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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council honors the Washington Commanders for their remarkable 2024-2025 National Football League season (Adopted Ceremonial Resolution 26-9)
- D.C. Council designates February 4, 2025, as “Transit Equity Day” to reaffirm the Council’s commitment to providing an equitable, accessible, and reliable transit system in the District (Adopted Ceremonial Resolution 26-11)
- D.C. Council schedules a public hearing to discuss Bill 26-52, Evidence-Based Gun Violence Reduction and Prevention Act of 2025
- D.C. Council schedules an oversight roundtable to consider “Strategies to Support the District of Columbia’s Long-Term Care Workforce”
- D.C. Commission on the Arts and Humanities announces availability of the FY 2026 Public Art Building Communities Grant
- Office of the State Superintendent of Education solicits applications for grants to renovate public charter school facilities
- Office of the State Superintendent of Education announces availability of funding for the Pre-K Enhancement and Expansion Program (PKEEP)
- Department of Health Care Finance sets reimbursement guidelines for the Medication Therapy Management health care benefit
- Mayor's Office of Legal Counsel publishes Freedom of Information Act Appeals
- Public Service Commission schedules three community hearings to discuss Washington Gas Light Company’s application requesting authority to increase existing natural gas service rates and charges in the District

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 26-20

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2025

To make, on an emergency basis, due to congressional review, a technical correction to the Fiscal Year 2025 Budget Support Act of 2024 regarding the transfer of funds to be used for a grant for the National Cherry Blossom Festival.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Cherry Blossom Festival Grant Congressional Review Emergency Amendment Act of 2025".

Sec. 2. Section 2112(b) of the Fiscal Year 2025 Budget Support Act of 2024, effective September 18, 2024 (D.C. Law 25-217; 71 DCR 9990), is amended by striking the figure "$1 million" and inserting the figure "$1.5 million" in its place.

Sec. 3. Applicability.

This act shall apply as of October 1, 2024.

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

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
FEBRUARY 27, 2025

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-1

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2025

To recognize and celebrate LightHouse DC for its efforts in helping individuals and families transitioning from housing insecurity in the District to move in to and furnish their new homes.

WHEREAS, LightHouse DC was founded in 2017 by Brian Hart and Jingwen Sun in an effort to turn "houses into homes" for residents transitioning from housing insecurity;

WHEREAS, Brian Hart received his juris doctor degree from Georgetown University after graduating with honors from Amherst College. Prior to co-founding LightHouse DC, Brian practiced law with the firm of Paul, Weiss, Rifkind, Wharton & Garrison. From 2013 to 2014, Brian served as an Advisory Neighborhood Commissioner for ANC 1C, representing the neighborhoods of Adams Morgan, Lanier Heights, and part of Kalorama Heights;

WHEREAS, Jingwen Sun received his undergraduate degree in International Affairs and Economics from the George Washington University and later completed a graduate degree in Supply Chain Management at the Robert H. Smith School of Business, University of Maryland. Previously, Jingwen co-directed *Sunday Suppers*, a nonprofit organization providing meals to homeless individuals in Washington, D.C. Jingwen currently serves as an Advisory Neighborhood Commissioner for ANC 5B, representing the neighborhoods of Brookland, University Heights, and Woodridge;

WHEREAS, LightHouse DC's mission statement is: *One family at a time*. LightHouse DC helps formerly unhoused and low-income residents in our community transform their empty houses into homes – striving to restore dignity, create stability, and make sure every person has a chance to enjoy a life free of poverty.

WHEREAS, LightHouse DC provides furniture and home goods to low-income DC residents who are transitioning from housing insecurity in order to provide these residents with a safe, secure, and functioning home in which to re-build their lives. Through these services, LightHouse DC provides stabilization to residents who have experienced the crisis of housing insecurity – by giving them a place to sleep, eat, and ultimately, to call home;

ENROLLED ORIGINAL

WHEREAS, to provide its services, LightHouse DC works with more than 50 certified nonprofit and government partners, including A Wider Circle, Pathways to Housing, the American Red Cross, and DC Department of Human Services; and

WHEREAS, since its inception, LightHouse DC has positively impacted the lives of tens of thousands of District residents, fostering long-lasting change in our community.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "LightHouse DC Ceremonial Recognition Resolution of 2025".

Sec. 2. The Council recognizes and celebrates the diligent work of LightHouse DC in creating and supporting beneficial opportunities for local residents and families transitioning from housing insecurity and both salutes and thanks LightHouse DC for its dedication to community service and beneficial social impact.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To celebrate the ceremony of the District of Columbia's famous groundhog weatherman and political prognostician, Potomac Phil, as he delivers his highly anticipated annual forecast on February 2, 2025, and to declare that date "D.C. Groundhog Day."

WHEREAS, on February 2, 2025, residents and visitors of the District of Columbia will emerge to be educated on the American folklore tradition of Groundhog Day by Dupont Festival;

WHEREAS, on that morning, District residents will be reminded that if Potomac Phil emerges from his burrow and sees his shadow due to clear weather, he will retreat to his den and winter will persist for 6 more weeks and if he does not see his shadow because of cloudiness, spring will arrive early;

WHEREAS, District residents and visitors will be enlightened with the knowledge of Potomac Phil's uncanny power of weather and political predictions; and

WHEREAS, Potomac Phil will elucidate the seasonal forecast for hundreds of individuals in and around Dupont Circle during the morning of February 2, 2025.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "D.C. Groundhog Day Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia hereby declares February 2, 2025, as D.C. Groundhog Day in the Nation's Capital.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-3

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To recognize, honor, and celebrate Dr. Frazier O'Leary upon the completion of his service as the Ward 4 Representative to the D.C. State Board of Education.

WHEREAS, Dr. Frazier O'Leary earned a Bachelor of Arts from American University in the District of Columbia in 1970; a Master of Liberal Arts from St. John's College in New Mexico in 1973; and was awarded an honorary Doctorate of Philosophy in humanities from St. Mary's College in Maryland in 2009;

WHEREAS, Dr. O'Leary began teaching for D.C. Public Schools in 1971 at Garnet-Patterson Junior High School in Ward 1, where he was named Teacher of the Year;

WHEREAS, Dr. O'Leary continued his teaching career with D.C. Public Schools at Ward 1's Cardozo Senior High, beginning in 1977, where he remained for 40 years until his retirement in 2017, and also won Teacher of the Year;

WHEREAS, Dr. O'Leary supported his students' athletic development, coaching championship-winning teams including football, girls' and boys' basketball, tennis, and baseball while teaching at Cardozo, being recognized as the Urban Coalition Coach of the Year in 1985 and inducted into the D.C. Coaches' Hall of Fame in 2007;

WHEREAS, Dr. O'Leary was a long-time member and past Vice President of The School Club, an educational advocacy group;

WHEREAS, Dr. O'Leary served as Ward 4's representative to the D.C. State Board of Education for six years, beginning January 2, 2019;

WHEREAS, Dr. O'Leary served as the Vice President of D.C.'s State Board of Education in 2023;

WHEREAS, Dr. O'Leary prioritized listening to and communicating with his Ward 4 constituents and played a key role in winning more equitable investment in Ward 4 schools, revising city-wide learning standards, and supporting teacher development;

ENROLLED ORIGINAL

WHEREAS, Dr. O'Leary founded Mrs. O'Leary's Books4Friends in honor of his late wife and has personally delivered over 60,000 books to the Ward 4 elementary schools over the past 5 years;

WHEREAS, Dr. O'Leary solicited donations of and distributed bookbags, hats, and gloves to Ward 4 students in need; and

WHEREAS, Dr. O'Leary has served as an adjunct professor at the University of the District of Columbia for the past 40 years as an extension of his dedication to teaching both literacy and literature to the people of D.C.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Dr. Frazier O'Leary Ceremonial Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia recognizes, honors, and celebrates Dr. Frazier O'Leary for his lifetime of service to the students, families, and educators of Ward 4 and the District of Columbia as both an educator and an advocate for safe, healthy, and equitable schools.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-4

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To recognize, honor, and celebrate the 30th anniversary of Neighbors' Consejo.

WHEREAS, Neighbors' Consejo was founded in a church basement in 1994 in Washington, D.C. by a group of residents concerned about rising homelessness and addiction, particularly alcoholism, in the Mt. Pleasant neighborhood, and was officially incorporated in 1995, led by the original founding group as the first board of directors; and

WHEREAS, Neighbors' Consejo prioritized the delivery of free mental health and community support services in a linguistically and culturally appropriate manner, ensuring access to those unaware of available support, including members of the Latino community, composed mainly of Central American migrants fleeing civil wars, many of whom faced untreated traumas or mental health disorders; and

WHEREAS, in 2007, Neighbors' Consejo acquired 3 houses on 16th Street NW to serve as community shelters and, in 2008, provided temporary refuge for families displaced by a fire in Mt. Pleasant; and

WHEREAS, in 2016, Neighbors' Consejo reorganized to better serve African American and Latino neighbors in need and opened service centers in northwest and southeast D.C.; and

WHEREAS, today, Neighbors' Consejo operates locations on Georgia Avenue, NW and Anacostia in SE, offering high-quality mental health and community support services to neighbors in need across the city; and

WHEREAS, Neighbors' Consejo was the recipient of the American Psychiatric Association Foundation's 2023 Award for Advancing Minority Health; and

WHEREAS, Neighbors' Consejo envisions a community of happy, healthy, and self-sufficient neighbors.

ENROLLED ORIGINAL

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Neighbors' Consejo 30th Anniversary Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia recognizes and celebrates the 30th anniversary of Neighbors' Consejo and its dedication to providing free, culturally and linguistically competent mental health and community support services to individuals who are among the most vulnerable in Washington, D.C.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-5

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To recognize the Chinese community in the District of Columbia for its generous and valued contributions to the cultural, economic, social, and political life of the city and to honor the Chinese Consolidated Benevolent Association for its sponsorship of the parade to celebrate the Year of the Snake.

WHEREAS, Chinese people have lived in the District of Columbia as a community since at least 1884, when nearly 100 immigrants settled near 3rd Street and Pennsylvania Avenue, N.W., and remained there until 1935, when the settlement moved to its current location along H Street, N.W., which is commonly known as "Chinatown";

WHEREAS, Chinatown is a unique cultural and social center for the District, providing visitors with a taste of Chinese culture;

WHEREAS, today there are more than 40 Chinese businesses and hundreds of Chinese residents in Chinatown, which serves as the center of health care, dining, and shopping for the thousands of Chinese residents in the Washington, D.C. metropolitan area;

WHEREAS, the District of Columbia's commitment to the Chinese community continues as the government strives to improve services for the Chinese community through the establishment of the Office on Asian and Pacific Islander Affairs, the Metropolitan Police Department's Asian Liaison Unit, and the Chinatown Community Cultural Center, which we salute;

WHEREAS, thousands of District of Columbia residents will gather along I Street and 6th Street, N.W, on Sunday, February 2, 2025 to enjoy the parade and celebrate the Chinese Lunar New Year;

WHEREAS, the annual anniversary celebration and parade for the Chinese Lunar New Year, sponsored by the Chinese Consolidated Benevolent Association, is nationally known as one of the finest celebrations of color, art, and pageantry; and

WHEREAS, the snake symbolizes wisdom, elegance, intuition, renewal, transformation, and good luck.

ENROLLED ORIGINAL

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Chinese Lunar New Year 4723, Year of the Snake Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia salutes the Chinese community of the District of Columbia and the Chinese Consolidated Benevolent Association for their numerous contributions to the cultural, social, economic, and political life of the city. Further, the Council thanks the Chinese Consolidated Benevolent Association and the Parade Committee for sponsoring the parade to celebrate the Chinese New Year, and declares Wednesday, January 29, 2025, as "Chinese Lunar New Year 4723, Year of the Snake Day" in the District of Columbia.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-6

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To recognize Shawn Hilgendorf for his outstanding service to the Council of the District of Columbia and his extraordinary contributions to the residents of the District through his leadership, dedication, and expertise.

WHEREAS, Shawn Hilgendorf served the Council of the District of Columbia with distinction since 2013, working with 3 Council offices, including serving as the Committee Director for the Committee on Facilities and Procurement, the Committee on Government Operations and Facilities, and, most recently, the Committee on Housing, and has demonstrated an unparalleled commitment to the legislative and oversight responsibilities entrusted to the Council;

WHEREAS, since joining Council, Shawn Hilgendorf has held every role imaginable on the legislative and committee sides of a Council office, excelling in each with a calm and deliberate approach, earning the trust and respect of Councilmembers, colleagues, advocates, and residents alike;

WHEREAS, Shawn Hilgendorf is a steadfast leader and the driving force behind significant legislative accomplishments, including reforms in special education, public safety, and youth justice, policies supporting returning citizens, initiatives to improve housing and homeless services, supports for Advisory Neighborhood Commissions, improved public facility conditions for public school students, expanded anti-discrimination laws, and diligent stewardship of public lands, leaving an indelible impact on the lives of District residents;

WHEREAS, since 2016, Shawn Hilgendorf's steady hand, deep institutional knowledge, and diplomatic demeanor have made him an indispensable member of Councilmember Robert White's team and one of Councilmember White's most trusted advisors;

WHEREAS, Shawn Hilgendorf is an exemplary colleague who is always available to listen, work through challenges, and offer thoughtful insights, fostering a collaborative and supportive work environment;

ENROLLED ORIGINAL

WHEREAS, Shawn Hilgendorf's intellect, expertise, and ability to navigate complex policy issues have contributed to transformative change in the District, and his commitment to fairness, equity, and collaboration have earned him the admiration of his colleagues and the broader community; and

WHEREAS, Shawn Hilgendorf's departure leaves a significant void not only in Councilmember Robert White's office but also in the Council as a whole, where his insights, wisdom, and leadership will be deeply missed.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Shawn Hilgendorf Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia recognizes Shawn Hilgendorf for his years of dedicated service and his lasting contributions to the residents of the District.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-7

COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To celebrate the legacy, achievements, and contributions of African Americans in the District of Columbia, to recognize the important role African Americans played in American history and to celebrate February as Black History Month.

WHEREAS, in 1926 scholar and historian, Dr. Carter G. Woodson and the Association for the Study of Negro Life and History (currently known as the Association for the Study of African American Life and History (ASALH)) initiated the celebration of "Negro History Week" during the second week of February;

WHEREAS, Black History Month was first proposed by Black educators and the Black United Students at Kent State University in February 1969, and the first celebration of Black History Month took place at Kent State one year later, in February 1970;

WHEREAS, this tradition became a nationally recognized occurrence during the United States Bicentennial celebration in 1976. President Gerald Ford said the nation should "seize the opportunity to honor the too-often neglected accomplishments of Black Americans in every area of endeavor throughout our history";

WHEREAS, Black History Month is celebrated in several countries around the world, including Canada, the United Kingdom, and the Netherlands;

WHEREAS, Africans were first brought involuntarily to the shores of the now United States by the Spanish as early as the 16th century when Spanish King Charles V gave Hernando DeSoto permission to bring 50 African slaves to Florida;

WHEREAS, in 1776, people envisioned the United States as a new nation dedicated to the proposition stated in the Declaration of Independence that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness …";

WHEREAS, in contravention of those stated ideals, African Americans suffered enslavement and subsequently faced the injustices of lynch mobs, segregation, and denial of the basic and fundamental rights of citizenship;

ENROLLED ORIGINAL

WHEREAS, in 2025, African Americans still suffer from the effects of those injustices and inequalities, which remain apparent in the society of the United States;

WHEREAS, in the face of injustices, people of good will and of all races in the United States have distinguished themselves with a commitment to the noble ideals on which the United States was founded and have fought courageously for the rights and freedom of African Americans and others;

WHEREAS, Washington, DC has an abhorrent history of slavery and racial segregation;

WHEREAS, The DC Compensated Emancipation Act of 1862, signed by President Abraham Lincoln on April 16, 1862, ended slavery in Washington, DC, freed 3,100 individuals, reimbursed those who had legally owned them and offered the newly freed women and men money to emigrate;

WHEREAS, in spite of its history, Washington, DC serves as a center of African American culture and the epicenter of the historical struggles for abolition, civil rights, and racial equity;

WHEREAS, Washington, DC is home to countless destinations devoted to educating visitors from around the world on Black history and the accomplishments of Black Americans, including the National Museum of African American History and Culture, National Museum of African Art, Martin Luther King, Jr. Memorial, Frederick Douglass National Historic Site, the Anacostia Community Museum, the District's African American Heritage Trail, and the African American Civil War Museum and Memorial;

WHEREAS, Howard University and Howard University School of Law were founded in Washington, DC as historically Black institutions of higher education to offer high-quality education to African American students at a time when they were not welcome at other educational institutions;

WHEREAS, in 1870, the Preparatory High School for Negro Youth (now Dunbar High School) was founded as the first public high school for African Americans in the United States;

WHEREAS, in 1871, Frederick Douglass was appointed by President Ulysses S. Grant to serve on the eleven-member Legislative Council of the District of Columbia, and U.S. Marshal for the District of Columbia. In 1877, Mr. Douglass became the first African American confirmed for a presidential appointment by the United States Senate;

WHEREAS, in 1896, Mary Church Terrell, educator and civil and women's rights advocate, was the first Black woman appointed to the District of Columbia Board of Education. In that same year, she became the founding president of the National Association of Colored

ENROLLED ORIGINAL

Women, and also was a founder of the NAACP in 1909;

WHEREAS, world renowned jazz music pioneer Edward Kennedy "Duke" Ellington was born in Washington, DC on April 29, 1899 and is honored with 14 Grammy Awards, a Grammy Lifetime Achievement Award, and the Presidential Medal of Freedom;

WHEREAS, by 1900, District of Columbia had the largest African American urban population in the United States;

WHEREAS, in 1933, the New Negro Alliance launched the "Don't Buy Where You Can't Work," campaign to protest discriminatory hiring practices in white-owned businesses in Washington, D.C.;

WHEREAS, Marvin Gaye, born in Washington, DC on April 2, 1939 at Freedmen's Hospital, now Howard University Hospital, and educated at Cardozo High School, is honored with a Grammy Lifetime Achievement Award and induction into the Rhythm and Blues Music Hall of Fame, the Songwriters Hall of Fame, and the Rock and Roll Hall of Fame;

WHEREAS, Chuck Brown, guitarist, bandleader, singer, and Godfather of Go-Go, moved to the District in the 1940s and developed DC's own musical genre, Go-Go, which continues to influence artists and music across the country. Go-go has become a rallying cry to defend and preserve local culture, and was designated as the official music of DC in 2020;

WHEREAS, in the early 1940's, Mary McLeod Bethune, educator, stateswoman, and philanthropist, operated the National Council of Negro Women in Washington, DC, and led Franklin Roosevelt's Black Cabinet, advising his administration on issues facing Black people in America;

WHEREAS, in the landmark case of *Bolling v. Sharpe*, the Supreme Court of the United States held unanimously that the due process clause in the Fifth Amendment to the Constitution prohibits segregated public schools in the District of Columbia. The case involved a group of parents who petitioned the D.C. Board of Education to open the John Philp Sousa Junior High School as an integrated school, and the Supreme Court's decision was delivered on the same day as that of *Brown vs. Board of Education* – May 17, 1954;

WHEREAS, in 1957, Washington, DC's African American population grew to over 50 percent, making it the first predominantly Black major city in the nation, leading a nationwide trend;

WHEREAS, on August 28, 1963, Dr. Martin Luther King, Jr. gave his renowned "I Have a Dream" speech on the steps of the Lincoln Memorial in Washington, DC;

ENROLLED ORIGINAL

WHEREAS, in 1967, the Anacostia Neighborhood Museum (now the Anacostia Community Museum) was founded as part of the Smithsonian Institution to provide access to exhibits and artifacts relevant to the history and experience of the local community;

WHEREAS, on March 30, 1971, the Congressional Black Caucus was established in Washington, DC. The 13 founding members included the District's then-delegate to the U.S. House of Representatives -- Walter E. Fauntroy;

WHEREAS, in 1976, as a result of ASALH's urging, President Gerald R. Ford issued a Presidential message calling on the public to "seize the opportunity to honor the too-often neglected accomplishments of Black Americans in every area of endeavor throughout our history." In 1986, Congress passed a Public Law designating February as "National Black History Month."; and

WHEREAS, Washington, DC's Black residents have produced and sustained a rich culture that permeates life in the District -- a culture that all residents and visitors can still access, experience, appreciate, and benefit from today.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Black History Month Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia recognizes the exceptional contributions of African Americans to the United States and to the District of Columbia, honors the countless African Americans who have shaped the District's history, and celebrates February as Black History Month.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-8

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To honor and recognize Coach David "Tee" Johnson for achieving his 100th win as head coach of Jackson-Reed High School's boys' varsity basketball team—a milestone reached faster than any coach in the school's history— and celebrate his exceptional leadership and unwavering commitment to excellence.

WHEREAS, Coach David "Tee" Johnson has demonstrated exceptional leadership and dedication as the head coach of the Jackson-Reed High School boys' varsity basketball team since his appointment in August 2021;

WHEREAS, on January 15, 2025, Coach Johnson secured his 100th victory with a commanding 90-11 win over Bell Multicultural High School, achieving this milestone in just four seasons and setting a record as the fastest coach in Jackson-Reed athletics history to reach 100 wins;

WHEREAS, under Coach Johnson's guidance, the team has amassed an impressive overall record of 101-22, clinched 2 District of Columbia Interscholastic Athletic Association (DCIAA) championships, and maintained an outstanding home game performance with only 2 losses;

WHEREAS, Coach Johnson's commitment to player development is evident, having mentored 12 players who advanced to collegiate basketball programs, including institutions such as Georgetown University, George Washington University, Texas A&M University, and Old Dominion University;

WHEREAS, Coach Johnson's achievements have garnered regional recognition, exemplified by his selection as the head coach for the Capital All-Stars in the All-American Capital Classic District All-Stars game;

WHEREAS, under Coach Johnson’s leadership the Jackson-Reed basketball team achieved national rankings, reaching as high as No. 22 in the Score Book Live/Sports Illustrated Power 25 in 2024;

ENROLLED ORIGINAL

WHEREAS, beyond high school basketball, Johnson is also a coach for Team Durant, an AAU powerhouse, contributing to youth basketball development;

WHEREAS, Coach Johnson’s is an alumnus of Gonzaga College High School and Lyndon State College, reflecting his deep roots in the D.C. basketball scene.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Coach David "Tee" Johnson Recognition Resolution of 2025”.

