square feet of gross floor area. The building is attached to the synagogue building on the east and has a side yard of approximately 15 feet on its west side. The building is approximately 34 feet deep, creating a rear yard of approximately 46 feet. (Exhibit 12.)

9. The interior layout of the building on Lot 163 was reconfigured in 1951, when the primary entrance to the building was relocated from the south façade along N Street N.W. to the west façade, new window openings were made on each level, and a new cornice was created on the western elevation. The Applicant purchased Lot 163 in April 2022 intending to use the building for administrative and rabbinic offices. (Exhibits 12, 21A1, 21A2.)

10. In total, the three existing buildings create a lot occupancy of approximately 53 percent at the subject property. (Exhibit 21A1; Transcript of February 28, 2024 at 142.)

11. The Applicant proposed to subdivide the three existing lots into one new record lot and to construct an addition that will create a single, larger building from the three existing buildings, which currently do not have any interior connection. (Exhibits 12, 21A1, 21A2.)

12. The addition will be three stories and 32 feet, 3.25 inches in height, and will contain a cellar. The addition will contain 4,558 square feet of gross floor area, increasing the overall gross floor area of the combined buildings on the subject property to 12,688 square feet. (Exhibit 21A1.) As a result, the lot occupancy at the subject property will increase to 79 percent. (Exhibit 14; Transcript of February 28, 2024, at 142.)

13. The addition will occupy the existing open area between the synagogue on Lot 800 and the semi-detached building to the north on Lot 161 as well as a portion of the open area between the Lot 163 building to the west of the synagogue and the Lot 161 semi-detached building to the north. The existing egress stair and a shed in the rear yard of Lot 800 as well as an exterior entrance to the building on Lot 163 will be demolished.

14. The rear yard of the new lot will be provided along the rear (west) lot line of the subject property, where an open area will extend for the width of the lot between the Applicant's enlarged building and the abutting property to the west. The majority of the open area will be approximately 14 feet, 10 inches wide. A new entry vestibule will be created near the middle of the west façade, resulting in a rear yard of three feet, 10 inches for the new building for a distance of 13 feet. The open area will extend approximately 10 feet, nine inches deep adjacent to a planned elevator, which will be located next to the vestibule. (Exhibits 12, 21A1, 28, 38; Transcript of February 28, 2024, at 141.)

15. At the ground level, the addition will contain the main entrance vestibule and lobby

accessible from N Street in the west portion of the enlarged building. The one-story vestibule will be set back 42 feet from the N Street sidewalk, where a gate will be installed to control access to the subject property. The open area between the new gate on N Street and the entry vestibule will provide a pathway to the main entry to the building as well as a garden area. (Exhibit 12.)

16. In addition to the new entrance, the ground level will be configured as a main lobby containing a new elevator and code-compliant fire egress stairs to connect all floors of the building, a social hall, a kitchen, accessory office and meeting space, storage, an internal trash room, and restroom facilities. (Exhibits 12, 38; Transcript of February 28, 2024 at 135.)

17. The second floor of the enlarged building will contain the main sanctuary within the original synagogue structure, which will be renovated, as well as a rabbinic suite and waiting area within the existing structure now on Lot 163. A new library and restroom facilities will be located in the existing structure now on Lot 161. The second floor of the addition will be configured as a new study room in the eastern portion of the building between the main sanctuary and library, and a new lobby will connect the programmatic elements of the second floor and provide access to the elevator and fire egress. (Exhibits 12, 38.)

18. The third floor will include a reconstructed mezzanine within the main sanctuary structure, designed with code-compliant aisles and spacing. A small group gathering space, restroom facilities, and a family lounge will also be provided on the third floor as well as a lobby to connect programmatic elements and provide access to the elevator and fire egress stairs. An outdoor terrace, with a 36-inch glass railing, will be provided on the east side of the third floor of the addition, overlooking 28th Street N.W. (Exhibits 12, 38.)

19. The cellar level will contain mechanical areas, restrooms, and a new mikvah and related facilities (reception, changing, and laundry rooms). (Exhibits 12, 38.)

20. The roof level of the project will contain the override for the new elevator along the west (rear) wall of the building and the top of the new egress stair. The elevator override will be located near the midpoint of the west façade and will extend approximately five feet, one inch above the roof of the addition, with no setback from the west wall of the building. The new egress stair in the existing structure on Lot 163 will extend approximately three feet, seven inches above the existing roof level, and approximately six inches above an existing parapet wall, without a setback from the edge of the roof along N Street. The roof will also contain mechanical units ranging in height from approximately 3 feet to 4 feet, 10 inches. (Exhibits 12, 38.)

21. The new addition will have three windows on each floor of the west façade. The windows will be residential scale, double-glazed casement windows capable of opening a maximum of four inches. (Exhibits 12, 21A1, 38; Transcript of February 28, 2024 at 173-174.)

22. The property abutting the subject property to the west (2809 N Street, N.W.) contains a two-story row dwelling. The building has no windows on its east façade that would provide views of the Applicant's building.

23. The property abutting the subject property to the north (1310 28th Street, N.W.) contains a two-story semi-detached principal dwelling that shares a party wall with the Applicant's building on Lot 161.

24. The subject property is located in the Georgetown historic district. Each of the Applicant's existing buildings is a contributing structure to the historic district. (Exhibit 12.)

25. At a public meeting on September 21, 2023, the U.S. Commission of Fine Arts indicated no objection to the concept design for the Applicant's project based on a recommendation from the Old Georgetown Board ("OGB"), but asked the Applicant to reconsider aspects of the east façade as well as the proposed fenestration on the west façade of the new building. The Applicant subsequently revised plans for the east and west façades for submission to OGB at a meeting on March 7, 2024. (Exhibits 12, 21.)

26. There are 15 religious institutions within half a mile of the subject property, which are located on lots ranging in size from 3,500 to 34,850 square feet. The median land area of properties within a half-mile of the Applicant's lot that contain religious institutions is approximately 10,200 square feet, and the average lot area is 13,372 square feet. (Exhibit 12.)

27. The area surrounding the subject property primarily contains principal dwellings in two- or three-story row or semi-detached buildings interspersed with religious institutions and commercial uses. The subject property is two blocks north of the M Street commercial corridor. (Exhibits 12, 28.)

28. The subject property is located approximately a half-mile from the Foggy Bottom-GWU Metrorail station and within a quarter-mile of a Priority Corridor Network Metrobus Route. There are multiple Capital Bikeshare stations within a quarter-mile of the subject property. (Exhibit 12.)

29. The Applicant entered into an agreement with ANC 2E indicating the Applicant's intention to comply with the provisions adopted by the ANC as conditions for its support of the application. The provisions addressed the installation of landscaped buffers in specified locations on nearby properties, construction management measures, and limitations on the use of the open area along the west side of the subject property and the third-floor outdoor terrace on the east side of the Applicant's building, including prohibitions on music or amplified sound. (Exhibits 47, 47A.)

30. The subject property is located in a Residential House (R) zone, a Georgetown Residential

House zone (R-3/GT).

31. The R zones are residential zones, designed to provide for stable, low- to moderate-density residential areas suitable for family life and supporting uses. (Subtitle D § 101.1.) The R zones are intended to:
    (a) provide for the orderly development and use of land and structures in areas predominantly characterized by low- to moderate-density residential development;
    (b) recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city;
    (c) allow for limited compatible accessory and non-residential uses;
    (d) allow for the matter-of-right development of existing lots of record;
    (e) establish minimum lot area and lot width for the subdivision and creation of new lots of record; and
    (f) discourage multiple dwelling unit development. (Subtitle D § 101.2.)

32. The purpose of the R-3 zone is to allow for row houses, while including areas within which row houses are mingled with detached houses, semi-detached houses, and groups of three or more row houses. The R-3 zone is intended to permit attached row houses on small lots. (Subtitle D §§ 101.8 and 101.9.)

33. The purposes of the Georgetown Residential House (R-3/GT) zone are to:
    (a) protect the Georgetown National Historic Landmark District and its historic character, buildings, and open space in a manner consistent with the goals and mandates of the Historic Landmark and Historic District Protection Act of 1978, and the Old Georgetown Act, approved September 22, 1950 (64 Stat. 903; D.C. Official Code §§ 6-1201-1206);
    (b) protect the integrity of "contributing buildings," as that term is defined by the Historic Landmark and Historic District Protection Act of 1978;
    (c) recognize the compatibility of any development with the purposes of the Old Georgetown Act and the Historic Landmark and Historic District Protection Act of 1978;
    (d) limit permitted ground coverage of new and expanded buildings and other construction to encourage a general compatibility between the siting of new or expanded buildings and the existing neighborhood; and
    (e) retain the quiet residential character of these areas and control compatible nonresidential uses. (Subtitle D § 1100.2.)

