VOL. 72 – NO. 30 JULY 25, 2025

District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 26-113 to direct local education agencies to implement a personal wireless communication device policy that prohibits a student from using a personal wireless communication device during the full school day

- Department of Behavioral Health solicits school-hired licensed clinicians to provide prevention, early intervention, and treatment services in eight (8) District of Columbia Public Charter Schools (DCPCS)

- Department of Behavioral Health solicits Community Based Organizations (CBO) providers to provide prevention, early intervention, and treatment services in 122 District of Columbia Public Schools (DCPS) and District of Columbia Public Charter Schools (DCPCS)

- Department of Energy and Environment updates the Lead Pipe Replacement Assistance Program's eligibility guidelines

- Department of Energy and Environment increases stormwater, erosion and sediment control, green area ratio, wetland, and well permit fees

- Board of Ethics and Government Accountability updates its regulations for registering lobbyists

- D.C. Public Service Commission establishes rules governing public utility tariff filings and applications in the District

- D.C. Water and Sewer Authority amends its fees and charges, effective October 1, 2025

- Zoning Commission schedules a public hearing on the Department of General Services' proposed plan to construct an emergency shelter for men experiencing homelessness on New York Avenue, N.E.

DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-106

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 11, 2025

To approve, on an emergency basis, Modification No. M03 to Contract No. DCAM-21-NC-RFQ-0002Q with Spectrum Management, and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modification No. M03 to Contract No. DCAM-21-NC-RFQ-0002Q with Spectrum Management Approval and Payment Authorization Emergency Act of 2025".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification No. M03 to Contract No. DCAM-21-NC-RFQ-0002Q with Spectrum Management and authorizes payment in the not-to-exceed amount of $5 million for the goods and services received and to be received under the contract.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 11, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-111

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To amend the District of Columbia Administrative Procedure Act to codify agency deference as it existed prior to the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo* while permitting the continued development of the law of deference, and to clarify that a reviewing tribunal shall defer to an agency's reasonable interpretation of a statute or rule it administers when the statute or rule is silent or ambiguous with respect to a specific issue so long as that interpretation is not plainly wrong or inconsistent with either the statute's or rule's language or the legislature's or agency's intent.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Review of Agency Action Clarification Amendment Act of 2025".

Sec. 2. Section 110 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510), is amended as follows:

(a) Subsection (a)(1) is amended by striking the phrase "So far as necessary" and inserting the phrase "Subject to subsections (c), (d), and (e) of this section and so far as necessary" in its place.

(b) New subsections (c), (d), and (e) are added to read as follows:

"(c) In reviewing an order or decision of an agency in any court or administrative proceeding, including proceedings under subsection (a) of this section, the reviewing tribunal shall defer to the agency's reasonable interpretation of a statute or rule it administers, when the statute or rule is silent or ambiguous with respect to a specific issue; provided, that the interpretation is not plainly wrong or inconsistent with either the statute's or rule's language or the legislature's or agency's intent.

"(d) In reviewing a rule adopted by an agency, the reviewing tribunal shall defer to the agency's reasonable interpretation of a statute it administers, when the statute is silent or ambiguous with respect to a specific issue; provided, that the interpretation is not plainly wrong or inconsistent with either the statute's language or the legislature's intent.

"(e) In determining whether an interpretation by an agency is reasonable under subsection (c) or (d) of this section, the reviewing tribunal may consider, among other factors:

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"(1) Whether the interpretation provided by an agency has been consistent and longstanding;

"(2) Whether the specific issue is within the scope of the agency's subject matter-expertise; and

"(3) The thoroughness and formality of the agency's consideration.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-112

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To amend the District of Columbia School Reform Act of 1995 to require members of a Board of Trustees of a public charter school to complete training programs on best practices for school board governance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Board of Trustees Training Amendment Act of 2025".

Sec. 2. Subtitle B of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-115; D.C. Official Code § 38-1802.01 *et seq.*), is amended as follows:

(a) Section 2205 (D.C. Official Code § 38-1802.05) is amended by adding a new subsection (f) to read as follows:

"(f) The Board of Trustees of a public charter school shall complete school governance training consistent with the requirements of section 2214(k).".

(b) Section 2214 (DC Official Code § 38-1802.14) is amended by adding a new subsection (k) to read as follows:

"(k) **School governance mandatory training.** –

"(1) Beginning in School Year 2026-2027, the Board shall, in coordination with the Office of the State Superintendent as appropriate, offer governance training to all public charter school Boards of Trustees at no cost to a public charter school or its Board of Trustees members. The Board shall require each member of a public charter school Board of Trustees to successfully complete an approved structured training offered pursuant to this subsection annually and shall require a newly elected or appointed member of a public charter school Board of Trustees to complete an initial training within 90 days after the member's election or appointment to the Board of Trustees. The Board shall designate which topics identified in paragraph (2) of this subsection are required for a member's initial training and which are required for the refresher training.

"(2) At a minimum, the training offered pursuant to this subsection shall include training on:

"(A) The State and Authorizer Academic Accountability System;

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"(B) Hiring, management, and evaluation of public charter school leadership;

"(C) Organizational fiscal management;

"(D) Nonprofit and public charter school governance, including the role of a fiduciary;

"(E) Obligations of a charter school and the responsibilities of a school governing body under federal and District laws and regulations; and

"(F) Updates to relevant federal and District laws and regulations.

"(3) The training offered pursuant to this subsection may be administered through any modality that ensures accessibility and effective participation, as determined by the Board.".

Sec. 3. Applicability.

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

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

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

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-113

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To direct local education agencies to adopt and implement a personal wireless communication device policy that prohibits a student from using a personal wireless communication device during the full school day.

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

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Full school day" shall have the same meaning as provided in section 1(2B) of an Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Code § 38-201(2B)).

(2) "Health care needs" means specific medical requirements or disability- or health-related supports that are documented by a licensed medical provider with the LEA and that require the use of a personal wireless communication device for monitoring a medical condition, administering medication, receiving health-related alerts, receiving disability-related supports, or communicating with medical personnel or caregivers regarding the student's health during the school day.

(3) "LEA" means local education agency, which is the District of Columbia Public Schools system or any individual public charter school or group of public charter schools operating under a single charter.

(4) "Personal wireless communication device" means a cellular phone, tablet computer, laptop computer, or gaming device that is not owned or provided by the school.

(5) "Possessing" means carrying or holding an item on one's person but does not include carrying or holding an item in a backpack, purse, handbag, or other personal carryall.

Sec. 3. LEA requirements for a personal wireless communication device policy.

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(a) No later than 15 days before the start of the 2026-2027 School Year, each LEA serving students enrolled in grades K-12 shall adopt and implement a personal wireless communication device policy that prohibits K-12 students from, at a minimum, possessing a personal wireless communication device on school premises at any time during the full school day.

(b) An LEA's personal wireless communication device policy may include exemptions for a student possessing a personal wireless communication device for specific educational purposes and to manage a student's health care needs.

(c) Each LEA's personal wireless communication device policy shall:

(1) Establish consequences if a student violates the policy; provided, that the consequences shall be consistent with section 204 of the Attendance Accountability Amendment Act of 2013, effective August 25, 2018 (D.C. Law 22-157; DC Official Code § 38-236.04);

(2) Establish a process and timeline for the LEA to assess whether the policy is working and how to refine it;

(3) Be published on the LEA's website no later than 15 days before the start of each school year for which the policy is in effect, and that mid-year modifications shall be published no later than 15 days before being effective;

(4) Be communicated to all enrolled families before the first day of school; and

(5) Be communicated to all LEA employees, contractors, and volunteers who have contact with students during school hours.

(d) Each LEA's personal wireless communication device policy shall require each school in the LEA to:

(1) Identify how a parent or guardian of an enrolled student should communicate urgent information to their child during the full school day;

(2) Identify how the school will communicate with families in cases of emergency; and

(3) Identify appropriate storage for students' personal wireless communication devices during the full school day.

Sec. 4. State education agency responsibilities.

By March 1, 2026, the Office of the State Superintendent of Education shall develop and share with LEAs a model policy that meets the requirements prescribed in section 3.

Sec. 5. Fiscal impact statement.

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

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Sec. 6. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-114

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To amend Title 6-A of the District of Columbia Municipal Regulations to make conforming changes; to amend the Omnibus Police Reform Amendment Act of 2000 to allow applicants for sworn officers of the Metropolitan Police Department to count certain credit hours for completion of the initial training program towards the requirement that certain applicants complete 60-hours of post-secondary education at an accredited college or university; to amend the Policemen and Firemen's Retirement and Disability Act to clarify certain benefits for Fire and Emergency Medical Services survivors; to amend section 23-581 of the District of Columbia Official Code to clarify the authority of Metropolitan Police Department warrantless arrest requirements; to amend the Act to Regulate Public Conduct on Public Passenger Vehicles to provide that the adjudication of fare evasion citations shall be pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985; to amend Chapter 8 of Title 16 of the District of Columbia Official Code to clarify that offenses eligible in the future for automatic sealing are currently eligible for sealing by motion; and to amend the Secure DC Omnibus Amendment Act of 2024 to amend the sunset date of certain provisions regarding pretrial detention.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Peace DC Omnibus Amendment Act of 2025".

Sec. 2. Section 1101 of Title 6A of the District of Columbia Municipal Regulations (6A DCMR § 1101), is amended as follows:

(a) The section heading is amended by striking the phrase "SECTION 4-114" and inserting the phrase "SECTION 5-129.02" in its place.

(b) Subsection 1101.1 is repealed.

(c) Strike the phrase "Code §4-114 (1981)" wherever it appears and insert the phrase "Code § 5-129.02" in its place.

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Sec. 3. Section 202(e)(1) of the Omnibus Police Reform Amendment Act of 2000, effective October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-107.01(e)(1)), is amended to read as follows:

"(1) Successfully completed 60 hours of post-secondary education at an accredited college or university; except that, if the Metropolitan Police Department enters into an agreement with an accredited college or university to award credit hours to recruits successfully completing the Department's initial training program for recruits, an applicant may satisfy up to 20 credits of the 60-credit hour requirement by earning credits through the initial training program for recruits;".

Sec. 4. Section 12(k)(1A) of The Policemen and Firemen's Retirement and Disability Act, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-716(a-1)), is amended to read as follows:

(a) The existing text is designated as subparagraph (A).

(b) A new subparagraph (B) is added to read as follows:

"(B)(i) A current member who dies of an injury or illness covered by sections 652(a), 653(a), or 654(a) of the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004, effective May 1, 2013 (D.C. Law 19-311; D.C. Official Code §§ 5-652(a), 5-653(a), or 5-654(a)), shall be deemed to have died in the performance of duty for the purposes of this section.

"(ii) A retired member who dies within 5 years of retirement of an injury or illness previously ruled to be a performance of duty injury or illness covered by sections 652(a), 653(a), or 654(a) of the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004, effective May 1, 2013 (D.C. Law 19-311; D.C. Official Code §§ 5-652(a), 5-653(a), or 5-654(a)), shall be deemed to have died in the performance of duty for the purposes of this section.".

Sec. 5. Section 23-581(a) of the District of Columbia Official Code is amended as follows:

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

(1) Subparagraph (C) is amended as follows:

(A) Strike the phrase "Theft of property valued less than $250" and insert the phrase "Theft of property that has some value" in its place.

(B) Strike the phrase "section 111 [D.C. Official Code, § 22-3211]" and insert the phrase "section 112 [D.C. Official Code § 22-3212(b)]" in its place.

(2) Subparagraph (D) is amended as follows:

(A) Strike the phrase "Theft of property valued in excess of $250" and insert the phrase "Theft of property valued at $1,000 or more; Theft twice or more in a 6-month period with an aggregate value of $1,000 or more" in its place.

ENROLLED ORIGINAL

(B) Strike the phrase "section 111 [D.C. Official Code, § 22-3211]" and insert the phrase "section 112(a) [D.C. Official Code § 22-3212(a)]" in its place.

(3) Subparagraph (E) is amended by striking the phrase "Unauthorized Disposal of Solid Waste" and inserting the phrase "Unauthorized disposal of solid waste, hazardous waste, or medical waste" in its place.

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

(1) Strike the phrase "section 9(b-1) (D.C. Official Code § 50-2201.04(b-1))" and insert the phrase "section 9(c) (D.C. Official Code § 50-2201.04(c))" in its place.

(2) Strike the phrase "section 10(b) (D.C. Official Code § 50-2201.05(b)) [Repealed]" and insert the phrase "section 3(b) (D.C. Official Code § 50-2206.11)" in its place.

(3) Strike the phrase "Operating or physically controlling a vehicle when under the influence of intoxicating liquor or drugs, when operating ability is impaired by intoxicating liquor, or when the operator's blood, breath, or urine contains the amount of alcohol which is prohibited by section 10(b)" and insert the phrase "Driving under the influence (DUI) of alcohol or a drug" in its place.

(4) Strike the phrase "section 13(e) (D.C. Official Code § 50-1403.01(e)" and insert the phrase "section 13(f) (D.C. Official Code § 50-1403.01(f))" in its place.

Sec. 6. Section 5 of the Act to Regulate Public Conduct on Public Passenger Vehicles, effective September 23, 1975 (D.C. Law 1-18; D.C. Official Code § 35-254), is amended as follows:

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

(1) Paragraph (1) is amended by striking the phrase "of this section" and inserting the phrase "and (1A) of this section" in its place.

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

"(2)(A) Violations penalized under this subsection shall be adjudicated by the Office of Administrative Hearings in accordance with the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*).".

(b) Subsection (b)(1A) is amended by striking the phrase "authorized individual" and inserting the phrase "authorized individual under subsection (a)(3) of this section" in its place.

Sec. 7. Chapter 8 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-805(c)(1) is amended as follows:

(1) Subparagraph (A) is amended by striking the phrase "prior to the effective date of the Second Chance Amendment Act of 2022, passed on 2nd reading on December 20, 2022 (Enrolled version of Bill 24-63)" and inserting the phrase "on or before September 30, 2027" in its place.

ENROLLED ORIGINAL

(2) Subparagraph (B) is amended by striking the phrase "the effective date of the Second Chance Amendment Act of 2022, on 2nd reading on December 20, 2022 (Enrolled version of Bill 24-63), shall be sealed" and inserting the phrase "October 1, 2027, shall be sealed by October 1, 2027, or" in its place.

(b) Section 16-806 is amended as follows:

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

"(B)(i) The offense is not an offense listed in § 16-805(b) and the person cited, arrested, or charged files a written motion prior to October 1, 2027; or

(ii) The offense is an offense listed in § 16-805(b); and".

(2) Subsection (i) is amended by adding a new paragraph (7) to read as follows:

"(7) Notwithstanding paragraph (6) of this subsection, the dismissal of a motion under this section between March 1, 2025, and the effective date of the Peace DC Omnibus Amendment Act of 2025, passed on 2nd reading on July 1, 2025 (Enrolled version of Bill 26-187), shall not preclude a movant from filing and the Court from entertaining subsequent motions sooner than one year after the date on which the initial motion was resolved.".

Sec. 8. The Secure DC Omnibus Amendment Act of 2024, effective June 8, 2024 (D.C. Law 25-175; 71 DCR 2732), is amended as follows:

(a) Section 18(c)(2) is amended to read as follows:

"(2) Paragraph (1) of this subsection shall expire December 31, 2026.".

(b) Section 30 is amended as follows:

(1) Subsection (f)(1)(H) is amended to read as follows:

"(H) A new paragraph (9) is added to read as follows:

""(9) Committed a crime of violence, as that term is defined in § 23-1331(4); except, that robbery where the victim does not sustain a physical injury and burglary in the second degree shall not be subject to the rebuttable presumption of detention under this subsection.".".

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

"(k) Subsections (f), (g), and (h) of this section shall expire December 31, 2026.".

Sec. 9. Section 1505 of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234), is amended as follows:

(a) Subsection (b-9) is amended by striking the phrase "May 7, 2025" and inserting the phrase "September 30, 2026" in its place.

(b) Subsection (b-10) is amended by striking the phrase "May 7, 2025" and inserting the phrase "September 30, 2026" in its place.

Sec. 10. Applicability.

ENROLLED ORIGINAL

(a)(1) Upon the date of inclusion of its fiscal effect in an approved budget and financial plan, section 4 shall retroactively apply as of January 1, 2024

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

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

(B) The date of publication of the notice of the certification shall not affect the applicability of the provision identified in paragraph (1) of this subsection.

(b) Section 7 shall apply as of March 1, 2025.

Sec. 11. Fiscal impact statement.

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

Sec. 12. Effective date.

This act shall take effect after approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto) and a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-115

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To amend the Residential Tranquility Act of 2010 to prohibit persons targeting a residence for purposes of demonstration from using sound amplifying devices in a residential zone between 7:00 p.m. and 9:00 a.m., to prohibit the use of unattended sound amplifying devices emitting sound while targeting a residence, and to prohibit a person from launching or throwing an object onto the residential property of another with the intent to cause fear, intimidate, or harass any person living or working at that residence; and to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to provide that the term expiration date for a Council appointment to the Corrections Information Council shall be December 7th of the year in which the term expires.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Residential Tranquility Amendment Act of 2025".

Sec. 2. The Residential Tranquility Act of 2010, effective May 26, 2011 (D.C. Law 18-374; D.C. Official Code § 22-2751 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 22-2751) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase ", for the purpose of persuading one or more individuals, or the public, or to protest some action, attitude, or belief." and inserting a period in its place.

(2) Paragraph (3) is amended by striking the phrase "human beings" and inserting the word "individuals" in its place.

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

"(4) "Sound amplifying device" means any machine, device, or loudspeaker that amplifies sound of the human voice, music, or any other sound. The term "sound amplifying device" shall not include automobile audio systems when used and heard only by the occupants of the vehicle in which the automobile audio system is installed.".

(b) Section 3 (D.C. Official Code § 22-2752) is amended by adding new subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

ENROLLED ORIGINAL

"(a-1) It is unlawful for a person to target a residence for purposes of a demonstration by using a sound amplifying device between 7:00 p.m. and 9:00 a.m. where the targeted residence is, in fact, located in a Residential Zone, Residential Flat Zone, or Residential Apartment Zone, as those terms and Zones are defined at the time of the of the conduct giving rise to the violation in the District of Columbia Zoning Regulations.

"(a-2) It is unlawful to leave an unattended sound amplifying device emitting sound to target a residence for purposes of a demonstration where the targeted residence is, in fact, located in a Residential Zone, Residential Flat Zone, or Residential Apartment Zone, as those terms and Zones are defined at the time of the of the conduct giving rise to the violation in the District of Columbia Zoning Regulations.

"(a-3) It is unlawful to continue or resume targeting a residence in violation of subsection (a-1) or (a-2) of this section after being instructed by a law enforcement officer to cease targeting a residence in violation of this law.

"(a-4) The Mayor and Metropolitan Police Department may seize and impound any unattended sound amplifying devices targeting a residence for purposes of a demonstration in violation of subsection (a-2) of this section.".

(c) A new section 3a is added to read as follows:

"Sec. 3a. Throwing objects at residential property.

"(a) It is unlawful for any person to knowingly launch or throw an object onto the residential property of another with the intent to cause fear, intimidate, or harass any person living or working at that residence.

"(b) A person who violates this section, upon conviction, shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 90 days, or both.".

Sec. 3. Section 11201a(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01(b)(2)), is amended by adding a new subparagraph (B-1) to read as follows:

"(B-1) Notwithstanding any other provision of law, the term expiration date for a Council appointment to the Corrections Information Council shall be December 7th of the year in which the term expires.".

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

ENROLLED ORIGINAL

This act shall take effect after approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto) and a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-116

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To amend section 3023 of the Office of the Deputy Mayor for Public Safety and Justice Establishment Act of 2011 to require mandatory bi-annual meetings between Safe Passage and Safe Blocks personnel with the school administrators whose school routes are served by Safe Passage Ambassadors, and to clarify the training requirements for Safe Passage personnel hired by community-based organizations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Safe Passage Training and School Engagement Amendment Act of 2025".

Sec. 2. Section 3023(a) of the Office of the Deputy Mayor for Public Safety and Justice Establishment Act of 2011, effective September 6, 2023 (D.C. Law 25-50; D.C. Official Code § 1-301.192(a)), is amended by adding new paragraphs (4) and (5) to read as follows:

"(4) Personnel hired by an organization receiving a grant pursuant to this subsection shall carry out their duties in accordance with the terms of the grant agreement and standard operating procedures established by the Deputy Mayor, which shall include a mandatory twice annual meeting between Safe Passage and Safe Blocks personnel ("Safe Passage Ambassadors") with the school administrators whose school routes are served by the Safe Passage Ambassadors.

"(5) All Safe Passage Ambassadors employed by an organization receiving a grant pursuant to this subsection shall receive the following trainings, at minimum, developed in consultation with the Office of the State Superintendent for Education and school administrators, to be administered by the Deputy Mayor:

"(A) Quarterly bystander intervention training, including conflict resolution and de-escalation techniques;

"(B) Annual cultural competency training, including training on racial, gender, LGBTQIA+, and socioeconomic factors as related to implicit bias;

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"(C) Annual training on mental health, neurodivergence, and special needs for the purpose of providing guidance on how to interact positively with students of different needs, not to diagnose conditions or administer specific kinds of care;

"(D) Annual training on recognizing signs of abuse, neglect, and domestic, intimate partner, or intra-familial violence; and

"(E) Any other trainings required by the Deputy Mayor.".

Sec. 3. Applicability.

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

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

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

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

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as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-117

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To amend, on an emergency basis, section 25-113 of the District of Columbia Official Code to continue the extension of the Streatery Program endorsements through December 31, 2025, and to clarify endorsement deadlines for certain classes of licensees; and to amend the Legalization of Marijuana for Medical Treatment Initiative of 1999 to make a clarifying amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Streatery Program Endorsement Extension and Medical Cannabis Clarification Emergency Amendment Act of 2025".

Sec. 2. Section 25-113(a)(6) of the District of Columbia Code is amended as follows:

(a) Strike the phrase "2022 and 2023" wherever it appears and insert the phrase "2022, 2023, 2024, and through December 31, 2025" in its place.

(b) Subparagraph (A)(i)(II) is amended by striking the semicolon and inserting the phrase "annually with the fee for 2025 due by April 1, 2025; except, that an on-premises retailer licensee, class C/T, D/T, C/N, or D/N, or a manufacturer licensee class B, shall pay the fee for 2025 by September 30, 2025;" in its place.

Sec. 3. Section 7(q)(1) of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06(q)(1)), is amended to read as follows:

"(q)(1)(A) A retailer or internet retailer shall not locate within any residential district or within 400 feet of a preschool, primary or secondary school, or recreation center; except, that a license holder or an applicant who has applied prior to the effective date of the Medical Cannabis Clarification and Program Enforcement Amendment Act of 2024, effective December 17, 2024 (D.C. Law 25-255; 71 DCR 13505), shall not be permitted to locate within 300 feet of a preschool, primary or secondary school, or recreation center.

"(B) Notwithstanding subparagraph (A) of this paragraph, an unlicensed establishment license holder or applicant that applied for a retailer or internet retailer license

ENROLLED ORIGINAL

during the 90-calendar day open application period set forth in section 7a(a)(1) shall be permitted to locate within 300 feet of a preschool, primary or secondary school, or recreation center where the main entrance to the preschool, primary school or secondary school, or recreation center is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.".

Sec. 4. The Streatery Program Endorsement Extension Temporary Amendment Act of 2024, effective March 7, 2025 (D.C. Law 25-294; 72 DCR 337), is repealed.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-118

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To authorize, on an emergency basis, the Deputy Mayor for Planning and Economic Development to issue a grant in Fiscal Year 2025 or 2026 to the African American Civil War Memorial Freedom Foundation, Inc. for the purpose of redeveloping the African American Civil War Museum.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "African American Civil War Museum Limited Grant-Making Authority Emergency Amendment Act of 2025".

Sec. 2. Section 2032 of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Code § 1-328.04), is amended by adding a new subsection (kk) to read as follows:

"(kk) Notwithstanding the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*), the Deputy Mayor may make a grant in Fiscal Year 2025 or 2026 to the African American Civil War Memorial Freedom Foundation, Inc. for the purpose of redeveloping the African American Civil War Museum, located at 1925 Vermont Avenue, NW.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-119

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To amend, on an emergency basis, the Residential Tranquility Act of 2010 to prohibit persons targeting a residence for purposes of demonstration from using sound amplifying devices in a residential zone between 7:00 p.m. and 9:00 a.m., to prohibit the use of unattended sound amplifying devices emitting sound while targeting a residence, and to prohibit a person from launching or throwing an object onto the residential property of another with the intent to cause fear to, intimidate, or harass any person living or working at that residence; and to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to provide that the term expiration date for a Council appointment to the Corrections Information Council shall be December 7th of the year in which the term expires.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Residential Tranquility Emergency Amendment Act of 2025".

Sec. 2. The Residential Tranquility Act of 2010, effective May 26, 2011 (D.C. Law 18-374; D.C. Official Code § 22-2751 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 22-2751) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase ", for the purpose of persuading one or more individuals, or the public, or to protest some action, attitude, or belief." and inserting a period in its place.

(2) Paragraph (3) is amended by striking the phrase "human beings" and inserting the word "individuals" in its place.

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

"(4) "Sound amplifying device" means any machine, device, or loudspeaker that amplifies sound of the human voice, music, or any other sound. The term "sound amplifying device" shall not include automobile audio systems when used and heard only by the occupants of the vehicle in which the automobile audio system is installed.".

(b) Section 3 (D.C. Official Code § 22-2752) is amended by adding new subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

ENROLLED ORIGINAL

"(a-1) It is unlawful for a person to target a residence for purposes of a demonstration by using a sound amplifying device between 7:00 p.m. and 9:00 a.m. where the targeted residence is, in fact, located in a Residential Zone, Residential Flat Zone, or Residential Apartment Zone, as those terms and Zones are defined at the time of the of the conduct giving rise to the violation in the District of Columbia Zoning Regulations.

"(a-2) It is unlawful to leave an unattended sound amplifying device emitting sound to target a residence for purposes of a demonstration where the targeted residence is, in fact, located in a Residential Zone, Residential Flat Zone, or Residential Apartment Zone, as those terms and Zones are defined at the time of the of the conduct giving rise to the violation in the District of Columbia Zoning Regulations.

"(a-3) It is unlawful to continue or resume targeting a residence in violation of subsections (a-1) or (a-2) of this section after being instructed by a law enforcement officer to cease targeting a residence in violation of this law.

"(a-4) The Mayor and Metropolitan Police Department may seize and impound any unattended sound amplifying devices targeting a residence for purposes of a demonstration in violation of subsection (a-2) of this section.".

(c) A new section 3a is added to read as follows:

"Sec. 3a. Throwing objects at residential property.

"(a) It is unlawful for any person to knowingly launch or throw an object onto the residential property of another with the intent to cause fear to, intimidate, or harass any person living or working at that residence.

"(b) A person who violates this section, upon conviction, shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 90 days, or both.".

Sec. 3. Section 11201a(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01(b)(2)), is amended by adding a new subparagraph (B-1) to read as follows:

"(B-1) Notwithstanding any other provision of law, the term expiration date for a Council appointment to the Corrections Information Council shall be December 7th of the year in which the term expires.".

Sec. 4. The Residential Tranquility Temporary Amendment Act of 2024, effective April 18, 2025 (D.C. Law 25-323; 71 DCR 14480), is repealed.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved

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October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-120

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 2025

To amend, on an emergency basis, due to congressional review, section 215 of the Uniform College Athlete, Name, Image, or Likeness Act of 2022 to permit an institution, conference, or athletic association to assist a college athlete in selecting, arranging for, or providing payment to, a name, image, or likeness agent and in selecting, arranging for, or collecting payment from, a third party engaged in specific name, image, or likeness agreements with college athletes, and to remove the prohibition against institutions or conferences providing compensation to a college athlete for the use of the athlete's name, image, or likeness; and to amend section 5710 of Title 3 of the District of Columbia Municipal Regulations to delay applicability of expanded financial disclosure requirements for certain boards and commissions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Uniform College Athlete Name, Image, or Likeness Congressional Review Emergency Amendment Act of 2025".

Sec. 2. Section 215 of the Uniform College Athlete Name, Image, or Likeness Act of 2022, effective February 23, 2023 (D.C. Law 24-245; D.C. Official Code § 38-1631.05), is amended as follows:

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

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

(2) Paragraph (3) is amended by striking the phrase "; and" and inserting a semicolon in its place.

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

"(4) With selecting, arranging for, or providing payment to a name, image, or likeness agent; and

"(5) With selecting, arranging for, or collecting payment from a third party engaged in specific name, image, or likeness agreements with a college athlete or athletes.".

(b) Subsection (e) is repealed.

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Sec. 3. Section 5710 of Title 3 of the District of Columbia Municipal Regulations (3 DCMR § 5710) is amended by adding a new subsection 5710.03 to read as follows:

"5710.3 This section shall not apply before January 1, 2026.".

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
JULY 21, 2025

ENROLLED ORIGINAL

A RESOLUTION

26-174

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 14, 2025

To declare the existence of an emergency with respect to the need to amend the Urban Forest Preservation Amendment Act of 2002 to exempt Heritage Trees located in Lots 865, 866, 867, 868, and 869 in Square 5056 of the Parkside mixed-use economic development project from Heritage Tree removal requirements.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Parkside Canopy Emergency Declaration Resolution of 2025".

Sec. 2. (a). The Urban Forest Preservation Act of 2002, effective June 12, 2003 (D.C. law 14-309; D.C. Official Code § 8-651.01 *et seq.*) ("Act"), was enacted to establish an urban forest preservation program, to require a Special Tree removal permit and community notification prior to the removal of a replacement tree with a circumference of 55 inches or more, to establish a Tree Fund to be used to plant trees, and to revise penalties for injuring trees on public space and private property.

(b) The Act has subsequently been amended by the Tree Canopy Protection Amendment Act of 2016, effective July 1, 2016 (D.C. Law 21-133; 63 DCR 7134), to increase the permit fees for Special Tree removal, to increase the fines for unlawful removal of a Special Tree, to protect trees with a circumference of 100 inches or more, to expand the permissible uses of the Tree Fund, and to establish the Urban Forestry Advisory Council.

(c) Exempting the removal of the Heritage Trees in Lots 865, 866, 867, 868, and 869 of Square 5056 from permit requirements established by the Act is a critical component of the ongoing transit-oriented economic development initiatives within the Parkside community in Ward 7. This project will introduce approximately 209 units of much-needed affordable housing and ground floor retail to include a grocery store and was approved through a planned unit development prior to the enactment of the Tree Canopy Protection Amendment Act of 2016. The Parkside development has already created a new tree-lined buffer and community park that includes green space and other community amenities that would offset the loss of these Heritage Trees.

(d) Emergency legislation is needed to support the ongoing economic development initiatives including the construction of new affordable housing units and retail in the Parkside community in Ward 7.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances in section 2 constitute emergency circumstances making it necessary that the Parkside Canopy Emergency Amendment Act of 2025 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

26-177

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 14, 2025

To declare the existence of an emergency with respect to the need to amend the Urban Forest Preservation Act of 2002 to require that the Mayor issue a permit for the removal of a Heritage Tree abutting or within the site of the Long Bridge Project under certain conditions.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Long Bridge Project Emergency Declaration Resolution of 2025".

Sec. 2. (a) The Long Bridge crosses the Potomac River to connect the District to Arlington, Virginia. The Long Bridge is used by CSX Transportation freight trains, Amtrak intercity trains, and Virginia Railway Express commuter trains.

(b) The Long Bridge Project will add a new two-track railroad bridge next to the existing bridge, eliminating a major bottleneck for rail transport (both passenger and freight) through the mid-Atlantic region. The Virginia Passenger Rail Authority ("VPRA") is currently managing the project, though the project's development was original led by the District Department of Transportation ("DDOT") from 2011 through 2020. The project will also add a dedicated bicycle and pedestrian bridge over the Potomac River, linking Arlington's Long Bridge Park, the District's East and West Potomac Parks, and the Mount Vernon Trail. In sum, the project will increase regional rail capacity, improve passenger rail service, enhance pedestrian and bicycle connectivity between the District and Virginia, and boost the regional economy.

(c) Unfortunately, the project has encountered an obstacle with respect to an American Elm tree that is located within the footprint of the project. Specifically, there is an American Elm tree that sits between Maine Avenue, SW, the Washington Marina, and the Maine Avenue pedestrian bridge that must be either protected in place, relocated, or removed for the project to move forward, since there is no reasonable design alternative that could avoid this location.

(d) Given the tree's size (its circumference is 126.3 inches), it qualifies as a "Heritage Tree" under District law. It, therefore, cannot be completely removed unless it is demonstrated to be a Hazardous Tree, or of a species that DDOT has determined is appropriate for removal. The American Elm tree impacting the Long Bridge Project is neither a Hazardous Tree nor of a species that is appropriate for removal. Removal is, therefore, not an option under current law.

ENROLLED ORIGINAL

(e) DDOT's Urban Forestry Division ("UFD") has examined the tree and does not believe protecting the tree in place while construction moves forward is feasible. Much of the tree's critical root system is within the footprint of the new rail bridge abutment. The construction will likely damage the root system and irreparably harm the tree. Given that attempts to protect the tree in place will likely result in its destruction, DDOT is unlikely to issue a permit under that condition.

(f) District law allows for the relocation of a Heritage Tree if the tree can be moved "without significant harm to the tree." However, if the tree dies within 3 years of replanting, the person or entity who relocated the tree is subject to a fine.

(g) Unfortunately, relocating the tree presents another series of issues. First, because the tree is located between 2 bridges on Maine Avenue, SW with low clearance, DDOT is limited to one potential relocation site—a traffic median 700 feet east of its current location. DDOT recently planted approximately 40 trees at this site, and those newly planted trees would need to be removed prior to the relocation of the American Elm. Additionally, the relocation will require a closure of Maine Avenue, SW, for up to 48 hours, closures of the Maine Avenue Pedestrian Bridge, sidewalk, and Washington Marina parking spaces while the tree is being transported and replanted in the new location. Relocation will still require that VPRA coordinate with UFD to monitor the tree's health after relocation, including monthly arborist inspections and periodic, single-lane closures of Maine Avenue. VPRA estimates that the total cost for relocation is approximately $3 million. All told, there will be significant costs and inconveniences associated with relocating the tree, including the destruction of dozens of younger trees.

(h) The fine for illegally removing a tree, or relocating a tree that dies within 3 years, is $300 for each inch of the tree's circumference. Here, the fine for illegal removal or relocation would be approximately $37,890. While those costs are not insurmountable for the Long Bridge Project, a violation of the Heritage Tree protection laws also results in the denial of construction permits for 3 years, which would essentially halt work on the project.

(i) VPRA is willing to pay an increased fee to remove the tree, so long as it would allow the Long Bridge Project to move forward.

(j) This emergency legislation would allow for the removal of a Heritage Tree if the tree abuts or lies within the site of the Long Bridge Project. An applicant for a removal permit would also need to demonstrate that the tree cannot reasonably be protected in place and that relocation would either cost more than $1 million or unreasonably burden the public (e.g., road and sidewalk closures). Finally, the applicant must agree to pay $1,200 per each inch of circumference of the Heritage Tree to be removed.

(k) This emergency legislation is necessary to allow the Long Bridge Project to proceed without unreasonable delays or significant additional costs.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia finds the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Long Bridge Project Emergency Amendment Act of 2025 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

26-178

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 14, 2025

To declare the existence of an emergency with respect to the need to amend the Language Access Act of 2004 to include the District of Columbia Water and Sewer Authority as a covered entity with major public contact; to amend the District of Columbia Public Works Act of 1954 to require that the District of Columbia Water and Sewer Authority submit information regarding disconnections to the Council, the Office of the Attorney General, and the Office of the Tenant Advocate on a monthly basis; to amend the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996 to clarify the imposition of charges and penalties for late payment of water service charges and bills; and to amend section 431 of Title 21 of the District of Columbia Municipal Regulations to modify the notice requirements to building occupants prior to a water service disconnection.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "DC Water and Sewer Authority Billing and Disconnection Clarification Emergency Declaration Resolution of 2025".

Sec. 2. (a) In 1954, Congress enacted the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; D.C. Official Code *passim*) ("PWA"). Sections 102 (D.C. Official Code § 34-2413.10, repealed) and 210 (D.C. Official Code § 34-2110) of the PWA authorized charging 10% for late payment of water and sewer charges, respectively, remaining unpaid after 30 days.

(b) In 1990, the Council enacted the District of Columbia Water and Sewer Operations Amendment Act of 1990, effective April 17, 1990 (D.C. Law 8-136; 37 DCR 2620), which, among other things, amended those sections of the PWA to add a late penalty of 1% per month compounded monthly for any water and sewer charges remaining unpaid after 60 days.

(c) In 1996, the Council passed the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2201.01 *et seq.*), which repealed the statutory provision for late payment of *water* charges in section 102 of the PWA, but did not repeal the statutory provision for late payment of *sewer* charges in section 210 of the PWA.

(d) Still, section 216(d) of the PWA (D.C. Official Code § 34-2202.16(d)) granted the

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District of Columbia Water and Sewer Authority ("DC Water") broad authority to "impose additional charges and penalties for late payment of bills." Relying on that legal authority, on August 4, 2003, DC Water approved amendments to 21 DCMR § 112 that established a late penalty fee of 10% for charges remaining unpaid after 30 days and a late fee of 1% compounded monthly for charges remaining unpaid after 60 days. There is now a legal dispute as to whether the D.C. Official Code conferred DC Water with the requisite legal authority to initiate this change to the DCMR.

(e) If the authority delegated to DC Water under section 216(d) is interpreted as not conferring DC Water with the requisite legal authority, DC Water would only be authorized to issue late fees and penalties in connection with *sewer* service arrearages. This effectively prohibits DC Water from charging any late fees that encourage the timely payment of water charges and other related services such as payment-in-lieu of taxes and right-of-way fees. Additionally, while section 210 sets a limit on the late fees that can be imposed for unpaid sanitary sewer service charges, section 216(d) includes no such limit on the imposition of late fees related to unpaid water service charges.

(f) Separately, DC Water is also faced with $35.5 million in unpaid water bills owed to it by ratepayers. In response, in March of this year, DC Water launched a more robust campaign to collect outstanding balances from ratepayers, issuing its first of many notices of disconnection to housing providers of multifamily apartment buildings. The notices advised tenants residing at the properties that the water service would be terminated unless housing providers addressed their outstanding water bills.

(g) As of May 21, 2025, a total of 331 properties had received a notice of potential water service disconnection: 327 small multi-unit buildings (ranging from 4 to 6 units on average) and 4 larger apartment buildings. Of those 331 properties, 42 had their water service disconnected, and as of May 30, 2025, 24 remained disconnected. Since June 1, 2025, an additional 29 properties have been identified for disconnection.

(h) DC Water's recent efforts at collecting outstanding debts have revealed significant challenges associated with water shutoffs at multifamily residential buildings. First, in some of these cases, tenants have been paying their rent consistently and did not know that their building was in arrears until they saw a notice of disconnection or experienced a disconnection. In a sense, these tenants are also being punished for their building owner or manager's failure to pay the water bill. Additionally, because DC Water is rarely in contact with individual tenants, they may not know if a unit for which they are threatening disconnection is the home of a senior, child, or a person with a disability—populations that are especially vulnerable during water service shutoffs. And without more information about individual occupants at these buildings, it has been difficult for District agencies (like the Office of the Tenant Advocate) or legal aid providers to contact families who have experienced or are facing a disconnection to provide them with assistance or guidance.

(i) Requiring that DC Water provide monthly updates to the Council, the Office of the

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Attorney General ("OAG"), and the Office of the Tenant Advocate ("OTA") regarding its disconnection activities will better enable OAG and OTA to assist residents experiencing disconnection and will allow the Council to make more informed decisions regarding potential changes to the disconnection process.

(j) Emergency legislation is therefore necessary to clarify the Council's intent that DC Water has had the authority to assess late payment fees on water service arrearages since April 18, 1996, and that those fees are subject to the same limitations as fees for sewer service arrearages. Emergency legislation is also necessary to require that DC Water submit monthly reports to the Council, OAG, and OTA regarding its disconnection activities.

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 DC Water and Sewer Authority Billing and Disconnection Clarification Emergency Amendment 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

B26-0329 Campaign Finance Modernization Amendment Act of 2025

Intro. 07-14-2025 by Councilmembers Allen, Nadeau, Henderson, and Lewis George and referred to the Committee on Executive Administration and Labor

B26-0330 Green's Court Park Designation Act of 2025

Intro. 07-14-2025 by Councilmember Pinto and referred to the Committee of the Whole

B26-0331 Harmony Park Designation Act of 2025

Intro. 07-14-2025 by Councilmembers Pinto, and Nadeau and referred to the Committee of the Whole

B26-0332 Vending Modernization Amendment Act of 2025

Intro. 07-14-2025 by Councilmember Nadeau, and Chairman Mendelson and referred sequentially to the Committee on Public Works and Operations, and Committee of the Whole

PR26-0281	Board of Professional Engineering Dan Hanlon Confirmation Resolution of 2025 Intro. 07-14-2025 by Chairman Mendelson and referred to the Committee on Business and Economic Development
PR26-0282	Board of Professional Engineering Dr. Arielle Miller Confirmation Resolution of 2025 Intro. 07-14-2025 by Chairman Mendelson and referred to the Committee on Business and Economic Development
PR26-0283	Washington Convention and Sports Authority Board of Directors Cheryle Doggett Confirmation Resolution of 2025 Intro. 07-14-2025 by Chairman Mendelson and referred to the Committee on Business and Economic Development

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
7/25/2025

Notice is hereby given that:
License Number: ABRA-099697 **License Class/Type: C Multipurpose**
Applicant: Cinema Beverage Holding Company LLC
Trade Name: Atlantic Plumbing Beverage Services
SMD: 1E07

Has applied for the renewal of an alcoholic beverage license at the premises:
807 V STREET NW, WASHINGTON, DC 20001

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
9/8/2025

A HEARING WILL BE HELD ON:
9/29/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC,

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7am - 2am	11am - 2am	-
Monday:	7am - 2am	11am - 2am	-
Tuesday:	7am - 2am	11am - 2am	-
Wednesday:	7am - 2am	11am - 2am	-
Thursday:	7am - 2am	11am - 2am	-
Friday:	7am - 2am	11am - 2am	-
Saturday:	7am - 2am	11am - 2am	-

	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	11am - 11pm	11am - 11pm
Monday:	11am - 11pm	11am - 11pm
Tuesday:	11am - 11pm	11am - 11pm
Wednesday:	11am - 11pm	11am - 11pm
Thursday:	11am - 11pm	11am - 11pm
Friday:	11am - MIDNIGHT	11am - MIDNIGHT
Saturday:	11am - MIDNIGHT	11am - MIDNIGHT

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	July 25, 2025
Protest Petition Deadline:	September 8, 2025
Roll Call Hearing Date:	September 29, 2025

License No.:	ABRA-118103
Licensee:	Charlene's Bar & Grille, LLC
Trade Name:	Charlene's Bar & Grille
License Class:	Retailer's Class "C" Restaurant
Address:	2618 Georgia Avenue, N.W.
Contact:	James Mckinney: (202) 725-6503, hbtstars@yahoo.com

WARD 1 ANC 1E SMD 1E06

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 29 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 an Entertainment Endorsement inside premises and outside on the Summer Garden. Additional request to add (2) Sports Wagering betting kiosk inside premises on the first floor.

CURRENT HOURS OF OPERATION INSIDE PREMISES
Sunday through Saturday 7am – 3am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES
Sunday through Saturday 11am – 2am

CURRENT HOURS OF OPERATION OUTSIDE ON THE SUMMER GARDEN
Sunday through Thursday 7am – 10pm, Friday and Saturday 7am – 11pm

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSMPTION OUTSIDE ON THE SUMMER GARDEN
Sunday through Thursday 11am – 10pm, Friday and Saturday 11am – 11pm

PROPOSED HOURS OF LIVE INDOOR ENTERTAINMENT INSIDE PREMISES
Sunday through Saturday 12pm – 1am

PROPOSED HOURS OF LIVE ENTERTAINMENT OUTSIDE ON THE SUMMER GARDEN
Sunday through Saturday 12pm – 10pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	July 25, 2025
Protest Petition Deadline:	September 8, 2025
Roll Call Hearing Date:	September 29, 2025
Protest Hearing Date:	November 5, 2025

License No.:	ABRA-133230
Licensee:	R&Z Entertainment, LLC
Trade Name:	Karma Hookah Bar
License Class:	Retailer's Class "C" Restaurant
Address:	2409 18th Street, N.W.
Contact:	Adanech Gebremeskel: (240) 491-1145, adiworku349@gmail.com

WARD 1 ANC 1C SMD 1C07

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 29, 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 **November 5, 2025, at 1:30 p.m.**

NATURE OF OPERATION

New Class "C" Restaurant with a Seating Capacity of 12 and Total Occupancy Load of 75. The License is also requesting Holiday Extension of Hours.

HOURS OF OPERATION

Sunday through Saturday 7am – 6am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION

Sunday through Thursday 9am – 2am, Friday and Saturday 9am – 3am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	July 25, 2025
Protest Petition Deadline:	September 8, 2025
Roll Call Hearing Date:	September 29, 2025

License No.:	ABRA-123200
Licensee:	TCM & Co., LLC
Trade Name:	Shanklin Hall
License Class:	Retailer's Class "C" Restaurant
Address:	2325 18th Street, N.W.
Contact:	Maia Shanklin Roberts: (202) 904-7479, maia@shanklinhall.com

WARD 1 ANC 1C SMD 1C07

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 29, 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 to expand the licensed premises to include the existing second floor. The Total Occupancy Load is expected to increase from a capacity of 49 to a capacity of 90.

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

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

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

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

HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES

Sunday through Thursday 9:30pm – 1am, Friday and Saturday 9:30pm – 2am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Placard Posting Date:	**July 25, 2025
Protest Petition Deadline:	**September 8, 2025
Roll Call Hearing Date:	**September 29, 2025
Protest Hearing Date:	** November 5, 2025

License No.:	ABRA-132943
Licensee:	Theater Alliance of Washington DC, Inc.
Trade Name:	Theater Alliance
License Class:	Retailer's Class "D" Multipurpose Facility
Address:	340 Maple Drive, S.W.
Contact:	Samba Pathak: (202) 241-2539, business@theateralliance.com

WARD 6 ANC 6D SMD 6D04

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 29, 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 on ****November 5, 2025 at 1:30 p.m.**

NATURE OF OPERATION
A Multipurpose theater company with live theatrical productions selling beer and wine. Seating for 99 and Total Occupancy Load of 126.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday through Saturday 10am – 11pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	**July 4, 2025
Protest Petition Deadline:	**August 18, 2025
Roll Call Hearing Date:	**September 8, 2025
Protest Hearing Date:	**October 22, 2025

License No.:	ABRA-132943
Licensee:	Theater Alliance of Washington DC, Inc.
Trade Name:	Theater Alliance
License Class:	Retailer's Class "D" Multipurpose Facility
Address:	340 Maple Drive, S.W.
Contact:	Samba Pathak: (202) 241-2539, business@theateralliance.com

WARD 6 ANC 6D SMD 6D04

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 8, 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 on ****October 22, 2025 at 1:30 p.m.**

NATURE OF OPERATION

A Multipurpose theater company with live theatrical productions selling beer and wine. Seating for 99 and Total Occupancy Load of 126.

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

Sunday through Saturday 10am – 11pm

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF PUBLIC HEARING

TIME AND PLACE: **September 29, 2025 @ 4:00 p.m.**
Via WebEx: https://dcoz.dc.gov/ZC24-24 (to participate & watch)
Via Telephone: 1-650-479-3208 Access code: 2314 775 0688 (audio participation & listen)
Via YouTube: https://www.youtube.com/c/DCOfficeofZoning (to watch)
Instructions: https://dcoz.dc.gov/release/virtual-public-hearings
Witness Sign Up: https://dcoz.dc.gov/service/sign-testify

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 24-24 ("The Heritage" Consolidated Planned Unit Development and Related Map Amendment from RF-1 to MU-9 at Parcel 0129; Lot 0115 [1201 New York Avenue, N.E.])

THIS CASE IS OF INTEREST TO ANC 5D

Oral and Written Testimony

- All who wish to testify in this case are **strongly encouraged** to sign up to do so **at least 24 hours prior to the start of the hearing** on OZ's website indicated above. Also, see below: *How to participate as a witness – oral statements*. **On the day of the hearing – by 3:00 p.m.**, call 202-727-0789 to sign up to testify.
- All written comments and/or testimony **must be submitted to the record at least 24 hours prior to the start of the hearing** – see below: *How to participate as a witness – written statements*.

On December 18, 2024, D.C. Department of General Services (the "Applicant") filed an application (the "Application") with the Zoning Commission for the District of Columbia ("Commission") for the subject consolidated planned unit development and related zoning map amendment from the RF-1 zone to the MU-9A zone to construct a new emergency shelter for men experiencing homelessness in Washington, DC to be located at 1201 New York Avenue, N.E. (the "Property"). The Applicant is requesting approval by the Commission pursuant to Subtitle Z, Chapter 3 of the Zoning Regulations (Title 11, Zoning Regulations of 2016 in the D.C. Municipal Regulations).

The Applicant proposes to construct a new emergency shelter building for men experiencing homelessness that will include five distinct programs: low barrier shelter housing, work program housing, senior housing, respite, and hypothermia housing. To make space for the Project, the Applicant proposes to move the Animal Shelter to an off-site location and then demolish the Animal Shelter Building. Overall, the Project will provide 407 permanent beds as well as space for approximately 80-100 cots to serve hypothermia shelter needs. The Project will also provide a medical clinic, administrative space, central dining, educational space, and recreational space.

The Office of Planning filed a setdown report on April 14, 2025 recommending that the Commission set the Application down for a public hearing. The OP setdown report states that the proposal would not be inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens. At the public meeting on April 24, 2025, the Commission set down the Application for public hearing. The Applicant filed its prehearing statement on May 12, 2025.

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

How to participate as a witness – oral presentation

Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case 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/ or by calling Ella Ackerman at (202) 727-0789 in order to ensure the success of the new virtual public hearing procedures.

The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The Commission must base its decision on the record before them. Therefore, **all written comments and/or testimony must be submitted to the record at least 24 hours prior to the start of the hearing**. The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

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

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

How to participate as a witness – written statements

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at https://app.dcoz.dc.gov/Login.aspx; however, written statements may also be submitted by e-mail to zcsubmissions@dc.gov. Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Ella Ackerman at (202) 727-0789 for further assistance.

How to participate as a party.

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

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

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

"Great weight" to written report of ANC

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

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

ANTHONY J. HOOD, ROBERT E. MILLER, TAMMY STIDHAM, GWEN WRIGHT, AND JOSEPH IMAMURA -------- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

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

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

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

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

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

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.

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። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Lead Pipe Replacement Assistance Program Eligibility Determinations and Benefits

The Director of the Department of Energy and Environment ("DOEE" or the "Department"), pursuant to the authority set forth in Section 110 of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.10); Sections 6016 and 6019b of the Lead Service Line Priority Replacement Assistance Act of 2004, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code §§ 34-2155 and 34-2159) (the "Act"); Section 203(15) of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.03(15)); and Mayor's Order 2006-61, dated June 14, 2006, and in consultation with the District of Columbia Water and Sewer Authority ("D.C. Water"), hereby gives notice of the adoption of the following amendments to Chapter 38 (Lead Pipe Replacement Assistance Program Eligibility Determinations) in Title 20 (Environment), of the District of Columbia Municipal Regulations (DCMR).

This rulemaking amends requirements related to the Lead Pipe Replacement Assistance Program ("LPRAP" or the "Program"), which provides an eligible residential property owner with a one-time Department-funded benefit towards the replacement of their partial lead water service line, subject to available funding. This rulemaking clarifies when a District residential property owner will be considered to have elected to replace the eligible portion of the lead water service line, clarifies the application process and eligibility determinations, and increases the reasonable cap on replacement costs covered by the program based on the cost of similar replacements completed by D.C. Water.

Under the Act, the LPRAP, which is jointly administered by DOEE and D.C. Water, provides financial assistance to residential property owners for replacement of the eligible portion of the lead water service line, which is defined in Section 6019b(k) of the Act (D.C. Official Code § 34-2159(k)) as "the portion of the lead water service line located on private property, or any portion of the lead water service line remaining on public property from prior work to remove a lead water service line." This rule clarifies and updates the regulations governing implementation of the Program.

This rulemaking also provides clarification of covered Program benefits necessary for the continued success of the program and:

- Authorizes DOEE to revise the reasonable caps on replacement costs based on the increase in costs of goods and services of similar replacements completed by D.C. Water;
- Directs D.C. Water to provide current, updated information necessary to approve contractors for the residential property owners to contract with to perform the pipe replacements in the upcoming fiscal year; and
- Provides eligible District residential property owners with clarification on the described benefits of participation in the Program.

The Department published a Notice of Proposed Rulemaking in the *District of Columbia Register* on November 29, 2024, at 71 DCR 014568, and provided thirty (30) days to provide comments. Only one comment was received, which strongly endorsed the proposed changes. The commenter provided three recommendations to improve the program, but none addressed the specific amendments that were proposed. Therefore, no changes have been made in response to the comment received.

Some non-substantive changes have been made to the provisions of the proposed rule to comply with the publication requirements of the Office of Documents and Administrative Issuances Rulemaking Handbook and Publications Style Manual. Specifically, the Manual requires that all numbers in the DCMR be written out in words and repeated by numerals in parenthesis. Changes have been made to §§ 3801.1(a), 3801.1(b), 3802.1(b), 3802.1(b)(1), 3802.1(b)(2), 3802.5, 3802.6, 3802.6(a), 3806.2(b), and 3803.7 to comply with this requirement. In addition, non-substantive formatting edits were made to the definition of "Partial Lead Service Line" in § 3899.

The Director adopted these rules as final on July 15, 2025, and they shall take effect on the date of publication of this notice in the *District of Columbia Register*.

Chapter 38, LEAD PIPE REPLACEMENT ASSISTANCE PROGRAM ELIGIBILITY DETERMINATIONS, of Title 20 DCMR, ENVIRONMENT, is amended as follows:

Subsection 3800.1 of Section 3800, LEAD PIPE REPLACEMENT ASSISTANCE PROGRAM, is amended to read as follows:

3800.1 The Department adopts these regulations to implement the requirements of the lead water service line replacement payment assistance program (LPRAP) under Section 6019b of the Act (D.C. Official Code § 34-2159).

Subsection 3801.1 of Section 3801, APPLICATION PROCESS, is amended to read as follows:

3801.1 To allow the Department to determine the eligibility of an applicant to receive LPRAP assistance, District residential property owners shall file an application with the Department.

(a) For a single-family property owned by one (1) person, that property owner must complete and submit an application.

(b) For a single-family property owned by multiple persons, at least one (1) of the property owners must complete and submit an application.

(c) For a multi-family property, a primary point of contact shall be designated by the authorizing authority or their designee to act on behalf of the property owner(s) and that primary point of contact shall complete and submit a single application on behalf of the authorizing authority.

Section 3802, ELIGIBILITY, is amended to read as follows:

3802 ELIGIBILITY

3802.1 To be eligible for an LPRAP benefit, the applicant or applicants shall:

(a) Submit an application as specified in § 3801.1 for a residential property in the District of Columbia that has an eligible portion of the lead water service line;

(b) If the applicant seeks eligibility to receive one hundred percent (100%) replacement cost benefit rather than the standard fifty percent (50%) benefit, show that they meet the following criteria:

(1) At least one (1) property owner meets the income criteria for financial eligibility established under Section 6019b(b)(1)(A)(i) of the Act (D.C. Official Code § 34-2159(b)(1)(A)(i)); or

(2) At least one (1) tenant meets the District or federal housing program participation criteria for financial eligibility established under Section 6019b(b)(1)(A)(ii) of the Act (D.C. Official Code § 34-2159(b)(1)(A)(ii)); and

(c) Seek assistance for the eligible portion of a lead water service line for program relief under Section 6019b(k) of the Act (D.C. Official Code § 34-2159(k)) as provided in §§ 3802.3 and .4.

3802.2 Pursuant to § 3802.1(c), upon receipt of an application, the Department shall check the best available lead water service line data to preliminarily determine whether the applicant's property contains the eligible portion of the lead water service line, as defined in Section 6019b of the Act (D.C. Official Code § 34-2159).

3802.3 A residential property owner(s) is eligible to receive assistance if the portion of the water service line on private property and/or the portion in public space remaining after a partial lead service line replacement is confirmed to be a lead water service line as defined in Section 6019a(d) of the Act (D.C. Official Code § 34-2158(d)).

3802.4 The material of the water service line shall be confirmed to be a lead water service line based on:

(a) Information on DC Water's Water Service Information Map (available at https://geo.dcwater.com/leadmap/) designates the water service pipe material as "verified lead" on private property and/or the portion in public space remaining after a partial lead service line replacement;

(b) Information provided by the residential property owner or a primary point of contact for their property confirms water service pipe material located on private property and/or the portion in public space remaining after a partial lead service line replacement is a lead water service line;

(c) Information otherwise available to the Department confirms water service pipe material located on private property and/or the portion in public space remaining after a partial lead service line replacement is a lead water service line; or

(d) The property owner's contractor completed a test pit and confirmed confirms water service pipe material located on private property and/or the portion in public space remaining after a partial lead water service line replacement is a lead water service line.

3802.5 For a single-family property, if the applicant seeks the one hundred percent (100%) replacement cost benefit rather than the standard fifty percent (50%) benefit, the Department shall determine the financial eligibility based on documentation demonstrating:

(a) Current tenant participation in a District or federal housing program; or

(b) The gross income of the household; provided, that if a member of the household is self-employed, the determination of financial eligibility shall be based on adjusted gross income, which shall apply to the overall household income in accordance with tax filing status.

3802.6 For a multi-family property, if the applicant seeks the one hundred percent (100%) replacement cost benefit rather than the standard fifty percent (50%) benefit, the Department shall determine the financial eligibility based on documentation demonstrating that either:

(a) At least one (1) property owner meets the income criteria for financial eligibility established under Section 6019b(b)(1)(A)(i) of the Act (D.C. Official Code § 34-2159(b)(1)(A)(i)), applying the gross-income standard articulated in § 3802.4(b); or

(b) At least one (1) tenant meets the District or federal housing program participation criteria for financial eligibility established under Section 6019b(b)(1)(A)(ii) of the Act (D.C. Official Code § 34-2159(b)(1)(A)(ii))

3802.7 As a condition of eligibility, each applicant shall sign a release, or provide electronic acknowledgement, that authorizes the Department to obtain or verify information necessary to process the application or for reporting purposes.

3802.8 Each applicant shall cooperate fully in establishing eligibility by providing documentation or other proof of:

(a) Property ownership by the applicant for the property to be benefited; and

(b) Additional information that the Department may require that is relevant to establishing eligibility.

3802.9 In addition to the requirements of § 3802.6-.7, each applicant seeking to establish household income eligibility under Section 6019b(b)(1)(A)(i) of the Act (D.C. Official Code § 34-2159(b)(1)(A)(i)) shall cooperate fully in establishing financial eligibility by providing documentation or other proof of:

(a) Household composition; and

(b) Household income.