Sec. 2. The Council of the District of Columbia recognizes and honors the accomplishments of the Coach David "Tee" Johnson and congratulates him on a great season.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-9

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To honor and recognize the Washington Commanders on their remarkable 2024-2025 season in the National Football League.

WHEREAS, the Washington Commanders have experienced a remarkable resurgence in the 2024-2025 NFL season, finishing the regular season with a 12-5 record and securing the sixth seed in the National Football Conference playoffs, a testament to the collective effort and determination of the players, coaches, and staff;

WHEREAS**,** Coach Quinn's strategic acumen led the Commanders to their first playoff appearance since 2020 and their first playoff victory since 2005, with a 23–20 win over the Tampa Bay Buccaneers in the Wild Card round;

WHEREAS**,** the Commanders continued their remarkable postseason run by defeating the top-seeded Detroit Lions 45–31 in the Divisional Round;

WHEREAS, rookie quarterback Jayden Daniels has emerged as a transformative leader for the Washington Commanders, completing 69% of his passes for 3,568 yards, throwing 25 touchdowns, and rushing for 891 yards and 6 touchdowns during the regular season, showcasing his dual-threat capabilities;

WHEREAS, the Washington Commanders offensive line has demonstrated remarkable resilience and strength, allowing the fewest sacks in the NFC and providing crucial protection for the quarterback, as well as paving the way for a balanced and dynamic running game;

WHEREAS**,** the Commanders' offense tied for the second-most total points in a season in franchise history, scoring 485 points, and ranked among the top three in rushing and total yards;

WHEREAS, the Commanders' receiving corps, led by Terry McLaurin, Jahan Dotson, and Curtis Samuel, has consistently delivered explosive plays and key contributions, helping propel the offense to one of the best in the league;

ENROLLED ORIGINAL

WHEREAS, the Commanders have shown a strong commitment to community engagement, exemplified by initiatives such as the "Commanders Day of Service," which includes youth football clinics, partnerships with local museums, and support for public charter schools;

WHEREAS, wide receiver Terry McLaurin set a franchise record with 13 touchdown receptions in a single season, earning him a second-team All-Pro selection;

WHEREAS, under Head Coach Dan Quinn's leadership, the Washington Commanders advanced to the NFC Championship Game for the first time since 1991, where their season concluded;

WHEREAS, on January 30, 1983, the Commanders defeated the Miami Dolphins with a score of 27-17, marking their first Super Bowl victory;

WHEREAS, on January 31, 1988, the Commanders triumphed over the Denver Broncos with a decisive 42-10 win, showcasing a record-breaking performance, marking their second Super Bowl victory;

WHEREAS, on January 26, 1992, the Washington Commanders secured their third Super Bowl title by defeating the Buffalo Bills 37-24, demonstrating exceptional skill and teamwork.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Washington Commanders Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia recognizes and honors the accomplishments of the Washington Commanders and congratulates them on their great season.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-10

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To honor and recognize the life of Derrick Ward and celebrate his profound contributions to journalism, his unwavering dedication to the Washington, D.C., community, and his enduring legacy as a loving father and inspiring role model.

WHEREAS, Derrick Ward was born and raised in Washington, D.C. and grew up in the Marshall Heights and H Street Corridor neighborhoods, attended H.D. Woodson High School, and graduated from the University of Maryland, reflecting his deep-rooted connection to the community he served;

WHEREAS, Derrick began his illustrious journalism career in radio, contributing to esteemed stations such as WPFW, WAMU, and WTOP, where he covered significant events including the Iran-Contra hearings, September 11th, and the Washington-area sniper shootings;

WHEREAS, throughout his career, Ward served as a mentor to many aspiring journalists, offering guidance and support to those entering the field. His leadership and dedication to journalism left a lasting impact on his colleagues and the broader media community;

WHEREAS, in 2006, Derrick joined News4 Washington as a reporter, bringing his profound knowledge of the city's history and his exceptional storytelling skills to television audiences, earning the reputation of News4's "resident D.C. historian and poet";

WHEREAS, beyond his journalistic endeavors, Derrick was a talented musician, known for his proficiency with the guitar, and was celebrated for his warmth, humor, and unwavering dedication to his craft;

WHEREAS, Derrick Ward passed away on January 7, 2025, at the age of 62;

WHEREAS, Derrick is survived by his 3 children—Derrick Jr., Ian, and Marisa—who continue to honor his legacy.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Derrick Ward Posthumous Recognition Resolution of 2025".

ENROLLED ORIGINAL

Sec. 2. The Council of the District of Columbia recognizes and honors the accomplishments of Derrick Ward and congratulates him on a great season.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-11

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To recognize February 4, 2025, as "Transit Equity Day" in the District of Columbia and to reaffirm the Council's commitment to providing residents and visitors with an equitable, accessible, and reliable transit system.

WHEREAS, Transit Equity Day is observed annually on February 4, the birthday of Rosa Parks, to honor her life and legacy;

WHEREAS, Rosa Parks, hailed as the "mother of the civil rights movement," is perhaps best known for her courageous refusal to give up her seat on a segregated public bus in Montgomery, Alabama, resulting in her arrest in 1955 and the subsequent Montgomery Bus Boycott, a foundational moment in the Civil Rights Movement that focused on the need for justice and equity in public transportation systems;

WHEREAS, on March 2, 1955, Claudette Colvin—just 15 years of age—refused a white woman's request to relinquish her seat and was subsequently arrested;

WHEREAS, that same year, on October 21, 18-year-old Mary Louise Smith was similarly arrested for her refusal to give up her seat to a white bus rider;

WHEREAS, Claudette Colvin, Mary Louise Smith, and two other Black women who experienced harassment by bus drivers were the 4 main plaintiffs in the landmark federal bus desegregation case of *Browder v. Gayle*, 142 F. Supp. 707(1956), in which the United States District Court for the Middle District of Alabama held that racially segregated public transportation systems violate the Equal Protection Clause of the Fourteenth Amendment;

WHEREAS, despite ending legal segregation on public transit, unequal access to public transit based on race, sex, sexual orientation, gender identity or expression, religion, income, age, or disability has persisted in many transit systems across the country;

WHEREAS, public transit is a crucial transportation option for low-income travelers, but reduced funding for transit, and the resulting loss of service or fare increases, have exacerbated existing economic barriers;

WHEREAS, public transit is essential urban infrastructure that—just like roads, bridges, tunnels, and utilities—is crucial to the economic, social, and environmental well-being of the District and the metropolitan region;

WHEREAS, a robust and accessible public transportation network connects people to home, work, school, and places of worship, as well as to opportunities for dining, entertainment, and recreation;

WHEREAS, in addition to providing critical transportation services to the public, transit agencies also provide stable careers through which thousands of people support their families, contributing to the economic strength of the region;

WHEREAS, paratransit services are necessary to ensure seniors and people with disabilities maintain access to public transit, and the paratransit system should be enhanced so that it, at a minimum, provides the same standards of reliability, timeliness, and convenience as other parts of the system;

WHEREAS, safety is a critical component of accessibility, and the Council remains committed to achieving Vision Zero, eliminating all traffic fatalities in the District, and ensuring everyone can safely move throughout the District—including to and from public transit facilities;

WHEREAS, emissions from the transportation sector account for 21% of the District's total greenhouse gas emissions ("GHG"), with passenger vehicle emissions comprising the single largest source of transportation-related emissions;

WHEREAS, these GHG emissions and other vehicle-related pollutants have the greatest impact on communities closest to highways and other major roads, which are disproportionately communities of color or economically disadvantaged communities;

WHEREAS, public transit is a sustainable alternative to personal vehicle travel and increasing ridership on public transit can help reduce the District's GHG and mitigate our impact on the environment and climate;

WHEREAS, reducing disparities in transit access, shifting to more sustainable transportation modes, and increasing "green" career opportunities are key components of a "Just

Transition" from a carbon-intensive, fossil-fuel based, highly unequal extractive economy to a more just, pollution-free, and resilient renewable energy-based economy;

WHEREAS, the Council is committed to working with regional partners, including the Washington Metropolitan Area Transit Authority and the Metropolitan Washington Council of Governments, to build a modern public transit system;

WHEREAS, all District residents deserve access to an equitable, accessible, and reliable public transportation system; and

WHEREAS, achieving transit equity requires that we strengthen our public transportation system, expand low-cost transportation options, improve safety for all roadway users, and eliminate physical, economic, and social barriers that prevent equitable access to all modes of transportation.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Transit Equity Day Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia recognizes and hereby proclaims February 4, 2025, as Transit Equity Day.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

26-12

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 4, 2025

To recognize and honor Dr. Maurice Jackson for his outstanding contributions to scholarship, music, and public service in the District of Columbia and beyond, and for his lifelong dedication to preserving and amplifying the history and cultural legacy of Black Washingtonians.

WHEREAS, Dr. Maurice Jackson is a tenured professor in the History Department at Georgetown University and an associate professor in the Black Studies and Music Departments, with a particular focus on jazz;

WHEREAS, before entering academia, Dr. Jackson worked as a longshoreman, shipyard rigger, construction worker, and community organizer, experiences that deeply informed his scholarship and commitment to social justice;

WHEREAS, Dr. Jackson is the author of *Rhythms of Resistance and Resilience: How Black Washingtonians Used Music and Sports in the Fight for Equality* (2025), *Let This Voice Be Heard: Anthony Benezet, Father of Atlantic Abolitionism*, and co-editor of *DC Jazz: Stories of Jazz Music in Washington, DC*, *African-Americans and the Haitian Revolution*, and *Quakers and Their Allies in the Abolitionist Cause, 1754-1808*;

WHEREAS, Dr. Jackson has contributed extensively to historical scholarship through numerous articles, including "Washington, D.C.: From the Founding of a Slaveholding Capital to a Center of Abolitionism," and has co-edited a special issue on jazz in Washington, D.C. for *Washington History*;

WHEREAS, Dr. Jackson has made significant contributions to jazz history, writing liner notes for albums by Charlie Haden and Hank Jones, including *Steal Away: Spirituals, Folk Songs, and Hymns* and *Come Sunday*;

WHEREAS, Dr. Jackson has shared his expertise internationally, delivering lectures in France, the Dominican Republic, Turkey, Egypt, Italy, Puerto Rico, and Qatar;

WHEREAS, Dr. Jackson has demonstrated an unwavering commitment to civic engagement, serving as the first Chair of the DC Commission on African American Affairs

(2013–2016), a member of the Georgetown University Slavery Working Group, and Special Assistant for DC Affairs to Georgetown University President Jack DeGioia;

WHEREAS, Dr. Jackson has been recognized for his public service, including induction into the Washington, D.C. Hall of Fame in 2009, and has presented critical analyses on African American employment, population, and housing trends to DC government;

WHEREAS, Dr. Jackson has preserved and shared vital historical materials by donating a 3,000-item movement pamphlet collection to Georgetown University, archives on the 1919 and 1968 Washington, D.C. riots, and a 300-item Black pamphlet collection to the Smithsonian National Museum of African American History and Culture; rare Cuban jazz records to the Felix Grant Jazz Archives at the University of the District of Columbia; and materials to the African American Civil Rights Museum and the Rosenwald School Library in Gloucester, Virginia;

WHEREAS, Dr. Jackson's forthcoming works, *Halfway to Freedom: The Struggles and Strivings of African Americans in Washington, D.C.* and *Michael Shiner: A Black Man in a 19th Century White City: Washington, DC*, will further illuminate the rich history of Black Washingtonians and their fight for equality; and

WHEREAS, Dr. Jackson is not only an esteemed scholar and historian but also a devoted husband to Laura Ginsburg and a proud father to Lena, a graduate of Georgetown University and the National Cathedral School for Girls, and Miles, a graduate of the University of Michigan and St. Albans School for Boys.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Dr. Maurice Jackson Recognition Resolution of 2025".

Sec. 2. The Council of the District of Columbia recognizes and honors Dr. Maurice Jackson for his extraordinary contributions to history, music, and public service, his dedication to preserving Black history in Washington, D.C., and his lifelong commitment to scholarship and community engagement.

Sec. 3. 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

B26-0135 Purple Heart License Plate Amendment Act of 2025

Intro. 02-21-2025 by Councilmembers Bonds, McDuffie, Nadeau, Pinto, Allen, Henderson, and R. White and referred to the Committee on Transportation and the Environment

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B26-0136 Special Election in the Office of Delegate Amendment Act of 2025

Intro. 02-21-2025 by Councilmember Bonds and referred to the Committee on Executive Administration and Labor

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B26-0137 Strengthening Arts in Schools Amendment Act of 2025

Intro. 02-22-2025 by Councilmembers Nadeau, R. White, McDuffie, Parker, and Pinto and referred to the Committee of the Whole

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B26-0138 Fair Swipe Act of 2025

Intro. 02-24-2025 by Councilmembers Allen, Frumin, Lewis George, Pinto, Felder, Henderson, Nadeau, and R. White and referred to the Committee on Business and Economic Development

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B26-0139 Gallery Court Designation Act of 2025

Intro. 02-25-2025 by Councilmember Allen and referred to the Committee of the Whole

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B26-0140 Lighting Intentionally Guides and Halts Transgressions in DC (LIGHT DC) Amendment Act of 2025

Intro. 02-25-2025 by Councilmembers Bonds, Lewis George, Parker, Pinto, and R. White and referred to the Committee on Transportation and the Environment

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B26-0141 Eviction Reform Amendment Act of 2025

Intro. 02-26-2025 by Chairman Mendelson and referred to the Committee on Housing

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B26-0147 Streatery Program and Protest Process Amendment Act of 2025

Intro. 02-27-2025 by Chairman Mendelson and referred to the Committee on Business and Economic Development with comments from the Committee on Transportation and the Environment

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B26-0156 Licensing for Accountability of Management of Properties (LAMP) Amendment Act of 2025

Intro. 02-27-2025 by Councilmembers Bonds, and R. White and referred to the Committee on Public Works and Operations

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B26-0157 Langston Slater Surplus Declaration and Disposition Approval Act of 2025

Intro. 02-28-2025 by Chairman Mendelson and referred sequentially to the Committee on Facilities, and Committee on Business and Economic Development

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B26-0158 Empower the D.C. State Board of Education Amendment Act of 2025

Intro. 02-28-2025 by Councilmember Parker and referred to the Committee of the Whole

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B26-0159 PrEP DC Act of 2025

Intro. 02-28-2025 by Councilmembers Parker, Lewis George, Henderson, Pinto, Nadeau, Allen, Bonds, R. White, and Felder and referred to the Committee on Business and Economic Development with comments from the Committee on Health

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B26-0160 Closing of a Cul-de-Sac and Dedication of Land for Alley Purposes in Square 4350, S.O. 22-05506, Act of 2025

Intro. 02-28-2025 by Councilmember Parker and referred to the Committee of the Whole

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B26-0161 Planning Actively for Recreational upKeep so Neighborhood Resources Elevate Communities (PARKSNREC) Amendment Act of 2025

Intro. 02-28-2025 by Councilmembers Henderson, Felder, Pinto, and R. White and referred to the Committee on Facilities with comments from the Committee of the Whole

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PR26-0083 Commission on African Affairs Salimata Sangare Confirmation Resolution of 2025

Intro. 02-25-2025 by Chairman Mendelson and referred to the Committee on Youth Affairs

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PR26-0084 Commission on African Affairs Khaosara Akapolawal Confirmation Resolution of 2025

Intro. 02-25-2025 by Chairman Mendelson and referred to the Committee on Youth Affairs

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PR26-0085 Commission on African Affairs Ify Bozimo Confirmation Resolution of 2025

Intro. 02-25-2025 by Chairman Mendelson and referred to the Committee on Youth Affairs

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PR26-0086 Commission on African Affairs El Hadji Beye Confirmation Resolution of 2025

Intro. 02-25-2025 by Chairman Mendelson and referred to the Committee on Youth Affairs

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PR26-0087 Commission on African Affairs Yodit Shibru Confirmation Resolution of 2025

Intro. 02-25-2025 by Chairman Mendelson and referred to the Committee on Youth Affairs

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PR26-0088 Local Rent Supplement Contract Number 2025-LRSP-02A with Flats at South Capitol LLC Approval Resolution of 2025

Intro. 02-25-2025 by Chairman Mendelson and referred to the Retained by the Council with comments from the Committee on Housing

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PR26-0094 Installation of Statue of Bernardo de Gálvez Commemorative Work Approval Resolution of 2025

Intro. 02-27-2025 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0095 Combat Sports Commission Andrew Huff Confirmation Resolution of 2025

Intro. 02-27-2025 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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PR26-0096 Combat Sports Commission Christopher Jenkins Confirmation Resolution of 2025

Intro. 02-27-2025 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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PR26-0097 District Waterways Advisory Commission Darryl Madden Confirmation Resolution of 2025

Intro. 02-28-2025 by Chairman Mendelson and referred to the Committee on Transportation and the Environment

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PR26-0098 District Waterways Advisory Commission Melissa Bird Confirmation Resolution of 2025

Intro. 02-28-2025 by Chairman Mendelson and referred to the Committee on Transportation and the Environment

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PR26-0099 Interstate Medical Licensure Compact Commission Harry Barbee Confirmation Resolution of 2025

Intro. 02-28-2025 by Chairman Mendelson and referred to the Committee on Health

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PR26-0100 Interstate Medical Licensure Compact Commission Dr. Padmaja Pavuluri Confirmation Resolution of 2025

Intro. 02-28-2025 by Chairman Mendelson and referred to the Committee on Health

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PR26-0108 Sense of the Council on Supporting Humane and Trauma-Informed Responses to Behavioral Health Crises Resolution of 2025

Intro. 02-28-2025 by Councilmembers Henderson, Allen, Lewis George, Nadeau, Parker, R. White, Bonds, Frumin, Pinto, McDuffie, Felder, and Chairman Mendelson and referred to the Committee on Judiciary and Public Safety with comments from the Committee on Health

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COUNCIL OF THE DISTRICT OF COLUMBIA

COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

BROOKE PINTO, CHAIR

NOTICE OF PUBLIC HEARING ON

Bill 26-52 the "Evidence-Based Gun Violence Reduction and Prevention Act of 2025"

Wednesday, March 26, 2025, at 9:30 a.m.

In the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 123
and virtually via Zoom

To watch live:
Councilmember Pinto's YouTube Page (www.youtube.com/@cmbrookepinto)
DC Council Website (dccouncil.gov)
Council Channel 13 (Cable Television Providers)
Office of Cable Television Website (entertainment.dc.gov)

On Wednesday, March 26, 2025, at 9:30 am, Councilmember Brooke Pinto, Chairwoman of the Committee on the Judiciary and Public Safety, will hold a public hearing on **Bill 26-52, the "Evidence-Based Gun Violence Reduction and Prevention Act of 2025"** The hearing will be held in Room 123 of the John A. Wilson Building.

The purpose of Bill 26-52, the, **"**Evidence-Based Gun Violence Reduction and Prevention Act of 2025" would establish a Group Violence Intervention Initiative and an organizational structure to guide the efforts of the Initiative. It would allow the Metropolitan Police Department to hire civilian personnel to respond to and investigate certain property crimes and cold cases. The Sentencing Commission is required to publish a biannual report on repeat violent offenders in the District and authorizes the Mayor to take corrective actions to remediate criminal blight at properties in the District. It would require the Director of the Department of Healthcare Finance to submit an amendment to the Medicaid state plan to make community violence prevention services available to Medicaid beneficiaries.

The Committee invites the public to testify. Those who wish to do so must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings **by 9:30 a.m. on Monday, March 24th**. Witnesses who represent organizations will have 5 minutes to speak. All others will have 3 minutes to speak.[1] **Witnesses will have the option to testify in person or virtually**; witnesses should specify which option they are electing at the time they sign up to testify.

Witnesses who anticipate needing spoken language interpretation, or who require sign language interpretation, are requested to inform the Committee office of the need as soon as possible, but

[1] If there is a large number of witnesses, the Committee may allow less time for each witness in order to ensure all witnesses have an opportunity to testify.

no later than 5 business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests may be submitted via the Hearing Management System during registration or by contacting Ms. Aukima Benjamin, Committee Manager to the Committee on the Judiciary and Public Safety, at (202) 724-8058 or via e-mail at abenjamin@dccouncil.gov. It may not be possible to fulfill requests received less than 5 business days before the proceeding. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Ms. Benjamin at the phone number or e-mail listed above.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record; written testimony should be submitted through the Council's Hearing Management System at https://lims.dccouncil.gov/hearings. Testimony will be publicly accessible following review by Committee staff.

The record will close at 5:00 p.m. on Wednesday, April 9, 2025.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH
COMMITTEE ON HOUSING
NOTICE OF JOINT PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER CHRISTINA HENDERSON, CHAIRPERSON
COMMITTEE ON HEALTH
AND
COUNCILMEMBER ANITA BONDS, CHAIRPERSON
COMMITTEE ON EXECUTIVE ADMINISTRATION AND LABOR

ANNOUNCE A PUBLIC JOINT OVERSIGHT ROUNDTABLE

ON

Strategies to Support the District of Columbia's Long-Term Care Workforce

ON

Wednesday, March 26, 2025, 1:00 p.m.
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Hybrid in Room 500 and Virtual via Zoom

To Watch Live:
https://dccouncil.gov/council-videos/
https://www.christinahendersondc.com/live
https://www.youtube.com/@cmchenderson
https://www.youtube.com/@EALCommittee/streams

Councilmember Christina Henderson, Chair of the Committee on Health, and Councilmember Anita Bonds, Chair of the Committee on Executive Administration and Labor (CEAL), announce a joint oversight roundtable on Strategies to Support the District of Columbia's Long-Term Care Workforce. The roundtable will be held on Wednesday March 26, 2025, at 1:00 p.m. in hearing room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of this roundtable is to discuss the District's need for a unified strategy to support the health and wellbeing of our aging population and the long-term care workforce. In 2019, the District was home to nearly 84,000 older adults, and the Council's Office of the Budget Director projected that by 2030 this population could increase by over 50 percent.