CONCLUSIONS OF LAW

The Applicant seeks two area variances and a special exception to allow a three-story addition to connect and enlarge three existing attached and semi-detached buildings devoted to religious and accessory office and education uses in the R-3/GT zone at 2801 and 2803 N Street, N.W. and 1308

28th Street, N.W. (Square 1235, Lots 161, 163, and 800).

Area Variances. The Applicant proposed to construct an addition to the existing buildings that would result in a rear yard of three feet, 10 inches at the subject property, where a minimum of 20 feet is required under Subtitle D § 207.1. The addition would increase lot occupancy at the subject property to 79 percent, where a maximum of 60 percent is permitted under Subtitle D § 210.1. The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3), to grant a variance where, "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property," the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (See 11 DCMR Subtitle X § 1000.1.) Based on the findings of fact, and having given great weight to the recommendation of the Office of Planning and to the issues and concerns stated by ANC 2E, the Board concludes that the application satisfies the requirements for approval of the requested area variances.

Extraordinary or exceptional situation. For purposes of variance relief, the "extraordinary or exceptional situation" need not inhere in the land itself. *Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). The extraordinary or exceptional conditions affecting a property can arise from a confluence of factors; the critical requirement is that the extraordinary condition must affect a single property. M*etropole Condominium Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1082-1083 (D.C. 2016), citing *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

The Board may consider the property owner's needs in finding an exceptional situation or condition when the applicant is a non-profit organization and the proposed use is a public service. *Monaco*, 407 A.2d 1091 (D.C. 1979) (BZA considered permissible factors in applying the first branch of the variance test to a public service organization; the organization's wish to move to a particular site did not make the site unique, but the Board properly recognized that the site's location made it "uniquely valuable" to the organization and "uniquely suitable for [its] headquarters.") Generally, an applicant's desire to utilize property for a certain use is not by itself sufficient to create an extraordinary or exceptional situation or condition under the zoning regulations, *Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 540 (D.C. 1972), but subsequent decisions modified *Palmer*, permitting the Board to weigh more fully the equities in an individual case. *National Black Child Development Institute, Inc. ("NBCDI") v. District of Columbia Bd. of Zoning Adjustment*, 483 A.2d 687, 690 (D.C. 1984). Consistent with "a well established element of our governmental system," the Board "may be more flexible when it assesses a non-profit organization," even if "a commercial user before the BZA might not be able to establish uniqueness in a particular site's exceptional profitmaking potential." *Monaco* at 1098, quoting 3 R. Anderson, *American Law of Zoning* s 14.78 (1968). The characterization of a proposed use as a public service is significant, and "when a public service has inadequate facilities and applies for a variance to expand …, then the Board of Zoning Adjustment does not err in considering the needs of the organization as possible 'other extraordinary and exceptional situation or condition of a particular piece of property.'" *Monaco* at 1099. *See also NBCDI*, 483 A.2d 687 (D.C. 1984). The *Monaco* doctrine has been extended and applied to, *inter alia,* houses of worship. *See Dupont Circle Citizens Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 182 A.3d 138, 142-43 (D.C. 2018) (collecting cases and noting that "it requires no extension of the *Monaco* doctrine to hold that a church may be a public service organization entitled to additional flexibility"); *see also St. Mary's Episcopal Church v. District of Columbia Zoning Comm'n*, 174 A.3d 260, 268-271 (applying public good flexibility to a university's organization for Jewish students) and *McDonald, et al v. District of Columbia Bd. of Zoning Adjustment*, D.C. Court of Appeals 20-AA-0264 (decided April 6, 2023) (In granting variances needed for development of a continuing care retirement community, Board properly applied the public good flexibility doctrine to applicants, a church that was a non-profit entity providing community services and a for-profit entity that proposed to serve a statutorily recognized public need by constructing an assisted living facility in an area with high demand for continuing care retirement communities), *affirming* Application No. 19823 (Wisconsin Avenue Baptist Church; February 14, 2020). The Board may consider the public interest nature of a variance application both with respect to exceptional situation and practical difficulty. *Neighbors for Responsive Gov't, LLC v. District of Columbia Bd. of Zoning Adjustment*, 195 A.3d 35, 56 (D.C. 2018); *Monaco*, 407 A.2d 1091, 1098 (D.C. 1979).

The Board concludes that the subject property is faced with an exceptional situation and condition by virtue of a confluence of factors, including the Applicant's long-standing use of the site in a public service, its need to upgrade its facilities and to expand in a location proximate to its congregation,[5] and the physical constraints of the site, which is improved with three buildings that lack internal connections, have misaligned floors, and are contributing to a historic district. The Board credits the Applicant's testimony that its institutional programs and administrative needs have increased since the 1930s, leading to the Applicant's acquisition of two buildings on adjoining lots. However, the three buildings require improvements to address matters relating to accessibility, life safety, and security. The Board also agrees with the Applicant that the subject property is unusually small in comparison to other nearby places of worship.

<u>Practical difficulties</u>. An applicant for an area variance is required to show that the strict application of the zoning regulations would result in "practical difficulties." *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995), quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). A showing of practical

[5] The Applicant testified that its synagogue must be located within a reasonable walking distance of its congregant members due to unique institutional principles of Orthodox Judaism: on the Jewish Sabbath and on holidays, Orthodox Jews are explicitly prohibited from operating or riding any kind of vehicle (car, bus, train, bike, scooter, Ubers, Metro, etc.), and are not allowed to carry or use umbrellas, regardless of the weather; therefore, Sabbath-observant members of a Jewish Orthodox congregation typically live within a 30-minute walk of a synagogue. (Exhibit 12; Transcript of February 28, 2024, at 125-126.) According to the Applicant, the "closest full service Orthodox synagogue in the District" is located six miles from the subject property and the Applicant's sustained presence at the subject property "is critical to the cohesion and stability of Kesher's existing congregation" of approximately 300 families who live in Georgetown or within walking distance of the subject property. (Exhibit 12.)

difficulty requires "'[t]he applicant [to] demonstrate that ... compliance with the area restriction would be unnecessarily burdensome….'" *Metropole Condominium Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1084 (D.C. 2016), quoting *Fleishman v. District of Columbia Bd. of Zoning Adjustment*, 27 A.3d 554, 561-62 (D.C. 2011). In assessing a claim of practical difficulty, proper factors for the Board's consideration include the added expense and inconvenience to the applicant inherent in alternatives that would not require the requested variance relief as well as "the weight of the burden of strict compliance" and the effect the requested variances would have on the overall zone plan. *Barbour v. District of Columbia Bd. of Zoning Adjustment*, 358 A.2d 326, 327 (D.C. 1976); *Gilmartin* 579 A.2d at 1171. The need to expand does not automatically exempt a public service organization from all zoning requirements. In applying for an area variance, a public service organization must show (1) that the specific design it wants to build constitutes an institutional necessity, not merely the most desired of various options, and (2) precisely how the needed design features require the specific variance sought. *Draude v. District of Columbia Bd. of Zoning Adjustment*, 527 A.2d 1242, 1256 (D.C. 1987).

The Board concludes that the strict application of the zoning regulations would result in peculiar and exceptional practical difficulties to the Applicant as the owner of the subject property because compliance with the applicable rear yard and lot occupancy requirements would prevent the Applicant from accommodating its present and future needs at the site, potentially precluding its continued presence at its current location and jeopardizing its continued existence. The Board credits the Applicant's assertion that the project design was "driven by [the Applicant's] specific religious and institutional needs"[6] and that strict compliance with zoning requirements "would significantly and negatively impact [the Applicant's] ability to address the programmatic needs of its current congregation and resolve the significant accessibility and code compliance issues currently present" at the subject property. (Exhibit 12.)

The application described the Applicant's need to expand its facilities to meet current code, accessibility, life safety, security, and programmatic requirements. For example, the accessibility and mechanical, engineering, and plumbing systems of the existing synagogue have not been fully modernized to current codes and other requirements since the building was constructed in the 1930s. (Exhibits 12, 38.) The Applicant's project will improve security through the provision of an entry vestibule and will enhance accessibility by making interior connections to the existing buildings, such as providing elevator access to each floor.

With respect to lot occupancy, the Applicant testified that the difference between 53 percent (the existing lot occupancy) and 60 percent (the maximum permitted as a matter of right) equated to

[6] The Applicant stated its institutional needs as: a modernized synagogue, fully accessible and providing code-compliant elevator access, circulation aisles, and fire suppression and egress; a safe, secure facility with necessary protection of the entry and perimeter that provides a transition from the street to the building interior; improved building and programmatic efficiency through the integration of the three existing buildings into a single building with a lobby and circulation area; adequate social hall and kitchen space for congregant gatherings and occasional larger gatherings during mission-related events; an appropriately sized study hall and library; space for member counseling, education, and small informal gatherings and socializing; installation of new plumbing, electrical, mechanical, and life safety systems that conform to applicable codes; accessible restrooms consistent with code requirements considering the building size and occupancy. (Exhibit 12.)