3802.10 The Department may obtain the information used in determining eligibility from any relevant sources.

3802.11 The Department shall complete the eligibility and benefit determination within thirty (30) days after it receives a completed application, or, in the event of an unexpected or extenuating circumstance that affects the Department, such as a natural disaster, as promptly thereafter as possible, except that the following shall toll the timeline:

(a) An applicant's failure to supply information to document facts stated in an application;

(b) The Department's inability to make contact with an applicant after three (3) attempts;

(c) Evidence of misrepresentation in an application;

(d) A failure to respond by a third party from whom the Department has requested necessary information and over whom the Department has no control; or

(e) A delay in receipt of necessary information over which the Department has no control.

3802.12 The Department shall notify the applicant of the eligibility and benefit determination in accordance with Section 6019b of the Act (D.C. Official Code § 34-2159).

3802.13 If the lead pipe replacement is not completed within ninety (90) days from the date of approval or before the end of the fiscal year in which the application was approved, whichever occurs first, the Department may require the applicant to provide updated proof of eligibility to receive benefits.

Section 3803, BENEFITS, is amended to read as follows:

3803 BENEFITS

3803.1 Benefits for LPRAP will be provided in accordance with Section 6019b of the Act (D.C. Official Code § 34-2159).

3803.2 For purposes of providing LPRAP benefits in accordance with Section 6019b of the Act (D.C. Official Code § 34-2159), a District residential property owner is considered to "elect to replace the 'eligible portion of the lead water service line'" by the submission of an application to DOEE for assistance under the Program, regardless of whether it is later determined by a test pit or alternative testing methods that the public and private water service lines do not qualify as an "eligible portion of the lead water service line," as defined in Section 6019b of the Act.

3803.3 An LPRAP benefit is:

(a) A one-time benefit per eligible District residential property;

(b) Provided only after the Department determines eligibility as described in § 3802; and

(c) Subject to availability of funds.

3803.4 An LPRAP benefit will conclude without a water service line replacement if, following the digging of the necessary test pit or alternative testing method, it is determined that the water service lines do not meet the criteria of an "eligible portion of the lead water service line" as defined in Section 6019b(k) of the Act (D.C. Official Code § 34-2159(k)).

3803.5 The project costs shall be in accordance with the following:

(a) The reasonable caps on replacement costs by type of work shall be equal to:

(1) One thousand nine hundred dollars ($1,900) for mobilization and demobilization work for a test pit or alternative testing method where no lead is found;

(2) Four thousand nine hundred dollars ($4,900) for mobilization, demobilization, location of curb stop, backfill, restoration,

penetration, and allowance for a partial lead service line where the length of the lead portion is eleven (11) linear feet or less;

(3) Two thousand five hundred dollars ($2,500) for mobilization, demobilization, location of curb stop, backfill, restoration, penetration, and allowance for a partial lead service line where the length of the lead portion is more than eleven (11) linear feet and, as applicable:

(A) Two hundred twenty dollars ($220) per foot of one inch (1") pipe to be replaced;

(B) Two hundred sixty-five dollars ($265) per foot of one and one-quarters inch (1.25") pipe to be replaced;

(C) Three hundred thirty dollars ($330) per foot of one and one-half inch (1.5") pipe to be replaced;

(D) Four hundred dollars ($400) per foot of one and three-quarters inch (1.75") pipe to be replaced;

(E) Four hundred eighty dollars ($480) per foot of two inch (2") pipe to be replaced; and

(4) Six hundred dollars ($600) for the curb stop and curb stop box installation where the curb stop cannot be located or a new curb stop is otherwise deemed necessary.

(b) Additional costs for permits, inspectors, restoration, and industry adjustments will be approved on a case-by-case basis.

3803.6 Prior to the approval of an application with estimated replacement costs that exceed the relevant caps, the applicant may be required to submit either:

(a) A signed statement by the applicant acknowledging that, subject to Subsection 3803.4(b), costs that exceed the relevant caps will not be covered by the Department under LPRAP discounts and will be the sole responsibility of the applicant; or

(b) An additional quote for further consideration.

3803.7 For applicants receiving assistance under Section 6019b(b)(1)(A) of the Act (D.C. Official Code § 34-2159(b)(1)(A)), the Department shall pay one hundred percent (100%) of the actual replacement costs.

3803.8 For applicants receiving assistance under Section 6019b(b)(1)(C) of the Act (D.C. Official Code § 34-2159(b)(1)(C)), the Department shall pay fifty percent (50%) of the overall replacement costs, up to two thousand five hundred dollars ($2,500).

3803.9 If the Department determines that remaining available funds may be insufficient to provide relief during a fiscal year, the Department may:

(a) Suspend the process of taking new applications; or

(b) Suspend the process of awarding new assistance in accordance with Section 6019b(d)(3) of the Act (D.C. Official Code § 34-2159(d)(3)).

Section 3899, DEFINITIONS, is amended by:

The term "Partial Lead Service Line" is amended to read as follows:

Partial Lead Service Line – the lead water service line that remains after a partial replacement where a portion or all of the lead water service line in public space is replaced with a nonlead water service line from the watermain to the property line.

Adding the following defined terms in alphabetical order:

Act – the Lead Service Line Priority Replacement Assistance Act of 2004, effective March 13, 2019 (D.C. Law 22-241; D.C. Official Code § 34-2159).

Authorizing Authority – the owner(s) or the party that the building owner(s) or homeowner(s) of a multi-family property have authorized to act on their behalf for purposes of the LPRAP, such as the building management for a cooperative housing association or condominium building.

Eligible portion of the lead service line – the portion of the lead water service line located on private property and/or any portion of the lead water service line remaining on public property after a partial lead service line replacement.

Multi-Family Property – a residential property (such as an apartment, condominium, or cooperative housing association) used for domestic purposes, with two or more single-family, apartment, condominium, or cooperative housing association residential dwelling units.

Amending the definition of "Replacement Costs" to read as follows:

Replacement Costs – exploratory, construction, and restoration costs incurred under the LPRAP.

DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

NOTICE OF FINAL RULEMAKING

The Board of Ethics and Government Accountability (Board), pursuant to the authority set forth in Sections 101, 209, and 221 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.09 and 1-1162.21), hereby gives notice of its intent to adopt amendments to Chapter 58 (Registration of Lobbyists), of Title 3 (Elections and Ethics), of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

The amendments to Title 3 DCMR clarify language about who should file (Section 5800.2), increases the registration fee to $350 from $250 for traditional lobbyists (Section 5800.3), increases the registration fee to $100 from $50 for nonprofit organization lobbyists (Section 5800.4), clarifies exemption language (Section 5801.2), clarifies activity reporting language (Section 5802.2), clarifies limitations on lobbying and prohibited activity language (Section 5804.1), and increases fines and dates under lobbyist fines and penalties (Section 5805.3) to reflect recent legislative changes under the Fiscal Year 2025 Budget Support Act of 2024.

No comments were received in response to the proposed rulemaking published in the *District of Columbia Register* on May 23, 2025 at 72 DCMR 006220. One typographical error was corrected in Section 5801.2(e) by adding a space between “general” and “circulation.”

The Board voted to adopt these rules as final on July 10, 2025. The rules shall become effective on publication of this Notice of Final Rulemaking in the *District of Columbia Register*.

Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Chapter 58, REGISTRATION OF LOBBYISTS, is amended as follows:

Section 5800, REGISTRATION REQUIREMENTS, is amended as follows:

Subsection 5800.2 is amended to read as follows:

5800.2 A person shall register as a lobbyist with the Director of Government Ethics (the Director) by filing the Lobbyist Registration Form, under the following circumstances:

(a) Receives compensation of two hundred fifty dollars ($250) or more in any three (3) consecutive calendar month period for lobbying;

(b) Receives compensation from more than one (1) source which totals two hundred fifty dollars ($250) or more in any three (3) consecutive month period for lobbying; or

(c) Expends funds of two hundred fifty dollars ($250) or more in any three (3) consecutive calendar month period for lobbying.

Subsection 5800.3 is amended to read as follows:

5800.3 The registration for lobbyists shall be three hundred fifty dollars ($350).

Subsection 5800.4 is amended to read as follows:

5800.4 The registration for lobbyists who lobby solely for nonprofit organizations shall be one hundred dollars ($100).

Section 5801, EXEMPTION FROM REGISTRATION REQUIREMENTS, is amended to read as follows:

Subsection 5801.2 is amended to read as follows:

5801.2 Lobbying activities shall not include:

(a) Appearing or presenting written testimony, on his or her own behalf, or is represented by an attorney, in an informal or formal rule-making, rate making or adjudicatory hearing before an executive agency or the Tax Assessor;

(b) Providing information in response to written inquiries by an executive agency, the Council of the District of Columbia or any public official;

(c) Inquiries only as to the status of specific actions by an executive agency or the Council of the District of Columbia;

(d) Testifying before, or submitting written testimony to, a committee of the Council of the District of Columbia, or the Council, in a proceeding for which there is a public record or testimony submitted for inclusion in the public record;

(e) Communications through a newspaper, television, or radio of general circulation or a publication whose primary audience is the organization's membership; or

(f) Conveying communications, indirectly or directly, by a bona fide political party, as defined in Section 101 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq*. (2012 Supp.)).

Section 5802, ACTIVITY REPORTS, is amended as follows:

Subsection 5802.2 is amended to read as follows:

5802.2 Each activity report shall include the following:

…

(h) All bundled contributions, as defined in D.C. Official Code § 1-1161.01, forwarded or arranged to be forwarded from one or more persons, including:

(i) The name of each contributor;

(ii) Address, and employer of each person from whom the contributions were received, and

(iii) The name of the candidate or committee for whom the contributions were collected.

Paragraph (i) of Subsection 5802.2 is added to read as follows:

(i) A registrant shall file a termination statement to indicate that there will be no further lobbying activity. Failure to file a termination will result in the registrant remaining active and subject to activity reporting and registration renewal required by this section.

Section 5804, LIMITATIONS ON LOBBYING AND PROHIBITED ACTIVITY, is amended as follows:

Subsection 5804.1 is amended to read as follows:

5804.1 No registrant or their representative shall offer, give, or cause to be given a gift or service to an official in the legislative or executive branch or a member of his or her staff that exceeds $100 in value in the aggregate in any calendar year. This limitation shall not be construed to restrict in any manner contributions authorized in Sections 333, 334, and 338 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1163.33, 1-1163.34 and 1-1163.38 (2012 Supp.)).

Subsection 5804.2 is amended to read as follows:

5804.2 No legislative or executive branch official or staff shall solicit or accept anything of value in violation of Subsection (a) of this section.

Subsection 5804.7 is amended to read as follows:

5804.7 No lobbyist or registrant or person acting on behalf of the lobbyist or registrant, shall provide legal representation, or other professional services, to a legislative or executive branch official, or their staff, below the cost that the lobbyist or registrant would routinely bill for the representation or service in the marketplace.

Section, 5805 LOBBYIST FINES AND PENALTIES, is amended as follows:

Subsection 5805.3 is amended to read as follows:

5805.3 Any person who files a lobbyist activity report or registration form in an untimely manner shall be assessed a civil penalty of one hundred dollars ($100) per day up to sixty (60) days (excluding Saturdays, Sundays, and holidays) that the report or registration form is late. This civil penalty shall be imposed as a ministerial matter by the Director of Government Ethics. Upon petition, the Ethics Board may waive the penalty for good cause shown.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

RM49-2025-01, PUBLIC UTILITY TARIFF FILING REQUIREMENTS AND REGULATIONS,

AND

RM35-2025-01, APPLICATIONS FOR AUTHORITY TO ISSUE OR AMEND TARIFFS OR ISSUE STOCK OR EVIDENCES OF INDEBTEDNESS,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 34-802 and 2-505 of the District of Columbia Code,[1] of its final rulemaking action adopting new Chapter 49 (Public Utility Tariff Filing Regulations), and amendments to Chapter 35 (Applications for Authority to Issue or Amend Tariffs or Issue Stock or Evidences of Indebtedness), of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR).

2. Chapter 49 establishes rules governing public utility tariff filings and applications in the District of Columbia. The amendments to Chapter 35 streamline the regulatory provisions governing the issuance of stock and debt by any regulated entity and eliminate any overlap or redundancy with the tariff provisions in Chapter 49. The amendments in Chapter 35 also include updated filing requirements, the removal of, and references to, the applicability of regulations to incumbent or completive local exchange carriers, the re-numbering of certain sections, updated statutory citations, a minor revision to the Waiver section, and an updated Definitions section.

3. On April 11, 2025, the Commission published a Notice of Proposed Rulemaking (NOPR) in the *District of Columbia Register* proposing the adoption of new Chapter 49 and amending certain provisions of Chapter 35.[2] No Comments were filed in response to the NOPR and no substantive changes have been made to the rulemaking. Accordingly, the Commission adopted the rules as final at the Commission's July 16, 2025, Open Meeting and they will become effective upon publication of this Notice of Final Rulemaking in the *District of Columbia Register*.

Chapter 49, PUBLIC UTILITY TARIFF FILING REGULATIONS, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION is adopted to read as follows:

CHAPTER 49 PUBLIC UTILITY TARIFF FILING REGULATIONS

Section

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

[2] 72 *DC Reg*. 004459 - 004469 (April 11, 2025).

4900 APPLICABILITY

4900.1 **Application**. This chapter provides rules governing public utility tariff applications and filings in the District of Columbia. This chapter shall not apply to the tariff filings of non-utility energy suppliers and competitive local exchange carriers.

Purpose. These rules provide uniform filing requirements for public utility tariff filings in the District of Columbia.

4901 TARIFF APPLICATIONS

4901.1 A tariff application submitted under this Chapter shall include the application and any information supporting the application and shall be filed electronically with the Office of the Commission Secretary.

4901.2 A public utility submitting an application for approval of a new tariff or tariff amendment, except that which is a compliance tariff, must also submit a proposed draft notice of proposed tariff and a proposed draft notice of final tariff for the proposed tariff or tariff amendment. The notice shall include the following details:

(a) A concise summary of the proposed tariff or tariff amendment;

(b) The effective date of the proposed tariff or tariff amendment;

(c) A clear explanation of how the proposed tariff or tariff amendment impacts customers, rates, or services;

(d) The affected tariff page(s) and amended tariff page(s);

(e) Provide interested persons the opportunity to comment for a period of at least thirty (30) days and include a possible reply comment period, per Commission discretion; and

(f) Any relevant supporting documentation and work papers.

4901.3 The proposed draft notices shall be submitted simultaneously with the proposed tariff or tariff amendment filing.

4901.4 Failure of the applicant to submit the proposed draft notices may result in the delayed review of the proposed tariff or tariff amendment and a delay in the approval process as determined by the Commission.

4901.5 The Commission shall submit the notice of proposed tariff to the District of Columbia Office of Documents within fourteen (14) days of the application filing date to be published in the *District of Columbia Register*.

4901.6 An application from a utility for authority to issue or amend tariffs shall be approved or denied by the Commission following the expiration of the thirty (30) day comment period of the notice of proposed tariff's publication date in the *District of Columbia Register*, provided that: (1) no objection is filed within thirty (30) days after the publication date; and (2) the Commission does not suspend consideration of the tariff or tariff amendment for further review of the application.

4901.7 Any person objecting to the application shall file an objection, in writing, with the Commission within thirty (30) days of the proposed tariff publication date. The objection shall clearly state the reasons for objection to the proposed tariff. A copy of the objection shall be served on the applicant and the Office of the People's Counsel.

4901.8 Responses to objections shall be filed with the Commission within forty-five (45) days of the publication date of the proposed tariff. A copy of the response shall be served on the objecting party and the Office of the People's Counsel.

4901.9 If an objection to a proposed tariff is filed, the Commission may grant an objection if it is supported by substantive reasons for denial. The grant of an objection to a tariff application shall be made by Commission order.

4901.10 When no objection to a tariff application is filed, the Commission may on its own initiative determine that additional time is needed to review the tariff application. Such a determination must be made no later than thirty (30) days after the publication date.

4901.11 If the Commission approves an application to issue new or amended tariffs, the approval will become effective upon publication of a notice of final tariff reflecting this approval in the *District of Columbia Register*.

4901.12 If no objection to a tariff application is filed and if the Commission takes no action on the tariff application within forty (40) days following its filing date with the Commission, then the tariff issuance or amendment is deemed approved. Upon the expiration of this 40-day period, the Commission shall submit a notice of final tariff to the *District of Columbia Register*, making the tariff application effective.

4901.13 Applications for changes in base rates submitted pursuant to D.C. Code § 34–301 and 15 DCMR § 200 *et seq*. may not be reviewed under procedures contained in this Chapter.

4901.14 Applications for new or amended services offered by the incumbent local exchange carrier pursuant to the Price Cap Plan approved in Order No. 15071 shall be governed by the procedures in the Price Cap Plan. Applications for amendments to tariffs for services not included in the Price Cap Plan shall be subject to Subsections 4901.1 – 4901.12.

4901.15 Pursuant to D.C. Code § 34–2002, applications filed by competitive local exchange carriers for tariffs relating to tolls, charges, rate structure, terms and conditions of service, rate base, rate of return, operating margin, earnings, or cost of service shall be presumed just and reasonable and deemed approved upon filing with the Commission. However, the Commission reserves the right to review competitive local exchange carrier tariff applications after filing and approval to determine whether the applications pertain to competitive local exchange carrier interconnection, Universal Service Fund subsidies, or quality of service. If the Commission determines that new tariff or tariff amendment application filed by a competitive local exchange carrier pertains to competitive local exchange carrier interconnection, Universal Service Fund subsidies, or quality of service, the Commission may submit the application for publication in the *District of Columbia Register*, indicating that the application shall be reviewed pursuant to this Chapter.

4902 COMPLIANCE TARIFF FILING REQUIREMENTS

4902.1 Compliance filings affecting existing rates shall be filed with the Secretary of the Commission, the Office of the People's Counsel, and each intervenor.

4902.2 Service on parties shall be on the same day the compliance filing is made with the Commission.

4902.3 The public utility shall file its compliance filing within ten (10) calendar days after issuance of the Commission final rate Order. The filing shall include all worksheets.

4902.4 Parties shall have five (5) calendar days to review and comment on the compliance filing.

4902.5 The Commission shall have ten (10) calendar days after the compliance filing to review the compliance filing and any party comments.

4902.6 In the event of a compliance filing error, the Public Utility shall refile its updated compliance filing together with updated worksheets within ten (10) calendar days after notification of the error.

4902.7 Parties shall have five (5) calendar days to review and comment on the updated compliance filing.

4902.8 The Commission shall have ten (10) calendar days to review the updated compliance filing and any party comments on general base rate cases.

4902.9 The Commission shall have thirty (30) calendar days to review the updated compliance filing and any party comments on multi-year rate plan cases.

4902.10 The rates contained in the compliance filing shall be effective on the eleventh (11th) calendar day after the filing of the compliance filing unless the Commission directs otherwise.

4902.11 The Commission shall not entertain motions for enlargement of time within which to comment on compliance filings except upon a clear showing of extraordinary circumstances.

4903 ADDITIONAL PROCEDURES FOR TARIFF ISSUANCE OR AMENDMENT

4903.1 When an application to issue or amend a tariff involves a change in conditions or services such that the applicant is required to notify its ratepayers of the change pursuant to D.C. Code § 34–909, such notice shall be sent no later than the next billing period following the application filing date. The application shall include a statement certifying that this notice was or will be sent by the end of the next billing period following the application filing date, identifying the date(s) the notice was or will be sent.

4998 WAIVER

4998.1 The Commission may upon request, or on its own initiative after notice to the parties of its intention to do so, waive any provision of this chapter for good cause.

4999 DEFINITIONS

Applicant – means entity regulated by the Commission that applies for authority to issue or amend tariffs pursuant to this Chapter.

Application – means the application for authority to issue or amend tariffs filed pursuant to this Chapter.

Application filing date – means the date upon which an application for review of tariff issuance or amendment or issuance of stock or evidences of indebtedness is filed with the Commission.

Commission – means the Public Service Commission of the District of Columbia.

Competitive local exchange carrier – means a provider of telecommunications service that was not an incumbent local exchange carrier on January 31, 1996, but that is now certificated to provide local exchange service within the District.

Days – means calendar days, unless otherwise indicated in specific sections.

Incumbent local exchange carrier – means, with respect to an area, the local exchange carrier that provided local exchange service in such an area on the date of enactment of the federal Telecommunications Act of 1996 (P.L. 104-104).

Local exchange carrier – means any person or entity that is engaged in the provision of telephone exchange service or exchange access. The term does not include a person or entity insofar as the person or entity is engaged in the provision of commercial mobile service.

Objection – means the written statement filed to oppose the use of this Chapter to review an application.

Party – means an individual, corporation, partnership, or association.

Publication date – means the date the application is published in the *District of Columbia Register*.

Chapter 35, APPLICATIONS FOR AUTHORITY TO ISSUE OR AMEND TARIFFS OR ISSUE STOCK OR EVIDENCES OF INDEBTEDNESS, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is renamed to read as follows:

Chapter 35, APPLICATIONS FOR AUTHORITY TO ISSUE STOCK OR EVIDENCES OF INDEBTEDNESS

Section 3500, APPLICABILITY, is amended as follows:

§ 3500.1 is amended to read as follows:

3500.1 Pursuant to D.C. Code §§ 34–1127, 34–909, 34–501 *et seq*., and 34–2002, this Chapter creates an expedited review procedure that shall apply to applications by entities regulated by the Commission for authority to issue stock or evidences of indebtedness that are payable in more than one year.

Section 3501, EXPEDITED REVIEW PROCESS, is amended as follows:

§ 3501.1 through § 3501.12 are amended as § 3501.1 through § 3501.10, include the deletion of former § 3501.3 and former § 3501.11, and renumbered to read as follows:

3501.1 An application for authority to issue stock or evidences of indebtedness that are payable in more than one year shall be approved by the Commission within thirty (30) days after the publication date in the Commission's docket, provided that: (1) no objection is filed within thirty (30) days after the publication date; and (2) the Commission does not order additional time for review of the application.

3501.2 An applicant wishing to have an application reviewed under this Chapter shall file an application electronically (and any information supporting the application) with the Office of the Commission Secretary. The application shall clearly state that the applicant seeks expedited review under this Chapter. The applicant shall also serve a copy of the application on the Office of the People's Counsel on the date the application is filed.

3501.3 Any party objecting to the expedited handling of the application shall file an objection, in writing, with the Commission within thirty (30) days of the publication date. The objection shall clearly state the reasons for which the application should not be handled through the expedited procedure. A copy of the objection shall be served on the applicant and the Office of the People's Counsel.

3501.4 Responses to objections shall be filed with the Commission within thirty-five (35) days of the publication date. A copy of the response shall be served on the objecting party and the Office of the People's Counsel.

3501.5 When an objection to an application is filed, the Commission shall determine within fifteen (15) days after the period for filing an objection has expired whether to handle the application through the expedited procedure. The Commission may grant an objection if the objection is clearly supported by substantive reasons for which the application should not be reviewed through the expedited procedure. Where an objection is granted, the application shall not be handled through the expedited procedure and shall be considered by the Commission following such additional comment and hearing period that the Commission deems appropriate. The Commission Order granting the objection shall state the reasons for which the application shall not be handled through this Chapter. Where an objection is denied, the Commission may approve the application by Order.

3501.6 When no objection to an application is filed, the Commission may on its own initiative determine that additional time is needed to review the application. Such a determination must be made no later than thirty (30) days after the publication date and must state the reasons for which the application shall not be handled through this Chapter.

3501.7 If the Commission approves an application for authority to issue stocks or evidences of indebtedness, the approval will become effective upon issuance of a Commission order.

3501.8 If no objection to the application is filed and if the Commission takes no action on the application within forty (40) days after the publication date, then the issuance of stock or evidences of indebtedness is deemed approved. An applicant whose application for authority to issue stock or evidences of indebtedness has been approved pursuant to this section may petition the Commission for a certificate if required by D.C. Code § 34–501 *et seq*.

3501.9 Applications for changes in base rates submitted pursuant to D.C. Code § 34-901 and 15 DCMR § 200 *et seq*. may not be reviewed under the expedited procedures contained in this Chapter.

3501.10 Pursuant to D.C. Code § 34–2002, applications filed by competitive local exchange carriers for issuance of stock or evidences of indebtedness shall be presumed just and reasonable and deemed approved upon filing with the Commission.

Section 3502, ADDITIONAL PROCEDURES FOR ISSUANCE OF STOCK OR EVIDENCES OF INDEBTEDNESS, is amended as follows:

§ 3502.2 and § 3502.3 are amended to read as follows:

…

3502.2 Each application shall be accompanied by a draft certificate of authority, if required by D.C. Code § 34–501 *et seq*.

3502.3 Any Order issued by the Commission approving an application for issuance of stock or evidences of indebtedness shall be accompanied by a certificate if required by D.C. Code § 34–501 *et seq*.

…

Section 3503, ADDITIONAL PROCEDURES FOR TARIFF ISSUANCE OR AMENDMENT, is repealed in its entirety.

Section 3504, WAIVER, is repealed in its entirety.

A new Section 3598, WAIVER, is adopted to read as follows:

3598.1 The Commission may upon request, or on its own initiative after notice to the parties of its intention to do so, waive any provision of this chapter for good cause.

Section 3505, DEFINITIONS is renumbered as new Section 3599, DEFINITIONS, and is amended, including the deletion of the terms and definitions for Competitive local exchange carrier, Incumbent local exchange carrier, Local exchange carrier, and Local exchange service, to read as follows:

Section 3599, DEFINITIONS

"Applicant" means an entity regulated by the Commission that applies for authority to issue stocks or other evidences of indebtedness that are payable in more than one year pursuant to this Chapter.

"Application" means the application for authority to issue stocks or other evidence of indebtedness filed pursuant to this Chapter.

"Application filing date" means the date upon which an application for review of the issuance of stock or evidences of indebtedness is filed with the Commission.

…

"Publication date" means the date the application is docketed on the Commission's website.

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

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

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11), and 216; D.C. Official Code §§ 34-2202.03(3) and (11) and § 34-2202.16), and Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a)), hereby gives notice of the adoption of amendments to Section 112 (Fees) of Chapter 1 (Water Supply) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

At its regularly scheduled meeting on July 3, 2025, the Board adopted Resolution #25-38 to add and adjust the fees and charges, effective October 1, 2025 as noted herein.

Pursuant to Board Resolution #25-21, dated May 1, 2025, DC Water's Notice of Proposed Rulemaking (NOPR) was adopted by the Board and published in the *District of Columbia Register* at 72 DCR 005932 on May 16, 2025 to receive comments on the NOPR.

On June 24, 2025, the DC Retail Water and Sewer Rates Committee met to consider comments offered during the public comment period and the General Manager's recommended amendments to the rulemaking. The General Manager discussed the comment received from the public and follow-up questions from the Committee Members. In response to the public comments, the General Manager recommended deleting the "Declined Credit Card Fee" and publishing the remaining proposed fees and charges as published in the NOPR. At that meeting, the DC Retail Water and Sewer Rates Committee recommended the Board adopt amendments to 21 DCMR Sections 112 (Fees) for the new and adjusted fees, effective October 1, 2025 as recommended by the General Manager.

On July 3, 2025, the Board, through Resolution #25-38, after consideration and discussion of the report from the DC Retail Water and Sewer Rates Committee and recommendation from the General Manager, voted to adopt the amendments to 21 DCMR Sections 112 (Fees) to establish new and adjusted fee and charges, effective October 1, 2025.

No substantive revisions were made to the regulations as proposed in the NOPR.

These rules were adopted as final on July 3, 2025 by resolution and will become effective on October 1, 2025, after publication of this notice in the *District of Columbia Register*.

Chapter 1, WATER SUPPLY, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Section 112, FEES, is amended as follows:

Subsection 112.1 is amended to read as follows, effective October 1, 2025:

112.1 Fees for installation, inspection and removal/abandonment of water and sewer tap or connection, inspect meter setter or vault, inspect sewer main, manhole, catch basin, and meter relocation shall be as follows:

(a) Inspection Fees:

Inspection Fees	**Fee**
Inspect Pointing Up Sewer Taps	\$970
Inspect Insertion of Y-Branch	\$345
Inspect Installation of Standard Cleanout	\$345
Inspect Sewer Tap Removal	\$345
Meter Setter Inspection	\$265
Meter Setter Re-Inspection	\$265
Meter Vault Inspection	\$1,060
Meter Vault Re-Inspection	\$1,060
Inspect pre-cast conc. vault for new meters	\$4,000
Inspect installation of fire hydrant relocation	\$3,000
Inspect installation of new fire hydrant	\$3,000
Inspect new 8", 10", 12" water main	\$7,000 + \$12/LF
Inspect new 16", 20" water main	\$10,000 + \$12/LF
Inspect new ≥24" water main	\$14,000 + \$12/LF
Inspect new 10"–15" diameter sewer main	\$7,000 + \$12/LF
Inspect new 18"–30" diameter sewer main	\$10,000 + \$12/LF
Inspect new 36"–48" diameter sewer main	\$20,000 + \$12/LF
Inspect new ≥54" diameter sewer main	\$25,000 + \$12/LF
Inspect new sewer manhole/Catch Basin 0–10 vertical feet (vft)	\$5,000
Inspect new sewer manhole/Catch Basin >10 ≤ 20 vft	\$8,000
Inspect new sewer manhole/Catch Basin >20 ≤ 30 vft	\$15,000
Inspect new sewer manhole/Catch Basin >30 vft	\$20,000
Inspect sewer CCTV ≤ 24" public sewer main	\$1,300 + \$13/LF
Inspect sewer CCTV 24"–36" public sewer main	\$1,500 + \$15/LF
Inspect sewer CCTV 42"–48" public sewer main	\$1,700 + \$17/LF
Inspect sewer CCTV 54"–72" public sewer main	\$2,000 + \$20/LF
Inspect sewer CCTV > 72" public sewer main	\$4,000 + \$40/LF
Inspect sewer CCTV and relining ≤ 24" public sewer	\$2,300 + \$23/LF
Inspect sewer CCTV and relining 24"–36" public sewer	\$2,900 + \$29/LF
Inspect sewer CCTV and relining 42"–48" public sewer	\$3,400 + \$34/LF
Inspect sewer CCTV and relining 54"–72" public sewer	\$4,000 + \$40/LF
Inspect sewer CCTV and relining > 72" public sewer	\$8,000 + \$80/LF

(b) Tap Insertion and Abandonment Fees:

Fee Name	Fee
Tap Insertion – 1” diameter	$485
Tap Insertion – 1-1/2” diameter	$565
Tap Insertion – 2” diameter	$610
Water Connection 3” and Larger	$2,650
Water Tap Removal/Abandonment – 2” diameter or less	$455
Water Tap Removal/Abandonment – greater than 2” diameter	$905

Subsection 112.2 is amended to read as follows, effective October 1, 2025:

112.2 Fees for fire hydrants flow tests; fire hydrant meter rentals; rentals of fire hydrant meters with backflow preventer; and for the installation and removal of water bubblers shall be as follows:

Fee Name	Fee
Fire Hydrant Flow Test (Field Test)	$340
Fire Hydrant Flow Test (Computer Model)	$340
Fire Hydrant Flow Test (Recent Test Record Available)	$145
Fire Hydrant Use – Water and Sewer Rate	Usage-Based, see 21 DCMR Chapter 41
Letter in Lieu of Hydrant Flow Test	$265
Fire Hydrant Permit Fee	$80
Private Fire Hydrant Flush	$100
3” Fire Hydrant Meter Deposit	$2,000 per rental
3” Fire Hydrant Meter Rental <15 days	$225
3” Fire Hydrant Meter Rental ≥15 days	$15 per day
3” Fire Hydrant Meter w/Backflow Preventer Deposit	$3,000 per rental
3” Fire Hydrant Meter w/Backflow Preventer Rental <15 days	$300 per rental
3” Fire Hydrant Meter w/Backflow Preventer Rental ≥15 days	$20 per day
5/8” Fire Hydrant Meter w/Backflow Preventer Deposit	$1,000 per rental
5/8” Fire Hydrant Meter w/Backflow Preventer Rental <15 days	$225 per rental
5/8” Fire Hydrant Meter w/Backflow Preventer Rental ≥15 days	$15 per day

Subsection 112.4 is amended to read as follows, effective October 1, 2025:

112.4 Retail customer fees and charges; legal and copying fees; and event and equipment fees shall be as follows:

(a) Retail customer fees and charges shall be as follows:

Fee Name	Fee
Customer Bad Check Fee	$35
Customer Penalty Late Payment Fee	10.00% after 30 days
Additional Penalty Late Payment Fee	1%/month after 60 days, compounded monthly

Fee Name	Fee
New Customer Account Initiation Fee	$60
Disconnection Fee	$60
Reconnection Fee – Residential Customer	$55
Reconnection Fee – Multi-Family and Non-Residential Customer	$110
Unauthorized Water or Sewer Connection:	
First Offense	$400
Second Offense	$800
Each Subsequent Offense	$1,200
Notice of Follow Up (NOFOL) Compliance Fee	$505
Broken Bypass Seal	$790
Second Water Audit within 24 months	$145
Manual Meter Reading Fee Residential[1]	$25 per month/meter
Manual Meter Reading Fee[1] Multi-Family and Non-Residential	
5/8”-2”	$110 per month/meter
3”-4”	$265 per month/meter
6” & greater	$530 per month/meter

(b) Manual Meter Read Fee in paragraph 112.14(a) is charged, after notice, when the meter reads are not transmitting and 1) customer does not provide access to the premises for DC Water to read the meter, 2) customer does not provide access to the premises for DC Water to maintain the meter or meter transmission system, or 3) customer fails to perform corrective action necessary for DC Water to install or maintain the meter or meter transmission system.

(c) Legal and copying fees shall be as follows:

Fee Name	Fee
Witness Fee	$40 + Travel Expenses
DC Water Staff Expert Witness Fee	Hour(s) x (Base Salary + Fringe) $/hr. + Travel Expenses
Document Duplication Fee	
Standard Letter and Legal Page	$0.75 per sheet

(d) Event fees shall be as follows:

Size of Event (Attendees)	Minimum Number of DC Water Personnel Per Event[1]	Cost per Event at $100/hour per person
100 – 2,000	2	$200/hour
2,000 – 5,000	4	$400/hour
5,000 or more	6	$600/hour

(e) The "Number of DC Water Personnel Per Event" referenced in paragraph 112.4(d) refers to the minimum number of personnel required for the event. Upon review of the event specifications, DC Water shall determine the appropriate number of personnel based on the assessed need.

(f) Equipment fees shall be as follows:

Event Equipment	**Cost per Unit per Event**
Misting Tent	$625/day
Cooling Station	$480/day
DC Water Mascot	$85/hour

Subsection 112.5 is amended to read as follows, effective October 1, 2025:

112.5 Fees for engineering reviews both standard and expedited, excessive submission, and as-builts shall be as follows:

(a) **Small Project and Hybrid Project Plan Review Fees** shall be as provided in the table below for Small Projects, which are defined to include:

(1) Small Residential project subject to 12-B DCMR Residential Code Supplement with water service and meter two inches (2") or less;

(2) Small Non-Residential project subject to 12-A DCMR Building Code Supplement with water service and meter inches (2") or less;

(3) Small Hybrid means a Small Residential or Small Non-Residential project with a domestic water service and meter two inches (2") or less and a fire service greater than two inches (2"); or

(4) Projects requiring only a sewer connection six inches (6") or less in diameter or only a storm connection less than fifteen inches (15") in diameter.

Fee Name	**Standard Fee**	**Expedited Review Fee**	**Standard Review Time* (Business Days)**	**Expedited Review Time* (Business Days)**
Small Project Base Plan - 1st Submission Administrative Fee – All Small Projects	$215	N/A	N/A	N/A
Small Project Rejected Plan Resubmission Administrative Fee - All Small Projects	$110	N/A	N/A	N/A

Fee Name	Standard Fee	Expedited Review Fee	Standard Review Time* (Business Days)	Expedited Review Time* (Business Days)
Small Project Sheet and Shore - All Small Projects	$1,325	$2,650	14	7
Small Residential Project per meter connection	$1,590	$3,180	14	7
Small Non-Residential Project per meter connection	$5,300	$10,600	21	11
Small Hybrid Project per meter connection	$7,155	$14,310	21	11
Small Residential Approved Plan Revision (APR) per metered connection	$530	$1,060	14	7
Small Non-Residential or Hybrid APR per metered connection	$1,540	$3,075	21	11
Small Residential, Small Non-Residential or Small Hybrid Raze Permit Review and Utility Release Letter - No Abandonment	$425	$850	14	7
Small Project Raze Permit Review and Utility Release Letter - With Abandonments	$1,060	$2,120	14	7
Small Non-Residential Temporary Water Connections	$2,120	$4,240	21	11
Small Project Sanitary or Combined Sewer connection 6" or less	$1,060	$2,120	14	7
Small Project Storm sewer connection only less than 15"	$1,060	$2,120	14	7

***Review times are estimated; Actual time may vary.**

(b) **Large Project Plan Review Fees** for projects having a domestic water service and fire service greater than two inches (2”) in diameter shall be subject to fees provided in the table below as follows:

Fee Name	Standard Fee	Expedited Review Fee	Standard Review Time* (Business Days)	Expedited Review Time* (Business Days)
Large Project Base Plan - 1st Submission Administrative Fee	$215	N/A	N/A	N/A
Large Project Rejected Plan Resubmission Administrative Fee	$110	N/A	N/A	N/A
Large Project Plan Review Fee per meter:	$15,900	$ 31,800	30	15
Large Project Foundation to Grade	$1,860	$3,710	21	11
Large Project Approved Plan Revision (APR)	$2,120	$4,240	14	7
Large Project Sheeting and Shoring	$13,250	$26,500	30	15
Large Project Temporary Water Connections	$5,300	$10,600	21	11
Large Fire Service Only Greater than 2” - with no interior renovations	$5,300	$10,600	21	11
Large Sanitary or Combined Connection Only 8” or larger	$5,300	$10,600	21	11
Large Storm Connection Only 15” or larger	$5,300	$10,600	21	11
Large Water Meter Size Reduction Plan (with no other work)	$5,300	$10,600	21	11
Large Project Raze Only Utility Release Letter - No Abandonments	$530	$1,060	14	7
Large Project Raze Only Utility Release Letter - With Abandonments	$1,590	$3,180	14	7
Utility Infrastructure Only Review Fee (0 to 1,000 linear feet of water and/or sewer mains)	$10,600	$21,200	30	15
Utility Infrastructure Only Review Fee (1,000 – 2,500 linear feet of water and/or sewer mains)	$15,900	$31,800	30	15

Fee Name	Standard Fee	Expedited Review Fee	Standard Review Time* (Business Days)	Expedited Review Time* (Business Days)
Utility Infrastructure Only Review Fee (greater than 2,500 linear feet of water and/or sewer mains)	$19,080	$38,160	30	15

***Review times are estimated; Actual time may vary.**

(c) **Miscellaneous Fees** shall be as provided in the table below as follows:

Fee Name	Standard Fee	Expedited Review Fee	Standard Review Time* (Business Days)	Expedited Review Time* (Business Days
Small Residential Plan Excessive Submission Review (5th review or more) per metered connection	$530	N/A	Based on No. of metered connections	Based on No. of metered connections
1 to 5 metered connections			14	7
6 to 20 metered connections			21	11
21 to 50 metered connections			40	20
greater than 50 metered connections			50	25
Small Non-Residential and Small Hybrid Plan Excessive Submission Review (5th review or more) per metered connection	$795	N/A	Based on No. of metered connections	Based on No. of metered connections
1-3 metered connections			21	11
4 or more metered connections			30	15
Large Plan Excessive Submission Review (5th review or more)	$3,710	$7,420	30	15
Request for Information (RFI)	$190	$375	20	10
Request for As-Built Drawings	$215	$425	20	10

Fee Name	Standard Fee	Expedited Review Fee	Standard Review Time* (Business Days)	Expedited Review Time* (Business Days
Water and Sewer Availability Letter	$795	$1,380	14	7
Processing of Standard Easement and Covenant (Initial Document)	$2,120	$4,240	14	7
Processing of Non-Standard Easement and Covenant (Initial Document)	$9,010	$18,020	21	11
One Day Plan Design and Review and Approval (Velocity Sign-Off Program)	$26,500	N/A	1	N/A
Large Meter Relocation Fee	$5,000	N/A	N/A	N/A
Small Meter Relocation Fee (Non-Residential/Multi-Family)	$2,500	N/A	N/A	N/A
Small Meter Relocation Fee (Residential)	$1,500	N/A	N/A	N/A
Reconfiguration of Fire System (adding small Fire Split, 2” or less) (Non-Residential/Multi-Family)	$2,500	N/A	N/A	N/A
Reconfiguration of Fire System (adding small Fire Split, 2” or less) (Residential)	$1,500	N/A	N/A	N/A
ProjectDox Signoff on Category I & II and Swimming Pool	$200	N/A	N/A	N/A
Non-DC Water Zone of Influence (ZOI) Sheeting and Shoring (not within the influence of DC Water’s assets)	$500	N/A	N/A	N/A
ProjectDox Foundation to Grade	$500	N/A	N/A	N/A
Non-Department of Transportation (DDOT) Building Civil Permit (non-DDOT BCIV) (Any	$500	N/A	N/A	N/A

Fee Name	Standard Fee	Expedited Review Fee	Standard Review Time* (Business Days)	Expedited Review Time* (Business Days
project that is not DDOT related)				
Building Civil Permit Erosion Sediment Control (BCIV ESC)	$500	N/A	N/A	N/A

***Review times are estimated; Actual time may vary.**

(d) **DC Water "Velocity" Sign-Off Program** (One Day Final Plan Review and Approval) - a District Department of Buildings (DOB) permit applicant may request to participate in the DC Water "Velocity" program in accordance with the following requirements:

(1) Participation in DC Water's "Velocity" Sign-Off Program only applies to plans resubmitted after DC Water's initial standard or expedited plan review.

(2) Applicant shall pay the minimum DC Water "Velocity" Sign-Off Program fee of $25,000 in addition to the applicable plan review fee and any other applicable fees.

(3) DC Water shall determine if the plans are eligible (complete and suitable) to participate in the program and that staff are available to perform the review requested.

(4) Upon acceptance into the DC Water "Velocity" Sign-Off Program, DC Water shall schedule a meeting with the Applicant to review and approve the plans, not less than one (1) week after the request to participate in the program.

(5) DC Water shall schedule one four-hour plan review and approval meeting, during which the Applicant shall present the revised plans and responses.

(6) If approved, the Applicant shall pay all required fees (e.g., SAF, inspection review, deposits, etc.) and DC Water shall issue the Water and Sewer Approval Certificate and approve the plans in ProjectDox.

(7) If DC Water issues additional comments or requirements, the applicant shall resubmit the revised plans within two (2) business days, and if all comments are acceptable, the plans shall be approved within one business day.

(e) **Existing/Proposed As-Built Fee** shall be as provided in the table below as follows:

Fee Name	**Fee**
Small Residential	$265 (each bldg.)
Small Non-Residential	$265 (each bldg.)
Small Hybrid	$265 (each bldg.)
Large Project	$795 (Each Connection – water or sewer)
Installation of New Water or Sewer Main (20 to 100 feet)	$2,650
Each additional 200 feet of Water Main	$2,120
Each additional 400 feet of Sewer Main	$2,120
Installation of Water Main - larger than 24" in diameter	Determined on a per project basis
Installation of Sewer Main - larger than 60" in diameter	Determined on a per project basis

Subsection 112.6 is amended to read as follows, effective October 1, 2025:

112.6 Waste Hauler Permit and Disposal Fees; Pretreatment Industrial User Permit and Sampling Fees; High Strength Waste Fees; and FOG Facility fees shall be as follows:

Fee Name	**Fee**
Waste Hauler Discharge Annual Permit Fee per Vehicle	$55
Waste Hauler Disposal Fees	
High strength grease trap waste	$0.091 per gallon
High strength septage waste	$0.091 per gallon
Domestic strength waste	$0.004 per gallon
Low strength waste	$0.004 per gallon
Industrial User Permit Fees	
Permit Initial Fee	$3,040
Permit Renewal Fee	$1,015
Industrial User Annual Compliance Fees	
Significant or Non-Significant Categorical User	
1 Outfall	$3,490
2 or more Outfalls	$4,835
Significant Non-Categorical Industrial User	
I Outfall	$3,490
2 or more Outfalls	$4,835
Non-Significant Non-Categorical User	
1 Outfall	$790
2 or more Outfalls	$1,015

Fee Name	Fee
Sampling and Analysis Fees	
PFAS (Per – Polyfluoroalkyl Substances)	
1st Sample	$895 per sample
Each Additional Sample	$420 per sample
High Strength Waste Fees	
Biochemical Oxygen Demand (BOD)	$0.151 per pound
Total Suspended Solids (TSS)	$0.350 per pound
Total Kjeldahl Nitrogen (TKN) or Total Nitrogen (TN)	$1.526 per pound
Total Phosphorus (TP)	$9.815 per pound
Fats, Oil and Grease (FOG) Facility Monthly Fee	$24.50 per month

Subsection 112.12(a) is amended to read as follows, effective October 1, 2025:

112.12 Cross-Connection/ Back Flow Prevention Fees and Turn-Off Charges

(a) The Cross-Connection/ Back Flow Prevention Fees and Turn-Off Charges shall be as follows:

Fee Name	Fee
Cross-Connection/Back Flow Prevention Monthly Fee per Assembly	$6.20
Cross-Connection - Water Service Disconnection - 5/8" to 2"	$230
Cross-Connection - Water Service Disconnection - 3" to 5"	$455
Cross-Connection - Water Service Disconnection - 6" and larger	$1,015

A new Subsection 112.14 is added to read as follows, effective October 1, 2025:

112.14 Freedom of Information Act Request Response Processing Fees shall be as follows:

(a) DC Water shall charge the following FOIA Fees in response to a Freedom Information Act (FOIA) request for documents pursuant to the FOIA of 1976, effective March 25, 1977, D.C. Law 1-96, as amended:

FOIA Fee Name	Fee
FOIA Document Search Fee	Hour(s) x Staff Base Salary/hr.
FOIA Document Review & Redaction Fee	Hour(s) x Staff Base Salary/hr.
FOIA Document Duplication Fee	
Standard Letter and Legal Page	$0.75 per sheet
Electronic Conversion Fee	Hour(s) x Staff Base Salary/hr.

(b) The Staff Base Salary shall be the current Base Salary for the staff performing the search, review or electronic conversion and applied at a hourly rate to the nearest penny.

(c) The FOIA Document Search Fee, FOIA Document Review & Redaction Fee, and FOIA Document Electronic Conversion Fee shall be calculated by multiplying the number of hours by the hourly rate of the staff person performing that task.

(d) The FOIA Document Search Fee shall be charged even if the requested records cannot be located after a thorough, good-faith search.

(e) FOIA Fees may be waived or reduced if DC Water determines the request is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(f) A FOIA requester seeking a FOIA Fee waiver or reduction under Section 112.14(d), shall provide a statement in the FOIA request explaining how furnishing the requested record(s) will primarily benefit the general public. The explanation shall address how the requested records will likely contribute significantly to public understanding of the operation or activities of DC Water.

(g) DC Water may request an advanced payment in full of the FOIA Fees if:

(1) The requester previously failed to pay the FOIA Fees; or

(2) DC Water determines the estimated FOIA Fees will exceed $250.

(h) With respect to any FOIA request for which payment of FOIA Fees in advance is required, DC Water shall consider such request to have been withdrawn and shall administratively close such request if the requester has not paid the required FOIA Fee within sixty (60) days of the date when the requester is informed of the fee.

(i) FOIA fees shall be paid in full prior to DC Water providing access or issuance of the requested documents.

(j) A receipt of FOIA Fees paid shall be given only upon request. No refund of the FOIA Fees shall be made for services rendered.

(k) If a request is administratively closed, a requester must submit a new FOIA request to obtain the requested records.

(l) If the FOIA requester withdraws their request or it is administratively closed, the requester shall be responsible for payment of the FOIA Fees incurred up to the date of withdrawal.

(m) In accordance with applicable law:

(1) Fees shall be limited to reasonable standard charges for document search, duplication, and review and redaction when records are requested for commercial use;

(2) Fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or non-commercial scientific institution for scholarly or scientific research or a representative of the news media;

(3) For any request for records not described in paragraphs (1) or (2) of this subsection, fees shall be limited to reasonable standard charges for document search and duplication; and

(4) Only the direct costs of search, duplication, or review and redaction may be recovered.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
Z.C. CASE NO. 24-09[1]
The Wesley Theological Seminary of the United Methodist Church
(Text Amendments to Subtitle C § 1006 and Subtitle X § 101)
February 27, 2025

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2018 Repl.)), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2013 Repl.)), received a petition from The Wesley Theological Seminary of the United Methodist Church (Petitioner or Wesley) and hereby gives notice of its adoption of amendments to Subtitle C § 1006 and Subtitle X § 101 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified), with the text at the end of this notice.

PREFACE

The Commission is not required to explain its reasoning in rulemaking cases.[2] However, it is doing so in this case because there was considerable public interest in this case and the Commission wants to make clear that it carefully considered the various issues raised.

PETITION

The proposed amendments, as revised after the Commission postponed the public hearing from October 17, 2024 to November 18, 2024, at the Petitioner's request, to allow the Petitioner additional time to work with the community and Advisory Neighborhood Commission (ANC) 3E, and incorporating the Office of Planning's (OP) suggested revisions[3] to the amendments, would do the following:

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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. 24-09.

[2] A statement of basis and purpose is not required by the District of Columbia 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-.05). This is in contrast to a contested case, where the Commission is required to issue an order that contains findings of fact and 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)).

[3] On May 30, 2024, the Petitioner submitted its originally proposed language that would amend Subtitle C § 1001.6(c) to exempt housing exclusively for Wesley and American University students, faculty, or staff that is constructed on Wesley's campus as approved by a campus plan from the IZ program; and would add a new Subtitle X § 101.5 to clarify that the referenced housing on Wesley's campus would not be construed as subject to the commercial use and activity restriction in Subtitle X § 101.4 of the campus plan regulations (Exhibit [Ex.] 2B). Then in a November 4, 2024 submission, the Petitioner subsequently proposed alternative text initiated in consultation with ANC 3E. As an alternative to amending Subtitle C § 1001.6(c) and exempting the dormitory on Wesley's campus from the IZ program, the subsequent proposal would instead add a new Subtitle C § 1006.10 requiring Wesley to provide off-site IZ units located in Ward 3 or "substantially equivalent" financial subsidies, as a condition to a campus plan approval of the aforementioned dormitory (Ex. 21). On November 6, 2024, the Petitioner filed a second submission with a subsequent proposal to change the amendment to Subtitle X § 101.5 to replace the phrase "dormitory" with "purpose built student housing building" (Ex. 22). Then on November 14, 2024, OP filed a hearing report suggesting

- Add a new § 1006.10 to Subtitle C § 1006, OFF-SITE COMPLIANCE WITH INCLUSIONARY ZONING, requiring Petitioner to provide off-site Inclusionary Zoning (IZ) at a minimum set-aside of eight percent (8%) or ten percent (10%) depending on construction type in Ward 3 as an enforceable condition to its 2025-2035 Campus Plan further processing to construct university housing on its campus and allowing the Commission to waive[4] certain requirements for the off-site IZ; and
- Add a new § 101.5 to Subtitle X § 101, CAMPUS PLANS, clarifying that university housing exclusively for use by Wesley and American University students, faculty, and staff on Square 1600, Lot 819 is not to be construed as subject to a commercial use or activity restriction as described under Subtitle X § 101.4 of the campus plan regulations if approved by the Commission as part of a campus plan.

(*See* Petitioner's originally proposed amendment language at Ex. 2B; Petitioner's postponement request at Ex. 17; Petitioner's subsequent alternative language proposals at Ex. 21 and 22; and OP's suggested revisions at Ex. 28.)

BACKGROUND AND WESLEY CAMPUS

The proposed text amendments are intended to provide clarification on IZ requirements and to provide clarification on the applicability of commercial use and activity restrictions as both relate to a new approximately 659-bed university housing building proposed on Wesley's campus that would house Wesley and American University (AU) students and their immediate families, and is the principal part of the Wesley 2025-2035 Campus Plan application,[5] which is currently pending before the Commission. (*See* Z.C. Case No. 23-08(1)).

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revised language to the Petitioner's subsequent proposals, both to Subtitle C § 1006.10 and Subtitle X § 101.5 (Ex. 28). As further explained in the OP hearing report (Ex. 28), the main difference between the Petitioner's subsequent proposal to Subtitle C § 1006.10 and OP's suggested revision is that the latter would require Wesley to provide off-site IZ in Ward 3 (with a waiver of some of the off-site IZ requirements of Subtitle C § 1006) as a condition of the campus plan further processing approval to construct a dormitory on Wesley's campus; and would not give Wesley an option to provide "substantially equivalent" financial subsidies in lieu of providing off-site IZ in Ward 3. The main difference between the Petitioner's subsequent proposal to Subtitle X § 101.5 and OP's suggested revision is that the latter would replace the phrase "A dormitory providing housing" with "University housing." (Ex. 28). In its presentation and at the November 18, 2024, public hearing, the Petitioner stated it agreed with OP's suggested revision to Subtitle X § 101.5 and expressed general support for OP's suggested revision to Subtitle C § 1006.10 while stating its desire for additional flexibility with respect to providing the required off-site IZ by and through qualified third parties as opposed to Wesley directly providing the off-site IZ (Ex. 36).

[4] As further discussed below, at final action, the Commission decided to amend the proposed text of Subtitle C § 1006.10 to remove discretion to determine that Wesley can meet its off-site IZ requirement by decreasing its IZ set-aside, while retaining the discretion to determine that the IZ requirement can be met by increasing the IZ set-aside or through a financial contribution to a Ward 3 affordable housing provider.

[5] In March 2022, Wesley filed a campus plan application (*see* Z.C. Case No. 22-13) for its 2022-2032 Campus Plan which proposed a new university housing building that would house both Wesley and AU students. After a public hearing and several public meetings, the Commission determined it could not proceed with the case; and Wesley withdrew its application and decided to seek approval of the campus plan and university housing building through a joint campus plan and PUD application. In June 2023, Wesley re-filed its campus plan application (*see* Z.C. Case No. 23-08(1)) with minor changes and simultaneously filed a new PUD application (*see* Z.C. Case No. 23-08) which, among other things, requested special exception relief and flexibility from the IZ program requirements to allow Wesley to administer a privately-run IZ program for Wesley and AU students at the new university housing

The approximately 8.77-acre Wesley Theological Seminary campus is located at 4500 Massachusetts Avenue, N.W. in the Northwest quadrant of the District; and is bounded by Massachusetts Avenue to the northeast; AU's main campus to the southeast and southwest; and University Avenue to the northwest. The Wesley campus is located within the boundaries of ANC 3E; and is located directly across the street from ANC 3D.

OP SETDOWN REPORT

On July 15, 2024, OP filed a setdown report (OP Setdown Report) recommending the Commission set down the original petition[6] text amendment language (at Exhibit 2B of the case record) for a public hearing and concluding that the proposal would not be inconsistent with the Comprehensive Plan (CP) Maps, Citywide Elements and the Rock Creek West Area Element, including when viewed through a racial equity lens (Ex. 10).

ANC SETDOWN FORM

In response to the Petition, ANC 3D filed a setdown form with an attached letter stating it believes the Petition is ready to be set down for a hearing (Ex. 9).

The Commission did not receive an ANC setdown form from ANC 3E.

SETDOWN

At its July 25, 2024, public meeting, the Commission considered the Petition and the ANC 3D setdown form[7] and voted to set down the Petition for a public hearing as a rulemaking case.[8]

NOTICE

Pursuant to Subtitle Z § 502, the Office of Zoning (OZ) sent notice of the originally scheduled October 17, 2024 public hearing on August 19, 2024, and published notice of the public hearing, in the August 30, 2024, issue of the *District of Columbia Register* (71 DCR 010610 *et seq.*) as well as on the calendar on OZ's website (Ex. 14-16).

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building. The Commission held two public hearings in September and October 2023 and was unable to proceed with final action for various reasons, including concerns that a text amendment was needed to clarify the IZ requirements applicable to the university housing building and resolve ambiguity around whether the university housing building was subject to the commercial use and activity restrictions of the campus plan regulations. The campus plan application (Z.C. Case No. 23-08(1)) remains pending, and the PUD application (Z.C. Case No. 23-08) has been withdrawn.

[6] As noted above, prior to the November 18, 2024 public hearing, OP submitted a hearing report which recommended certain revisions to the Petitioner's originally proposed text amendments (Ex. 28). The OP hearing report included an analysis of the proposed text amendments, with OP's suggested revisions, which is further discussed below.

[7] The record reflects a letter (Ex. 12) submitted by Neighbors for a Livable Community and the Spring Valley-Wesley Heights Citizens Association (collectively, NLC-SVWHCA) alleging several errors and flaws in the OP Setdown Report. In accordance with the requirements of Subtitle Z § 500.9, the Commission can only consider the petition, the recommendations of OP, and the ANC Setdown Form of the affected ANC(s) in determining whether to set down a petition for a public hearing. Therefore, the Commission did not consider the content of the letter submitted by NLC-SVWHCA in deciding to set down the Petition for a hearing.

[8] The originally submitted Petition mistakenly described the proposed text amendments as a contested case. However, the Petitioner subsequently filed a letter clarifying that the proposed text amendments should be designated as a rulemaking case (Ex. 11). When setting down the Petition for a hearing at its July 25, 2024 public meeting, the Commission affirmed its designation of the case a rulemaking case and not a contested case.

On September 27, 2024, the Petitioner filed a letter requesting a postponement of the originally scheduled public hearing from October 17, 2024, to November 18, 2024, to allow time for the Petitioner to work with OP, ANC 3D, ANC 3E, and other interested parties (Ex. 17). The Commission approved the postponement request on October 1, 2024.

On October 16, 2024, OZ sent notice of the rescheduled November 18, 2024 public hearing, and published notice of the rescheduled public hearing in the October 25, 2024 issue of the *District of Columbia Register* (71 DCR 012888 *et seq.*) as well as on the calendar on OZ's website (Ex. 18-20).

PETITIONER'S PREHEARING SUBMISSION

As noted above, the Petitioner filed a prehearing submission on November 4, 2024 requesting—as an alternative to its originally proposed text amendment to Subtitle C § 1001.6(c) exempting a dormitory on Wesley's campus from the IZ program—new text under Subtitle C § 1006.10, which would require Wesley to provide off-site IZ units located in Ward 3 or "substantially equivalent" financial subsidies as a condition to a campus plan approval of the dormitory, with a waiver of certain requirements under Subtitle C §§ 1006.1-1006.3(a) (Ex. 21). On November 6, 2024, the Petitioner filed a supplemental prehearing submission requesting a revision to its proposed amendment to Subtitle X § 101.5 to replace the word "dormitory" with "purpose-built student housing building" in response to negotiations with ANC 3E (Ex. 22).

OP HEARING REPORT

On November 14, 2024, OP filed a hearing report[9] (OP Hearing Report and, together with the OP Setdown Report, the OP Reports) suggesting revisions[10] to the Petitioner's alternative Subtitle C § 1006.10 text and Subtitle X § 101.5 text (Ex. 28). The main difference between the Petitioner's alternative Subtitle C § 1006.10 text and OP's suggested revision is that the latter would require Wesley to provide off-site IZ in Ward 3 (with a waiver of some of the off-site IZ requirements of Subtitle C § 1006) as a condition of the campus plan further processing approval to construct a dormitory on Wesley's campus; and would not give Wesley an option to provide "substantially equivalent" financial subsidies in lieu of providing off-site IZ in Ward 3. The main difference between the Petitioner's Subtitle X § 101.5 text and OP's suggested revision is that the latter would replace the phrase "A dormitory providing housing" with "University housing" (Ex. 28).