A sufficient clinical and non-clinical workforce is crucial to supporting our older residents, which the District does not currently have. The most recent DC Health workforce survey showed that between 2020 and 2024 certified Home Health Aides (HHAs) in the District decreased by 13% and Certified Nurse Aides (CNAs) in the District decreased by 28%. Individuals in these two

entry level nursing professions are integral in the system of caretaking for the elderly. In addition to the decreased workforce, four schools that offered CNA and HHA trainings have shut down since 2021. This leaves only two remaining schools that offer this training, which have insufficient capacity and supports to meet the District's needs.

In addition to training programs, this roundtable will highlight how to establish strong hiring pathways so that District residents who might be interested in this work receive notice of opportunities and are empowered to take advantage of them.

The Committees on Health and Executive Administration and Labor are working on health and workforce-related strategies to support and build the long-term care workforce and are holding this public hearing to hear jointly from stakeholders and agencies and consider broader strategies across the District.

Witnesses may appear either in-person or virtually using the Zoom platform. Unless otherwise stated in pre-hearing instructions, witnesses will have 5 minutes to speak if they are representing an organization, and 3 minutes if they are speaking for themselves. The public should sign up at https://lims.dccouncil.gov/Hearings by 5pm on Thursday March 24, 2025. **Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding.** We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. If you have additional questions, please email Ashley Strange, Legislative Assistant at astrange@dccouncil.gov.

Testimony should be submitted through the Council's Hearing Management System https://lims.dccouncil.gov/hearings in advance of the roundtable. Testimony will be publicly accessible upon Committee review. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the record should be submitted through the Hearing Management System at the link above. The record will close at 5:00pm on Wednesday, April 9 2025.

Please reach out to Emilie Delanois at edelanois@dccouncil.gov or Rebecca Cooper at rcooper@dccouncil.gov if you have any questions.

COUNCIL OF THE DISTRICT OF COLUMBIA

CONSIDERATION OF TEMPORARY LEGISLATION

B26-37, Clemency Board Waiver Authority Temporary Amendment Act of 2025,

B26-150, Residential Building Permit Classification Temporary Amendment Act of 2025,

B26-152, Second Chance Clarification Temporary Amendment Act of 2025,

B26-163, Unlicensed Establishment Enforcement Clarification Temporary Amendment Act of 2025, and

These temporary measures were adopted on March 4, 2025. A final reading on these measures will occur on April 1, 2025.

COUNCIL OF THE DISTRICT OF COLUMBIA EXCEPTED SERVICE
APPOINTMENTS AS OF February 28, 2025

NOTICE OF EXCEPTED SERVICE EMPLOYEES

D.C. Code § 1-609.03(c) requires that a list of all new appointees to Excepted Service positions established under the provisions of § 1-609.03(a) be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	**POSITION TITLE**	**GRADE**	**TYPE OF APPOINTMENT**
Marrisa Rose	Special Assistant	8	Excepted
Andrew LaBerge	Intern	1	Excepted
Darrell Whitmyer	Constituent Services Coordinator	3	Excepted
Mary Tanouye	Special Assistant	2	Excepted
Nakayla Gasper	Constituent Services Coordinator	2	Excepted
Hannah Ames	Constituent Services Coordinator	2	Excepted
Kristian Smith	Constituent Services Coordinator	3	Excepted
Antavis Chavis	Legislative Director	7	Excepted

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

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

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

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

GBM 26-0009 Grant Budget Modifications as of February 20, 2025

RECEIVED: 14-day review begins February 27, 2025

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 26-0012: Request to reprogram Capital funds budget authority and allotment in the amount of $12,500,000 from the District of Columbia Public Library (DCPL) to the Office of the Deputy Mayor for Planning and Economic Development (DMPED) was filed in the Office of the Secretary Wednesday February 26, 2025. The funds are needed to cover the closing of Phase 1 for the Barry Farm project.

RECEIVED: 14-day review begins February 27, 2025

Reprog. 26-0013: Request to reprogram Fiscal Year 2025 Local funds budget authority in the amount of $6,857,347 within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary Tuesday March 3, 2025. The funds are needed to support Early Intervention, Strong Start Human Care agreements.

RECEIVED: 14-day review begins March 4, 2025

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 7, 2025
Protest Petition Deadline:	April 21, 2025
Roll Call Hearing Date:	May 12, 2025
License No.:	ABRA-131487
Licensee:	T & N Angels, LLC
Trade Name:	Cielo's Angels
License Class:	Retailer's "C" Nightclub
Address:	1813-1815 M Street, N.W.
Contact:	Cameron Mixon: (202) 686-7600, Cmixon@theveritaslawfirm.com

WARD 2 ANC 2B SMD 2B05

Notice is hereby given that this licensee has requested to transfer their license to a new location under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on May 12, 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 OPERATION

Applicant requests to Transfer License from 900 First Street, S.E. to a new location at 1813-1815 M Street, N.W. Licensee is also requesting the Holiday Extension of Hours endorsement. Licensee is a Retailer Class "C" Nightclub with a Nude Dancing Endorsement. Total Occupancy Load of 380.

HOURS OF OPERATION

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

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION

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

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-074897 **License Class/Type: C Restaurant**
Applicant: Big Cheese, LLC
Trade Name: Comet Pizza
SMD: 3F06

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

5037 CONNECTICUT AVENUE NW, WASHINGTON, DC 20008

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	6 pm - 1:30 a.m.
Monday:	10 am - 2 am	10 am - 2 am	6 pm - 1:30 a.m.
Tuesday:	10 am - 2 am	10 am - 2 am	6 pm - 1:30 a.m.
Wednesday:	10 am - 2 am	10 am - 2 am	6 pm - 1:30 a.m.
Thursday:	10 am - 2 am	10 am - 2 am	6 pm - 1:30 a.m.
Friday:	10 am - 3 am	10 am - 3 am	6 pm - 2:30 am
Saturday:	10 am - 3 am	10 am - 3 am	6 pm - 2:30 am

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	10 am - 12 am	10 am - 12 am
Monday:	10 am - 11 pm	10 am - 11 pm
Tuesday:	10 am - 11 pm	10 am - 11 pm
Wednesday:	10 am - 11 pm	10 am - 11 pm
Thursday:	10 am - 11 pm	10 am - 11 pm
Friday:	10 am - 11 pm	10 am - 11 pm
Saturday:	10 am - 12 am	10 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-076380 **License Class/Type: C Restaurant**
Applicant: L'Aziatique, Inc.
Trade Name: Aoi Japanese Restaurant
SMD: 2C01

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

1100 NEW YORK AVENUE NW, WASHINGTON, DC 20005

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Summer Garden

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-072038 **License Class/Type: C Restaurant**
Applicant: Style Concept Studio, LLC
Trade Name: Le Chat Noir
SMD: 3E03

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

4907 WISCONSIN AVENUE NW, WASHINGTON, DC 20016

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

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

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 11 pm	11 am - 11 pm
Saturday:	11 am - 11 pm	11 am - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-072792 **License Class/Type: C Restaurant**
Applicant: Granville Moore's Brickyard LLC
Trade Name: Granville Moore's Brickyard
SMD: 6A01

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

1238 H STREET NE, WASHINGTON, DC 20002

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	9am - 2 am	9am - 2 am	7 pm - 1 am
Monday:	9am - 2 am	9 am - 2 am	7 pm - 2 am
Tuesday:	9am - 2 am	9am - 2 am	7 pm - 1 am
Wednesday:	9am - 2 am	9am - 2 am	7 pm - 1 am
Thursday:	9am - 2 am	9 am - 2 am	7 pm - 1 am
Friday:	9am - 3 am	9am - 3am	7 pm - 2 am
Saturday:	9am - 3 am	9am - 3am	7 pm - 2 am

	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	11 am - 1:45 am	11 am - 1:45 am
Monday:	11 am - 1:45 am	11 am - 1:45 am
Tuesday:	11 am - 1:45 am	11 am - 1:45 am
Wednesday:	11 am - 1:45 am	11 am - 1:45 am
Thursday:	11 am - 1:45 am	11 am - 1:45 am
Friday:	11 am - 2:45 am	11 am - 2:45 am
Saturday:	11 am - 2:45 am	11 am - 2:45 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-060769 **License Class/Type: C Restaurant**
Applicant: Big Bucks, LLC
Trade Name: Buck's Fishing & Camping
SMD: 3F06

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

5031 CONNECTICUT AVENUE NW, WASHINGTON, DC 20008

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 12 am	10 am - 12 am	-
Monday:	10 am - 12 am	10 am - 12 am	-
Tuesday:	10 am - 12 am	10 am - 12 am	-
Wednesday:	10 am - 12 am	10 am - 12 am	-
Thursday:	10 am - 12 am	10 am - 12 am	-
Friday:	10 am - 1 am	10 am - 1 am	-
Saturday:	10 am - 1 am	10 am - 1 am	-

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	10 am - 12 am	10 am - 12 am
Monday:	10 am - 12 am	10 am - 12 am
Tuesday:	10 am - 12 am	10 am - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am
Thursday:	10 am - 12 am	10 am - 12 am
Friday:	10 am - 1 am	10 am - 1 am
Saturday:	10 am - 1 am	10 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-024326 **License Class/Type: C Restaurant**
Applicant: Morton's of Chicago/Washington Square, Inc.
Trade Name: Morton's The Steakhouse/ Bar 21
SMD: 2C02

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

1050 CONNECTICUT AVENUE NW, WASHINGTON, DC 20036

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Cover Charge Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 1 am	11 am - 1 am	11 am - 1 am
Monday:	11 am - 1 am	11 am - 1 am	11 am - 1 am
Tuesday:	11 am - 1 am	11 am - 1 am	11 am - 1 am
Wednesday:	11 am - 1 am	11 am - 1 am	11 am - 1 am
Thursday:	11 am - 1 am	11 am - 1 am	11 am - 1 am
Friday:	11 am - 1 am	11 am - 1 am	11 am - 1 am
Saturday:	11 am - 1 am	11 am - 1 am	11 am - 1 am

	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	11 am - 1 am	11 am - 1 am
Monday:	11 am - 1 am	11 am - 1 am
Tuesday:	11 am - 1 am	11 am - 1 am
Wednesday:	11 am - 1 am	11 am - 1 am
Thursday:	11 am - 1 am	11 am - 1 am
Friday:	11 am - 1 am	11 am - 1 am
Saturday:	11 am - 1 am	11 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-022105 **License Class/Type: C Restaurant**
Applicant: Red River Grill LLC
Trade Name: Union Pub
SMD: 6C02

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

201 MASSACHUSETTS AVENUE NE, WASHINGTON, DC 20002

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	9 am - 2 am	9 am - 1:30 am	-
Monday:	9 am - 2 am	9 am - 1:30 am	-
Tuesday:	9 am - 2 am	9 am - 1:30 am	-
Wednesday:	9 am - 2 am	9 am - 1:30 am	-
Thursday:	9 am - 2 am	9 am - 1:30 am	-
Friday:	9 am - 3 am	9 am - 2:30 am	-
Saturday:	9 am - 3 am	9 am - 2:30 am	-

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	10 am - 12:30 am	10 am - 12:30 am
Monday:	11 am - 12:30 am	11 am - 12:30 am
Tuesday:	11 am - 12:30 am	11 am - 12:30 am
Wednesday:	11 am - 12:30 am	11 am - 12:30 am
Thursday:	11 am - 12:30 am	11 am - 12:30 am
Friday:	11 am - 12:30 am	11 am - 12:30 am
Saturday:	10 am - 12:30 am	10 am - 12:30 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-000150 **License Class/Type: C Club**
Applicant: Cosmos Club
Trade Name: Cosmos Club
SMD: 2B02

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

2121 MASSACHUSETTS AVE NW, WASHINGTON, DC 20008

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 1am	11 am - 1am	-
Monday:	7am - 1am	11 am - 1am	-
Tuesday:	7 am - 1am	11 am - 1am	-
Wednesday:	7 am - 1am	11 am - 1am	-
Thursday:	7 am - 1am	11 am - 1am	-
Friday:	7 am - 1am	11 am - 1am	-
Saturday:	7 am - 1am	11 am - 1 am	-

	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	11am - 1am	11am - 1am
Monday:	11am - 1am	11am - 1am
Tuesday:	11am - 1am	11am - 1am
Wednesday:	11am - 1am	11am - 1am
Thursday:	11am - 1am	11am - 1am
Friday:	11am - 1am``	11am - 1am
Saturday:	11am - 1am	11am - 1am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-083338 **License Class/Type: D Multipurpose**
Applicant: Hillwood Estate Museum & Gardens
Trade Name: Hillwood Estate Museum & Gardens
SMD: 3F03

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

4155 LINNEAN AVENUE NW, WASHINGTON, DC 20008

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Summer Garden

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

	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	9 am - 10 pm	12 pm - 10 pm
Monday:	Closed - Closed	Closed - Closed
Tuesday:	9 am - 10 pm	9 am - 10 pm
Wednesday:	9 am - 10 pm	9 am - 10 pm
Thursday:	9 am - 10 pm	9 am - 10 pm
Friday:	9 am - 10 pm	9 am - 10 pm
Saturday:	9 am - 10 pm	9 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-084379 **License Class/Type: C Restaurant**
Applicant: Big Bear DC, LLC
Trade Name: Big Bear Cafe
SMD: 5E03

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

1700 1ST STREET NW, WASHINGTON, DC 20001

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment Sidewalk Cafe

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

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	7 am - 10:30 pm	10 am - 10:30 pm
Monday:	7 am - 10:30 pm	9 am - 10:30 pm
Tuesday:	7 am - 10:30 pm	9 am - 10:30 pm
Wednesday:	7 am - 10:30 pm	9 am - 10:30 pm
Thursday:	7 am - 11:30 pm	9 am - 11:30 pm
Friday:	7 am - 11:30 pm	9 am - 11:30 pm
Saturday:	7 am - 11:30 pm	9 am - 11:30 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-084736 **License Class/Type: C Restaurant**
Applicant: The Oceanaire Restaurant Company, Inc.
Trade Name: The Oceanaire Seafood Room
SMD: 2C01

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

1201 F STREET NW, WASHINGTON, DC 20004

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 12 am	11 am - 12 am	-
Monday:	11 am - 12 am	11 am - 12 am	-
Tuesday:	11 am - 12 am	11 am - 12 am	-
Wednesday:	11 am - 12 am	11 am - 12 am	-
Thursday:	11 am - 12 am	11 am - 12 am	-
Friday:	11 am - 1 am	11 am - 1 am	-
Saturday:	11 am - 1 am	11 am - 1 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-088274 **License Class/Type: C Restaurant**
Applicant: Restaurant Seki, LLC
Trade Name: Izakaya Seki
SMD: 1B04

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

1117 V STREET NW, WASHINGTON, DC 20009

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	5 pm - 1 am	5 pm - 1 am	-
Monday:	5 pm - 12 am	5 pm - 12 am	-
Tuesday:	5 pm - 12 am	5 pm - 12 am	-
Wednesday:	5 pm - 12 am	5 pm - 12 am	-
Thursday:	5 pm - 1 am	5 pm - 1 am	-
Friday:	5 pm - 2 am	5 pm - 2 am	-
Saturday:	5 pm - 2 am	5 pm - 2 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-088497 **License Class/Type: C Restaurant**
Applicant: Best Food International, Inc.
Trade Name: Young Chow Asian Restaurant
SMD: 6B02

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

312 PENNSYLVANIA AVENUE SE, WASHINGTON, DC 20003

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 10:30 pm	11 am - 10:30 pm	-
Monday:	11 am - 10:30 pm	11 am - 10:30 pm	-
Tuesday:	11 am - 10:30 pm	11 am - 10:30 pm	-
Wednesday:	11 am - 10:30 pm	11 am - 10:30 pm	-
Thursday:	11 am - 10:30 pm	11 am - 10:30 pm	-
Friday:	11 am - 11 pm	11 am - 11 pm	-
Saturday:	11 am - 11 pm	11 am - 11 pm	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-091375 **License Class/Type: C Restaurant**
Applicant: Augustus, LLC
Trade Name: Paragon Thai Restaurant
SMD: 3C06

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

3507 CONNECTICUT AVENUE NW, WASHINGTON, DC 20008

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	12 pm - 10:30 pm	12 pm - 10:30 pm	-
Monday:	11 am - 10 pm	11 am - 10 pm	-
Tuesday:	11 am - 10 pm	11 am - 10 pm	-
Wednesday:	11 am - 10 pm	11 am - 10 pm	-
Thursday:	11 am - 10 pm	11 am - 10 pm	-
Friday:	11 am - 11 pm	11 am - 11 pm	-
Saturday:	12 pm - 11 pm	12 pm - 11 pm	-

	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	12 pm - 10:30 pm	12 pm - 10:30 pm
Monday:	11 am - 10 pm	11 am - 10 pm
Tuesday:	11 am - 10 pm	11 am - 10 pm
Wednesday:	11 am - 10 pm	11 am - 10 pm
Thursday:	11 am - 10 pm	11 am - 10 pm
Friday:	11 am - 11 pm	11 am - 11 pm
Saturday:	12 pm - 11 pm	12 pm - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-095281 **License Class/Type: C Restaurant**
Applicant: Del Frisco's of Washington DC LLC
Trade Name: Del Frisco's Double Eagle Steak House
SMD: 2C04

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

950 I STREET NW, WASHINGTON, DC 20001

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11am - 1am	11am - 1am	11am - 1am
Monday:	11am - 1am	11am - 1am	11am - 1am
Tuesday:	11am - 1am	11am - 1am	11am - 1am
Wednesday:	11am - 1am	11am - 1am	11am - 1am
Thursday:	11am - 1am	11am - 1am	11am - 1am
Friday:	11am - 2am	11am - 2am	11am - 2am
Saturday:	11am - 2am	11am - 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 - 11pm	11am - 11pm
Saturday:	11am - 11pm	11am - 11pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-096192 **License Class/Type: C Restaurant**
Applicant: Mastro's Restaurant, LLC
Trade Name: Mastro's Steakhouse
SMD: 2C01

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

600 13TH STREET NW, WASHINGTON, DC 20005

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 12 am	11 am - 12 am	11 am - 12 am
Monday:	11 am - 12 am	11 am - 12 am	11 am - 12 am
Tuesday:	11 am - 12 am	11 am - 12 am	11 am - 12 am
Wednesday:	11 am - 12 am	11 am - 12 am	11 am - 12 am
Thursday:	11 am - 12 am	11 am - 12 am	11 am - 12 am
Friday:	11 am - 1 am	11 am - 1 am	11 am - 1 am
Saturday:	11 am - 1 am	11 am - 1 am	11 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-108398 **License Class/Type: C Restaurant**
Applicant: Pisco Y Nazca Dupont LLC
Trade Name: Pisco y Nazca Ceviche Gastrobar
SMD: 2C02

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

1823 L STREET NW, WASHINGTON, DC 20036

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11am - 12am	11 am - 12am	-
Monday:	11am - 12am	11am - 12am	-
Tuesday:	11am - 12am	11am - 12am	-
Wednesday:	11am - 12am	11am - 12am	-
Thursday:	11am - 12am	11am - 12am	-
Friday:	11am - 12am	11am - 12am	-
Saturday:	11am - 12am	11am - 12am	-

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	11:30 am - 12am	11:30 am - 12am
Monday:	11:30 am - 12am	11:30 am - 12am
Tuesday:	11:30 am - 12am	11:30 am - 12am
Wednesday:	11:30 am - 12am	11:30 am - 12am
Thursday:	11:30 am - 12am	11:30 am - 12am
Friday:	3 pm - 12am	3 pm - 12am
Saturday:	3 pm - 12am	3 pm - 12am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-108986 **License Class/Type: D Restaurant**
Applicant: Torai Grill & Sushi, Inc.
Trade Name: Torai Grill & Sushi
SMD: 6B03

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

751 8TH STREET SE, WASHINGTON, DC 20003

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

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

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	11 am - 10 pm	11 am - 10 pm
Monday:	11 am - 10 pm	11 am - 10 pm
Tuesday:	11 am - 10 pm	11 am - 10 pm
Wednesday:	11 am - 10 pm	11 am - 10 pm
Thursday:	11 am - 10 pm	11 am - 10 pm
Friday:	11 am - 10 pm	11 am - 10 pm
Saturday:	11 am - 10 pm	11 am - 10 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-113796 **License Class/Type: C Restaurant**
Applicant: Iron Age Columbia Heights, LLC
Trade Name: Iron Age
SMD: 1A02

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

3365 14TH STREET NW, WASHINGTON, DC 20010

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 12 am	11 am - 12 am	-
Monday:	11 am - 12 am	11 am - 12 am	-
Tuesday:	11 am - 12 am	11 am - 12 am	-
Wednesday:	11 am - 12 am	11 am - 12 am	-
Thursday:	11 am - 12 am	11 am - 12 am	-
Friday:	11 am - 2 am	11 am - 2 am	-
Saturday:	11 am - 2 am	11 am - 2 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-113983 **License Class/Type: C Restaurant**
Applicant: WSZR Proper, LLC
Trade Name: Proper 21
SMD: 2A08

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

2033 K STREET NW, WASHINGTON, DC 20006

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-114842 **License Class/Type: C Restaurant**
Applicant: PUDDIN' LLC
Trade Name: PUDDIN'
SMD: 5D01

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

1309 5TH STREET NE, WASHINGTON, DC 20002

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11am - 8pm	11am - 8pm	-
Monday:	11am - 8pm	11am - 8pm	-
Tuesday:	11am - 8pm	11am - 8pm	-
Wednesday:	11am - 8pm	11am - 8pm	-
Thursday:	11am - 10pm	11am - 10pm	-
Friday:	11am - 10pm	11am - 10pm	-
Saturday:	11am - 10pm	11am - 10pm	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-115707 **License Class/Type: C Restaurant**
Applicant: Actual Space, LLC
Trade Name: Muchas Gracias
SMD: 3F06

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

5029 CONNECTICUT AVENUE NW, WASHINGTON, DC 20008

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-115942 **License Class/Type: C Restaurant**
Applicant: Lu Family Inc.
Trade Name: Magic Gourd Restaurant
SMD: 2A05