"only 424 square feet of land area being available to Kesher to address [its] institutional needs … while remaining within the matter-of-right maximum lot occupancy." The Board credits the Applicant's assertion that 424 square feet was insufficient to address "its institutional needs, particularly the significant accessibility, egress, and security needs" and that strict compliance with the lot occupancy requirements would require the Applicant to reduce the size of its planned addition by approximately 1,150 square feet, which would "effectively eliminate[] all the proposed building core elements (elevator, stairs, lobby, vestibule) that are required to address the considerable accessibility and security issues on the Property." (Exhibit 12.) The core elements could not be inserted into the Applicant's existing structures without causing significant impacts to the historic façades and layouts of the buildings, the interior of the existing sanctuary, and the size of the existing programmatic spaces that the Applicant described as already insufficient to meet institutional needs. Similarly, the Applicant testified that "[c]ompliance with the 20-foot rear yard requirement would cause many of the same practical difficulties …." (Exhibit 12.)

<u>No substantial detriment to the public good.</u> Approval of the requested area variances will not result in substantial detriment to the public good. The Board credits the Applicant's testimony that the project was intended primarily to provide additional space and to address accessibility and circulation issues, upgrade life-safety measures, enhance security, and to provide the basic infrastructure, support spaces, and programmatic spaces to accommodate the needs of the Applicant's congregation. The seating capacity of the synagogue will not change significantly, and the Applicant did not anticipate an increase in the size of its membership or programming at the site as a result of the new building. (Exhibits 12, 39.) The project design will not unduly impact the light or air available to nearby properties, or compromise the privacy available to any other property. Neither abutting property has windows that face the Applicant's building, and the provision of a rear yard at the subject property will minimize light and air impacts of the new development. Under the circumstances, the Board did not agree with ANC 2E or the other parties that approval of the variances should be subject to conditions restricting the use of the rear yard or the new 3rd-floor terrace.

<u>No impairment of the zone plan</u>. Approval of the requested variances will not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Residential House zones accommodate non-residential uses that support the predominantly low- to moderate-density residential areas suitable for family life. The requested variances will be consistent with the Residential House zoning designation of the subject property by facilitating the orderly development and use of land and structures; recognizing and reinforcing the importance of neighborhood character, walkable neighborhoods, and improvements to the overall environment to the health of the city; and allowing for limited compatible non-residential uses. Approval of the requested variances is also consistent with the intent of the R-3/GT zone to protect the Georgetown National Historic Landmark District and its historic character, buildings, and open space. The Applicant's project was designed to protect the integrity of its three contributing buildings, and the additional ground coverage of the new development will encourage a general compatibility between the siting of the addition and the existing neighborhood without impeding the quiet residential character of the areas or introducing an incompatible nonresidential use at the subject property.

Special exception. The Applicant proposed to locate an elevator override and the top of a new egress stair on the roof of the addition without providing the setbacks from building walls required under Subtitle C § 1504.1.[7] As shown on the plans submitted with the application, the elevator override and egress stair will extend approximately five feet and approximately 3.5 feet above the roof, respectively, with no setbacks. (Exhibits 21A1, 38, 39.) The Board is authorized under Subtitle C § 1506.1 to grant relief from the setback requirements as a special exception, and is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in the Zoning Regulations, when, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* Subtitle X § 901.2.) Based on the findings of fact, and having given great weight to the recommendation of the Office of Planning and to the issues and concerns stated by ANC 2E, the Board determined that the application met the requirements for approval of the requested special exception.

Consistent with the requirements of Subtitle C § 1506.1(b), the Board concludes that the Applicant demonstrated that a reasonable effort was made to provide for the stairway and elevator override in compliance with the required setbacks. The application demonstrated that the Applicant's ability to provide needed mechanical equipment, stairway, and elevator override with the required setbacks was hindered by the configuration of the subject property and the three existing contributing buildings. The Applicant's plan to enlarge the existing buildings, with new internal connections to create one building, limited the options for locating the new elevator. Nonetheless, the Applicant attempted to reduce the degree of relief needed; for example, the Board credits the expert testimony of the Applicant's architect that the mechanical system selected for the project to power the elevator reduced the amount of setback relief needed. (Transcript of February 28, 2024 at 147.) The Board also credits the testimony of the Office of Planning that "locating the proposed elevator and stairway at the required setback distance from the rear wall would be difficult to accomplish," in part because of "the inability to locate an elevator in the existing historic structures." (Exhibit 28.)

The Board agrees with the Applicant and the Office of Planning that the application satisfied the criteria for approval of the requested special exception under Subtitle C § 1506.1(c). The strict application with the setback requirements would result in construction that would be unduly restrictive, prohibitively costly, unreasonable, and inconsistent with building codes. The Applicant designed the development to provide a new elevator, which is needed to provide greater accessibility than is available in the existing buildings. The new elevator was planned for the addition and not within an existing structure, as would be necessary to achieve compliance with the setback requirement. Locating the elevator within the building core would compromise the west wall of the synagogue, limit accessibility by hindering access to the egress stairs, and create

[7] Pursuant to Subtitle C § 1504.1, a penthouse or rooftop structure must be set back from the edge of the roof upon which it is located by a distance equal to its height from the front, rear, and certain side building walls (with certain exceptions not relevant to this application).

issues related to compliance with code requirements. (Exhibits 28, 39; Transcript of February 28, 2024 at 120, 145-146.) Similarly, the location of a new egress stair was selected to avoid intruding on a planned lobby and adverse consequences for the interiors of the existing buildings. The Board credits the expert testimony of the Applicant's architect that the locations of the elevator and stair, which determined the locations of the related penthouses, were designed to facilitate safe egress out of the building. (Transcript of February 28, 2024 at 135.)

For the same reasons, the Board concludes that, due to conditions relating to the Applicant's buildings, full compliance with the penthouse setback requirements would be unduly restrictive, prohibitively costly, and unreasonable. The application demonstrated that, despite the required setbacks, the planned design of the addition will minimize the visibility of the elevator override and stair from abutting streets or other properties, especially considering that the addition will have a lower height than any of the three existing buildings, the existence of a parapet wall that will obstruct views of the stairs, and the location of the elevator override in the interior of the lot. The Board agrees with the Office of Planning's favorable comments on the planned locations for the elevator override and the top of the new egress stairs, which were based on OP's conclusion that the strict application of the setback requirements "would result in unduly restrictive construction." (Exhibit 28.)

<u>Subtitle X, Chapter 9</u>. The Board concludes that approval of the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, as is required for approval of the application under Subtitle X § 901.2 and Subtitle C § 1506.1(a). Approval of the special exception is consistent with the purpose of Subtitle C § 1506.1, which provides flexibility from the penthouse and rooftop structure setback requirements when, as in this instance, the strict application of the requirements would be unduly restrictive and inconsistent with building codes. Approval of the requested special exception is consistent with the intent of the Residential House (R) zones to provide for stable residential areas suitable for family life and supporting uses, to provide for the orderly development and use of land and structures in areas predominantly characterized by low- to moderate-density residential development, to recognize and reinforce the importance of neighborhood character, walkable neighborhoods, and improvements to the overall environment to the overall housing mix and health of the city, and to allow for limited compatible non-residential uses. Approval of the requested special exception is consistent with the purposes of the Georgetown Residential House (R-3/GT) zone to protect the Georgetown historic district and the integrity of contributing buildings. Especially considering the limited visibility of the planned penthouses, the Board concludes that relief from the setback requirements will not detract from the historic character of the buildings at the subject property. The Board credits the testimony of the Office of Planning that the absence of setbacks would not alter the historic exterior of the three buildings (Exhibit 28) and also notes that the Applicant is pursuing approval of the project from the Commission of Fine Arts and has cooperated with the Old Georgetown Board on its design.

The Board concludes that approval of the requested special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The Applicant submitted a sight-line study (Exhibit 21A1 at 23) demonstrating that the elevator override will not be visually intrusive, while the egress stair and mechanical units on the roof of the new building will not be visible from the street level. (Transcript of February 28, 2024 at 147.) Nor will the Applicant's penthouse proposal adversely affect the light, air, or privacy available to nearby properties.