The OP Hearing Report concluded that the proposed text amendments, with the revisions recommended by OP to include new text added to Subtitle C § 1006.10 and amendments to Subtitle X § 101.5, are not inconsistent with the Comprehensive Plan maps and policies, including when viewed through a racial equity lens (Ex. 28).

[9] OP requested a waiver to file its hearing report less than ten (10) days before the November 18, 2024 public hearing, which the Commission granted at the start of the hearing.

[10] As further discussed below, the Petitioner stated at the November 18, 2024, public hearing that it generally agreed with OP's suggested revisions to Subtitle X § 101.5 and Subtitle C § 1006.10 but requested flexibility to provide the required off-site IZ under Subtitle C § 1006.10 by and through qualified third parties (Ex. 36).

OP REPORTS

A summary of the contents of the OP Reports follows (Ex. 10, 28). Many of the contents of the OP Reports are directly quoted in the following summary.

Wesley requests text amendments to allow both Wesley and American University students and their families to be housed in a new university housing building on the Wesley Campus. On balance, OP finds that the proposed text amendments in conjunction with the Wesley Campus Plan (Z.C. Case No. 23-08(1)) would be not inconsistent with the Comprehensive Plan and would allow Wesley to "thrive in place." Wesley has been up front about their need to find a steady revenue source to allow the university to continue providing Master's and Doctoral-level education for graduate-level students studying theology and related subjects. The dormitory that could be built as a result of these text amendments would be the primary source of the funds and would be achieved through a ground lease enabling a private company to construct a new 219-unit, 659-bed dormitory that would be occupied primarily by Wesley and American University students and their immediate families. The proposed text amendment is narrowly confined to the Wesley campus and to be implemented the housing would have to be approved by the Commission through further processing of the campus plan. OP supports the targeted nature of the amendments to only apply to Wesley and would provide the opportunity for Wesley to provide housing for their students, faculty and staff as well as those from American University. These amendments, narrowly tailored, would enable Wesley to meet their needs through the provision of on-campus student housing and comply with the IZ regulations through off-site IZ.

COMPREHENSIVE PLAN: CP MAPS

Future Land Use Map (FLUM) and Generalized Policy Map (GPM)

Both the FLUM and GPM designate Wesley's campus for Institutional use, which is defined as:

> ***Institutional****: This designation includes land and facilities occupied and used by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions. While included in this category, smaller institutional uses such as churches are generally not mapped, unless they are located on sites that are several acres in size. Zoning designations vary depending on surrounding uses. Institutional uses are also permitted in other land use categories* (10-A DCMR § 227.18).
>
> *The Generalized Policy Map also identifies . . . major institutional land uses. The fact that these areas are not designated as Conservation, Enhancement, or Land Use Change Areas does not mean they are exempt from the Comprehensive Plan or that their land uses will remain static. . . . Much of the land identified as institutional on the map represents colleges and universities; change and infill can be expected on each campus consistent with campus plans. . . . Policies in the Land Use and the Educational Facilities Elements address the compatibility of such uses with surrounding neighborhoods* (10-A DCMR § 225.22).

The OP Reports concluded that the Petition would not be inconsistent with the FLUM's and GPM's designation of Institutional for the Wesley campus, as the "development proposed under the campus plan would be institutional use buildings on a campus of higher learning and would not be available for occupancy by the general public." (Ex. 10, 28).

COMPREHENSIVE PLAN: CITYWIDE ELEMENTS

The OP Reports stated that the Petition is, on balance, not inconsistent with the Citywide Elements of the Comprehensive Plan. OP concluded that the proposed text amendments would further policies of the Land Use, Transportation, Housing, Economic Development, Parks Recreation and Open Space, Urban Design, and Educational Facilities Elements (Ex. 10, 28).

Land Use

The proposed text amendments would not be inconsistent with the policies of the Land Use Element of the Comprehensive Plan. Wesley has worked with the ANC and the community during the campus plan and PUD processes and the present text amendment to address issues related to the proposed dormitory and overall development of the campus plan. Wesley has worked to minimize potential impacts on the neighboring low density residences by reducing the height of the proposed dormitory and limiting views and light spillage from the upper stories of dormitory onto adjacent residences.

The proposed text amendments would further the Land Use Element policies listed below:

- *Policy LU-2.1.11: Residential Parking Requirements;*
- *Policy LU-2.1.5: Support Low-Density Neighborhoods;*
- *Policy LU-2.3.5: Institutional Uses;*
- *Policy LU-3.3.1: Transportation Impacts of Institutional Uses;* and
- *Policy LU-3.3.2: Corporate Citizenship.*

Transportation

The proposed text amendments are not inconsistent with the policies in the Transportation Element of the Comprehensive Plan as the campus plan and its Transportation Management Plan outlines that transportation improvements would include the promotion of bicycle, pedestrian, and shuttle bus usage. The proposed plan would include enhanced pedestrian pathways and adds long-term and short-term bicycle parking on campus including electric charging stations for vehicles, e-bikes/scooters. The new dormitory would increase on-campus parking, but the impact of this would be addressed through the de-bundling parking from dorm-room rental, by prohibiting student, faculty and employee parking on residential streets, and by other measures to encourage the use of mass transportation and alternatives to private vehicles. The proximity of the Tenleytown-AU Metro station and the access that both public transit and the AU shuttle system provide to the area near the campus would help diminish the need for private-vehicle dependency.

The proposed text amendments would further the Transportation Element policies listed below:

- *Policy T-1.1.8: Minimize Off-Street Parking;*
- *Policy T-2.4.1: Pedestrian Network;*
- *Policy T-2.4.2: Pedestrian Safety;*
- *Policy T-3.1.1: TDM Programs;* and
- *Policy T-5.2.2: Charging Infrastructure.*

Housing

The proposed dormitory, although only serving students, faculty and staff and their immediate families, would have a variety of unit sizes to accommodate one to five beds. The building would also have family-sized units to accommodate students and their immediate families.

The proposed text amendments would further this Housing Element policy:

- *Policy H-1.1.9: Housing for Families.*

Economic Development

The proposed text amendments are not inconsistent with the Economic Development Element as the revenues developed under the proposed campus plan would allow the Seminary to remain open and continue providing employment and other opportunities to District residents. A relatively high percent of Wesley students, graduates and employees are non-White, and Wesley engages in community outreach and support from both its main campus and its rented space at Mount Vernon Square. The revenues would help to keep Wesley financially solvent and able to continue its educational and outreach programs.

The proposed text amendments would further the Economic Development Element policies listed below:

- *Policy ED-1.1.1: Core Industries;* and
- *Policy ED-2.4.1: Institutional Growth.*

Parks Recreation and Open Space

The proposed text amendments would allow for the continued operation of the university with a campus plan that would include a new playground which would be accessible to the nearby neighborhood and the preservation of fifty-five percent (55%) of the campus as green open space as part of the campus plan proposal.

The proposed text amendments would further this Parks Recreation and Open Space Element policy:

- *Policy PROS-4.2.1: Institutional Open Space.*

Urban Design

The new dormitory would be taller and larger than any nearby residence. However, it would be at least three-hundred feet (300 ft.) from the nearest residences. Its materials would be compatible with those of the existing campus building and the surrounding neighborhood. The final design of the dormitory would be subject to approval as further processing of the campus plan.

The proposed text amendments would further this Urban Design Element policy:

- *Policy UD-2.2.4: Transitions in Building Intensity.*

Educational Facilities

The approval of the proposed text amendments to allow the dormitory would enable a decrease in rental pressures that students place on private housing stock by developing dormitory space not only for Wesley students and their families, but also for American University students and their immediate families. These students and their families would otherwise be seeking market rate housing. The campus plan proposes expanding support to the community as it would give access to the campus with a neighborhood-oriented playground. The Seminary also sponsors an internship program that brings students to work at various non-profit and community organizations throughout the District. Seminary students and graduates assist the mission of many churches in the District.

The proposed text amendments would further these Educational Facilities Element policies:

- *Policy EDU-3.2.2: Corporate Citizenship;*
- *Policy EDU-3.2.4: Universities as Community Partners;*
- *Policy EDU-3.3.3: Universities as Large Landowners and Campus Plan Requirements;*
- *Policy EDU-3.3.4: Student Housing;*
- *Policy EDU-3.3.5: Transportation Impacts of Colleges and Universities;*
- *Policy EDU-3.3.6: Faculty Housing;*
- *Policy EDU-3.3.10: University-Community Task Force;* and
- *Policy EDU-3.3.11: Access to Recreational, Educational, and Cultural Opportunities.*

COMPREHENSIVE PLAN: ROCK CREEK WEST AREA ELEMENT

The Wesley campus is located within the Rock Creek West Area Element of the Comprehensive Plan. The OP Reports concluded that the proposed text amendments would not be inconsistent with the Rock Creek West Area Element. The campus plan proposes taller buildings than in the existing campus plan. However, the new dormitory should be relatively harmonious with the nearby neighborhood and the adjacent American University. When viewed through a racial equity lens, it is not envisioned or expected that the additional housing on campus for students would have any impact on the cost of housing in the Rock Creek West Planning Area.

The proposed text amendments would further this Rock Creek West Area Element policy:

- *Policy RCW-1.1.8: Managing Institutional Land Uses.*

POTENTIAL CP INCONSISTENCIES

The OP Reports noted that the proposed text amendments may be viewed as being potentially inconsistent with certain policies that encourage rehabilitation of older buildings before demolition (Policy LU-2.1.4) and the development of net-zero, energy efficient housing (Policy H-1.6.5) (Ex. 10, 28).

This concludes the summary of the OP Reports.

COMPREHENSIVE PLAN: RACIAL EQUITY

The Comprehensive Plan requires the Commission to apply the standard of review applicable to the proposed text amendments through a racial equity lens (10-A DCMR § 2501.4-2501.6, 2501.8). Consideration of equity is intended to be based on the policies of the Comprehensive Plan, and part of the Commission's consideration of whether the text amendment is "not inconsistent" with the Comprehensive Plan, rather than a separate determination about a zoning action's equitable impact.

The Comprehensive Plan Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality (10-A DCMR § 213.6). Further, "[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities." (10-A DCMR § 213.7). The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions (10-A DCMR § 213.9).

The Comprehensive Plan Implementation Element suggests to prepare and implement tools to use as a part of the Commission's evaluation process. Consistent with the Comprehensive Plan guidance, the Commission utilizes a Racial Equity Analysis Tool (Tool) in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The revised Tool requires submissions from Petitioners and OP analyzing the zoning action's consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable (Part 1); a submission from Petitioner including information about its community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from OP including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).

<u>OP</u>
As required by the Commission's Tool, the OP Reports provided Racial Equity Analyses that responded to Part 1 of the Tool as summarized above. The OP Reports also provided disaggregated race and ethnicity data for the Rock Creek West Planning Area, in which Wesley's campus is located, in response to Part 3 of the Tool (Ex. 10, 28). Based on this data, the OP Reports made the following observations about the Planning Area (Ex. 10, 28):
<u>*Disaggregated Race and Ethnicity Data*</u>:

- During the 2012-2016 and 2018-2022 time periods, "the Rock Creek West Planning Area had the highest percentage of White residents and lowest percentage of Black or African American residents of all ten planning areas in the District. However, the numbers and percentage of Asians, Some other Race, Two or more Race and Hispanic residents rose in terms of numbers and percentage of the population from 2016 to 2022.";
- Rock Creek West residents maintained a higher median income than the District as a whole between 2016 and 2022, but the data reveals specific nuances when disaggregated by race and ethnicity. "Between 2016 and 2022, the median income for White households rose at a higher rate compared to that of the Planning Area as a whole; while the median income for Black or African American families decreased by 16.8%—representing one of only two planning areas (along with Central Washington) where the median income of Black or African American families did not increase during this time period."; and

- "In 2012-2016, the Rock Creek West Planning Area had the second highest percentage of owner-occupied housing of all the District's planning areas; however, only 29.3% of Black or African American households were in owner-occupied housing, compared to 59.8% of White households in the Planning Area. During 2018-2022, owner occupancy in the Planning Area decreased slightly to 54% while the Districtwide owner occupancy had a slight increase to 41.5%. Homeownership for Two or More Races and Asians were the only two groups showing increases in homeownership with Two or More Races showing a significant increase of 17.5%. Over 70% of Black households rent as opposed to own."

The OP Reports noted that "the Rock Creek West 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. The Deputy Mayor for Planning and Economic Development provided an update at the end of February 2024 which shows that the Rock Creek West Planning Area has made the least amount of progress of the District's 10 planning areas in meeting the goal, achieving only 10.1% of the target. The proposed text amendment would not affect the few affordable housing opportunities in the Rock Creek West Planning Area except that they would create an opportunity for additional dormitory space leaving non-university housing available for other neighborhood residents instead of for students." (Ex. 10, 28).

The OP Reports concluded that, because the Petition is a text amendment, "it can be difficult to assess" the racial equity impacts of the proposal at this time; however, "the potential impacts—positive or negative—of development on the campus would be assessed as part of the campus plan and in more detail at the time of Further Processing for the proposed new dormitory." The OP Reports noted that the student housing development that would be facilitated by the proposed text amendment "may have a marginally positive impact on the affordability of housing in Rock Creek West by freeing up market rate units now rented by students who may relocate to the Wesley campus." (Ex. 10, 28).

The OP Reports also stated that "Wesley's mission promotes racial equity" as it has been active in racial and social justice outreach programs and in educating graduates who minister to minority communities. "Given the careers led by Seminary graduates and the outreach the Seminary engages in within the District, the retention of the Seminary may also contribute to racial equity. While some of the student body pursue academic careers, most are trained for careers in service to others. The Seminary actively engages its graduates in virtual and in-person training to advance community engagement skills and provides real time assistance to events promoting racial and social justice. It also runs an internship program placing Wesley and other theological students as interns in churches throughout the District. The revenues that would be generated by the proposed new dormitory would help the Seminary to continue providing these programs that promote racial equity." Notably, the Seminary's students and staff are more racially diverse than the nearby residential areas. Currently, approximately "34% of Wesley's students identify as Black as do 18% of the administration, 25% of the faculty, and 7% of other staff." (Ex. 10, 28).

Petitioner

As required by the Commission's Tool, the Petitioner's submissions provided Racial Equity Analyses that responded to Parts 1 and 2 of the Tool (Ex. 2C). In response to Part 2 of the Tool, the Petitioner provided information regarding its community outreach and engagement efforts. The Petitioner states it began its outreach for its campus plan proposing a new student housing building in 2019. The Petitioner provided a list of approximately thirty-nine (39) meetings held with the Community Liaison Committee (CLC) and ANCs 3D and 3E between 2019 and 2024 (Ex. 2C).

After the Petition was filed on May 30, 2024, and following the Commission's vote on July 25, 2024, to set down the Petition for public hearing, the Petitioner continued its engagement with the affected ANCs. The Petitioner's community engagement resulted in changes to the proposed text amendments to include adding a new Subtitle C § 1006.10 that would require the Petitioner to provide off-site IZ in Ward 3 (or a substantially equivalent contribution to a Ward 3 affordable housing provider) in connection with the proposed university housing building, as described above (Ex. 21, 22).

PUBLIC COMMENTS

Prior to the November 18, 2024 public hearing, the Commission received comments/testimony and heard testimony in support and in opposition to the proposed amendments, citing various arguments (Ex. 9, 12, 23-25, 27, 29-35A, 37-51, 53). The comments and testimony in opposition raised the following issues concerning the Petition:[11]

- The Petition Constitutes Illegal Spot Zoning: The proposed text amendments constitute illegal spot zoning because they grant the Petitioner a carve-out to construct a commercial university housing building on its campus that primarily serves to generate revenue for the Petitioner and its developer;
- Text Amendment Process is Inappropriate: The Petitioner's proposal to construct a university housing building on its campus requires "extraordinary relief" which cannot be achieved through the text amendment process. Approving the Petition would create a bad precedent that could motivate other educational institutions to apply for similar carve-outs from the Zoning Regulations and/or IZ program;
- University Housing Building is a Commercial Use / Activity: The Petitioner's proposed university housing building is a commercial use and/or activity that is unrelated to Wesley's educational mission and is not permitted under the campus plan regulations;
- IZ Exemption Lacks Detail: The proposed text amendments lack clarity about how the Petitioner would satisfy the IZ requirements, either by providing off-site IZ in Ward 3 or through a financial contribution. Some comments argued that if Wesley provides off-site IZ, then it should provide more than the minimum required amount (i.e., more than the standard

[11] The following list of issues is intended to summarize the main issues raised in opposition to the proposed text amendments and is not intended to be exhaustive. The comments and testimony in opposition also raised various other arguments which are not listed here, including arguments relating to the Petitioner's separate campus plan application (Z.C. Case No. 23-08(1)) (which is currently pending) and Planned Unit Development application (Z.C. Case No. 23-08) (which has been withdrawn). As further discussed below, the Commission's approval of this text amendment is based solely on consistency with the Comprehensive Plan and other adopted public policies and active programs related to the subject text (*see* Subtitle X § 1300.2). Therefore, the arguments raised by the opposition which are outside the scope of this rulemaking case are not summarized here.

eight percent (8%) or ten percent (10%) depending on construction type). Some comments also noted that there are existing processes for obtaining relief from the IZ requirements, which Wesley could pursue instead of this text amendment;

- Comprehensive Plan Inconsistency: The proposed text amendments are inconsistent with the Comprehensive Plan and other adopted public policies and programs related to the site.
  - Specifically, NLC-SVWHCA argued that the proposed text amendments are inconsistent with the Comprehensive Plan's FLUM and GPM designations for the site as Institutional, since they would facilitate the construction of a commercial use, i.e., the university housing building (Ex. 12, 27, 29);
  - NLC-SVWHCA also argued that the proposed text amendments are inconsistent with certain Land Use Element policies (LU-1.2.4, LU-2.1.1, LU-2.3, LU-2.3.1, LU-2.3.7, LU-2.3.8) that emphasize the need to expand affordable housing in the District, retain compatibility with neighborhood character, and limit non-conforming uses by institutions; and Educational Facilities Element policies (EDU-3.3.2, EDU-3.3.10) that encourage universities to respect the character and quality of life in surrounding areas and engage with the community to address its concerns on proposals to amend the Zoning Regulations (*Id.*); and
  - NLC-SVWHCA also argued that the proposed text amendments are inconsistent with the affordable housing goals for Rock Creek West since they would not produce any new affordable housing (*Id.*);
- Racial Equity: The proposed text amendments will not further the District's racial equity goals since they would not promote long-term homeownership in Rock Creek West for non-white households;
- Legal Insufficiency: The Petitioner has not demonstrated on the record that it is facing serious financial instability and would need to relocate if it does not obtain this relief. Some comments suggested that the Petitioner should sell part of its campus property and/or purchase a commercial property elsewhere to use for student housing purposes; and
- Impact on AU: The proposed student housing facility that would be facilitated by the Petition would compete with AU for student revenue. Therefore, the text amendment should not proceed without substantive input from AU.

In addition, ANC 3D submitted comments and testimony in support of the proposed text amendments and recommending the Commission approve the Petition (Ex. 23, 33, 35, 35A, 46).

ANC 3E submitted comments and testimony to the record (Ex. 25, 53) raising the following issues regarding the proposed text amendments:

- The proposed amendments as originally proposed (Ex. 2B) would provide a blanket IZ exemption and set a bad precedent;
- While the Petitioner's alternative Subtitle C § 1006.10 language (requiring off-site IZ in Ward 3) is an improvement over the originally proposed amendment to Subtitle C § 1001.6(c) which would have exempted the proposed university housing building from the IZ program entirely, it is still problematic because it would allow the Petitioner the option of making an "equivalent" financial contribution—and there is uncertainty about how that equivalency would be determined. ANC 3E noted that the Petitioner has previously proposed

making an $8 million contribution towards affordable housing production, which the ANC claims is insufficient and should be supplemented by actual off-site IZ units; and

- The Petitioner should be required to provide off-site IZ that exceeds the minimum required amount (i.e., more than the eight percent (8%) or ten percent (10%) depending on construction type) and/or be required to provide IZ at deeper levels of affordability because it is requesting extraordinary relief to approve an unprecedented commercial university housing building.

PUBLIC HEARING

At the November 18, 2024 public hearing,[12] the Commission heard testimony from the Petitioner, OP, and the Spring Valley Neighborhood Association in support of the Petition. In its presentation, the Petitioner stated it agreed with OP's suggested revision to Subtitle X § 101.5 and expressed general support for OP's suggested alternative Subtitle C § 1006.10 text while stating its desire for additional flexibility with respect to providing the required off-site IZ by and through qualified third parties as opposed to Wesley directly providing the off-site IZ (Ex. 36).

The Commission also heard testimony in opposition to the Petition, reiterating many of the arguments summarized above. The Commission granted permission for individuals and organizations who testified at the November 18, 2024 public hearing, to submit their written testimony to the case record following the hearing (*See* Ex. 44, 45A, 46-51, 53, 54).

Based on the comments/testimony filed to the case record and the testimony at the public hearing, the Commission requested post-hearing submissions at the conclusion of the public hearing. specifically:

- A submission from the Petitioner with (i) information on how off-site IZ is treated in neighboring jurisdictions, including a discussion of examples in DC or elsewhere of private partnerships with developers to construct student housing, and (ii) a discussion of whether Wesley can commit to providing more than a ten (10%) off-site IZ set-aside;
- A submission from ANC 3E, including suggestions for alternative amendment language to the proposed new Subtitle C § 1006.10 to potentially increase the off-site IZ set-aside above the minimum IZ requirements under the Zoning Regulations (i.e., eight percent (8%) or ten percent (10%) depending on construction type);
- A response from the Petitioner to ANC 3E's alternative amendment language; and

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[12] At the start of the November 18, 2024 public hearing, the Commission considered as a preliminary matter a request from some of those in opposition to the Petition (*see*, *e.g*., Ex. 30) to further postpone the public hearing and/or re-issue a revised notice of public hearing with updated text reflecting the revisions to the proposed text amendments suggested by OP in its report (Ex. 28). The Commission considered the request and made a procedural decision to proceed with the public hearing and not further postpone the public hearing or re-issue a revised notice of public hearing. The Commission based its decision on the fact that the public hearing had already been postponed once from its original October 17, 2024 date, to allow the Petitioner additional time to work with the community, ANC 3E, and OP on refining its proposed text amendment language based on the input received. In addition, the Commission noted that the public would have an opportunity to comment on the proposed text amendments, notwithstanding OP's revisions, after a Notice of Proposed Rulemaking is published. Therefore, the Commission saw no benefit to further delay or re-notice the public hearing and proceeded with the public hearing.

- A response from OP to both the Petitioner's and ANC 3E's submissions.[13]

(*See* post-hearing submissions at Ex. 54, 55, 58, 60, 61).

POST-HEARING SUBMISSIONS

On November 25, 2024, the Petitioner submitted a post-hearing statement (Ex. 55) with responses to what the Commission requested at the public hearing. In its response, the Petitioner stated it generally accepts OP's proposed alternative to add a new Subtitle C § 1006.10 (requiring Wesley to provide an off-site IZ set-aside of eight percent (8%) to ten percent (10%) depending on the construction type in Ward 3) and urges the Commission to not increase the set-aside requirement, as recommended by ANC 3E and some of those in opposition. The Petitioner stated the Commission should retain its discretion to determine a minimum off-site IZ requirement at a later stage when the campus plan and furthering processing applications are evaluated. The Petitioner's post-hearing statement also provided examples of comparable private-partnership campus housing buildings at other universities; a summary of off-site affordable housing programs in nearby jurisdictions; and a preliminary IZ analysis based on the proposed student housing facility's construction type, which would require an IZ set-aside of eight percent (8%).

On November 25, 2024, ANC 3E submitted a post-hearing statement (Ex. 54) proposing two (2) separate revisions to OP's alternative Subtitle C § 1006.10 text:

- Version "A" would specify the amount of IZ to be provided in the text of Subtitle C § 1006.10. Specifically, the proposed text would require an off-site IZ set-aside of eight percent (8%) multiplied by a factor of one and five-tenths percent (1.5%) (which the ANC states results in a total set-aside of 12 and five-tenths percent (12.5%)), with ten percent (10%) of the off-site units set aside at thirty percent (30%) Median Family Income (MFI); sixty percent (60%) set aside at fifty percent (50%) MFI; and thirty percent (30%) set aside at sixty percent (60%) MFI; and
- Version "B" would permit the Commission to determine the amount of off-site IZ required during a further processing for the campus plan, which would in no case be less than the minimum IZ requirements. In addition, the Commission could further specify the MFI levels of the IZ units required.

On December 9, 2024, the Petitioner submitted a response[14] (Ex. 58) to ANC 3E's post-hearing submission stating that it does not agree with the ANC's proposed Version "A" or Version "B" revisions to Subtitle C § 1006.10. Instead, the Petitioner requested the Commission adopt OP's recommended Subtitle C § 1006.10 language without ANC 3E's suggested edits. The Petitioner argued that OP's language sets a minimum standard for the provision of off-site IZ while also

[13] On November 17, 2024, NLC-SVWHCA submitted a request (Ex. 43) to keep the record open for thirty (30) days following the November 18, 2024 hearing, to allow the public to provide comments on OP's and the Petitioner's revisions to the proposed text. The Commission denied this request on the basis that a thirty (30) day comment period would be permitted after the Notice of Proposed Rulemaking is published for public comments. On December 12, 2024, NLC-SVWHCA submitted a request to reopen the record (Ex. 59) to accept a filing from NLC-SVWHCA, alleging that the post-hearing ANC and Petitioner filings have raised new issues not addressed at the hearing. This request was denied by the Commission.

[14] The Petitioner's response to ANC 3E's filing was originally due on December 3, 2024. However, the Petitioner submitted a request (Ex. 56) to extend this deadline to December 9, 2024, which was granted.

allowing the Commission to impose a higher standard if it deems it appropriate. The Petitioner also stated that it is premature to impose a different or higher standard for the off-site IZ and that the Commission is best posed to do so after further negotiations among the parties about the specifics of Wesley's off-site IZ program.

On December 13, 2024, OP submitted a supplemental report (Ex. 60) with responses to what the Commission requested at the hearing. In its report, OP stated it has reviewed ANC 3E's proposed revisions to its Subtitle C § 1006.10 language and does not support either Version "A" or Version "B" of the ANC's proposed changes. OP explained that the IZ program is based on offsetting the cost of IZ by granting bonus density. In this case, there is no established nexus to justify a higher IZ requirement as recommended by ANC 3E, since no bonus density is being proposed for Wesley's student housing building. Furthermore, OP cannot support ANC 3E's proposal to allow the Commission to specify the MFI of future IZ units at further processing because doing so would be "contrary to the premise of predictability and transparency." OP recommended the Commission approve its revised Subtitle C § 1006.10 text as reflected in the OP Hearing Report. OP's supplemental report also included a summary of information regarding adjacent jurisdictions' requirements related to off-site affordable housing; whether university housing for students was subject to affordable housing requirements in those jurisdictions; and examples of universities in the area where dormitories were built by private developers.

On December 5, 2024, ANC 3D filed a letter (Ex. 57)[15] in response to ANC 3E's proposed edits to the text amendment. ANC 3D recommended the Commission not accept ANC 3E's proposed Version "A" text since it would be premature to set an IZ set-aside requirement. However, ANC 3D did recommend the Commission adopt ANC 3E's Version "B" text which would allow for flexibility to decide the affordable housing set-aside within the context of the campus plan.

On December 16, 2024, ANC 3E filed a report with attachments (Ex. 61-61A2) responding to the Petitioner, OP, and ANC 3D submissions and stating that, without ANC 3E's edits, the OP proposed text will not permit the Commission to require Wesley to provide any additional off-site IZ. ANC 3E noted that ANC 3D supports its Version "B" edits. ANC 3E also stated that the continued use of the term "dormitory" is inaccurate as the proposed facility will not exclusively serve Wesley students.

PROPOSED ACTION

At proposed action on December 19, 2024, based on the case record, the public hearing testimony, and the post-hearing submissions received, the Commission stated that it wanted to adopt OP's suggested revisions to the text amendments and add new language to the proposed Subtitle C § 1006.10 granting the Commission broad discretion to determine satisfaction of the off-site IZ set-aside requirement at the campus plan further processing authorizing construction of university housing on Wesley's campus. Specifically, the Commission wanted discretion to include raising or lowering the off-site IZ set-aside requirement as stated in the new Subtitle C § 1006.10; and/or requiring Wesley to make a financial contribution, deemed sufficient by the Commission, to an

[15] While no post-hearing response was requested from ANC 3D, the Commission allowed the report into the record since ANCs are generally allowed to submit reports prior to the Commission taking final action.

organization(s) to construct new affordable housing exclusively in Ward 3. The Commission also stated that it wanted to change references to "dormitory" in the proposed amendments to "university housing." The Commission authorized the Office of Zoning Legal Division (OZLD) to draft the new amendment language to Subtitle C § 1006.10 as described by the Commission at proposed action, in coordination with OP and the Petitioner; and authorized publication of a Notice of Proposed Rulemaking including the amended language.

VOTE (December 19, 2024): 4-0-1	(Tammy Stidham, Robert E. Miller, Anthony J. Hood, and Gwen Marcus Wright to approve; Joseph Imamura, not present, not voting)

NCPC REFERRAL AND PUBLICATION OF NOTICE OF PROPOSED RULEMAKING (NOPR)

The Commission referred the proposed text amendment to the NCPC on December 19, 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. 62).

NCPC staff filed a February 7, 2025 report, stating that it found the proposed text amendments would not be inconsistent with the *Comprehensive Plan for the National Capital* and would not adversely impact any other identified federal interests (Ex. 66).

OZ published a Notice of Proposed Rulemaking in the January 17, 2025[16] issue of the *District of Columbia Register* (72 DCR 000405 *et seq.*) (Ex. 63, 64).

COMMENTS IN RESPONSE TO THE NOPR (AND COMMISSION RESPONSES)

Comments were submitted in response to the NOPR by ANC 3E, NLC-SVWHCA, the Committee of 100, the Washington Interfaith Network, and two individuals (Ex. 65, 67-71). The comments largely reiterated some of the arguments in opposition that were raised prior to and at the November 18, 2024 public hearing, including the following:

- The Petition constitutes illegal spot zoning that would set a bad precedent;
- Wesley has not provided evidence of its financial hardship;
- The proposed text amendments, as revised, should not grant the Commission broad discretion to potentially allow Wesley to provide less off-site IZ than required by the Zoning Regulations (or a financial contribution in lieu of the IZ units); and
- The proposed text amendments do not address how the off-site IZ condition will be enforced.

In addition, ANC 3E submitted a report (Ex. 70) stating that it opposes the proposed text amendments as published in the NOPR because it would allow the Commission to have the

[16] Contrary to the assertion made by some opponents, the Commission was not required to allow time for public comment on the proposed text amendment language it authorized at proposed action prior to publishing the NOPR. In accordance with the District of Columbia Administrative Procedure Act and the Zoning Regulations, the NOPR was published in the *District of Columbia Register* on January 17, 2025, and the Commission did not take final action on the text amendments until February 27, 2025, once 30 days from publication of the NOPR had elapsed; therefore, interested persons were afforded the requisite 30 days to submit views after notice of the proposed rule was published in the *District of Columbia Register,* and the Commission considered the views expressed prior to taking final action (*See* D.C. Official Code § 2-505(a) (2013 Repl.)); *see also* Subtitle Z § 604.1).

discretion to determine that the Petitioner can satisfy the off-site IZ requirement by providing fewer off-site IZ units than required or a financial contribution in lieu of providing off-site IZ. ANC 3E stated that the Commission should only have the discretion to require Wesley to provide more off-site IZ if deemed appropriate at further processing. Therefore, ANC 3E recommended the Commission adopt either its previously proposed Version "B"[17] text or new alternative Subtitle C § 1006.10 text which would give the Commission discretion to require an IZ set-aside above the minimum amount required if deemed appropriate. If the Commission is not persuaded to adopt either of these options, ANC 3E requested the Commission approve OP's original alternative Subtitle C § 1006.10 text, which does not include any discretion for the Commission to increase or decrease the off-site IZ set-aside requirement; and/or require Wesley to make a financial contribution towards Ward 3 affordable housing (Ex. 70).

The Commission acknowledges the comments received in opposition to the proposed text amendments and the comments received in opposition to the NOPR. Ultimately the Commission finds most of the opposition comments unpersuasive for the reasons explained below. The Commission first states the general opposition comment followed by its response:[18]

- <u>The Petition Constitutes Illegal Spot Zoning</u>[19]: The Commission concludes the Petition is not illegal spot zoning. While the proposed text amendments are arguably primarily beneficial to Wesley, the Commission finds that the proposed text amendments are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject text, based on the OP Reports summarized above and the Conclusions below;
- <u>Text Amendment Process is Inappropriate</u>: The Commission concludes that the text amendment process is not inappropriate to address the unique situation presented by the proposed university housing building within Wesley's campus plan proposal. The Commission disagrees with the assertion that the proposed text amendments are extraordinary relief because they meet the applicable standard of review, under Subtitle X § 1300.2 (i.e., they are not inconsistent with the Comprehensive Plan). The Commission believes the proposed text amendments will provide clarity and predictability as to the affordable housing requirements and the applicability of the commercial use and activity restrictions as both relate to Wesley's proposed university housing building. In addition, the Commission does not believe the proposed text amendments will create a bad precedent, since the specific facts of this case are unique and not replicated elsewhere in the District, to the Commission's knowledge. Specifically, Wesley's main campus is located directly adjacent to AU's main campus; therefore, housing Wesley and AU students and their immediate families in the same university housing building and providing for the IZ

[17] The previously proposed Version "B" text would give the Commission discretion to both require a higher IZ set-aside than the minimum required and further specify the MFI of the required IZ units.

[18] The following is not intended to be an exhaustive list of every issue, but rather a summary of the main issues raised by the opposition and the Commission's responses to each.

[19] The D.C. Court of Appeals has held that to constitute illegal spot zoning, the Commission's action: "(1) must pertain to a single parcel or limited area ordinarily for the benefit of a particular property owner or specially interested party; and (2) must be inconsistent with the city's comprehensive plan, or if there is none, with the character and zoning of the surrounding area, or the purposes of zoning regulation, i.e., the public health, safety, and general welfare." (*See Daro Realty v. District of Columbia Zoning Commission*, 581 A.2d 295 (D.C. 1990)).

requirement triggered by this arrangement to be satisfied off-site in Ward 3 (with consideration that Wesley is not an affordable housing provider) is unique to these factual circumstances. Without these text amendments, IZ would still apply to a university housing building for both Wesley and AU students, faculty, and staff, but there would be less clarity or predictability for the public and the Petitioner about how such IZ requirements would be satisfied. Further, without these amendments, the Commission's intent as to the applicability of the commercial use or activity restrictions, under Subtitle X § 101.4, to the proposed university housing building for both Wesley and AU students, faculty, and staff, would not be clear;

- Student Housing Building is a Commercial Use/Activity: The Commission is not persuaded by arguments that Wesley's proposed university housing building is a commercial use or activity that is prohibited by the campus plan regulations. The Commission acknowledges there has been confusion about whether the Subtitle X § 101.4 restrictions apply to Wesley's proposed university housing building; and whether the building constitutes a "commercial use." With these amendments, the Commission intends to clarify that a university housing building that exclusively houses students, faculty, and staff of Wesley and AU and their immediate family members, is not to be construed as being subject to the commercial use or activity restrictions of Subtitle X § 101.4 if approved as part of a campus plan;
- IZ Exemption Lacks Detail: The Commission does not believe the text amendments grant Wesley a blanket exemption from the IZ requirements.[20] On the contrary, the text of Subtitle C § 1006.10 requires Wesley to satisfy off-site IZ requirements as an enforceable condition to its 2025-2035 campus plan further processing to construct a university housing building on its campus. The off-site IZ requirement as stated in the text of Subtitle C § 1006.10 requires a minimum set-aside of eight percent (8%) or ten percent (10%) depending on construction type reserved for households at or below 60% of median family income for rental units or at or below 80% of median family income for ownership units, consistent with the minimum IZ requirements under the Zoning Regulations. The Commission does not believe that the text of Subtitle C § 1006.10 needs to impose a higher baseline IZ set-aside and/or deeper levels of affordability, as suggested by some of those in opposition. The Commission agrees with the conclusions in the OP Supplemental Report (Ex. 60) that the nexus between bonus density offered in exchange for an additional/higher IZ set-aside does not exist in these factual circumstances as no bonus density is available to Wesley; therefore, the Commission disagrees with automatically requiring Wesley to provide a higher IZ set aside and/or deeper levels of affordability than the minimums required under the Zoning Regulations. The Commission believes it is appropriate for the final details about Wesley's satisfaction of its off-site IZ requirement to be addressed at the further processing stage. Accordingly, the text of Subtitle C § 1006.10 provides that an enforceable condition for satisfaction of the off-site IZ requirement be tied to the campus plan further processing because construction of the proposed university housing building will not be permitted unless the Commission approves a further processing application and issues a final written order for

[20] The original petition text amendment language (Ex. 2B) proposed amendments that would have amended Subtitle C § 1001.6(c) to exempt housing exclusively for Wesley and American University students, faculty, or staff from IZ Program requirements; however, those proposed amendments are no longer being pursued, as the petition was revised to no longer include any proposed changes to Subtitle C § 1001.6(c).

that separate case. The Commission therefore retains discretion in the text of Subtitle C § 1006.10 to determine whether Wesley can satisfy its off-site IZ requirement by alternative means, either by providing additional IZ or through making a financial contribution to a Ward 3 affordable housing provider. The Commission further notes, in response to some comments raised that expressed uncertainty about how IZ units would be administered and enforced, that if Wesley satisfies its off-site IZ requirement by providing off-site IZ units, those off-site IZ units would be subject to a covenant and administered in accordance with the District's IZ Program as defined by the Inclusionary Zoning Act, per Subtitle C § 1006.7. The text of Subtitle C § 1006.10 requires any off-site IZ units provided by Wesley to comply with the requirements of Subtitle C §§ 1006.5-1006.9;

- Comprehensive Plan Inconsistency: For the reasons discussed above, the Commission has concluded that the text amendments are on balance not inconsistent with the Comprehensive Plan maps and policies, including when viewed through a racial equity lens. The Commission has acknowledged certain potential Comprehensive Plan consistencies but concludes that those inconsistencies are outweighed by the text amendments' overall consistency with other policies and goals, for the reasons discussed in the summary of the OP Reports above and the Conclusions below;
- Racial Equity: The Commission believes that the text amendments are not inconsistent with the District's racial equity goals. The Commission is persuaded by OP's finding in its reports that the text amendments will have a minimal or slightly beneficial impact on racial equity since it is limited to Wesley's campus housing for its students and AU's students. The Commission acknowledges the disaggregated race and ethnicity data presented by OP showing disparities in population, median income, and homeownership between White and Black or African American households in the Rock Creek West Planning Area. The Commission is hopeful that the creation of more on-campus housing options will make available more off-campus housing options in Ward 3 and lessen rental cost pressures for residents of color in Rock Creek West, as further discussed in the summary of the OP Reports above and in the Conclusions below;
- Legal Insufficiency: The Commission notes Wesley's testimony that it is pursuing this Petition to facilitate its campus plan and primarily an on-campus housing building to generate revenue so it can remain financially solvent and further its educational mission while staying at its current campus location. The Commission acknowledges that there are alternative solutions available to Wesley, which include selling off part or all of its campus and/or relocating its campus entirely. Nonetheless, the Commission reviews and approves petitions for text amendments based solely on the standard of Subtitle X § 1300.2, which is consistency with the Comprehensive Plan and other adopted public policies and active programs related to the subject text. The Commission concludes that the Petition is not inconsistent with the Comprehensive Plan and other adopted public policies and active programs related to it for the reasons discussed in the summary of the OP Reports above and the Conclusions below; and
- Impact on AU: The Commission has requested input from AU regarding this proposal and the proposed university housing building, but readily acknowledges that it cannot compel AU to participate in this case nor is AU's input necessary for the Commission to approve this Petition. The Commission notes that a letter was submitted by AU's Vice President and

Chief Communications Office (Ex. 24) which affirms that AU is cognizant of Wesley's situation and "look[s] forward to continuing [its] engagement with Wesley."

The Commission also acknowledges the opposition comments to the NOPR raised in ANC 3E's supplemental report (Ex. 70). As discussed in greater detail in the Conclusions below, the Commission is persuaded by ANC 3E's argument that granting itself discretion to allow a lower off-site IZ set-aside (i.e., below the required eight percent (8%) or ten percent (10%) depending on construction type) for Wesley to satisfy the off-site IZ requirement is contrary to the Commission's intent. Accordingly, the Commission has removed discretion for it to lower the off-site IZ set-aside requirement from the final text amendment language adopted in this case.

CONCLUSIONS

Subtitle X § 1300.2 requires the Commission to find that the text amendment petition is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject text.

Text Amendments are Not Inconsistent with the Comprehensive Plan

The Commission concludes that the text amendments, as published in the Notice of Proposed Rulemaking and as further revised at final action, are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject text. The Commission is persuaded by OP's findings in its reports that the text amendments will further many Comprehensive Plan policies related to preserving institutions such as Wesley and allowing them to grow while respecting neighborhood character and context. The Commission believes the text amendments will facilitate Wesley's plans to seek and obtain approval of a campus plan which includes a new university housing building that will house both Wesley and AU students and their immediate families, while requiring Wesley to meet the requirements of the IZ program through satisfaction of the off-site IZ requirements stated in the text of Subtitle C § 1006.10 or by alternative means, either by providing additional IZ or through a financial contribution to a Ward 3 affordable housing provider. The Commission notes that any of these would contribute towards affordable housing in the Rock Creek West Planning Area in furtherance of the Mayor's 2025 affordable housing goals.

The Commission acknowledges arguments from some in opposition that the proposed text amendments are inconsistent with the Comprehensive Plan's FLUM and GPM designations for the Wesley campus; certain Land Use Element policies (e.g., LU-1.2.4, LU-2.1.1, LU-2.3, LU-2.3.1, LU-2.3.7, LU-2.3.8) and Educational Facilities Element policies (e.g., EDU-3.3.2, EDU-3.3.10); and the affordable housing goals for Rock Creek West. The Commission also acknowledges that OP identified potential inconsistencies with Comprehensive Plan policies that encourage rehabilitation of existing buildings (LU-2.1.4) and the development of net-zero, energy efficient housing (H-1.6.5). However, the Commission concludes that, on balance, these potential Comprehensive Plan inconsistencies are outweighed by the text amendments' consistency with other Comprehensive Plan policies that would be advanced, as cited by the OP Reports summarized above. The Commission agrees with the conclusions in the OP Reports that the text amendments would not significantly affect affordable housing opportunities in the Rock Creek West Planning Area, but they would create an opportunity for additional on-campus student housing and leave off campus housing available for neighborhood residents other than students. The Commission believes the text amendments will enable Wesley to develop its institutional campus in a manner that is respectful and responsive to the surrounding area.

Racial Equity
The Commission agrees with the OP Reports that the proposal will advance Comprehensive Plan racial equity policy goals and objectives, primarily because the proposal will facilitate Wesley's plans to develop its campus with a new university housing building and also ensure compliance with IZ requirements through an off-site IZ requirement, which will contribute towards affordable housing in Rock Creek West. The Commission finds that OP's racial equity analysis in its reports adequately addresses the components of the Commission's revised Racial Equity Analysis Tool and includes disaggregated race and ethnicity data for the Rock Creek West Planning Area, in which Wesley's campus is located. The Commission also finds the Petitioner adequately addresses the Tool and includes information on its community outreach and engagement efforts.

Disaggregated Race and Ethnicity Data: OP's racial equity analysis included data from the 2012-2016 and 2018-2022 time periods showing that the Planning Area had the lowest percentage of Black residents compared to all other planning areas in the District. In addition, the median income data reveals disparities between the median incomes and homeownership rates for White households compared to Black or African American households. The Commission acknowledges that the racial equity impacts of the proposed text amendments are difficult to assess. However, the Commission is hopeful that Wesley's proposal could potentially decrease rental pressures in the Rock Creek West Planning Area by facilitating the development of housing for Wesley and AU students who might otherwise rent available housing in the immediate neighborhood. The Commission is also hopeful that the proposed text amendments will lead to the creation of affordable housing units in Ward 3 by ensuring that Wesley satisfies the off-site IZ requirements for the proposed university housing building.

Community Outreach and Engagement: The Petitioner engaged the public by participating in multiple meetings with the CLC, ANC 3E, and ANC 3D. In response to these meetings, the Petitioner amended its proposed text amendments to include alternative text that would require the Petitioner to provide off-site IZ in connection with the proposed university housing building. This is an improvement over the originally proposed text amendments, which would have exempted the university housing building from the IZ program entirely. The Commission commends ANC 3E and ANC 3D for offering their comments on the Petition throughout the text amendment process and encourages the Petitioner to continue engaging with the ANCs and community stakeholders as it proceeds with its campus plan and further processing applications. In summary, the Commission believes that the Petitioner's community outreach and engagement was adequate.

FINAL ACTION
At its February 27, 2025 public meeting, the Commission addressed the comments submitted in response to the NOPR. The Commission acknowledged concerns that the text amendments, as published, would allow the Commission to potentially determine that Wesley can satisfy its off-site IZ requirement by providing a lower IZ set-aside than required as a minimum under the Zoning Regulations. The Commission agreed that it was not its intent to allow Wesley to decrease its off-

site IZ set-aside requirement and decided to remove that discretion from the final text amendment language, while retaining discretion to determine that the IZ requirement can be met by increasing the IZ set-aside or through a financial contribution to a Ward 3 affordable housing provider.

"Great Weight" to the Recommendations of OP

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 persuasive OP's recommendation that the Commission adopt the Petition, as revised to include OP's alternative Subtitle C § 1006.10 language and edits to Subtitle X § 101.5 and concurs in OP's judgment. The Commission notes that it has added additional language to Subtitle C § 1006.10 granting it discretion to determine that Wesley's off-site IZ requirement can be satisfied by raising the requirement and/or requiring Wesley to make a financial contribution to a Ward 3 affordable housing provider. While OP has not opined on these additions, the Commission believes they are beneficial and address the concerns raised by ANC 3E while also providing for the flexibility to assess Wesley's satisfaction of off-site requirements at further processing when more details about the proposed university housing facility will be presented.

"Great Weight" to the Written Reports of the ANCs

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (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 3D submitted several letters and reports (Ex. 23, 33, 35, 35A, 46, 57) recommending approval of the Petition. The Commission is persuaded by ANC 3D's arguments for its support and concurs in its judgment. The Commission notes that ANC 3D recommended adopting ANC 3E's proposed Version "B" text of Subtitle C § 1006.10 on the basis that it would allow the Commission the flexibility to determine the appropriate IZ set-aside at the campus plan further processing stage. While the Commission ultimately did not approve ANC 3E's Version "B" text, it did amend Subtitle C § 1006.10 to grant it flexibility to determine that the off-site IZ requirements can be satisfied by increasing the IZ set-aside. Therefore, the Commission believes that the text amendments, as adopted, preserve the general flexibility recommended by ANC 3D.

ANC 3E submitted several letters and reports (Ex. 25, 53, 54, 61-61A2, 70) in response to the Petition, as revised, raising various issues and concerns. The Commission responds to the ANC's issues and concerns as follows:

- ANC Issue/Concern: The proposed text amendments would provide a blanket IZ exemption and set a bad precedent:
    - Commission's Response: The Commission acknowledges ANC 3E's concern but believes that this Petition responds to a unique scenario in that Wesley's proposed campus plan offers an opportunity to provide on-campus student housing for both its students and AU's students, while also furthering affordable housing production in Ward 3. The Commission does not believe the Petition, as revised, provides a "blanket IZ exemption"; on the contrary, the text of Subtitle C § 1006.10, as revised, will require Wesley to satisfy off-site IZ requirements by providing off-site IZ equivalent to the standard IZ requirement in Ward 3 or through alternative means, either by providing additional IZ or by making a financial contribution to a Ward 3 affordable housing provider. The Commission does not believe the Petition will set a bad precedent for other universities in the District, as Wesley's location, directly adjacent to AU, and the relationship between the two universities is atypical and distinct;
- ANC Issue/Concern: The discretion in Subtitle C § 1006.10 to allow Wesley to make a financial contribution in lieu of providing off-site IZ is vague and unsupported by evidence:
    - Commission's Response: The Commission acknowledges ANC 3E's concern but nonetheless believes that it is beneficial to retain discretion to allow Wesley to satisfy its off-site IZ requirement through a financial contribution to a Ward 3 affordable housing provider. The Commission notes that further processing is the stage at which authorization to construct any specific buildings or structures approved in a campus plan occurs (*see* Subtitle X § 101.9). Therefore, retaining discretion to determine the final details of Wesley's satisfaction of off-site IZ requirements to this stage is appropriate, given the various timing and market specific logistics associated with affordable housing development. The Commission is also cognizant of the fact that, because Wesley is not an affordable housing provider, there may be unforeseen financial and administrative difficulties with requiring Wesley to satisfy the off-site requirement with construction of IZ units in Ward 3. Therefore, the discretion to allow Wesley to meet its off-site IZ requirement through a financial contribution provides the Commission with the flexibility to ensure that Wesley can satisfy its off-site IZ requirement in connection with the construction of its university housing building;
- ANC Issue/Concern: The Petitioner should be required to provide off-site IZ that exceeds the minimum required amount (i.e., more than the eight percent (8%) or ten percent (10%) depending on construction type) and/or be required to provide IZ at deeper levels of affordability:
    - Commission's Response: The Commission acknowledges ANC 3E's concern but does not believe at this time that Wesley should be required to provide off-site IZ in excess of what is required by the standard IZ requirements. The Commission is persuaded by OP's statement in its hearing report that the IZ program is intended to offset the cost of IZ with bonus density. Here, there is no bonus density available to Wesley or other relief that would justify a higher or deeper IZ set-aside. Therefore, the Commission can find no nexus that would justify a higher or deeper IZ requirement at this time. Nonetheless, the Commission notes that it is reserving discretion for itself under Subtitle C § 1006.10 to determine at further processing how Wesley satisfies its off-site IZ requirement; and

- <u>ANC Issue/Concern</u>: The Commission should adopt ANC 3E's Version "B" Subtitle C § 1006.10 text as proposed in its post-hearing submission (Ex. 54); or adopt ANC 3E's alternative Subtitle C § 1006.10 text as proposed in its comment on the Notice of Proposed Rulemaking (Ex. 70); or adopt OP's original alternative Subtitle C § 1006.10 text:
  - <u>Commission's Response</u>: The Commission acknowledges ANC 3E's concern but believes that its revisions to the proposed text at final action address ANC 3E's concern about retaining discretion for the Commission to increase the IZ set-aside requirement over minimum set-aside requirements under the Zoning Regulations. As discussed above, the Commission believes that the discretion to determine that Wesley can satisfy its requirement by increasing the IZ requirement or providing a financial contribution is appropriate. The Commission was persuaded by ANC 3E's concern about the need for discretion to determine that Wesley can meet its requirement by decreasing the off-site IZ set-aside; therefore, the Commission removed that discretion at final action.

At its February 27, 2025 public meeting, the Commission voted to take **FINAL ACTION** to adopt the Petition, as revised to remove the discretion to determine that the off-site IZ set-aside requirement can be satisfied by decreasing the IZ set-aside requirement, and to authorize the publication of a Notice of Final Rulemaking.

VOTE (February 27, 2025): 5-0-0 (Robert E. Miller, Joseph Imamura, Anthony J. Hood, Tammy Stidham, and Gwen Marcus Wright to approve.)

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. 24-19 shall become final and effective upon publication in the *District of Columbia Register*; that is, on July 25, 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.

TEXT AMENDMENT

The amendments to the text of the Zoning Regulations are as follows:

I. Amendment to Subtitle C, GENERAL RULES

Section 1006, OFF-SITE COMPLIANCE WITH INCLUSIONARY ZONING, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is amended by adding a new § 1006.10 to read as follows:

1006.10 Wesley Theological Seminary shall provide off-site IZ located in Ward 3 as an enforceable condition to its 2025-2035 Campus Plan further processing to construct university housing on Wesley's campus, provided that the requirements of Subtitle C §§ 1006.1 - 1006.3(a)-(g), may be waived by the Zoning Commission for the off-site IZ. Depending on construction type, the off-site IZ provided shall be no less than Subtitle C §1003.1 or §1003.2 set-aside requirements, as applicable, and subject to the requirements of Subtitle C §§ 1006.5 - 1006.9. Notwithstanding the foregoing, and for good cause shown, the Zoning Commission shall have broad discretion to determine that the off-site IZ requirement described in this provision can be satisfied by alternative means, including increasing the set-aside requirements described herein and/or by requiring Wesley to make a financial contribution, deemed sufficient by the Zoning Commission, to an organization(s) that will facilitate the construction of new affordable housing reserved for households at or below 60% of median family income for rental units or at or below 80% of median family income for ownership units exclusively in Ward 3, provided that such alternative means is stated as an enforceable condition to the 2025-2035 Campus Plan further processing to construct university housing on Wesley's campus.

II. Amendment to Subtitle X, GENERAL PROCEDURES

Section 101, CAMPUS PLANS, of Chapter 1, CAMPUS PLANS, SCHOOL PLANS, AND MEDICAL CAMPUS PLANS, of Subtitle X, GENERAL PROCEDURES, is amended by adding a new § 101.5 and renumbering the subsequent §§ 101.5 through 101.16 to §§ 101.6 through 101.17 to read as follows:

101.5 University housing exclusively for use by Wesley Theological Seminary and American University students, faculty, and staff on Square 1600, Lot 819 shall not be subject to the commercial use or activity restrictions in this section if approved by the Zoning Commission as part of a campus plan.

101.5-101.16 Renumber to 101.6 to 101.17.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF SECOND PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in Sections 3(b)(11), (15) and (20), and 7d of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176, D.C. Official Code §§ 38-2602(b)(11), (15), and (20), and 38-2610(a)); Section 106 of the Testing Integrity Act of 2013, effective October 17, 2013 (D.C. Law 20-27; D.C. Official Code §38-771.06); and Mayor's Order 2018-091, dated November 15, 2018, hereby gives notice of her intent to adopt the following amendments to Chapter 23 (State-Wide Academic Assessments) of Title 5 (Education), Subtitle A (Office of the State Superintendent of Education), 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*.

In order to measure and report the achievement of students and performance of schools in the District of Columbia, the Office of the State Superintendent of Education ("OSSE") must administer statewide assessments. Pursuant to the District of Columbia Public Education Reform Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-1800 *et seq*.), OSSE serves as the District's state education agency ("SEA") and performs the functions of an SEA for the District of Columbia under applicable federal law, including grant-making, oversight, and state functions for standards, assessments, and federal accountability requirements for elementary and secondary education.

The purpose of this rulemaking is to set forth the minimum requirements to protect the integrity of the statewide assessments and to ensure that results are accurate and meaningful. OSSE's goal is for schools and Local Education Agencies ("LEAs") to deliver a uniform and equitable statewide assessment program. For assessments to yield fair and accurate results, the assessments must be administered in consistent and standardized conditions, and the best way to ensure that occurs is to ensure all teachers and administrators understand and recognize acceptable and unacceptable assessment practices and protocols.

Additionally, the purpose of this rulemaking is to establish a process for conducting investigations in the instance of unacceptable assessment practices and protocols. The standards and procedures included in the rulemaking will be used to determine whether a violation occurred, the issuance of sanctions for violations, and the seeking of review of OSSE's findings of both non-sanctionable and sanctionable violations.

On July 22, 2019, OSSE issued an Advanced Notice of Proposed Rulemaking ("ANPR") on OSSE's website to provide stakeholders an opportunity to provide advanced comment on proposed amendments to Chapter 23 prior to this rulemaking. The comment period was open for thirty (30) days, closing on August 21, 2019. OSSE received comments from two (2) stakeholders and has reviewed and thoroughly considered all comments. Accordingly, this proposed rulemaking incorporates amendments based on public comments received in response to the ANPR. The amendments include the following: updating language to clarify intent, replacing "LEA" with "school" where appropriate, updating timelines to align with current practices, and amendments responding to schools' need for flexibility around planning and staffing the assessments. In addition, other comments reflect guidance suggested to be included in OSSE's annual test security policies, and OSSE will update the policies as necessary.

The first notice of proposed rulemaking was published in the *District of Columbia Register* on February 14, 2020 at 67 DCR 001563. The test integrity regulations were clarified to bring the regulations in line with current policy and practice that has shifted since the last, pre-2020, update. Details were added to better align with computer-based testing, best practices around applying student accommodations, and specific actions that must be taken at the OSSE, LEA, and school-level to remain in compliance with the Test Integrity Act of 2013. Language was added to clarify what constitutes a violation and the investigation process. This included updated language around issuing findings and consequences, and how a school or LEA appeals findings. No public comments were received between February 14, 2020, and now.

This proposed rulemaking will be submitted to the Council of the District of Columbia for its review and approval before final adoption, pursuant to Section 106 of the District of Columbia Testing Integrity Act, effective October 17, 2013 (D.C. Law 20-27; D.C. Official Code § 38-771.06).

Chapter 23, STATE-WIDE ACADEMIC ASSESSMENTS, of Title 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is amended as follows:

New sections 2303 through 2316 are added to read as follows:

2303 TESTING INTEGRITY AND SECURITY: GENERAL PROVISIONS AND APPLICABILITY

2303.1 Pursuant to the Testing Integrity Act of 2013, effective October 17, 2013 (D.C. Law 20-27; D.C. Official Code §§ 38-771.01 *et seq.*), and Section 3(b)(20) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(20)), OSSE shall administer and enforce this chapter to protect the integrity of the statewide assessments and to ensure that assessment results are accurate and meaningful.

2303.2 The requirements set forth in this chapter shall apply to the following:

(a) Local education agencies ("LEAs");

(b) All schools within the District of Columbia Public Schools and all public charter schools;

(c) Each statewide assessment administered pursuant to Section 2301;

(d) All students in an assessed grade range, including eligible students currently receiving education services in a nonpublic school setting; and

(e) All school and LEA personnel and contractors.

2303.3 In addition to the other requirements and restrictions imposed by this chapter, an LEA, a school, and all authorized personnel shall:

(a) Ensure all secure test materials, including all test materials used to facilitate paper- and computer-based testing, are secured under lock and key, or password-protected electronic access, unless another equivalent security measure for electronic secure test materials is utilized;

(b) Prohibit unauthorized access to all secure test materials and all student information used or obtained in the administration of a statewide assessment;

(c) Maintain an inventory of all secure test materials;

(d) Obtain, securely maintain, and securely distribute test materials; and

(e) Cooperate and participate in any OSSE investigation pursuant to § 2313.

2304 TESTING INTEGRITY AND SECURITY: *BEFORE* THE ADMINISTRATION OF STATEWIDE ASSESSMENTS

2304.1 (a) OSSE shall annually release test security policies that include:

(1) Test administration requirements for statewide assessments to be administered during that school year;

(2) Procedures or requirements to ensure test materials are securely maintained and distributed;

(3) Procedures or requirements to ensure statewide assessments are administered with fidelity, in a consistent manner, and in standardized conditions; and

(4) Lists of prohibited or unapproved electronic devices and materials or references.

(b) Test security policies issued pursuant to this subsection may expand on the requirements set forth in this chapter.

2304.2 An LEA shall submit to OSSE the start and end dates for each statewide assessment its school(s) will administer that year no later than four (4) weeks before the start of the testing window for the respective statewide assessment.