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

528 23RD STREET NW, WASHINGTON, DC 20037

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	12 pm - 10 pm	12 pm - 10 pm	-
Monday:	11 am - 10 pm	11 am - 10 pm	-
Tuesday:	11 am - 10 pm	11 am - 10 pm	-
Wednesday:	11 am - 10 pm	11 am - 10 pm	-
Thursday:	11 am - 10 pm	11 am - 10 pm	-
Friday:	11 am - 10 pm	11 am - 10 pm	-
Saturday:	12 pm - 10 pm	12 pm - 10 pm	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-116840 **License Class/Type: C Restaurant**
Applicant: FD L.L.C.
Trade Name: Rosemary
SMD: 3F06

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

5010 CONNECTICUT AVENUE NW, WASHINGTON, DC 20008

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

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

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	10am - 11pm	10am - 11pm
Monday:	10am - 11pm	10am - 11pm
Tuesday:	10am - 11pm	10am - 11pm
Wednesday:	10am - 11pm	10am - 11pm
Thursday:	10am - 11pm	10am - 11pm
Friday:	10am - 11pm	10am - 11pm
Saturday:	10am - 11pm	10am - 11pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-117004 **License Class/Type: C Restaurant**
Applicant: Remarkable Breads, LLC
Trade Name: Bread Furst
SMD: 3F05

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

4434 CONNECTICUT AVENUE NW, WASHINGTON, DC 20008

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

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

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	7 am - 12 am	8 am - 12 am
Monday:	7 am - 12 am	8 am - 12 am
Tuesday:	7 am - 12 am	8 am - 12 am
Wednesday:	7 am - 12 am	8 am - 12 am
Thursday:	7 am - 12 am	8 am - 12 am
Friday:	7 am - 12 am	8 am - 12 am
Saturday:	7 am - 12 am	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-119768 **License Class/Type: C Restaurant**
Applicant: Jay Foods, Inc.
Trade Name: Jyoti Indian Cuisine
SMD: 1C07

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

2433 18TH STREET NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11:30 am - 12 am	11:30 am - 12 am	-
Monday:	11:30 am - 12 am	11:30 am - 12 am	-
Tuesday:	11:30 am - 12 am	11:30 am - 12 am	-
Wednesday:	11:30 am - 12 am	11:30 am - 12 am	-
Thursday:	11:30 am - 12 am	11:30 am - 12 am	-
Friday:	11:30 am - 12 am	11:30 am - 12 am	-
Saturday:	11:30 am - 12 am	11:30 am - 12 am	-

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	11:30 am - 12 am	11:30 am - 12 am
Monday:	11:30 am - 12 am	11:30 am - 12 am
Tuesday:	11:30 am - 12 am	11:30 am - 12 am
Wednesday:	11:30 am - 12 am	11:30 am - 12 am
Thursday:	11:30 am - 12 am	11:30 am - 12 am
Friday:	11:30 am - 12 am	11:30 am - 12 am
Saturday:	11:30 am - 12 am	11:30 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-120260 **License Class/Type: C Restaurant**
Applicant: FRENCH BREAD, LLC
Trade Name: Pastis
SMD: 5D01

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

1323 4TH STREET NE, WASHINGTON, DC 20002

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-120570 **License Class/Type: C Restaurant**
Applicant: GEORGIETOWN RESTAURANT GROUP, LLC
Trade Name: Osteria Mozza
SMD: 2E05

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

3276 M STREET NW, WASHINGTON, DC 20007

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8am - 1:00am	8am - 1:00am	8am - 1:00am
Monday:	8am - 1:00am	8am - 1:00am	8am - 1:00am
Tuesday:	8am - 1:00am	8am - 1:00am	8am - 1:00am
Wednesday:	8am - 1:00am	8am - 1:00am	8am - 1:00am
Thursday:	8am - 1:00am	8am - 1:00am	8am - 1:00am
Friday:	8am - 1:45am	8am - 1:45am	8am - 1:45am
Saturday:	8am - 1:45am	8am - 1:45am	8am - 1:45am

	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	8am - 1:00am	8am - 1:00am
Monday:	8am - 1:00am	8am - 1:00am
Tuesday:	8am - 1:00am	8am - 1:00am
Wednesday:	8am - 1:00am	8am - 1:00am
Thursday:	8am - 1:00am	8am - 1:00am
Friday:	8am - 1:45am	8am - 1:45am
Saturday:	8am - 1:45am	8am - 1:45am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-123532 **License Class/Type: C Restaurant**
Applicant: Collevecchio, LLC
Trade Name: Claudio's Table
SMD: 3D04

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

5441 MACARTHUR BOULEVARD NW, WASHINGTON, DC 20016

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 11 pm	10 am - 11 pm	-
Monday:	10 am - 11 pm	10 am - 11 pm	-
Tuesday:	10 am - 11 pm	10 am - 11 pm	-
Wednesday:	10 am - 11 pm	10 am - 11 pm	-
Thursday:	10 am - 11 pm	10 am - 11 pm	-
Friday:	10 am - 12 am	10 am - 12 am	-
Saturday:	10 am - 12 am	10 am - 12 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-125516 **License Class/Type: C Restaurant**
Applicant: Remarkable Breads, LLC
Trade Name: Bread Furst
SMD: 2B02

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

1600 21ST STREET NW, WASHINGTON, DC 20009

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-125665 **License Class/Type: C Restaurant**
Applicant: Zingo Pizzeria, LLC
Trade Name: Minya's Pizza
SMD: 1B02

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

1932 9TH STREET NW, WASHINGTON, DC 20001

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-126719 **License Class/Type: D Restaurant**
Applicant: Big Slice LLC
Trade Name: Honeys
SMD: 3F06

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

5027 CONNECTICUT AVENUE NW, WASHINGTON, DC 20008

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-126759 **License Class/Type: C Restaurant**
Applicant: Huntley and Brinkley, LLC
Trade Name: The Occidental
SMD: 2C03

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

1401 - 1475 PENNSYLVANIA AVENUE NW, WASHINGTON, DC 20004

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	6 am - 2 am	6 am - 2 am	8 am - 2 am
Monday:	6 am - 2 am	6 am - 2 am	8 am - 2 am
Tuesday:	6 am - 2 am	6 am - 2 am	8 am - 2 am
Wednesday:	6 am - 2 am	6 am - 2 am	8 am - 2 am
Thursday:	6 am - 2 am	6 am - 2 am	8 am - 2 am
Friday:	6 am - 3 am	6 am - 3 am	8 am - 3 am
Saturday:	6 am - 3 am	6 am - 3 am	8 am - 3 am

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	6 am - 2 am	6 am - 2 am
Monday:	6 am - 2 am	6 am - 2 am
Tuesday:	6 am - 2 am	6 am - 2 am
Wednesday:	6 am - 2 am	6 am - 2 am
Thursday:	6 am - 2 am	6 am - 2 am
Friday:	6 am - 3 am	6 am - 3 am
Saturday:	6 am - 3 am	6 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-127224 **License Class/Type: D Restaurant**
Applicant: Madre USA CORP
Trade Name: 2fifty BBQ
SMD: 6E01

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

414 K STREET NW, WASHINGTON, DC 20001

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Sidewalk Cafe

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

	Hours Of Sidewalk Cafe Operation	Hours Of Sales Sidewalk Cafe
Sunday:	11 am - 8 pm	11 am - 8 pm
Monday:	11 am - 8 pm	11 am - 8 pm
Tuesday:		-
Wednesday:	11 am - 8 pm	11 am - 8 pm
Thursday:	11 am - 8 pm	11 am - 8 pm
Friday:	11 am - 8 pm	11 am - 8 pm
Saturday:	11 am - 8 pm	11 am - 8 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-127496 **License Class/Type: C Restaurant**
Applicant: Chadol DC 1 LLC
Trade Name: Chadol
SMD: 5F03

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

630 RHODE ISLAND AVENUE NE, WASHINGTON, DC 20002

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	12pm - 11pm	12pm - 11pm	-
Monday:	12pm - 11pm	12pm - 11pm	-
Tuesday:	12pm - 11pm	12pm - 11pm	-
Wednesday:	12pm - 11pm	12pm - 11pm	-
Thursday:	12pm - 11pm	12pm - 11pm	-
Friday:	12pm - 12am	12pm - 12am	-
Saturday:	12pm - 12am	12pm - 12am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-128445 **License Class/Type: C Restaurant**
Applicant: Hideaway, LLC
Trade Name: Juneberry Garage
SMD: 4A03

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

6810 - 6812 CAMERON DRIVE NW, WASHINGTON, DC 20012

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 12 am	8 am - 12 am	8 am - 12 am
Monday:	8 am - 12 am	8 am - 12 am	8 am - 12 am
Tuesday:	8 am - 12 am	8 am - 12 am	8 am - 12 am
Wednesday:	8 am - 12 am	8 am - 12 am	8 am - 12 am
Thursday:	8 am - 12 am	8 am - 12 am	8 am - 12 am
Friday:	8 am - 2 am	8 am - 2 am	8 am - 12 am
Saturday:	8 am - 2 am	8 am - 2 am	8 am - 2 am

	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	8 am - 10:30pm	8 am - 10:30pm
Monday:	8 am - 10:30pm	8 am - 10:30pm
Tuesday:	8 am - 10:30pm	8 am - 10:30pm
Wednesday:	8 am - 10:30pm	8 am - 10:30pm
Thursday:	8 am - 10:30pm	8 am - 10:30pm
Friday:	8 am - 11:30pm	8 am - 11:30pm
Saturday:	8 am - 11:30pm	8 am - 11:30pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-128979 **License Class/Type: C Restaurant**
Applicant: M Frances, Inc.
Trade Name: Shia
SMD: 5D01

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

1250 - 1252 4TH STREET NE, WASHINGTON, DC 20002

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
3/7/2025

Notice is hereby given that:
License Number: ABRA-130893 **License Class/Type: C Restaurant**
Applicant: Aqcuity, LLC
Trade Name: Bangbop
SMD: 3D06

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

4418 MACARTHUR BOULEVARD NW, WASHINGTON, DC 20007

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

4/21/2025

A HEARING WILL BE HELD ON:
5/12/2025

AT 10:00 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 7, 2025
Protest Petition Deadline:	April 21, 2025
Roll Call Hearing Date:	May 12, 2025

License No.:	ABRA-094127
Licensee:	Bella Market, LLC
Trade Name:	Economy Market
License Class:	Retailer's Class "B" Grocery
Address:	411 18th Street, N.E.
Contact:	Allan Ebert: (202) 409-4669, connectallan@gmail.com

WARD 7 ANC 7D SMD 7D07

Notice is hereby given that this licensee has requested to transfer their license to a new location under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on May 12, 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 OPERATION

Applicant requests to Transfer License from 1804 D Street, N.E., to a new location at 411 18th Street, N.E. Licensee is a Class "B" Beer and Wine Store.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday 9am – 8pm, Monday through Saturday 9am - 10pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 7, 2025
Protest Petition Deadline:	April 21, 2025
Roll Call Hearing Date:	May 12, 2025

License No.:	ABRA-125740
Licensee:	Global Sphere Trading Company, Inc.
Trade Name:	Global Sphere Trading Company
License Class:	Retailer's "A" Internet
Address:	3365-B V Street, N.E., Suite A
Contact:	Connor Robbins: (908) 477-4929, conor@spheretrading.co

WARD 5 ANC 5C SMD 5C04

Notice is hereby given that this licensee has requested to transfer their license to a new location under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on May 12, 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 OPERATION

Applicant requests to Transfer License from 1850 New York Avenue, N.E. to a new location at 3365-B V Street, N.E.. Suite A. Licensee is a Retailer Class "A" Internet.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am – 11:59pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 7, 2025
Protest Petition Deadline:	April 21, 2025
Roll Call Hearing Date:	May 12, 2025
Protest Hearing Date:	June 25, 2025
License No.:	ABRA-131348
Licensee:	Thousand Hills DC, LLC
Trade Name:	Land of a Thousand Hills
License Class:	Retailer's Class "C" Restaurant
Address:	2601 14th Street, N.W.
Contact:	Karston Spradley: (470) 507-6087, karston@drinkcoffeedogood.com

WARD 1 ANC 1A SMD 1A08

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 May 12, 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 **June 25, 2025, at 1:30 p.m.**

NATURE OF OPERATION

The Establishment will be a Restaurant with a Total Occupancy Load of 44 and seating for 35.

HOURS OF OPERATION

Sunday 8am – 9pm, Monday through Wednesday 7am – 9pm,
Thursday through Saturday 7am – 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday 10am – 9pm, Monday through Wednesday 12pm – 9pm,
Thursday and Friday 12pm –11pm, Saturday 8am – 11pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 7, 2025
Protest Petition Deadline:	April 21, 2025
Roll Call Hearing Date:	May 12, 2025
Protest Hearing Date:	June 25, 2025
License No.:	ABRA-131210
Licensee:	Lucky Danger Triangle, LLC
Trade Name:	Lucky Danger
License Class:	Retailer's Class "C" Tavern
Address:	709 D Street, N.W.
Contact:	Candace Fitch: (202) 258-8634, cfitch@eslmgmt.com

WARD 2 ANC 2C SMD 2C03

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 May 12, 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 **June 25, 2025 at 1:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "C" Tavern with an indoor seating capacity of 125 and a Sidewalk Café with a total capacity of 30. Total Occupancy Load of the entire establishment is 199. Establishment requests the Carry-out and Delivery Endorsement and Holiday Extension of Hours Endorsement.

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

Sunday through Saturday 11am – 12am

HOURS OF ALCOHOLIC BEVERAGE CARRY-OUT AND DELIVERY

Sunday through Saturday 11am – 12am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 7, 2025
Protest Petition Deadline:	April 21, 2025
Roll Call Hearing Date:	May 12, 2025
Protest Hearing Date:	June 25, 2025
License No.:	ABRA-131305
Licensee:	Melange Foods, LLC
Trade Name:	Melange Foods
License Class:	Retailer's Class "C" Restaurant
Address:	2108 8th Street, N.W.
Contact:	Sean Morris, Esq.: (301) 654-6570, stm@morrisesq.com

WARD 1 ANC 1E SMD 1E07

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 May 12, 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 **June 25, 2025, at 1:30 p.m.**

NATURE OF OPERATION

New Class C Restaurant with an indoor seating capacity of 62, and a Total Occupancy Load of 80. The Licensee is also requesting the Alcohol Carry–out and Delivery Endorsement.

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

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

HOURS OF ALCOHOLIC BEVERAGE CARRY-OUT AND DELIVERY

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

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 7, 2025
Protest Petition Deadline:	April 21, 2025
Roll Call Hearing Date:	May 12, 2025
License No.:	ABRA-112274
Licensee:	Play DC Restaurant & Lounge, LLC
Trade Name:	PlayDC Restaurant & Lounge
License Class:	Retailer's Class "C" Tavern
Address:	1541 7th Street, N.W.
Contact:	Diamond Heeralall: (202) 686-7600, dheeralall@theveritaslawfirm.com

WARD 2 ANC 2G SMD 2G03

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 May 12, 2025, at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE
Request for a Change of Hours on Sundays.

CURRENT HOURS OF OPERATION
Sunday 7am – 12am, Monday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday 8am – 12am, Monday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

CURRENT HOURS OF LIVE ENTERTAINMENT
Sunday 6pm – 12am, Monday through Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

PROPOSED HOURS OF OPERATION
Sunday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday through Thursday 8am – 2am, Friday and Saturday 8am – 3am

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

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 7, 2025
Protest Petition Deadline:	April 21, 2025
Roll Call Hearing Date:	May 12, 2025
Protest Hearing Date:	June 25, 2025
License No.:	ABRA-129646
Licensee:	Uptown, LLC
Trade Name:	TBD
License Class:	Retailer's Class "CX" Multipurpose
Address:	3426 Connecticut Avenue, N.W.
Contact:	Tatiana Pastukhova: (202) 277-4358, uptownexperiential@gmail.com

WARD 3 ANC 3C SMD 3C05

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 May 12, 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 **June 25, 2025, at 1:30 p.m.**

NATURE OF OPERATION

A multipurpose establishment that will serve as a cultural art center for immersive art, performance, and theatrical experiences. Seating Capacity of 25. Total Occupancy Load of 350.

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

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

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Placard Posting Date:	**March 7, 2025
Protest Petition Deadline:	**April 21, 2025
Roll Call Hearing Date:	**May 12, 2025

License No.:	ABRA-116798
Licensee:	Smokehouse at the Strand, LLC
Trade Name:	The Strand
License Class:	Retailer's Class "C" Restaurant
Address:	5131 Nannie Helen Burroughs Avenue, N.E.
Contact:	Stephen J. O'Brien: (202) 625-7700, sobrien@malliosobrien.com

WARD 7 ANC 7C SMD 7C03

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 **May 12, 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
Licensee is requesting to add a Games of Skill Endorsement to their operations. The Establishment plans to place up to two (2) consoles to offer the game Edge District of Skill by Pace-o-Matic.

HOURS OF OPERATION
Sunday through Thursday 10am – 2am, Friday and Saturday 8am – 3am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday through Thursday 11am – 2am, Friday 8am – 3am, Saturday 10am – 3am

HOURS OF LIVE ENTERTAINMENT
Sunday through Wednesday 11am – 1am, Thursday 11am – 2am, Friday and Saturday 11am – 3am

HOURS OF ALCOHOLIC BEVERAGE CARRY-OUT AND DELIVERY
Sunday through Saturday 11am – 10pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	**February 21, 2025
Protest Petition Deadline:	**April 7, 2025
Roll Call Hearing Date:	**April 28, 2025
License No.:	ABRA-116798
Licensee:	Smokehouse at the Strand, LLC
Trade Name:	The Strand
License Class:	Retailer's Class "C" Restaurant
Address:	5131 Nannie Helen Burroughs Avenue, N.E.
Contact:	Stephen J. O'Brien: (202) 625-7700, sobrien@malliosobrien.com

WARD 7 ANC 7C SMD 7C03

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

NATURE OF SUBSTANTIAL CHANGE
Licensee is requesting to add a Games of Skill Endorsement to their operations. The Establishment plans to place up to two (2) consoles to offer the game Edge District of Skill by Pace-o-Matic.

HOURS OF OPERATION
Sunday through Thursday 10am – 2am, Friday and Saturday 8am – 3am

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday through Thursday 11am – 2am, Friday 8am – 3am, Saturday 10am – 3am

HOURS OF LIVE ENTERTAINMENT
Sunday through Wednesday 11am – 1am, Thursday 11am – 2am, Friday and Saturday 11am – 3am

HOURS OF ALCOHOLIC BEVERAGE CARRY-OUT AND DELIVERY
Sunday through Saturday 11am – 10pm

DEPARTMENT OF HEALTH

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

NOTICE OF INFORMATION HEARING

Pursuant to D.C. Official Code § 44-406(b)(2) and (b)(4), the District of Columbia State Health Planning and Development Agency ("SHPDA") will hold an information hearing on the applications of CareFirst Blue Choice, Inc. for Certificates of Need for the Acquisition of five healthcare clinics owned by Capital Healthcare, LLC and doing business under the name AllCare Family Medicine and Primary Care (Certificate of Need Registration Nos. 2025-2-01, 2025-3-02, 2025-3-03, 2025-6-01, and 2025-8-01).

The hearing will be held on **Thursday, March 20, 2025**, beginning at **10:00 a.m**. using WebEx Conferencing. **Please send an email to dana.mitchener@dc.gov to register for the Information Hearing and receive a link to WebEx Conferencing**.

The hearing will include a presentation by CareFirst Blue Choice, Inc. describing its plans and addressing the certifications required pursuant to D.C. Official Code § 44-406(b). The hearing will also include an opportunity for affected and interested persons to testify. Persons who wish to testify should contact Dana Mitchener at the email address above or the SHPDA at (202) 442-5875 **before 4:45 p.m. on Wednesday, March 19, 2025**. Each member of the public who wishes to testify must register in advance of the Information Hearing and will be allowed a maximum of five (5) minutes. Written statements may be submitted to Dana Mitchener at the email address above or to the following address:

The State Health Planning and Development Agency
2201 Shannon Place, S.E.
Sixth Floor
Washington, D.C. 20020

Written statements must be received before the record closes at **4:45 p.m. on Thursday, March 27, 2025**. Persons who would like to review the Certificate of Need applications or who have questions related to the hearing may contact the SHPDA at (202) 442-5875.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PUBLIC NOTICE OF COMMUNITY HEARINGS

FORMAL CASE NO. 1180, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO INCREASE EXISTING RATES AND CHARGES FOR GAS SERVICE,

1. Through this Public Notice, the Public Service Commission of the District of Columbia (Commission) schedules three community hearings to discuss Washington Gas Light Company's (WGL or Company) Application requesting authority to increase existing rates and charges for natural gas service in the District of Columbia. The community hearings are scheduled for: April 10, 2025, at Benning (Dorothy I. Height) Neighborhood Library, 3935 Benning Road, NE, Meeting Room 1, from 5:30 p.m. to 7:30 p.m.; April 21, 2025, at Petworth Neighborhood Library, 4200 Kansas Avenue, NW, Meeting Room 1, from 5:00 p.m. to 7:00 p.m.; and April 29, 2025, in the Commission Hearing Room at 1325 G Street, NW, Suite 800, from 6:00 p.m. to 8:00 p.m.

2. On August 5, 2024, WGL filed an Application requesting authority to increase existing rates and charges for gas service in the District of Columbia.[1] The requested rates are designed to collect approximately $257.2 million in total revenue, representing a $45.6 million increase in weather-normalized annual revenue. This includes the transfer of $11.7 million in costs associated with natural gas system upgrades previously approved by the Commission (PROJECT*pipes*). The net increase in new revenues is $33.9 million, reflecting an approximate 11.9% increase over current rates. If granted in full, the average bill increase for residential sales heating and cooling customers based on an annual usage of 627 therms would be $15.33 or 17.63%.