Great weight. The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04.) For the reasons discussed above, the Board agrees with OP's recommendation that, in this case, the application should be approved.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976. (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A)).) In this case, ANC 2E voted in support of the application with certain conditions and with the expectation that the Board would accept the conditions or the Applicant would "proactively keep its commitment to its neighbors regarding the conditions." (Exhibit 20.) For the reasons discussed above, the Board determined that the application met the requirements for approval of the requested zoning relief without the imposition of any conditions. The Board also notes that some of the conditions stated by ANC 2E are outside the scope of the Board's jurisdiction in this application; for example, those conditions addressing the installation of landscaping on adjoining properties and construction management matters. The Board was not persuaded that limits on the use of the open area and third-floor terrace were necessary, especially considering that the Applicant's proposal is not likely to increase the intensity of the use of the subject property and that views from the subject property into nearby residences will be limited. The Board notes that the Applicant agreed to implement the measures proposed by the ANC to address concerns raised by the owner of adjoining properties.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof for a special exception under Subtitle C § 1506.1 from the penthouse setback requirements of Subtitle C § 1504.1 and, pursuant to Subtitle X § 1002, for area variances from the rear yard requirements of Subtitle D §207.1 and from the lot occupancy requirements of Subtitle D § 210.1 to allow a three-story addition to three existing buildings devoted to religious and accessory office and education uses in the R-3/GT zone at 2801 and 2803 N Street, N.W. and 1308 28th Street, N.W. (Square 1235, Lots 161, 163, and 800). Accordingly, it is **ORDERED** that the application is **GRANTED** in conformance with the plans in the record, as shown in Exhibits 21A1 and 21A2, incorporating updates made in Exhibit 38, provided that the Applicant shall have the flexibility to modify the approved plans as required to secure final approval from the U.S. Commission of Fine Arts and Old Georgetown Board, or their respective staffs, provided that no modification may substantially alter the exterior design shown on the approved plans, and provided further that no modification will create any new areas of relief.

VOTE: **5-0-0** (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, Carl H. Blake, and Anthony J. Hood voting to APPROVE)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: June 13, 2025

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 UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF BUILDINGS 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

BZA Application No. 21237
Yasmin Khan
1311 6th Street, NW (Square 480, Lot 833)

HEARING DATE: June 4, 2025[1]
DECISION DATE: June 4, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to construct a third story addition with a third story roof deck to an existing, attached, two-story with cellar, 4-unit apartment house in the RF-1 zone:

- Special Exception from the roof top or upper floor element requirements of Subtitle E § 204.1, pursuant to Subtitle E § 204.4 and Subtitle X § 901.2
- Special Exception from the rear yard requirements of Subtitle E § 207.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2 (*20 feet minimum required; 0 feet existing; 14.6 feet proposed*)
- Special Exception under the rear addition requirements of Subtitle E § 207.5, pursuant to Subtitle X § 901.2 (*10 feet minimum required; 12 feet, 3 inches proposed*)
- Special Exception from the lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2 (*60% maximum permitted; 78.3% existing; 69.2% proposed*)
- Special Exception under the residential conversion requirements of Subtitle U § 320.2, pursuant to Subtitle X § 901.2
- Area Variance from the lot frontage requirements of Subtitle C § 303.4, pursuant to Subtitle X § 1002 (*30 feet minimum required; 24 feet, 3.5 inches existing and proposed*)

The zoning relief requested in this case was self-certified. (Exhibit 25 (Final Revised).)[2]

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 2G, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

[1] The public hearing was rescheduled from the April 9, 2025 hearing after the Applicant added area variance relief to the application.

[2] The application was amended to add area variance relief from the lot frontage requirements of Subtitle C § 303.4.

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "**Board**") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on March 13, 2025, at which a quorum was present, the ANC voted to support the original application. (Exhibit 20.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 23.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

PERSONS NEITHER IN SUPPORT NOR OPPOSITION. John Robinson testified at the June 4, 2025 public hearing.

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception and variance relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property;
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief;
- There exists an exceptional or extraordinary situation or condition related to the property;
- The exceptional condition creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations;
- The relief can be granted without substantial detriment to the public good; and
- The relief can be granted without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special Exception from the roof top or upper floor element requirements of Subtitle E § 204.1, pursuant to Subtitle E § 204.4 and Subtitle X § 901.2
- Special Exception from the rear yard requirements of Subtitle E § 207.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2 (*20 feet minimum required; 0 feet existing; 14.6 feet proposed*)
- Special Exception under the rear addition requirements of Subtitle E § 207.5, pursuant to Subtitle X § 901.2 (*10 feet minimum required; 12 feet, 3 inches proposed*)
- Special Exception from the lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2 (*60% maximum permitted; 78.3% existing; 69.2% proposed*)
- Special Exception under the residential conversion requirements of Subtitle U § 320.2, pursuant to Subtitle X § 901.2
- Area Variance from the lot frontage requirements of Subtitle C § 303.4, pursuant to Subtitle X § 1002 (*30 feet minimum required; 24 feet, 3.5 inches existing and proposed*)

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 33 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, 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: June 10, 2025

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, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED 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

BZA Application No. 21285
Dana and Dominic Ju
1311 Floral Street, N.W. (Square 2777, Lot 33)

HEARING DATE: June 11, 2025
DECISION DATE: June 11, 2025[1]

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to demolish the existing one-story accessory building (garage) and to construct a new one-story accessory building for use as a garage, in the rear yard of an existing, detached, two-story plus basement principal dwelling unit in the R-1B zone:

- Special Exception from the accessory building rear yard requirements of Subtitle D § 5004.1(a), pursuant to Subtitle D § 5201 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 24 – Amended; Exhibit 15 - Original.)[2]

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 4A, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "**Board**") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 6, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 26.) The ANC report raised no issues or concerns.

[1] The application was originally scheduled for the April 30, 2025 public meeting as an expedited review case, however the Board removed the application from the consent calendar and scheduled it for a public hearing.

[2] The application was amended to withdraw the request for a special exception from the rear yard requirements of Subtitle D § 207.1, and add a special exception from the accessory building rear yard requirements of Subtitle D § 5004.1(a) as noted above.

ANC 4A Chair, Paula Edwards, filed a letter dated April 28, 2025, indicating that ANC 4A was not prepared to take a position on the application at that time. At the Board's June 11, 2025 hearing, Commissioner Edwards testified on behalf of the ANC in support of the application.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 19.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report related to the application.

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special Exception from the accessory building rear yard requirements of Subtitle D § 5004.1(a), pursuant to Subtitle D § 5201 and Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibits 7A1, 7A2, and 7A3 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Gwen Marcus Wright 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: June 17, 2025

BZA ORDER NO. 21285
PAGE NO. 2

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

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED 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

BZA Application No. 21291
HDR Holdings, LLC
3519 Connecticut Avenue, N.W. (Square 2222, Lot 15)

HEARING DATE: June 11, 2025[1]
DECISION DATE: June 11, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to permit a fast food establishment use in an existing, attached, one-story commercial building in the NMU-4/CP zone:

- Special Exception under the eating and drinking establishment uses requirements of Subtitle H § 6007.1(e)(2) pursuant to Subtitle X § 901.2
- Area Variance from the eating and drinking establishment uses requirements of Subtitle H § 6007.1(e)(2)(D) pursuant to Subtitle X § 1002

The zoning relief requested in this case was self-certified. (Exhibit 20 – Amended Zoning Self-Certification; Exhibit 4 – Original.)[2]

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 3C, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "**Board**") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on March 17, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 18.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 25.)

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[1] The application was originally scheduled for hearing on May 14, 2025, but was administratively rescheduled to June 11, 2025 after providing public notice of the amended application.

[2] The application was amended to add a request for an area variance from the eating and drinking establishment uses requirements of Subtitle H § 6007.1(e)(2)(D).

<u>DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT</u>. DDOT did not submit a report related to the application.

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception and variance relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property;
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief;
- There exists an exceptional or extraordinary situation or condition related to the property;
- The exceptional condition creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations;
- The relief can be granted without substantial detriment to the public good; and
- The relief can be granted without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special Exception under the eating and drinking establishment uses requirements of Subtitle H § 6007.1(e)(2) pursuant to Subtitle X § 901.2
- Area Variance from the eating and drinking establishment uses requirements of Subtitle H § 6007.1(e)(2)(D) pursuant to Subtitle X § 1002

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 10 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Gwen Marcus Wright 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: June 17, 2025

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, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED 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

BZA Application No. 21296
2928 Georgia Avenue Associates, LLC and Negril DC, Inc.
2928 Georgia Avenue, NW (Square 2888, Lot 26)

HEARING DATE: June 11, 2025
DECISION DATE: June 11, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to permit an eating and drinking establishment use in an existing, semi-detached, one-story commercial building in the MU-4 zone:

- Special Exception under the eating and drinking establishment uses requirements of Subtitle U § 513.1(e), pursuant to Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 21A (Final Revised); Exhibit 11 (Original).)[1]

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 1E, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "**Board**") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 28, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 24.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 23.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

[1] The revised self-certification form in Exhibit 21A updated the notes and computations page.

PERSONS IN SUPPORT. The Board received one letter from a neighbor in support of the application. (Exhibit 18.)

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special Exception under the eating and drinking establishment uses requirements of Subtitle U § 513.1(e), pursuant to Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 21B of the record, as required under Subtitle Y §§ 604.9 and 604.10.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Gwen M. Wright 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: June 17, 2025

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, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED 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

BZA Application No. 21297
District of Columbia Department of General Services
1400 41st Street, SE (Square 5369, Lot 807 and Parcels 201/204, 201/213, 201/214)

HEARING DATE: June 11, 2025
DECISION DATE: June 11, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to raze an existing structure and construct a new, detached, two-story community center in the R-2 zone:

- Special exception from the long-term bicycle parking space requirements of Subtitle C § 802.1, pursuant to Subtitle C 807.2 and Subtitle X § 901.2 (*3 spaces required, 0 spaces proposed*)

The zoning relief requested in this case was self-certified. (Exhibit 4.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 7B, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "**Board**") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC did not submit a report to the record.