2304.3 An LEA shall report the name of its LEA test integrity coordinator(s) to OSSE by October 30 of each school year.

(a) An LEA shall designate staff members to serve in the following authorized personnel roles with responsibilities as specified below:

(1) One LEA test integrity coordinator for the administration of all statewide assessments by the LEA, who is responsible for testing integrity and security for the LEA in its entirety during the administration of all statewide assessments and who supervises all of the LEA's test monitors, test administrators, and proctors; provided, that the LEA may also designate up to three (3) additional individuals to serve as assessment-specific LEA test integrity coordinators for specific statewide assessments administered within the LEA, and each such designee shall assume all responsibilities of the LEA test integrity coordinator for the assessment to which they are assigned;

(2) No more than three (3) school test monitors for each school or campus under the LEA's control who are responsible for creating and implementing all aspects of the school test security plan before, during, and after the statewide assessment at the school or campus site; coordinating security and maintaining data integrity within their school or campus; and training all authorized personnel at their school or campus;

(3) A school technology coordinator for each school to support the school in appropriately implementing computer-based testing by preparing the testing platform and the student and test administrator devices for testing; and

(4) A school special populations coordinator for each school to support the school in appropriately implementing accommodations and accessibility features, to have access to those accommodations and features on all applicable statewide assessments, and to provide training to authorized personnel tasked with providing those accommodations and features to students; and

(b) (1) An LEA shall designate school-based staff members to serve as test administrators.

(2) Test administrators shall, as directed by the school test monitor, administer the statewide assessment to students. Test administration responsibilities shall include:

(A) Managing the testing sessions as outlined in the appropriate Test Administrator manual;

(B) Establishing the testing environment within the test location;

(C) Coordinating the distribution and return of test materials to and from students;

(D) Ensuring that students receive appropriate accommodations, as applicable; and

(E) Maintaining the security of all of the test administrator's test materials.

(3) Test administrators shall comply with all the responsibilities and prohibitions of authorized personnel.

(c) (1) An LEA may also designate individuals, including volunteers, contractors, or aides, to serve as test proctors.

(2) Test proctors shall, as directed by the school test monitor and test administrator:

(A) Assist test administrators with classroom management during testing;

(B) Distribute and collect test materials; and

(C) Administer accommodations.

(3) Test proctors shall be under the constant and consistent direct supervision of a test administrator or school test monitor.

2304.4 Each nonpublic school or program serving a DC student shall designate a nonpublic school or program test monitor, who is responsible for creating and submitting a school test plan for the nonpublic school or program site(s) and collaborating with the LEA test integrity coordinator(s) at each LEA for which the school or program serves a student to ensure statewide assessments are administered in compliance with all applicable federal and District laws and regulations.

2304.5 An LEA shall:

(a) Ensure the LEA test integrity coordinator(s) participate in OSSE's training on test security policies and procedures for statewide assessments prior to LEA-level training of LEA- and school-level authorized personnel;

(b) Ensure all authorized personnel whose duties involve test administration are trained in state, LEA, and school test security requirements, policies, and procedures.

(c) Distribute to all authorized personnel of the LEA, including each school within the LEA and nonpublic special education schools at which students of the LEA have been placed, OSSE's test integrity and test security notification statement, informing them of the consequences of knowingly and willingly violating a law, regulation, policy, or school test security plan;

(d) Provide access to secure test materials exclusively to authorized personnel;

(e) Ensure LEA test sites implementing computer-based testing are technology-ready in accordance with the applicable school test security plans submitted to OSSE and test-specific technology requirements; and

(f) Ensure that procedures have been established for maintaining secure assessment technology platforms.

2304.6 Before performing a statewide assessment function, accessing secure test material, or assisting in the administration of a statewide assessment, all authorized personnel shall:

(a) Receive OSSE's test integrity and test security notification statement, informing them of the consequences of knowingly and willingly violating a law, regulation, policy, or school test security plan; and

(b) Participate in the required test integrity and security training, provided by OSSE, the LEA test integrity coordinator, or a school test monitor.

2304.7 Before the administration of a statewide assessment, an LEA shall ensure each school under its control distributes a notification letter to the parent(s) or guardian(s) of each of its students that details the statewide assessment(s) to be administered, including subjects and grade levels/courses assessed, the dates and times the assessments will be administered in the school, and information about the provision of accommodations specified in students' Individualized Education Program (IEP) (developed under the Individuals with Disabilities Education Act, effective April 13, 1970, 84 Stat. 191; 20 U.S.C. § 1400 *et seq*.), Section 504 plans (developed under the Rehabilitation Act of 1973, effective September 26, 1973, 87 Stat. 355; 29 U.S.C. § 701 *et seq*.) and/or English learner plans.

2305 TESTING INTEGRITY AND SECURITY: TEST SECURITY PLANS

2305.1 An LEA shall ensure that each school creates, maintains, and submits a school test security plan to the LEA for the LEA's review prior to submission of the plan to OSSE for review and approval.

2305.2 An LEA shall submit to OSSE, in the form and manner set forth by OSSE, a separate test security plan for each school or campus within the LEA's control at least fifteen (15) business days before the administration of each statewide assessment administered in the LEA.

2305.3 A school test security plan shall include the following:

(a) Procedures for the secure maintenance, dissemination, collection, and storage of statewide assessment materials before, during, and after administering a statewide assessment, including:

(1) Keeping an inventory of all materials and identifying individuals with access to the materials;

(2) Accounting for and reporting to OSSE any materials that are lost or otherwise unaccounted for; and

(3) Accounting for and securing old or damaged materials;

(b) The name and contact information for the LEA's test integrity coordinator;

(c) The name and contact information for the test monitor(s) at the school or campus;

(d) The name and contact information for all authorized personnel at the school or campus;

(e) The area(s) at the school or campus designated for administering the statewide assessment;

(f) A list of actions prohibited by authorized personnel beyond the list of examples set forth in § 2312;

(g) Procedures pursuant to which students, authorized personnel, and other individuals may, and are encouraged to, report irregularities in testing administration or testing security; and

(h) Written procedures for investigating and remediating any complaint, allegation, or concern about a potential failure of testing integrity and security consistent with the procedures set forth in this chapter.

2305.4 OSSE shall review each school test security plan and, at least five (5) days before the school begins the first statewide assessment, either:

(a) Provide recommendations to amend specific provisions of the test security plan, as necessary and appropriate; or

(b) Approve the school test security plan.

2305.5 A school may not begin the administration of a statewide assessment if OSSE has not approved a school's test security plan for that assessment.

2305.6 An LEA shall not add additional assessments to an approved test security plan. Once the plan is approved, any additional test security plans for additional assessments must be created separately.

2305.7 OSSE shall maintain a copy of each school's test security plan on file and make the plan available to a member of the public upon request, in accordance with federal and District laws and regulations.

2306 TESTING INTEGRITY AND SECURITY: *DURING* THE ADMINISTRATION OF STATEWIDE ASSESSMENTS

2306.1 An LEA shall administer statewide assessments, including monitoring each school under the LEA's control, as prescribed in applicable law, regulations, policies, plans, and test administration manuals and in a manner that upholds the integrity of testing and accuracy of the data by preventing dishonest and fraudulent behavior and promoting a fair and equitable testing environment.

2306.2 A school shall administer statewide assessments as prescribed in applicable law, regulations, policies, plans, and test administration manuals and in a manner that upholds the integrity of testing and accuracy of the data by preventing dishonest and fraudulent behavior and promoting a fair and equitable testing environment.

2306.3 An LEA shall ensure that each school under the LEA's control and authorized personnel at each such school and the LEA follow the process for resolving technical difficulties outlined in test administration manuals or any relevant policy or procedural guidance and report technical difficulties that impact test administration to the authorized personnel identified in the relevant school's test security plan and, as needed, to each statewide assessment's vendor support personnel.

2306.4 (a) An LEA's testing environments shall comply with the provisions set forth in this chapter and policies issued pursuant to § 2304.

(b) The testing environment includes the following conditions, to the extent a student can see, hear, or access them during testing:

(1) Classrooms and other areas in which testing occurs;

(2) Hallways, stairwells, and bathrooms;

(3) Surfaces, including permanent or temporary fixtures

(4) Equipment;

(5) Furniture;

(6) Posters, signs, wall art, blackboards, whiteboards, projections, and electronic message boards, and the writing and content thereon;

(7) Lighting; and

(8) Music, sounds, and announcements.

(c) Any information regarding the content being assessed or test-taking strategies (including word walls and multiplication tables) is prohibited in the testing environment and shall be removed or covered before the first day of the statewide assessment administration and shall remain removed or covered for the duration of the statewide assessment administration.

(d) The testing environment shall be configured so that no student may hear or see another student's responses.

2306.5 In the exceptional circumstance in which an individual student cannot take the statewide assessment at the student's designated school (e.g., due to a restraining order), the LEA shall submit to OSSE, for OSSE's approval, a proposed alternate location where the student will take the statewide assessment. The alternate location must provide a testing environment that is consistent with the requirements of this chapter. OSSE may require a site visit, demonstration, and/or memorandum of agreement as conditions for approval of the alternate location.

2306.6 A school shall ensure that student seating arrangements in the testing area, regardless of the number of students testing in one session, allow students who are engaged in active testing to test independently without distraction or violation of test security.

2306.7 Test administrators shall adhere to the following when reading the script in the test administrator manual to students:

(a) Test administrators shall first read the complete script aloud, word for word, from beginning to end;

(b) Test administrators may thereafter repeat directions in the script, for emphasis or clarity, as many times as the test administrator deems appropriate; and

(c) Test administrators shall then ask the students if they have any questions. If students ask for portions of the script to be re-read or clarified, the test administrator may do so, but the rereading or clarification must be provided to the whole testing group.

2306.8 During the administration of a statewide assessment, a test administrator shall only announce aloud the time updates specified in the assessment-specific test administrator manual but may provide written time updates at any additional time intervals.

2306.9 Test administrators and proctors may not at any time engage in activity that would prevent proper student supervision while secure test materials are being distributed, while students are testing, while secure test materials are being collected, or at any other time when secure test materials remain distributed with students. Such prohibited activity includes grading papers and reading a book, newspaper, or magazine.

2306.10 An accommodation shall not be provided to a student unless it is explicitly identified in:

(a) A student's IEP;

(b) A student's plan developed under Section 504 of the Rehabilitation Act of 1973 (Section 504 plan); or

(c) A student's approved accommodation plan for an English learner as required in the Elementary and Secondary Education Act.

2306.11 The use of unapproved electronics by students, test administrators, or proctors is prohibited during the administration of a statewide assessment, unless the use is identified as an accommodation for a student as set forth in § 2306.10.

2306.12 During the administration of a paper-based test, no individual may have a cell phone in the testing environment at any point during testing.

2306.13 During the administration of a computer-based test, LEA test integrity coordinators, school test monitors, and school technology coordinators may have and use cell phones for the sole purpose of coordinating technical support if it is necessary for a student to complete a test.

2306.14 Authorized personnel shall follow the process for resolving technical issues, including computer-based and online difficulties, outlined in the appropriate test administrator manual and any relevant policy or procedural guidance.

2306.15 No authorized personnel or other individual may take an action to support a student to stay on task or focused during an assessment unless the action is authorized in policies issued by OSSE pursuant to § 2304.1 or is an approved accommodation per the student's IEP. The support must be provided in a way that does not impact the content of a student's answers.

2306.16 (a) No support material may be provided or made available to a student during an assessment unless the support material is specifically authorized in the testing manual for the assessment or through an established process specified by OSSE, such as an approved accommodation per the student's IEP.

(b) If support material is permitted by the manual or through an established process specified by OSSE:

(1) The support material shall be located in a pre-determined location in the testing room as specified in the school test security plan; and

(2) School test monitors or test administrators shall ensure that the support materials are appropriate for testing as specified in the manual or by OSSE prior to testing.

2307 TESTING INTEGRITY AND SECURITY: EXCEPTIONS OR SPECIAL CIRCUMSTANCES *DURING* ADMINISTRATION OF STATEWIDE ASSESSMENTS

2307.1 This section describes allowable exceptions to the test integrity and test security requirements during administration of statewide assessments outlined in § 2306 and special circumstances that may impact the administration of statewide assessments for a student.

2307.2 In addition to the exceptions and special circumstances set forth in this section, OSSE may issue additional policy and procedural guidance, as necessary and appropriate, to address exceptions and special circumstances as they arise during the administration of statewide assessments.

2307.3 A school may provide administrative considerations to any student if the school implements the administrative considerations in the manner and form set forth in OSSE's guidance documents. For the purposes of this subsection, administrative considerations are decisions made about a student's testing environment such as frequent breaks, preferred seating, small group testing, and individual testing and are not accessed through an assessment administration platform.

2307.4 A student who is absent from a testing session that the student was scheduled to attend may make up the test(s) during the testing window on the specific days and times identified in the test security plan of the student's school.

2307.5 A student without an extended time accommodation may not receive extra time to complete a test, outside of the testing time limits, for a behavioral issue that impacts testing.

2307.6 A student shall not be allowed to return to a testing session which the student has impermissibly exited, as defined in the applicable test security policies for each statewide assessment, except in exceptional circumstances as individually documented by the school and approved in writing by OSSE. Approval from OSSE must be obtained prior to the student resuming a session that has been exited.

2307.7 A school may apply to OSSE to exempt a student from testing, using the OSSE-provided Medical Exemption Request Form, if the student has a medical emergency, accident, trauma, or illness (mental or physical) that has been determined by a licensed physician to preclude the student from taking all or part of a statewide assessment. A medical exemption request resulting from an ongoing medical condition shall be submitted to OSSE prior to the first day of the statewide assessment administration at the student's school. A medical exemption request resulting from an emergency or trauma occurring during the assessment administration window shall be submitted to OSSE no later than ten (10) business days after the last day of the statewide assessment window.

2307.8 If there is an emergency requiring evacuation or lockdown of the test environment during a testing session:

(a) The school shall follow the LEA/school-wide emergency protocol;

(b) Authorized personnel shall secure the assessment materials after student safety has been assured; and

2307.9 The test monitor or designee shall complete an incident report and submit the report to the LEA test integrity coordinator(s) and OSSE.

2307.10 A homebound or hospital-tutored student enrolled in a public school in the District of Columbia must participate in statewide assessments. If circumstances make it infeasible to test the student at the school, the school test monitor must work with the LEA test integrity coordinator(s) to determine how the student will participate in the statewide assessment and notify OSSE in the school test security plan. In all circumstances, the student's statewide assessments must be administered by a trained test administrator.

2307.11 A home-schooled student may participate voluntarily in the statewide assessment. A parent or legal guardian who wants their student to participate in the statewide assessment shall notify District of Columbia Public Schools (DCPS) to facilitate test registration and inclusion in testing plans in accordance with DCPS' policy for statewide assessment registration.

2307.12 (a) All public school students enrolled in a grade or course with a required statewide assessment receiving temporary instruction at a program or alternative school other than the school at which they are regularly enrolled (at an “alternative setting”) shall participate in the statewide assessments.

(b) A student in an alternative setting may take an assessment at the school in which the student is currently enrolled or at an alternate testing site approved by the school’s LEA test integrity coordinator and OSSE. In all circumstances, the student’s statewide assessments must be administered by a trained test administrator.

2307.13 (a) Each LEA must ensure that all students enrolled in a grade or course with a required statewide assessment at their LEA and schools subject to their control participate in statewide assessments, including students in nonpublic settings.

(b) Each nonpublic school or program shall adhere to the Testing Integrity Act of 2013 and shall:

(1) Ensure that every District of Columbia student enrolled in its school or program is appropriately included in the statewide assessment system or alternate assessment approved by OSSE;

(2) Ensure that statewide assessments for each District of Columbia student are administered according to federal and state law, regulations, and state policy regarding testing;

(3) Comply with all federal and state laws, regulations, and policies regarding testing and testing integrity;

(4) Comply with all LEA and school-level requirements outlined in this chapter;

(5) Create and maintain a school test security plan for their school site as specified in § 2305;

(6) Work with each student’s LEA of enrollment to ensure that the nonpublic school test security plan is integrated, reviewed, and approved by the LEA test integrity coordinator(s) at all District of Columbia students’ LEAs of enrollment;

(7) Maintain documentation showing that District of Columbia students completed the statewide assessment;

(8) Provide any requested statewide assessment documentation to a student’s LEA of enrollment and/or OSSE upon request;

(9) If there is a test security, irregularity, or data integrity issue, contact OSSE and the LEA test integrity coordinator(s) at the student's LEA of enrollment; and

(c) In an exceptional circumstance in which an individual student receiving education services in a nonpublic school setting cannot be tested at their school, OSSE shall approve an alternate location where statewide assessment administration will be conducted. OSSE may require a site visit, demonstration, and/or memorandum of agreement as conditions for approval of the alternate location.

2307.14 The following students shall be tested in a one-on-one setting or in a small group with only students receiving the same accommodation:

(a) Students receiving accommodations that require student speaking (*e.g.*, student reads aloud);

(b) Students receiving a human reader accommodation; and

(c) Students receiving a human scribe accommodation.

2308 TESTING INTEGRITY AND SECURITY: *AFTER* THE ADMINISTRATION OF STATEWIDE ASSESSMENTS

2308.1 At the end of each administration of a statewide assessment, the school shall return or dispose of all secure and non-secure test materials following procedures outlined in the appropriate testing manuals, regulations, and policies, including the test security plan.

2308.2 Each LEA test integrity coordinator (including each assessment-specific test integrity coordinator of the LEA, if applicable) shall sign a Testing Integrity and Security Affidavit ("TIS Affidavit") within fifteen (15) business days after the conclusion of the administration of a statewide assessment within their LEA. The TIS Affidavit shall be in a form established by OSSE. As part of the TIS Affidavit, each LEA test integrity coordinator shall attest, to the best of their knowledge and belief, and under penalty of law, whether the LEA and all schools under their control complied with all applicable laws, regulations, policies, and guidance, including each school's test security plan.

2308.3 Each school test monitor shall sign a TIS Affidavit after the conclusion of the administration of a statewide assessment in their school. As part of the TIS Affidavit, each school test monitor shall attest, to the best of their knowledge and belief, and under penalty of law, whether the school complied with all applicable laws, regulations, policies, and guidance, including the test security plan. The school shall submit the signed TIS Affidavit to the LEA test integrity coordinator(s) within ten (10) business days after the conclusion of the administration of each respective statewide assessment.

2308.4 After the conclusion of each administration of a statewide assessment, LEAs shall ensure the following:

(a) Within ten (10) business days after the conclusion of each statewide assessment that is administered in the LEA, the LEA test integrity coordinator shall obtain signed TIS Affidavits from each of the LEA's school test monitors; and

(b) Within fifteen (15) business days after the conclusion of each statewide assessment that is administered in the LEA:

(1) The LEA test integrity coordinator (and each assessment-specific test integrity coordinator of the LEA, if applicable) shall sign the TIS Affidavit required by § 2308.2 on behalf of the LEA; and

(2) The LEA test integrity coordinator shall file with OSSE the TIS Affidavit from the LEA test integrity coordinator (including each assessment-specific test integrity coordinator of the LEA, if applicable) and each of the LEA's school test monitors.

2309 TESTING INTEGRITY AND SECURITY: RECORD KEEPING

2309.1 Each LEA shall maintain a record of the following items for the LEA and each school under its control for a minimum of four (4) years. Each record may be maintained as an electronic file:

(a) OSSE-approved test security plan(s);

(b) Identification of authorized personnel of the LEA and each school;

(c) Attendance sheets for LEA-led testing integrity and security training sessions;

(d) Executed LEA test integrity coordinator and school test monitor TIS Affidavits;

(e) Documentation of any testing irregularities;

(f) Documentation of any testing integrity and security investigations;

(g) Documentation of any damaged, missing, or misplaced test materials;

(h) Copies of any Plan to Improve School Test Security Policies and Procedures and any completed Test Security Fact Finding Inquiry documentation; and

(i) Documentation of the implementation of any OSSE sanctions.

2309.2 A school shall create and maintain a hard copy of a test security file for each administration of a statewide assessment. The test security file shall be maintained for a period of at least four (4) years, and shall include at a minimum:

(a) The school's test security plan;

(b) Documentation of completion of LEA- or school-led testing integrity and security training sessions for authorized personnel;

(c) A copy of all family notification letters;

(d) Test material chain of custody forms;

(e) Incident reports, if any;

(f) During testing notes, including minor deviations from the school test security plan; and

(g) Plans to improve school policies and procedures and fact-finding inquiries, if applicable.

2309.3 A school may also maintain secure electronic files in addition to the required hard copy and shall ensure that the files are accessible to OSSE upon request.

2310 TESTING INTEGRITY AND SECURITY: TRAINING AND TECHNICAL ASSISTANCE; MONITORING

2310.1 An LEA may request that OSSE provide technical assistance to an LEA or school regarding testing integrity and security procedures.

2310.2 An LEA shall monitor the administration of statewide assessments in its schools to ensure that applicable federal and local assessment law, regulations, policies, plans, and manuals are being followed.

2310.3 OSSE may provide technical assistance to a school or LEA at any time regarding testing integrity and security procedures, including assistance and expertise to respond to potentially critical incidents during the administration of a statewide assessment.

2310.4 In order to ensure the security and proper administration of the statewide assessment, OSSE may conduct announced and unannounced on-site and desktop monitoring visits at any school or LEA to observe the procedures followed during test administration.

2310.5 OSSE may enter testing rooms during test administration to observe students and test administrators to determine whether:

(a) Test materials are stored properly;

(b) Test administrators are administering tests appropriately; and

(c) The testing environment is secure.

2310.6 OSSE may audit statewide assessment administration procedures at randomly selected schools and at targeted schools to ensure adherence to all applicable laws, regulations, and policies.

2310.7 OSSE may use statistical and audit procedures to:

(a) Review and audit both test score data and individual test documents for potential anomalies; and

(b) Audit vendor-provided testing records to ensure appropriate test participation and administration procedures are followed.

2311 TESTING INTEGRITY AND SECURITY: REQUIRED REPORTING

2311.1 Authorized personnel of an LEA or school shall notify the school test monitor, the LEA test integrity coordinator and OSSE as soon as the LEA or school becomes aware of any alleged or suspected violation of the security or integrity of a statewide assessment. The notification to OSSE shall be provided by the LEA test integrity coordinator through OSSE's incident reporting system or process.

2311.2 Authorized personnel of an LEA or school shall, in a timely manner, report all testing irregularities to the school test monitor, LEA test integrity coordinator, or OSSE, as appropriate and consistent with the standards, policies, and statewide requirements for testing integrity and security.

2311.3 Authorized personnel shall report technical issues that significantly impact test administration to the school test monitor, LEA test integrity coordinator, or OSSE as appropriate and consistent with the standards, policies, and statewide requirements for testing integrity and security, through OSSE's prescribed incident reporting process.

2311.4 Individuals other than LEA test integrity coordinators may report suspected testing irregularities directly to OSSE by phone or online via OSSE's Online Test Security Incident Reporting Form.

2311.5 (a) School staff who witness or believe that a test irregularity or violation occurred must report it as soon as possible but no later than twenty-four (24) hours after the alleged violation occurred.

(b) Potential irregularities or violations may be reported directly to the school test monitor or the LEA test integrity coordinator(s); to OSSE's Division of Data, Assessment, and Research (DAR); anonymously to the LEA test integrity coordinator(s); or anonymously online using OSSE's Online Test Security Incident Reporting Form. LEA test integrity coordinator(s) shall submit reports of any test security violations reported to a school test monitor or LEA test integrity coordinator to OSSE.

2312 TESTING INTEGRITY AND SECURITY: VIOLATIONS

2312.1 A violation is any incident or action, intentional or otherwise, that threatens the security or integrity of the administration of the statewide assessment or the results of the assessment, including the following, as defined in Section 2399:

(a) Breach;

(b) Cheating;

(c) Compromise;

(d) Irregularity;

(e) Misconduct; or

(f) Test piracy.

2312.2 Examples of specific violations include:

(a) The following list of prohibited actions as defined in D.C. Official Code § 38-771.03(a)(4):

(1) Photocopying, or in any way reproducing, or disclosing secure test materials or other materials related to statewide assessments;

(2) Reviewing, reading, or looking at secure test materials or student responses before, during, or after administering the statewide assessment, unless specifically permitted in the test administrator's manual;

(3) Assisting students in any way with answers to test questions using verbal or nonverbal cues before, during, or after administering the assessment;

(4) Altering student responses in any manner;

(5) Altering the test procedures stated in the formal instructions accompanying the statewide assessments;

(6) Allowing students to use notes, references, or other aids, unless the test administrator's manual specifically allows;

(7) Having in one's personal possession secure test materials except during the scheduled testing date;

(8) Allowing students to view or practice secure test materials before or after the scheduled testing time;

(9) Making or having in one's possession an answer key for a statewide assessment before the administration of that statewide assessment; except, that it shall not be prohibited to have an answer key for a statewide assessment that has already been administered and released by OSSE;

(10) Leaving secure test materials in a non-secure location or unattended by authorized personnel;

(11) Using unapproved electronics during the administration of a statewide assessment;

(b) School- or LEA-level coordination or facilitation of prohibited actions as defined in D.C. Official Code § 38-771.03(a)(4); and

(c) Assisting in the violation of, soliciting another to violate or assist in the violation of, or failing to report a violation of test security and test integrity policies or procedures.

2312.3 The following actions by authorized personnel shall not be considered violations:

(a) Actions necessary to provide an accommodation to an eligible student as set forth in § 2306.12; or

(b) Actions pursuant to § 2306.16 that are limited to supporting students to stay on task and focused and do not impact the content of students' answers.

2313 TESTING INTEGRITY AND SECURITY: INVESTIGATIONS

2313.1 An LEA shall fully cooperate and participate in any OSSE investigation.

2313.2 Upon its own initiative, or upon receipt of information alleging a violation of any applicable law, regulation, or policy relating to testing integrity and security, OSSE may initiate an investigation to ensure that assessment results are valid and trustworthy and to determine whether a violation occurred.

2313.3 Investigations may be conducted directly by OSSE or by an entity or individual authorized by OSSE.

2313.4 OSSE may initiate an investigation before, during, or after the administration of a statewide assessment.

2313.5 An LEA shall ensure that all relevant authorized personnel of the LEA and its schools are made available to cooperate and participate in the investigation.

2313.6 OSSE may initiate an investigation if:

(a) OSSE identifies potential noncompliance; or

(b) OSSE receives a report or complaint alleging a violation of the laws, regulations, and policies relating to testing integrity and security.

2313.7 OSSE may initiate an investigation in other circumstances, including if:

(a) An incident is reported from a monitoring visit during testing administration;

(b) An LEA or school conducts its own investigation of a testing concern or potential violation instead of immediately reporting the concern or potential violation to OSSE;

(c) An abnormality or statistical anomaly is detected in the test response data of one or more groups of students in a school;

(d) Data forensics identify unusual year-to-year changes in test scores;

(e) Inappropriate assessment practices are identified at a school or LEA;

(f) Information derived from social media indicates a potential violation;

(g) OSSE receives an incident report, support ticket, or anonymous report indicating that a violation may have occurred;

(h) OSSE identifies a potential violation through a review of test administration practices;

(i) A media report indicates a violation;

(j) Monitoring reports prepared by OSSE or a designee of OSSE indicate that a violation may have occurred; or

(k) A school or LEA is identified through random selection.

2314 TESTING INTEGRITY AND SECURITY: INVESTIGATION PROCESS

2314.1 If OSSE determines an investigation is appropriate, OSSE shall notify the LEA in writing that OSSE is initiating an investigation. The notification shall:

(a) State the circumstance(s) that triggered the investigation;

(b) Identify the following information, as applicable to the investigation:

(1) The school(s) to be investigated and the assessment(s) under investigation;

(2) The grade level(s) and subject(s) of the assessment(s) under investigation;

(3) Relevant details regarding the administration of the assessment(s) under investigation; and

(4) The impacted student(s), proctor(s), and test administrator(s).

2314.2 An investigation initiated by OSSE includes the following two (2) phases:

(a) An inquiry conducted by the LEA, in the form and manner set forth by OSSE or OSSE's designee. The LEA inquiry shall include the following steps:

(1) The LEA shall collect any documents requested by OSSE, and if any of the requested documents are not provided, the LEA shall provide a written explanation why the documents were not provided; and

(2) The LEA shall conduct interviews with the following individuals, as applicable, and submit completed interview documentation to OSSE:

(A) School test coordinator;

(B) Special populations (accommodations) coordinator;

(C) Technology coordinator;

(D) Student(s);

(E) Proctor(s); and

(F) Test administrator(s); and

(b) An OSSE review, which shall include the following:

(1) A comprehensive examination of the documents, data, information, and evidence provided through the LEA inquiry;

(2) The collection and review of additional relevant documents, and the conduct of additional interviews, as appropriate;

(3) A review of any OSSE records that may be relevant to the investigation; and

(4) A determination of whether a violation occurred.

2314.3 If there is an allegation of a violation that involved school- or LEA-level coordination or participation, the investigation shall not include an LEA inquiry phase, unless otherwise approved by OSSE. If an LEA inquiry is not conducted, OSSE, or an OSSE designee, shall collect the relevant documents and conduct the relevant interviews.

2314.4 During the LEA inquiry phase of the investigation, the LEA shall:

(a) Designate two (2) LEA employees as the LEA factfinders. Neither of the LEA factfinders shall have served a direct role in the oversight of testing integrity and security at the school or LEA, provided that, if the LEA cannot identify two (2) eligible employees, the LEA shall notify OSSE, and OSSE may appoint factfinders as deemed appropriate;

(b) Submit the names, titles, and contact information of the LEA factfinders to OSSE within two (2) business days of OSSE providing notice to the LEA that OSSE is initiating an investigation;

(c) Ensure the LEA factfinders complete any training required by OSSE to conduct the LEA inquiry; and

(d) Conduct the LEA inquiry in the form and manner set forth by OSSE.

2314.5 Upon reviewing documents and information submitted by an LEA, OSSE may request additional documents, information, or interviews at any time during the LEA inquiry.

2314.6 An LEA shall provide requested information and complete the LEA inquiry in accordance with timelines determined and communicated by OSSE.

2315 TESTING INTEGRITY AND SECURITY: SANCTIONS AND CONSEQUENCES FOR VIOLATIONS

2315.1 An individual person, school, or LEA shall be subject to the penalties and sanctions set forth in this section if, based upon the investigation, OSSE determines that the individual, school, or LEA violated a provision outlined in this chapter or otherwise acted in a way that threatened the security or integrity of a statewide assessment administered pursuant to § 2312.

2315.2 If OSSE determines that a violation occurred, OSSE shall determine an appropriate sanction or consequence based on the following factors:

(a) The seriousness of the violation;

(b) The extent of the violation;

(c) The role the individual played in the violation;

(d) The role the school's or LEA's leadership played in the violation, if applicable;

(e) How and when the violation was reported to OSSE;

(f) The action taken by the school or LEA after the violation was reported to OSSE;

(g) The LEA's history of non-compliance; and

(h) Consistency of the sanction or consequence with past OSSE-imposed sanctions or consequences.

2315.3 The following sanctions may be imposed by OSSE against an LEA or school that OSSE has determined committed a violation of the Testing Integrity Act of 2013, this chapter, or a test security plan:

(a) The payment of any expenses incurred by OSSE as a result of the violation, including the expenses of investigating the violation and the expenses associated with developing, in whole or in part, a new assessment;

(b) An administrative fine of not more than ten thousand dollars ($10,000) for each violation;

(c) The invalidation of test scores; and

(d) Consequences pursuant to Section 2315.5, as determined appropriate by OSSE.

2315.4 The following sanctions may be imposed by OSSE against an individual who knowingly and willfully violates, assists in the violation of, solicits another to violate or assist in the violation of, or fails to report a violation of test security and test integrity policies or procedures:

(a) Denial, suspension, revocation, cancellation, or restrictions of the issuance or renewal of a teaching or administrative credential or teaching certificate issued by OSSE, or both;

(b) Payment of expenses incurred by the school, LEA, or OSSE as a result of the violation, including the expenses of investigating the violation and the expenses associated with developing, in whole or in part, a new assessment;

(c) An administrative fine, not to exceed one thousand dollars ($1,000) for each violation; and

(d) Other sanctions, pursuant to section 2315, as determined appropriate by OSSE.

2315.5 If OSSE finds that a violation occurred and determines that the sanctions outlined in Sections 2315.3 and 2115.4 are not appropriate or not adequate, OSSE may impose the following consequences as appropriate to the nature and circumstances of the violation(s):

(a) Invalidation of student(s) test results;

(b) Stopping testing;

(c) Voiding test score(s);

(d) Requiring additional training; and

(e) Requiring other corrective actions as determined appropriate by OSSE.

2315.6 Even if OSSE does not determine that a violation occurred, OSSE may impose a corrective action plan and require a school or LEA to demonstrate compliance with a corrective action plan to address any irregularities or concerns found during an investigation. The corrective action plan may include specific strategies, processes, or procedures, that the school or LEA must take to help ensure valid and secure administration of statewide assessments by the school or LEA.

2315.7 In addition to any sanctions, consequences, and corrective action plans imposed by OSSE, an LEA or school may impose its own sanctions, consequences, corrective action plans, and disciplinary actions, including termination of LEA or school employee(s).

2315.8 (a) After OSSE completes an investigation, it shall provide to each individual, school, and LEA that was under investigation a written notice of OSSE's findings and conclusions and shall provide an opportunity for review and comment to each such individual, school, and LEA.

(b) If OSSE determines that no violation occurred, the notice shall:

(1) State that OSSE's investigation determined that a violation did not occur; and

(2) Offer technical assistance or a corrective action plan, if appropriate, to avoid the appearance of potential violations in the future.

(c) If OSSE determines that an individual, school, or LEA committed a violation, the notice shall:

(1) State the violation;

(2) Describe OSSE's findings and conclusions underlying the determination that a violation occurred; and

(3) Notify the school or LEA that it has ten (10) calendar days from the date the written notification is issued to request an administrative review of OSSE's findings, conclusions, and determination.

(d) If OSSE determines that an individual committed a violation, OSSE shall also provide notice to the relevant school and LEA of the violation.

2316 TESTING INTEGRITY AND SECURITY: RECONSIDERATION OF A FINDING OF NON-SANCTIONABLE VIOLATION

2316.1 An individual, LEA, or school may request that OSSE reconsider a determination that a non-sanctionable violation occurred within thirty (30) calendar days after OSSE provides notice of its determination pursuant to Section 2315.

2316.2 A request for reconsideration shall be submitted to OSSE in writing, in a form and manner set forth by OSSE, and shall, at minimum, include the following:

(a) A specific and detailed basis or bases for contesting OSSE's findings, conclusions, or determination;

(b) The specific relief requested; and

(c) Two (2) copies of all documentary evidence supporting the individual's, LEA's, or school's positions.

2316.3 If the request for reconsideration is based in whole or in part on new or additional evidence not previously provided to OSSE, the written request shall demonstrate that the new or additional evidence is relevant and material, and explain why the new or additional evidence was not reasonably available and provided to OSSE before OSSE issued its notice of determination.

2316.4 After receiving a request for reconsideration, the State Superintendent, or an OSSE employee designated by the State Superintendent or the State Superintendent's delegee, shall review the request. An OSSE employee designated to review the request shall not have had any direct involvement or participated in the investigation or the determination of a violation.

2316.5 The State Superintendent or designated OSSE employee (the "deciding official") shall deny a request for reconsideration if, based on the preponderance of the evidence, the deciding official finds:

(a) No material departure from the procedures outlined in this chapter occurred during the investigation that substantively impacted the findings, conclusions, or determinations;

(b) No member of the investigation team had a conflict of interest or ethical breach during the investigation that substantively affected the integrity of the investigation;

(c) The findings, conclusions, and determinations of OSSE are substantially supported by the information and facts determined through the investigation; and

(d) Either:

(1) The new or additional evidence provided by the individual, school, or LEA, if any, is not relevant and material; or

(2) The new or additional evidence was reasonably available to the individual, school, or LEA, before OSSE issued its notice of determination.

2316.6 The deciding official shall remand the matter to OSSE to conduct a new or updated investigation or take other appropriate action if, based on the preponderance of the evidence, the deciding official finds:

(a) A significant or material departure from the procedures outlined in this chapter occurred during the investigation that substantively impacted the findings, conclusions, or determinations;

(b) New or additional evidence was discovered that previously was not reasonably available to the LEA and that is relevant and material to a finding of a violation; or

(c) A member of the investigation team had a conflict of interest or there was another ethical breach during the investigation that substantively affected the integrity of the investigation.

2316.7 The deciding official's decision granting, denying, or remanding the request for reconsideration shall be in writing.

Section 2399, DEFINITIONS, is amended to read as follows:

2399 DEFINITIONS

2399.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Accommodation – an adjustment to the testing conditions, test format, or test administration to provide equitable access during assessments for students with disabilities and students who are English learners.

Authorized personnel – an individual who has access to statewide assessment materials or is directly involved in the administration of a statewide assessment.

Breach – an event, intentional or unintentional, that results in the inappropriate exposure of secure test materials or answers that could potentially impact the accuracy of the test results.

Cheating – educator, student, or other individual's misconduct or impropriety that includes intentional misbehavior or an unethical action meant to influence test results (e.g., overtly or covertly providing correct answers on tests; copying an answer from another test sheet; erasing and changing students' answers; filling in answers left blank by students; falsifying student identification information; imposing exclusionary discipline for the purpose of excluding a student with poor academic performance from completing an assessment; cueing students to incorrect answers; distributing formula cheat sheets; providing unauthorized extra time to complete an assessment).

Compromise – intentional or unintentional action that may impact the security of test materials or integrity of results. An example is leaving secure test materials unattended, even if they are not accessed by unauthorized individuals.

Invalidation – the act of omitting test results and student responses from the testing, reporting, and accountability systems for a given testing event for which the student may not retest.

Irregularity – an unexpected event that may impact the validity of one or more student tests (e.g., misadministration of accommodations, student inadvertently logs into an assessment with another student's credentials) or significantly disrupts the testing environment (e.g., fire alarm, power or internet outage).

Misconduct – misbehavior during testing, such as inappropriate proctoring or other violations of standard testing protocol.

OSSE – the Office of the State Superintendent of Education.

Proctor – an individual designated by an LEA or school who assists in assessment administration under the constant and consistent direct supervision of a test administrator.

Public charter school – a public school in the District of Columbia that is chartered by an eligible chartering authority.

Public school – a school within the District of Columbia Public Schools system or a public charter school.

Secure test materials – as defined in D.C. Official Code § 38-2602(b)(20)(O)(iii-I), secure test materials are test materials that might contain or provide access to assessment content, such as information about test questions or answers, including test questions, passages, or performance tasks, answer documents, and used scratch paper.

State Superintendent – the State Superintendent of Education for the District of Columbia.

Statewide – Districtwide.

Statewide assessment – Districtwide assessment as defined in D.C. Official Code § 38-771.01(2).

Test administrator – a school-based staff member designated by the LEA who qualifies as authorized personnel and who is responsible for administering a statewide assessment to students.

Test administrator manual – an assessment-specific and vendor-developed manual published and shared with LEAs and schools by OSSE that provides required instructions applicable to test administrators necessary for the administration of a statewide assessment, as well as the required procedures and protocols for test security and administration.

Test monitor – a person who qualifies as authorized personnel and is responsible for testing integrity and security at a school during the administration of a statewide assessment.

Test materials – secure and non-secure documents used in or for the administration of a statewide assessment.

Test piracy – stealing of test forms, items, prompts, or other secure test materials, often for the purpose of selling the materials to others.

Testing window – the particular dates scheduled for an LEA or school to administer a statewide assessment. The testing window for each statewide assessment is specified by OSSE.

Unapproved electronics – a technological device not authorized by OSSE that is used by a student, test administrator, or proctor to take or administer a statewide assessment.

All persons desiring to comment on the subject matter of this notice of proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register* via email addressed to: ossecomments.proposedregulations@dc.gov; or by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Rohini Ramnath re: NPR Testing Integrity, 1050 First Street, N.E. Third Floor, Washington, D.C. 20002. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at www.osse.dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF SECOND PROPOSED RULEMAKING

Railroad Carrier Fees

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.*), as amended by section 6032(c) of the Rail Safety and Security Amendment Act of 2018, effective October 30, 2018 (D.C. Law 22-168; D.C. Official Code § 8-151.10(c)) and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of his intent to add a new Chapter 50 (Railroad Carrier Fees) to Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

Section 106(7) of the District Department of the Environment Establishment Act of 2005, effective April 7, 2017 (D.C. Law 21-254; D.C Official Code § 8-151.06(7))(the "Act"), authorizes the Director of DOEE to establish an Emergency Response and Rail Safety Division, at subparagraph (C), to "[e]nter into inter-governmental agreements with appropriate federal and state agencies to enhance the capabilities of the District to . . . oversee the safety and security of railroad operations within the District," and, at subparagraph (D)(i), to "conduct inspection, investigative, enforcement, and surveillance activities related to the safety and security of railroad operations within the District[.]" This authority is further delineated at Section 108 of the Act (D.C. Official Code § 8-151.08c), which authorizes the Director to, at subsection (a), "enter into agreements with, and provide any necessary certifications, documents, and other information to, the [Federal Railroad Administration] in order to perform the functions of a state rail safety agency,", and, at subsection (c), "engage in investigative and surveillance activities related to the safety of facilities, equipment, rolling stock, and operations of railroads and railroad carriers operating in the District and may take enforcement actions, to the extent permissible under [Federal law and regulations]."

DOEE has entered into a State Participation Agreement with the Federal Railroad Administration (FRA) to be able to participate in investigative, surveillance, and enforcement activities that are enunciated in 49 CFR Part 212 (State Safety Participation Regulations). To fund the rail safety and security operations of the Division under the State Participation Agreement, DOEE is establishing fees on railroad carriers as authorized under D.C. Official Code § 8-151.10(c). These fees will be deposited in the Rail Safety and Security Fund established pursuant to D.C. Official Code § 8-151.08h and shall be used to administer and manage expenses of the rail safety and rail security programs for railroad operations in the District.

A Notice of Proposed Rulemaking was published in the *District of Columbia Register* on June 24, 2022 at 69 DCR 007434. DOEE received one set of comments on the Proposed Rule during the thirty (30)-day comment period.

Response to Comments

The following summarizes the comments received and DOEE's response to the comments.

Comment: The Interstate Commerce Commission Termination Act (ICCTA)[1] preempts the proposed fees.

The commenter states that the ICCTA prohibits discrimination between modes of transportation, and because the proposed rule would impose fees only on railroad operations, but not on trucks or other modes of transportation, it targets the rail industry and is therefore preempted by the ICCTA.

Response: In support of this comment, the commenter cites to the general statement in the ICCTA that it is the policy of the federal government, in regulating the railroad industry, "to ensure effective competition and coordination between rail carriers and other modes [of transportation]." This general policy statement does not impose any specific requirements on states or any other entities. One provision in the ICCTA does prohibit states from discriminating against railroads by providing that states may not assess railroad property at a higher rate than other property for purposes of taxation, impose ad valorem taxes (taxes based on the value of goods or transaction at issue) on railroads that are higher than those imposed on other businesses, or impose another tax that that discriminates against a rail carrier.

First, the proposed rule assesses a fee to fund the operations of the Department in ensuring the safety and security of rail operations in the District and is not a tax.[2] Second, the fee is based on the number of rail cars operating in or transiting through the District (or in the case of a commuter train, each entry into the District) – it is not an ad valorem tax or tax on property.

DOEE disagrees that the ICCTA preempts the proposed fees and for this reason, no changes to the proposed rules were made in response to this comment.

Comment: The Hazardous Materials Transportation Act (HMTA) preempts the proposed fees.

The commenter states that the HMTA preempts the proposed fees because the fees as proposed do not satisfy the requirement of the HMTA that "[a] State . . . may impose a fee related to transporting hazardous materials only if the fee is fair." 49 U.S.C. § 5125(f)(1). The commenter states the fees relate to the transportation of hazardous material even though the proposed rule does not explicitly reference hazardous material. To support this argument, the commenter cites to the statutory language at D.C. Code § 8-151.06, which authorizes DOEE to "inspect railroad equipment, facilities, rolling stock, or operations . . . to the extent permissible under federal railroad safety laws as soon as DOEE enters an agreement to participate in railroad investigative and surveillance activities with the Federal Railroad Administration . . . and the FRA delegates investigative and surveillance authority with respect to all or any part of federal railroad safety laws pursuant to 49 C.F.R. § 212.105." The commenter notes that federal railroad safety laws are defined to include the HMTA. D.C. Code § 8-151.01(5B)(G). Further, the commenter states that the fee relates to the transportation of hazardous materials, based on their reading of the legislative histories of the Railroad Safety and Security Amendment Act of 2016 and the Railroad Safety and Security

[1] 49 U.S.C. § 10101 *et seq.*

[2] In *Union Pacific R.R. v. Public Utility Comm'n*, 899 F.2d 854 (9th Cir. 1990), the court held that a state levy on railroads to pay for the cost of regulating railroads was a fee, not a tax. Similarly, here the fee will be used by DOEE to participate in investigative, surveillance, and enforcement activities associated with railroad operations in the District under the FRA's State Safety Participation Program as provided in 49 CFR Part 212.

Amendment Act of 2018, both of which indicate that the Acts would allow for DOEE to participate in investigative and surveillance activities that include safety and inspection related to the transport of hazardous materials in the District. The commenter states that, because the fees relate to the transport of hazardous materials, and because they apply only to trains, and not trucks, the fees are preempted by the HMTA.

The commenter cites to the decision of the court in *BNSF Railway Co. v. California Department of Tax & Fee Administration*, 904 F.3d 755 (9th Cir. 2018), which held that a state act imposing a fee to fund a program to plan, develop and maintain capability to respond to railroad accidents involving rail cars carrying hazardous materials and to releases of hazardous materials from rail cars, including the purchase of specialized equipment to respond to hazardous materials spills from rail cars or railroad accidents, was preempted by the HMTA. This was because it applied solely to rail even though truck accidents involving hazardous materials occurred more frequently than rail accidents and accounted for the vast majority of hazardous material response costs in the state. The court found, therefore, that the fees were not “fair”.

Response: DOEE does not agree that the fees to be imposed are preempted by the HMTA. These fees apply to all railroad operations in the District, passenger and freight, and are not focused, as was the California statute at issue in the *BNSF* case, solely on transportation of hazardous materials by freight rail or on responding to rail accidents involving hazardous materials. The fees assessed by the District will be used to fund inspection, investigation, and surveillance activities of the Department pursuant to the State Participation Agreement entered into by DOEE with the FRA under the State Safety Participation Program, 49 C.F.R. Part 212. These inspection, investigation, and surveillance activities supplement the FRA’s programs, and are subject to FRA oversight and control. All enforcement is done by the FRA based on the inspections and activities conducted by Department inspectors under the State Participation Agreement. Currently, there are 22 other states that impose fees or taxes to fund the operations of rail inspection programs under State Participation Agreements with the FRA.[3]

Under the State Participation Agreement with the FRA, DOEE’s rail inspectors are subject to certification by the FRA and work in six primary technical disciplines to enforce railroad safety under federal rules:

- Track
- Motive Power and Equipment
- Operating Practices
- Signals and Train Control
- Hazardous Materials (hazardous materials inspectors are concerned with shippers as well as rail carriers.)
- Grade Crossing and Trespass Outreach

[3] For instance, Tennessee assesses a user fee based on the actual ton miles operated annually by each railroad operating in the state. U.S. FRA, *State Rail Safety Participation Program Manager’s Handbook* (Nov. 2022) at App. 6 (User Fee Summary), p. 201. In Illinois, railroads are assessed fees based on route miles and number of grade crossings of trains operating in the state. *Id.* at 198.

In other words, any DOEE inspectors who would be qualified to conduct hazardous materials inspections would do so to enforce regulations implemented by the U.S. Department of Transportation and the FRA under the HMTA itself, supplementing the inspection program conducted by the FRA. DOEE inspectors are trained and qualified by the FRA and carry both FRA and District credentials.

Further, DOEE inspectors are trained and qualified by the FRA in disciplines other than hazardous materials, inspecting and investigating compliance by railroads with other federal railroad safety laws.[4] The fees implemented by these regulations fund the entire inspection, investigation, and surveillance program that enforces federal railroad safety laws, and are not limited to hazardous materials. As such, they are fundamentally different than the fee charged in the *BNSF* case, which focused solely on hazardous materials shipped by rail.

Thus, these fees are not preempted by the HMTA, and no changes have been made in response to this comment.

Comment: The Railroad Revitalization and Regulatory Reform Act (4-R Act) prohibits states from imposing any "tax that discriminates against a rail carrier." The commenter states that there is no justification for the disparate treatment of trains and trucks and, as such, the fees proposed discriminate against railroads. The commenter further asserts that the fees as proposed are actually a tax because they do not fund a service that benefits railroads but fund regulatory enforcement activities and the provision of emergency services that are paradigmatic examples of government functions generally funded by general tax receipts.

Response: DOEE disagrees that the fees as proposed are preempted by the 4-R Act. The fees are not taxes, which is what the 4-R Act addresses, because they are funding a railroad inspection, investigation, and surveillance program for enforcement of federal railroad safety laws – a program that is authorized by FRA regulations establishing the State Safety Participation Program and which is controlled by the provisions of a State Participation Agreement between the District (DOEE) and the FRA. Contrary to the assertion by the commenter, the program benefits the railroads and the residents of the District by ensuring the safe operation of railroads in the District through compliance with federal safety laws. The safety of trucks is regulated independently through different District and federal laws and regulations, and by different District and federal agencies.

Thus, these fees are not preempted by the 4-R Act, and no changes have been made in response to this comment.

Comment: The fees are not supported by evidence because they apply only to trains and not trucks, impose different fees on trains that stop in rather than pass through the District, and impose different fees on freight than commuter trains.

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[4] Federal railroad safety laws include the Federal Rail Safety Act of 1970, the Safety Appliances Acts, the Locomotive Inspection Act, the Signal Inspection Act, the Accidents Report Act, the Hours of Service Act, and other federal laws, regulations, or orders issued under the authority of laws addressing the safety of railroad equipment and operations, in addition to the HMTA. D.C. Code § 8-151.01(5B).

Response: As stated previously, the fees are established to fund the inspection, investigation, and surveillance program implemented under FRA regulations and pursuant to a State Participation Agreement between DOEE and the FRA. Trucks are not regulated by the FRA, and the railroad safety laws that DOEE inspectors will be enforcing do not apply to trucks. The safety of trucks is regulated independently under different District and federal laws and regulations and enforced by different District and federal agencies.

As to the comment that these regulations impose different fees on trains that stop in, rather than pass through, the District, this is a reasonable distinction in the regulations. DOEE will be conducting a variety of inspections, some of which can only be conducted if the train stops in the District. Thus, these trains, both freight and passenger, are charged a fee when they enter the District and when they depart. Trains that only pass through the District will benefit from other inspections for safety of all rail operations in the District whether the train stops in the District or not, such as inspections enforcing track requirements and signal and train control requirements. Those inspections facilitate transits of rail cars through the District and, therefore, those trains are only assessed fees when they enter the District.

A similar rationale applies to commuter trains that may enter and depart the District more than once a day. Each entry is subject to a fee, but their departure segment is not. Again, DOEE believes that this is an appropriate distinction between the different types of railroad operations that occur in the District and a fair means of assessing fees.

Based on the above, DOEE has made no changes to the proposed rule in response to this comment.

Comment: DOEE did not explain how the proposed fee rates relate to the expenses of the emergency response, rail safety, and rail security programs for railroad operations in the District, or how the fees are reasonably estimated to generate revenue roughly equal to these expenses.

Response: In determining the fee amount and the structure of the fee system, DOEE obtained data as best available from various sources on the number of transits and rail operations within the District. DOEE then looked at the likely salary and equipment costs associated with operating the rail inspection, investigation, and surveillance program at DOEE to determine the necessary funds required to operate the program in accordance with FRA and District requirements. Using these figures, and considering how the fee assessments would be structured, DOEE determined the appropriate fee assessment amount, which it proposed. Based on a re-examination of the data and estimated program costs, including personnel, equipment, and administrative support, DOEE has reduced the fee to sixty cents ($0.60) per rail car from the initial proposed seventy-five cents ($0.75) per rail car for purposes of Section 5002.

Since the First Notice of Proposed Rulemaking was published, in addition to reducing the assessed fee to sixty cents ($0.60) per rail car, the Department made some additional changes to the rule as originally proposed. Changes were made to clarify that the initial year for implementation of the railroad fee regulation is 2026. Additional changes were made to improve clarity and ease of understanding of the regulations. These changes are:

- Section 5001.1 was amended to state that the railroad carrier report form must be filed by railroad carriers beginning June 1, 2026, and each subsequent year thereafter, and that the form will be available on the Department website.
- Section 5002.2 was amended for parallelism with the previous section.
- Section 5003.1 was amended to state that the Department shall notify railroad carriers of the fee due beginning on August 1, 2026, and each subsequent year thereafter, and to clarify that the amount due is based on the reports required to be submitted by Section 5001.1 on June 1 of each year.
- Section 5004.1 was amended to state that the initial railroad fee is to be paid on November 1, 2026, and on November 1 of each subsequent year thereafter.
- Section 5004.2 was amended to indicate that instructions for the method of payment would be included with the notice of assessment.
- Section 5005.1 was amended to state that the estimated entries and exits of rail cars on which the notice of assessment by the Department would be issued would be based on available federal and District data, and to reference the section on the notice of assessment.
- Section 5005.2 was amended to reference section 5001.1 and to clarify that the Department may request documentation from the railroad carriers that submit reports required by section 5001.1.
- Section 5006.2 was amended to clarify that the 15-day period to appeal a notice of assessment begins once the notice of assessment is received.
- Section number 5099.1 was added because the section number was inadvertently omitted in the proposed rule.
- In the definition of railroad, "includes" was changed to "means."

Title 20 DCMR, ENVIRONMENT, is amended by adding a new Chapter 50, RAILROAD CARRIER FEES, as follows:

CHAPTER 50 RAILROAD CARRIER FEES

5000 PURPOSE

5000.1 The purpose of this chapter is to establish fees to be paid by railroad carriers that will be used to administer and manage expenses of the rail safety and security programs for railroad operations in the District.

5001 ANNUAL REPORT OF RAILROAD CAR ENTRIES AND EXITS

5001.1 Beginning on June 1, 2026, and for each subsequent year, each railroad carrier operating within the District shall report to the Department no later than June 1 of each year the number of railroad cars under the railroad carrier's control that have entered and exited the District during the preceding calendar year; except, that a commuter railroad carrier shall report only the number of railroad cars under the commuter railroad carrier's control that have entered the District during the preceding calendar year. The report shall be made on a form prescribed by the Department, which will be made available on the Department's website.

5001.2 For the purposes of the report provided by a railroad carrier under § 5001.1, railroad cars that transit through the District without stopping shall be considered only to have entered the District for each transit.

5001.3 The report shall be in writing and shall be certified for accuracy and signed by a duly authorized representative of the railroad carrier.

5002 IMPOSITION AND CALCULATION OF FEE

5002.1 There is imposed on each railroad carrier operating in the District a fee of sixty cents ($0.60) for each railroad car that enters the District and sixty cents ($0.60) for each railroad car that exits the District, except as provided in §§ 5002.2 and 5002.3.

5002.2 There is imposed on each railroad carrier operating in the District a fee of sixty cents ($0.60) for reach railroad car that transits through the District without stopping in the District.

5002.3 The fee imposed on a railroad carrier for each commuter railroad car that enters the District shall be sixty cents ($0.60), but no fee shall be imposed based on the commuter railroad car's exit from the District.

5003 NOTICE OF FEE DUE

5003.1 Beginning on August 1, 2026, and for each subsequent year, the Department shall, no later than August 1 of each year, notify each railroad carrier operating in the District of the amount of that railroad carrier's fee that is due and payable to the District for the preceding calendar year by sending a notice of assessment to the railroad carrier.

5004 PAYMENT OF FEE

5004.1 Beginning on November 1, 2026, and for each subsequent year, each railroad carrier operating in the District shall, no later than November 1 of each year, pay to the Department the amount stated in the notice of assessment issued by the Department under § 5003.1.

5004.2 The payment shall be made in accordance with any instructions for the method of payment that will be included in the notice of assessment issued by the Department under § 5003.1.

5004.3 Payment of the fee shall be considered to be timely made if:

(a) It is received by the Department on or before November 1 of the same calendar year in which notice has been given under § 5003.1; or,

(b) It is sent to the Department by first-class United States Postal Service mail in an envelope that is properly addressed, stamped, and postmarked on or before November 1 of the same calendar year in which notice has been given under § 5003.1, and is received by the Department not more than ten (10) days after the date of the postmark.

5005 DEPARTMENT DETERMINATION OF RAILROAD CAR ENTRIES AND EXITS

5005.1 If a railroad carrier does not timely file its annual report of railroad car entries and exits as required by § 5001.1, the Department may make a good faith estimate of the railroad carrier's railroad car entries and exits for the calendar year, based on available federal and District data, for which fees are to be assessed and send a notice of assessment under § 5003.1 to the railroad carrier based on that estimate.

5005.2 The Department may request that a railroad carrier that has submitted the report required by § 5001.1 provide documentation or other evidence demonstrating how the railroad carrier determined its reported railroad car entries and exits for purposes of that report.

5005.3 A railroad carrier must respond to a request by the Department under § 5005.2 within fourteen (14) calendar days after receipt of the request by the railroad carrier.

5005.4 If the Department determines that a railroad carrier has not provided sufficient documentation or other evidence to adequately support its reported railroad car entries and exits, the Department may proceed under § 5005.1 as if the railroad carrier did not timely report its railroad car entries and exits.

5005.5 The Department shall inform a railroad carrier in writing whether it accepts the railroad carrier's documentation or evidence and send the railroad carrier a revised notice of assessment or, alternatively, notify the railroad carrier in writing that it is proceeding under § 5005.1.

5006 ADMINISTRATIVE APPEALS

5006.1 A railroad carrier may appeal a notice of assessment by timely filing an administrative appeal with, and requesting a hearing before, the Office of Administrative Hearings (OAH), established pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*).

5006.2 The appeal to OAH shall be filed in writing within fifteen (15) calendar days after the date of the notice of assessment being appealed is received.

5006.3 The Department may, for good cause shown, toll or extend the fifteen (15) calendar day period established by § 5006.2; provided, that such tolling or extension must be in writing and issued before the fifteen (15) calendar day period expires.

5006.4 OAH shall:

(a) Resolve a notice of assessment by:

(1) Affirming, modifying, or setting aside the Department's action complained of, in whole or in part;

(2) Remanding for Department action or further proceedings, consistent with OAH's order; or

(3) Providing such other relief as the governing statutes and rules support; and

(b) Render a final decision.

5006.5 The final OAH decision on an administrative appeal shall constitute a final action of the Department and shall be subject to the applicable statutes and rules of judicial review for OAH final orders.

5006.6 Nothing in this chapter shall be interpreted to:

(a) Provide that filing a judicial appeal of a final OAH decision pursuant to § 5006.6 stays enforcement of the OAH final order; or

(b) Prohibit a person from requesting a stay of the enforcement of the OAH final order as may be authorized by law.

5099 DEFINITIONS

5099.1 When used in this chapter, the following terms shall have the meaning set forth below:

Commuter railroad – a short-haul passenger railroad that transports public commuters on a fixed schedule between the District and locations in the Washington, DC metropolitan area. The term "commuter railroad" includes Virginia Railway Express (VRE) and Maryland Area Regional Commuter (MARC) train services.

Department – the Department of Energy and Environment or its successor agency.