3. Those who wish to testify at the community hearing should contact the Commission Secretary by the close of business three (3) business days prior to the community hearing, by sending an email to PSC-CommissionSecretary@dc.gov. Representatives of organizations shall be permitted a maximum of five (5) minutes for oral presentations. Individuals shall be permitted a maximum of three (3) minutes for oral presentations. If an organization or an individual is unable to offer comments at the community hearing, written statements may be submitted by email to PSC-CommissionSecretary@dc.gov, or through the Commission's eDocket system at https://edocket.dcpsc.org/public/public_comments referencing the *Formal Case No. 1180* docket. Additional instructions will be provided before the hearing to persons who have provided notice of their intent to participate.

[1] *Formal Case No. 1180, In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service* ("*Formal Case No. 1180*"), Application, filed August 5, 2024.

4. Any person who is deaf or hard-of-hearing, who cannot readily understand or communicate in spoken English, or persons with disabilities who need special accommodations in order to participate in the hearing, must contact the Commission Secretary by the close of business seven (7) days before the community hearing. Persons who wish to testify in Spanish, Chinese, Amharic, French, Vietnamese, or Korean must also contact the Commission Secretary by close of business five (5) days before the community hearing. The number to call to request special accommodations and interpretation services is (202) 626-5150.

5. Copies of the WGL Application may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket System" tab, click on "Search Current Dockets" and input "FC 1180" as the case number and "1" as the item number. Copies of any comments or testimony filed on the Application may be obtained by opening the "eDocket System" tab, clicking on "Search Current Dockets" and inputting "FC 1180" as the case number.

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

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

BOARD OF ZONING ADJUSTMENT
NOTICE OF VIRTUAL PUBLIC HEARING

TIME AND PLACE: Wednesday, May 7, 2025, @9:30 a.m.
Via WebEx: https://dcoz.dc.gov/BZA05-07-2025
Via Telephone: 202-860-2110 Access Code: 2315 848 4451
Via YouTube: https://www.youtube.com/c/DCOfficeofZoning
Instructions: https://dcoz.dc.gov/release/virtual-public-hearings
Witness Sign Up: https://dcoz.dc.gov/service/sign-testify

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

WARD TWO

Application of:	**Endeka Enterprises and 1320 Penelope, LLC**
Case No.:	**18906C**
Address:	1337 Connecticut Avenue N.W. (Square 137, Lot 55)
ANC:	**2B**
Relief:	Modification with Hearing to: • Board of Zoning Adjustment Order Nos. 18906, 18906A, and 18906B (pursuant to Subtitle Y § 704) Special Exception from: • the penthouse setback requirements of Subtitle C § 1504.1(c)(4) (pursuant to Subtitle C § 1506 and Subtitle X § 901.2)
Project:	To modify Board of Zoning Adjustment Order Nos. 18906, 18906A and 18906B, and to allow the conversion of an existing office building into a mixed-use building, in the MU-1/DC and MU-9B/DC Zones.

WARDS ONE & TWO

Appeal of:	**Alexis Sainz and Robyn Epstein**
Appeal No.:	**21270**
Address:	1311 S Street N.W. (Square 238, Lot 852)
ANC:	**1B & 2F**
Relief:	Appeal pursuant to: • The provisions of Subtitle X § 1100
Appeal from:	The decision made on November 4, 2024, by the District of Columbia Department of Buildings Zoning Administrator, to issue Building Permit No. B2310629.

WARD FIVE

Application of:	**Verizon Wireless**
Case No.:	**21276**
Address:	151 T Street N.E. (Square 3530, Lot 891)
ANC:	**5F**
Relief:	Special Exception from: • the matter-of-right antenna requirements of Subtitle C § 1302 (pursuant to Subtitle C § 1313 and Subtitle X § 901.2)
Project:	To construct a monopole on an existing public-school campus in the RF-1 Zone.

WARD FOUR

Application of:	**Sarah Riley and Trevor Keck**
Case No.:	**21283**
Address:	1330 Kalmia Road N.W. (Square 2773, Lot 19)
ANC:	**4A**
Relief:	Special Exception from: • the accessory building area requirements of Subtitle D § 5003.1 (pursuant to Subtitle D § 5201 and Subtitle X § 901.2)
Project:	To raze an existing accessory garage, and to construct a detached, one-story accessory dwelling unit, in the rear of an existing, detached, two-story with basement, principal dwelling unit in the R-1B Zone.

PLEASE NOTE:

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

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

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

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

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

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

Do you need assistance to participate?

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

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

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

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

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

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

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

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

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

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

TIME AND PLACE: **April 17, 2025 @ 4:00 p.m.**
Via WebEx: https://dcoz.dc.gov/ZC24-13 (to participate & watch)
Via Telephone: 1-650-479-3208 Access code: 2307 066 0198 (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:

Z.C. Case No. 24-13 (The McDonalds Corporation – Zoning Map Amendment @ Square 5094, Lot 104 (4301 Nannie Helen Burroughs Avenue, N.E.))

THIS CASE IS OF INTEREST TO ANC 7C

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 October 21, 2024, the Office of Zoning received an application from The McDonalds Corporation (the "Applicant") requesting review and approval for a Zoning Map amendment from the MU-3A zone to the MU-7B zone for property located at 4301 Nannie Helen Burroughs Avenue, N.E. (Square 5094, Lot 104) (the "Property").

The Property is located in the Deanwood neighborhood of the District and is bounded by Nannie Helen Burroughs Avenue, NE to the northeast, private property to the southeast and south, and a park to the west. The Property has approximately 23,054 square feet of land area and is generally rectangular in shape. The Property is located within the boundaries of ANC 7C.

The Property is improved with a McDonald's fast food restaurant and surface parking. The Property is currently zoned MU-3A, as are the majority of properties abutting Nannie Helen Burroughs Avenue, N.E. to the southeast of the Property. Other nearby zones include the RA-2 and PDR-1 zones. The application proposes to rezone the Property to the MU-7B zone.

The Property is located within the boundaries of the Far Northeast and Southeast Area Element of the Comprehensive Plan. The Comprehensive Plan Future Land Use Map designates the Property as mixed-use Medium Density Commercial and Medium Density Residential. The Comprehensive Plan Generalized Policy Map designates the Property as a Neighborhood Commercial Center and within a Resilience Focus Area. The Property is also within the boundaries of the Nannie Helen Burroughs Corridor Small Area Plan, adopted by the D.C. Council in November, 2024.

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

The Office of Planning submitted its setdown report to the Office of Zoning on December 20, 2024. The setdown report stated that the application would not be inconsistent with the Comprehensive Plan maps and written elements and would not be appropriate for IZ Plus. The set down report recommended the application be set down for a public hearing. The application was set down for a public hearing by the Zoning Commission on January 30, 2025.

The Applicant filed its Prehearing Submission with the Zoning Commission on February 7, 2025.

The complete record in the case, including the Applicant's filings and the Office of Planning setdown report, can be viewed online at the Office of Zoning website, through the Interactive Zoning Information System (IZIS), at https://app.dcoz.dc.gov/Content/Search/Search.aspx.

This virtual public hearing will be conducted in accordance with the contested case provisions of Subtitle Z § 400.

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 request and must comply withthe provisions of Subtitle Z § 404.1.

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

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

"Great weight" to written report of ANC

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

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

ANTHONY J. HOOD, ROBERT E. MILLER, GWEN MARCUS WRIGHT, TAMMY M. STIDHAM, AND JOSEPH S. 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 freeof 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.govtrước 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 እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

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

This rulemaking adds a new Section 2716 (Medication Therapy Management) to Chapter 27 of Title 29 of the DCMR. This new section outlines service definitions, eligibility, provider qualifications, and reimbursement for Medication Therapy Management ("MTM"), a new benefit provided under the District of Columbia Medicaid State Plan (State Plan). MTM encompasses a range of person-centered, pharmacist-provided services that optimize therapeutic outcomes for beneficiaries. DHCF's MTM service coverage aims to optimize therapeutic outcomes by identifying, preventing, and solving drug-related problems, providing continuity of care, giving the beneficiaries disease state information, and providing medication education. The rule also amends Section 2799 (Definitions) to include the definition of MTM.

This rulemaking corresponds to a State Plan Amendment ("SPA") submitted to the Centers for Medicare & Medicaid Services (CMS) on May 14, 2024, to include MTM as a benefit that licensed pharmacists may provide under the Other Licensed Practitioners authority. This SPA was approved by CMS on August 1, 2024, with an effective date of July 1, 2024.

A Notice of Proposed Rulemaking was published in the *District of Columbia Register* on October 11, 2024, at 71 DCR 012433. Joint comments were received from two stakeholder organizations. Each comment is addressed below.

MTM Visits and Eligibility

Comment: Commenters recommended that DHCF's MTM provider more closely align with Medicare Part D MTM program requirements. Specifically, 1) commenters recommended against the inclusion of a limit to the number of visits that patients can have per year to receive MTM services and 2) commenters suggest that requiring that a beneficiary have at least ten (10) prescriptions is high, as the Medicare Part D MTM places the limit on eight (8) Part D drugs being the maximum number of drugs a Part D plan sponsor may require as the minimum number of Part D drugs that a beneficiary must be taking to be eligible for MTM services. The commenters believe that patients, pharmacists, and their providers should have autonomy to determine the number of visits a patient needs based on the patient's specific needs and medical necessity.

Response: DHCF appreciates the commenters' concerns related to the number of visits and the requirement that an eligible beneficiary have been prescribed ten (10) or more medications per month as well as their desire to more closely align with the Medicare Part D MTM program. DHCF notes, however, that its current MTM program is more inclusive than the Part D MTM program. While DHCF requires ten (10) or more medications be prescribed per month, it does not limit the conditions for which a medication is prescribed. The Part D MTM program allows Part D plans to limit MTM services to individuals with ten (10) core chronic conditions and to require that beneficiaries experience up to three (3) of those chronic diseases for eligibility. The District's Medicaid MTM services has broader eligibility and has the potential to serve a greater population. Because the focus of DHCF's MTM program is broader, thus, a limitation on the number of annual visits per year is required to ensure the efficient use of the District's fiscal resources.

No changes to the text of the rule have been made, at this time.

Reimbursement

Comment: Commenters noted that the District's reimbursement rate for MTMS services will need to be updated before the program is rolled out.

Response: DHCF acknowledges this fact and notes that rates will be updated in the online fee schedule at www.dc-medicaid.com, as they are finalized.

Other

Comment: Commenters recommend that DHCF cover all services within pharmacists' scope of practice. This is to ensure that beneficiaries can access all services provided by their trusted community pharmacists. Commenters noted that there has been proven and significant improvement to patient outcomes and reduction in health care expenditures "when pharmacists are optimally leveraged as the medication experts on patient-care teams."

Response: DHCF intends to revisit coverage of all services within pharmacists' scope of practice in the future. However, all of the services under a pharmacists' scope of practice are not consistent with the scope of the MTM program, as currently designed. No changes to the text of the rule have been made, at this time.

The Director of DHCF took final action to adopt this rulemaking on February 24, 2025, and the rules shall become effective upon publication of this notice in the *District of Columbia Register*.

Chapter 27, MEDICAID REIMBURSEMENT FOR FEE FOR SERVICE PHARMACY SERVICES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:
A new section 2716 is added to read as follows:

2716 MEDICATION THERAPY MANAGEMENT

2716.1 Medication Therapy Management (MTM) services are services provided by a pharmacist to a beneficiary to optimize the therapeutic outcomes for that

beneficiary. MTM is a patient-centered service that assesses a patient's entire drug regimen and accounts for patient-centered risk factors, such as concurrent diseases, drug interactions, and lifestyle. MTM services are separate from the pharmacy counseling services required under the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508; 104 Stat. 1388) (OBRA '90)), which requires patient consults at prescription pickup.

2716.2 MTM services include:

(a) Development of a medication treatment plan;

(b) Monitoring and evaluating the beneficiary's response to medications, including safety and efficacy;

(c) Conducting a comprehensive review of the beneficiary's medications and immunizations to identify, resolve, and prevent medication-related problems;

(d) Documenting the care delivered and communicating with the beneficiary's primary care providers;

(e) Providing education and training to enhance beneficiary understanding and appropriate use of prescribed medications;

(f) Providing information, support services, and resources to enhance adherence to the beneficiary's drug regimens; and

(g) Coordinating and integrating MTM services with other health care services being provided to the beneficiary.

2716.3 MTM services are limited to one (1) initial visit and three (3) follow-up visits per calendar year and may be provided in-person or by telehealth in accordance with the requirements of 29 DCMR § 910.

2716.4 MTM services shall be billed in fifteen (15) minute interval units. Providers meeting the requirements of Section 2716.4 may bill up to five (5) units during a single visit, as follows:

(a) The first fifteen (15) minute unit shall be billed for the type of encounter (first encounter or follow-up encounter);

(b) Any additional time beyond the first fifteen (15) minutes spent with the beneficiary shall be billed in additional fifteen (15)-minute-interval units; provided, that a provider shall not bill more than four (4) units of additional fifteen (15) minute intervals.

2716.5 To be eligible for MTM services, a Medicaid beneficiary must:

(a) Be in an outpatient setting (not inpatient or institutional setting);

(b) Be ineligible for Medicare Part D; and

(c) Have been prescribed ten (10) or more medications per month.

2716.6 To provide MTM services, a provider must meet the following qualifications:

(a) Have an active and unrestricted pharmacy license in the District of Columbia, consistent with the requirements outlined in 17 DCMR Chapter 65;

(b) Have an active pharmacist National Provider Identifier (NPI);

(c) Be enrolled as a DC Medicaid provider;

(d) Meet the provider participation requirements outlined in 29 DCMR § 2701;

(e) Use the electronic MTM system, identified by DHCF in *District of Columbia Pharmacy Benefit Manager Services Fee-for-Service (FFS) Provider Manual* and MTM transmittals, to document provided services;

(f) Complete an MTM training program identified by DHCF in the District of Columbia *Pharmacy Benefit Manager Services Fee-for-Service (FFS) Provider Manual* and MTM transmittals.

2716.7 Reimbursement rates for MTM services can be found in the online fee schedule at www.dc-medicaid.com.

2716.8 For calendar year 2024, providers may bill for MTM services provided on or after July 1, 2024.

Section 2799, DEFINITIONS, of Chapter 27, MEDICAID REIMBURSEMENT FOR FEE FOR SERVICE PHARMACY SERVICES, of Title 29, PUBLIC WELFARE, of the DCMR is amended as follows:

The following definition of "Medication Therapy Management" is added after the definition of "Medicaid Drug Rebate Program":

Medication Therapy Management (MTM) – Medicaid services provided by a pharmacist to a beneficiary to optimize the therapeutic outcomes for that beneficiary. MTM is a patient-centered service that assesses a patient's entire drug regimen and accounts for patient-centered risk factors, such as concurrent diseases, drug interactions, and lifestyle. These services are distinct from the

routine medication counseling that individuals receive when picking up prescriptions from pharmacies.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 308 of the Community Health Omnibus Amendment Act of 2018, effective April 11, 2019 (D.C. Law 22-290, D.C. Official Code § 7-858.08) (Act), and Mayor's Order 2021-009, dated January 22, 2021, hereby gives notice of the intent to adopt the following amendments to Chapter 21 (Neonatal Screening Services) of Title 22 (Health) Subtitle B (Public Health and Medicine) 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 purpose of this rulemaking is to implement Title III (Comprehensive Newborn Screening) of the Act, as amended by Section 2 of the Better Access for Babies to Integrated Equitable Services Amendment Act of 2020, effective June 20, 2020 (D.C. Law 23-118; D.C. Official Code § 7-858.03), by specifying the procedures hospitals and birthing facilities must follow to report on selected clinical quality measures and ensure compliance with comprehensive newborn screening and hospital discharge requirements for newborns delivered or cared for at a hospital or a birthing facility in the District of Columbia.

Chapter 21, NEONATAL SCREENING SERVICES, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:

Section 2100, NEWBORN HEARING SCREENING, is renamed and amended to read as follows:

2100 COMPREHENSIVE NEWBORN SCREENING AND TESTING

2100.1 Each hospital or birthing facility shall establish a process for the comprehensive screening of newborns.

2100.2 The comprehensive newborn screening process required by § 2100.1 shall:

(a) Include, at a minimum, the following screenings:

(1) Metabolic screening (including hematologic endocrinologic, immunologic and structural disorders inclusively known as the dried blood spot test);

(2) Hearing screening; and

(3) Critical congenital heart disease screening (CCHD).

(b) Identify methods to ensure that all newborns for whom a parent or caregiver has provided consent receive timely screening in accordance with the most

current guidelines of the American Academy of Pediatrics (AAP) and in a manner appropriate for each test performed; and

(c) Document the method of the delivery of screening results, the type of staff responsible for delivering the screening results, and the lead staff responsible for reporting results and updates to the Department's Newborn Screening Program and include contingency plans for absent staff.

2100.3 Each hospital or birthing facility shall annually, by October 1 of each year, send its comprehensive newborn screening process required by § 2100.1 to the Department's Newborn Screening Program for approval.

2100.4 Each hospital and birthing facility shall report to the database designated by the Department's Newborn Screening Program the following information:

(a) Demographic information related to each baby born at the hospital or birthing facility, including the baby's name and date and time of birth, the baby's mother's name, and the baby's primary care provider, which shall be requested by the hospital or birthing facility for each newborn;

(b) Screening results and appropriate notes for babies born at the hospital or birthing facility, babies born out of the hospital or birthing facility but referred to the hospital or birthing facility for screening, and, as provided in § 2105, babies born out of the hospital or birthing facility but transferred to the hospital or birthing facility (excluding the results for metabolic screening, as such results come from the District's contracted newborn screening laboratory);

(c) Documentation of each parental refusal to have a screening performed for their baby; and

(d) Documentation of infant deaths.

2100.5 Each hospital and birthing facility shall notify the newborn's parent(s) or caregiver(s) and the newborn's primary care provider of the newborn's screening results and any need for follow-up evaluation for abnormal or inconclusive results.

Section 2101, METABOLIC DISORDERS, is renamed and amended to read as follows:

2101 NEWBORN HEARING SCREENING

2101.1 Each hospital and birthing facility shall ensure that all newborns have a hearing screening examination conducted at least twenty-four (24) hours after birth and as close to discharge as possible, and a second screening examination if the infant does not pass the initial screening examination, unless the newborn's parent(s) or

caregiver(s) decline consent for the screening. The second screening examination shall be performed at least four (4) hours after the initial screening examination.

2101.2 Each hospital or birthing facility shall provide educational information to the newborn's parent(s) or caregiver about the screening procedure, the importance of the screening and the importance of having a complete hearing screening follow up after discharge if indicated by the screening examination.

2101.3 Each newborn screening shall be conducted in accordance with the medical standards and procedures recommended by the Joint Committee on Infant Hearing (JCIH) Guidelines. The screenings shall be conducted by individuals who meet accepted medical practice standards, including, but not limited to, an audiologist, otolaryngologist or audiology-assistant. All individuals who conduct newborn hearing screening shall be required to take the National Center for Hearing Assessment and Management (NCHAM) Newborn Hearing Screening Training Curriculum (NHSTC 2020 or the then-current version) on an annual basis to ensure they each have the latest standard of care in newborn hearing screening practices, consistent with the JCIH Guidelines.

2101.4 The screenings shall be conducted using either the automated auditory brainstem response (AABR) or the otoacoustic emission (OAE) for well-babies, or the AABR or auditory brainstem response (ABR) for babies in the neonatal intensive care unit (NICU). The hospital or birthing facility shall refer the newborns who do not pass the AABR or the OAE to an audiologist and if indicated, provide a comprehensive audiological evaluation including diagnostic ABR.

2101.5 Each hospital or birthing facility shall inform the newborn's parent(s) or caregiver of the screening results and document them in the newborn's medical record and on the hospital discharge summary.

2101.6 If the results of the hearing screen are abnormal, the hospital or birthing facility shall provide information to the newborn's parent(s) or caregiver specifying the timing for follow-up at their facility if available, or at an outpatient facility.

2101.7 If the newborn's parent(s) or caregiver declines the screening, the hospital or birthing facility shall document the declination in the newborn's medical record and on the discharge summary.

2101.8 If the newborn is unable to have the testing performed prior to discharge, the hospital or birthing facility shall record documentation of the reasons and plans for follow-up in the newborn's medical record and on the discharge summary.

2101.9 The hospital or birthing facility shall, within three (3) business days after the newborn's hospital discharge, report all results of screening examinations, including documentation of scheduled follow-up appointment, information on early discharge, transfer and/or special case details, if appropriate, demographic

information for the newborn's parent(s) or caregiver(s) and the newborn, and the primary care provider name and contact information, to the database of the Department's Newborn Screening Program in the format required by the Program.

2101.10 The hospital or birthing facility shall, within three (3) business days after the newborn's hospital discharge, report to the Department's Newborn Screening Program its recommendations for follow-up and referrals made for newborns who did not receive the hearing screening examination.

New sections 2102, 2103, 2104, 2105, 2106, 2107, and 2108 are added to read as follows:

2102 NEWBORN METABOLIC SCREENING

2102.1 Each hospital or birthing facility shall collect a dried blood spot specimen from each newborn during the period between twenty-four (24) and forty-eight (48) hours after birth for screening for specific metabolic, hematologic, endocrinologic, immunologic, and structural disorders before discharge, unless the newborn's parent(s) or caregiver(s) withhold consent for the screening.

2102.2 Each hospital or birthing facility shall provide educational information to the newborn's parent(s) or caregiver(s) about the screening, the importance of the screening, and the importance of having a follow-up of any abnormal results after discharge.

2102.3 Each hospital or birthing facility shall submit newborn dried blood spot specimens to a testing laboratory within twenty-four (24) hours of the time of collection, in accordance with the requirements of the District's testing laboratory.