Commissioner Angela Sydnor (7B08) submitted a letter to the Board in support of the application. (Exhibit 22.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 21.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. DDOT's recommendation included two conditions relating to short term bicycle parking and public space. The Board did not adopt the proposed conditions. (Exhibit 18.)

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special exception from the long-term bicycle parking space requirements of Subtitle C § 802.1, pursuant to Subtitle C 807.2 and Subtitle X § 901.2 (*3 spaces required, 0 spaces proposed*)

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 24 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Gwen M. Wright 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: June 17, 2025

BZA ORDER NO. 21297
PAGE NO. 2

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

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED 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

BZA Application No. 21310
Eleonora Cavagnero
1738 Hobart Street, NW (Square 2588, Lot 103)

HEARING DATE: Applicant waived the right to a public hearing
DECISION DATE: June 11, 2025 (Expedited Review Calendar)

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to construct a rear deck addition on the first floor of an existing, attached, two-story plus cellar, principal dwelling unit in the RF-1 zone

- Special Exception from the rear yard requirements of Subtitle E § 207.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2 (*60% maximum permitted; 62.17% existing; 70% proposed*)
- Special Exception from the lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2 (*20 feet minimum required; 14.5 feet existing; 4.8 feet proposed*)

The zoning relief requested in this case was self-certified. (Exhibit 3.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 1D, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

EXPEDITED REVIEW. Pursuant to 11 DCMR Subtitle Y § 401, this application was tentatively placed on the Board of Zoning Adjustment (the "**Board**" or "**BZA**") expedited review calendar for decision as a result of the Applicant's waiver of its right to a hearing. No objections to expedited review consideration were made by any person or entity entitled to do so under Subtitle Y §§ 401.7 and 401.8.

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 20, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 22.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 24.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

PERSONS IN SUPPORT. The Board received three signed petitions from neighbors in support of the application. (Exhibits 17-19.)

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special Exception from the rear yard requirements of Subtitle E § 207.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2 (*60% maximum permitted; 62.17% existing; 70% proposed*)
- Special Exception from the lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2 (*20 feet minimum required; 14.5 feet existing; 4.8 feet proposed*)

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 11 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Gwen M. Wright 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: June 17, 2025

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, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 10-03E
Z.C. Case No. 10-03E
H Street Retail, LLC
(PUD Modification without Hearing @ Square 912, Lots 815 & 817 [901 H Street, N.E.])
May 8, 2025

Pursuant to notice at its May 8, 2025 public meeting, the Zoning Commission for the District of Columbia ("Commission") considered the application ("Application") of H Street Retail, LLC (the "Applicant") for a Modification Without Hearing to the planned unit development ("PUD") approved pursuant to Z.C. Order No. 10-03, as extended and modified by Z.C. Order Nos. 10-03A, 10-03B, and 10-03D, for property located at 901 H Street, N.E. (Square 912, Lots 815 and 817 (part of Record Lot 55)) (the "Property"). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations ("DCMR"), to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

I. BACKGROUND

The Property

1. The Property is located at 901 H Street, N.E. (Square 912, Lots 815 and 817), on the south side of H Street, N.E., between 8th and 10th Streets, N.E., and has a total land area of approximately 87,053 square feet. The Property is zoned Neighborhood Mixed-Use (NMU)-5A/H-R, which is intended to permit mixed-use development at a moderate- to medium-density, with an emphasis on the provision of retail uses within the H Street, N.E. neighborhood (Subtitle H § 900.15).

2. Pursuant to the PUD approvals discussed in Findings of Facts ("FF") Nos. 5-7 below, the Property is currently improved with a mixed-use building consisting of 419 residential units and ground floor retail and commercial space (the "Existing Building").

3. The Existing Building includes a below-grade parking garage with 435 vehicle parking spaces, 126 of which are reserved for retail use. Access to the parking garage and loading facilities is located from an east-west private alley located on the Property at the rear of the Existing Building, accessed from 8th and 10th Streets, N.E. The primary pedestrian entrances to the residential lobby and ground-floor commercial spaces are located on H Street, N.E.

4. The Property is located along the H Street, N.E. corridor, which is a transit-rich, walkable, and mixed-use area. The surrounding neighborhood includes residential, office, retail, and service uses. Union Station is located approximately 0.6 miles to the southwest of the Property, offering convenient access for residents and visitors. Metrobus, the D.C. Streetcar, and Capital Bikeshare stations are also located nearby.

Prior Zoning Commission Approvals

5. Pursuant to Z.C. Order No. 10-03, dated November 8, 2010, and effective January 14, 2011, the Commission approved a consolidated PUD for the Property under Chapters 24 and 30 of the 1958 Zoning Regulations ("ZR58"). The approved project was for a mixed-use building with a maximum building height of 90 feet and a maximum density of 5.0 floor area ratio ("FAR"), including approximately 380,560 square feet of residential space and 51,420 square feet of retail space. The original approval did not include a Zoning Map amendment for the Property, which was zoned C-2-B and located within the H Street Northeast Commercial Overlay District under ZR58.[1]

6. Pursuant to Z.C. Order No. 10-03A, dated January 10, 2013, and effective March 8, 2013, the Commission granted a two-year extension of the time period in which to file a building permit application for the project; and pursuant to Z.C. Order No. 10-03B, dated January 11, 2016, and effective February 19, 2016, the Commission granted a one-year extension of the time period in which to begin construction of the project. The Applicant began construction of the Existing Building within the time period established by the second extension request, and the Existing Building was ultimately completed in accordance with the conditions set forth in Z.C. Order No. 10-03.

7. Pursuant to Z.C. Order No. 10-03D, dated January 30, 2020, and effective April 24, 2020, the Commission approved a modification to the approved PUD to permit veterinary hospital use in a portion of the ground floor retail space of the Existing Building.[2]

Parties and Notice

8. The only party to Z.C. Case No. 10-03 other than the Applicant was Advisory Neighborhood Commission ("ANC") 6A, the "affected" ANC pursuant to Subtitle Z § 101.8.

9. On March 27, 2025, the Applicant served the Application on ANC 6A, the Single-Member District representative for ANC 6A02, the co-chairs of the ANC's Economic Development and Zoning Committee, the Office of Planning ("OP"), and the District Department of Transportation ("DDOT"), as attested by the Certificate of Service submitted with the Application (Exhibit ["Ex."] 2).

II. THE APPLICATION

10. On March 27, 2025, the Applicant filed the Application requesting a Modification Without Hearing to the approved PUD, pursuant to Subtitle Z § 703.1, seeking to modify Decision No. A.2 of Z.C. Order No. 10-03, as amended by Z.C. Order No. 10-03D, to authorize a fast food restaurant use within the ground floor retail space of the Existing Building. The Application stated that no new construction or enlargement of the Existing Building was required or requested (Ex. 1-2G).

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[1] The C-2-B zone became the NC-17 zone by virtue of Z.C. Order No. 08-06A and then became the NMU-5A/H-R zone by virtue of Z.C. Order No. 18-16/19-27-19-27B.

[2] Z.C. Case No. 10-03D was originally filed as a Modification of Consequence (Z.C. Case No. 10-03C), which was subsequently re-filed as a Modification of Significance pursuant to the Zoning Regulations in effect at that time.

11. The Application included a request for special exception relief pursuant to Subtitle H § 6007.1(e)(2) and Subtitle X § 901.2, because fast food restaurant use is only permitted in the Property's NMU-5A/H-R zoning as a special exception subject to conditions (Ex. 2).

Requested Modification

12. The Application noted that the portion of the ground floor targeted for the fast-food restaurant use has been vacant since construction of the Existing Building was completed in 2020. The Application also explained that, despite the Applicant's diligent efforts to market the space for retail uses permitted under the original PUD, those efforts had not been successful. The proposed modification would activate the long-vacant space and advance the mixed-use vision for the H Street, N.E. corridor (*Id*., Ex. 2F).