District – the District of Columbia.

Railroad – means:

(a) Any form of non-highway ground transportation that runs on rails or electromagnetic guideways, including commuter or other short-haul railroad passenger service in the District; and

(b) High-speed ground transportation systems that connect the District with metropolitan areas, without regard to whether those systems use new technologies that are not associated with traditional railroads; except that

(c) The term "railroad" does not include rail system operations conducted by or on behalf of the Washington Metropolitan Area Transit Authority or the District Department of Transportation, or other rail system operations in the District that are not connected to the railroad.

Railroad car – a vehicle used for the carrying of cargo or passengers on a rail system, measured from coupler to coupler. The term "railroad car" does not include railroad engines used for motive power.

Railroad car entry – the entry into the District by rail from anywhere outside of the District of any railroad car.

Railroad car exit – the exit from the District by rail to anywhere outside of the District of any railroad car.

Railroad carrier – a person providing transportation by railroad or a group of commonly controlled railroad carriers that the United States Secretary of Transportation has ordered to be treated as a single railroad carrier as provided for in 49 U.S.C. § 20102(3).

A person desiring to comment on the proposed rules must file comments in writing by thirty (30) days after the date of publication of this notice in the *District of Columbia Register*. Comments should be clearly marked "Railroad Carrier Fees" and either (1) mailed or hand-delivered to DOEE, Rail Safety and Emergency Response Division, 1200 First Street, N.E., 5th Floor, Washington, DC 20002, Attention: Railroad Carrier Fees, or (2) emailed to railfeeregulations@dc.gov. The Department will consider all timely received comments before publishing a final rule.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2025-083
July 22, 2025

SUBJECT: Delegation — Authority to the Deputy Mayor for Planning and Economic Development to Acquire Certain Property Pursuant to the Georgia Avenue Acquisition Emergency Authority Act of 2025 and to Solicit Offers, Accept Unsolicited Offers, and Dispose of the Acquired Property on Behalf of the District

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) and (11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(6) and (11), it is hereby **ORDERED** that:

1. The Deputy Mayor for Planning and Economic Development ("Deputy Mayor") is delegated the authority vested in the Mayor by section 2 of the Georgia Avenue Acquisition Authority Emergency Act of 2025, effective July 7, 2025 (D.C. Act 26-103) and any substantially similar subsequent emergency, temporary, and permanent legislation to acquire by purchase Lots 809, 840, 841, 842, 843, and 848 in Square 2937 (the "Acquired Property") and to execute on behalf of the District of Columbia any and all documents related to the acquisition of the Acquired Property, including, but not limited to, easements, license agreements, use agreements, lease agreements, right of entry agreements, covenants, and other associated documents.

2. The Deputy Mayor is delegated the authority vested in the Mayor by sections 1 through 3 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939, 53 Stat. 1211, D.C. Official Code §§ 10-801 through 10-803, and section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944, 58 Stat. 819, D.C. Official Code § 1-301.01(c) to solicit offers, accept unsolicited offers, and execute on behalf of the District of Columbia any and all documents related to the disposition, development, or use of the Acquired Property, including, but not limited to, easements, license agreements, use agreements, lease agreements, right of entry agreements, covenants, and other associated documents, and to take all actions necessary or useful for or incidental to the solicitation, disposition, and development of the Acquired Property.

3. Notwithstanding paragraphs 1 and 2 of this Order, the Mayor retains concurrent authority over all matters described in paragraphs 1 and 2 of this Order.

4. The authority delegated herein to the Deputy Mayor by this Order may be further delegated by the Deputy Mayor to subordinates under his or her jurisdiction.

5. This Order supersedes all prior Mayor's Orders to the extent of any inconsistency.

6. **EFFECTIVE DATE:** This Order shall become effective immediately.

Muriel Bowser

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 2025-084
July 23, 2025

SUBJECT: Reappointment — Real Property Tax Appeals Commission

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 D.C. Official Code § 47-825.01a, pursuant to the Real Property Tax Appeals Commission Frank Sanders, Jr. Confirmation Resolution of 2025, effective July 1, 2025, Resolution PR26-0178, 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. **FRANK SANDERS, JR.** is reappointed as a full-time Commissioner of the Real Property Tax Appeals Commission, for a term to end April 30, 2029.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to July 1, 2025.

MURIEL BOWSER
MAYOR

ATTEST:
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ALCOHOLIC BEVERAGE AND CANNABIS BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JULY 30, 2025
899 NORTH CAPITOL STREET, NE, SUITE 4200 A-B
WASHINGTON, D.C. 20002

Donovan W. Anderson, Chairperson
Members: Silas Grant, Jr., Teri Janine Quinn, Ryan Jones and David Meadows

Protest Hearing (Status) **10:30 AM**

Case # 25-PRO-00058
Alice RE Holdings, LLC, t/a The Moxey Hotel Washington DC
1011 K Street NW
License #119964
Retailer CR
ANC 2C
Application to Renew the License

Protest Hearing (Status) **10:30 AM**

Case # 25-PRO-00052
BarToca Wharf, LLC, t/a Bartaco Wharf
645 Wharf Street SW
License #121799
Retailer CR
ANC 6D
Application to Renew the License

Board's Calendar
July 30, 2025

Protest Hearing (Status) **10:30 AM**

Case # 25-PRO-00054
Hen Quarter, LLC, t/a Hen Quarter Riverpoint DC
2121 1st Street SW
License #124468
Retailer CR
ANC 6D
Application to Renew the License

Protest Hearing (Status) **10:30 AM**

Case # 25-PRO-00055
514 Partners, LLC, t/a Playa Ocho Cantina
514 8th Street SE
License #107131
Retailer CR
ANC 6B
Application to Renew the License

Show Cause Hearing (Status) **10:30 AM**

Case # 25-CC-00001
Brixton Pub, LLC, t/a Whitlow's
901 U Street NW
License #82871
Retailer CT
ANC 1B
Violation of Settlement Agreement

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA AT 1:00 PM

Board's Calendar
July 30, 2025

Protest Status Hearing **1:30 PM**

Case # 25-PRO-00023
Capital Burger Holdings, t/a The Capital Burger
1005 7th Street NW
License #106205
Retailer CR
ANC 2G
Application to Renew the License

Protest Status Hearing **1:30 PM**

Case # 25-PRO-00020
Ethiopic Corp, t/a Ethiopic Restaurant
401 H Street NE
License #83149
Retailer CR
ANC 6C
Application to Renew the License

Protest Status Hearing **1:30 PM**

Case # 25-PRO-00053
Canna-Art, LLC, t/a Canaart DC
5008 Connecticut Ave NW
License #130807
Retailer MC
ANC 3F
Application for a New License

Board's Calendar
July 30, 2025

All of the ABC Board's public hearings are conducted virtually and are livestreamed on ABCA's YouTube channel which can be found here: *https://www.youtube.com/@alcoholicbeverageregulatio5683*.

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*

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FUNDING AVAILABILITY

FY26 School Behavioral Health Services Comprehensive Expansion (Pilot 1B Continued)

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 the 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:	**FY26 School Behavioral Health Services Comprehensive Expansion (Pilot 1B Continued)**
Funding Opportunity Number:	RM0 SBH072525
Opportunity Category:	Competitive
DBH Branch/Division Unit:	Prevention and Early Intervention Division
DBH Administrative Unit	Child, Adolescent, and Family Services
Program Contact:	Charneta C. Scott, Ph.D., Project Manager (202)-654-6175 Charneta.scott@dc.gov
Program Description:	This RFA delivers prevention, early intervention, and treatment services by District of Columbia Public Charter School-hired licensed clinicians within the Comprehensive School Behavioral Health Model in eight (8) District of Columbia Public Charter Schools (DCPCS).
Eligible Applicants:	Eligible entities is: 1. A Local Education Agency (LEA) awarded under DBH RM0 SBH102723
Anticipated Number of Awards:	Up to six (6) awards
Anticipated Amount Available:	up to $960,000
Floor Award Amount:	$120,000
Ceiling Award Amount:	$240,000

Funding Authorization:

Legislative Authorization:	Local Appropriated Funds
Cost Sharing/Match Required?	None
RFA Release Date:	Friday, July 25, 2025
Pre-Application Conference (Date):	Friday, August 8, 2025
Pre-Application Conference (Times):	10:00 am ET

Pre-Application Conference (Microsoft Teams Access):	**Please find web link access information in Request for Application.**
Application Deadline Date:	Friday, August 15, 2025
Application Deadline Time:	3:00 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 an 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 end of project period for Current Local Education Agencies and the need for funds by October 1, 2025 (start of FY26), this is being posted less than two weeks apart.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FUNDING AVAILABILITY

FY26 School Behavioral Health Services Comprehensive Expansion

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 the 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:	**FY26 School Behavioral Health Services Comprehensive Expansion**
Funding Opportunity Number:	RM0 SBH072525
Opportunity Category:	Competitive
DBH Branch/Division Unit:	Prevention and Early Intervention Division
DBH Administrative Unit	Child, Adolescent, and Family Services
Program Contact:	Charneta C. Scott, Ph.D., Project Manager (202)-654-6175 Charneta.scott@dc.gov
Program Description:	This RFA will deliver prevention, early intervention, and treatment services by Community Based Organizations (CBO) providers within the Comprehensive School Behavioral Health Model in 122 District of Columbia Public Schools (DCPS) and District of Columbia Public Charter Schools (DCPCS).
Eligible Applicants:	Eligible entities are: 1. Current DBH CBO grantee implementing school behavioral health services. 2. A DBH CBO located in and with at least one service location within the District of Columbia (DC).
Anticipated Number of Awards:	Up to 13 awards
Anticipated Amount Available:	Up to $13,878,750
Floor Award Amount:	$120,000
Ceiling Award Amount:	$3,138,750

Funding Authorization:

Legislative Authorization:	Local Appropriated Funds
Cost Sharing/Match Required?	None
RFA Release Date:	Friday, July 25, 2025

Pre-Application Conference (Date):	Friday, August 8, 2025
Pre-Application Conference (Times):	1:00 pm ET
Pre-Application Conference (Microsoft Teams Access):	**Please find web link access information in Request for Application.**
Application Deadline Date:	Friday, August 15, 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 an 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 end of project period for the Continuing Community Based Organizations and the need for funds by October 1, 2025 (start of FY26), this is being posted less than two weeks apart.

BRIYA PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Computers

Briya Public Charter School solicits proposals for the following:

- Laptops
- Chromebooks

Full RFP available by request. Proposals should be submitted as PDF documents no later than 5:00 PM EST on Tuesday, August 5, 2025.

Contact: bids@briya.org

DEPARTMENT OF BUILDINGS

NOTICE OF CLASS CHANGE DETERMINATION

Office of Strategic Code Enforcement

RE:

Former Address: 624 I Street, NW **Current Address**: 610 I Street, NW	**Square: 0453**	**Former Lot: 0815** **Current Lot: 0061**

The Department of Buildings (DOB) has applied the following classification change for FY 2021 1st Half Only:

Based on the review of our records the property status has been updated to reflect a Class 2– status. DOB will immediately notify the Office of Tax and Revenue (OTR) to reclassify the subject property.

If you have questions regarding this decision please contact Lamir Whetstone, Interim Program Manager

Sincerely,

Lamir Whetstone
Interim Program Manager
Vacant Building Administration
(202) 442-4406
lamir.whetstone1@dc.gov

CRIMINAL JUSTICE COORDINATING COUNCIL

NOTICE OF PUBLIC MEETING

Prearrest diversion task force meeting

AGENDA

Wednesday, July 23, 2025 | *3:00 pm – 4:00 pm* |
Meeting location: *Microsoft Teams*

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.

Please note: the Prearrest Diversion Task Force is subject to the Open Meetings Act.

PRESENTERS
Meeting Facilitator: Kelly O'Meara, Chairperson, MPD and Adam Schutzman, Policy Analyst, CJCC

Meeting topics	Presenter
Introduction 1. Announcement of Chairperson and meeting process a. Explanation of Robert's Rules in committee meetings going forward b. Call to Order c. Roll Call / Quorum d. Approval of meeting minutes	**Kelly O'Meara, MPD** **Adam Schutzman, CJCC**
Discussion 1. Recommendations for community members to the task force a. The chair will select three community members to join the task force based on the requirements of Secure DC. Task force members may bring recommendations based on the required.	**Kelly O'Meara, MPD**
2. Discussion and vote to include the Department of Human Services in the task force.	**Kelly O'Meara, MPD**
3. Presentation on Prearrest Diversion models across the country	**Adam Schutzman, CJCC**

4. Sequential Intercept Model **Dante' Daniels, CJCC**
    a. Brief description and explanation of DC's sequential intercept model and how prearrest diversion can be incorporated.

ATTACHMENTS

Please read the following documents included in the email with this agenda prior to attending the Task Force meeting.

- **Prearrest Diversion Task Force June 2025 Meeting Minutes**
- **Robert's Rules QR code**

Previous Meeting Action Items	**Person/Agency**	**Deadline**
Schedule the next meeting	ALL	July 11, 2025
Elect chairperson	ALL	July 18, 2025
Identify available data sets and determine data priorities for program implementation and evaluation	ALL	July 23, 2025

Direct any questions to Adam Schutzman at adam.schutzman@dc.gov

Please note: the Prearrest Diversion Task Force is subject to the open meetings act

EARLY CHILDHOOD ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS (RFP)

Underwriter Services

Early Childhood Academy Public Charter School, Inc. (ECA) invites proposals from qualified bond underwriters to assist in securing up to $10,000,000 in tax-exempt bond proceeds through the DC Industrial Revenue Bond Program.

The selected underwriter will be responsible for structuring, marketing, and executing the sale of up to $10,000,000 in tax-exempt bonds to refinance existing debt of Early Childhood Academy Public Charter School, Inc. (ECA).

Additional specifications outlined in the RFP such as the Detailed Scope of Work can be obtained beginning on Friday, July 25, 2025, from bids@ecapcs.org. Proposals will be accepted via email to bids@ecapcs.org no later than Friday, August 8, 2025, by 5:00 p.m.

BOARD OF ELECTIONS

Certification of Filling a Vacancy In Advisory Neighborhood Commission

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), if there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person. As such, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Daniella Kelley
Single-Member District **1A09**

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, proposes to issue an air quality permit (No. 7391) to the U.S. Government Publishing Office (GPO) to install and operate a 20-gallon capacity OEMTOOLS 24805 mobile remote reservoir cold solvent degreasing unit (also known as a "cold cleaning machine" or "parts washer"), to be located at 732 N. Capitol Street NW, Washington DC. The contact person for the applicant is Daryl Kosturock, Environmental Manager, at (202) 512-1626 or dkosturock@gpo.gov.

Emissions Estimate:
Maximum potential emissions from the unit are expected to be no greater than the following:

Pollutant	**Estimated Maximum Annual Emissions (tons/yr)**
Volatile Organic Compounds (VOC)	0.02

No hazardous air pollutant (HAP) emissions are expected from the unit.

The proposed overall emission limits for the equipment are as follows:

a. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

   Violation of the requirements of this condition that occur as a result of unavoidable malfunction, despite the conscientious employment of control practices, shall be an affirmative defense for which the owner or operator shall bear the burden of proof. A malfunction shall not be considered unavoidable if the owner or operator could have taken, but did not take, appropriate steps to eliminate the malfunction within a reasonable time, as determined by the Department. [20 DCMR 903.13(b)]
   Note: This condition is District enforceable only.

b. No solvents shall be used in the units that contain halogenated hazardous air pollutant (HAP) solvents as follows [20 DCMR 201]:

   1. Methylene chloride;

   2. Perchloroethylene;

   3. Trichloroethylene;

4. 1,1,1-trichloroethane;

5. Carbon tetrachloride; or

6. Chloroform.

It should be noted that emissions are primarily minimized from this type of equipment by operational limitations and procedures set forth in the permit, rather than from explicit emission limits.

The permit application and supporting documentation, along with the draft permit, are available for public inspection at AQD and copies may be made available between the hours of 9:00 A.M. and 5:00 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 498-8143 or stephen.ours@dc.gov. Copies of the draft permit and related technical support memorandum are also available at: https://doee.dc.gov/service/public-notices-hearings.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action. The written comments must include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the draft permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No comments or hearing requests submitted after August 25, 2025 will be accepted.

For more information, please contact Stephen S. Ours at (202) 498-8143 or stephen.ours@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

Stormwater, Erosion and Sediment Control, Green Area Ratio, Wetland, and Well Permits Fee Updates

On August 1, 2025, the Department of Energy and Environment (DOEE) will increase the fees for certain water quality permits and approvals, adjusting for an inflation rate of two and sixty-seven hundredths percent (2.67%). The fees subject to this change include permit submittals related to erosion and sediment control, stormwater management, Green Area Ratio, well and soil boring, wetland and stream protection, and Water Quality Certifications. Pursuant to 21 DCMR §§ 501.1, 1805.2, and 2604.2 (District of Columbia Municipal Regulations), the fee adjustments are made annually, based on changes in the Consumer Price Index, a measure of inflation. The revised fees will be posted here - https://doee.dc.gov/service/ReviewFees-Plans-Permits - on August 1, 2025. Please contact Matt Johnson at Matt.Johnson2@dc.gov or 202-878-2443 for more information.

DEPARTMENT OF HEALTH CARE FINANCE
PHARMACY AND THERAPEUTICS COMMITTEE

NOTICE OF PUBLIC MEETING

The Department of Health Care Finance (DHCF) Pharmacy and Therapeutics Committee (Committee), pursuant to the requirements of Mayor's Order 2007-46, dated January 23, 2007, hereby announces a public meeting of the Committee to obtain input on the review and maintenance of a Preferred Drug List (PDL) for the District of Columbia. The meeting will be held virtually **on Thursday, September 4th, 2025, at 2:00 PM** via a webinar.

Please note to attend the meeting, you will have to register at the website:
https://primetherapeutics.zoom.us/webinar/register/WN_agh7tWUAT72L6EdNhaVwpA

Once you have registered you will receive an email with instructions on how to attend the webinar.

The Committee will receive public comments from interested individuals on issues relating to the topics or class reviews to be discussed at this meeting. The clinical drug class review for this meeting will include:

Alzheimer's Agents
Antibiotics, GI
Anticonvulsants
Antidepressants, Others
Antidepressants, SSRIs
Antifungals, Oral
Antifungals, Topical
Antiparkinson's Agents
Antipsychotics
Cytokine and CAM Antagonists
Fluoroquinolones, Oral
Immunosuppressants, Oral
Macrolides and Ketolides
Movement Disorders
Multiple Sclerosis Agents
Neuropathic Pain
Sedative Hypnotics

Any person or organizations who wish to make a presentation to the DHCF P&T Committee should furnish his or her name, address, telephone number, and name of organization represented by calling (202) 442-9076 **no later than 4:45 PM on Wednesday, August 27th, 2025**. The person or organization may also submit the aforementioned information via e-mail to Charlene Fairfax (charlene.fairfax@dc.gov).

An individual wishing to make an oral presentation to the Committee will be limited to three (3) minutes.

A person wishing to provide written information should supply a copy of the written information to the Committee **no later than 4:45 PM on Wednesday, August 27th, 2025. Handouts are limited to no more than two standard 8-1/2 by 11 inch pages of "bulleted" points (or one sheet front and back).** The ready-to-disseminate, written information should be emailed to charlene.fairfax@dc.gov **to arrive no later than Wednesday, August 27th, 2025**.

DEPARTMENT OF HEALTH

BOARD OF SOCIAL WORK

Public Notice of July 2025 Meeting

July 28, 2025 – 12:00 pm

The District of Columbia Board of Social Work ("Board") hereby gives notice of its upcoming meetings, pursuant to § 405 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)).

The Board will hold its next meeting on Monday, July 28, 2025, starting at 12:00 pm.

The Board meets monthly on the fourth Monday of each month. Note that the meeting will begin at 12:00 pm. The meeting will be open to the public from 12:00 pm until 1:00 pm to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 1:00 pm to 3:00 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and, or violations of law or regulations.

Going forward, the Board will have a **hybrid schedule of in-person and virtual** meetings. **In-person meetings will be held at 2201 Shannon Place, SE, 2nd Floor, Washington, DC 20020**. Information on **how to access the *public portion of the meeting virtually*** will be listed on the posted Open Session Meeting Agenda.

The agenda is available at https://dchealth.dc.gov/publication/board-social-work-agendas. For additional information, contact the Board staff at dcbosw@dc.gov

DEPARTMENT OF HEALTH

PUBLIC NOTICE

D.C. Board of Professional Counseling Meeting

The District of Columbia Board of Professional Counseling ("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 will be conducting a meeting on Friday, August 1, 2025. The meeting will be held from 9:00 AM to 11:00 AM. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and/or violations of law or regulations.

The meeting 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.

The District of Columbia Board of Professional Counseling ("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 be conducted on January 10, 2025 and the third Friday of every month starting on February 21, 2025, unless otherwise indicated. The meetings will be held from 10:00 AM to 2:00 PM and will be open to the public from 10:00 AM until 11:00 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 11:00 AM until 2:00 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 schedule of the Board's meetings during the next twelve-month period will be as follows:

January 10, 2025 (virtual)
February 21, 2025 (virtual)
March 21, 2025 (virtual)
April 18, 2025 (virtual)
May 16, 2025 (in-person)
June 20, 2025 (virtual)
July 18, 2025 (virtual)
September 19, 2025 (in-person)
October 17, 2025 (virtual)

November 21, 2025 (virtual)
December 19, 2025 (virtual)
January 16, 2026 (virtual)

The meetings will be held at 2201 Shannon Place SE, Washington, DC 20020 unless otherwise indicated. Visit the Board website at https://dchealth.dc.gov/node/160252 or the Department of Health Events link at http://doh.dc.gov/events for additional information.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF PUBLIC MEETING

District of Columbia Board of Architecture, Interior Design and Landscape Architecture

The District of Columbia Board of Architecture, Interior Design and Landscape Architecture ("Board") hereby gives notice of its regular meeting, pursuant to the section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board will hold its next meeting on Friday, August 1, 2025, at 9:30 a.m.

The Board holds its meetings every six weeks on a date at a specified time. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Avis B. Pearson, Board Administrator, at (202) 615-2331 or avis.pearson@dc.gov.

DRAFT AGENDA

1. Attendance
2. Comments from the Public
3. Review of Minutes (5/23/25)
4. Review of Administrative Approval Applications
5. Legislative Update
6. Education
7. Old Business
8. Sub Committee Update
9. New Business
10. Review of Correspondence
11. Motion - Executive Session (Closed to the Public) Pursuant D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) and (13) to discuss complaints/legal matters, applications, and legal counsel report.
12. Adjourn

Join the meeting:
https://dc-gov.zoom.us/j/82402849082?pwd=80eNogyxWBO8QzSxdoD2kF6R1SU1Id.1
Webinar ID: 824 0824 9082
Passcode:080125

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 open.govoffice@dc.gov.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF PUBLIC MEETING - CANCELLED

District of Columbia Board of Funeral Directors

The District of Columbia Board of Funeral Directors ("Board") hereby gives notice of its regular meeting, pursuant to section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board's public meeting scheduled for Thursday, July 10, 2025, at 1 p.m. is cancelled.

The Board holds its meetings on the first Thursday of every month at 1:00 p.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Allison Wade, Board Administrator, at (202) 369-0135 or allison.wade@dc.gov.

DRAFT AGENDA

1. Call to Order – 1:00 p.m. (*Public Session*)
2. Attendance
3. Comments from the Public
4. Approval of Meeting Minutes
5. Old Business
6. New Business
7. Executive Session (*Closed to the Public*) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications, and legal counsel report.
8. Recommendations
9. Adjournment

Meeting Link:
https://dc-gov.zoom.us/j/88220238648
Join by Phone: (301) 715-8592

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 open.govoffice@dc.gov.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF PUBLIC MEETING - RESCHEDULED

District of Columbia Board of Funeral Directors

The District of Columbia Board of Funeral Directors ("Board") hereby gives notice of its regular meeting, pursuant to section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board's public meeting is rescheduled for Thursday, July 17, 2025, at 1 p.m.

The Board holds its meetings on the first Thursday of every month at 1:00 p.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Allison Wade, Board Administrator, at (202) 369-0135 or allison.wade@dc.gov.

DRAFT AGENDA

1. Call to Order – 1:00 p.m. (*Public Session*)
2. Attendance
3. Comments from the Public
4. Approval of Meeting Minutes
5. Old Business
6. New Business
7. Executive Session (*Closed to the Public*) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications, and legal counsel report.
8. Recommendations
9. Adjournment

Meeting Link:
https://dc-gov.zoom.us/j/88220238648
Join by Phone: (301) 715-8592

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 open.govoffice@dc.gov.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF PUBLIC MEETING - CANCELLED

District of Columbia Board of Professional Engineers

The District of Columbia Board of Funeral Directors ("Board") hereby gives notice of its regular meeting, pursuant to section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board's public meeting scheduled for Thursday, July 24, 2025, at 11 a.m. is cancelled.

The Board holds its meetings on the first Thursday of every month at 1:00 p.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Allison Wade, Board Administrator, at (202) 369-0135 or allison.wade@dc.gov.

AGENDA

1. Call to Order – 11:00 AM (Public Meeting)
2. Attendance
3. Comments from the Public
4. Review of Minutes (6/26/25)
5. Administrative Approval Application Review
6. Legislative/Rulemaking Updates
7. Sub Committee update
8. Old Business
9. New Business
10. Review of Correspondence
11. Executive Session - Pursuant D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) and (13) to discuss complaints/legal matters, applications, and legal counsel report. – Closed to the Public
12. Recommendations –Technical/Legal Log
13. Adjourn

Join:
https://dc-gov.zoom.us/j/84261035687?pwd=Zb6MEtabAGShbylbH7bEFjW73Hbq91.1

Webinar ID: 842 6103 5687
Password: 072425

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 open.govoffice@dc.gov.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF PUBLIC MEETING - RESCHEDULED

District of Columbia Board of Professional Engineers

The District of Columbia Board of Funeral Directors ("Board") hereby gives notice of its regular meeting, pursuant to section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board's public meeting is rescheduled for Thursday, July 31, 2025, at 11 a.m.

The Board holds its meetings on the first Thursday of every month at 1:00 p.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Allison Wade, Board Administrator, at (202) 369-0135 or allison.wade@dc.gov.

AGENDA

1. Call to Order – 11:00 AM (Public Meeting)
2. Attendance
3. Comments from the Public
4. Review of Minutes (6/26/25)
5. Administrative Approval Application Review
6. Legislative/Rulemaking Updates
7. Sub Committee update
8. Old Business
9. New Business
10. Review of Correspondence
11. Executive Session - Pursuant D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) and (13) to discuss complaints/legal matters, applications, and legal counsel report. – Closed to the Public
12. Recommendations –Technical/Legal Log
13. Adjourn

Join:
https://dc-gov.zoom.us/j/84261035687?pwd=Zb6MEtabAGShbylbH7bEFjW73Hbq91.1

Webinar ID: 842 6103 5687
Password: 072425

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 open.govoffice@dc.gov.

MAYA ANGELOU PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Unified Communications System

Maya Angelou Public Charter School, located in Washington, DC, invites proposals for the Unified Communications System. The submission deadline is 3:00 PM Eastern Time on July 30, 2025

To request full scope and/or seek additional information, please email:

Dr. Nakita McNeil-West
Procurement and Grants
nwest@seeforever.org

Notice: This decision may be formally revised within thirty days of issuance before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	
American Federation of Government Employees, Local 2741	
Complainant	PERB Case Nos. 24-U-28 & 24-U-29
v.	Opinion No. 1917
	CORRECTED
District of Columbia Department of General Services and Department of Parks and Recreation	
Respondents	

DECISION AND ORDER

I. Statement of the Case

On May 17, 2024, the American Federation of Government Employees, Local 2741 (AFGE) filed two unfair labor practice complaints (24-U-28 Complaint and 24-U-29 Complaint) against the District of Columbia Department of General Services (DGS) and Department of Parks and Recreation (DPR), respectively, asserting that the Agencies violated D.C. Official Code §§ 1-617.04(a)(1) and (5) of the Comprehensive Merit Personnel Act (CMPA). AFGE argued that the Agencies' transfer of three (3) employees from work sites that had public first-come, first-serve parking to a work site that had only paid parking options nearby constituted interference with and refusal to bargain in good faith with AFGE regarding a material change in a mandatory subject of bargaining.[1] On June 5, 2024, the Agencies each filed an answer to the Complaints (24-U-28 Answer and 24-U-29 Answer). On August 19, 2024, PERB consolidated the two casesd under PERB Case No. 24-U-28.[2]

On February 21, 2025, the parties agreed to submit joint exhibits and joint stipulations of fact (Joint Stipulations) in lieu of a hearing.[3] The parties submitted a pre-hearing status report and

[1] 24-U-28 Complaint at 2; 24-U-29 Complaint at 2.
[2] AFGE filed a consent motion to consolidate the two Complaints on August 19, 2024.
[3] Pre-Hearing Status Report and Request for Resolution on a Stipulated Record Without a Hearing at 1-2.

the Joint Stipulations on February 21, 2025, and submitted post-hearing briefs (AFGE Post-Hearing Brief and Agencies' Post-Hearing Brief) on April 10, 2025.

Upon consideration of the Hearing Examiner's Report and Recommendations (Report), applicable law, and the joint record presented by the parties, the Board adopts the Hearing Examiner's Report and dismisses the Complaints.

II. Hearing Examiner's Report and Recommendations

A. Hearing Examiner's Factual Findings

The Hearing Examiner reviewed the parties' Joint Stipulations, which included, in pertinent part, that: (1) DGS reassigned one AFGE bargaining unit member from Rosedale Recreation Center to Stead Recreation Center (Stead); (2) DPR reassigned two AFGE bargaining unit members from Palisades Recreation Center and Fort Stanton Recreation Center to Stead Recreation Center; (3) each of these transferred employees' prior worksite had free parking available to the public on a first come, first serve basis; (4) Stead does not have free parking available, but rather has: (a) time-limited, paid street parking; (b) a nearby commercial parking garage for which employees must use their own money to park; and (c) a DGS-owned and operated lot approximately seven (7) blocks away from Stead; (5) AFGE did not agree to these transferred employees losing the benefit of free, available parking adjacent to their work locations; (6) AFGE and the Agencies are parties to a collective bargaining agreement (CBA) covering compensation for thousands of District employees across multiple agencies and represented by multiple unions; (6) since the filing of these Complaints, two out of three of the involved employees have been reassigned again and no longer report to Stead; and (7) DPR has approximately eighty (80) sites it needs to staff.[4] The parties also stipulated to each of the involved employees' position descriptions, provided as joint exhibits.[5]

The Hearing Examiner made several factual findings based on the evidentiary record, which included the following: (1) AFGE represents two separate bargaining units of DGS and DPR employees; and (2) although the parties' CBA provides for a monthly "Metro Pass" worth $50, the CBA does not provide for any parking benefits.[6]

[4] Report at 3-4.
[5] Report at 4.
[6] Report at 4-5.

B. Hearing Examiner's Recommendations

The Hearing Examiner considered both parties' statements on the issues of the case.[7] The Hearing Examiner framed the issues as a primary and secondary issue:

(1) Whether the Respondent violated D.C. Code §§ 1-617.04(1) and (5) when it failed to provide parking at no cost to the three employees who were reassigned to Stead; and
(2) Whether the Respondent unilaterally changed working conditions for these three employees without giving notice to the Union.[8]

As a preliminary matter, the Hearing Examiner considered and rejected the Agencies' argument that this case was moot with respect to two of the three of the involved employees—who had subsequently been reassigned to work sites for which there is no information on the record regarding parking.[9] The Hearing Examiner noted that "[t]he mere fact that these two employees are no longer employed at Stead does not make these unfair labor practices moot. For an indefinite period, [they] were required to pay for parking. The rights of these two employees remained at issue even though they were eventually reassigned…."[10] The Hearing Examiner also rejected the Agencies' argument that the present inquiry ends at the finding that AFGE failed to prove refusals to bargain in good faith by the Agencies.[11] The Hearing Examiner determined that the evidence did not show that AFGE made any demand to bargain and, therefore, the Agencies could not have refused to bargain.[12]

At the hearing, AFGE asserted that the Agencies committed an unfair labor practice by unilaterally ending a past practice of providing access to free parking, which was a matter concerning compensation.[13] The Hearing Examiner considered the issue of whether the parking available to the employees at their original worksites constituted a past practice, and noted that "there can be a statutory violation for a unilateral change in a past practice which is different from a statutory violation for a refusal to bargain."[14]

The Hearing Examiner reviewed Opinion No. 1739[15]—relied upon by both parties—and found that case was factually distinguishable from the instant matter.[16] In that case, DGS explicitly refused to bargain, upon FOP's demand[17] over the unilateral withdrawal of negotiated free parking passes which DGS itself had provided for three (3) years before relocating to a building with paid

[7] Report at 5.
[8] Report at 7.
[9] Report at 5-6.
[10] Report at 6.
[11] Report at 6-7.
[12] Report at 6.
[13] Report at 4-5.
[14] Report at 7.
[15] *FOP/PSD Labor Comm. v. DGS*, 67 D.C. Reg. 7031, Slip Op. No. 1739, PERB Case No. 18-U-01 (2020).
[16] Report at 7.
[17] Report at 7.

parking.[18] In Opinion No. 1739, the Board found that DGS' previous provision of free parking constituted a binding past practice and an implied term and condition of employment.[19] The Hearing Examiner determined that here, unlike in the previous case, the Agencies had not provided free parking for any of the three employees, but rather, those employees had merely happened to work at District government sites with free public parking nearby.[20] The Hearing Examiner concluded that "happenstance does not mean that these employees are therefore entitled to free parking at any site to which they may be reassigned by these agencies in the future."[21] The Hearing Examiner further determined that, in this case, the Agencies did not have control over whether parking would be available to the employees at their previous worksites, as all that parking was first-come, first-serve.[22] The Hearing Examiner found that the Agencies in the instant case "did not create, authorize, or endorse any type of system for the three employees to park for free at their previous sites,"[23] and noted that the free public parking at those sites was "entirely independent of the two agencies themselves."[24]

The Hearing Examiner reviewed Federal Labor Relations Authority (FLRA) precedent which held that "the standard for a past practice is 'whether a practice was consistently exercised for an extended period of time with the other party's knowledge and express or implied consent.'"[25] The Hearing Examiner found that the record evidence did not show that either of the Agencies here tracked the three (3) employees' parking habits or knew they had made use of the free public parking available at their previous worksites.[26] The Hearing Examiner noted that "[t]he mere existence of nearby free parking … is not evidence that these two agencies either knew about the free parking situation or acquiesced to such a practice."[27] The Hearing Examiner further noted that both the FLRA and PERB require a showing that a past practice has been consistently exercised over a significant period of time and followed by both parties, or else followed by one party and not challenged by the other.[28] The Hearing Examiner concluded that here, AFGE had failed to show that the three (3) employees' parking habits were consented to or even known by the Agencies' management.[29]

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18 *FOP/PSD Labor Comm. v. DGS*, Slip Op. No. 1739 at 2-3.
19 Report at 7-9.
20 Report at 8.
21 Report at 8.
22 Report at 8.
23 Report at 8.
24 Report at 8.
25 Report at 9 (citing *Dept' of Labor and AFGE, Local 2139*, 65 FLRA 677 (2011) (finding that the respondent's rejection of the union's mid-term bargaining request regarding parking spots allocated to the respondent where the parties' CBA did not already address respondent-controlled parking constituted an unfair labor practice)).
26 Report at 9.
27 Report at 9.
28 Report at 9-10 (citing *Dep't of Labor and AFGE, Local 2139*, 65 FLRA 677 (2011); *AFGE, Local 383 v. DYRS and OLRCB*, 60 D.C. Reg. 7160, Slip Op. No. 1301 at 4, PERB Case No. 09-U-04 (2013)).
29 Report at 9 (citing *Immigration and Naturalization Serv. And AFGE, Local 505*, Case No. SA-CA-20810 (1995); *U.S. Dep't of Labor and AFGE, Nat'l Council of Field Labor Locals, Local 1748*, 38 FLRA 899, 908 (Dec. 13, 1990; *AFGE, Local 383 v. DYRS and OLRCB*, Slip Op. No. 1301 at 4).

The Hearing Examiner concluded that AFGE failed to meet its burden to establish that DGS and DPR unilaterally changed past practices regarding free parking.[30] Thus, the Hearing Examiner found no violation of the CMPA.[31]

III. Discussion

Under Board Rule 520.11, "[t]he party asserting a violation of the CMPA shall have the burden of proving the allegations of the complaint by a preponderance of the evidence." The Board will adopt a Hearing Examiner's Report & Recommendations if it is reasonable, supported by the record, and consistent with PERB precedent.[32] The Board has held that "issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner."[33] An argument previously made, considered, and rejected does not constitute a proper exception, if the record contains evidence supporting the hearing examiner's conclusions.[34]

Generally, a unilateral change to employees' existing terms and conditions of employment is a violation of the CMPA.[35] Notwithstanding, the Board has held that a unilateral change of a past practice can constitute an unfair labor practice, subject to the limitations of statutory rights.[36] A condition of employment becomes a past practice when it is readily ascertainable over a reasonable period of time and goes unchallenged by the parties.[37] In the absence of a documented agreement, the customs and practices that the parties have maintained over time are particularly important.[38] Determining whether the parties have established a mutually acceptable past practice

[30] Report at 10.
[31] Report at 10.
[32] *AFGE, Local 2978 v. OCME*, 61 D.C. Reg. 4267, Slip Op. No. 1457 at 6-7, PERB Case No. 09-U-62 (2014).
[33] *Bernard Bryan, et al. v. FOP/DOC Labor Committee, et al.*, 67 D.C. Reg. 8546, Slip Op. No. 1750 at 5, PERB Case No. 19-S-02 (2020).
[34] *See, e.g., FOP/MPD Labor Comm. v. MPD*, 62 D.C. Reg. 11756, Slip Op. No. 1521 at 10, 12, PERB Case Nos. 07-U-40, et al. (2015) (dismissing MPD's exceptions as repetition of arguments, testimony and evidence considered and rejected by the hearing examiner); *DHS v. AFSCME, District Council 20, Local 2401*, Slip Op. No. 1845 at 9, PERB Case No. 23-A-04 (2023) (holding that an argument previously made, considered, and rejected is a "mere disagreement" with the initial decision); *AFSCME, District Council 20, Local 2087 v. UDC*, 67 D.C. Reg. 8903, Slip Op. No. 1751 at 4, PERB Case No. 18-U-03 (2020) (holding that mere disagreements with a hearing examiner's findings or challenges to a hearing examiner's findings with competing evidence do not constitute proper exceptions).
[35] *FOP/PSD Labor Comm. v. DGS*, Slip Op. No. 1739 at 7 (citing *AFGE, Local 2978 v. DOH*, 62 D.C. Reg. 2874, Slip Op. No. 1499, PERB Case No. 14-U-14 (2015)).
[36] *Id* (citing *AFSCME District Council 20 and Local 2091 v. DPW*, 52 D.C. Reg. 5925, Slip Op. No. 1514 at 2, PERB Case No. 14-U-14 (2015)).
[37] *Id* (citing *AFGE, Local 383 v. DYRS and OLRCB*, 60 D.C. Reg. 7160, Slip Op. No. 1301 at 4, PERB Case No. 09-U-04 (2013); *U.S. Dep't of Labor and AFGE, Nat'l Council of Field Labor Locals, Local 1748*, 38 FLRA 899, 908 (Dec. 13, 1990) (holding that a past practice must be consistently exercised over a significant period of time and followed by both parties or followed by one party and not challenged by the other)).
[38] *Id* at 7-8 (citing *United Steelworkers of Am. V. Warrior & Gulf Nav. Co.*, 363 U.S. 574, 581-82 (1960) ("The labor arbitrator's source of law is not confined to the express provisions of the contract, as the industrial common law—the practices of the industry and the shop—is equally a part of the collective bargaining agreement although not expressed in it.")).

is an issue of fact concerning the probative value of the evidence reserved for the hearing examiner.[39]

AFGE first argues in its Exceptions that the Hearing Examiner erred in relying on *AFSCME, District Council 20, Local 2921, AFL-CIO v. DCPS*[40]—which addressed impact and effects bargaining—because that case, unlike the instant matter, did not concern mandatory subjects of bargaining.[41] AFGE asserts that in conflating the types of bargaining at issue in each case the Hearing Examiner imposed an additional requirement on substantive bargaining over a change to a mandatory subject; namely, that a union must demand bargaining over changes to a mandatory subject of bargaining.[42] AFGE further argues that: (1) the Hearing Examiner erroneously distinguished between the instant case and *FOP/PSD Labor Comm. v. DGS*, wherein the employees enjoyed employer provided parking passes;[43] and (2) the Hearing Examiner erred in concluding that the record evidence did not show that the Agencies' management knew about these three employees' use of free parking at their previous worksites.[44] The Agencies challenge AFGE's Exceptions, arguing that: (1) the Hearing Examiner's Report does not impose a burden on AFGE to demand bargaining, and therefore the Report is consistent with PERB precedent;[45] (2) AFGE's Exceptions are mere repetition of arguments the Hearing Examiner properly rejected;[46] and (3) the Hearing Examiner's findings are reasonable and supported by the record.[47]

AFGE's arguments are unavailing. AFGE asserts that "a unilateral change to a past practice concerning a mandatory subject of bargaining is a violation of the duty to bargain in good faith and it is not contingent on the Union demanding bargaining as it would have to do for a matter subject to impact and effects bargaining."[48] The case law cited by AFGE is distinguishable, as the facts of the instant case do not support a finding of an established past practice.[49] PERB Case No. 18-U-01, in which the Board issued Opinion No. 1739, involved an established past practice of employer-provided free parking.[50] There, DGS employee parking was located in a fenced-in area within a larger public lot, the agency initiated bargaining with the union regarding a pilot parking

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[39] *Id* at 8 (citing *FOP/DOC Labor Comm. v. DOC*, 49 D.C. Reg. 8937, Slip Op. No. 679 n. 20, PERB Case Nos. 00-U-36 and 00-U-40 (2002)).
[40] *AFSCME, District Council 20, Local 2921, AFL-CIO v. DCPS*, 60 D.C. Reg. 2602, Slip Op. No. 1363 at 7, PERB Case No. 10-U-49(a) (2013).
[41] Exceptions at 3.
[42] Exceptions at 2-4.
[43] Exceptions at 4-7.
[44] Exceptions at 7.
[45] Opposition to Exceptions at 2-3.
[46] Opposition to Exceptions at 3-4.
[47] Opposition to Exceptions at 5.
[48] Exceptions at 4.
[49] *See AFGE, Local 383, AFL-CIO v. D.C. Dep't of Human Services*, 49 D.C. Reg. 770, Slip Op. No. 418 at 5, PERB Case No. 94-U-09 (2002) (holding that an agency does not commit a violation of its duty to bargain in good faith by not bargaining over the exercise of a management right or any impact and effects of exercising that right when no request to bargain concerning the impact and effects is made). *But see FOP/PSD Labor Comm.*, Slip Op. No. 1739 at 8 (stating that the Board resolves issues involving the scope of bargaining on a case-by-case basis and holding that *employer-provided* parking is part of employees' wages and constitutes a bargainable term and condition of employment under the CMPA).
[50] *Id.* at 7-9.

program that provided 20-25 parking spaces for bargaining unit employees at the new office location by issuing free parking passes to employees, and the agency continued with that practice for roughly three (3) years before cancelling the parking passes and requiring bargaining unit employees to pay for parking.[51] Further, in Opinion No. 1739, the agency initiated bargaining months before the original relocation and clearly established free worksite parking as a binding past practice.[52] In the instant case, the transfer of one (1) or two (2) Agency employees from one work site to another did not trigger an employer duty to bargain over a mandatory subject for which a change in policy effected a bargaining unit-wide change.[53] Rather, these individual work site changes constituted the exercise of managements' statutory right to "hire, promote, transfer, assign, and retain employees in positions within the agency…."[54] As such, AFGE had the right to request bargaining over the impact the transfers had on the transferred employees' terms and conditions of employment.[55] However, AFGE did not exercise this right.[56] The Hearing Examiner found no evidence that AFGE requested to bargain over this alleged change in policy after the Agencies transferred any of these three (3) employees.[57] The Hearing Examiner's finding that AFGE did not request impact and effects bargaining is reasonable and supported by the record.[58]

Regarding AFGE's assertion that the Hearing Examiner erred in not considering the Joint Stipulations as record evidence that "management knew that the employees in this case had free

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[51] *Id.* at 2-3.
[52] *Id.* at 8.
[53] *But see In re United Parcel Service*, 336 NLRB No. 119 (2001) (holding that while the respondent had no role in the decision to relocate a parking lot leased from the owner and operator of the lot for the purpose of providing parking to its tenants and their employees, the respondent still had an obligation to bargain because it had the ability to address the effects of the decision); *c.f. FOP/MPD Labor Comm. and MPD*, 38 D.C. Reg. 847, Slip Op. No. 261 at 3-4, PERB Case No. 90-N-05 (1991) (holding that an FOP proposal regarding the provision of permits to park at Metro Parking Facilities and ride Metro trains to court for job-related court attendance was a mandatory subject of bargaining). The Board has held that it will sometimes look to NLRB or FLRA precedent for guidance when relevant, primarily when the Board's own case law is silent on a particular issue. *Samantha Brown v. DCPS*, Slip Op. No. 1889 at 5, PERB Case No. 22-U-16(MFR) (2024) (citing *FOP/MPD Labor Comm. v. MPD*, 63 D.C. Reg. 6457, Slip Op. No. 1526 at 8, PERB Case Nos. 06-U-23, et al. (2015)). Here, given the limited nature of Board precedent on the issue of employee parking as a past practice, the Board finds it appropriate to examine NLRB case law.
[54] D.C. Official Code § 1-617.08(a)(2). *See also Mail Contractors of America v. N.L.R.B.*, 514 F.3d 27, 34-35 (D.C. Cir. 2008) (rejecting assertion that management-implemented change had a direct effect on wages where that effect was incidental).
[55] *See AFSCME, District Council 20 and Local 2091 v. DPW*, 62 D.C. Reg. 5925, Slip Op. No. 1514 at 4-6, PERB Case No. 14-U-03(a) (2015) (holding that the impact and effects of management's implementation of a policy change are bargainable upon request and rejecting a finding of a failure to bargain in good faith by the agency where the implemented change did not effect any change in employees' terms and conditions of employment).
[56] *See AFGE, Local 383, AFL-CIO v. D.C. Dep't of Human Service*, Slip Op. No. 418 at 2; *see also FOP/MPD Labor Comm. v. MPD*, 47 D.C. Reg. 1449, Slip Op. No. 607 at 3, PERB Case No. 99-U-44 (2000) (holding that a violation of the duty to bargain arises not from an agency merely unilaterally implementing a management rights decision, but rather from the agency's failure to provide an opportunity to bargain over the impact and effects once a request to bargain is made).
[57] Report at 7.
[58] Although the Hearing Examiner analyzed the circumstances of the instant case under both impact and effects and past practice frameworks, Report at 6-10, the facts here do not implicate past practice case law; the Board therefore does not find it necessary to comment on or adopt the Hearing Examiner's findings or recommendations with respect to the past practice analysis.

parking available at their previous locations,"[59] AFGE overstates the nature of these stipulations. The Agencies' stipulation that three (3) employees had access to free parking at their previous worksites does not imply that the Agencies consented to or had knowledge of that access while it existed.

IV. Conclusion

The Board finds that the Hearing Examiner's determination that neither DGS nor DPR violated D.C. Official Code §§ 1-617.04(a)(1) or (5) is reasonable, supported by the record, and consistent with PERB precedent. Therefore, the Board adopts the Hearing Examiner's Report and Recommendations,[60] denies AFGE's requests for relief, and dismisses the Complaints against DGS and DPR.

ORDER

IT IS HEREBY ORDERED THAT:

1. These matters are dismissed in their entirety; and

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By vote of Board Interim Chairperson Peter Winkler and Members Renee Bowser and Mary Anne Gibbons.

June 24, 2025
Washington, D.C.

[59] Exceptions at 7.
[60] Except as otherwise noted, *supra*, regarding the Hearing Examiner's application of a past practice framework to the facts of the instant case.

APPEAL RIGHTS

Pursuant to Board Rule 559.2, a party may file a motion for reconsideration, requesting the Board reconsider its decision. Additionally, a final decision by the Board may be appealed to the District of Columbia Superior Court pursuant to D.C. Official Code §§ 1-605.2(12) and 1-617.13(c), which provides 30 days after a decision is issued to file an appeal.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

DC Police Union Lodge #2	
Petitioner	PERB Case No. 25-AC-01
and	Opinion No. 1918
Metropolitan Police Department of the District of Columbia	CORRECTED
Respondent	

DECISION AND ORDER

I. Statement of the Case

On April 4, 2025, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP)[1] filed a petition to amend certification (Petition). FOP seeks to amend Certification No. 10 to identify FOP as "DC Police Union Lodge #2."[2] The Metropolitan Police Department of the District of Columbia (MPD) consents to the Petition.

Certification No. 10 was issued on February 8, 1982, and granted exclusive representation to FOP for the following unit:

> All police privates, including investigators and desk sergeants, detectives, detective sergeants and police sergeants employed in the uniformed and plainclothes forces of the Metropolitan Police Department, unless assigned to the internal Affairs Division, excluding management executives, confidential employees, supervisors, employees engaged in personnel work in other than a purely clerical capacity and

[1] This matter was initially captioned "Fraternal Order of Police/Metropolitan Labor Committee v. Metropolitan Police Department of the District of Columbia." However, the case caption has been updated on this decision and order to reflect the amendment granted herein.

[2] Petition at 1. The Petition does not explicitly refer to Certification No. 10, but that is the certification which it seeks to modify.

employees engaged in administering the provisions of Title XVII of D.C. Law 2-138.[3]

The Petition asserts that the National FOP has recently granted a state charter to the District of Columbia FOP and thus, FOP Lodge #1 is transitioning from a local lodge to the Union's D.C. state lodge.[4] The Petition states that FOP's D.C. state lodge is therefore in the process of renaming formerly identified "local committees" as local lodges.[5] FOP asserts that this "change is limited to the organizational relationship with its national FOP affiliate and will not alter, affect, or impact the Petitioner's existing nature, the bargaining unit it represents, its membership, its leadership or any of its substantive governing bylaws."[6]

Board Rule 516.1 states that "an exclusive representative may file a petition with the Board to amend its certification when there is a change in the identity of the exclusive representative that does not raise a question concerning representation (e.g. whether the employees have designated a particular organization as their bargaining agent)." That rule further provides that "[a] change in the identity of the representative that does not raise a question concerning representation may include a change in the name of the labor organization." FOP asserts that the Petition does not raise a question concerning representation.[7]

The uncontroverted facts presented by FOP support the Petition. Thus, in accordance with Board Rule 516.1, the Petition is hereby granted.

ORDER

IT IS HEREBY ORDERED THAT:

1. Certification No. 10 is amended to identify the Petitioner as "DC Police Union Lodge #2";
2. Nothing in this order is to be construed as altering the scope of the bargaining unit; and
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By vote of Board Interim Chairperson Peter Winkler and Members Renee Bowser and Mary Anne Gibbons.

June 24, 2025

Washington, D.C.

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[3] Certification No. 10 was later amended to add the phrase "District of Columbia Police Union or D.C. Police Union" to FOP's name. *FOP/DOC Labor Comm. and MPD*, 59 D.C. Reg. 6967, Slip Op. No. 1225, PERB Case No. 11-AC-01 (2012).
[4] Petition at 2.
[5] Petition at 2.
[6] Petition at 3.
[7] Petition at 1.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

American Federation of State, County and Municipal Employees, Local 1808	PERB Case No. 25-UM-01
Petitioner	Opinion No. 1919
and	**CORRECTED COPY**
District of Columbia Public Library	
Respondent	

DECISION AND ORDER

I. Statement of the Case

On February 20, 2025, the American Federation of State, County and Municipal Employees, Local 1808 (Petitioner) filed a petition for unit modification (Petition). The Petitioner requests that the Board amend its certification to add 12 unrepresented Career Service employees classified as non-supervisory IT Specialists to its bargaining unit. The D.C. Public Library (Agency) posted notice of the petition. No labor organization filed a request to intervene, and no party filed comments regarding the Petition.

II. Background

On November 1, 1976, the Petitioner was certified as the sole and exclusive bargaining representative of the following bargaining unit:[1]

> All library aides, library technicians and clerks employed by the District of Columbia Public Library, excluding management officials, supervisors, or any employee engaged in personnel work in other than a purely clerical capacity.

[1] Petition, Exhibit A.

The Petitioner now seeks to include approximately 12 Career Service employees classified as non-supervisory IT Specialists (CS-2210), an unrepresented classification and employee position that was created after the issuance of the Petitioner's certification in 1976.

The Petitioner proposes the following change to the description of the bargaining unit:

> All library aides, library technicians, IT specialists, and clerks employed by the District of Columbia Public Library, excluding management officials, supervisors, or any employee engaged in personnel work in other than a purely clerical capacity.

III. Discussion

PERB Rule 505.1(b) provides that a unit modification may be sought to add to an existing unit unrepresented classifications or employee positions created since the recognition or certification of the exclusive representative. The Petitioner has requested a modification to add an employee position created since it's certification in 1976. The Agency does not oppose the Petition.

The requested modification does not give rise to a question concerning the representation of the unit that would necessitate an election. The Board finds that the proposed modification to the Petitioner's certification would continue to promote effective labor relations and the efficiency of agency operations. Therefore, the Board grants the Petition and modifies the bargaining unit as described in the Order.

ORDER

IT IS HEREBY ORDERED THAT:

1. The unit for which American Federation of State, County and Municipal Employees, Local 1808, is certified as the exclusive bargaining representative is modified and will be described as set forth below:

   Unit Description:

   All library aides, library technicians, IT specialists, and clerks employed by the District of Columbia Public Library, excluding management officials, supervisors, or any employee engaged in personnel work in other than a purely clerical capacity.

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By vote of Acting Board Chairperson Peter Winkler and Members Renee Bowser and Mary Anne Gibbons.

June 24, 2025

Washington, D.C.

APPEAL RIGHTS

Pursuant to Board Rule 559.2, a party may file a motion for reconsideration, requesting the Board reconsider its decision. Additionally, a final decision by the Board may be appealed to the District of Columbia Superior Court pursuant to D.C. Official Code §§ 1-605.2(12) and 1-617.13(c), which provides 30 days after a decision is issued to file an appeal.

Notice: This decision may be formally revised within thirty days of issuance before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	
Washington Teachers Union	
Complainant	PERB Case No. 24-U-19
v.	Opinion No. 1920
District of Columbia Public Schools	**CORRECTED COPY**
Respondent	

DECISION AND ORDER

I. Statement of the Case

On March 28, 2024, the Washington Teachers Union (WTU) filed an unfair labor practice complaint against the District of Columbia Public Schools (DCPS), alleging that DCPS violated D.C. Code § 1-617.04(a)(5) of the Comprehensive Merit Personnel Act (CMPA) by refusing to negotiate over dozens of topics, including provisions relating to basic work scheduling, working conditions, health and safety, paid leave, and teachers' ability to consult with management on a non-binding basis. On April 17, 2024, DCPS filed its answer admitting to certain allegations in the complaint and denying others. On May 22, 2024, WTU filed an amended complaint (Complaint).[1] On June 5, 2024, DCPS filed its amended Answer. On June 7, 2024, PERB accepted the amended pleadings into the record.

A hearing was held on the matter. Both parties submitted post hearing briefs. On April 23, 2025, the Hearing Examiner issued a corrected Report and Recommendations (Report), finding that DCPS committed an unfair labor practice by refusing to bargain in good faith with WTU

[1] The amended Complaint contains additional allegations regarding non-negotiability declarations that DCPS made during a May 21, 2024, bargaining session between the parties.

during the negotiations for the parties' successor term Collective Bargaining Agreement (CBA).[2] DCPS filed Exceptions to the Report. WTU filed an Opposition to the Exceptions.

For the reasons stated herein, the Board adopts the Hearing Examiner's Report and finds that DCPS violated D.C. Code § 1-617.04(a)(5) by refusing to bargain in good faith with WTU.

II. Hearing Examiner's Report and Recommendations

A. Factual Findings

The Hearing Examiner made the following factual findings. WTU has been certified as the exclusive representative for teachers and other employees rendering educational services for DCPS.[3] The prior CBA, which was effective from October 1, 2020, to September 30, 2023, is still binding[4] and covers approximately 5400 teachers.[5] This case arises from the parties' negotiations for a successor term CBA.[6]

From June through September of 2023, WTU submitted proposals concerning topics not covered in the prior CBA.[7] On November 29, 2023, DCPS provided its counterproposals, asserted that certain provisions of the prior CBA were non-negotiable based on management rights, asserted that a new proposal from WTU was non-negotiable, and sought to delete additional provisions of the prior CBA.[8] On December 30, 2024, DCPS asserted that additional portions of the prior term CBA were non-negotiable.[9] The parties exchanged proposals back and forth over various topics in February and March 2024.[10] A bargaining session took place on March 26, 2024.[11]

On April 1, 2024, WTU filed negotiability appeals in PERB Case Nos. 24-N-08 and 24-N-09.[12] On April 3, 2024, WTU filed negotiability appeals in PERB Case Nos. 24-N-04, 24-N-05, 24-N-06, and 24-N-07.[13] These six appeals were consolidated on April 5, 2024, and PERB Case No. 24-N-04 was designated as the lead case.[14] On May 8, 2024, DCPS filed its answer to WTU's consolidated negotiability appeals.[15] DCPS had previously identified twenty-three (23) provisions

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[2] The Hearing Examiner first issued an initial report and recommendations on April 2, 2025. The Report referenced herein corrected typographical errors identified in the initial report.
[3] Report at 3; Union Ex. 20.
[4] Article 41.1 of the prior CBA establishes that it shall "remain in full force and effect during the period of any negotiations" for a successor agreement.
[5] Report at 3; Union Ex. 1; Union Ex. 38.
[6] Report at 3.
[7] Report at 3.
[8] Report at 3.
[9] Report at 4.
[10] Report at 4.
[11] Report at 5.
[12] Report at 5.
[13] Report at 5.
[14] Report at 5. On July 29, 2024, the parties submitted a Joint Stipulation of Partial Dismissal, asserting that DCPS withdrew its non-negotiability declarations on Article 20 in PERB Case No 24-N-05.
[15] Report at 5.

and three Memoranda of Agreement as non-negotiable.[16] In its answer, DCPS withdrew its declaration of non-negotiability regarding two Memoranda of Agreement and portions of three Articles and agreed to negotiate over the topics.[17]

On May 28, 2024, the Union filed a negotiability appeal in PERB Case No. 24-N-11.[18] On July 23, 2024, WTU filed a negotiability appeal in DC PERB Case No. 24-N-13.[19] These two negotiability appeals were consolidated under PERB Case No. 24-N-11 on August 28, 2024.[20] WTU withdrew its declaration of non-negotiability on several issues while the appeals were pending in the second consolidated negotiability appeal.[21] On June 17, 2024, DCPS submitted its answer in PERB Case No. 24-N-11.[22] On August 12, 2024, DCPS filed its answer in Case No. 24-N-13.[23]

On August 20, 2024, the Board issued a decision in the consolidated negotiability cases 24-N-04 *et seq*., upholding some of DCPS' declarations of non-negotiability and finding seven (7) of WTU's proposals to be negotiable.[24] WTU filed a motion for reconsideration of the Board's decision in the consolidated cases, which was denied.[25] On October 17, 2024, the Board issued a decision in consolidated negotiability cases No. 24-N-11 and 24-N-13, upholding some of DCPS' declarations of non-negotiability and finding three (3) of WTU's proposals to be negotiable.[26]

In sum, in its two consolidated negotiability appeals, the Board determined that DCPS was obligated to negotiate with WTU over proposals concerning:[27]

> Working conditions in schools, including procedures for changes to working conditions in schools and limiting interruptions of teacher's work; Providing teachers a copy of their evaluation, a copy of the evaluation process, and professional development regarding the evaluation process; Compensation related to extensions of the work day and work year; Committee recommendations regarding school counselor positions; Workload provisions; Procedures related to excessing and transferring teachers; Access to restrooms.