2102.4 Each hospital or birthing facility shall request that the testing laboratory test the specimen for the following metabolic, endocrine, hemoglobin, and other disorders:

(a) 2,4-Dienoyl-CoA reductase deficiency;

(b) 2-Methylbutyl-CoA dehydrogenase deficiency;

(c) 3-Methylcrotonyl-CoA carboxylase deficiency (3MCC);

(d) 3-Methylglutaconyl-Coa hydratase deficiency;

(e) 3-OH 3-CH3 glutaric aciduria (HMG);

(f) 5-Oxoprolinuria (pyroglutamic aciduria);

(g) Argininemia;

(h) Argininosuccinic acidemia (ASA);

(i) Beta-ketothiolase deficiency (BKT);

(j) Biotinidase deficiency (BIOT);

(k) Carbamoylphosphate synthetase deficiency (CPS def.);

(l) Carnitine uptake defect (CUD);

(m) Citrullinemia (CITR);

(n) Congenital adrenal hyperplasia (CAH);

(o) Cystic fibrosis (CF);

(p) Galactosemia (GALT;

(q) Glucose-6-phosphate dehydrogenase deficiency (G6PD);

(r) Glutaric acidemia type I (GA I);

(s) Hemoglobinopathy;

(t) Homocystinuria (HCY);

(u) Hyperammonemia, hyperornithinemia, homocitrullinemia syndrome (HHH);

(v) Hyperornithine with gyral atrophy;

(w) Hypothyroidism;

(x) Isobutyryl-CoA dehydrogenase deficiency;

(y) Isovaleric acidemia (IVA);

(z) Long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCHADD);

(aa) Malonic aciduria;

(bb) Maple syrup urine disease (MSUD);

(cc) Medium chain acyl-CoA dehydrogenase deficiency (MCAD);

(dd) Methylmalonic acidemia (Cbl A, B);

(ee) Mucopolysaccharidosis type 1 (MPS1);

(ff) Multiple acyl-CoA dehydrogenase deficiency (MADD);

(gg) Multiple carboxylase deficiency (MCD);

(hh) Neonatal carnitine palmitoyl transferase deficiency-type II (CPT-II);

(ii) Phenylketonuria (PKU);

(jj) Pompe disease (also called glycogen storage disease type II or acid maltase deficiency);

(kk) Propionic acidemia (PROP);

(ll) Severe combined immunodeficiency (SCID);

(mm) Short chain acyl-CoA dehydrogenase deficiency (SCAD);

(nn) Short chain hydroxy acyl-CoA dehydrogenase deficiency (SCHAD);

(oo) Spinal muscular atrophy (SMA).

(pp) Trifunctional protein deficiency (TFP);

(qq) Tyrosinemia type I (TYR I);

(rr) Very long-chain acyl-CoA dehydrogenase deficiency (VLCAD); and

(ss) X-Linked adrenoleukodystrophy (X-ALD).

2102.5 If a newborn is discharged from a hospital or birthing facility before the collection of a dried blood spot specimen, then the hospital or birthing facility shall offer the newborn's parent(s) or caregiver(s) a scheduled appointment for specimen collection at the hospital or birthing facility, recommend the collection of a dried blood spot specimen at the newborn's primary care provider, or provide a referral to another provider for the collection of a dried blood spot specimen.

2102.6 (a) If the newborn is transferred to another facility before the collection of a dried blood spot specimen, then the new facility shall follow the procedures provided in this subsection to collect the blood spot specimen.

(b) The receiving clinical provider at the transfer facility shall ensure the submission of the blood spot specimen to the designated laboratory within the time frame set forth in 2102.3.

2102.7 Each hospital and birthing facility shall follow the time frames for reporting results as recommended by the Advisory Committee on Heritable Disorders in Newborns and Children (ACHDNC) established by the Secretary of the U.S. Department of Health and Human Services for the initial newborn screening blood spot specimen as follows:

(a) The hospital or birthing facility shall communicate presumptive positive results and referrals for time-critical conditions and needed urgent repeat tests to the newborn's primary care provider upon receipt of results, but no later than five (5) days after birth.

(b) The hospital or birthing facility shall communicate presumptive positive results and referrals for all other conditions to the newborn's primary care provider as soon as possible but no later than seven (7) days after birth.

(c) The hospital or birthing facility shall complete all tests and re-screens within seven (7) days of birth if medically appropriate and report the results to the newborn's primary care provider in coordination with the Department's Newborn Screening Program as soon as results are available.

(d) If the newborn's parent(s), caregiver(s), or primary care provider cannot be reached, the hospital or birthing facility shall coordinate with the Department's Newborn Screening Program to contact the relevant individuals.

2102.8 Each hospital or birthing facility shall provide documentation of all newborn metabolic screenings conducted (including details on when test was done and sent to the Department's contracted laboratory), or any consent or waiver form if the newborn's parent(s) or caregiver refuses to authorize the screening, to the Department's Newborn Screening Program in the format specified by the Department's Newborn Screening Program within forty-eight (48) hours after the screening takes place or is refused.

2103 NEWBORN CRITICAL CONGENITAL HEART DISEASE (CCHD) SCREENING

(a) Each hospital and birthing facility shall screen newborns for critical congenital heart disease (CCHD).

(b) Each hospital and birthing facility shall provide educational information to the newborn's parent(s) or caregiver about the screening procedure for

CCHD, the importance of the screening, and the importance of having a complete cardiac follow-up after discharge if the screening so indicates.

(c) Each hospital and birthing facility shall:

(1) Screen newborns for CCHD using motion-tolerant pulse oximetry, or another test and associated procedures most recently adopted by the AAP, during the period between twenty-four (24) and forty-eight (48) hours after birth unless the newborn's parent(s) or caregiver refuse the test or the newborn is being transferred to another facility.

(A) Inform the newborn's parent(s) or caregiver of the results and document the results in the newborn's medical record and discharge summary to include the date CCHD screening is completed, CCHD results of pass or fail, and pulse oximetry values, if applicable.

(B) Report all newborn CCHD screenings, results, and follow-up diagnostic results, or any consent or waiver form if caregivers refused screening, to the Department's Newborn Screening Program in the required format.

(2) If the parent(s) or caregiver(s) of the newborn refuse to authorize the screening, document the refusal in the newborn's medical record and on the discharge summary.

(d) For any abnormal CCHD results with absence of other findings to explain hypoxemia, each hospital or birthing facility shall ensure there are written protocols in place for arranging diagnostic follow-up for abnormal CCHD screening results. Such protocols shall be consistent with the recommendations and standards of the AAP.

2104 SCREENINGS OF NEONATAL INTENSIVE CARE INFANTS

2104.1 Each hospital and birthing facility shall follow established protocols concerning the appropriate timing for screening newborns transferred to a NICU. The protocols must include documentation of appropriate and planned timing of follow-up screening examinations or procedures performed outside of standard protocols due to medical necessity.

2105 REPORTING TEST RESULTS OF NEWBORNS TRANSFERRED TO ANOTHER HOSPITAL OR BIRTHING FACILITY

2105.1 If a newborn is transferred from a hospital or birthing facility to another hospital or birthing facility, the admitting facility shall be responsible for notifying the newborn's parent(s) or caregiver(s) and primary care provider of the results of all

screenings conducted by the transferring facility, for which results were not confirmed or received before the newborn was transferred. The admitting facility shall also be responsible for documenting such results in the medical record of the newborn and reporting such results to the database designated by the Department's Newborn Screening Program, referred to in § 2100.4. The transferring facility shall include documentation of each screening conducted by the transferring facility in the medical record of the newborn and on the discharge summary. The transferring facility shall promptly transmit to the admitting facility the results of any such screenings that are received by the transferring facility after the newborn is transferred.

2105.2 The transferring facility is not required to provide a discharge summary to the parents of the newborn, but the transferring facility must provide a discharge summary, and any subsequent results of screenings conducted before the transfer of the newborn but for which results were not confirmed or received before the newborn was transferred, to the admitting hospital.

2105.3 Each hospital and birthing facility's comprehensive newborn screening process required by § 2100.1 shall include procedures for reporting the screening results referred to in § 2105.1 as well as procedures for how pending test results will be transferred to the admitting facility if the test results were not confirmed or received before the newborn was transferred.

2106 INPATIENT SERVICES AND EDUCATION DISCHARGE STANDARDS

2106.1 Before discharge, each hospital and birthing facility shall provide the newborn's parent(s) or caregiver(s) the following services and written and verbal education and instructions:

(a) **Basic newborn care:** Provide at least one (1) consultation with a medically qualified practitioner and/or provider who will address infant feeding, bathing, skin/cord/genital care, temperature measurement, dressing, and comforting; and provide written educational materials on these topics in an educational packet.

(b) **Breastfeeding/Chestfeeding support:** Follow clinical best practices for breastfeeding/chestfeeding initiation including:

(1) Enabling the birthing person and their infant(s) to remain together and to practice rooming-in twenty-four (24) hours a day (unless not able due to medical conditions);

(2) Facilitating immediate and uninterrupted skin-to-skin contact between the infant and birthing person and supporting the birthing person to initiate breastfeeding/chestfeeding as soon as possible

after birth, within the first hour, with both vaginal and cesarean births;

(3) Not providing any food or fluids other than the birthing person's human milk to breastfed/chestfed newborns unless medically necessary; provided that, pasteurized donor human milk may be used when the birthing person's human milk is not available or is contraindicated.

(c) **Breastfeeding/Chestfeeding education and consultation:** Provide consultation at least once during the inpatient stay, along with additional consultations with an International Board-Certified Lactation Consultant (IBCLC) or another medical provider trained in lactation support as appropriate and provide referrals for follow-up lactation services after discharge.

(d) **Car safety:** Provide information pertaining to safe transportation of newborns in car safety seats and verify that the caregiver has a car seat that meets Federal Motor Vehicle Safety Standard (FMVSS) No. 213 for healthy newborns, premature infants, or infants with special health care needs.

(e) **Safe sleep practices:** Provide comprehensive education on safe sleep practices for infants, utilizing multiple methods of delivery such as in-person instruction, video prompts, and/or educational packets; Safe sleep education shall include information on:

(1) Sleep position;

(2) Sleep environment, including sleep surface and bedding;

(3) Pacifier use;

(4) Avoiding co-sleeping;

(5) Avoiding parental smoking, drugs, and alcohol; and

(6) Overheating/over-bundling.

If the parent(s) or caregiver(s) does not have a safe sleep setting (crib, cribette, and/or bassinet), the hospital or birthing facility shall directly provide a portable crib to the parent(s) or caregiver(s) through the DC Health Safe Sleep Program (after providing the required safe sleep practices education), if the parent or caregiver resides in the District.

(f) **Family planning and contraception:** Provide information, offer counseling, and provide services regarding contraception and birth spacing, including:

(1) Provision of information about the use and effectiveness of the range of short- and long-term contraceptives;

(2) Provision of contraceptives, including insertion of intrauterine devices, insertion of contraceptive implants, or prescription of oral contraceptives before discharge if desired by the birthing person; and

(3) Provision of information on outpatient services to receive contraceptives if a contraceptive is not provided to the birthing person during the hospital or birthing facility stay.

(g) **Substance use:** Provide information and education about the risks of opioids, marijuana, tobacco, and alcohol use; ask the birthing person about their use of these and other substances before or during pregnancy; provide brief counseling regarding cessation to those who acknowledge use; and refer individuals who acknowledge use and request referral to cessation and/or addiction support services.

(h) **Infant immunizations:** Provide newborns with the initial dose of hepatitis B vaccine and, if medically indicated, hepatitis B immune globulin, for those newborns whose parent(s) or caregiver elects for inpatient vaccinations; provide information to parent(s) or caregiver, including those who refuse or elect not to initiate vaccinations as outpatients, about the subsequent schedule for routine childhood immunizations and sources of care where children can be immunized;

(i) **Infant treatments:** Provide newborns with vitamin K and erythromycin, unless such treatments are refused by the parent(s) or caregiver.

(j) **Pediatric medical visit:** Verify that the parent(s) or caregiver(s) has identified and confirmed a primary care provider for the newborn and has scheduled an initial appointment with the provider for the newborn to occur forty-eight (48) hours to seventy-two (72) hours after discharge, unless otherwise indicated by the newborn's provider.

(k) **Postpartum care**: Provide information on risk-appropriate postpartum care and medical visits for the birthing person.

(l) **Postpartum mental health**: Screen, assess, treat, and refer for postpartum depression and related behavioral disorders by providing real-time mental health care (or consultation) and referral, care coordination, and support as

clinically appropriate; provide written information about postpartum depression including information on local and federal hotlines and support services.

(m) **Postpartum medical care appointment:** Verify that the birthing person has confirmed the source for their future postpartum medical care and has scheduled an initial postpartum assessment to take place within three (3) weeks postpartum, or sooner as clinically indicated.

(n) **Urgent maternal warning signs:** Provide written information on and observe the birthing person for warning signs and symptoms indicating a severe health problem during pregnancy and post-delivery, including, but not limited to, chest pain, trouble breathing, and heavy bleeding and instruct the birthing person on when to call emergency services (911) or go to the emergency room versus when to call their health care provider if a warning sign occurs.

(o) **Connection to resources:** Provide every birthing person with a Department-approved resource list of community resources to support the birthing person's discharge plan and to assist with unmet needs; resources shall include, but not be limited to: 24-hour hotlines, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), food banks, diaper banks, lactation support, infant CPR training, and home visiting programs.

2106.2 Each hospital and birthing facility shall maintain records of its provision of the birthing person services and education required in Subsection 2106 and make those records available on request upon an inspection by the Department.

2107 HOSPITAL AND BIRTHING FACILITY CLINICAL QUALITY MEASURES AND REPORT CARDS

2107.1 Hospitals and birthing facilities shall establish ongoing monitoring and data-management systems to ensure collection of clinical quality measures. Each facility shall have the responsibility for reporting these clinical quality measures to the Department using a database established and updated by the Department.

2107.2 Each hospital and birthing facility shall annually report to the Department's database aggregate data on the following clinical quality measures:

(a) **Delivering Birthing Person Demographic Characteristics**

Number of deliveries by:

(1) Birthing person race;

(2) Birthing person ethnicity;

(3) Birthing person age group (under 15, 15-19, 20-24, 35-39, 40-44, 45-49, 50 or more);

(4) Birthing person ward of residence; and

(5) Birthing person insurance type.

(b) **Medical Conditions and Care**

Number of deliveries by:

(1) Presence of specified pre-existing medical conditions;

(2) Presence of gestational diabetes mellitus;

(3) Presence of hypertension diagnosed before or during pregnancy;

(4) Presence of pre-eclampsia diagnosed in current pregnancy;

(5) Weeks gestation (under 28 weeks, 28-31 weeks, 32-33 weeks, 34-36 weeks, 37-38 weeks, 39-40 weeks, 41 weeks, 42 or more weeks);

(6) Birth weight (in intervals of 500 g);

(7) Method of delivery;

(8) Birthing persons who smoked before or during pregnancy;

(9) Birthing persons who used marijuana before or during pregnancy; and

(10) Birthing persons who used opioids before or during pregnancy.

(c) **Quality of Care Before and During Delivery**

(1) Percent of birthing persons delivering between twenty-four (24) and thirty-four (34) weeks of gestation given steroids before delivery;

(2) Percent of live births delivered by elective vaginal delivery or elective cesarean birth at greater than thirty-seven (37) and less than thirty-nine (39) weeks of gestation;

(3) Percent of nulliparous birthing persons with singleton vertex live births delivered by cesarean section; and

(4) Percent of vaginal deliveries in which an episiotomy is performed.

(d) **Quality of Care During Postpartum Period**

(1) Number of live births;

(2) Number of live-born infants receiving HBV vaccine before discharge;

(3) Number of live-born infants screened for metabolic disorders;

(4) Number of live-born infants screened for congenital heart disease;

(5) Number of live-born infants screened for hearing deficit;

(6) Number of live-born infants with documented appointment for pediatric care following discharge;

(7) Number of live-born infants exclusively breastfed/chestfed during hospital stay;

(8) Percent of birthing persons who requested and received a contraceptive option before hospital discharge;

(9) Percent of birthing persons connected to lactation support services available immediately after discharge;

(10) Percent of birthing persons who used tobacco before or during pregnancy who were provided cessation counseling or services before discharge;

(11) Percent of birthing persons who used marijuana before or during pregnancy who were provided cessation counseling or services before discharge; and

(12) Percent of birthing persons who used opioids before or during pregnancy who were provided opioid cessation counseling or services before discharge.

2107.3 The Department shall issue an annual report card for each hospital and birthing facility in accordance with Section 303(c) of the Community Health Omnibus Amendment Act of 2018 (D.C. Official Code § 7-858.03(c)).

2108 HOSPITAL AND BIRTHING FACILITY DISCHARGE PLANS

2108.1 Each hospital or birthing facility shall ensure that, upon discharge, newborns have an appropriate written plan in place that includes: (1) contact information for a primary health care provider, and (2) a scheduled follow-up visit with that provider forty-eight (48) hours to seventy-two (72) hours post-discharge.

2108.2 Each hospital and birthing facility shall ensure that newborns discharged more than forty-eight (48) hours after delivery shall have follow-up appointments with the infant's primary health care provider scheduled prior to discharge, to take place within five (5) days of hospital or birthing facility discharge as identified in subsection § 2106.1(i).

2108.3 As soon as practicable and before the newborn's discharge, each hospital or birthing facility shall provide the newborn's parent(s) or caregiver a copy of the discharge plan. The discharge plan shall be in a language understood by the caregiver and/or be orally provided in conjunction with a certified language interpreter when appropriate.

2108.4 The discharge plan shall summarize the newborn's health information, any health issues encountered during the facility stay, and a follow-up plan for care.

2108.5 At a minimum, the discharge plan described in this section shall include the following information:

(a) The name and contact information of the parent(s) or caregiver of the newborn;

(b) Contact information for the primary care provider responsible for routine follow-up care, and the appointment date and time for the first follow up pediatric appointment;

(c) The newborn's date of birth, time of birth, gender, weight, and length;

(d) The method of delivery and any complications of labor and delivery (e.g., hemorrhage or evidence of fetal distress);

(e) Apgar scores at one (1) and five (5) minutes of age and description of resuscitations, if required;

(f) A summary of newborn's abnormalities and medical problems occurring from birth until discharge, if any;

(g) Results and date specimen was collected for metabolic screening to detect inborn metabolic, hematologic, endocrinologic, immunologic, and structural disorders identified in § 2100.2(a) (also known as the dried blood spot test), or documentation of the newborn's parent(s) or caregiver's refusal;

(h) Results and dates of pulse oximetry screening and any follow up of evaluation for CCHD identified in § 2103, or documentation of the newborn's parent(s) or caregiver's refusal;

(i) Results and dates of hearing screening and any follow up for repeat screening, as identified in § 2101, or documentation of the newborn's parent(s)'s or caregiver(s)'s refusal to have the screening performed; and

(j) Documentation of the administration of the hepatitis B vaccine, hepatitis B immune globulin (if medically indicated), vitamin K, and erythromycin to the newborn, as described in § 2106.1(h) and (i) ; a description of the medical indication(s) that led to the withholding of the vaccine, globulin, or treatment; or the newborn's parent(s) or caregiver's refusal to allow the vaccine, globulin, or treatment;

(k) Documentation of contraceptive(s), if any, provided to the birthing person during the hospital or birthing facility stay;

(l) If a contraceptive was not provided to the birthing person during the hospital or birthing facility stay, information on the use and effectiveness of the range of short and long- acting contraceptive options and information on outpatient services to receive contraceptives.

(m) Referral information for the Board-Certified Lactation Consultant (IBCLC) for follow-up lactation services after discharge, as described in § 2106.1(c);

(n) Contact information for the healthcare provider responsible for the birthing person's postpartum care, and the appointment date and time for the initial postpartum visit, as described in § 2106.1(n);

(o) Information about postpartum depression, including information on local and federal hotlines and support services, as described in § 2106.1(l); and

(p) The list of community resources, described in § 2106.1(o).

All persons desiring to comment on this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *District of Columbia Register*. Comments should be sent to Lesa Campbell, Paralegal Specialist, Department of Health, 2201 Shannon Place, SE, 4th Floor, Washington, DC 20020, by email to Lesa.Campbell@dc.gov, by mail or hand delivery to the preceding address, or by using the electronic comment feature found in the *District of Columbia Register* online at www.dcregs.dc.gov. Copies of this proposed rulemaking may be obtained by contacting Lesa Campbell at (202) 442-5977 or Lesa.Campbell@dc.gov. A copy of this proposed rulemaking can also be found in the *District of Columbia Register* online at www.dcregs.dc.gov.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF THIRD EMERGENCY RULEMAKING

The Interim Director of the Department of Human Services ("Department"), pursuant to the authority set forth in Section 31 of the Homeless Services Reform Act of 2005 ("HSRA"), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-756.02), and Mayor's Order 2006-20, dated February 13, 2006, gives notice of her adoption on an emergency basis of the following new Chapter 114 (Peer Case Management Institute and Certification) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations ("DCMR").

These rules establish the Department's Peer Case Management Institute ("PCMI") and the requirements for training and certifying peer case managers. The PCMI will train individuals with lived experience of homelessness for employment as peer case managers by Department-funded Continuum of Care (CoC) homeless services agencies, including providers of Medicaid-reimbursable housing stabilization and housing navigation services, low-barrier shelter providers, and other providers in the homeless services field. These rules establish PCMI eligibility criteria, the application and selection process, requirements for PCMI classroom training and a field practicum, and requirements for the awarding of the Peer Case Manager Certification. The purposes of training and certifying case managers through the PCMI are to: (a) leverage the expertise of individuals with lived experiences of homelessness and their unique ability to help clients navigate the homeless services system; (b) create longer-term pathways to employment and financial stability for individuals with lived experiences of homelessness; and (c) create a new pipeline of quality case managers to serve District residents experiencing or exiting homelessness.

Emergency action is necessary to promote the immediate preservation of the health, safety, and welfare of District residents who are homeless or at risk of experiencing homelessness by permitting the District to initiate PCMI contracts and application activities to align with the academic calendar. Implementing and maintaining these rules for the spring 2025 semester aligns with the Department's work to ensure that the experience of homelessness within the District is rare, brief, and non-recurring.

The Department Director adopted emergency rules on February 29, 2024, pursuant to a Notice of Emergency and Proposed Rulemaking published in the *District of Columbia Register* on March 15, 2024, at 71 DCR 002967. The Department Director thereafter continued the rules in effect through a Notice of Second Emergency Rulemaking published in the *District of Columbia Register* on September 27, 2024, at 71 DCR 011718. This third emergency rulemaking is necessary to maintain the rules in effect while the Department completes the last steps of promulgating final rules. These third emergency rules include the following changes from the second emergency rules: (1) Language that described the purpose of the PCMI was removed from § 11400, since that language did not operate as rules; and (2) Subsections 11400.1 and 11400.3 were condensed and revised for clarity.