13. The Application included an analysis of how the modification would meet the PUD evaluation standards, including how the modification would not change the following conclusions made by the Commission in Z.C. Order No. 10-03:
    - The Commission found the PUD was "not inconsistent with the Comprehensive Plan" and would "promote the orderly development of the Subject 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" (Z.C. Order No. 10-03, Conclusion of Law No. 11). The Commission cited to Finding of Fact ["FF"] Nos. 30-33 in Z.C. Order No. 10-03 for its overall findings as to the Project's consistency with the Comprehensive Plan's guiding principles, major elements, and Future Land Use Map ("FLUM") designation;
    - The Commission found the "impact of the project on the surrounding area [was] not unacceptable" and the application could "be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated" (Z.C. Order No. 10-03, Conclusions of Law Nos. 5-6). The Commission also found specifically that the "project will not result in adverse traffic impacts" and would "have less of an impact on the roadway network than a matter-of-right project" (Z.C. Order No. 10-03, Conclusions of Law No. 7);
    - The Commission also found that a number of "benefits and amenities [would] be created as a result of the PUD" including housing and affordable housing, historic preservation, employment benefits, environmental benefits, transportation features, and superior urban design, architecture, landscaping and open space that would implement the design guidelines of the H Street, N.E. Strategic Development Plan (Z.C. Order No. 10-03, FF No. 29). The Commission also acknowledged additional benefits and amenities, including the "provision of ground floor, neighborhood-serving retail space" and the building's substantial set back at the corner of 8th and H Streets (*Id*.); and
    - The Commission found the applicant's "request for flexibility from the Zoning Regulations [was] consistent with the Comprehensive Plan" and the "project benefits and amenities [were] reasonable trade-offs for the requested development flexibility" (Z.C. Order No. 10-03, Conclusion of Law No. 10).

    (Ex. 2)

14. The Application included an evaluation demonstrating that the proposed fast food restaurant use would not affect the project's consistency with the Comprehensive Plan, citing the following reasons, among others:
    - The Property is designated as Mixed Use Medium Density Commercial/Medium Density Residential on the FLUM, a designation that has remained unchanged since the PUD was originally approved. The Application asserted that the proposed modification to allow fast food restaurant use is consistent with the FLUM's vision for a balanced mix of commercial and residential uses at the Property;
    - The Generalized Policy Map ("GPM") designates the Property as a Main Street Mixed Use Corridor, which is defined by a concentration of older storefronts along traditional commercial corridors (10-A DCMR § 225.14). The proposed modification to permit fast food restaurant use at the Property is not inconsistent with this designation, as it would be located along the H Street, N.E. corridor, which is planned for mixed-use activity, and would enhance the corridor's active streetscape by introducing additional ground-floor commercial activity within the Existing Building;
    - The proposed modification would advance District policies related to economic development, particularly those focused on revitalizing the H Street, N.E. corridor between 7th and 12th Streets, N.E. This area is identified as the "Central Retail District" in the H Street, N.E. Strategic Development Plan, where retail uses are encouraged to be strengthened, consolidated, and diversified to provide residents, shoppers, and visitors with a broader range of goods and services; and
    - The proposed modification would further Comprehensive Plan policies related to racial equity including those under the Land Use Element, Transportation Element, Economic Development Element, and Capitol Hill Area Element.

    (Ex. 2, 2G)

15. The Application further asserted that the modification was not inconsistent with the Comprehensive Plan and would lead to favorable outcomes when evaluated through a racial equity lens. The proposed fast food restaurant use would not displace any existing businesses or residents, would offer a high-quality dining experience and affordable meals in an accessible, transit-oriented location, and would provide job opportunities for local residents, including entry-level positions that could serve as a pathway to long-term career advancement. The Application also summarized the Applicant's community outreach and engagement efforts to the ANC and community stakeholders to present the request and gather feedback (*Id.*).

16. The Application explained that the proposed fast food restaurant use would not result in any unacceptable impacts. The use is consistent with the project's other non-residential components and complements the mixed-use character of the Existing Building and surrounding neighborhood. The majority of customers would be expected to arrive on foot or by public transit, with limited vehicle traffic anticipated. For those who do drive, sufficient parking would be available in the Existing Building's below-grade garage, which contains 126 retail-designated spaces. The proposed use would occupy currently vacant ground floor commercial space, enhancing street-level activity and improving safety along the H Street, N.E. corridor through added lighting, visibility, and pedestrian presence. The

use would not result in adverse impacts related to noise, odors, trash, lighting, or hours of operation. All loading and waste management would remain internal to the building. The use would not include live entertainment, amplified music, or other features that could create objectionable conditions for neighboring properties (Ex. 2).

17. Finally, the Application explained that there were no changes proposed to the previously approved PUD public benefits and amenities, or development incentives requested, and that there were no unacceptable adverse impacts. Accordingly, the PUD's public benefits and project amenities did not require reevaluation (*Id.*).

Special Exception Relief Requested

18. The Application provided justifications in support of its request for special exception relief pursuant to Subtitle H § 6007.1(e)(2) and Subtitle X § 901.2 (*Id.*).

19. With respect to the special exception conditions for a fast food restaurant under Subtitle H § 6007.1(e)(2)(A)–(G), the Application asserted that it met the conditions because: (i) the Property is not located in the MU-4/WP zone; (ii) the proposed use would not occupy any portion of the ground floor within 25 feet of the RF-1 or RA-4 zone boundary to the south of the Property; (iii) no continuous brick wall is required because the Existing Building spans the full width of the Property; (iv) no new refuse dumpsters are proposed; (v) no drive-through component is proposed; (vi) the only customer entrance will front H Street, N.E.; and (vii) the use would not generate objectionable conditions related to odors, noise, hours of operation, or exterior lighting, and has been designed to be compatible with its urban setting (*Id.*).

20. With respect to the general special exception criteria under Subtitle X § 901.2, the Application asserted that the proposed fast food restaurant use met the criteria because: (i) it would contribute to the mix of uses within the Existing Building without any new construction or enlargement that would render the Existing Building incompatible with existing zoning or the character of the H Street, N.E. corridor, and is in harmony with the intent of the NMU-5A/H-R zone to support mixed-use development and retail uses; and (ii) it would not adversely affect neighboring properties because it is adequately buffered from nearby residential zones by a private alley that spans the full width of the Property at the rear, would implement responsible waste management practices, and would not generate objectionable conditions related to noise, odor, exterior lighting, or hours of operation (*Id.*).

III. RESPONSES TO THE APPLICATION

OP Report

21. On April 29, 2025, OP submitted a report (the "OP Report") stating that it "recommends the Commission approve the requested Modification Without a Hearing and associated special exception relief" to permit a fast-food restaurant use in the Existing Building (Ex. 4, p. 1).

22. The OP Report stated that "[t]ypically, a request for a new relief from the zoning regulations would require the holding of a public hearing." However, OP considered the proposed use to be similar to others permitted within the NMU-5A/H-R zone and noted that "the ANC has

indicated support" such that the request could be deemed consistent with the intent of a Modification Without Hearing (*Id*.).

23. The OP Report concluded that the requested special exception meets the criteria for fast food restaurant use under Subtitle H § 6007.1(e)(2) and the general special exception criteria under Subtitle X § 901.2 (Ex. 4, p. 2-3).

24. The OP Report concluded that the requested modification "would not impair the intent of the [Zoning] Regulations or have an adverse effect on the decisions made by the Commission" when it approved the original PUD or the subsequent modification in Z.C. Order No. 10-03D. OP also referenced the Applicant's Comprehensive Plan analysis and agreed that the proposed use "would not be inconsistent with the intent of the H Street policies noted in the Comprehensive Plan[.]" (Ex. 4, p. 2).

25. The OP Report concluded that the proposed use "would be consistent with the neighborhood-oriented focus" of the NMU-5A/H-R zone, and that it "is not anticipated to generate objectionable noise." OP further stated that "[a]s a neighborhood-serving establishment, the use should not incur excessive vehicle traffic to the site," and noted that the H Street, N.E. corridor is well served by multiple transportation and pedestrian options (Ex. 4, p. 3).

ANC Report

26. On May 2, 2025, ANC 6A submitted a letter stating that at a regularly scheduled and properly noticed meeting on April 10, 2025, the ANC voted 6-0-0 to support the Application (the "ANC Report") (Ex. 5). The ANC Report noted that the Applicant had "proactively presented" its request to the ANC's Economic Development and Zoning Committee and had met with the Single-Member District Commissioner for ANC 6A02 to discuss constituent concerns. The ANC's support was conditioned on the Commission including the following additional language in Decision A.2. to address the ANC's concerns regarding "fast food" use, which is included in this order:

> If any new uses are adopted under the eating and drinking establishment use category as defined under Subtitle B §§ 100.2 and 200.2(i) by an amendment to the Zoning Regulations after the effective date of this Order, such newly adopted uses shall be considered matter-of-right uses within the PUD, except that following such amendment, the establishment of a new fast-food restaurant or a new fast food drive-through shall require review and approval by the Zoning Commission.

27. On May 2, 2025, the Applicant submitted a letter agreeing to the additional condition language proposed by ANC 6A in the ANC Report, as discussed above in FF No. 26 (Ex. 6).

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make, without public hearing, modifications to approved contested case final orders and plans approved by such orders (modifications without hearing).

2. Subtitle Z § 703.6 describes a Modification Without Hearing as a "modification in which impact may be understood without witness testimony, including, but not limited to a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission. Determination that a modification can be approved without witness testimony is within the Commission's discretion. A request to add or change a zoning map designation to an approved planned unit development shall not be considered without a hearing."