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[16] Report at 5-6.
[17] Report at 5-6.
[18] Report at 6.
[19] Report at 6.
[20] Report at 6. On June 20, 2024, WTU filed a negotiability appeal in PERB Case No. 24-N-12 concerning compensation proposals. DCPS filed its response to the negotiability appeal, withdrawing its allegations of non-negotiability, and the case was shortly dismissed thereafter.
[21] Report at 6.
[22] Report at 6.
[23] Report at 7.
[24] Report at 7; *WTU v. DCPS*, Slip Op. No. 1884 at 7, PERB Case No. 24-N-04 (2024).
[25] Report at 7; *WTU v. DCPS*, 72 D.C. Reg., Slip Op. No. 1897, PERB Case No. 24-N-04 (2025).
[26] Report at 7.
[27] Report at 8.

The parties agreed to a new successor term CBA.[28]

B. Issues and Recommendations

The Hearing Examiner noted that the issue in this case was whether DCPS committed an unfair labor practice by refusing to bargain in good faith with WTU during the negotiations for the successor term CBA, and if so, what the appropriate remedy was.[29]

WTU argued before the Hearing Examiner that DCPS flatly refused to bargain for months over proposals that the Board had previously held were negotiable, in violation of D.C. Code § 1-617.04(a)(5).[30] WTU further asserted that DCPS violated its duty to bargain by delaying negotiation on negotiable proposals.[31] WTU argued that DCPS' complete refusal to bargain over the proposals was a violation of the CMPA regardless of whether it did so in good faith because a party cannot "bargain in good faith" if they refuse to bargain at all.[32] However, to the extent that motive is relevant to finding a violation of D.C. Code § 1-617.04(a)(5), WTU argued that DCPS did not bargain in good faith because (1) DCPS declared topics non-negotiable where it knew or should have known the topics were negotiable under PERB precedent;[33] and (2) even where PERB precedent was not directly on point, many of DCPS's nonnegotiably declarations were facially unreasonable based on a fair reading of the CMPA.[34]

DCPS argued that its reasoning in declaring a proposal to be non-negotiable does not always have to be upheld by the Board for the declaration to be considered made in "good faith."[35] DCPS argued that such a rule would create a per se unfair labor practice claim every single time a negotiability appeal is filed, which would have the effect of chilling an agency's rights under the CMPA.[36] DCPS also argued that the negotiability appeal process under Board Rule 532 is the proper method of relief for this matter, rather than an unfair labor practice complaint.[37] DCPS asserted that its declarations of non-negotiability were reasonable and made in good faith.[38]

The Hearing Examiner rejected DCPS' assertion that an unfair labor practice complaint is not the proper procedure for this case.[39] The Hearing Examiner noted that the determination of whether a party bargained in good faith differs from whether any subject matter or proposal is

[28] Report at 8.
[29] Report at 12.
[30] WTU's Post Hearing Brief at 9-10.
[31] WTU's Post Hearing Brief at 10.
[32] WTU's Post Hearing Brief at 11.
[33] WTU's Post Hearing Brief at 13.
[34] WTU's Post Hearing Brief at 17.
[35] DCPS Post Hearing Brief at 5.
[36] DCPS Post Hearing Brief at 5.
[37] DCPS Post Hearing Brief at 8-10.
[38] DCPS Post Hearing Brief at 10.
[39] Report at 12.

negotiable.[40] While the latter is the subject of a negotiability appeal, the Hearing Examiner found that the issue of whether a party negotiated in good faith can properly be raised through the unfair labor practice procedures.[41] Therefore, the Hearing Examiner found that WTU was not obligated to choose between the negotiability appeals procedure and the unfair labor practice procedure under the CMPA, and the refusal to bargain allegations were properly raised under the unfair labor practice provisions of the CMPA.[42]

The Hearing Examiner found no evidence that DCPS engaged in "surface bargaining," or that the parties' informal negotiations sessions, in and of themselves, were indicia of a failure to bargain in good faith by DCPS.[43] The Hearing Examiner also rejected WTU's argument that it did not need to show a lack of good faith.[44] The Hearing Examiner found that record evidence did not show that DCPS totally failed to negotiate with the Union for the successor term CBA.[45]

The Hearing Examiner noted that D.C. Code § 1-617.04(a)(5) prohibits an agency from "[r]efusing to bargain collectively in good faith with the exclusive representative" of its employees.[46] The Hearing Examiner noted that the Board has adopted the National Labor Relations Board (NLRB)'s standard of examining the totality of a party's conduct during bargaining both at and away from the table in interpreting the "good faith" standard in the course of collective bargaining.[47] Under this standard, the Hearing Examiner noted that whether good faith bargaining occurred during negotiations is based on the context of what occurred between the parties during the course of negotiations and depends on the totality of the evidence.[48]

The Hearing Examiner found that there was no Board precedent on whether an agency's refusal to bargain in good faith over proposals made by a union, which are substantially like proposals previously found negotiable by the Board, constitutes an unfair labor practice under the CMPA.[49] The Hearing Examiner noted that, where the Board has no set precedent on an issue, it looks to precedent set by other labor relations authorities, such as the NLRB and the Federal Labor Relations Authority (FLRA).[50] Based on FLRA precedent, the Hearing Examiner determined that once a proposal has been determined by the Board to be negotiable under the CMPA, it is a

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[40] Report at 12.
[41] Report at 12.
[42] Report at 14.
[43] Report at 15.
[44] Report at 16.
[45] Report at 16.
[46] Report at 13.
[47] Report at 13 (citing *AFGE v. DDS*, 59 D.C. Reg. 10771, Slip Op. No. 1284, PERB Case No. 09-U-56 (2012)).
[48] Report at 13.
[49] Report at 18.
[50] Report at 18.

violation of the duty to bargain in good faith for an agency to refuse to negotiate in good faith on that proposal or a proposal without material difference.[51]

The Hearing Examiner held that, under the totality of the circumstances, DCPS failed to bargain in good faith with WTU during the negotiations for the successor term CBA.[52] The Hearing Examiner found that in at least four instances, DCPS declared provisions to be non-negotiable where PERB precedent had previously held the same or substantially similar proposals to be negotiable.[53] The Hearing Examiner determined that DCPS continued its position of non-negotiability and refused to bargain over subjects previously found negotiable by the Board until the Board found against DCPS in the consolidated negotiability appeals.[54] The Hearing Examiner found that DCPS' conduct led to negotiability appeals over topics that the Board has long settled must be negotiated.[55]

The Hearing Examiner also noted that DCPS' non-negotiability declaration over "premium pay" compensation directly contradicted language in D.C. Official Code § 1-617.17(b) of the CMPA, and found it to be another instance where DCPS declared a topic to be non-negotiable that clearly fell within its obligation to bargain during negotiations for the successor term CBA.[56]

The Hearing Examiner found certain other conduct by DCPS during the negotiations for the successor term CBA to be indicia of a failure to negotiate in good faith.[57] The Hearing Examiner found the sheer number of non-negotiability declarations that DCPS withdrew after WTU filed its negotiability appeals to be a sign that DCPS did not thoroughly review a fair number of WTU's proposals to determine DCPS' obligation to bargain.[58] The Hearing Examiner determined this to be an indicator of DCPS' failure to bargain in good faith.[59] The Hearing Examiner also found that DCPS initially declared several provisions as non-negotiable topics, only to later change its position in response to the Union's negotiability appeals.[60] The Hearing Examiner found this supportive of a failure to negotiate in good faith.[61]

Finally, the Hearing Examiner found evidence that (1) in many instances, whether during the negotiations sessions or in the exchange of proposals, DCPS simply declared provisions to be

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[51] Report at 18-19 (citing *U.S. Dep't of the Army Fort Stewart Schs. Fort Stewart, Ga. v. Fort Stewart Ass'n of Educators Nat'l Educ. Ass'n*, 37 FLRA 409, 419 (Sept. 21, 1990); *Air Force Academy and AFGE, Local 1867*, 6 FLRA 548, 557-558 (1981); *Department of Army, Fort Stewart and Fort Stewart Association of Educators, NEA*, 37 FLRA 409, 420 (1990)).
[52] Report at 18.
[53] Report at 19.
[54] Report at 19.
[55] Report at 21.
[56] Report at 21.
[57] Report at 21.
[58] Report at 21.
[59] Report at 21.
[60] Report at 22.
[61] Report at 22.

non-negotiable based on management rights without a more thorough explanation to WTU; (2) DCPS declared a very substantial number of provisions in the prior term CBA to be non-negotiable; (3) DCPS' lead negotiator did not perform thorough legal research on a fair number of WTU's proposals; and (4) DCPS failed to adequately explore and discuss WTU's position to determine the intent and meaning of WTU's proposals.[62]

The Hearing Examiner agreed with DCPS that the Board's decision in the negotiability appeals does not create a per se unfair labor practice claim.[63] The Hearing Examiner noted that he did not find DCPS' conduct constituted a refusal to bargain in good faith simply because rulings were found against DCPS in the consolidated negotiability appeals.[64] The Hearing Examiner also found no evidence that DCPS was attempting to delay reaching the final terms of the successor term CBA.[65]

On the issue of remedy, the Hearing Examiner recommended that the Board order DCPS to issue and post a notice of unfair labor practice, cease and desist from refusing to bargain, and bargain forthwith in good faith with WTU.[66] The Hearing Examiner further recommended the Board direct the parties to file supplemental briefs to address whether reasonable costs are in the interest of justice in this case, unless the parties separately reached a settlement on the payment of costs in this matter.[67]

III. Discussion

The Board will affirm a hearing examiner's findings and recommendations if they are reasonable, supported by the record, and consistent with Board precedent.[68] The Board has long held that issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the hearing examiner.[69] Mere disagreements with a Hearing Examiner's findings or challenging the Examiner's findings with competing evidence do not constitute proper exceptions if the record contains evidence supporting the Hearing Examiner's conclusions.[70]

DCPS takes exception to the Hearing Examiner's findings that (1) DCPS' withdrawal of declarations of non-negotiability after WTU filed negotiability appeals is an indicator of a failure

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[62] Report at 22.
[63] Report at 23.
[64] Report at 23.
[65] Report at 23-24.
[66] Report at 24-26.
[67] Report at 26.
[68] *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. No. 1668 at 6, PERB Case No. 15-U-28 (2018); *see also AFGE, Local 1403 v. D.C. OAG*, 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case No. 05-U-32 and 05-UC-01 (2012).
[69] *AFGE, Local 631 v. OLRCB*, 68 D.C. Reg. 2979, Slip Op. No. 1767 at 4, PERB Case No. 20-U-23 (2021); *AFSCME, Local 2087 v. UDC*, 67 D.C. Reg. 8903, Slip Op. No. 1751 at 4, PERB Case No. 18-U-03 (2020); *Council of Sch. Officers, Local 4 v. DCPS*, 59 D.C. Reg. 6138, Slip Op. No. 1016 at 6, PERB Case No. 09-U-08 (2010); *Hatton v. FOP/DOC Labor Comm.*, 47 D.C. Reg. 769, Slip Op. No. 451 at 4, PERB Case No. 95-U-02 (1995).
[70] *Hoggard v. DCPS*, 46 D.C. Reg. 4837, Slip Op. No. 496 at 3, PERB Case No. 95-U-20 (1999).

to bargain in good faith; (2) DCPS' lack of explanation to WTU regarding non-negotiability was an indicator of a failure to bargain in good faith; (3) DCPS' refusal to explore and discuss WTU's position to determine intent and meaning was an indicator of a failure to bargain in good faith; (4) DCPS declaring provisions that appeared the prior CBA to be non-negotiable for the successor CBA was an indicator of a failure to bargain in good faith; (5) the existence of PERB precedent dealing with proposals similar to those that DCPS declared non-negotiable is grounds for a finding that DCPS failed to bargain in good faith; and (6) the totality of the circumstances indicated that DCPS failed to bargain in good faith with WTU during the negotiations for the successor CBA.[71]

As the Hearing Examiner noted, the Board's precedent in interpreting good faith under D.C. Code § 1-617.04(a)(5) requires examination of the totality of a party's conduct, both at and away from the table, to determine if negotiations have been used to frustrate or avoid mutual agreement.[72] The Board has held that a single factor, standing alone, will not generally demonstrate bad faith.[73]

The Hearing Examiner's determinations—that DCPS withdrew its declarations of non-negotiability after WTU filed negotiability appeals, failed to provide explanations to WTU regarding non-negotiability, refused to explore and discuss WTU's position to determine intent and meaning, declared provisions that appeared the prior CBA to be non-negotiable for the successor CBA, and disregarded the existence of PERB precedent dealing with proposals similar to those that DCPS declared non-negotiable—collectively indicated bad faith bargaining. The Hearing Examiner's consideration of these factors and overall determination was reasonable, supported by the record, and consistent with Board precedent.[74]

DCPS argues in its Exceptions that the Hearing Examiner erred by failing to consider other significant facts of the case, including the total outcomes of the negotiability appeals before the Board and the indisputable fact that DCPS negotiated on proposals even after the Board determined it had no legal obligation to do so.[75] DCPS argues that the Hearing Examiner's conclusions are seemingly based not on the totality, but instead on a sliver of the circumstances.[76] DCPS's arguments are mere disagreements with the Hearing Examiner's conclusions.[77]

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[71] DCPS Exceptions at 1.
[72] *DCPS v. WTU*, 68 D.C. Reg. 6745, Slip Op. No. 1792 at 4, PERB Case No. 20-U-29 (2021); *AFGE v. DDS*, Slip Op. No. 1284 at 3.
[73] *DCPS v. WTU*, Slip Op. No. 1792 at 4; AFGE v. DDS, Slip Op. No. 1284 at 3.
[74] *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. No. 1668 at 6, PERB Case No. 15-U-28 (2018); *see also AFGE, Local 1403 v. D.C. OAG*, 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case No. 05-U-32 and 05-UC-01 (2012).
[75] DCPS Exceptions at 13.
[76] DCPS Exceptions at 13.
[77] *Hoggard v. DCPS*, 46 D.C. Reg. 4837, Slip Op. No. 496 at 3, PERB Case No. 95-U-20 (1999).

For these reasons, the Board adopts the Hearing Examiner's determinations in this case and finds that DCPS committed an unfair labor practice in violation of D.C. Code § 1-617.04(a)(5) by failing to bargain in good faith with WTU over a successor CBA.

ORDER

IT IS HEREBY ORDERED THAT:

1. The District of Columbia Public Schools shall bargain in good faith with the Washington Teachers' Union when negotiating for a successor term collective bargaining agreement;

2. The District of Columbia Public Schools shall cease and desist from refusing to bargain in good faith with the Washington Teachers' Union concerning negotiations for a successor term collective bargaining agreement;

3. The District of Columbia Public Schools shall cease and desist from interfering with, restraining, or coercing, in any like or related manner, employees represented by Washington Teachers' Union, in the exercise of rights guaranteed by the Comprehensive Merit Personnel Act;

4. Within ten (10) days from service of this Decision and Order, the District of Columbia Public Schools shall post the attached notice conspicuously where notices to bargaining unit employees in this bargaining unit are customarily posted and electronically distribute to each bargaining unit member the notice through email or similar means in which notices are customarily distributed. Once posted, the Notice must remain posted until thirty (30) days after all bargaining unit members return to work;

5. The District of Columbia Public Schools shall notify the Board of the posting within fourteen (14) days after issuance of the Decision and Order requiring posting;

6. Absent settlement of the costs issue, within 14 days of service of this Decision and Order, the parties shall file with the Board a brief addressing whether the payment of costs by the District of Columbia Public Schools to the Washington Teachers Union is in the interest of justice; and

7. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By vote of Acting Board Chairperson Peter Winkler and Members Renee Bowser and Mary Anne Gibbons.

June 24, 2025

Washington, D.C.

APPEAL RIGHTS

Pursuant to Board Rule 559.2, a party may file a motion for reconsideration, requesting the Board reconsider its decision. Additionally, a final decision by the Board may be appealed to the District of Columbia Superior Court pursuant to D.C. Official Code §§ 1-605.2(12) and 1-617.13(c), which provides 30 days after a decision is issued to file an appeal.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No. 3,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Official Code and in accordance with Section 2-505 of the District of Columbia Official Code,[1] of its final action approving the Rights-of-Way (ROW) Surcharge Update of Washington Gas Light Company (WGL or Company).

2. On May 22, 2025, pursuant to D.C. Code Section 10-1141.06,[2] WGL filed with the Commission an updated ROW Surcharge.[3] The ROW Surcharge contains two components, the ROW Current Factor, and the ROW Reconciliation Factor. WGL adjusts the ROW Reconciliation Factor in this filing. In the ROW Surcharge Update, WGL sets forth the process to be used to recover from its customers the ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3
Section 22
3rd Revised Page No. 56

3. WGL's ROW Surcharge Update indicates the ROW Current Factor is \$0.0342 with the ROW Reconciliation Factor over collection of (\$0.0010) for the period of June 2025 through May 2026, which yields a Net Factor of \$0.0332.[4] WGL also lists the ROW Tax Reconciliation Amount and the ROW Tax Amount Collected for each month from April 2024 to March 2025.[5] In addition, WGL proposes its ROW Surcharge Update to become effective commencing with the June 2025 billing period.[6]

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

2 D.C. Official Code § 10-1141.06, states that "[e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

3 *Gas Tariff 00-2, In the Matter of Washington Gas Light Company's Rights-of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3 (GT00-2)*, Washington Gas Light Company Rights-of-Way Reconciliation Factor Surcharge Update, filed May 22, 2025 (Surcharge Update).

4 Surcharge Update at 1.

5 Surcharge Update at 2.

6 Surcharge Update at 1.

4. On June 13, 2025, the Commission published a Notice of Proposed Tariff (NOPT) in the *D.C. Register*, inviting public comments for a thirty (30) day period on WGL's ROW Surcharge Update.[7] No comments were filed in response to the NOPT. In the NOPT, the Commission stated that WGL has a statutory right to implement its filed surcharges, but if the Commission were to discover any inaccuracies in the calculation of the proposed surcharge, WGL would be subject to reconciliation of the surcharges. Based on the Commission's review of the tariff filing, the Commission finds that WGL's calculations for the ROW Current Factor, the ROW Reconciliation Factor, and the ROW Surcharge Update comply with the General Services Tariff, P.S.C.-D.C. No. 3, Section 22, 3rd Revised Page No. 56 and with D.C. Code Section 10-1141.06.

5. WGL's ROW Surcharge Update tariff filing will 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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7 72 *D.C. Reg.* 006714-006715 (June 13, 2025).

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFF

FORMAL CASE NO. 1155, IN THE MATTER OF THE APPLICATION OF THE POTOMAC ELECTRIC POWER COMPANY FOR APPROVAL OF ITS TRANSPORTATION ELECTRIFICATION PROGRAM,

and

ELECTRIC TARIFF 2022-06, IN THE MATTER OF THE POTOMAC ELECTRIC POWER COMPANY'S PLUG-IN-VEHICLE – GREEN RIDER TARIFF RATE, P.S.C.- D.C. No. 1,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,[1] of its intent to act upon the Potomac Electric Power Company's (Pepco) Rider Plug-In Vehicle Green (Rider PIV-Green) tariff rate in not less than thirty (30) days from the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.

2. On June 30, 2025, Pepco filed with the Commission a proposed update to the Company's Rider PIV-Green and the rate associated with the Rider PIV-Green.[2] Pepco proposes to amend the following tariff pages to reflect the update to its Rider PIV-Green rate.

ELECTRICITY TARIFF, P.S.C.-D.C. No. 1
(Former) One Hundred-Sixty-Seventh Revised Page No. R-1
(New) One Hundred-Sixty-Eighth Revised Page No. R-1

(Former) One Hundred-Seventieth Revised Page No. 2
(New) One Hundred-Seventy-First Revised Page No. 2

(Former) One Hundred-Sixty-Third Revised Page No. 2.1
(New) One Hundred-Sixty-Fourth Revised Page No. 2.1

(Former) One Hundred-Sixtieth Revised Page No. 2.2
(New) One Hundred-Sixty-First Revised Page No. 2.2

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

2 *Formal Case No. 1155, In the Matter of the Application of the Potomac Electric Power Company for Approval of its Transportation Electrification Program* ("*Formal Case No. 1155*"), and *Electric Tariff 2022-06*, *In The Matter of Potomac Electric Power Company's Plug-In-Vehicle-Green Rider Tariff Rate*, *P.S.C.-DC. No. 1* ("*ET2022-06*"), Potomac Electric Power Company's Proposed Green Rider Tariff Update, filed June 30, 2025 ("Pepco's Rider Update").

(Former) Eleventh Page No. R-57
(New) Twelfth Page No. R-57

3. Pepco proposes to decrease its Rider PIV-Green rate from $0.03204 per kilowatt-hour to $0.02913 per kilowatt-hour.[3] Pepco is requesting that the proposed update to its Rider PIV-Green rate be approved and become effective on and after August 1, 2025.[4]

4. Any person interested in commenting on the subject matter of this NOPT may submit written comments no later than thirty (30) days after publication of this Notice in the *D.C. 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, or electronically on the Commission's website at https://edocket.dcpsc.org/public/public_comments. Once at the website, open the "eDocket" tab, click on "Search Current Dockets," and input "FC1155" or "ET2022-06" as the case number. Copies of this NOPT may be obtained by visiting the Commission's website at www.dcpsc.org or at a cost by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPT should call (202) 626-5150 or send an email to psc-commissionsecretary@dc.gov. After the comment period has expired, the Commission will take final action on Pepco's updated Rider "PIV-Green" rate.

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

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

3 *Formal Case No. 1155 and ET2022-06*, Pepco's Rider Update, Attachment A at 9.

4 *Formal Case No. 1155 and ET2022-06*, Pepco's Rider Update.

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 October 1, 2025.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on July 25, 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.

Aguilar	Raquel	Citi Bank 1258 Wisconsin Avenue, NW	20007
Bean	Christian L	United States Senate Disbursing Office 127 Hart Senate Office Building, NE	20510
Bergstrom	Nora Kathleen	Brown & Peisch PLLC 1225 19th Street, NW, 700	20036
Bernier	Leannette	Self (Dual) 390 Galloway Street, NE, 502W	20011
Broussard	Shari R.	Shari R. Broussard 5189 Linnean Terrace, NW	20008
Butler	Barbara A.	Fox Rothschild, LLP 2020 K Street, NW, Suite 500	20006
Collins	Belinda Tiwan	Howard University Hospital 2041 Georgia Avenue, NW, Suite 2000	20060
Cooper	Imani	Self 1527 42nd Street, SE	20020
Correa	Krystle L	advantage financial federal credit union 1319 F Street, NW	20004
Curran	Christina	Association of Flight Attendants-CWA, AFL-CIO 501 Third Street, NW	20001
Deese	Ileanexis	United States Senate Disbursing Office 127 Hart Senate Office Building, NE	20510
Dickerson	Patricia	Piliero Mazza 1001 G Street, NW, 1100	20001
Edelbi	Salem	Super Value Services 2001 L Street, NW, Suite 500	20036
Edlavitch	David Alexander	Household Title & Escrow, LLC 80 M Street, SE, 100	20003

Fodera	Ross Joseph	Self (Dual) 631 D Street, NW, 1126	20004
Ford	Marlo	Self 1441 Third Street, SW	20024
Francis	Abigail	U.S. Chamber Litigation Center 1615 H Street, NW	20062
Goodell	Jeffrey	Self (Dual) 3607 Chesapeake Street, NW	20008
Grasso	Isabella Amal	Sterne Kessler Goldstein & Fox PLLC 1101 K Street, NW, 10th floor	20005
Hilliard	Laurette A.	United Planning Organization 301 Rhode Island Avenue, NW	20001
Hollander	Benjamin	The Bonner Group 800 Maine Avenue, SW, 450	20024
Holmes	Samuel Lee	Barnes & Thornburg LLP 555 12th Street, NW, 1200	20004
Hutabarat	Neninta	The World Bank 1818 H Street, NW	20433
Jarrell	Timaka	Keller Postman LLC 1101 Connecticut Avenue, NW	20036
Kassa	Afiriam	Self 3956 Martin Luther King Jr Avenue, SW, 4	20032
Kuchmy	Lorraine M.	Livingston Group 425 Third Street, SW, Suite 1250	20024
Kupa	Gorette	Gorette Kupa 712 H Street, NE, 1346	20002
Lattimore	Lateshia Rashawn	Sidley Austin, LLP 1501 K Street, NW, 6th floor	20005

Love	India	Advantage Financial Fcu 810 Vermont Avenue, NW, C27	20420
Martin	Cherese Amelia	Self 1600 Marion Barry Avenue, SE	20020
Massey	Margaret	Self 3539 Sixth Street, NW	20010
Medick	Toni T	Cunningham Quill Architects PLLC 1054 31st Street, NW, 315	20007
Pathak	Samba R	Theater Alliance of Washington DC 340 Maple Drive, SW	20024
Phillips	Kristin Anne	Interior Federal Credit Union 1849 C Street, NW, B038	20240
Rabbitt	Alexis P	United States Senate Disbursing Office 127 Hart Senate Office Building, NE	20510
Rothstein	Bradley M.	Paragon Title & Escrow Co. 1410 Q Street, NW	20009
Russo	Bonnie L.	Veritext Legal Solutions 1250 I Street, NW	20005
Salmon	Kimberly Elaine	Self (Dual) 5516 14th Street, NW, Apartment 1	20011
Seasay	Mariama	Caplin & Drysdale 1200 New Hampshire Avenue, NW, 800	20036
SEBO	CINDY LOU	MAGNA LEGAL SERVICES 1101 PENNSYLVANIA AVENUE, NW	20004
Simms	Celia	Self 628 Galveston Place, SE	20032
Smith	Tiajuana L	Fox Rothschild 2020 K Street, NW, Suite 500	20006

Speer	Margaret	Bonner Group 800 Maine Avenue, SW, Suite 450	20024
Stevens	Shawnese	DC Department of Licensing & Consumer Protection 1100 4th Street, SW	20024
Tagliaferro	Alyssa	Sterne, Kessler, Goldstein & Fox PLLC 1101 K Street, NW	20005
Theurer	Michelle	Self 600 H Street Street, NE, 629	20002
Thomas	Dawn A.	ArentFox Schiff LLP 1717 K Street, NW	20006

SELA PUBLIC CHARTER SCHOOL

NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACT

Fundraising Services

Sela Public Charter School intends to enter a Sole Source Contract with FundEd Strategies to provide Fundraising Planning and Implementation Support for our school. We have selected this vendor based on the unique services provided. We estimate our total cost to be about $50,000. This is NOT a request for quotes or proposals. Questions or comments to this Notice of Intent should be directed to Ryan Benjamin, Director of Operations, via e-mail only at rbenjamin@selapcs.org.Please indicate in the subject of your email: Notice of Intent Question Submission – FundEd Strategies.

DISTRICT OF COLUMBIA SENTENCING COMMISSION

NOTICE OF CANCELLATION OF PUBLIC MEETING PREVIOUSLY SCHEDULED FOR TUESDAY, July 15th, 2025, AT 5:00 PM

D.C. Sentencing Commission
441 Fourth Street, NW, Suite 430S, Washington, D.C. 20001
(202) 442-8715 www.scdc.dc.gov

The District of Columbia Sentencing Commission canceled the previously scheduled monthly meeting on Tuesday, July 15th, 2025, at 5:00 PM.

Notice of future meetings will be posted on the agency's website, https://scdc.dc.gov/page/commission-meetings. For further information, contact Linden Fry, Executive Director, at (202) 727-8822 or email scdc@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.

DISTRICT OF COLUMBIA SENTENCING COMMISSION

NOTICE OF CANCELLATION OF PUBLIC MEETING
PREVIOUSLY SCHEDULED FOR TUESDAY, August 19th, 2025, AT 5:00 PM

D.C. Sentencing Commission
441 Fourth Street, NW, Suite 430S, Washington, D.C. 20001
(202) 442-8715 www.scdc.dc.gov

The District of Columbia Sentencing Commission canceled the previously scheduled monthly meeting on Tuesday, August 19th, 2025, at 5:00 PM.

Notice of future meetings will be posted on the agency's website, https://scdc.dc.gov/page/commission-meetings. For further information, contact Linden Fry, Executive Director, at (202) 727-8822 or email scdc@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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 20449 of PD 236 Properties, LLC, as amended, pursuant to 11 DCMR Subtitle X § 901 for special exceptions under Subtitle E § 5201 from the rear yard requirements of Subtitle E § 306.1 and from the lot occupancy requirements of Subtitle E § 304.1 to allow a new three-story attached principal dwelling in the RF-1 zone at 1173 3rd Street NE (Square 773, Lot 274)[1, 2]

HEARING DATES: July 28, October 6, and December 1, 2021; March 9, June 15, June 22, and July 27, 2022
DECISION DATE: July 27, 2022

DECISION AND ORDER

This self-certified application was filed on January 12, 2021 by PD 236 Properties, LLC (the "Applicant"), the owner of the property that is subject to this application. Following a public hearing, the Board voted to deny 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 February 8, 2021, to the Applicant, the Office of Planning ("OP"), the District Department of Transportation ("DDOT"), Advisory Neighborhood Commission ("ANC") 6C, the ANC in which the subject property is located, and Single Member District 6C06, the Office of Advisory Neighborhood Commissions, the Councilmember for Ward 6 as well as the Chairman of the Council and three at-large members of the D.C. Council, and the owners of all properties within 200 feet of the subject property. Notice was published in the *District of Columbia Register* on February 5, 2021 (68 DCR 001606). After the Applicant amended the application, the Office of

[1] This caption has been modified to reflect that the Applicant amended the application. As originally filed, the application included a request for a special exception under Subtitle E § 206.4 to allow modification of a rooftop architectural element as well as special exceptions from requirements for lot occupancy and rear yard (see Exhibit 10). The Applicant initially amended the application to withdraw the request for a special exception under Subtitle E § 206.4 and to add a request for a variance from the lot occupancy requirements of Subtitle E § 306.1 as an alternative to the initial request for a special exception from lot occupancy requirements under Subtitle E § 5201 (see Exhibit 32A). On July 25, 2022, the Applicant again amended the application by withdrawing the variance request after revising the plans to remove a proposed rear deck addition to the new dwelling (see Exhibit 100).

[2] By orders issued August 25, 2023, the Zoning Commission approved text amendments that reorganized and renamed certain zones, including the renumbering of development standards at issue in this proceeding. (See Zoning Commission Orders No. 18-16, 19-27, 19-27B.) This order reflects the zoning provisions in effect at the time of the Board's vote at the conclusion of the public hearing.

Zoning sent notice of the amended application and the rescheduled public hearing to the same entities by memoranda dated April 22, 2021.[3]

Party Status. Pursuant to Subtitle Y § 403.5, the Applicant and ANC 6C were automatically parties in this proceeding. The Board received no requests for party status.

Applicant's Case. The Applicant presented evidence and testimony in support of the application, including from Phi Nguyen and Sara Trigo, the project architect and an expert in architecture. As finally revised, the application requested approval of special exceptions from lot occupancy and rear yard requirements to allow a three-story attached dwelling with a cellar and roof deck at the subject property.

OP Report. By memorandum dated July 15, 2022, the Office of Planning recommended approval of the application as finally amended. (Exhibit 99.) In earlier reports, OP recommended approval of the zoning relief requested by the Applicant (see Exhibits 30, 61).

DDOT Report. By memorandum dated April 15, 2021, the District Department of Transportation indicated no objection to approval of the initial application. (Exhibit 31.)

ANC Report. By letter dated April 21, 2021, ANC 6C stated that, at a public meeting on April 14, 2021 with a quorum present, the ANC voted to oppose the application. (Exhibit 33.) At a later public meeting, on September 9, 2021 with a quorum present, ANC 6C voted to oppose the application as initially revised. (Exhibit 76.) In a letter dated July 26, 2022, in response to additional revisions to the Applicant's proposal, ANC 6C stated its continued opposition to the application. (Exhibit 102.)

Persons in support. The Board received letters and heard testimony in support of the application from persons who resided, owned property, or operated a business near the subject property. The persons in support generally stated that they had no objection to the Applicant's proposal or commented favorably on the Applicant's proposal.

Persons in opposition. The Board received a letter in opposition to the application from the zoning committee of the Capitol Hill Restoration Society. The letter noted the lack of a shadow study and stated the committee's agreement with the ANC's position opposing the proposal. (Exhibit 48.)

FINDINGS OF FACT

1. The property that is the subject of this application is an interior lot located on the east side of 3rd Street, N.E., near its intersection with M Street, with the address 1173 3rd Street, NE. (Square 773, Lot 274).

[3] The hearing was originally set for April 28, 2021 and was administratively rescheduled. The hearing began on July 28, 2021 and was continued to October 6, 2021 and then to December 1, 2021. The continued hearing was postponed several times at the Applicant's request (see Exhibits 89, 92, 97).

2. The subject property is rectangular, approximately 14.75 feet wide and 54.86 feet deep. The lot area is approximately 809.1 square feet.

3. The subject property was improved with an attached building configured as a principal dwelling.

4. The existing building is two stories and approximately 18 feet, 3 inches in height. The dwelling extends approximately 29 feet, creating a rear yard of approximately 24 feet, 10.25 inches. The existing lot occupancy is 52.9 percent. (Exhibits 100, 101.)

5. The Applicant proposed to remove the existing structure except for its party walls and to redevelop the subject property with a larger attached building for use as a principal dwelling.

6. As proposed, the building would have three stories and a cellar level, with a building height of approximately 33 feet, 4 inches. (Exhibit 101.)

7. As finally proposed, the new building would extend 38 feet, 4 inches, creating a rear yard of approximately 15 feet, 6.25 inches. The proposed lot occupancy of the new building would be 69.9 percent. (Exhibits 100, 101.)

8. The front façade of the first and second floors of the new dwelling would be set back one foot from the front lot line. The one-foot setback of the new building would recreate the setback of the existing building and align the front façade of the Applicant's building with the existing buildings on abutting lots. (Exhibit 101; Transcript of October 6, 2021 at 195.)

9. The third floor of the new building would be set back approximately five feet from the front façade of the lower floors. (Exhibit 101; Transcript of July 27, 2022 at 152.)

10. The roof of the third floor would be configured as a deck bounded by parapet walls extending along the edges of the building.

11. The lot abutting the subject property to the north (Lot 275 at 1175 3rd Street N.E..) contains a two-story attached principal dwelling. The rear wall of the Applicant's new building would align with the rear wall of the dwelling on Lot 275. (Exhibit 101.)

12. The lot abutting the subject property to the south (Lot 273 at 1171 3rd Street N.E.) contains a three-story attached principal dwelling. The rear wall of the Applicant's new building would extend nine feet, four inches further than the rear wall of the abutting building to the south. (Exhibit 101.)

13. The rear (east) lot line of the subject property abuts a public alley 15 feet wide.

14. The east side of the 1100 block of 3rd Street N.E. contains 34 attached buildings in a row extending approximately 500 feet south from the lot at the southeast corner of 3rd and M Streets. The corner lot at the north (1179 3rd Street) contains a retail use in a one-story building. The corner lot to the south contains a six-story apartment house located at the northeast corner of 3rd and L Streets.[4]

15. The 34 rowhouses were built pursuant to a single permit issued in 1924 to developers Boss & Phelps.[5] The buildings were generally sited two to three feet above the sidewalk level. The majority have flat fronts with a few embellishments as well as a double-sloped pent roof and sloped parapets above the party walls, except for peaked roofs that recur every half-dozen dwellings. Other repeating patterns include small rain-shed canopies over some entrances, exposed rafter tales, and higher rooflines on some dwellings, where the second-story windows are arranged together instead of having separated openings. (Exhibit 33.)

16. Properties across 3rd Street to the west of the subject property and across M Street to the north of the subject property are located in a Production, Distribution, and Repair (PDR) zone, PDR-1.

17. The Uline Arena, a group of several buildings comprising a commercial development, is located across 3rd Street west of the subject property. Two large mixed-use buildings are under construction north of M Street within 200 feet of the subject property. (Exhibits 30, 61, 71.)

18. A Mixed-Use zone, MU-5A, is located to the south of the subject property, encompassing properties at the corner of 3rd and K Streets, N.E. as well as properties to the south. Buildings in the Mixed-Use zone include the six-story apartment house on L Street between Third Street and Abbey Place.

19. The subject property and nearby properties to the east and south are located in a Residential Flat (RF) zone, RF-1. The neighborhood to the east contains mostly rowhouses. (Exhibits 30, 61.)

20. The Residential Flat zones are residential zones that provide for areas developed primarily with row dwellings, but within which there have been limited conversions of dwellings or other buildings into more than two principal dwellings. (Subtitle E § 100.1.)

21. The provisions of the RF zones are intended to (a) recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place,

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[4] In 2021 the Board granted an application for special exceptions under Subtitle E § 5201 from the requirements for lot occupancy (Subtitle E § 304.1) and rear yard (Subtitle E § 306.1) to allow a three-story rear addition to an existing three-story attached dwelling at 1165 3rd Street, N.E. (Square 773, Lot 270). See Application No. 20333 (Matthew Pickner; June 30, 2021).

[5] The corner lot (1179 3rd Street) was previously improved with a row dwelling built under the same permit but was later redeveloped. (Exhibit 33.)

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; (b) allow for limited compatible non-residential uses; (c) allow for the matter-of-right development of existing lots of records; (d) establish minimum lot area and dimensions for the subdivision and creation of new lots of record in RF zones; (e) allow for the limited conversion of rowhouses and other structures for flats; and (f) prohibit the conversion of flats and row houses for apartment buildings as anticipated in the Residential Apartment (RA) zones. (Subtitle E §100.3.) The RF zones are designed to be mapped in areas identified as low-, moderate-, or medium-density residential areas suitable for residential life and supporting uses. (Subtitle E § 100.2.)

22. The purpose of the RF-1 zone is to provide for areas predominantly developed with row houses on small lots within which no more than two dwelling units are permitted. (Subtitle E § 300.2.)

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks special exceptions under Subtitle E § 5201 from the rear yard requirements of Subtitle E § 306.1 and from the lot occupancy requirements of Subtitle E § 304.1 to allow a new three-story attached dwelling in the RF-1 zone at 1173 3rd Street, NE (Square 773, Lot 274). The Board 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 exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject to specific conditions. (See 11 DCMR Subtitle X § 901.2.)

The Applicant proposed to construct a new residential building at the subject property with a lot occupancy of 69.9 percent and a rear yard of 15.5 feet. The development standards applicable in the RF-1 zone generally require a maximum of 60 percent lot occupancy and a rear yard of at least 20 feet (Subtitle E §§ 304.1, 306.1.) Pursuant to Subtitle E § 5201.1, the Board may grant relief from those development standards, up to a maximum lot occupancy of 70 percent, as a special exception to allow a new residential building on a substandard non-alley record lot. (Subtitle E § 5201.1(a), (b).) In accordance with Subtitle E § 5201.4, the new dwelling must not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property; specifically (a) the light and air available to neighboring properties must not be unduly affected, (b) the privacy of use and enjoyment of neighboring properties must not be unduly compromised, and (c) the new principal building, as viewed from the street, alley, and other public way, must not substantially visually intrude on the character, scale, and pattern of houses along the street and alley frontage. 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 6C, the Board concludes that application failed to satisfy the requirements for approval of the requested special exceptions.

The Board was not persuaded that the Applicant's project would not unduly affect the light and air available to neighboring properties or unduly compromise the privacy of use and enjoyment of neighboring properties. The Applicant submitted sun studies that illustrated the shadow impacts that would be created by the new dwelling. The sun studies demonstrated that the shadow impacts of the Applicant's proposal would exceed the shadow impacts of a building permitted as a matter of right at the subject property (see Exhibits 71C1 and 71C2). Without additional detailed information, the Board was not persuaded by the Applicant's assertion that the increases would be "very minimal throughout the year," or by the testimony of the Office of Planning that "the building should not impact the air available to nearby properties…." (See, Transcript of October 6, 2021 at 201; Exhibit 30.) Similarly, based on the evidence in the record, the Board was not persuaded that the Applicant's proposal, especially the planned roof deck, would not unduly compromise the use and enjoyment of neighboring properties.

The Board concludes that the proposed new dwelling, as viewed from the street, would substantially visually intrude on the character, scale, and pattern of houses along the street frontage of the subject property. The application proposed a new three-story attached dwelling that would not exceed the building height or number of stories permitted as a matter of right at the subject property. The planned design of the dwelling maintained some characteristics of the block, including the berm above the sidewalk level and a front façade aligned with the existing buildings on the abutting lots. In other respects, however, the Applicant's proposed design would result in a substantial alteration of the character, scale, and pattern of houses along the street frontage, which retains a significant degree of its original, unified design.

The Applicant's proposal was intended to maximize the livable space possible in a new dwelling on the subject property.[6] Because the subject property is a relatively small, narrow lot, the proposed size of the dwelling created a need for relief from applicable development standards pertaining to lot occupancy and rear yard. The Applicant originally planned to align the front façades of each of the planned three floors, then revised the design to incorporate a five-foot setback on the third floor. Despite the five-foot setback of the planned third floor, the Board concludes that the Applicant's proposal would constitute a visual intrusion on the character, scale, and pattern of houses along 3rd Street. For example, the new construction would not provide either a double-sloped pent roof, which characterizes most nearby dwellings, or a peaked roof, as exists on some houses along the street frontage, but was designed to correspond to newer construction nearby.

The Applicant asserted that the five-foot setback would "preserve[] the two-story residential massing at the front of the Project." (Exhibit 71.) However, the Applicant did not demonstrate that the proposed massing would be consistent with the existing character, scale, and pattern of houses along the street frontage. Instead, the Applicant asserted that the "character and scale of this neighborhood is influenced by varied design, element, context, and patterns," and that "the

[6] The Applicant testified that the planned dwelling was designed to maximize livable space on the subject property, a small, narrow lot, and described the five-foot setback of the third floor, proposed in a revised design, as "very significant" due to the attendant loss of livable space and resulting design challenges. (Transcript of October 6, 2021 at 191.)

broader context of the neighborhood" – at a minimum, both sides of 3rd Street near the subject property – should be considered in a determination of compliance with Subtitle E § 5201.4(c). The Applicant's architect testified that the planned third floor, including the five-foot setback, was designed to "strengthen[] the two-story reading of the block, while also creating a gesture that is consistent with the other third-floor additions" on the block, especially the dwelling on the abutting property to the south. The proposed front windows on the third floor were designed to be similar in size and proportion to the windows on the adjacent property. (Transcript of October 6, 2021 at 197-198.) According to the architect, the "proposed façade makes a direct reference to the new modern residential and commercial development in the immediate vicinity, at the corner, and directly in front." (Transcript of October 6, 2021 at 197-198.)

The Board was not persuaded by the Applicant's assertions that newer developments in the vicinity "compromise the 'character, scale and pattern' of 3rd Street" or that the proposed dwelling met the requirements of Subtitle E § 5201.4(c) when considered relative to the newer buildings, such as the Uline Arena development and new mixed-use buildings along M Street. The requirements of Subtitle E § 5201.4(c) refer to a more limited scope – the houses along the street frontage and alley frontage of an applicant's property – and do not call for an assessment of the "evolving neighborhood pattern" or the opposite side of the street from an applicant's property, especially when those properties are located in a different zone district from an applicant's property. (See Exhibits 57, 71).

Similarly, the Office of Planning noted that the Applicant's new building "would be somewhat different in character from the prevalent character of buildings on this side of 3rd Street." (Exhibit 30.) Despite the difference in character, OP concluded that "the proposed building form and design would not substantially intrude upon the character and pattern of buildings on the street" in part because the proposed design "would not be inconsistent with a rowhouse residential form." The Office of Planning testified that the new building could "appropriate[ly] reflect a more contemporary style" since the subject property was not located in a historic district, "particularly given the greater context of other building modernizations on the block, the renovations to Uline Arena across the street, and the construction of modern mixed use buildings a short distance away on the north side of M Street." (Exhibit 30.) The Board did not agree with OP's assessment regarding visual impact, which was not based on the character, scale, and pattern of houses along the street frontage of the Applicant's property and did not address the cohesive nature of the existing row buildings. The Board agrees with ANC 6C that the relevant inquiry in this case is limited to the east side of the 1100 block of 3rd Street, because that segment contains the "houses along the street and alley frontage" of the subject property that is therefore relevant to this application.

<u>Subtitle X, Chapter 9</u>. The Board concludes that approval of the requested special exception would not satisfy the requirements of Subtitle X § 901.2. For the reasons already discussed, the Board was not persuaded that approval of the application would not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The Board also concludes that approval of the application would not be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Applicant proposed a new attached

principal dwelling at the subject property, which would be consistent with the purposes of the RF zones by providing a residential use in accordance with the intent of the RF-1 zone. However, approval of the application would not recognize and reinforce the importance of neighborhood character or improvements to the overall environment and would not allow for the matter-of-right development of an existing record lot.

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 did not agree with the Office of Planning's recommendation to approve the application.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (D.C. Official Code § 1-309.10(d)(3)(A).) In this case, ANC 6C submitted several letters in opposition to the application. The ANC stated issues and concerns related to potential adverse impacts related to light and air, especially with respect to the abutting property to the north of the Applicant's lot. ANC 6C also argued that the Applicant's planned dwelling would not be consistent with the character, scale, and pattern of houses along the street frontage. For the reasons discussed above, the Board agreed with the ANC that the application should be denied.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has failed to satisfy the burden of proof with respect to the request for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1 and the rear yard requirements of Subtitle E § 306.1 to allow a new three-story attached principal dwelling in the RF-1 zone at 1173 3rd Street, N.E. (Square 773, Lot 274). Accordingly, it is **ORDERED** that the application is **DENIED**.

VOTE: **3-1-1** (Carl H. Blake, Chrishaun S. Smith, and Robert E. Miller to DENY; Lorna L. John opposed; Frederick L. Hill not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: July 15, 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.

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. 21015 of Elisabeth Kidder and Daniel Spurlock, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 207.5 to allow the rear wall of a row building to extend farther than 10 feet beyond the farthest rear wall of an adjoining principal residential building on an adjacent property and under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 210.1 to allow a three-story rear addition to an existing two-story attached principal dwelling in the RF-1/CAP zone at 425 4th Street, N.E. (Square 812, Lot 51).

HEARING DATES: December 20, 2023 and January 31, 2024
DECISION DATE: February 7, 2024

DECISION AND ORDER

This self-certified application was filed on August 28, 2023 by Elisabeth Kidder and Daniel Spurlock (jointly, 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 September 14, 2023, to the Applicant, the Office of Planning ("OP") and the Historic Preservation Office ("HPO"), the District Department of Transportation ("DDOT"), Advisory Neighborhood Commission ("ANC") 6C, the ANC in which the subject property is located, the Single Member District ANC 6C02, the Office of Advisory Neighborhood Commissions, the Department of Buildings, the Councilmember for Ward 6 as well as the Chairman and the four at-large members of the D.C. Council, the Architect of the Capitol ("AOC"), and the owners of all property within 200 feet of the subject property. Notice of the public hearing was published in the *District of Columbia Register* on September 29, 2023 (70 DCR 012991).

Party Status. Pursuant to Subtitle Y § 403.5, the Applicant and ANC 6C were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application from a group of residents living near the subject property, including the owners of two properties abutting the subject property as well as a resident of a nearby apartment house.[1] (Exhibit 19).

[1] The group of residents comprised Tom Schatz, Leslee Behar, Lynne Seymour and Andy Seymour, the owners of the two abutting properties, and Michael Erps on behalf of the Carbery School Lofts, located across Carbery Place to the east of the subject property.

Applicant's Case. The Applicant provided evidence and testimony in support of the application, including from Jennifer Cox Fowler, the project architect. The Applicants proposed a third story and a three-story rear addition to an existing two-story row dwelling that would exceed zoning requirements for lot occupancy and extension of a rear wall.

OP Report. By memorandum dated December 8, 2023, the Office of Planning recommended approval of the application. (Exhibit 28.)

ANC 6C. By letter dated December 19, 2023, ANC 6C indicated that, at its regularly scheduled and noticed public meeting on November 8, 2023, with a quorum present, the ANC voted to support the application. (Exhibit 32).

Architect of the Capitol. By memorandum dated January 30, 2024, the Architect of the Capitol indicated no objection to the application. (Exhibit 43.)

Party in Opposition. The party in opposition objected that the Applicant's addition would adversely affect the light, air, and privacy available to the neighboring properties, and would create a visual intrusion on the character of the neighborhood, contrary to the purpose and intent of the applicable zoning, while also setting a bad precedent.

Persons in Opposition. The Board received letters in opposition to the application from residents living near the subject property, who objected to the size of the Applicant's project and asserted that approval of the application would cause an undue negative impact on the light, air, and privacy available to nearby residences and change the historic character of the neighborhood. The Capitol Hill Restoration Society opposed the Applicant's request for zoning relief on the ground that the proposed addition would substantially intrude on the character, scale, and pattern of houses along Carbery Place and cast "significant shadows" on properties to the north.

FINDINGS OF FACT

1. The property that is the subject of this application is an interior lot on the east side of 4th Street N.E. between D and E Streets with the address 425 4th Street, N.E. (Square 812, Lot 51).

2. The subject property is a rectangular lot measuring approximately 17.5 feet wide and 97.6 feet deep. The lot area is approximately 1,703 square feet.

3. The subject property is improved with an attached building that extends approximately 49 feet from the front (west) lot line. The dwelling is two stories and 30.7 feet in height, with a rear yard of approximately 48.7 feet. The existing lot occupancy is 46.6 percent. (Exhibits 2, 4.)

4. The existing dwelling created a two-story court along the south lot line that is approximately 3.95 feet wide and extends approximately 32.34 feet from the rear of the dwelling.

5. The Applicant proposed to enlarge the dwelling with a new third floor and a three-story rear addition. Most of the new third floor will be set back 18.5 feet from the front of the dwelling. The remaining portion, along the northern side of the dwelling, will be configured to create an open court, approximately 15 feet deep and 3.5 feet wide.

6. The third floor will be set back approximately five feet from the rear façade of the addition, except for a bay window approximately two feet deep.

7. The first floor of the rear addition will extend the full width of the subject property. The rear portion of the second and third floors will be 13.5 feet wide, aligned with the north side lot line and retaining the existing court configuration along the south lot line.

8. The rear addition will extend approximately 17 feet beyond the existing rear wall of the Applicant's dwelling.

9. As a result of the new construction, the building height will increase to 35 feet and the rear yard will be reduced to approximately 31.7 feet. Lot occupancy will increase to 67.5 percent.

10. The rear (east) façade of the addition will have a sliding door to provide access to the rear yard. The second and third floors will have casement windows as well as double-hung windows facing the court.

11. The north façade of the addition will not have windows.

12. The south façade will have windows on the second and third floors. The Applicant will install frosted glass in the south-facing windows of the addition as shown on the architectural plans. (Exhibit 37A.)

13. The cellar level of the rear addition will be fully below grade, without windows or doors at the rear of the building.

14. The side lot lines of the subject property are bounded by a wooden privacy fence and by the row dwellings and accessory structure located on the abutting lots. A roll-up door extends along the rear lot line abutting Carbery Place. (Exhibit 5.)

15. The lots abutting the subject property to the north and south contain attached dwellings. The dwelling to the north (427 4th Street, Lot 52) has two stories at the front, with a one-story rear addition. The dwelling to the south (423 4th Street, Lot 50) has a partial third

floor and a two-story portion that extends toward the rear of the lot. Lot 50 also contains an accessory structure that extends approximately 31.5 feet from the rear lot line.

16. The rear wall of the addition will extend approximately 15 feet, 10.5 inches beyond the rear wall of the dwelling on the abutting lot to the south.

17. The rear wall of the Applicant's addition will extend beyond the rear walls of the adjoining dwelling to the north by five feet on the first floor and 17 feet on the second floor of the adjoining dwelling.

18. The rear (east) lot line of the subject property abuts Carbery Place N.E., which is 15 feet wide.[2]

19. The property to the east of the subject property, across Carbery Place, is improved with a detached building, formerly an elementary school and now used as an apartment house known as the Carbery School Lofts.

20. The subject property is located in the Capitol Hill Historic District, and the Applicant's building is a contributing structure. (Exhibit 38A.)

21. By report to the Historic Preservation Review Board ("HPRB") for the public meeting on January 25, 2024, the Historic Preservation Office recommended that HPRB should find the Applicant's project compatible with the Capitol Hill Historic District.[3]

22. The surrounding neighborhood is predominantly residential with a mix of two- or three-story row dwellings and some small apartment buildings.

23. The subject property is located in a Residential Flat zone, the Capitol Interest Residential Flat (RF-1/CAP) zone.

24. The RF zones are residential zones, which provide for areas developed primarily with row dwellings, but within which there have been limited conversions of dwellings or other buildings into more than two dwelling units. (Subtitle E § 101.1.) The RF zones are designed to be mapped in areas identified as low-, moderate- or medium-density residential areas suitable for residential life and supporting uses. (Subtitle E § 101.3.)

25. The provisions of the RF zones are intended to: (a) 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; (b) allow for

[2] Carbery Place extends generally north-south through the interior of Square 812, providing access to D and E Streets N.E.

[3] The Applicant testified that the Historic Preservation Review Board approved the project in January 2024. (Transcript of January 31, 2024 at 124-125.)

limited compatible non-residential uses; (c) allow for the matter-of-right development of existing lots of record; (d) establish minimum lot area and dimensions for the subdivision and creation of new lots of record in RF zones; (e) allow for the limited conversion of rowhouse and other structures for flats; and (f) prohibit the conversion of flats and row houses for apartment buildings as anticipated in the Residential Apartment (RA) zone. (Subtitle E § 101.2.)

26. The purpose of the RF-1 zone is to provide for areas predominantly developed with row houses on small lots within which no more than two dwelling units are permitted. (Subtitle E § 101.4.)

27. In addition to the purposes of the RF-1 zone, the purposes of the Capitol Interest Residential Flat (RF-1/CAP) zone are to: (a) promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to that jurisdiction, in a manner consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288), and in accordance with the plan submitted to the Congress pursuant to the Act; (b) reflect the importance of and provide sufficient controls for the area adjacent to the U.S. Capitol; (c) provide particular controls for properties adjacent to the U.S. Capitol precinct and the area adjacent to this jurisdiction, having a well-recognized general public interest; and (d) restrict some of the permitted uses to reduce the possibility of harming the U.S. Capitol precinct and the area adjacent to this jurisdiction. (Subtitle E § 400.2)

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks special exceptions under Subtitle E § 207.5 to allow the rear wall of a row building to extend farther than 10 feet beyond the farthest rear wall of an adjoining principal residential building on an adjacent property and under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 210.1 to allow a three-story rear addition to an existing two-story attached principal dwelling in the RF-1/CAP zone at 425 4th Street, N.E. (Square 812, Lot 51). The Board 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, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR Subtitle X § 901.2.) Based on the findings of fact, and having given great weight to the recommendation of the Office of Planning and to the report of ANC 6C, the Board concludes that the Applicant satisfies the requirements for approval of the requested special exceptions.

<u>Lot occupancy</u>. The Board is authorized under Subtitle E § 5201.1 to grant relief as a special exception from specific development standards to allow an addition to a principal residential building. The eligible development standards include lot occupancy up to a maximum of 70 percent for all new and existing structures on a lot. (Subtitle E § 5201.1(a).) The Applicant seeks

a special exception to allow an addition to an existing dwelling that will increase the lot occupancy at the subject property to 67.5 percent.

Under Subtitle E § 5201.4, an application for special exception relief must demonstrate that a proposed addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically: (a) the light and air available to neighboring properties must not be unduly affected; (b) the privacy of use and enjoyment of neighboring properties must not be unduly compromised; and (c) the proposed addition, together with the original building, as viewed from the street, alley, or other public way, must not substantially visually intrude on the character, scale, and pattern of houses along the street or alley frontage. As required by Subtitle E § 5201.4(d), the Applicant submitted graphical representations including plans, photographs, and elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

The Board concludes that approval of the requested special exception will not unduly affect the light and air available to neighboring properties. The Applicant's proposal will meet or exceed applicable development standards with respect to building height and rear yard, and will maintain a court on the south side of the subject property on the second and third floors of the dwelling. Given the height of the planned rear addition, lower than that permitted as a matter of right, and the proximity of similar dwellings, the Board concludes that the Applicant's rear addition will not significantly alter the light and air now available to nearby properties. The planned addition will not affect the light and air available to properties to the east, given the depth of the Applicant's rear yard and the width of Carbery Place, in addition to any rear yards provided at the properties to the east. The Applicant submitted a shadow study (Exhibit 37B) that depicted potential light impacts expected at nearby properties along 4th Street to the north and south of the subject property, comparing the Applicant's proposal and a rear addition that would be permitted as a matter of right. The Board agrees with the Applicant and the Office of Planning that the light and air impacts of the planned addition on adjacent properties to the north and south would be similar to the impacts created by a matter-of-right addition, and credits OP's conclusion that the addition will not be "overly intrusive" but would affect light and air "consistent with a rowhouse neighborhood." (Exhibit 28.) With respect to the abutting property to the north, ANC 6C recognized "a marked difference between the existing condition and the proposed condition in terms of air and light, with the addition blocking significant amounts of existing light." The Board agrees with ANC 6C that "considering the difference between a by-right addition and the one proposed," the Applicant's shadow study showed that "the incremental loss of sun under this metric is minimal." (Exhibit 32.)

The planned addition will not unduly compromise the privacy of use and enjoyment of neighboring properties. As noted, the addition will be at a substantial distance from the closest dwellings to the east. The addition will not create views into nearby properties because it will not have windows on its north side and the Applicant will utilize only frosted windows on the south side. ANC 6C stated a concern about potential privacy impacts on the abutting property to the south, and noted that the Applicant, in response to a suggestion from the ANC, agreed to utilize frosted glazing on all of the south-facing windows of the addition, as shown on the architectural plans. The Board agrees with ANC 6C that "this change substantially reduces the potential for undue impacts on neighbor privacy." (Exhibit 32.)

The planned addition, together with the original building, will not substantially visually intrude on the character, scale, and pattern of houses along the street or alley frontage when viewed from a street, alley, or other public way. The addition will be visible from Carbery Place and from 5th Street to the east. The Board concludes that the Applicant's proposal will not substantially visually intrude on the character, scale, and pattern of nearby dwellings because the Applicant's dwelling, as enlarged, will be consistent with applicable development standards regarding building height and rear yard, and will be similar in building height and number of stories to nearby dwellings, including on the abutting property to the south. Views to and from the subject property are obstructed by an existing fence around the perimeter as well as an accessory structure on the abutting lot to the south. The Board notes that the Historic Preservation Office reported that the third floor of the planned addition "will increase the massing of the building, though it will still be no taller than the neighboring three-story rowhouses directly south of the building, or another pair of three-story houses seven lots to the north. Three-story houses are not unprecedented here, and account for nearly a quarter of the rowhouses in this square that front 4th Street N.E." (Exhibit 38A.) The Board agrees with ANC 6C that "although the addition would substantially increase the overall size and massing" of the Applicant's dwelling, "the proposed changes – visible as they are only from the secondary views at the rear of the block – [will not] significantly alter the character, scale, and pattern of houses in the row."[4] (Exhibit 32.)