These emergency rules were adopted by the Interim Director of the Department on February 24, 2025, went into effect at that time, and shall remain in effect for one hundred and twenty (120) days after the adoption date or until June 24, 2025, unless earlier superseded by a final rulemaking.

Title 29, PUBLIC WELFARE, of the DCMR is amended by adding a new Chapter 114, PEER CASE MANAGEMENT INSTITUTE AND CERTIFICATION, to read as follows:

CHAPTER 114 PEER CASE MANAGEMENT INSTITUTE AND CERTIFICATION

11400 PURPOSE AND APPLICATION

11400.1 The purpose of the Department's Peer Case Management Institute (PCMI) is to train individuals with lived experience of homelessness to serve as case managers at homeless services agencies that are providers in the District's Continuum of Care (CoC).

11400.2 Individuals who successfully complete the PCMI will be eligible to receive a Department-issued Peer Case Manager Certification.

11400.3 A Department-funded CoC provider may substitute the Peer Case Manager Certification for the education and work requirements for the job that the Department requires the CoC agency to include for the job under the Department's contract with the CoC agency.

11400.4 This chapter applies to individuals seeking a Peer Case Manager Certification, CoC providers who employ peer case managers, and the Department.

11401 GENERAL PROVISIONS

11401.1 The Department shall administer the PCMI, including the issuance of Peer Case Manager Certifications, determining the requirements for the Peer Case Manager Certifications, and establishing how CoC agencies shall or may use the certification in hiring.

11401.2 To obtain the Peer Case Manager Certification, an individual shall successfully complete classroom-based training and a field-based practicum through the PCMI, as described in Sections 11403 and 11404.

11401.3 The Department shall provide notice to the public of upcoming openings to participate in the PCMI, including information on the application process.

11402 PEER CASE MANAGEMENT INSTITUTE (PCMI) — ELIGIBLITY, APPLICATION, AND SELECTION

11402.1 In order to be eligible to participate in the Peer Case Management Institute, an applicant shall be:

(a) A District resident;

(b) At least eighteen (18) years of age; and

(c) Either:

(1) A current or former consumer of services from a provider in the District's CoC of homeless services; or

(2) A person who has experienced homelessness at some point in their lifetime in the District or another jurisdiction in the United States.

11402.2 An applicant shall submit a completed application to the Department in the format prescribed by the Department.

11402.3 To be considered by the Department, the application shall be:

(a) Submitted during the designed timeframe for accepting applications; and

(b) Completed in full.

11402.4 The Department shall review each application it receives to determine the eligibility of the applicant and the timeliness and completeness of the application. The Department shall reject each incomplete or untimely application and each application from an ineligible applicant.

11402.5 The Department shall review each timely, complete application from an eligible applicant.

11402.6 The Department shall rank candidates for selection based on the number of open enrollment slots and the following factors:

(a) Personal essays submitted through the application process that demonstrate the applicant's interest in and commitment to working in case management.

(b) Writing proficiency as demonstrated through the personal essays submitted through the application process;

(c) Level of education completed, with preference given to those who have at least a high school diploma or GED;

(d) Strength of recommendation letters;

(e) Previous work experience in the CoC;

(f) Ability to speak another language, including American Sign Language; and

(g) The time and date the application was received, with preference going to the applications submitted first.

11402.7 Each applicant shall receive notice of their selection or denial to participate in the PCMI. Notice of denial shall conform to the requirements of Section 19(b) of the Act (D.C. Official Code § 4-754.33(b)).

11403 PCMI — TRAINING REQUIREMENTS

11403.1 To qualify for the Peer Case Manager Certification, a PCMI participant shall first successfully complete at least one hundred twenty hours (120) of required classroom training.

11403.2 The PCMI classroom training shall be structured to provide participants with an opportunity to develop the following core competencies:

(a) Understanding case management functions and roles;

(b) Understanding the unique value of lived experiences in the helping process;

(c) Developing the participants' professional use of self;

(d) Using self-care techniques;

(e) Fostering a trauma-informed approach in understanding homelessness;

(f) Developing effective engagement, communication, and de-escalation techniques;

(g) Strengthening participants' understanding of cultural competence; and

(h) Building a peer network to encourage ongoing learning and provide support.

11403.3 The PCMI classroom training shall be delivered in modules by an education provider selected by the Department.

11403.4 Classroom training shall address the core competencies set forth in § 11403.2.

11403.5 Participants may be required to complete additional hours of training depending on their proficiency in writing and using computers in accordance with standards set by the Department.

11403.6 The education provider shall indicate whether the participant successfully completed the classroom training, pursuant to standards developed by the Department.

11403.7 The education provider shall submit notice of a participant's completion of classroom training to the Department, along with the provider's assessment of whether the participant successfully completed the classroom training.

11403.8 Any PCMI participant who does not successfully complete the classroom training shall not participate in the field practicum and shall not receive a certification, but may reapply to participate in the PCMI.

11404 PCMI — PRACTICUM REQUIREMENT

11404.1 To qualify for the Peer Case Management Certification, a PCMI participant shall also successfully complete a field practicum.

11404.2 The purpose of the PCMI field practicum is to provide participants with an opportunity to apply the skills and knowledge acquired from the classroom work in a homeless services setting.

11404.3 Each homeless services provider that hosts a PCMI field practicum participant shall identify a qualified case manager or case manager supervisor to serve as the field practicum supervisor for the participant. Before serving as a field practicum supervisor, the identified qualified case manager or case manager supervisor shall complete a peer case manager supervisory orientation offered by the Department.

11404.4 The participant shall complete at least eighty (80) hours of field-based work to complete their field practicum.

11404.5 The field practicum supervisor shall ensure that:

(a) The consumer (and the consumer's family if appropriate) receiving case management services delivered by the PCMI participant during the field practicum has consented to the delivery of such services by a PCMI participant;

(b) Case management services delivered by the PCMI participant during the field practicum are consistent with the individualized case management plan for the consumer receiving the services; and

(c) The PCMI participant has an opportunity to participate in the development of a case management plan and service coordination activities during the field practicum.

11404.6 The field practicum supervisor shall maintain a log of all supervisory meetings with the PCMI participant.

11404.7 The field practicum supervisor shall provide the following supervision to a PCMI participant during the field practicum:

(a) Establish the field practicum objectives and guidelines for the PCMI participant within the first week of the practicum;

(b) Provide a minimum of one (1) hour of face-to-face supervision with each PCMI participant once a week with additional support as needed or requested;

(c) Supervise the PCMI participant throughout the field practicum, overseeing the full range of field practice;

(d) Document all supervision activities in accordance with guidelines established by the Department;

(e) Maintain regular contact with the PCMI participant and the PCMI as needed to achieve field practicum objectives; and

(f) Complete a mid-way and final evaluation of the PCMI participant's performance according to evaluation guidance established by the Department.

11404.8 During the field practicum, the PCMI participant shall at a minimum:

(a) Complete orientation on the field practicum site and its policies and procedures regarding the delivery of services;

(b) Shadow a case manager in the homeless services field during work with consumers on significant activities, such as intake appointments, home visits, conducting assessments, developing a housing plan, or related activities;

(c) Work directly with consumers; and

(d) Participate as a full member in the case planning and case management service provision process.

11404.9 A PCMI participant may submit a written request to change their field practicum provider. All requests for changes shall be submitted to the Department for approval.

11404.10 Within five (5) business days after the PCMI participant completes the field practicum, the field practicum supervisor shall complete, sign, and submit to the PCMI a Department-promulgated Practicum Evaluation Form for the participant.

11404.11 In order to be eligible for the Peer Case Manager Certification, the PCMI participant shall have a passing score on their final practicum evaluation.

11404.12 The Department shall determine the final practicum evaluation criteria and establish a numerical system for determining a passing score.

11404.13 A participant who does not receive a passing score on the final evaluation of their practicum may request to complete a second practicum placement with a new provider or with the same provider, if the provider agrees to it.

11404.14 A participant may request reconsideration of their final practicum evaluation, or a mid-way evaluation for a second practicum placement, by submitting a written form promulgated by the Department within five (5) business days after receiving the evaluation.

11405 PCMI — DISMISSAL

11405.1 A participant who does not receive a passing score on the final evaluation of their initial practicum and does not request to complete a second practicum placement shall be dismissed from the program.

11405.2 If a participant requests a second practicum placement and does not receive a passing score on the midway evaluation of their second practicum placement, the participant shall be dismissed from the PCMI.

11405.3 If a participant does not pass the third practicum evaluation after two (2) different practicum placements, the participant shall be dismissed from the PCMI.

11405.4 A participant who misses more than two (2) days of classroom instruction or field practicum assignment without providing any written notice to the designated contact shall be dismissed from the PCMI. Written notice may include text message or email.

11405.5 A participant who misses more than four (4) days of classroom instruction or field practicum assignment, even with written notification, shall be dismissed from the PCMI.

11405.6 A participant who has been dismissed from the PCMI may reapply for admission pursuant to Section 11402.

11405.7 A participant may withdraw from the PCMI at any time.

11406 PEER CASE MANAGER CERTIFICATION

11406.1 A PCMI participant who successfully completes both the classroom-based training and the field practicum shall be eligible to receive the Peer Case Manager Certification.

11406.2 After verifying that a PCMI participant has met the requirements of this chapter for certification as a peer case manager, the Department shall issue a Peer Case Manager Certification, signed by the Director or their designee, to the participant as evidence of successful completion of the PCMI.

11406.3 The Peer Case Manager Certification is not a license, and completion of the PCMI does not guarantee employment with any agency or provider. Gaining employment as a case manager after successfully completing the PCMI will require successful completion of the individual employer's job candidate selection process, including any criminal background check and drug screening required for the particular position.

11499 DEFINITIONS

11499.1 The terms in this chapter shall have the definitions set forth in Section 2 of the Act (D.C. Official Code § 4-751.01).

11499.2 In addition, for the purposes of this chapter, the following terms shall have the meaning ascribed:

Act – the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*).

Applicant – a person who has submitted an application to participate in the Peer Case Management Institute.

Certified Peer Case Manager – an individual with lived experience of homelessness who has successfully completed the PCMI and received the Peer Case Management Certification.

Department – Department of Human Services.

District – District of Columbia.

Participant – a person selected to participate in the PCMI.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6)), and An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.06), and Mayor's Order 2024-115, dated July 1, 2024, hereby gives notice of the adoption, on an emergency basis, of amendments to Section 9501 (Application, Redetermination, and Renewal) of Chapter 95 (Medicaid Eligibility) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), and of the Director's intent to adopt these amendments as a final rulemaking in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

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

Currently, DHCF requires termination of Medicaid eligibility if a beneficiary, including a child under nineteen (19) years old, no longer meets all eligibility factors. Effective on January 1, 2024, DHCF proposes to implement a twelve (12) month continuous eligibility period to children under age nineteen (19) regardless of changes in circumstances, with certain exceptions, consistent with federal requirements set forth under Section 1902(e)(12)of title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 344; 42 U.S.C. § 1396a(e)(12)), as recently amended by the Consolidated Appropriations Act of 2023, approved December 23, 2022 (Pub. L. 117-328; 136 Stat. 4459), and 42 C.F.R.§ 435.926. The continuous eligibility period shall not apply to individuals who have only established eligibility as follows: (a) through medically needy spend down, as described in § 9516 of this Chapter; (b) through presumptive eligibility consistent with Section 1920A of the Social Security Act, but who have not yet received a determination of eligibility based on a regular application; and (c) based on a transitional medical assistance (TMA) determination, under § 9510 of this Chapter, upon renewal.

Unless an exception applies, continuous enrollment will apply to all children who are applying for coverage on or after January 1, 2024, and determined eligible for Medicaid and applicants, and current beneficiaries who are enrolled in Medicaid as of January 1, 2024. Unless an exception under § 9501.37 applies, a continuous eligibility period begins as follows: (a) for new applicants, the continuous eligibility period shall begin on the first day of the month the application was submitted; (b) for current beneficiaries who are enrolled in Medicaid as of January 1, 2024 and whose eligibility is being renewed, the continuous eligibility period begins on the first day of the month following the end of the beneficiary's last full eligibility period (which may include the initial eligibility period or the last periodic renewal or redetermination, as applicable); and (c) for current beneficiaries who enrolled before January 1, 2024 and no longer meet eligibility

requirements on or after January 1, 2024 and before the end of their certification date, the beneficiaries shall remain eligible under continuous eligibility until the end of their certification period. Exceptions to the continuous enrollment requirement include: (1) the individual attains age nineteen (19); (2) the individual or individual's representative requests a voluntary termination of eligibility, consistent with the requirements of § 9501; (3) the individual ceases to be a District resident; (4) the Department determines that eligibility was erroneously granted at the most recent determination, redetermination, or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the individual or the individual's representative; or (5) the individual dies. Under these proposed changes, children who are determined eligible at application or during an annual renewal will remain eligible for a twelve (12) month period regardless of most change in circumstances (unless an exception applies), such as changes in income or household composition or loss of supplemental security income (SSI). This proposed change should reduce financial barriers to care for low-income families, promote improved health outcomes, and provide more accountability for quality care and improved health outcomes.

These rules correspond to an amendment to the District's State Plan for Medical Assistance (State Plan), which was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) and became effective on January 1, 2024. If adopted, DHCF projects a net increase in aggregate Medicaid expenditures of approximately $13,075,234 in Fiscal Year 2024.

Emergency rulemakings are promulgated only for the immediate preservation of public peace, health, safety, welfare, or morals, pursuant to D.C. Official Code § 2-505(c). These changes are needed on an emergency basis to ensure that Medicaid beneficiaries under the age of nineteen (19) receive a full twelve (12) month period of continuous Medicaid coverage, regardless of most changes in circumstances that would otherwise make them ineligible for Medicaid eligibility.

These emergency rules were adopted by the Director of DHCF on February 26, 2025 and became effective on that date. The emergency rules will remain in effect for one hundred and twenty (120) days or until June 26, 2025, unless superseded by publication of a Notice of Final Rulemaking in the *District of Columbia Register*.

Chapter 95, MEDICAID ELIGIBILITY, of Title 29, PUBLIC WELFARE, of the District of Columbia Municipal Regulations (DCMR) is amended to read as follows:

Section 9501, APPLICATION, REDETERMINATION, AND RENEWAL, is amended as follows:

New subsections 9501.34, 9501.35, 9501.36, and 9501.37 are added to read as follows:

9501.34 Beginning on January 1, 2024, a twelve (12) month continuous eligibility period shall be given to individuals under age nineteen (19) (except for the individuals listed under § 9501.35) regardless of changes in circumstances, with certain exceptions, and pursuant to the provisions, set forth in 42 U.S.C. § 1396a(e)(12), 42 C.F.R.§ 435.926, and §§ 9501.35 through 9501.38.

9501.35 Continuous eligibility under § 9501.34 shall not apply to individuals who have only established eligibility as follows:

(a) Through medically needy spend down, as described in § 9516 of this Chapter;

(b) Through presumptive eligibility consistent with Section 1920A of the Social Security Act, but who have not yet received a determination of eligibility based on a regular application; and

(c) Based on a transitional medical assistance determination, under § 9510 of this Chapter, upon renewal.

9501.36 Unless an exception under § 9501.37 applies, a continuous eligibility period begins as follows:

(a) For new applicants, the continuous eligibility period shall begin on the first day of the month the application was submitted, consistent with 42 C.F.R. §435.915;

(b) For current beneficiaries who are enrolled in Medicaid as of January 1, 2024 and whose eligibility is being renewed, the continuous eligibility period begins on the first day of the month following the end of the beneficiary's last full eligibility period (which may include the initial eligibility period described in paragraph (a) or the last periodic renewal or redetermination, as applicable); and

(c) For current beneficiaries who enrolled before January 1, 2024 and no longer meet eligibility requirements on or after January 1, 2024 and before the end of their certification date, the beneficiaries shall remain eligible under continuous eligibility until the end of their certification period.

9501.37 An individual's eligibility may not be terminated during a continuous eligibility period, regardless of any changes in circumstances, unless:

(a) The individual attains age nineteen (19);

(b) The individual or individual's representative requests a voluntary termination of eligibility, consistent with the requirements of § 9501.33;

(c) The individual ceases to be a District resident;

(d) The Department determines that eligibility was erroneously granted at the most recent determination, redetermination or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the individual or the individual's representative; or

(e) The individual dies.

9501.38 After the continuous eligibility period described under § 9501.36 ends, the Department shall re-evaluate the individual for eligibility. If the Department determines that the individual is no longer eligible for Medicaid, the Department shall begin the termination process described under § 9501.26.

Comments on the subject matter of this proposed rule shall be submitted, in writing, to Melisa Byrd, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *District of Columbia Register*. Additional copies of the proposed rule may be obtained from the above address.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF THIRD EMERGENCY AND SECOND PROPOSED RULEMAKING

The Interim Director of the Department of Human Services (Department or DHS), pursuant to the authority set forth in Section 31 of the Homeless Services Reform Act of 2005 (HSRA), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-756.02), and pursuant to Mayor's Order 2006-20, dated February 13, 2006, hereby gives notice of her adoption, on an emergency basis, of the following amendments to Chapter 78 (Family Re-Housing and Stabilization Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR). The Interim Director also gives notice of her intent to take final rulemaking action on the proposed amendments in not less than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*.

The purpose of these rules is to amend the existing Chapter 78 of Title 29 of the DCMR, which was adopted via a final rulemaking published at 63 DCR 005273 on April 8, 2016. Chapter 78 established the District's Family Re-Housing and Stabilization Program (FRSP). FRSP provides time-limited rental assistance to District residents who are experiencing homelessness or are at risk of experiencing homelessness. Families are offered a range of services, tailored to the unique needs and strengths of the entire household, to assist them in achieving greater housing stability and economic security, including individualized case management services, housing identification, connection to government and community-based resources, and time-limited rental subsidies.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of District residents who are experiencing homelessness or at risk of experiencing homelessness by permitting the Department to administer FRSP in compliance with policy changes reflected in these rules.

The Department Director first adopted emergency rules on March 1, 2024, pursuant to a Notice of Emergency and Proposed Rulemaking published in the *District of Columbia Register* on March 22, 2024, at 71 DCR 003298. A Second Notice of Emergency Rulemaking was published in the *District of Columbia Register* on September 27, 2024, at 71 DCR 011691; the second emergency rulemaking continued in place the emergency rules that were adopted in the initial Notice of Emergency and Proposed Rulemaking. This Notice of Third Emergency and Second Proposed Rulemaking reflects changes to the earlier emergency and proposed rules. Specifically, the FRSP emergency and proposed rules have been updated in response to (1) public comments received after publication of the initial proposed rulemaking and (2) legislation amending Rapid Re-Housing provisions of the Homeless Services Reform Act of 2005 (the "Act"). *See* the Rapid Re-Housing Program Emergency Amendment Act of 2024, § 5062(c), effective July 8, 2024 (D.C. Act 25-506), as amended by the Family Re-Housing Stabilization Program Protection Temporary Amendment Act of 2024, effective November 27, 2024 (D.C. Act 25-220).

In response to the initial Notice of Emergency and Proposed Rulemaking, the Department received one set of comments from the Washington Legal Clinic for the Homeless, Legal Aid DC, and the Children's Law Center ("the commenters"). A summary of the substantive elements of the

comments and the Department's responses, including any changes made in response to the comments, are provided below.

§ 7801 Application Process

The commenters noted that the new eligibility criteria at § 7803.1(e), which requires that a Program applicant be referred by an approved Referring Provider, conflicts with § 7801.3, where "the Eligibility Provider shall accept applications from each applicant who requests or is referred for FRSP assistance." The Department agreed and revised "or" to "and".

The commenters recommended revising § 7801.6 to suggest, rather than require, the list of documents that an applicant provides to determine the household's ability to achieve housing stability independent of the Program by the end of the assistance period. The Department disagreed because the information related to housing stability is crucial from the outset of Program assistance. In addition, as the commenters acknowledge, § 7801.7 provides an applicant with the option of signing a declaration in lieu of providing documentation required under § 7801.6.

The commenters questioned whether all the factors listed in § 7801.8 are necessary to complete the Affordability Assessment. They are. The Affordability Assessment is related to housing navigation and the extension requirement that the family cannot sustain housing stability independently of the Program. This is a key issue that informs case management and exit planning throughout the client's time in the Program.

§ 7803 Eligibility Criteria

The commenters disagreed with the addition at § 7803.1(e) of new eligibility criteria that a Program applicant must be referred by a Referring Provider. Under § 7803.2, Referring Providers are providers of Short-Term Family Housing, the Homelessness Prevention Program, and Department-approved providers of emergency domestic violence shelter programs. The commenters indicate that this requirement could present a barrier to families otherwise eligible for Program assistance. The Department disagreed. Referral providers are able to assess that families meet FRSP eligibility criteria while streamlining the housing navigation and pre-enrollment processes.

The commenters recommended revising § 7803.6 to require written notice when a family has been deemed eligible for FRSP assistance. The Department disagreed and addressed these concerns in § 7803.7, under which the provider gives oral or electronic notice of a favorable eligibility determination and the family will receive a written notice upon request.

The commenters recommended revising § 7803.8 to require a written notice of a denial of Program eligibility to include a statement of which programs or services within the Continuum of Care an applicant may qualify for and has been referred to, if applicable. The Department agreed and revised this section accordingly.

In addition, the Department added a new eligibility requirement at § 7803.1(f) that an applicant may not have an ownership interest in safe housing and may not be listed on a lease or occupancy agreement for safe housing, unless the applicant provides credible evidence that they cannot safely inhabit the housing associated with the lease or occupancy agreement. This presumption will not

apply to an applicant seeking assistance for reasons of domestic violence, sexual assault, or human trafficking. This requirement mirrors the safe housing requirement regarding shelter eligibility under the Act at D.C. Official Code § 4-753.02(a-4).