3. The Commission concludes that the Application qualifies as a Modification Without Hearing pursuant to Subtitle Z § 703.6 because it seeks to revise a condition of the final order to permit fast food restaurant use. The Commission further finds that both the proposed modification and the request for special exception relief can be fully evaluated without the need for witness testimony and therefore may be approved without a public hearing.

4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.10 to serve the Application on all parties to the original proceeding—in this case ANC 6A—and OP, at the same time that the request was filed with the Office of Zoning.

5. The Commission concludes that the requirement of Subtitle Z § 703.12 to provide a minimum of 30 days for parties to respond to the Application has been met.

6. The Commission concludes that, in accordance with Subtitle Z § 703.13, this request for a Modification Without Hearing was filed with the Office of Zoning at least thirty-five (35) days prior to the public meeting at which the request was considered by the Commission. The Application was filed on March 27, 2025, and considered by the Commission at its May 8, 2025, public meeting.

7. The Commission finds the Application consistent with the intent of the original PUD approval of Z.C. Order No. 10-03 for the reasons set forth in FF Nos. 13-17 above.

8. Pursuant to Subtitle X § 303.13, an applicant may request, as part of a PUD, approval of any zoning relief that requires special exception approval. In such cases, the Commission shall apply the special exception standards applicable to the requested relief.

9. 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 of Zoning Adjustment to grant special exceptions, as provided in the Zoning Regulations, where, in the judgement of the Board of Zoning Adjustment, the special exceptions:
   - Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map;
   - Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and

- Will comply with the special conditions specified in the Zoning Regulations.

10. Relief granted 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)).

11. The Commission concludes that the requested special exception to permit a fast food restaurant use at the Property satisfies the specific conditions set forth in Subtitle H § 6007.1(e)(2) and the general special exception criteria of Subtitle X, Chapter 9, for the following reasons, among others set forth in the Application and in FF Nos. 18-20:
    - The proposed use aligns with the NMU-5A/H-R zone's intent to promote mixed-use development and retail opportunities that serve the surrounding neighborhood;
    - The fast food restaurant use will be managed in a manner that minimizes potential external impacts, including noise, odors, and lighting, through operational controls such as internalized waste management and loading functions located within the Existing Building; and
    - The Property is physically separated from nearby residential uses by a private alley, providing a sufficient buffer, and the scale and intensity of the proposed use are compatible with the active, transit-oriented nature of the H Street, N.E. mixed-use corridor.

<u>"GREAT WEIGHT" TO RECOMMENDATIONS OF OP</u>

12. The Commission must give "great weight" to the recommendations of the 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.) and Subtitle Z § 405.9 (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

13. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

<u>"GREAT WEIGHT" TO WRITTEN REPORT OF THE ANC</u>

14. The Commission must give "great weight" to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public 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) (2012 Repl.) and Subtitle Z § 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)).

15. The Commission recognizes ANC 6A's support for the Application and agrees with the ANC's request to incorporate additional language into Decision A.2. As set forth below, the Commission incorporated the requested language into this order.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant's request for a Modification Without Hearing to the PUD approved pursuant to Z.C. Order No. 10-03, as extended and modified by Z.C. Order Nos. 10-03A, 10-03B, and 10-03D, to modify Decision No. A.2 to authorize a fast food restaurant use along with the Applicant's associated request for special exception relief to permit fast food restaurant use at the Property, subject to the following conditions:

1. Decision No. A.2 of Z.C. Order No. 10-03, as modified by Z.C. Order No. 10-03D, is further modified as follows (additions in **bold** and **underlined** text):

   A.2 The PUD shall have a maximum density of 5.0 FAR and a gross floor area of 435,265 **square** feet. Of that, the PUD shall have approximately 51,420 square feet of retail **and/or eating and drinking establishment uses, including fast food restaurant use**, of which approximately 5,365 square feet may also be devoted to veterinary hospital use.

   If any new uses are adopted under the eating and drinking establishment use category as defined under Subtitle B §§ 100.2 and 200.2(i) by an amendment to the Zoning Regulations after the effective date of this Order, such newly adopted uses shall be considered matter-of-right uses within the PUD, except that following such amendment, the establishment of a new fast food restaurant or a new fast food drive-through shall require review and approval by the Zoning Commission.

2. All other conditions in Z.C. Order No. 10-03, as extended and modified by Z.C. Order Nos. 10-03A, 10-03B, and 10-03D, remain unchanged and in effect.

Final Action

VOTE (May 8, 2025): 4-0-1 (Anthony J, Hood, Tammy Stidham, Robert E. Miller, and Joseph Imamura to approve; Gwen Wright, not present, not participating.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 10-03E shall become final and effective upon publication in the *District of Columbia Register*; that is, on June 27, 2025.

BY THE ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of 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
NOTICE OF FILING
Z.C. Case No. 11-03N
(Wharf Phase 3 REIT Leaseholder, LLC
Modification with Hearing for Approved 2nd Stage PUD
@ Square 473, Lot 1008
(635 Wharf Street, S.W.))
June 26, 2025

THIS CASE IS OF INTEREST TO ANC 6D.

On June 9, 2025, the Office of Zoning received an application from Wharf Phase 3 REIT Leaseholder, LLC (the "Applicant") for approval of a Modification with Hearing application to the approved Second Stage Planned Unit Development originally approved in Z.C. Order No. 11-03J(1) for the above-referenced property.

The subject property is located in southeast Washington, D.C. (Ward 6) at the terminus of M Street, S.W. The property consists of Lot 1008 in Square 473 and is currently zoned MU-12. The Applicant proposes to construct a café enclosure with operable windows and roofs. The Project will contain a total of 754 square feet, with a maximum height 11 feet, 3 inches.

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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 22-11A
Z.C. Case No. 22-11A
Disabled American Veterans
(Two-Year Time Extension for Approved PUD @ Square 439S, Lot 15
(807 Maine Avenue, S.W.))
April 24, 2025

Pursuant to notice, at its public meeting on April 24, 2025, the Zoning Commission for the District of Columbia ("Commission" or "Z.C.") considered the application of Disabled American Veterans ("Applicant") for a two-year time extension of the deadline by which to file a building permit application and to begin construction of the consolidated planned unit development ("PUD") approved pursuant to Z.C. Order No. 22-11 (the "Application"). The property subject to the Application is 807 Maine Avenue, S.W. (Square 439S, Lot 15) (the "Property").

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Development of the Property was originally approved pursuant to Z.C. Order No. 22-11, which granted a consolidated PUD and a related Zoning Map Amendment from the MU-12 zone to the MU-10 zone to redevelop the Property with a new residential building consisting of (i) 194,839 square feet of gross floor area, (ii) approximately 195 total residential units, including approximately 27 Inclusionary Zoning ("IZ") units, and (iii) a maximum height of 110 feet and FAR of 8.21.

2. Z.C. Order No. 22-11 was approved on January 26, 2023, with an effective date of July 28, 2023. Pursuant to Z.C. Order No. 22-11, Decision No. G.2, the order is valid for a period of two years, such that a building permit application is required to be filed no later than July 28, 2025, and construction of the approved PUD is required to commence no later than July 28, 2026.

PARTIES

3. The parties to Z.C. Case No. 22-11 were the Applicant and Advisory Neighborhood Commission ("ANC") 6D.

II. THE APPLICATION

4. On March 17, 2025, prior to the July 28, 2025, deadline to submit a building permit application and prior to the July 28, 2026, deadline to commence construction of the

approved PUD, the Applicant filed the Application requesting a two-year time extension of the aforementioned deadlines (Exhibit ("Ex.") 1–2D2).

5. The Application asserted that it satisfied the requirement of Subtitle Z § 705.2(a) to serve all parties and attested by Certificate of Service, included with the Application, that the Applicant served the Application on ANC 6D, ANC Single Member District Commissioner 6D02, ANC Single Member District Commissioner 6D01, the Office of Planning ("OP"), and the District Department of Transportation ("DDOT") (Ex. 2).

6. The Application asserted that it satisfied the requirements of Subtitle Z § 705.2(b) because no substantial change had occurred in any of the material facts on which the Commission had relied upon in approving Z.C. Order No. 22-1.1 (Ex. 2).

7. The Application asserted that it satisfied the requirements of Subtitle Z § 705.2(c)(1) for a time extension due to the Applicant's inability to obtain sufficient project financing for the development of the approved PUD, despite the Applicant's diligent good faith efforts to obtain such financing, because of the inability to locate a new development partner after the initial partner's exit in May 2023 and changes in economic and market conditions beyond the Applicant's reasonable control (Ex. 2).

III. RESPONSES TO THE APPLICATION

OP REPORT

8. OP submitted a report dated April 8, 2025 (the "OP Report"), which recommended approval of the Application based on OP's conclusion that the Applicant had satisfied the relevant standards of Subtitle Z § 705.2 (Ex. 4).

ANC REPORT

9. ANC 6D did not submit a written report regarding the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and upon a determination that the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6 have been adhered to.