Rear wall extension. The Applicant requested a special exception under Subtitle E § 207.5 to allow the rear wall of the new addition to extend farther than 10 feet beyond the farthest rear wall of any adjoining principal residential building on any adjacent property. In this case, the lots abutting the subject property to the north and south both contain principal residential buildings, row dwellings. As proposed, the rear wall of the Applicant's addition will extend approximately 17 feet beyond the rear wall of the second floor of the adjacent dwelling to the north and approximately 16 feet beyond the rear wall of the adjacent building to the south.

For the reasons discussed above, the Board concludes that approval of the Applicant's proposal, including the planned depth of the rear addition, will not unduly affect the use of neighboring properties. The addition will meet applicable height and rear yard requirements, will provide an open court on the upper floors along much of the south side and, as demonstrated by the Applicant's shadow study, will not create light impacts on the adjoining dwellings that would be significantly different from the impacts of a matter-of-right addition. The rear wall extension will not compromise the privacy available to adjoining dwellings, given the existing fence and the lack of windows on the north side and the use of frosted glass on the south side.

The Board was not persuaded by the party in opposition that the length of the planned rear addition will create a visual intrusion on the character, scale, or pattern of houses as seen along Carbery

[4] The ANC's representative testified that "The rear of this block is something of a jumble….[T]here's no obvious rhythm or pattern that this [the Applicant's proposal] would be disturbing" when viewed from Carbery Place. (Transcript of January 31, 2024 at 131-132.)

Place. The Board notes that the Historic Preservation Office concluded that the Applicant's project will "extend the building to the rear at a similar distance to other houses along [Carbery Place]" and that "the increased massing is appropriate and compatible [with the historic district]."[5] (Exhibit 38A.) The Board agrees, because the addition will comply with zoning requirements with regard to building height and will retain the court on the upper floors, which could be visible over existing fencing.

Architect of the Capitol. In reviewing an application for a special exception in the RF-1/CAP zone, the Board is required to consider whether the proposed development is: (a) compatible with the present and proposed development of the neighborhood; (b) consistent with the goals and mandates of the United States Congress in title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288); and (c) in accordance with the plan promulgated under the Act. (Subtitle E § 403.1).

The Board concludes that the proposed development is compatible with the present and proposed development of the neighborhood because the Applicant proposed to enlarge an existing principal dwelling for continued use as a principal dwelling, consistent with the applicable RF-1 zoning designation of the subject property. With respect to the Capitol grounds and related areas, the Board credits the report submitted by the Architect of the Capitol, which stated that the Applicant's project was "not inconsistent with the intent of the RF-1/CAP zone and would not adversely affect the public health, safety, and general welfare of the U.S. Capitol Precinct and area adjacent to this jurisdiction, and is not inconsistent with the goals and mandates of the United States Congress as stated in 11-E DCMR § 5202.1." (Exhibit 43.)

Subtitle X § 901.2. The Board concludes that approval of the application 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. The Residential Flat (RF) zones, including RF-1, are residential zones that provide for areas developed primarily with row dwellings with one or two dwellings. Approval of the application will continue the residential use of the Applicant's building as one dwelling. Approval of the requested zoning relief is consistent with the provisions of the RF zones to recognize and reinforce the importance of neighborhood character, walkable neighborhoods, 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. Approval of the

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[5] The Historic Preservation Office concluded that "The existing 'rhythm' of the other doglegs on this block will not be impacted" by the planned addition, in part because "the block had an undistinctive dogleg rhythm from the start, and what exists has been previously disrupted." According to HPO, "Currently, 67% of the rowhouses fronting 4th Street N.E. on this block contain doglegs. Of those, at least 36% have been modified, including through extensions, additions, and roof decks. The lack of a rhythm or pattern with the existing doglegs is mostly caused by the block's history of hodgepodge development … by 10 different builders over a 24-year period." The Historic Preservation Office found "great variety among the rears of [properties in the vicinity of the Applicant's lot]" because Carbery Place "does not run parallel to 4th Street N.E. [but] zig zags its way from D Street to E Street, around the former Carberry School, around garages, around a large former stable, and exits the block on an axis over 80 feet misaligned from where it entered. As a result, lot and building lengths vary greatly, with the shortest building being about 36 feet and the longest, where the concept will fit, being 68-70 feet in length." (Exhibit 38A).

application is also consistent with the purposes of the RF-1 zone to provide for areas predominantly developed with residential row buildings on small lots with no more than two principal dwellings, and with the purposes of the RF-1/CAP (Capitol Interest Residential Flat) zone to promote and protect the public health, safety, and general welfare of the area adjacent to the U.S. Capitol precinct and to reflect its importance in light of its well-recognized general public interest.

For the reasons already discussed, the Board concludes that approval of the requested special exceptions will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, as is also required for approval of the application under Subtitle X § 901.2. The Applicant's building, as enlarged, will continue in residential use and will satisfy the development standards applicable in the RF-1/CAP with respect to building height and rear yard without adversely affecting 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 (2012 Repl.).) 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 6C recommended approval of the application. (See Exhibit 32.) For the reasons discussed above, the Board agrees with the ANC's recommendation that the application should be approved.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for special exceptions under Subtitle E § 207.5 to allow the rear wall of a row building to extend farther than 10 feet beyond the farthest rear wall of an adjoining principal residential building on an adjacent property and under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 210.1 to allow a three-story rear addition to an existing two-story attached principal dwelling in the RF-1/CAP zone at 425 4th Street, N.E. (Square 812, Lot 51). Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown as Exhibit 37A in the record, subject to the following **CONDITION:**

1. The windows in the south façade of the addition shall be frosted as shown in Exhibit 37A.

VOTE: 5-0-0 (Frederick L. Hill, Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Tammy M. Stidham 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: July 15, 2025

BZA ORDER NO. 21015
PAGE NO. 9

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.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITION IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITION IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE

ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA Application No. 21080
Aulona Alia
2017 Rear 2nd Street, NE (Square 3564, Lot 49)

HEARING DATES: June 12, 2024; March 12 and July 2, 2025[1]
DECISION DATE: July 2, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to subdivide an alley record lot and create two new alley records lots and construct a two-story semi-detached principal dwelling on each new lot in the RF-1 zone:

- Area variance from the new alley record lot frontage requirements of Subtitle C § 306.1(a), pursuant to Subtitle X § 1002.1(a) (*24 foot alley width required; 15-foot wide alley abutting northern lot proposed*)
- Area variance from the new alley record lot minimum alley width requirements of Subtitle C § 306.1(b), pursuant to Subtitle X § 1002.1(a) (*24 foot alley width required; 15 and 16-feet alley width existing and proposed*)
- Area variance from the new alley record lot minimum lot area requirements of Subtitle C § 306.1(c), pursuant to Subtitle X § 1002.1(a) (*3,000 sq. ft. minimum required; 2,190 sq. ft. for the southern lot and 2,590 sq. ft. for the northern lot proposed*)
- Special exception from the minimum side yard for lot lines abutting a non-alley lot requirements of Subtitle E § 5100.1(d), pursuant to Subtitle E § 5201.3 and pursuant to Subtitle X § 901.2 (*5 feet minimum required; 3.9 feet from southern lot proposed*)

The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 55A (Final Revised).)[2]

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[1] The continued public hearing was postponed several times at the Applicant's request.

[2] The application was accepted and noticed as a self-certified application requesting area variance relief from the new alley record lot requirements of Subtitle C § 306.1. In Exhibit 28, the Applicant withdrew the previously reqested area variance relief and requested an area variance from Subtitle E § 5105.1, a section of the ordinance deleted pursuant to Order No. 08-06A and Order No. 19-13. In Exhibit 36, the Applicant withdrew the request for an area variance from E § 5105.1 and requested an area variance from the new alley record lot frontage requirements of Subtitle C § 306.1(a). Subsequently the Applicant requested a Zoning Administrator Memorandum, Exhibit 50, which stated area variance relief was not required, but special exception relief from Subtitle C §§ 306.1(a) and 306.1(b), the new alley record lot minimum alley width requirements, and from Subtitle C § 306.4, to convert an existing alley tax lot to an alley lot of record. Finally, Exhibit 55A withdrew relief from Subtitle C § 306.4, converted the special exception relief under C §§ 306.1(a) and (b) into area variances, added an area variance request from C § 306.1(c), the new alley record lot minimum lot area requirements, and a special exception request from Subtitle E § 5100.1(d), the minimum side yard requirements from a non-alley lot.

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 5F, 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 18, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 53.) The ANC report raised no issues or concerns.

At the June 12, 2024, public hearing, Commissioner Jennifer Anderson provided testimony clarifying the ANC process and the Applicant's outreach to the ANC.

OFFICE OF PLANNING ("OP") REPORT. OP submitted three reports to the record:

- The original OP report, dated March 15, 2024, was unable to provide a recommendation. (Exhibit 22.)
- The first supplemental OP report, dated May 31, 2024, recommended approval of the application. (Exhibit 35.)
- The second supplemental OP report, dated June 25, 2025, recommended approval of the application. (Exhibit 57.)

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. (Exhibit 23.) DDOT recommended that the Board adopt a condition requiring an alley land transfer prior to the issuance of a Certificate of Occupancy, as depicted on page two of their report; the Board did not adopt this condition.

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:

- Area variance from the new alley record lot frontage requirements of Subtitle C § 306.1(a), pursuant to Subtitle X § 1002.1(a) (*24 feet required, 15-foot alley abutting northern lot proposed*)
- Area variance from the new alley record lot minimum alley width requirements of Subtitle C § 306.1(b), pursuant to Subtitle X § 1002.1(a) (*24 feet required, 15 and 16-foot alleys existing and proposed*)
- Area variance from the new alley record lot minimum lot area requirements of Subtitle C § 306.1(c), pursuant to Subtitle X § 1002.1(a) (*3,000 sq. ft. minimum required, 2,190 sq. ft. for the southern lot and 2,590 sq. ft. for the norther lot proposed*)
- Special exception from the minimum side yard for lot lines abutting a non-alley lot requirements of Subtitle E § 5100.1(d), pursuant to Subtitle E § 5201.3 and pursuant to Subtitle X § 901.2 (*5 feet minimum required, 3.9 feet from southern lot proposed*)

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 44 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: July 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. 21304
Muluwork Kenea
5357 Gay Street, NE (Square 5210, Lot 25)

HEARING DATES: June 25 and July 2, 2025
DECISION DATE: July 2, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to expand an existing child development home from 9 to 12 children, in a detached, three-story, principal dwelling unit in the RA-1 zone:

- Special Exception under the expanded child development home requirements of Subtitle U § 251.1(b)(3), pursuant to Subtitle X § 901.2

The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 12.)[1]

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 7C, 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 June 12, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 31.) The ANC report raised no issues or concerns.

ANC 7C06 Commissioner Patricia Stamper submitted an individual letter in support of the application. (Exhibit 29.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a supplemental report recommending approval of the application. (Exhibit 36.)

[1] Prior to the July 2, 2025 public hearing, the Applicant submitted a waiver request pursuant to Subtitle U § 251.6(b) from the requirements of Subtitle U § 251.3(f) to allow an outdoor play area in the backyard. (Exhibit 35.)

OP's preliminary report did not provide a recommendation and requested additional information from the Applicant, which was provided prior to the July 2, 2025 public hearing. (Exhibit 26.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION ("OSSE") REPORT. OSSE submitted a report recommending approval of the application. (Exhibit 24.)

PERSONS IN SUPPORT. The Board received two letters in support of the application. (Exhibits 37, 38.)

At the July 2, 2025 Public Hearing, the Board heard testimony in support from Makenzie Rollins, Yeabsira Geda, Maria Nseyo, Veronica Madrigal, Mestawet Dejene, Shaquan Smoot, Cynthia Davis, Crystal Cruchfield, Mahalet Drar, and Kokey Melles.

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 expanded child development home requirements of Subtitle U § 251.1(b)(3), pursuant to Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 2 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: July 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 § 702.2, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS, UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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. 21311
James and Alison Eyring
406 7th Street, NE (Square 862, Lot 33)

HEARING DATE: July 2, 2025
DECISION DATE: July 2, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to demolish the existing rear porch and replace with a two-story with cellar rear addition to a semi-detached, three-story with 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 (*20 feet minimum required; 9.67 feet existing; 9.67 feet 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; 58.9% existing; 61.1% 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 Commissions ("**ANCs**") 6C and 6A, 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. ANC 6C filed a report which indicated that at a regularly scheduled, properly noticed public meeting on June 11, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 19.) The ANC report raised no issues or concerns.

ANC 6A did not submit a report to the record for this application.

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. (Exhibit 20.)

PERSONS IN SUPPORT. The Board received a letter from one neighbor in support of the application. (Exhibits 16, 18 (duplicate).)

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 (*20 feet minimum required; 9.67 feet existing; 9.67 feet 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; 58.9% existing; 61.1% proposed)*

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 6 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: July 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. 21313
Anahita Mehrani and Siavash Koohmaraie
30 W Street, N.W. (Square 3118, Lot 70)

HEARING DATE: July 2, 2025
DECISION DATE: July 2, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to construct a third-floor addition with roof deck and a three-story with cellar rear addition, to an existing two-story attached principal dwelling, and to raze the existing one-story accessory building (garage) and construct a two-story accessory building for use as a garage and a studio, in the rear yard in the RF-1 zone:

- Special Exception from the parking space access location requirements of Subtitle C § 711.7, pursuant to Subtitle C § 711.11 and Subtitle X § 901.2 (*12 foot setback from the alley centerline required; 10 foot setback from the alley centerline proposed*)
- Special Exception under the rear addition requirements of Subtitle E § 207.5, pursuant to Subtitle X § 901.2 (*10 feet maximum permitted; 15 feet 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; 31% existing; 67.9% proposed)*

The zoning relief requested in this case was self-certified. (Exhibit 4.)

PARTIES.[1] The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 5E, 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 20, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 18.) The ANC report raised no issues or concerns.

[1] A request for party status in opposition from Cynthia and Ilir Salihi was withdrawn prior to the public hearing following an agreement with the Applicant. (Exhibit 31.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 23.)

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. (Exhibit 19.)

PERSONS IN OPPOSITION. The Board received two letters from neighbors in opposition to the application. (Exhibits 20, 27.)[2]

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 parking space access location requirements of Subtitle C § 711.7, pursuant to Subtitle C § 711.11 and Subtitle X § 901.2 (*12 foot setback from the alley centerline required; 10 foot setback from the alley centerline proposed*)
- Special Exception under the rear addition requirements of Subtitle E § 207.5, pursuant to Subtitle X § 901.2 (*10 feet maximum permitted; 15 feet 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; 31% existing; 67.9% proposed)*

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 30A of the record, as required under Subtitle Y §§ 604.9 and 604.10.

[2] One letter in opposition was from the adjacent neighbors, Cynthia and Ilir Salihi, who came to an agreement with the Applicant prior to the public hearing. (Exhibit 31.)

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: July 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. 21318
District of Columbia Department of General Services
1820 Monroe Street, NE (Square 4203, Lot 1)[1]

HEARING DATE: July 2, 2025
DECISION DATE: July 2, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to construct seven temporary structures on the campus of an existing, detached school building in the R-1B zone.

- Area variance from the subdivision regulations of Subtitle C § 302.2, pursuant to Subtitle X § 1002.1(a)

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**") 5B, 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 June 18, 2025, at which a quorum was present, the ANC voted to support the application with the condition the Board limit the duration of the variance to the lesser of six years or the use of three schools. (Exhibit 23.) The Board adopted an eight-year term limit condition. The ANC report raised no additional issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 19.)

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. (Exhibit 17.)

[1] The Applicant noted at the hearing and in Exhibit 25 that the address of the modernized campus will be 1825 Newton Street, NE (Square 4203, Lot 1).

Persons in Support. The Board received one letter in support of the application. (Exhibit 21.) The Board also received a letter from ANC 5C Vice Chair VJ Kapur in support of the application. (Exhibit 24.)

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 variance relief can be granted because:

- 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:

- Area variance from the subdivision regulations of Subtitle C § 302.2, pursuant to Subtitle X § 1002.1(a)

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 6 of the record, as required under Subtitle Y §§ 604.9 and 604.10, subject to the following **CONDITION**:

1. The variance granted in this order is approved for a term of 8 years, beginning on the date on which this order became final.

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.

BZA ORDER NO. 21318
PAGE NO. 2

FINAL DATE OF ORDER: July 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.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT

BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSIONER ORDER NO. 24-06
Z.C. CASE NO. 24-06
District of Columbia and Fletcher-Johnson Community Partners
(Zoning Map Amendment @ Square 5344, Lot 802)
February 27, 2025

Pursuant to notice, at its public hearing on January 13, 2025, the Zoning Commission for the District of Columbia (the "Commission") considered an application (the "Application") by the District of Columbia and Fletcher-Johnson Community Partners ("FJCP") (together, the "Applicant") for approval of an amendment to the Zoning Map from the RA-1 zone (the "Existing Zone") to the MU-8B zone (the "Map Amendment") for Lot 802 in Square 5344 (the "Property"), pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations ("DCMR"), Zoning Regulations of 2016, to which all subsequent section references are made unless otherwise specified).

The Commission considered the Application as a contested case pursuant to Subtitle A § 210 and Subtitle Z, Chapter 4. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. In addition to the Applicant, the only other party to this case was Advisory Neighborhood Commission ("ANC") 7E, the ANC in which the Property is located and the "affected ANC" pursuant to Subtitle Z §§ 101.8 and 403.5(b).

2. The Commission received no requests for party status.

NOTICE

3. On September 1, 2023, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the Property and to ANC 7E, as required by Subtitle Z § 304.5 (Exhibit ["Ex."] 3D).

4. On April 22, 2024, the Office of Zoning ("OZ") sent copies of the Notice of Filing to:
   - *District of Columbia Register*;
   - Applicant;
   - ANC 7E;
   - ANC Single Member Districts ("SMD") 7E04, 7E05, and 7E07;
   - Councilmember Vincent Gray, the Ward 7 Councilmember in whose district the Property is located;
   - Chairman and At-Large Members of the D.C. Council;
   - Office of the ANCs;
   - Office of Planning ("OP");
   - District Department of Transportation ("DDOT");

- Department of Energy & Environment ("DOEE")
- Department of Buildings ("DOB") General Counsel; and
- Zoning Commission Lead Attorney

(Ex. 9, 10).

5. On November 13, 2024, OZ sent notice of the January 13, 2025, virtual public hearing to:
   - *District of Columbia Register*;
   - Applicant;
   - ANC 7E;
   - ANC SMDs 7E04, 7E05, and 7E07;
   - Councilmember Vincent Gray, the Ward 7 Councilmember;
   - Chairman and At-Large Members of the D.C. Council;
   - Office of the ANCs;
   - OP;
   - DDOT;
   - DOEE;
   - DOB General Counsel;
   - Commission Lead Attorney; and
   - Property owners within 200 feet of the Property

   (Ex. 17, 18).

6. OZ published notice of the public hearing in the November 22, 2024 *District of Columbia Register* (71 DCR 014211 *et seq.*), as well as on the calendar on OZ's website (Ex. 16).

7. The Applicant submitted evidence that it posted notice of the public hearing on the Property in accordance with Subtitle Z § 402.9 and maintained said notice in accordance with Subtitle Z § 402.10 (Ex. 19, 23).

THE PROPERTY

8. The Property is located in the Marshall Heights neighborhood of Ward 7, and is bounded by Benning Road, S.E. to the west, C Street, S.E. to the north, St. Louis Street, S.E. to the east, and apartment buildings to the south. The Property contains approximately 15.26 acres (664,839 square feet) of land area (Ex. 3).

9. The Property is improved with the former Fletcher-Johnson public school campus and adjacent athletic field. The building has been vacant since 2011, and the District disposed of the Property through a competitive and public RFP process in 2019-2020. The District awarded the redevelopment rights to Fletcher-Johnson Community Partners, one of the Applicant parties, in 2020 (Ex. 3).

10. The Property is located in a predominantly residential area developed primarily with low-rise apartment buildings. The Woodlawn Cemetery is located to the west across Benning Road. KIPP DC LEAP Academy is located to the southwest of the Property, and low-rise apartment buildings are located directly to the south (Ex. 3).

11. The surrounding Property area is mostly zoned residential with the property to the north, south, and west zoned RA-1 and the property to the east zoned R-3. A portion of the property located across Benning Road to the southwest is zoned MU-4 (Ex. 3).

12. The Property is located less than a half mile south of the Benning Road Metro Station and the V7, V8, and W4 Metrobus lines stop directly in front of the Property (Ex. 3).

CURRENT ZONING

13. The Property is currently zoned RA-1 (Ex. 3B).

14. The Residential Apartment (RA) zones are residential zones, designed to provide for residential areas suitable for multiple dwelling unit development and supporting uses (Subtitle F § 101.1).

15. In particular, the RA-1 zone provides for areas predominantly developed with low- to moderate-density development, including detached houses, row houses, and low-rise apartments (Subtitle F § 101.4).

16. The RA-1 zone does not permit most commercial uses (Subtitle U § 401.1).

17. The RA-1 zone imposes the following limits and permissions for matter of right development:
    - A maximum density of 0.9 FAR for non-public library structures, and 1.08 FAR for IZ developments (Subtitle F §§ 201.1, 201.4);
    - A maximum building height of 40 feet and three stories (Subtitle F § 203.2);
    - A maximum penthouse height of 12 feet and one story (Subtitle F § 205.1); and
    - A maximum lot occupancy of 40% for structures other than public centers, public libraries, and places of worship (Subtitle F § 210.1).

COMPREHENSIVE PLAN (TITLE 10-A OF THE DCMR, THE "CP")

Equity and the Comprehensive Plan

18. Pursuant to Subtitle X § 500.3, the Commission shall find that the Map Amendment is not inconsistent with the CP and with other adopted public policies and active programs related to the Property.

19. In applying the standard of review applicable to the Map Amendment, the CP requires the Commission to do so through a racial equity lens (CP § 2501.4-2501.6, 2501.8). Consideration of equity is intended to be based on the policies of the CP, and part of the Commission's considerations of whether the Map Amendment is "not inconsistent" with the CP, rather than a separate determination about a zoning action's equitable impact.

20. The CP Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality (CP § 213.6). Further, "[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing,

environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities" (CP § 213.7). The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions (CP § 213.9).

21. The CP Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states "[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas of the District" (CP § 2501.6). In addition, the CP Implementation Element suggests preparing and implementing tools to use as a part of the Commission's evaluation process. Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Tool in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The Tool requires submissions from applicants and the Office of Planning analyzing the zoning action's consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable; a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action; and a submission from the Office of Planning including disaggregated race and ethnicity data for the Planning Area affected by the zoning action. The Racial Equity Tool emphasizes community outreach and is intended to facilitate proactive and meaningful engagement with the community most likely to be affected by the proposed zoning action to gain insight on negative conditions that may exist in the community, particularly those that are a result of past and present discrimination, develop an understanding of community priorities, and solicit input on potential positive and negative outcomes of the proposed zoning action.

Generalized Policy Map

22. The CP's GPM designates the Property as a Neighborhood Commercial Center, which the Framework Element describes as:
    - *"Neighborhood Commercial Centers meet the day-to-day needs of residents and workers in the adjacent neighborhoods. The area served by a Neighborhood Commercial Center is usually less than one mile. Typical uses include convenience stores…, supermarkets, restaurants… and basic services. Office space for small businesses…also may be found in such locations. Many buildings have upper-story residential uses… Neighborhood Commercial Centers include both auto-oriented centers and pedestrian-oriented shopping areas… New development and redevelopment within Neighborhood Commercial Centers must be managed to conserve the economic viability of these areas while allowing additional development, including residential, that complements existing uses" (CP §§ 225.15-225.16).*

Future Land Use Map (the "FLUM")

23. The CP's FLUM designates the Property as Mixed Use – Medium Density Residential/Medium Density Commercial / Local Public Facilities.

- Medium Density Residential – *"This designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 Zone District is consistent with the Medium Density Residential category, and other zones may also apply" (CP § 227.7);*
- Medium Density Commercial – *"This designation is used to define shopping and service areas that are somewhat greater in scale and intensity than the Moderate Density Commercial areas. Retail, office, and service businesses are the predominant uses, although residential uses are common. Areas with this designation generally draw from a citywide market area. Buildings are larger and/or taller than those in Moderate Density Commercial areas. Density typically ranges between a FAR of 4.0 and 6.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-8 and MU-10 Zone Districts are consistent with the Medium Density category, and other zones may also apply" (CP § 227.12);*
- 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 non-governmental 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" (CP § 227.17);*
- Mixed Use
  - The FLUM indicates areas where the mixing of two or more land uses is encouraged, and the mixed-use category generally applies in established, pedestrian-oriented commercial areas, commercial corridors where more housing is desired in the future, large sites where opportunities for multiple uses exist, and development that includes residential uses, particularly affordable housing (CP § 227.20);
  - The general density and intensity of development within a given Mixed-Use area is determined by the specific mix of uses shown. The CP Area Elements may also provide detail on the specific mix of uses envisioned (CP § 227.21);
  - The "Mixed Use" designation is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are specifically encouraged in the future (CP § 227.22); and
  - A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities (CP § 227.23).

Far Northeast & Southeast Area Element

24. The Property is located within the Far Northeast & Southeast Area Element of the Comprehensive Plan. The Far Northeast & Southeast Area encompasses the 8.3 square miles located east of I-295 and north of Naylor Road, S.E. (CP § 1700.1). Far Northeast and Southeast is known for its established neighborhoods and its diverse mix of housing. The area has a robust transportation network, including the Benning Road Metrorail station, Interstate I-295, and several major avenues linking neighborhoods to the underserved communities in Wards 7 and 8 to Central Washington (CP § 1700.2). According to the CP, the addition of new residents and daytime office workers near Benning Road and Minnesota Avenue, N.E. has made the ground floor retail here a success, sparking more interest from the private sector to consider Far Northeast and Southeast as an upcoming retail and commercial market (CP § 1700.7).

II. THE APPLICATION

PROPOSED ZONING

25. The Application proposes to rezone the Property from the RA-1 zone to the MU-8B zone (Ex. 3).

26. The MU-8 zones are specifically intended to (Subtitle G § 101.13):
    - Permit medium density mixed-use development with a focus on employment and residential use;
    - Be located in uptown locations, where a large component of development will be office-retail and other non-residential uses; and
    - Be located in or near the Central Employment Area, on arterial streets, in uptown and regional centers, and at rapid transit stops.

27. As a matter of right, the MU-8B zone permits:
    - A maximum density of 5.0 FAR and 6.0 FAR for IZ developments, of which up to 4.0 FAR can be devoted to non-residential uses (Subtitle G § 201.1);
    - A maximum building height of 70 feet with no limit on the number of stories (Subtitle G § 203.2);
    - A maximum penthouse height of 20 feet and one story with a second story permitted for penthouse mechanical space (Subtitle G § 205.1); and
    - No maximum lot occupancy (Subtitle G § 210.1).

APPLICANT'S JUSTIFICATION OF RELIEF

Not Inconsistent with the CP

28. The Application stated that the Map Amendment would not be inconsistent with the CP, nor would it be inconsistent with other adopted public policies and active programs applicable to the Property, as detailed below in Findings of Fact ("FF") Nos. 29-45) (Ex. 3, 3I).

29. Overall, the Property is underutilized and currently improved with a vacant former school building and athletic field that does not allow for commercial uses. The Map Amendment

would permit additional height, additional density, and commercial uses at the Property, thus enabling new mixed-use development with expanded opportunities for retail and residential uses. Moreover, the Map Amendment is not inconsistent with the District's racial equity objectives (Ex. 3, 3I).

GPM

30. The Map Amendment would not be inconsistent with the Property's GPM designation as a Neighborhood Commercial Center because (Ex. 3I):
    - The Map Amendment would facilitate redevelopment of the Property, which has been vacant for nearly a decade, potentially resulting in a new mixed-use neighborhood center containing new retail and service uses and new housing and affordable housing that meets or exceeds the District's affordable housing requirements for public land dispositions under D.C. Official Code § 10-801 (Ex. 3I); and
    - The Map Amendment presents opportunities for compatible infill development that could enhance the surrounding community and may include residential and commercial uses that meet the day-to-day needs of residents and workers in the adjacent neighborhoods, including uses such as convenience stores, supermarkets, branch banks, restaurants, and services such as dry cleaners, hair cutting, childcare, and office space for small businesses (Ex. 3I).

FLUM

31. The Map Amendment would not be inconsistent with the Property's FLUM designation of Mixed Use (Medium Density Residential/Medium Density Commercial/Local Public Facilities) because (Ex. 3, 3I):
    - The Medium Density Residential category contemplates density ranging from 1.8-4.0 FAR but states that greater density may be possible when complying with IZ (CP § 227.7);
    - The Medium Density Commercial category specifically cites the MU-8 zone as a consistent zone and contemplates a range in density between a FAR of 4.0 and 6.0, with greater density possible when complying with IZ (CP § 227.12);
    - The Local Public Facilities category includes land and facilities occupied and used by the District of Columbia government or other local government agencies, and non-governmental facilities may be co-located on site (CP § 227.17);
    - The MU-8B zone is specifically intended to permit mixed-use development with an emphasis on employment and residential development, and permits a maximum FAR of 5.0 (6.0 for an IZ development), of which up to 4.0 FAR can be devoted to non-residential use;
    - The density permissions of the MU-8B zone fall within the density ranges contemplated by the Property's FLUM designations; and
    - The Mixed-Use designation indicates where the mixing of two or more land uses is especially encouraged, and the Map Amendment would provide opportunities to integrate multiple uses at the Property (CP § 227.20).

Racial Equity

32. The Map Amendment furthers CP racial equity goals. Specifically, the proposed rezoning will facilitate the redevelopment of the Property with a significant amount of new housing (both for sale and rental), including a substantial amount of affordable housing that will meet or exceed the District's requirements for public land dispositions under D.C. Code § 10-801. In addition, the Map Amendment could help address food insecurity and known retail and service use deficiencies in neighborhoods located east of the Anacostia River, including the potential for a new full-service grocery store. Also, through First Source and CBE requirements that are tied to the District's disposition of the Property, the proposed Map Amendment could create numerous employment, training, and entrepreneurial opportunities for District residents.

33. Displacement - The Applicant stated that the Property does not contain any active tenants, residents, or users, so it avoids any direct displacement of residents or businesses (Ex. 3I).

34. Community Outreach and Engagement - The Applicant stated that it has conducted extensive engagement with the community regarding redevelopment of the site, including ANC 7E, the Marshall Heights Community Development Organization ("MHCDO"), and the Marshall Heights Civic Association ("MHCA"). Since 2014 when efforts to redevelop the Property began, the community has built a large coalition of ANC commissioners, civic associations, and interested stakeholders that have been instrumental in putting together an overall vision for a "community hub" at the Property. In 2018, all Ward 7 ANCs, 10 civic associations within proximity of the Property, and six other community organizations signed a declaration letter that was submitted to the Mayor, the Council of the District of Columbia, the Deputy Mayor for Planning and Economic Development, and the Deputy Mayor for Education. In 2019, the coalition of community members, ANCs, civic associations, and other community organizations formally created the Fletcher-Johnson Task Force ("FJTF"). The FJTF is led by 13 members, each of whom represents different neighborhoods within Ward 7. Since its inception, the FJTF has led the development of an overall common vision for the Property that reflects the input and needs of the community. The Applicant notes the following community outreach/engagement efforts:
    - Monthly ANC meetings and individual meetings with ANC Single Member District;
    - Presentations at MHCDO and MHCA meetings;
    - Coordination with the FJTF;
    - Community meetings to obtain neighborhood / resident input on future development of the Property; and
    - Posting of information to DMPED Fletcher-Johnson/Our RFP webpage (Ex. 3I).

35. The Application included information regarding the Applicant's extensive engagement with ANC 7E, and with the broader community through the FJTF. Specifically, the Applicant first introduced the proposed redevelopment of the Property to the full ANC 7E at its duly noticed, regularly scheduled public meeting on March 9, 2021, and it attended a total of 14 ANC 7E public meetings. The Applicant specifically presented the Map Amendment application at ANC 7E's July 9, 2024 public meeting. The Applicant also presented the redevelopment plans, including the Map Amendment, to the FJTF at eight

meetings starting on January 27, 2021. The Applicant also conducted outreach to the surrounding neighborhood and individuals continuously from February 2021 through December 2024. Additionally, the Applicant submitted logs detailing its outreach efforts, meeting dates, and participants. (Ex. 3I.)

36. The Applicant identified the following concerns raised by the community:
- Overabundance of deeply affordable housing and need for market-rate and workforce housing;
- Lack of quality retail and service uses, including grocery stores;
- Potential increased traffic and impacts on parking availability; and
- Potential increased noise (Ex. 3I).

37. In response to those concerns, the Applicant took the following steps:
- As part of the District's RFP process to select the FJCP to redevelop the Property, the Deputy Mayor for Planning and Economic Development conducted extensive community engagement to solicit feedback from the community about what it would like included in the redevelopment;
- Inclusion in the RFP of uses identified by the community that it would like to see in the redevelopment Property; and
- The Applicant's commitment to ongoing ANC 7E and community engagement to refine the redevelopment plan for the Property (Ex. 3I).

Far Northeast / Southeast Area Element

38. The Map Amendment advances the goals of the Far Northeast/Southeast Area Element. Rezoning the Property to the MU-8B zone provides an opportunity to redevelop an underutilized site with new construction that can provide new, diverse housing options and commercial uses. The proposed Map Amendment to the MU-8B zone will support the redevelopment of an underutilized District disposition site near transit with new mixed-use development containing a significant amount of new for-sale and rental housing (market rate and affordable) to help meet the housing goals of the FNS Planning Area and the District overall (FNS-1.1.2, FNS-1.1.3, FNS-1.1.4). The rezoning also facilitates long sought after neighborhood-serving retail and service uses (FNS-1.1.4) (Ex. 3I).

Land Use Element

39. The Map Amendment is not inconsistent with the policies of the Land Use Element because the Map Amendment encourages mixed-use development at a large and vacant site along a large corridor with good Metrorail and Metrobus access, and may provide new market-rate housing, affordable housing, and commercial uses as well recreational uses. The Application also asserted that the current RA-1 zoning of the Property does not allow for more than a moderate amount of residential density or for commercial uses. As such, the Existing Zone is inconsistent with the Property's FLUM designation, and rezoning the Property would help to facilitate meeting long-term neighborhood and citywide demands for additional housing, mixed-uses, retail and service uses, and employment opportunities. Further, the height and density permitted under the proposed MU-8B zone appropriately balances the need to respect the character, scale, and integrity of the adjacent existing

neighborhood (Ex. 3I; LU-1.4.1, LU-1.4.2, LU-1.4.4; LU-1.4.6; LU-2.1.1; LU-2.4.1; LU-2.4.2).

Transportation Element

40. The Map Amendment is not inconsistent with the policies of the Transportation Element. The Map Amendment enables new mixed-use development, inclusive of housing and affordable housing and retail/services uses, on a site that is located within ½ mile of the Benning Road Metrorail station and multiple Metrobus stops. In connection with a future redevelopment of the Property, the Map Amendment also has the potential to trigger streetscape improvements that enhance the pedestrian experience and facilitate improved access to and from the Property (Ex. 3I; T-1.1.4; T-1.1.7; T-2.4.1).

Housing Element and OP Housing Equity Report

41. The Map Amendment is not inconsistent with the policies of the Housing Element because the Map Amendment increases the permitted residential density at the Property, thus creating new opportunities for varied housing types. The Property is located within the Far Northeast/Southeast Area Element, where the recommended number of affordable housing units is satisfied. Still, the Map Amendment advances high-priority planning objectives related to inclusivity and equity, increasing potential for demographic diversity and access to market-rate housing in a high-opportunity, transit-accessible area. The various housing opportunities facilitated by the Map Amendment and the District's disposition requirements include market-rate, affordable, for-sale, and rental housing, and could address citywide housing needs for a mixture of household income levels and tenure types (Ex. 3, 3I; H-1.1.1, H-1.1.3, H-1.1.4, H-1.1.9, H-1.2.1, H-1.2.3, H-1.2.4, H-1.2.11, H-1.3.1, H-1.3.2, H-2.1.6, H-3.1.1, H-4.3.2).

Environmental Protection Element

42. The Map Amendment is not inconsistent with the policies of the Environmental Protection Element because future development of the Property will lead to the removal of an inefficient building and a surface parking lot in exchange for more efficient and sustainable construction. Given the Property's proximity to multiple modes of transit, including Metrorail and well-connected bicycle and pedestrian networks, future development of the Property should not induce automobile dependency. Furthermore, the Map Amendment and any associated redevelopment of the Property will require compliance with the District's various "green," efficiency, and sustainability requirements, will involve community input, and could trigger new landscaping, and environmentally friendly enhancements to the abutting streetscape (Ex. 3I; E-1.1.2, E-2.1.2, E-3.2.3, E-3.2.6, E-3.2.7, E-4.1.2, E-4.2.1, E-6.7.2).

Economic Development Element

43. The Map Amendment is not inconsistent with the policies of the Economic Development Element. The proposed MU-8B zone supports new, local retail and service uses, and builds physical capacity for such new business to open where none currently exists. The proposed MU-8B zone also creates opportunities for nearby residents to own, operate, and work in businesses in their neighborhood. Furthermore, the District disposition and public review

process for any redevelopment on the Property will ensure that any new commerce at the Property will be commensurate with the community's needs and wants. In addition to new commercial uses, the proposed rezoning allows development of new housing near Metrorail and Metrobus corridors (Ex. 3I; ED-1.1.4, ED-1.1.5, ED-2.2.3, ED-2.2.4, ED-2.2.5, ED-3.2.8, ED-4.2.1, ED-4.2.3, ED-4.2.6, ED-4.2.12).

Urban Design Element

44. The Map Amendment is not inconsistent with the policies and actions of the Urban Design Element. The proposed Map Amendment allows for the redevelopment of the Property with new mixed-use development on a large, unused site in an established neighborhood that can bring needed neighborhood-serving amenities and housing to the community in a well-planned and designed redevelopment. Future development on the Property will likely involve reconstruction of adjacent public space to DDOT standards (Ex. 3I; UD-2.2.7, UD-3.2.3).

Community Services and Facilities Element

45. The Map Amendment is not inconsistent with the policies and actions of the Community Services and Facilities Element. The proposed MU-8B zone will allow for a multitude of community-serving uses that are not allowed under the current zone and/or cannot be accommodated at the Property in its current condition. The proposed MU-8B zone will facilitate the construction of new buildings that will contain uses commensurate with the District's disposition and public engagement processes. Such potential uses include recreation centers, medical offices, and hospitals (Ex. 3I; CSF-1.1.1, CSF-1.1.2, CSF-1.1.4, CSF-1.1.5, CSF-2.1.B, CSF-2.3.1, CSF-2.3.10).

Potential Inconsistencies with the CP

46. The Applicant acknowledged that the Map Amendment may be viewed as being inconsistent with certain CP policies. The Applicant cited to Policy LU-2.1.12 (titled, "Reuse of Public Buildings") as one potential inconsistency, given that a future redevelopment will involve the removal of the existing Fletcher-Johnson school building. The Applicant also identified Policy LU-2.4.1 (titled, "Conservation of Steep Slopes") as another potential inconsistency given the large grade change and slopes on the Property from Benning Road that a redevelopment may alter or impact. However, the Applicant asserted that the proposed Map Amendment advances numerous other policies in the CP, particularly under the Land Use Element and Housing Element, and that the proposed rezoning of the Property is not inconsistent with the CP when read as a whole, including when viewed through a racial equity lens. Moreover, the Applicant provided a detailed analysis for each of the foregoing policy objectives explaining how each objective is outweighed when the numerous CP policy goals and objectives that would be advanced by the Map Amendment are considered, as discussed immediately above (Ex. 3I; *see also* Transcript ["Tr."] from January 13, 2025 hearing at pp. 15-16).

Public Hearing Testimony

47. At the January 13, 2025 public hearing, the Applicant presented its case, including testimony from:

- Oussama Souadi, representative of the Applicant; and
- Shane Dettman, Urban Planner Goulston & Storrs, who was proffered and qualified as an expert witness in urban planning.

(Tr. from January 13, 2025 hearing at pp. 9-17).

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

48. OP submitted a report dated June 3, 2024, recommending the Commission set down the Application for a public hearing (the "OP Setdown Report") and concluding that the Map Amendment is not inconsistent with the CP for the following reasons:
    - **GPM** – The Generalized Policy Map designates the subject property as a Neighborhood Commercial Center. The proposed MU-8B zoning would permit enough nonresidential density to allow a mix of uses on the site, including retail, restaurant, office, and services uses as well as open space to serve and support the future residents of the site and the surrounding neighborhood. Thus, the proposed map amendment would not be inconsistent with the GPM's Neighborhood Commercial Center designation;
    - **FLUM** – In the most recent Comprehensive Plan update, the FLUM designation for the Property was changed to Mixed Use Medium Density Residential, Medium Density Commercial, and Local Public Facilities. The proposed MU-8B zone allows for medium density mixed use development and therefore would not be inconsistent with the FLUM designation for the Property;
    - **Land Use Element** – The proposed Map amendment would be not inconsistent with the Land Use Element. The site is an underutilized property and approval of a map amendment would facilitate redevelopment of the site with a mix of new housing, including affordable and market rate housing, commercial and service uses as well as community-serving facilities. Specifically, the proposed Map Amendment furthers the following policies and actions of the Land Use Element: LU-1.4.6, LU-1.4.9, LU-1.4.10, LU-1.4.B, LU-1.5.1, LU-2.1.1, LU-2.1.2, LU-2.1.3, LU-2.1.10, LU-2.3.5, LU-2.4.1, LU-2.4.2, LU-2.4.6;
    - **Transportation Element** – The proposed MU-8B zone would not be inconsistent with the policies of the Transportation Element. The proposed zone would allow mixed use, transit-oriented development within 0.4 miles of the Benning Road Metrorail station on the Blue and Silver Lines, and several bus routes. Two bus routes travel along the Benning Road frontage and would allow persons to live and work in close proximity to transit to assist in providing equity in transportation. Currently, there are sidewalks along the streets adjacent to the Property. Specifically, the proposed Map Amendment would further the following policies and actions of the Transportation Element: T-1.1.2, T-1.1.4, T-1.1.5, T-1.1.7, T-1.1.8, T-1.4.1, T-2.4.1, T-2.4.2;
    - **Housing Element** – The proposed MU-8B zone would be not inconsistent with the polices and actions of the Housing Element, which encourages more density for mixed use development and in particular the provision of new housing and affordable housing, near Metrorail stations. The proposed map amendment would encourage housing at the

higher density that is called for on this site in the FLUM. The proposed zone would allow for a variety of housing types, sizes and affordability complemented by service and retail uses to serve the new residents as well as the surrounding residential community. As a disposition property, the site's redevelopment would be subject to a higher requirement for affordable housing. While policies particularly encourage the provision of affordable housing close to Metrorail stations, OP notes the disproportionate share of affordable housing already in this planning area, and has recommended that IZ Plus not apply, although regular IZ would apply, as would the affordability requirements of the RFP. Specifically, the proposed amendment would particularly further the following policies and actions of the Housing Element: H-1.1.1, H-1.1.2, H-1.1.3, H-1.1.4, H-1.1.9, H-1.2.1, H-1.2.2, H-1.2.3, H-1.2.4, H-1.2.5, H-1.2.9, H-1.2.11, H-1.3.1, H-1.3.2, H-1.4.6, H-2.1.6, H-3.1.1, H-4.3.2, H-4.3.3;

- **Environmental Protection Element** – The proposed MU-8B zone would not be inconsistent with the policies of the Environmental Element. Future development of the property would be reviewed by DOEE to implement District policies implied and encouraged under the Sustainable DC Plan and Code requirements which protect the health and well-being of residents across all incomes and the District as a whole. The proposed Map Amendment could further the following policies and actions of the Environmental Protection Element: E-1.1.2, E-2.1.2, E-2.1.3, E-3.2.3, E-3.3.2, E-3.2.8, E-4.2.1;
- **Economic Development Element** – The proposed Map Amendment would not be inconsistent with the Economic Development Element. In a mixed-use zone, the Property could provide neighborhood serving retail and services alongside new residential uses. Neighborhood-serving retail, services, and public facilities on the site would enhance the Benning Road corridor, which is an underserved community in comparison to many other neighborhoods in the District. The increase in residential units on the Property would add more potential shoppers and users who could support the businesses that serve the neighborhood for which there is a critical need in the neighborhood. Although the Property is proximate to the Benning Road/Minnesota Avenue retail area, the subject property should not pull businesses or retailers from that area. Specifically, the proposed Map Amendment would further the following policies and actions of the Economic Development Element: ED-1.1.4, ED-1.1.5, ED-2.2.1, ED-2.2.3, ED-2.2.4, ED-2.2.5, ED-3.1.1, ED-3.2.8;
- **Urban Design Element** – The proposed MU-8B zone would not be inconsistent with the polices and actions of the Urban Design Element. This Element encourages streetscape enhancements that improve walkability and the overall experience at the human scale. The MU-8B zone would encourage retail and community space to encourage walking and the use of public spaces. Specifically, the proposed Map Amendment would further the following policies and actions of the Urban Design Element: UD-2.1.1, UD-2.2.3, UD-2.2.7, UD-3.3.1;
- **Community Services and Facilities Element** – The proposed MU-8B zone would not be inconsistent with the polices and actions of the Community Services and Facilities Element ("CSF"). The CSF Element encourages the siting of community facilities in locations that optimize efficient delivery of public services. Although there is no

specific recommendation for a specific community services facility(s), the proposed MU-8B zone would allow for such a facility(s) on the site to serve the residents as well as the wider community and would facilitate the siting of Local Public Facilities on the site as recommended by the FLUM. The proposed Map Amendment would further the following policies and actions of the CSF Element: CSF-1.1.2, CSF-1.1.4, CSF-1.1.5, CSF-1.1.8, CSF-1.1.9, CSF-2.1.B;

- **Far Northeast/Southeast Area Element** – The proposed MU-8B zone would not be inconsistent with the polices and actions of the Far Northeast and Southeast Area Element. As part of the Update to the Comp Plan, the community noted that "…More density is appropriate on land within one-quarter mile of the Metro Stations at…Benning Road…" The Comprehensive Plan encourages the redevelopment of the Fletcher-Johnson property, and the proposed MU-8B zone could help to achieve this goal. The proposed zone would be proximate to the Benning Road Metrorail Station (0.4 mile walk), and Benning Road is a street appropriate for more mixed-use and residential density. The proposed Map Amendment could attract more new housing development to this location and help to protect the surrounding residential community by focusing mixed use development to this location. Specifically, the proposed amendment would further the following policies of the Far Northeast and Southeast Area Element: FNS-1.1.2, FNS-1.1.3, FNS-1.1.14, FNS-2.2.5;
- **Racial Equity** – The OP Setdown Report provides a racial equity analysis, anticipating that the MU-8B zone generally leads to positive impacts, and that the Map Amendment, when evaluated through a racial equity lens, is not inconsistent with the CP because:
  - Direct Displacement - The Map Amendment would not result in direct displacement of any residents or businesses because the Property is currently vacant;
  - Indirect Displacement – OP does not anticipate the Map Amendment resulting in indirect displacement because the development it would facilitate would create new opportunities for a mix of housing types and affordability levels in the neighborhood;
  - Physical - It is not likely that the proposed rezoning would result in negative impacts on the physical environment. Redevelopment would result in public space, streetscape, and stormwater infrastructure improvements. The Property will be required to comply with the most current standards and codes;
  - Employment Opportunity – Within the Marshall Heights area, there are several public and private opportunities for job training. Any development of commercial space could provide job and small business opportunities on the Property site. Further, new development could result in jobs related to construction, building maintenance, property management, retail and service uses; and
  - Disaggregated Race and Ethnicity Data - The OP racial equity analysis provides disaggregated race and ethnicity data for the Far Northeast/Southeast Planning Area, in which the Property is located. Based on the data it compiled, OP made the following observations and conclusions:
    - In the 2018-2022 period, the Far Northeast/Far Southeast Planning Area had a population of 84,778 or about 12.6% of the District's total population. The rate of increase was consistent with that of the District as a whole, and in the 2012-

2016 time period, Black residents made up the largest portion of the population in the planning area, at 93.8% of the area's residents. This is also considerably more than for the District as a whole (48.3%). In the 2018-2022 period, Blacks continued to make up the largest portion of the population but the percentage fell slightly to 90.6%, although the number of Black residents increased by a little more than 1,700;

- The median income of the Far Northeast/Far Southeast Planning Area was below that of the District in both the 2012-2016 and 2018-2022 time periods. Black or African American residents had the lowest median income of all segments of the population in both time periods, ($36,490 and $41,254). Whites, Asians, and "Some Other Race" had higher median incomes, and larger increases between the two time periods;
- Between 2012-2016 and 2018-2022, the percentage of owner occupancy in the District rose only slightly, from 40.7% to 41.4%. The percentage of owner occupancy in the Far Northeast/ Southeast Planning Area rose at a higher rate, from 35% to 40.9%, to a level similar to that of the District as a whole. Although their total populations are relatively small in the Far Northeast/Southeast Planning Area, White and Asian households had the highest percentage of owner-occupied housing at 80.1% and 63.3% respectively in the 2018-2022 time period. The percentage of Blacks and African Americans homeowners grew between the two time periods by 4.5%, but for the 2018-2022 time period remained at 39.2% slightly below the District wide average of 41.4%;
- The Far Northeast/ Southeast Planning Area had a higher percentage of both children and older adults in the 2012-2016 time period when compared to the District as a whole. Between the two time periods, the percentage of seniors and children rose;
- In the 2012-2016 time period, the 18.2% unemployment rate in the Planning Area was more than twice the rate for the District as a whole. While the unemployment rate fell for both the District and the Planning Area in the 2018-2022 time period, the Planning Area's unemployment rate remained over twice that of the District's at 15.3%; and
- The Far Northeast/ Southeast Planning Area is on target to exceed the Mayor's 2025 affordable housing goal for the Planning Area and projected to achieve 224.7% of the affordable housing target (i.e. 1,101 units of the 490-unit target). The proposed Map Amendment to the MU-8B zone would permit a greater variety of housing options and styles than the existing RA-1 zoning and these options could result in continued diversification of the population and could influence housing tenue in the area (Ex. 11); and

- **Potential CP Inconsistencies** – The OP Setdown Report acknowledges that the Map Amendment is potentially inconsistent with Land Use Element actions and policies that encourage the reuse of existing and public buildings. Specifically, Land Use Element action LU-1.2.F and policy LU-2.1.12. However, OP concludes that repurposing the existing school building would not be economically feasible and demolition of the building to enable development of housing, affordable housing, retail and institutional or community and open space uses would advance and support various CP policy goals and objectives as well as the Benning Road Corridor Redevelopment Framework Plan (Ex. 11).

49. The OP Setdown Report also stated that IZ Plus, pursuant to Subtitle X § 502.1(b), is not appropriate for the Map Amendment, due to the following mitigating circumstances:
    - A disproportionate amount of existing affordable housing already in existence in both the immediate Far Northeast/Southeast Planning Area and ANC 7E. The Far Northeast/Southeast Planning Area has the second largest (19%) of all the District's affordable housing units and with 1,101 affordable units in the pipeline, the Planning Area is on track to significantly exceed the Mayor's 2025 affordable housing target of 490 units; and
    - The Property is a District disposition thus development of the Property will be subject to the affordability requirements of District Law 10-801, which exceed IZ Plus requirements. District Law 10-801 requires that proposals which include multi-family residential units reserve 30% of the units as affordable in perpetuity.

    OP notes that the Property would remain subject to regular IZ requirements (Ex. 11).

50. The OP Setdown Report also noted that the Map Amendment would advance the objectives and recommendations of the Benning Road Corridor Redevelopment Framework Plan ("Benning Road CRFP"), which was approved by the D.C. Council on July 15, 2008, through Resolution 17-0879. The Benning Road CRFP provides no specific recommendations for the Property but calls for the increase in neighborhood livability and creating a new environment that stimulates private investment and neighborhood revitalization. The MU-8B zone would not be inconsistent with the development types envisaged in the Benning Road CRFP, which includes new residential development, community serving retail, and public services (Ex. 11).

51. OP submitted a hearing report dated January 3, 2025, (the "OP Hearing Report" and, together with the OP Setdown Report, the "OP Reports"), that largely reiterated the OP Setdown Report's conclusions, including OP's recommendation that the Map Amendment would not be appropriate for IZ Plus, and recommended approval of the Map Amendment. The OP Hearing Report noted that according to the Deputy Mayor for Planning and Economic Development 36,000 by 2025 Dashboard data, as of November 2024, the Far Northeast/Southeast Planning Area has exceeded the Mayor's 2025 affordable housing target by providing 1,234 affordable units, or 251.8% of the target amount (Ex. 21).

52. At the January 13, 2025, public hearing, OP reiterated its support for the Application as detailed in its reports (Tr. from January 13, 2025 hearing at pp. 45-47).

<u>DDOT REPORT</u>

53. DDOT submitted a January 3, 2025, report (the "DDOT Report"), stating that it had no objection to the Application because the proposed rezoning would support nearby transit and generate additional foot traffic to support nearby businesses. This is consistent with

DDOT's approach to infill sites which should be dense, compact, transit-oriented, and improve the public realm (Ex. 22.)

54. At the January 13, 2025 public hearing, DDOT did not provide testimony.

ANC REPORTS AND TESTIMONY

55. On January 2, 2025, ANC 7E submitted a resolution ("ANC Resolution") indicating that at a regularly scheduled properly noticed public meeting on October 8, 2024, with a quorum present, the ANC voted 3-0-0 in support of the Map Amendment as part of its support of a larger community benefits agreement between ANC 7E and FJCP (Ex. 15A).

56. At the January 13, 2025 public hearing, ANC 7E did not provide testimony.

NATIONAL CAPITAL PLANNING COMMISSION ("NCPC")

57. The Commission referred the Application to NCPC on January 27, 2025, for the 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 6-6401.05)) (Ex. 26).

58. On February 25, 2025, NCPC staff filed a letter stating that the Map Amendment proposal falls under an exception listed in NCPC's submission guidelines and is exempt from NCPC review (Ex. 28).

CONCLUSIONS OF LAW

1. Section 1 of the Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797 ch. 534; D.C. Official Code § 6-641.01 et seq. (2012 Repl.)) (the "Zoning Act") authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital."

2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:

> *Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.*

3. The Commission must ensure that the Zoning Map, and all amendments to it, are "not inconsistent" with the CP pursuant to § 492(b)(1) of the District of Columbia Home Rule Act (§ 2 of the Zoning Act; D.C. Official Code § 6-641.02)). Subtitle X § 500.3 incorporates this intent to the Zoning Regulations by requiring that map amendments be "not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site."

NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN (SUBTITLE X § 500.3).

4. The Commission concludes, based on the filings in the record, including OP's Reports, and the testimony from the public hearing, that the Zoning Map Amendment from the existing RA-1 zone to the MU-8B zone is not inconsistent with the CP, including its maps and written elements and when viewed through a racial equity lens, and advances numerous CP policy goals and objectives.

5. Even if the Map Amendment conflicts with one or more individual policies associated with the CP, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the CP as a whole (*Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013)). In this case, the Commission concludes that any inconsistencies with CP policies, including policies that support the reuse of existing and public buildings and the conservation of steep slopes, are outweighed by the CP policy goals and objectives that would be advanced by the Map Amendment. The Map Amendment is not inconsistent with the CP Maps and would advance policies of the Citywide Elements and the Far Northeast/Southeast Area Element, which support, among other things, increasing density to permit more mixed-use and housing, retail, and service use development on large and vacant property that is in proximity to transit (FF 22-24-45, 47, 50).

Racial Equity

6. The Commission concludes that the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens. The Commission reaches this conclusion based on the case record and the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP Reports, inclusive of disaggregated race and ethnicity data for the Far Northeast/Southeast Planning Area (FF 32-36, 47, 50). The Commission finds that the racial equity analyses provided address the components of the Commission's Racial Equity Tool and that the Map Amendment furthers CP racial equity goals, primarily because of its potential to facilitate new mixed-use development, including housing, retail, service, and institutional uses, as discussed in more detail below (*Id.*):
   - Displacement – The Map Amendment does not result in any direct displacement of residents or businesses because there is no existing use on the Property, which has been vacant since 2011. The Commission also acknowledges that the Map Amendment is unlikely to result in any indirect displacement because it is a unique site that was previously a public school (FF 32 47, 50);
   - Community Outreach and Engagement – The Applicant's racial equity analysis included evidence that it conducted outreach with various community stakeholders

as detailed in outreach logs filed to the record, including ANC 7E, the FJTF, community organizations, and neighbors. The Commission finds the Applicant's evidence of community outreach and engagement sufficient (FF 33-36). The Commission notes that much of the community input provided concerned the specific redevelopment plans for the Property and is not relevant to the Commission's evaluation of this Application (*Id.*). The Commission's evaluation of this Application only pertains to a Map Amendment to the MU-8B zone, that is whether the matter-of-right development standards of the MU-8B zone are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property site. Notwithstanding, the Commission encourages the Applicant to continue its community outreach and engagement efforts during the redevelopment process (*Id.*); and

- Disaggregated Race and Ethnicity Data – OP's racial equity analysis included disaggregated race and ethnicity data for the Far Northeast/Southeast Planning Area showing that the Planning Area has a significantly higher percentage of Black residents than the District as a whole; and though the Black population has declined in percentage terms in recent years, it has increased in absolute population growth. Stark racial disparities exist in terms of median household income. The Planning Area data shows significant disparity between median household income is greatest between White residents and Black residents, with incomes among Black residents of the Planning Area lagging behind those in the District generally and showing only very modest growth over the past decade. Owner occupancy rates in the Planning Area are slightly below those District-wide for nearly all races but have increased over the past decade. Unemployment rates, the percentage of cost-burdened households, and poverty rates have all declined over the past decade but all show persistent gaps between Black residents of the Planning Area and residents of other races (FF 47, 50). The Commission is encouraged that the provision of increased density on this long vacant and underutilized Property site will facilitate development opportunities resulting in increased housing, including affordable housing, service, institutional, and/or community and open space uses. The Commission notes the community input citing a desire for more market rate housing in the immediate Property area. The Commission is hopeful that the future development facilitated by the Map Amendment and the provision of varied housing types in proximity to transit will attract a more diversified population, both along racial and economic lines, to the immediate Property area.

GPM

7. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property as a Neighborhood Commercial Center because the Map Amendment permits redevelopment of a currently vacant infill site with medium density mixed-use development compatible with the scale and character of the surrounding area, and that could help to address the District's city-wide housing needs and provide commercial services for existing and future residents (FF 22, 30, 47, 50).

FLUM

8. The Commission concludes that the Map Amendment is not inconsistent with the FLUM's designation of the Property as Mixed-Use Medium Density Residential, Medium Density Commercial, and Local Public Facilities. The Map Amendment to the MU-8B zone provides for increased density on a site that is vacant and underutilized and would facilitate development with housing, commercial, service, and public recreation uses. The recent 2021 update to the Comprehensive Plan modified the Property's FLUM designation to Mixed-Use (Medium Density Residential, Medium Density Commercial, and Local Public Facilities), thus contemplating greater density and commercial uses for the Property than allowed under the existing RA-1 zone. Consistent with the FLUM's preferred mix and intensity of uses, the MU-8B zone balances the density of residential and non-residential uses. The Commission finds the MU-8B zone appropriate for the Property as it allows for medium density development with a mix of residential and non-residential uses on the Property, as contemplated by the FLUM (FF 23, 31, 47, 50).