2. The Commission concludes that the Applicant timely filed the Application on March 17, 2025, prior to the July 28, 2025, deadline to submit a building permit application and prior to the July 28, 2026, deadline to commence construction of the approved PUD.

3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond.

4. The Commission concludes that the Applicant has satisfied the requirement of Subtitle Z § 705.2(a) to serve all parties—in this case ANC 6D—and ANC 6D was given more than 30 days to respond.

5. Subtitle Z § 705.2(b) requires that the Commission finds that no substantial change has occurred to any of the material facts upon which the Commission based its original approval of the application that would undermine the Commission's justification for approving the original application.

6. The Commission concludes, based on the Application and the OP Report, that the Application satisfied the requirement of Subtitle Z § 705.2(b) that no substantial change in any of the material facts upon which the Commission based its original approval of Z.C. Case No. 22-11 occurred that would undermine the Commission's justification for that approval.

7. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
   1. *An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;*
   2. *An inability to secure all required governmental agency approvals for a development by the expiration date of the order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or*
   3. *The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.*

8. The Commission concludes that the Application met the standard of review of Subtitle Z § 705.2(c)(1) because the Application demonstrated that the Applicant had been unable to obtain sufficient project financing for the development of the approved PUD, despite the Applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the Applicant's reasonable control. Specifically, the Commission concludes that the rise in interest rates, the general market instability, the Applicant's original development partner exiting the development deal, and the Applicant's inability to locate a new development partner have prevented the Applicant from obtaining sufficient project financing for the development of the approved PUD.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

9. The Commission must give "great weight" to the recommendations 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.)), and Subtitle Z § 405.9 (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

10. The Commission found OP's recommendation that the Commission approve the Application persuasive and concurs in that judgment.

<u>"GREAT WEIGHT" TO THE RECOMMENDATIONS OF THE ANC</u>

11. The Commission must give "great weight" to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public 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) (2012 Repl.)), and Subtitle Z § 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. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).

12. ANC 6D did not submit a written report regarding the Application.

<u>DECISION</u>

In consideration of the case record, the Findings of Fact, and the Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a two year time extension of the July 28, 2025, deadline by which to file a building permit application and of the July 28, 2026, deadline to commence construction of the PUD approved pursuant to Z.C. Order No. 22-11, such that a building permit application must be filed by July 28, 2027, and construction of the approved PUD must commence no later than July 28, 2028.

VOTE (April 24, 2025): 4-0-1 (Tammy Stidham, Robert E. Miller, Anthony J. Hood and Gwen Wright to approve; Joseph S. Imamura, having not participated, not voting.)

In accordance with the provisions of Subtitle Z § 604.9, Order No. 22-11A shall become final and effective upon publication in the *District of Columbia Register*; that is, on June 27, 2025.

BY THE ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of 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.

District of Columbia REGISTER – June 27, 2025 – Vol. 72 - No. 26 007298 - 007514

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

DISTRICT OF COLUMBIA REGISTER
2025 AGENCY SUBMISSION DEADLINE SCHEDULE

The deadline for submitting notices for publication in the *District of Columbia Register* by District agencies, boards, commissions, and public charter schools is THURSDAY, noon of the PREVIOUS week. For example, the deadline for the Friday, January 10, 2025 *District of Columbia Register* is Thursday, noon on January 2, 2025.

The deadline for a Register to be published during a week that has an official District of Columbia holiday is WEDNESDAY noon of the PREVIOUS week. For example, Monday, January 20, 2025 (Martin Luther King Jr. Day) is an official District of Columbia holiday therefore, the deadline for the Friday, January 24, 2025 *District of Columbia Register* is Wednesday, noon on January 15, 2025.

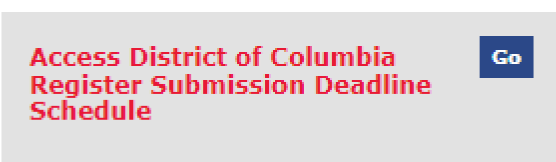
If an official government holiday falls on a Thursday, the deadline for submitting documents is WEDNESDAY. Because Thursday, November 27, 2025 is Thanksgiving Day, the deadline for the December 5, 2025 *District of Columbia Register* is Wednesday, noon on November 26, 2025.

Because Thursday, June 19, 2025 is Juneteenth, the deadline for the June 27, 2025 *District of Columbia Register* is Wednesday, noon on June 18, 2025.

Documents that are uploaded after the noon deadline will be published in the next edition of the Register.

The DC Register Submission Deadline Schedule is published at the end of each Register.

The Office of Documents also publishes the Submission Deadline Schedule on the DCRegs Home page:



Below is the 2025 District of Columbia Register Submission Deadline schedule.

OFFICE OF DOCUMENTS AND ADMINSTRATIVE ISSUANCES
DISTRICT OF COLUMBIA REGISTER
2025 AGENCY SUBMISSION DEADLINE SCHEDULE

D.C. Register Issue		Submission Deadline	
Vol. 72/1	January 3, 2025*	Tuesday	December 24, 2024
Vol. 72/2	January 10, 2025	Thursday	January 2, 2025
Vol. 72/3	January 17, 2025	Thursday	January 9, 2025
Vol. 72/4	January 24, 2025*	Wednesday	January 15, 2025
Vol. 72/5	January 31, 2025	Thursday	January 23, 2025
Vol. 72/6	February 7, 2025	Thursday	January 30, 2025
Vol. 72/7	February 14, 2025	Thursday	February 6, 2025
Vol. 72/8	February 21, 2025*	Wednesday	February 12, 2025
Vol. 72/9	February 28, 2025	Thursday	February 20, 2025
Vol. 72/10	March 7, 2025	Thursday	February 27, 2025
Vol. 72/11	March 14, 2025	Thursday	March 6, 2025
Vol. 72/12	March 21, 2025	Thursday	March 13, 2025
Vol. 72/13	March 28, 2025	Thursday	March 20, 2025
Vol. 72/14	April 4, 2025	Thursday	March 27, 2025
Vol. 72/15	April 11, 2025	Thursday	April 3, 2025
Vol. 72/16	April 18, 2025*	Wednesday	April 9, 2025
Vol. 72/17	April 25, 2025	Thursday	April 17, 2025
Vol. 72/18	May 2, 2025	Thursday	April 24, 2025
Vol. 72/19	May 9, 2025	Thursday	May 1, 2025
Vol. 72/20	May 16, 2025	Thursday	May 8, 2025
Vol. 72/21	May 23, 2025	Thursday	May 15, 2025
Vol. 72/22	May 30, 2025 *	Wednesday	May 21, 2025
Vol. 72/23	June 6, 2025	Thursday	May 29, 2025
Vol. 72/24	June 13, 2025	Thursday	June 5, 2025
Vol. 72/25	June 20, 2025*	Wednesday	June 11, 2025
Vol. 72/26	June 27, 2025	Wednesday	June 18, 2025
Vol. 72/27	July 4, 2025 *	Wednesday	June 25, 2025
Vol. 72/28	July 11, 2025	Thursday	July 3, 2025
Vol. 72/29	July 18, 2025	Thursday	July 10, 2025
Vol. 72/30	July 25, 2025	Thursday	July 17, 2025
Vol. 72/31	August 1, 2025	Thursday	July 24, 2025
Vol. 72/32	August 8, 2025	Thursday	July 31, 2025
Vol. 72/33	August 15, 2025	Thursday	August 7, 2025
Vol. 72/34	August 22, 2025	Thursday	August 14, 2025
Vol. 72/35	August 29, 2025	Thursday	August 21, 2025
Vol. 72/36	September 5, 2025*	Wednesday	August 27, 2025
Vol. 72/37	September 12, 2025	Thursday	September 4, 2025
Vol. 72/38	September 19, 2025	Thursday	September 11, 2025
Vol. 72/39	September 26, 2025	Thursday	September 18, 2025
Vol. 72/40	October 3, 2025	Thursday	September 25, 2025
Vol. 72/41	October 10, 2025	Thursday	October 2, 2025
Vol. 72/42	October 17, 2025*	Wednesday	October 8, 2025
Vol. 72/43	October 24, 2025	Thursday	October 16, 2025
Vol. 72/44	October 31, 2025	Thursday	October 23, 2025
Vol. 72/45	November 7, 2025	Thursday	October 30, 2025
Vol. 72/46	November 14, 2025*	Wednesday	November 5, 2025
Vol. 72/47	November 21, 2025	Thursday	November 13, 2025
Vol. 72/48	November 28, 2025*	Wednesday	November 19, 2025
Vol. 72/49	December 5, 2025	Wednesday	November 26, 2025
Vol. 72/50	December 12, 2025	Thursday	December 4, 2025
Vol. 72/51	December 19, 2025	Thursday	December 11, 2025
Vol. 72/52	December 26, 2025*	Wednesday	December 17, 2025
Vol. 73/1	January 2, 2026*	Wednesday	December 24, 2025

*Weeks with District of Columbia Government public holidays.

Last Updated December 10, 2024