Far Northeast / Southeast Planning Area

9. The Commission concludes that the Map Amendment furthers policies of the Far Northeast/ Southeast Area Element based on the findings stated above (FF 24, 37, 47, 50).

Land Use Element

10. The Commission concludes that the Map Amendment furthers policies of the Land Use Element based on the findings stated above (FF 38, 47, 50).

Transportation Element

11. The Commission concludes that the Map Amendment furthers policies of the Transportation Element based on the findings stated above (FF 39, 47, 50).

Housing Element and OP Housing Equity Report

12. The Commission concludes that the Map Amendment furthers policies of the Housing Element based on the findings stated above (FF 40, 47, 50).

13. The Commission concludes that the Map Amendment furthers the OP Housing Equity Report and Mayor's 2025 affordable housing goals as future development on the Property site will be subject to the affordable housing requirements of District dispositions under District Law 10-801 as well as regular IZ requirements (FF 32, 47, 48, 50.)

Environmental Protection Element

14. The Commission concludes that the Map Amendment furthers policies of the Environmental Protection Element based on the findings stated above (FF 41, 47, 50).

Economic Development Element

15. The Commission concludes that the Map Amendment further policies of the Economic Development Element based on the findings stated above (FF 42, 47, 50).

Urban Design Element

16. The Commission concludes that the Map Amendment furthers policies of the Urban Design Element based on the findings stated above (FF 43, 47, 50).

Community Services and Facilities Element

17. The Commission concludes that the Map Amendment furthers policies of the Community Services and Facilities Element based on the findings stated above (FF 44, 47, 50).

Benning Road CRFP

18. The Commission concludes that the Map Amendment furthers the objectives and recommendations of Benning Road CRFP based on the findings stated above (FF 47, 49, 50).

Potential Inconsistencies with the CP

19. The Commission acknowledges that the Map Amendment is potentially inconsistent with Land Use Element actions and policies that encourage the reuse of existing and public buildings; and Land Use Element policies encouraging the conservation of steep slopes. Specifically, Land Use Element action LU-1.2.F and policy LU-2.1.12; and Land Use Element policy LU-2.4.1 (FF 45, 47, 50). The Commission agrees with the analysis in the OP Setdown Report concluding that repurposing the existing school building would not be economically feasible and demolition of the building to enable development of housing, affordable housing, retail and institutional or community and open space uses would advance and support various CP policy goals and objectives as well as the Benning Road Corridor Redevelopment Framework Plan (FF 47, 50). The Commission finds any potential CP inconsistencies with the Map Amendment to be outweighed by the numerous CP policies that would be advanced by the Map Amendment, which encourage increased density on large, underutilized sites to allow for mixed-use development opportunity inclusive of housing and service uses in proximity to transit (FF 22-24-45, 47, 50).

<u>**GREAT WEIGHT TO THE RECOMMENDATIONS OF OP**</u>

20. 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)).

21. The Commission concludes that OP's Reports, which provided an in-depth analysis of the Map Amendment, are persuasive and concurs with OP's recommendation that the Property's rezoning would not be inconsistent with the CP Maps, the Citywide Elements and Far Northeast/Southeast Area Element and would advance CP equity goals when evaluated through a racial equity lens, as discussed above (FF 47, 50). The Commission also concurs with OP that IZ Plus is not appropriate for the proposed Map Amendment due to the mitigating circumstances of a high level of existing affordable housing both within the Far Northeast/Southeast Planning Area and ANC 7E; and the fact that the affordable

housing requirements of the District's public land dispositions, which apply to the Property, exceed IZ Plus requirements (FF 47, 48, 50).

GREAT WEIGHT TO THE ANC REPORT

22. 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 § 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 (D.C. 1978) (citation omitted)).

23. The Commission acknowledges the recommendation of ANC 7E in support of the Map Amendment and concurs in that judgment (FF 54). The Commission notes that ANC 7E's recommendation in support of the Map Amendment was tied to its support of a community benefits agreement with FJCP that ANC 7E submitted to the record (*Id.*). However, that agreement is a private agreement between those parties and does not pertain to the Commission's evaluation of this Application. The Commission's evaluation of this Application is limited to whether the proposed MU-8B zone is not inconsistent with the CP and with other adopted public policies and active programs related to the Property site (*See* Subtitle X § 500.3). Accordingly, the elements of the private community benefits agreement shall not be conditions of approval for this Application and were not considered by the Commission in its evaluation of this Application.

DECISION

In consideration of the record for Z.C. Case No. 24-06 and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application to amend the Zoning Map as follows:

SQUARE	LOT	MAP AMENDMENT
5344	802	RA-1 to MU-8B

Proposed Action
Vote (January 13, 2025): 5-0-0 (Joseph S. Imamura, Tammy Stidham, Anthony J. Hood, Robert E. Miller, and Gwen Wright to approve).

Final Action
Vote (February 27, 2025): 5-0-0 (Anthony J. Hood, Joseph S. Imamura, Robert E. Miller, Gwen Wright, and Tammy Stidham to approve).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 24-06 shall become final and effective upon publication in the *District of Columbia Register*, that is on July 25, 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
ZONING COMMISSION ORDER NO. 24-07
Z.C. CASE NO. 24-07
Skyland Place, LLC
(Map Amendment @ Square 5734, Lots 4-8, 10-20, 811, 813, and 815;
and Square 5735, Lots 1-4)
February 27, 2025

Pursuant to notice, at its public hearing on December 9, 2024, the Zoning Commission for the District of Columbia (the "Commission") considered an application (the "Application") by Skyland Place, LLC (the "Applicant") for an amendment to the Zoning Map from the RA-1 and R-3 zones to the RA-2 zone (the "Map Amendment") for the property located at Square 5734, Lots 4-8, 10-20, 811, 813, and 815 and Square 5735, Lots 1-4 (the "Property"), pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations ("DCMR"), Zoning Regulations of 2016, to which all references are made unless otherwise specified).

The Commission considered the Application as a contested case pursuant to Subtitle A § 210 and Subtitle Z, Chapter 4. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. In addition to the Applicant, the parties to this case were: Advisory Neighborhood Commission ("ANC") 8B and ANC 8A (Subtitle Z § 403.5). The Property is within the boundaries of ANCs 8B and 8A is an affected ANC because the Property is located on Marion Barry Avenue, S.E., which serves as a boundary line between ANCs 8B and 8A (Subtitle Z § 101.8).

2. The Commission did not receive requests for party status.

NOTICE

3. On March 1, 2024, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the Property as well as ANCs 8B and 8A, as required by Subtitle Z § 304.5 (Exhibit ("Ex.") 3J).

4. On April 22, 2024, the Office of Zoning ("OZ") sent notice of the Application's filing to:
   - Applicant;
   - ANCs 8A and 8B;
   - ANC Single Member Districts ("SMD") 8A04, 8A07, 8B01, and 8B02;
   - Office of the ANCs;
   - Office of Planning ("OP");
   - District Department of Transportation ("DDOT");
   - At-Large Councilmembers and the Chairman of the Council;
   - Ward 8 Councilmember;

- Department of Energy & Environment ("DOEE");
- Department of Buildings ("DOB") General Counsel; and
- OZ Legal Division ("OZLD")

(Ex. 5-10).

5. OZ published notice of the Application's filing in the May 3, 2024 *District of Columbia Register* (71 DCR 5317 *et seq.*) (Ex. 10).

6. On October 18, 2024, the OZ sent notice of the December 9, 2024 public hearing, to:
   - Applicant;
   - ANCs 8A and 8B;
   - ANC Single Member Districts ("SMD") 8A04, 8A07, 8B01, and 8B02;
   - Office of the ANCs;
   - OP;
   - DDOT;
   - At-Large Councilmembers and the Chair of the Council;
   - The Ward 8 Councilmember;
   - DOEE;
   - DOB General Counsel;
   - OZLD; and
   - Property owners within 200 feet of the Property (Ex. 16, 17).

7. OZ published notice of the public hearing in the October 18, 2024, *District of Columbia Register* (71 DCR 12608 *et seq.*) (Ex. 15A).

8. The Applicant submitted evidence that it had posted notice of the public hearing on the Property as required by Subtitle Z § 402.3 and maintained said notice in accordance with Subtitle Z § 402.10 (Ex. 19, 24).

THE PROPERTY

9. The Property is located in the southeast quadrant of the District of Columbia and consists of approximately 380,280 square feet of land area (approximately 8.70 acres). The Property is presently improved with two-story garden apartments and townhomes, known as the Skyland Terrace Apartments. The Skyland Terrace Apartments is a multi-family apartment complex built in 1939, and consisting of approximately 224 units in 24 two-story garden style buildings (Ex. 3).

10. The Property is generally bounded by Marion Barry Avenue, S.E. to the north, Wagner Steet, S.E. to the south, 25th Street, S.E. to the east, and low- to mid-rise apartments to the west (Ex. 3).

11. The area surrounding the Property is comprised of a mix of low- to mid-rise residential uses and neighborhood serving retail and commercial uses. Specifically, the area north of the Property, and south of Marion Barry Avenue, S.E. consists of retail uses, whereas the area north of the Property, and north of Marion Barry Avenue, S.E. consists of mid-rise

apartment buildings. The area south of the Property consists of single-family homes and the Capitol City Rehabilitation and Healthcare Center. The area to the east of the Property consists of retail, commercial, and educational uses such as the Stanton Elementary School, a McDonald's restaurant, and the Skyland Workforce Center. The area to the west of the Property consists of low- to mid-rise apartments and open space which is a part of Fort Stanton Park. Further, the Property is located in close proximity to the Skyland Town Center development (Ex. 3).

12. The Property is within 0.25 miles of several WMATA bus routes, specifically the W4, W8, V7, 92, and 32 route (Ex. 3).

CURRENT ZONING

13. The Property is in the RA-1 and the R-3 zones. The RA-1 zone is intended to provide for areas predominantly developed with low- to moderate-density development, including detached houses, row houses, and low-rise apartments (Subtitle F § 101.4). The R-3 zone is intended 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 (Subtitle D § 101.8).

14. As a matter of right, the RA-1 zone requires/permits:
    - Building Height: 40 feet and 3 stories (Subtitle F § 203.2);
    - Penthouse Height: 12 feet and 1 story (Subtitle F § 205.1);
    - Floor Area Ratio ("FAR"): 0.9 (1.08 w/ IZ) (Subtitle F §§ 201.1, 201.4);
    - Rear Yard: 20 feet (Subtitle F § 207.1);
    - Side Yard: Minimum of eight feet for detached or semi-detached buildings containing one or two dwelling units and one side yard is required unless the building contains more than three dwelling units, in which case two side yards are required and must be three inches per one foot of building height but no less than eight feet (Subtitle F §§ 208.2, 208.3(a));
    - Lot Occupancy: 40% (Subtitle F § 210.1); and
    - Green Area Ratio: 0.40 (Subtitle F § 211.1).

15. As a matter of right, the R-3 zone requires/permits:
    - Building Height: 40 feet and three stories (Subtitle D § 203.2);
    - Penthouse Height: 12 feet and one story for residential uses (Subtitle D § 205.3);
    - Density: one principal dwelling unit and one accessory apartment per record lot (Subtitle D § 201.1);
    - Front Setback: For residential uses, within the range of existing front setbacks on the same side of the street (Subtitle D § 206.2);
    - Rear Yard: 20 feet (Subtitle D § 207.1);
    - Side Yard: None required for row buildings, one side yard, minimum of five feet, required for all semi-detached buildings, and two side yards, minimum of eight feet, required for all detached buildings (Subtitle D §§ 208.2, 208.4, 208.5);
    - Lot Occupancy: 60% for single household row buildings (Subtitle D § 210.1); and
    - Pervious Surface: Minimum 20% (Subtitle D § 211.1).

COMPREHENSIVE PLAN (TITLE 10A OF THE DCMR, THE "CP")

Equity and the Comprehensive Plan

16. Pursuant to Subtitle X § 500.3, the Commission shall find that the Map Amendment is not inconsistent with the CP and is not inconsistent with other adopted public policies and active programs related to the Property.

17. In applying the standard of review applicable to the Map Amendment, the CP requires the Commission to do so through a racial equity lens (CP § 2501.4–2501.6, 2501.8). Consideration of equity is intended to be based on the policies of the CP, and part of the Commission's considerations of whether the Map Amendment is "not inconsistent" with the CP, rather than a separate determination about a zoning action's equitable impact.

18. The CP Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are and to create equitable opportunities, but that equity is not the same as equality (CP § 213.6). Further, "[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities." (CP § 213.7). The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions (CP § 213.9).

19. The CP Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states "[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas of the District" (CP § 2501.6). In addition, the CP Implementation Element suggests to prepare and implement tools to use as a part of the Commission's evaluation process. Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Tool in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The Tool requires submissions from applicants and OP analyzing the zoning action's consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable (Part 1); a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from OP including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3). Part 3 of the Tool instructs OP that Planning Area disaggregated race and ethnicity data should be compiled from four sources only, including: OP Demographic Data Hub, US Census, Open Data DC Platform, and OP Upward Mobility Dashboard. Part 3 also requests data, by affected Planning Area and by race, on total population, median income and age, vulnerable populations, homeowners, and renters; and requests data on whether the affected Planning Area is on track to meet the Mayor's 2025 affordable housing goal as set by the Mayor's 2019 Housing Equity

Report[1]. Finally, the Tool includes evaluation criteria (i.e., themes/questions) for the Commission's use along with the submissions provided in Parts 1-3 of the Tool, to evaluate the zoning action's consistency with the Comprehensive Plan through a racial equity lens (Part 4).

Generalized Policy Map (the "GPM")

20. The GPM highlights areas where more detailed policies are necessary, both within the CP and in follow-up plans, to most effectively chart the District's envisioned growth (CP § 225.1).

21. The GPM is intended to "guide land use decision-making in conjunction with the text of the CP, the Future Land Use Map, and other CP maps. Boundaries on the map are to be interpreted in concert with these other sources as well as the context of each location" (CP § 225.2).

22. The CP's GPM designates the Property as being within a Neighborhood Conservation Area. The CP defines Neighborhood Conservation Areas as:
    - *"Neighborhood Conservation areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map. Neighborhood Conservation Areas that are designated "PDR" on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided"* (CP § 225.4); and
    - *"The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated. Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities"* (CP § 225.5).

[1] *See* the Commission's Racial Equity Analysis Tool, February 3, 2023, Part 3, https://dcoz.dc.gov/release/zc-racialequity-analysis-tool-new.

Future Land Use Map (the "FLUM")

23. The FLUM shows the general character and distribution of recommended and planned uses across the District, and, along with the GPM, is intended to provide generalized guidance on whether areas are designated for conservation, enhancement, or change and guidance on anticipated future land uses (CP § 200.5, 224.4).

24. The CP's FLUM designates the Property Moderate Density Residential. The CP states: *"[The Moderate Density Residential] 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* (CP § 227.6).

Far Southeast and Southwest Area Element

25. The Property falls within the Far Southeast and Southwest Planning Area. The Far Southeast and Southwest Area Element states:
    - The Far Southeast and Southwest Planning Area is comprised of approximately 10.1 square miles (CP § 1800.1);
    - The Far Southeast and Southwest Planning Area is a diverse community that includes the 19th century row houses of Historic Anacostia and brand-new communities like Henson Ridge and Wheeler Creek (CP § 1800.2);
    - The Far Southeast and Southwest Planning Area contains a diverse housing supply, such as single-family homes in neighborhoods like Congress Heights, garden apartments in neighborhoods like Washington Highlands and Fort Stanton, and high-rise apartments such as the Vista at Wingate and Capitol Plaza II (CP § 1800.2);
    - The Far Southeast and Southwest Planning Area is home to seven designated historic landmarks and Districts that include the Frederick Douglass House at Cedar Hill, which was the residence of abolitionist champion Frederick Douglass, and the St. Elizabeths Hospital Campus, which is one of the country's most renowned institutions for its treatment of behavioral health issues for more than 150 years (CP § 1800.3); and
    - The Far Southeast and Southwest Planning Area's commercial areas range from a shopping center at Camp Simms to more traditional neighborhood centers along Martin Luther King, Jr. Avenue, S.E., Marion Barry Avenue, S.E., and South Capitol Street, S.E. (CP § 1800.3).

II. THE APPLICATION

PROPOSED ZONING

26. The Application proposes to rezone the Property from the RA-1 and R-3 zones to the RA-2 zone (Ex. 1-3J). The Application asserts that the proposed Map Amendment would bring the Property into greater conformance with the Property's Moderate Density Residential FLUM designation because the RA-2 zone provides for areas developed with predominantly moderate-density residential uses and because the CP states that the RA-2 zone is representative of a zone contemplated by the Moderate Density Residential FLUM designation (Ex. 3, 3E).

27. The purpose of the RA-2 zone is to permit flexibility of design by permitting all types of urban residential development if it conforms to the height, density, and area requirements of the zone and to permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses that are excluded from the more restrictive residential zones (Subtitle F § 101.3(a)-(b)). More specifically, the RA-2 zone is intended to provide for areas developed with predominantly moderate-density residential uses (Subtitle F § 101.5).

28. As a matter of right, the RA-2 zone permits/requires:
    - Building Height: 50 feet (Subtitle F § 203.2);
    - Penthouse Height: 12 feet and 1 story, except 15 feet and 2 stories permitted for penthouse mechanical space (Subtitle F § 205.1);
    - FAR: 1.8 (2.16 w/ IZ) (Subtitle F §§ 201.1, 201.4);
    - Rear Yard: 4 inches per 1 foot of height; 15 feet minimum (Subtitle F § 207.1);
    - Side Yard: None required, but if provided, minimum of 4 feet, however, minimum of 8 feet for all detached or semi-detached buildings containing 1 or 2 dwelling units (Subtitle F §§ 208.2, 208.3(b));
    - Lot Occupancy: 60% (Subtitle F § 210.1); and
    - Green Area Ratio: 0.40 (Subtitle F § 211.1)

29. The proposed Map Amendment would permit enhanced development standards that could facilitate the redevelopment of the Property with additional residential uses, as anticipated by the FLUM.

APPLICANT'S JUSTIFICATION FOR REZONING

Not Inconsistent with the CP

30. The Applicant asserted that the Map Amendment is not inconsistent with the CP—including the Property's designations on the GPM and the FLUM—and advances the objectives and the recommendations of the Far Southeast and Southwest Area Element by furthering racial equity goals. The Applicant also asserted that the Map Amendment is consistent with the purposes of the Zoning Act in that it will create conditions that are favorable to public health, safety, welfare, and convenience and that the Map Amendment is consistent with other adopted public policies and active programs applicable to the Property (Ex. 3).

GPM

31. The Applicant asserted that the Map Amendment is not inconsistent with the GPM because:
    - As shown on the GPM, the Property is located within a Neighborhood Conservation Area;
    - According to the Framework Element of the CP, the guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but Neighborhood Conservation Areas are not intended to preclude development, particularly development which addresses citywide housing needs;
    - According to the Framework Element of the CP, limited development and redevelopment opportunities exist within Neighborhood Conservation Areas, and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of the area; and
    - The proposed RA-2 zone is not inconsistent with the Property's GPM designation because the RA-2 zone will allow for greater residential density on the Property which will permit development that could enhance the pedestrian environment and provide more housing opportunities that have the potential to help the District achieve its housing goals—especially affordable housing (Ex. 3; CP § 225.5).

FLUM

32. The Applicant asserted that the Map Amendment is not inconsistent with the FLUM because:
    - The Moderate Density Residential FLUM category expressly states that the RA-2 zone is consistent with the category; and
    - The RA-2 zone permits a maximum density of 1.8 FAR (2.16 FAR with IZ), which falls within the FAR contemplated by the Moderate Density Residential FLUM designation—which states that a density of 1.8, with greater density being possible when complying with IZ, is compatible with the Moderate Density Residential FLUM designation (Ex. 3).

Far Southeast and Southwest Area Element

33. The Applicant asserted that the proposed Map Amendment will increase the Property's development potential, thereby enhancing both the residential character and the economic vitality of the surrounding area, particularly given the Property's proximity to Skyland Town Center (FSS-1.1.4, FSS-1.1.15). The Applicant stated that the proposed Map Amendment will preserve Skyland's lower-density residential character while creating new housing opportunities for individuals of all income levels (FSS-1.1.3). Further, redevelopment of the Property would result in improved housing with more sustainable features, increasing overall resiliency of the site and decreasing operating costs for residents (FSS-1.1.14, FSS-1.1.15; Ex. 3).

Land Use Element

34. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Land Use Element because the Map Amendment will provide for new development and enhanced connectivity at the Property while advancing other important District

objectives. Specifically, the Applicant asserted that the Map Amendment will advance the Land Use Element by facilitating the redevelopment of the Property with improved residential units for a mix of incomes and will also introduce sustainable features within the residential units and on the Property that will improve overall resiliency in the neighborhood. Further, the Map Amendment would allow for infill development that would add residential density while respecting the surrounding low-density neighborhoods, supporting different neighborhood types, revitalizing the neighborhood, and would be located adjacent to public transportation. (LU-1.4.6, LU-1.5.1, LU-2.1.1, LU-2.1.2, LU-2.1.3, LU-2.1.8). Ultimately, according to the Applicant, the Map Amendment will support the beautification of the neighborhood with architectural and landscaping updates that can be implemented through the redevelopment of the Property (LU-2.2.4; Ex. 3).

Transportation Element

35. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Transportation Element because the Map Amendment would facilitate the development of a new residential project that is likely to involve streetscape and public space improvements which will enhance access to the Property, the Skyland Town Center development situated east of the Property, and public transportation along Marion Barry Avenue (T-1.1.7). Further, the Applicant asserted that these streetscape and public space improvements will expand residents' access to employment opportunities and will bolster the pedestrian network and elevate pedestrian safety standards (T-1.3.1, T-2.4.1, T-2.4.2; Ex. 3).

Housing Element

36. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Housing Element because the Map Amendment will provide a substantial increase in the permitted density for residential uses, ultimately expanding the District's housing and affordable housing supply. The proposed Map Amendment will facilitate progress towards reaching the Housing Element's goal of achieving a minimum of 15% affordable units within each Planning Area by 2050 (H-1.2.9). Further, new housing, including affordable housing, is desirable at this location given its underutilized status. (H-1.1.1, H-1.1.3, H-1.2.1). Additionally, any future redevelopment of the Property that consists of affordable housing will be designed and constructed according to the same high-quality architectural design standards used for market rate housing (H-1.1.5, H-1.3.2). Moreover, the inclusion of additional housing has the potential to diversify the neighborhood by introducing housing types such as family sized housing, senior housing, and for-sale housing (H-1.1.9, H-1.3.1, H-1.2.9, H-1.2.1, H-1.4.2, H-4.3.2). These additions will complement the area's existing neighborhood services and employment opportunities. Furthermore, the Applicant states that it has developed a relocation plan for current residents which will ensure that the Map Amendment does not result in the direct displacement of current residents (H-2.1.4; Ex. 3).

Environmental Protection Element

37. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Environmental Protection Element because the Map Amendment would facilitate the redevelopment of the Property with energy efficient systems that will reduce energy use

and potentially provide alternative energy sources that will contribute to the District's energy efficiency goals (E-3.2.3, E-3.2.7, E-4.2.1). Further, the redevelopment of the Property could also yield new landscaping and environmentally friendly enhancements to the abutting streetscape (E-1.1.2, E-2.1.2, E-2.1.3, E-4.1.1, E-4.1.2). Moreover, any future development will be required to comply with the Green Building Act and the District's storm water management regulations and will be consistent with the Sustainable DC Plan (E-4.1.2, E-4.2.1).

Racial Equity

38. The Applicant noted that equity is conveyed throughout the CP where priorities of affordable housing, the prevention of displacement, and access to opportunity are discussed. In light of the guidance provided by relevant CP policies, the Applicant asserted that the Map Amendment would not be inconsistent with the CP when evaluated through a racial equity lens. In support of its assertion, the Applicant evaluated the Map Amendment's consistency with the CP through a racial equity lens by applying the Commission's Racial Equity Tool (Ex. 3E).

39. The Applicant provided an assessment of how the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens in its CP Evaluation, in subsequent filings, and through testimony at the public hearing (Ex. 3E, 13).

40. The Applicant provided the following information about the community and the Applicant's community outreach and engagement efforts:
    - The Applicant identified the following as key historical attributes which helped shape and define the community impacted by the Map Amendment:
        - The Property is located within the Skyland neighborhood, and the Skyland neighborhood is generally bounded by Marion Barry Avenue to the northeast, Alabama Avenue to the southeast, and Fort Stanton Park to the south and to the west;
        - At the start of the Civil War, the planning area began attracting people fleeing enslavement, which increased after 1862 when the District emancipated enslaved people;
        - Development in the planning area boomed after the start of World War II, which brought attendant churches, schools, and other social and cultural institutions, as well as businesses and places of leisure;
        - Urban Renewal activity in other parts of the city, combined with the systematic construction of moderate-cost housing east of the Anacostia River led thousands of low- to middle-income black households to relocate to the planning area in search of affordable housing;
        - Ward 8, and the planning area, became the location of many government funded and subsidized housing developments. Some communities within the Ward, such as the previously cohesive 19th century Hillsdale, were divided and isolated by the construction of the Suitland Parkway and Interstate 295;
        - As a result, Ward 8 became known as a lower-income, black community characterized by mid-20th century buildings and government facilities. This depiction ignored the Ward's thriving historic character; and

    - The Applicant asserted that the proposed Map Amendment would not perpetuate the discrimination of the past (Ex. 3E);
- The Applicant made a concerted effort to understand the community's priorities.
    - The Applicant engaged with Skyland Terrace residents through in-person engagement events at the Property in Fall 2023 and conducted further virtual meetings in December 2023 and February 2024; and
    - Specifically, as indicated by the Applicant's filings, the Applicant engaged with the community and Skyland Terrace residents by hosting more than 15 community meetings (Ex. 3, 3E, 13B, 20-20B);
- The Property is within the boundaries of ANC 8B and ANC 8A is an affected ANC.
    - The Applicant first engaged with ANC 8B to discuss the specifics of the Application on November 21, 2023. The Applicant continued to engage with ANC 8B and ANC 8A and ultimately attended seven ANC meetings to discuss the Application (*Id.*); and
- Applying the Tool's racial equity themes, the Applicant asserted that the Map Amendment would have the following impacts and/or outcomes:
    - Not result in negative outcomes with respect to direct displacement because of the following:
        - The Applicant has developed a relocation plan that will prevent the displacement of residents that are currently residing on the Property (Ex. 20-20B);
    - Result in positive changes with respect to housing because the Map Amendment would:
        - Increase the Property's potential housing capabilities; and
        - Allow a mix of unit types and sizes;
    - Result in positive changes to the physical environment because the development facilitated by the Map Amendment could potentially:
        - Improve stormwater infrastructure;
        - Improve public space infrastructure; and
        - Improve roadway circulation on the Property; and
    - Increase access to opportunity because the development facilitated by the Map Amendment could potentially:
        - Support local shopping areas and provide residents with access to jobs, retail, and services through mass transit options; and
        - Provide access to recreation facilities, open space, and neighborhood-serving retail services (Ex. 3E).

41. Based on the foregoing, and based on the Applicant's filings, the Applicant asserted that the proposed Map Amendment would result in positive outcomes for all existing and future District residents, and therefore, the Application is not inconsistent with the CP when evaluated through a racial equity lens (*Id.*).

Potential Inconsistencies with the CP

42. The Applicant conducted a CP evaluation of the Application through a racial equity lens and determined that the Application is not inconsistent with the CP when read as a whole. In conducting its evaluation, the Applicant identified three CP policies that are potentially

inconsistent with the Application; specifically, the Land Use Element policy LU-2.1.4: Rehabilitation Before Demolition; the Environmental Protection policy E-3.2.2: Net-Zero Buildings; and the Environmental Protection policy E-3.2.3: Renewable Energy. However, the Applicant concluded that while these policies may be viewed as inconsistent, their potential inconsistency is outweighed by the Map Amendment's overall consistency with the FLUM, GPM, and other CP policies relating to land use, housing, transportation, and environmental sustainability (Ex. 3E).

Neighborhood Investment Fund: Anacostia Investment Plan

43. The Neighborhood Investment Fund for Anacostia ("NIF") was approved by the DC Council on June 20, 2006 (Resolution Number R16-0685). The NIF provides a short-term financial plan for prioritized investments in the neighborhoods of Historic Anacostia, Hillsdale, Fort Stanton, Garfield Heights, and Woodland. The purpose of the NIF was to raise the profile and importance of investing in these neighborhoods. Investment goals and corresponding strategies were developed to direct resources over a five-year period through two community meetings that include the goals of: i) preserving historic housing and develop additional affordable housing units; and ii) enhancing Anacostia commercial areas to attract and retain neighborhood serving retail and service businesses. Although the NIF had a short horizon of five years, these goals continue to be relevant in the Planning Area, as they are repeated in the CP. The Map Amendment will allow for redevelopment that furthers the goals that were stated in the NIF by creating more housing and affordable housing, and by providing additional density near Skyland Town Center that will attract more businesses and customers, thereby increasing economic activity and potentially leading to more revenue for the neighborhood (Ex. 3E).

Public Hearing Testimony

44. At the public hearing on December 9, 2024[2], the Applicant presented its case, including testimony from:
    - Mr. Kyrus Freeman, Holland & Knight LLP; and
    - Shelynda Brown and LaToya Thomas, representatives of the Applicant.

45. At the conclusion of the December 9, 2024 public hearing, the Commission requested the following information:
    - A post-hearing report from ANC 8B which details the outcome of ANC 8B's meeting regarding the Applicant's relocation plan; and
    - A response from the Applicant to ANC 8B's post-hearing report.

[2] After the hearing was underway on December 9, 2024, ANC 8B filed a request (Ex. 27) to postpone the hearing citing the need for the Applicant to engage further with constituents regarding the future project planned for the Property; the Commission denied the request as the hearing was already underway when the request was filed to the record.

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

46. OP submitted a report, dated August 30, 2024 (the "OP Setdown Report") (Ex. 11), recommending the Commission set down the Map Amendment for a public hearing. The OP Setdown Report concluded that the Map Amendment would not be inconsistent with the CP, including the CP maps and when viewed through a racial equity lens; and would advance CP policies of the Citywide Elements and the Far Southeast and Southwest Area Element and objectives of the Anacostia Neighborhood Investment Fund. The OP Setdown Report's CP analysis stated the following:
    - **GPM** – The proposed redevelopment of the subject property would be in keeping with the intent of Neighborhood Conservation Areas as it would retain residential use on the site, and would allow for the replacement of the current units with more modern units and amenities. The rezoning would allow for a development that would be at a scale that is compatible with the surrounding row and low scale apartments and higher density mixed use development at Skyland Town Center to the northeast. As is the intent of the Neighborhood Conservation Area, the proposal would assist in addressing the City's housing needs and in this case would allow for homeownership and senior housing opportunities which are needed in this area;
    - **FLUM** – The proposed RA-2 zone is representative of the moderate density residential designation and is appropriate for the site. The properties surrounding the site are also recommended for moderate density residential except for those to the northeast which are recommended for moderate density commercial uses. Therefore, the RA-2 zone would be compatible with the development pattern envisioned for the area and would not be inconsistent with the FLUM;
    - **Far Southeast and Southwest Area Element** – The proposed Map Amendment, would help fulfill the Far Southeast and Southwest Area Element policies because the RA-2 zone would allow for existing residents to remain on site, through a phased redevelopment, and would allow for additional height and density at a moderate range over what is currently allowed. This would allow for additional development with a variety of unit sizes, incomes, and home ownership opportunities. The location of the property allows for easy access to transportation which is a key element for affordably moving people around to jobs and amenities in an environmentally friendly way;
    - **Land Use Element –** The map amendment for the site is appropriate as it would allow for the redevelopment of the property to replace units that are outdated and in need of modernization. A moderate density development allowing for a mix of unit types, including multifamily, senior and for-sale row dwellings, would be consistent with the proposed zone, and could create opportunities for neighborhood revitalization and beautification. This would address the needs of the current residents and accommodate population growth in a new development consistent with the planning intent, and in advancement of affordability and racial equity goals. Further, it would allow transportation improvements and other outdoor neighborhood amenities that would help to improve the character of the existing neighborhood;
    - **Transportation Element** – The proposed amendment would allow for an appropriately scaled redevelopment along the Marion Barry Avenue corridor which

connects to Metrorail stations. The closest Metro Station, Congress Heights Metro Station (Green Line) is approximately 1.9 miles to the south of the property and is served by Metro Bus route #92. Other Metro bus routes, 32, A3, W2, W3, and W8, which serve the property connect the property to other areas of the City. These bus connections could help reduce the necessity for auto use and ownership in support of a related reduction in household expenses for future residents. The redevelopment of the property would also accommodate improvements to the bicycle and pedestrian ways within and around the property and could enable a pedestrian-oriented environment and a transit-oriented development. Taken together these connections would give residents easy connections to employment, entertainment, and recreation options. The proposed map amendment would therefore support redevelopment of the site to meet the expectations of equity in transportation accessibility;

- **Housing Element** – The redevelopment of the properties would both accommodate existing residents, and an increase in the number of residential units to assist in addressing the City's housing needs along a corridor where housing is envisioned. Redevelopment of the subject property would support the provision of both market rate and affordable housing within the Far Southeast/Southwest Planning Area, as the application of inclusionary zoning would ensure units for persons of moderate incomes. The Far Southeast/Southwest Planning Area already significantly exceeds its 2025 affordable housing production; this proposal could help to address the need for housing for families, seniors, and for moderate income persons and homeownership. To minimize the potential for displacement of existing residents, the Applicant indicates that they would implement a phased development process, allowing temporary on-site relocation and return of existing residents;
- **Environmental Protection Element** – While this is a zoning map amendment request and specific new construction is not a part of this application; future development of the property would be reviewed by DOEE requirements to implement District policies under the Sustainable DC Plan and code requirements which protect the health and well-being of residents across all incomes and the District as a whole. As such, any redevelopment would be held to higher environmental standards than the existing development;
- **Economic Development** – Consistent with the Comp Plan, the zoning would not permit new commercial development. However, the zoning would allow additional residential units, the residents of which would support existing and new retail and service options in the neighborhood, increasing their viability;
- **Urban Design Element** – The proposed zone would provide for the redevelopment of the site with new housing consisting of a mix of multifamily, row dwellings and a senior building at a height and scale consistent with the Comprehensive Plan and the character of the area. Any development on the site would be integrated into the rolling topography of the site and would be required to meet current streetscape and environmental standards for new buildings; and
- **Racial Equity** – The OP Setdown Report provides a racial equity analysis but notes that it can only analyze the potential development and its potential impacts under the Map Amendment. It is anticipated that the RA-2 zone will generally lead to positive

impacts, and that the Map Amendment, when evaluated through a racial equity lens, is not inconsistent with the CP because:

- Direct Displacement – The Applicant states that their plans to minimize displacement would include a phased redevelopment of this very large site, allowing for relocation of existing residents to vacant on-site units and then the right to return to new, modernized units;
- Indirect Displacement – OP does not anticipate any indirect residential displacement as the development would create new opportunities for market rate and affordable housing on the site for the neighborhood;
- Housing – The proposed RA-2 zone would permit construction of new replacement housing in excess of what can be constructed under existing zoning and in excess of what currently exist on the site. Additionally, it would allow a mix of unit types and sizes, and would include new market rate and affordable housing in accordance with IZ requirements;
- Physical – Any redevelopment of the property would result in changes to the physical environment. The redevelopment would include public space and streetscape improvements along Marion Barry Avenue and other internal streets. Other improvements would include public realm improvements to accommodate pedestrians, bicyclists and drivers and more pervious spaces on the property. Improvements could also include new and improved public utilities, such as water, sewer and light, and recreational/gathering spaces for residents;
- Access to Opportunity – Skyland Workforce Center is located just outside of the property and is a facility that provides job search, job training, and placement. The development is near the Skyland Town Center and the Good Hope Marketplace to the east of the site which has a variety of retail and service uses including two supermarkets. There are also other retail and service uses along Marion Barry Avenue. Although none of these facilities would be provided on-site, consistent with the Comp Plan designation, residents would have easy access to these existing facilities, and new residents on the site would support local businesses;
- Community – The Applicant provides details of its ongoing outreach efforts at Ex. 3E, page 25. The Applicant indicates that several types of outreach actions were taken such as door knocking, flyers, one-on-one meetings, and zoom meetings. These interactions resulted in a list of resident concerns and desires. The Applicant commits to continue working with the residents if the proposal is set down, and to address concerns through the project development process; and
- Disaggregated Race and Ethnicity Data – The OP racial equity analysis provides disaggregated race and ethnicity data for the Far Southeast and Southwest Planning Area, in which the Property is located. Based on the data it compiled, OP made the following observations and conclusions about the area immediately surrounding the Property:
  - The Far Southeast and Southwest Planning Area had a majority minority population with 87.7% of its residents being Black in the 2018 to 2022 period. Though in the majority, the Black population decreased from 91% of the population to 87.7% from the 2012 to 2016 period to the 2018 to 2022 period, which is similar to the District-wide trend during this period. Over the same time period, most of the other groups saw a slight increase or retained their

percentage of population. The data seems to indicate that the population in the Planning Area is becoming more diverse;

- The Far Southeast and Southwest's median age decreased from 38.2 years to 31 years from the 2012 to 2016 period to the 2018 to 2022 period;
- The Far Southeast and Southwest Planning Area had a median income which was significantly lower than the District median in both the 2012-2016 and the 2018-2022 period. While the Planning Area saw an approximately $13,000 increase, this was significantly lower than the approximately $29,000 increase Districtwide;
- The Far Southeast and Southwest Planning Area had a significantly higher percentage of its population as elderly, nearly 50%, in both the 2012-2016 and 2018 to 2022 period; and
- Less than a quarter of the residents in the Far Southeast and Southwest Planning Area owned their own home in both five-year periods (2012-2016 and 2018-2022), but over the time periods the percentage of residents in the Planning Area who owned their homes increased from 18.8% to 22.34%. Still, the Planning Area lags behind the District as whole, which had a homeownership rate of 41.5% for the 2018-2022 period.

(Ex. 11).

47. The OP Setdown Report concluded that IZ Plus would not be appropriate for the Map Amendment due to the considerable number of dedicated affordable units now in the Far Southeast and Southwest Planning Area and because the Planning Area far exceeds the Mayor's 2025 provision of affordable housing set by the Mayor's 2019 Housing Equity Report, having provided 2,518 affordable units, or 224.8% of the target amount as of July 2024 according to the Deputy Mayor for Planning and Economic Development (DMPED) 36,000 by 2025 Dashboard (Ex. 11).

48. OP submitted a hearing report, dated November 29, 2024 (the "OP Hearing Report"), that largely reiterated the OP Setdown Report's conclusions, and recommended approval of the Map Amendment without applying IZ Plus (Ex. 23). The OP Hearing Report noted that the Planning Area has further exceeded the Mayor's 2025 affordable housing target having provided 2,631 units, or 234.9% of the target amount as of October 2024 according to the DMPED 36,000 by 2025 Dashboard (*Id*.).

49. At the public hearing, OP reiterated its support for the Application as detailed in its reports.

DDOT REPORT

50. DDOT submitted a report dated November 26, 2024 (the "DDOT Report"), stating that "DDOT has no objection to the approval of the requested Map Amendment" (Ex. 22).

51. DDOT did not provide testimony at the public hearing.

ANC REPORTS AND TESTIMONY

52. ANC 8A did not submit a report regarding the Application.

53. At the public hearing, Commissioner Johnson, SMD Representative, ANC 8B05, testified regarding the Applicant's proposed relocation plan and community questions related to the relocation plan. Commissioner Johnson testified that residents do not have confidence in the relocation plan, that the Applicant does not have the best reputation in terms of relocating, and that residents have concerns that the redevelopment of the Property will increase housing costs. Commissioner Johnson also noted that attendance at the Applicant's presentations regarding the Application has been low, and that there is concern about how seniors, in particular, will be impacted.

PERSONS AND ORGANIZATIONS IN SUPPORT

54. Larry M. Scott, Executive Vice President, Rappaport Companies, submitted a letter in support of the Application stating that the "proposed map amendment . . . would contribute to the overall economic development of the surrounding area" (Ex. 20C).

55. The Skyland Action Team, which represents the individuals and the families living in the Skyland Apartments, submitted a letter in support of the Application (Ex. 25).

NATIONAL CAPITAL PLANNING COMMISSION ("NCPC")

56. The Commission referred the Application to the National Capital Planning Commission ("NCPC") on December 10, 2024, for the 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)) (Ex. 29).

57. On December 31, 2024, NCPC filed a report stating that the Map Amendment satisfied a NCPC review exception and that the Map Amendment was made available for public comment and no comments were received. Accordingly, NCPC staff determined that the Map Amendment is exempt from NCPC review (Ex. 30).

POST HEARING SUBMISSIONS

58. On January 8, 2025, the Applicant submitted findings of fact and conclusions of law in accordance with Subtitle Z § 601.1 (Ex. 31, 31A).

59. As previously noted in Finding of Fact ("FF") 45 above, at the conclusion of the December 9, 2024, public the hearing, the Commission requested that ANC 8B file a post-hearing submission on the outcome of a December 17, 2024, ANC meeting at which the Applicant agreed to present the Application and answer questions on its relocation and right of return plan. The Commission also requested that the Applicant file a response to ANC 8B's submission.

60. On January 21, 2025, ANC 8B submitted a report stating that at its regularly scheduled public meeting on December 17, 2024, the ANC voted 5-0 in opposition to the Application. The ANC report requested that the Commission postpone final action on the case to allow time for the newly sworn in ANC Commissioner Betty Scippio to familiarize herself with the Application and cited the following main concerns:

- Concern that the future development allowed by the Application would displace existing residents, particularly those who are vulnerable low-income and seniors, due to eviction and rent increases;
- Concern that the Skyland Tenant Association is not a legitimate body under law because its membership is too low to ensure fair representation; and
- Concern that the Applicant has broken promises made to the community in initial discussions resulting in mistrust (Ex. 32).

61. On January 22, 2025, the Applicant filed a response to ANC 8B's opposition letter stating that most of the concerns raised are about potential impacts of future development on the Property site and are outside of the Commission's evaluation standard for a map amendment under Subtitle X § 500.3. (i.e., whether the matter-of-right development standards of the proposed zone are not inconsistent with the CP and other adopted public policies and active programs related to the site) (Ex. 33). Nonetheless, the Applicant responded to each main issue and concern raised in the ANC letter noting its outreach and citing to its relocation plan and supporting materials at Exhibit 20A-20B and Exhibit 26 in the case record. The Applicant also stated that on December 12, 2024, the Applicant met with ANC 8B Commissioner Johnson, Commissioner White, and then Commissioner-elect Betty Scippio to discuss their outstanding questions regarding the relocation plan, and emailed the ANC Commissioners a written response on December 13, 2024 addressing each question identified at the December 12th meeting (*See* Applicant's written response to ANC Commissioners, Ex. 33B).

62. The Commission started final deliberations on the case at its January 30, 2025, public meeting, and expressed continuing concerns about the Applicant's relocation plan and its potential to displace existing residents. Specifically, whether the relocation plan had adequate capacity to house all existing residents in on-site temporary relocation housing during future development of the Property site. The Commission therefore requested that the Applicant further supplement the record to provide additional details on its relocation plan; and that the ANCs be given an opportunity to respond.

63. On February 13, 2025, the Applicant filed a submission in response to the Commission's request explaining that its relocation plan follows the Uniform Relocation Act, will occur in three phases, and noting that the plan prioritizes on-site relocation of residents who will require temporary relocation, minimizes the impact on residents who may require temporary location off-site, and ensures the right of return for each tenant (Ex. 34). The Applicant highlighted the following aspects of the relocation plan:
    - Out of the total 224 existing units, only 68 units will need to be temporarily relocated to accommodate construction of phase 1; therefore, only 68 units (30%) will have to be temporarily relocated on-site or off-site as the other 156 units (70%) will stay on-site and move directly from their existing unit to a brand new, on-site unit[3];
    - Priority for on-site relocation will be given to seniors, residents with disabilities or special needs, and families with school-aged children. However, as necessary, any

[3] The Applicant provided a detailed narrative explaining how relocation will work in phases 1-3 of construction at Ex. 34, pp. 2-3; and the Applicant's relocation plan is at Ex. 20A in the case record.

remaining residents will be temporarily relocated off-site to one of more than 1,500 units[4], not including the subject Skyland property, owned by the Applicant in Ward 8; and
- The Applicant is working with third-party relocation specialists to manage the relocation process.

Moreover, the Applicant's submission stated that its relocation plan is not inconsistent with the Comprehensive Plan primarily because:
- The Comprehensive Plan notes that redevelopment or substantial rehabilitation of affordable housing developments that are aged past their functional lives is necessary to provide decent, safe housing and prevent displacement from lack of habitability (*See* 10-A DCMR §510.4(a));
- The Comprehensive Plan does not say short term tenant relocation cannot occur but rather that redevelopment of affordable housing should minimize displacement, maximize the return of tenants to their community, and retain affordable housing utilizing specific strategies (*Id.*); and
- The relocation plan furthers the following Housing Element policies:
  - Policy H-2.1.1: *Redeveloping Existing Income-restricted Affordable Housing;*
  - Policy H-2.1.4: *Avoiding Displacement; and*
  - Policy H-2.1.9: *Redevelopment of Affordable Housing*.

(Ex. 34, pp. 4-6).

64. Neither ANC 8A nor ANC 8B filed a response to the Applicant's February 13, 2025, submission.

CONCLUSIONS OF LAW

1. Section 1 of the Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797; D.C. Official Code § 6-641.01 et seq. (2012 Repl.)) (the "Zoning Act") authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital."

2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:

> *Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection or property, civic activity, and recreational, educational, and cultural*

[4] The Applicant provided a map showing the properties it owns at Ex. 34A.

> *opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.*

3. The Commission must ensure that the Zoning Map, and all amendments to it, are "not inconsistent" with the CP pursuant to § 492(b)(1) of the District of Columbia Home Rule Act (§ 2 of the Zoning Act; D.C. Official Code § 6-641.02). Subtitle X § 500.3 incorporates this intent to the Zoning Regulations by requiring that map amendments be "not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site."

NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN (SUBTITLE X § 500.3)

4. The Commission concludes, based on the filings and testimony of the Applicant and OP, that the Map Amendment from the existing RA-1 and R-3 zones to the RA-2 zone is not inconsistent with the CP in its entirety, including its maps and elements and when viewed through a racial equity lens, and will advance a number of CP Elements as discussed below (FF 22, 24, 31-42, 46, 48).

5. Even if the Map Amendment conflicts with one or more individual policies associated with the CP, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the CP as a whole (*See Durant v. D.C. Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013)). In this case, the Applicant identified three potentially inconsistent CP policies, including the Land Use Element policy LU-2.1.4: Rehabilitation Before Demolition; the Environmental Protection policy E-3.2.2: Net-Zero Buildings; and the Environmental Protection policy E-3.2.3: Renewable Energy. The Commission concludes that any potential inconsistencies with these and other CP policies are outweighed by the CP policy goals and objectives that would be advanced by the Map Amendment, including policies of the Citywide Elements and the Far Southeast and Southwest Area Element discussed below that encourage the provision of additional residential density to allow for development of more housing, including affordable housing (FF 31-42, 46, 48). Further, the redevelopment facilitated by the Map Amendment will allow an affordable housing development that is past its functional life to be redeveloped and modernized with retention of affordable housing (*Id.*).

Racial Equity

6. The Commission concludes that the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens. The Commission reached this conclusion based on the case record and the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP Reports, and inclusive of disaggregated race and ethnicity data for the Far Southeast and Southwest Planning Area (FF. 40, 46, 48). The Commission finds that the racial equity analyses provided address the components of the Commission's Racial Equity Tool and that the Map Amendment will

further CP racial equity goals, primarily because of its potential for new housing and affordable housing development, as discussed in more detail below (*Id.*):

- Displacement – The Map Amendment should not result in the direct displacement of any existing residents because the Applicant has developed a relocation plan that is designed to prevent the displacement of residents that are currently residing on the Property. However, the Commission acknowledges that there could be direct displacement impacts associated with the future redevelopment of the Property despite efforts to minimize and mitigate such impacts (FF 40; *see* discussion in Conclusions of Law ("COL") 21-22 below);
- Community Outreach and Engagement – The Applicant's racial equity analysis included evidence that the Applicant conducted outreach with various community stakeholders as detailed in the record, including the surrounding community, existing tenants, ANC 8B, and ANC 8A (FF 40). The Applicant's outreach efforts included door knocking, and in-person and virtual meetings from the Fall of 2023 through February 2024 (*Id.*). The Commission finds that the case record demonstrates the Applicant's numerous outreach efforts both to existing residents and the surrounding community. The Commission acknowledges Commissioner Johnson's assertion at the public hearing that attendance was low at many of the outreach events held (FF 53). Nonetheless, the Commission finds the Applicant's community outreach and engagement efforts adequate and notes that the Applicant had no control over attendance at the outreach events held. The Commission strongly encourages the Applicant to continue community outreach and engagement efforts with existing residents and the surrounding community during any future redevelopment of the Property; and
- Disaggregated Race and Ethnicity Data – OP's racial equity analysis included disaggregated race and ethnicity data for the Far Southeast and Southwest Planning Area for the 2012-2016 and 2018-2022 time periods (FF 46, 48). The data showed that the Black population within the Planning Area has decreased from 91% to 87.7% from 2012 to 2022, which mirrors the District-wide trend during that period. The data indicated that the Planning Area had a majority minority population with 87.7% of its residents being Black for the 2018-2022 period. The data showed that the median age within the Planning Area decreased from 38.2 years to 31 years from the 2012-2016 to the 2018-2022 period. Moreover, less than a quarter of the residents in the Planning Area owned their home in both five-year periods (2012-2016 and 2018-2022). The Commission finds that allowing increased residential density on the Property could positively impact the Planning Area because the redevelopment facilitated by the Map Amendment will result in increased housing opportunities, including affordable housing. The Commission is encouraged that future development of the Property will result in positive outcomes to the surrounding physical environment. Furthermore, the Commission is hopeful that increasing overall housing opportunities in the Planning Area could relieve some of the housing costs pressures impacting lower income households (FF 46-49).

GPM

7. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property as a Neighborhood Conservation Area because the designation

is intended to conserve and enhance established neighborhoods, but not preclude development, particularly development addressing citywide housing needs; and the CP Framework Element recognizes that limited redevelopment opportunities exist within Neighborhood Conservation Areas (FF 22, 31). Further, the Commission concludes that the proposed RA-2 zone is not inconsistent with the Property's GPM designation because the RA-2 zone will permit development on the Property that could enhance the pedestrian environment and provide more housing opportunities that have the potential to help the District achieve its housing goals—especially affordable housing (*Id.*).

FLUM

8. The Commission concludes that the Map Amendment is not inconsistent with the Property's FLUM designation because the Moderate Density Residential FLUM category states that the RA-2 zone is consistent with the category and because the RA-2 zone permits a maximum density of 1.8 FAR (2.16 FAR with IZ), which falls within the FAR contemplated by the Moderate Density Residential FLUM designation—which states that a density of up to 1.8 FAR, with greater density being possible when complying with IZ, is compatible with the designation (FF 24, 32).

Far Southeast and Southwest Area Element

9. The Commission concludes that the Map Amendment furthers the policies of the Far Southeast and Southwest Area Element because the redevelopment the Map Amendment will allow will enhance the residential character and the economic vitality of the surrounding area and preserve Skyland's lower-density residential character while creating new housing opportunities for individuals of all income levels (FF 33).

Land Use Element

10. The Commission concludes that the Map Amendment furthers the Land Use Element because the Map Amendment will provide for new development and enhanced connectivity at the Property, will facilitate the redevelopment of the Property with improved residential units that will improve the overall resiliency of the neighborhood, will allow for infill development that will add residential density, and will support the beautification of the neighborhood with updates that will be implemented through the redevelopment of the Property, including building architecture and landscaping (FF 34).

Transportation Element

11. The Commission concludes that the Map Amendment furthers the Transportation Element as it will facilitate the development of a new residential project that is likely to involve streetscape improvements which will enhance access to the Property, the Skyland Town Center development situated east of the Property, and public transportation along Marion Barry Avenue. Further, these streetscape improvements will expand residents' access to employment opportunities and will bolster the pedestrian network and elevate pedestrian safety standards (FF 35).

Housing Element

12. The Commission concludes that the Map Amendment furthers the Housing Element because the Map Amendment will provide a substantial increase in the permitted density

for residential uses, ultimately expanding the District's housing and affordable housing supply, and because any future redevelopment of the Property that consists of affordable housing will be designed and constructed according to the same high-quality architectural design standards used for market rate units (FF 36).

Environmental Protection Element

13. The Commission concludes that the Map Amendment is not inconsistent with the policies of the Environmental Protection Element because the Map Amendment will facilitate the redevelopment of the Property with new development that is required to comply with applicable Building Code requirements and energy-efficient building systems and technologies, therefore furthering the District's energy efficiency goals and complying with the Green Building Act (FF 37).

Neighborhood Investment Fund: Anacostia Investment Plan

14. The Commission concludes that the Map Amendment will further policy objectives of the NIF because the Map Amendment will allow for redevelopment that furthers the goals that were stated in the NIF by creating more housing and affordable housing, and by providing additional density near Skyland Town Center that will attract more businesses and customers, thereby increasing economic activity and potentially leading to more revenue for the neighborhood (FF 43).

GREAT WEIGHT TO THE RECOMMENDATIONS OF OP

15. 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)).

16. The Commission concludes that OP's reports, which provided an in-depth analysis of the Map Amendment, are persuasive and the Commission concurs with OP's recommendation that the Property's rezoning would not be inconsistent with the CP Maps, the Citywide Elements and Far Southeast and Southwest Area Element, and, as discussed above, would advance the CP racial equity goals when evaluated through a racial equity lens (FF. 46-49). The Commission also agrees with OP that the Map Amendment is not appropriate for IZ Plus due to the substantial amount of existing affordable housing in the Planning Area and the fact that the Planning Area far exceeds the Mayor's 2025 affordable housing target as set by the Mayor's 2019 Housing Equity Report (FF 47, 48).

"GREAT WEIGHT" TO THE ANC REPORT AND TESTIMONY

17. 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 § 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)).

18. ANC 8A did not submit a report regarding the Application (FF. 52, 64).

19. ANC 8B filed a report in opposition to the Application (FF 60). The ANC report stated concerns that future redevelopment of the Property site would result in displacement of existing residents, particularly low-income and senior residents; and also raised concerns that the Skyland Tenant Association is not a legitimate body under law, and that the Applicant has broken promises to the community resulting in mistrust (*Id*.). The Commission acknowledges ANC 8B's opposition and concerns. The Commission notes that its evaluation standard in a map amendment is limited to whether the proposed zoning, in this case the RA-2 zone, is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject property (Subtitle X § 500.3). Accordingly, any opposition issues raised that are specific to a future redevelopment project on the Property site are not relevant to the Commission's evaluation standard in this case and were not considered by the Commission in its evaluation of this Application. However, preventing displacement is a goal cited in many policies throughout the Comprehensive Plan and is relevant to the evaluation standard in this case. Accordingly, the Commission questioned the Applicant regarding its relocation and right of return plans during the public hearing. At the conclusion of the public hearing, the Commission requested that ANC 8B supplement the record post hearing to provide an update on a December 17, 2024, meeting where the Applicant agreed to present the Application and answer questions regarding the relocation plan (FF 45, 59). And the Commission requested that the Applicant supplement the record two times post-hearing, first to provide a response to ANC 8B's update on the December 17, 2024, meeting, and second to provide further details about its relocation plan (FF 59, 62). Specifically, during its initial deliberations on the case, the Commission was concerned about whether the relocation plan had capacity to house all existing residents in on-site temporary relocation housing during construction of the future project. The Applicant filed submissions in response to the Commission's requests; first, the Applicant responded to each of the opposition concerns raised in ANC 8B's report, and second, the Applicant explained that its relocation plan prioritizes on-site temporary relocation for the 68 units that will not move directly into a new unit, and that its relocation plan is not inconsistent with and furthers specific policies of the CP Housing Element (FF 61, 63). The Applicant's submission acknowledged that, as necessary, some existing residents will be temporarily relocated off-site to one of more than 1,500 units owned by the Applicant in Ward 8 (FF 63). The Commission understands ANC 8B's concerns about potential displacement of existing residents, and finds the Applicant's relocation plan (Ex. 20A), and the Applicant's related post-hearing submissions inclusive of responses to ANC 8B's concerns and details regarding the phased relocation plan, adequate to both prevent displacement and mitigate potential displacement impacts during the future redevelopment project (FF 60, 61, 63). The Commission also finds the Applicant's relocation plan not inconsistent with the Comprehensive Plan, particularly with the objectives of the Housing Element cited by the Applicant (FF 63). With respect to the ANC concerns regarding the legitimacy of Skyland

Tenant Association and broken promises resulting in mistrust of the Applicant, the Commission does not find these concerns persuasive or relevant to the evaluation standard in this case.

20. At the public hearing, Commission Johnson, SMD Representative, ANC 8B05 testified that the community had outstanding concerns and questions regarding the Applicant's relocation plan and that future redevelopment will result in increased housing costs and displacement of seniors (FF 53). The Commission acknowledges Commissioner Johnson's concerns. In response, the Commission finds that the Applicant has provided a relocation plan and details regarding the relocation plan which sufficiently explains how phased resident relocation will occur during future redevelopment (FF 63, see also Ex. 20A). For this reason and the reasons stated immediately above in Conclusion of Law 21, the Commission finds the Applicant's relocation plan adequate to address the concerns raised by Commissioner Johnson.

DECISION

In consideration of the record for Z.C. Case No. 24-07 and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and, therefore, **APPROVES** the Application to amend the Zoning Map as follows:

SQUARE	LOT(S)	MAP AMENDMENT
5734 5735	4-8, 10-20, 811, 813 & 815 1-4	RA-1 and R-3 to RA-2

Proposed Action
Vote (December 9, 2024): 4-0-1 (Robert E. Miller, Tammy M. Stidham, Gwen Wright, and Anthony J. Hood to approve; Joseph Imamura, having not participated, not voting.)

Final Action
Vote (February 27, 2025): 4-0-1 (Robert E. Miller, Tammy M. Stidham, Gwen Wright, and Anthony J. Hood to approve; Joseph Imamura, having not participated, not voting.)

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 24-07 shall become final and effective upon publication in the *District of Columbia Register*, that is on July 25, 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.

District of Columbia REGISTER – July 25, 2025 – Vol. 72 - No. 30 008152 - 008456

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.

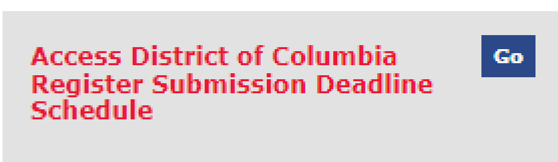
If an official government holiday falls on a Thursday, the deadline for submitting documents is WEDNESDAY. Because Thursday, November 27, 2025 is Thanksgiving Day, the deadline for the December 5, 2025 *District of Columbia Register* is Wednesday, noon on November 26, 2025.

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