§ 7804 Priority Determination

The commenters recommended revising § 7804.3(b) to clarify that, "The length of time the applicant has resided in their current program since the most recent placement," means "a longer length of time being a reason to increase prioritization." The Department agreed with this interpretation of the rule but disagreed that further clarification in the text of the rule is needed.

§ 7806 Re-Housing and Stabilization Assistance Overview

The commenters recommended revising §§ 7806.1 and 7806.2 to reflect that FRSP assistance shall be needs-based, that the assessment for longer-term housing assistance is mandatory, and that FRSP rental assistance includes assistance for security deposit, move-in costs, and utilities. The Department agreed and revised § 7806.1 to strike a redundant list of FRSP services; the § 7806.2 lead-in language to specify that "FRSP assistance comprises appropriate needs-based supports, including" the list of FRSP services that follow; and § 7806.2(e) to clarify that FRSP rental assistance may also include assistance for a security deposit, move-in costs, and utilities in accordance with the participant's approved budget plan.

The commenters recommended revising § 7806.4 to change the Service Provider's formal reviews after 3, 7, and 10 months in the Program to a quarterly basis. The Department disagreed. The formal review is comprehensive, and removing a fourth formal review in the twelfth month of FRSP assistance does not alter the integrity or quality of case management. FRSP case management is an ongoing and dynamic service. The case manager remains fully engaged with a participant throughout the assistance period.

§ 7807 Unit Selection

The commenters recommended revising § 7807.1 to provide further details on inspection standards. The Department agreed and revised the section to indicate that the FRSP housing inspection "shall conform to the National Standards for Physical Inspection of Real Estate established by HUD [the U.S. Department of Housing and Urban Development] or other standards designated by the Department."

The Department revised the proposed § 7807.6 to add a standard for approval of a request to lease up in a unit with more bedrooms than is allowed under § 7807.4 and 7807.5.

The commenters recommended revising § 7807.13, which states, "Relocation to a different unit shall have no effect on the participant's length of FRSP assistance." The commenters recommend allowing the Department to retain discretion to extend a participant's FRSP assistance period after a relocation to allow the family more time to stabilize in the new unit and to account for the difficulty of executing a new lease with less than twelve months of FRSP assistance. The Department disagreed because FRSP is a time-limited program with limited resources. FRSP Service Providers assist participants with mitigating issues that could lead to the need to relocate and, when relocation is necessary, with addressing the disruptions that a family may face in such circumstances.

§ 7808 Rental Assistance

The commenters recommended adding language at § 7808.2 to require the Department to calculate adjusted annual income for the purposes of determining the household rent contribution amount according to federal HUD definition of "adjusted annual income" at 24 CFR § 5.611. The Department disagreed and will continue to use the established method, which the Department preferred because it treats participant households equally with a standard 30% of income calculation. With this approach, no one person is credited more or less due to household size or other stipulations included in the HUD definition.

The commenters recommended revising § 7808.3 to specify that the FRSP participant shall not be responsible for paying the subsidized portion of the rent. The Department agreed and revised this section accordingly.

The commenters further recommended revising § 7808.3 to authorize a participant to withhold their rent contribution amount for good cause, such as the participant withholding rent due to housing code violations that the landlord has failed to address after receiving notice of the violations. The Department agreed, and added a requirement that a participant who chooses to withhold rent for good cause must notify their Service Provider, receive approval from the Service Provider, and place the withheld rent in a financial account approved by the Service Provider.

§ 7809 Case Management Services

The Department revised the proposed § 7809.2 to clarify that FRSP case management services "shall" use a progressive engagement model based on the presenting needs of the family, which may include an updated assessment in response to changed circumstances or a significant life event.

§ 7810 Opting Out of Case Management

Several comments addressed an FRSP participant's ability under the original proposed rules to opt out of case management. The Department has removed this option under the updated proposed rules.

§ 7811 Financial Incentives

The commenters recommended striking §§ 7811.1 through 7811.3 on the theory that resources for FRSP financial incentives should be spent elsewhere and that incentives were contrary to FRSP purposes. The Department disagreed, having implemented FRSP financial incentives based on community feedback. This policy follows standard practice in other economic support programs (e.g., Temporary Assistance for Needy Families (TANF) Employment Program (TEP) employment incentives). FRSP case managers incorporate diversion and exit planning conversations throughout the FRSP assistance period to review all options open to the family and support client choice in identifying which option is best for the family. The FRSP financial incentive provides additional encouragement to families to work with their case managers towards achieving stability.

§ 7812 Extension Criteria

The commenters recommended revising §§ 7812.1 and 7812.2 to indicate that the Department will consider requests for extensions for FRSP assistance "if funding is available," rather than the proposed rule which specifies, "if funding is available for extensions". The Department disagreed because the proposed rule language is based on plain language interpretation of the statute and aligns with legislative intent as described in the emergency declaration to renew the FRSP amendment, which describes this legislation as applying "specifically if funding is available within the program to support extensions beyond 12 months for participants in the program" (Section 2 of Family Re-Housing Stabilization Program Protection Congressional Review Emergency Declaration Resolution of 2024, effective October 1, 2024 (Res. 25-645; 71 DCR 012369)).

The Department revised the proposed rule at § 7812.7 regarding extensions of assistance for FRSP participants who have been approved for permanently affordable housing. The commenters recommended clarifying this extension provision. The revised rule now directs the Department to consider a request for extension from a participant who has been approved for permanently available housing when such funding is available. When such funding is available, a participant who has been approved for permanently available housing shall receive an extension of FRSP assistance for up to six months or until the participant begins to receive assistance from the new housing program provider, whichever comes first.

The commenters expressed concern with the employment requirement described in §§ 7812.9 and 7812.10 on the grounds that it contradicts the extension standard in the Act, punishes FRSP participants who are most in need of the subsidy and who may have received inadequate case management assistance thus far, and potentially violates the source of income discrimination prohibition in the D.C. Human Rights Act. The Department disagreed that the employment requirement contradicts the Act, which requires the Department to consider the totality of the circumstances when determining whether to grant an extension of FRSP assistance. DHS has determined that an FRSP participant's success in increasing employment income is a crucial component of this analysis. The goal of FRSP is to assist families in addressing barriers to housing stability, and increasing economic self-sufficiency is central to achieving a long-term permanent housing solution. In addition, the Department disagreed with the suggestion that the employment requirement would violate the D.C. Human Rights Act, which applies generally to District government action "[e]xcept as otherwise provided for by District law or when otherwise lawfully or reasonably permitted". *See* D.C. Official Code § 2-1402.73. The employment requirement furthers a legitimate interest of the District government to orient FRSP participants toward increasing their income during their period of program assistance.

The Department revised the proposed § 7812.11 to expand the grounds for a waiver of the extension employment requirement to "facing a significant hardship," such as having a child in custody under six months old or experiencing a medical condition that prevents meeting the employment requirement, rather than limiting the waiver to these two scenarios. The revised rule now states that to qualify for this waiver, the participant must demonstrate reasonable efforts to engage with their case manager to address the hardship preventing their employment.

The commenters recommend revising § 7812.12 to expand the period of FRSP assistance, which under the proposed rules will end after 12 months, if the participant has been approved for

permanently affordable housing, upon transition to the new housing program. The Department agreed in part as reflected in the revised § 7812.7, which permits an extension of FRSP assistance when funding is available for up to six months or until the participant begins to receive assistance from the new housing program provider, whichever comes first.

§ 7821 Program Exit

The proposed rules restated and clarified requirements for an FRSP provider to conduct a program exit under Section 22b of the Act (D.C. Official Code § 4-754.36b). The Department revised the program exit rules to align with recent legislation that amended the Act (see Rapid Re-Housing Program Emergency Amendment Act of 2024, § 5062(c), effective July 8, 2024 (Act 25-506)). The commenters' recommendations for § 7821 addressed provisions that have been struck to align with this legislation.

§ 7822 Summary of Provider Responsibilities

The commenters recommended revising § 7822.2 to indicate that an FRSP service provider is only responsible for services that the FRSP participant requests and that an FRSP participant who opts out of case management will continue to receive other forms of FRSP assistance. The Department disagreed with the need for a revision because the proposed rules indicate such at § 7809 and the current text of § 7822, and as described above, opt-out provisions have been removed.

§ 7824 Fair Hearing and Administrative Review

The commenters recommended revising § 7824 to extend the period in which an FRSP participant may appeal a written notice of termination or program exit and still receive continuation of FRSP services pending resolution of the appeal. The Department disagreed with creating an exception from the 15-day statutory period, which exception would apply only to FRSP participants, and kept the 15-day requirement.

In addition to the amendments described above, the Department made grammatical and typographical edits to the following sections: 7801.3, 7801.8, 7803.3, 7807.12, 7808.6, 7808.11, 7808.13, 7812.4, 7812.5, and 7820.1; corrected or clarified terminology in the following sections: 7801.6, 7807.2, 7807.3, 7807.6, 7807.8, 7807.9, 7808.2, 7808.12, 7808.14, 7809.1, 7809.7, 7809.8, 7809.9, 7811.3, 7820.2, 7820.4, 7820.5, 7822.1, 7822.2, 7823.1, 7823.2, 7823.3, and 7823.4; and corrected citations in Sections 7807.10 and 7899.2. The Department revised the definitions in Section 7899.2 to add a definition of Rent Burden and clarify terminology in the definitions of Approved Budget Plan, Authorized Representative, Eligibility Provider, and Vendor.

These third emergency rules were adopted by the Interim Director of the Department on February 24, 2025, became effective on the same date, and shall remain in effect for one hundred and twenty (120) days after the adoption date unless earlier amended or superseded by publication of a notice of final rulemaking in the *District of Columbia Register*.

Chapter 78 (Family Re-Housing and Stabilization Program) of Title 29 (Public Welfare) of the DCMR is amended to read as follows:

CHAPTER 78 FAMILY RE-HOUSING AND STABILIZATION PROGRAM

7800 SCOPE

7800.1 The purpose of the Family Re-Housing and Stabilization Program ("FRSP" or "Program") is to support District residents who are experiencing homelessness or at imminent risk of experiencing homelessness to achieve stability in permanent housing through individualized and time-limited assistance within the twelve (12)-month maximum allowable program assistance time period.

7800.2 FRSP participants shall work with their assigned Service Provider to increase their income during the program assistance period and attain at least the District's minimum wage. In cases where a disabling condition prevents the participant from increasing income, the Service Provider will assess the family for additional services and refer them for appropriate services.

7800.3 FRSP offers a range of supports that are responsive to participant needs, including: optional individualized case management services, housing identification, connection to mainstream and community-based resources, and financial assistance.

7800.4 The provisions of this chapter describe the application process, eligibility criteria, assistance determination, description of assistance provided, and appeal procedures for the Program.

7800.5 Nothing in these rules shall be interpreted to mean that FRSP assistance is an entitlement. This Program shall be subject to annual appropriations and the availability of funds.

7800.6 The Department may execute contracts, grants, and other agreements as necessary to carry out the Program.

7801 APPLICATION PROCESS

7801.1 Each FRSP application shall be in writing on a form provided by the Department, signed by the applicant, and submitted to the Eligibility Provider. An authorized representative may apply on behalf of the applicant, if the applicant provides the Department a written and signed statement indicating the name and address of the person authorized to act on the applicant's behalf.

7801.2 If an applicant with a disability or the authorized representative of an applicant with a disability requests assistance to complete the FRSP application, the Eligibility Provider shall assist such applicant or authorized representative with the application process to ensure that the applicant has an equal opportunity to submit an application.

7801.3 The Department shall provide FRSP application forms to the Eligibility Provider to use and disseminate to applicants, and the Eligibility Provider shall accept applications from each applicant who requests and is referred for FRSP assistance.

7801.4 At the time of application, the Eligibility Provider shall provide each applicant with a written FRSP notice explaining the Program. Each applicant shall personally, or through an authorized representative, sign an FRSP notice acknowledgement form, acknowledging receipt of the FRSP notice.

7801.5 Each applicant, personally or through an authorized representative, shall sign an FRSP release form authorizing the Eligibility Provider to obtain or verify information necessary for processing the application.

7801.6 Each applicant shall provide the following information to the Eligibility Provider to determine the household's ability to achieve housing stability independent of the Program by the end of the FRSP assistance period:

(a) The circumstances that brought about the applicant's experience of homelessness or imminent risk of homelessness;

(b) Willingness to actively engage in the application process by providing required documents within the agreed upon timeline to their assigned case managers; and

(c) Documentation of the following:

(1) Household composition;

(2) Employment status and employment history;

(3) Income and financial assets history;

(4) Household expenses;

(5) Rental and other relevant housing history;

(6) Facts and circumstances surrounding financial and other barriers to housing stability; and

(7) Facts and circumstances surrounding work experience, education, or training that can contribute to the household's ability to achieve housing stability independent of the Program by the end of the FRSP assistance period.

7801.7 The requirement for documentation under § 7801.6(c) shall be waived if the applicant signs a declaration containing the necessary information listed in § 7801.6(c).

7801.8 The applicant shall complete an Affordability Assessment that outlines the family's projected ability to pay thirty percent (30%) of their monthly income towards their rental obligation each month to help the applicant select appropriate housing. The affordability assessment includes:

(a) Current income;

(b) Expected future income;

(c) Employment history; and

(d) Employment potential based on job skills, certifications, or participation in a training or employment program.

7801.9 The Eligibility Provider and the Department may attempt to verify the information in Section 7801.6 using any third-party data sources to which it has legal access to verify Program eligibility. The Eligibility Provider may use, among other things, documents, telephone conversations, personal and collateral interviews, reports, correspondence, and conferences to verify applicant information.

7801.10 If additional information is needed from the applicant to determine eligibility for the Program, the Eligibility Provider shall make the request, in writing, for additional information, which shall specify the information needed to complete the application. The written request shall also include information to assist the applicant with obtaining the required information or offer appropriate assistance in obtaining the required information. The application shall be considered complete when all required information is provided to the Eligibility Provider.

7801.11 If an applicant has not obtained and provided to the Eligibility Provider the required information for eligibility determination under § 7801 within thirty (30) calendar days of the date of application, then the Eligibility Provider shall make documented efforts to contact the applicant both by telephone and in writing to discuss whether the applicant wants to complete their application, and any barriers that are delaying the requested documentation.

(a) If, at such time, contact with the applicant is made and services are still requested, the Eligibility Provider will take appropriate steps to assist the applicant in obtaining the required information.

(b) If, at such time, contact cannot be made, or the applicant no longer requests the services, an application shall be considered abandoned. The Department

shall issue the applicant a written notice indicating that the application has been abandoned.

7801.12 The Eligibility Provider shall refer a complete application to the Department to determine eligibility.

7802 APPLICANT UNIT

7802.1 The applicant unit shall be composed of each individual who lives in the same household as the applicant and whose needs, assets, and income are combined to determine eligibility.

7802.2 To determine the household composition of the applicant unit, the Department shall consider individuals who live in the same physical housing unit as the applicant, including:

(a) Persons related by blood or legal adoption with legal responsibility for minor children in the household;

(b) Persons related by marriage or domestic partnership (as defined by Section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)), including stepchildren and unmarried parents of a common child who live together;

(c) Persons with a legal responsibility for an unrelated minor child or an unrelated adult with a disability;

(d) Any person not included by § 7802.2(a)-(c), regardless of blood relationship, age, or marriage, whose history and statements reasonably demonstrate that the individuals intend to remain together in the same household; and

(e) Children who live in the household for fifty percent (50%) or more of the time.

7802.3 A person temporarily away from home due to employment, school, hospitalization, legal proceedings, or vacation shall be considered to be living in the household. A minor child who is away at school is considered to be living in the household if he or she returns to the housing unit on occasional weekends, holidays, school breaks, or during summer vacations. For purposes of this section, "temporarily" means no more than six (6) months at a time.

7803 ELIGIBILITY CRITERIA

7803.1 An applicant shall qualify to enroll into FRSP if the following criteria apply:

(a) The applicant unit is a family, as defined by Section 2(16) of the Act (D.C. Official Code § 4-751.01(16));

(b) The applicant unit is currently experiencing homelessness as defined by Section 2(18) of the Act (D.C. Official Code § 4-751.01(18)), or is at risk of experiencing homelessness as defined by Section 2(5B) of the Act (D.C. Official Code § 4-751.01(5B));

(c) The applicant is a resident of the District of Columbia as defined by Section 2(32) of the Act (D.C. Official Code § 4-751.01(32));

(d) The applicant unit earns forty percent (40%) or less of the District of Columbia Median Family Income for the Washington, D.C., Metropolitan Area, as determined by the U.S. Department of Housing and Urban Development ("HUD");

(e) The applicant unit has been referred by an approved referral source as described in § 7803.2; and

(f) The applicant does not have an ownership interest in safe housing and is not listed on a lease or occupancy agreement for safe housing, unless the applicant provides credible evidence that they cannot safely inhabit the housing associated with the lease or occupancy agreement; provided, that this presumption shall not apply to an applicant seeking assistance for reasons of domestic violence, sexual assault, or human trafficking.

7803.2 The following are approved referral sources for FRSP applicants (designated for the rest of this chapter as "Referring Providers"):

(a) Providers of a Short-Term Family Housing Program;

(b) Providers of the Homelessness Prevention Program; and

(c) Department-approved providers of emergency domestic violence shelter programs.

7803.3 A Referring Provider shall assess whether FRSP is an appropriate referral for an applicant by using an evidence-based assessment such as the Westat Tool. Relevant factors for determining whether a household is appropriate for FRSP assistance include:

(a) Assessment on a uniform tool as selected by the Department, such as the Service Prioritization Decision Assistance Tool ("SPDAT"), that identifies Rapid Re-Housing as the appropriate housing assistance option based on the applicant's needs;

(b) Identification by the District of Columbia Housing Authority ("DCHA") or other subsidized housing provider, as a household that is reasonably likely to receive DCHA or other subsidized housing within approximately twelve (12) months;

(c) Willingness to take steps that could reasonably lead to increased income in the household; and

(d) Identification of and willingness to take steps that could reasonably lead to permanent housing stability in cohabitation with family, friends, or other appropriate and safe situations.

7803.4 The Department shall determine the eligibility in as short a time as feasible, but not later than ten (10) calendar days after receipt of a completed application by the Eligibility Provider. Delays caused by the following shall not count towards the ten (10)-day deadline:

(a) The applicant's inability to supply information to document facts stated in the completed application needed to determine eligibility and type or amount of assistance;

(b) The inability to contact the applicant through telephone, mail, or email;

(c) Evidence of misrepresentation of information in the application; or

(d) Delay by a third party from whom the Eligibility Provider has requested information.

7803.5 The Eligibility Provider shall create and maintain in the applicant's or participant's file detailed documentation of the Program's eligibility determination, including the assistance for which the applicant qualifies and subsequent case-management services provided.

7803.6 If an applicant is determined eligible for FRSP assistance pursuant to § 7803.1, the Eligibility Provider shall enter in the applicant's case file a written Notice of Eligibility Determination.

7803.7 The Referring Provider shall notify the applicant orally or via electronic communication when the Eligibility Provider enters a favorable Notice of Eligibility Determination in the applicant's case file. Pursuant to Section 9 of the Act (D.C. Official Code § 4-754.11(a)(6)), the applicant may request a hard copy of the favorable Notice of Eligibility Determination.

7803.8 If an applicant is determined ineligible for FRSP assistance, the Department shall give to the applicant, personally or through an authorized representative, oral and written notice of the denial. The written Notice of Denial of Eligibility shall state:

(a) That the applicant is being denied eligibility;

(b) The reason or reasons for the denial, including the factual and legal basis for the denial;

(c) The applicable statute or regulation pursuant to which the denial was made;

(d) That the FRSP applicant has a right to appeal the denial through fair hearing and administrative review proceedings pursuant to § 7824 including the procedures and appropriate deadlines for requesting an appeal; and

(e) Which programs or services within the Continuum of Care the applicant may qualify for and has been referred to, if applicable.

7804 PRIORITY DETERMINATION

7804.1 Families residing in a Department-funded family shelter shall receive the first priority for the Program.

7804.2 Families participating in the Department's Homelessness Prevention Program, or residing in domestic violence shelter, transitional housing program, or determined to be at imminent risk of needing admission to shelter or supportive housing pursuant to 29 DCMR § 2508.1(a)(1), shall receive the second priority for the Program.

7804.3 Within each of the first and second priority groups, additional priority determinations may be made based on the following:

(a) The applicant's prospective ability to achieve housing stability at the end of the FRSP assistance period, as demonstrated by income, documented work experience, completion of the Individual Responsibility Plan, the identification of other stable housing opportunities, or other relevant factors;

(b) The length of time the applicant has resided in their current program since the most recent placement;

(c) The need to provide a reasonable accommodation based on a disability; and

(d) Other relevant factors.

7805 PRE-ENROLLMENT SERVICES

7805.1 The FRSP assistance period begins when a family executes Program enrollment and leasing agreements for the FRSP-subsidized housing unit (referred to as "lease-up") and ends when FRSP is no longer paying the rental subsidy for the unit.

7805.2 A Referring Provider may assist a family who has been determined eligible for FRSP with the following housing identification services before they have signed a lease for their FRSP unit:

(a) Gathering documents required for lease-up, including ID, birth certificate, and proof of income;

(b) Identification of a housing unit independently and/or accessing a listing of available housing units to identify a unit that best fits the participant's needs; and

(c) Assistance in negotiating with landlords to reduce the rent or include utilities.

7806 RE-HOUSING AND STABILIZATION ASSISTANCE OVERVIEW

7806.1 FRSP is a time-limited rapid re-housing program that supports District residents who are experiencing homelessness or at risk of experiencing homelessness to achieve stability in permanent housing through individualized and time-limited assistance.

7806.2 FRSP assistance comprises appropriate needs-based supports, including any or all of the following:

(a) Assignment to a qualified Service Provider with the capacity to provide individualized case management services using a progressive engagement model based on the presenting needs of the family;

(b) Development of a Housing Stabilization Plan to facilitate attainment of participant's goals, including housing stability. For participants receiving District Temporary Assistance for Needy Families (TANF) and who already have an Individual Responsibility Plan (IRP), the IRP should serve this purpose and can be modified and evaluated as necessary in collaboration with other organizations and entities that are also engaged with the participant;

(c) Assessment of the family to determine their potential eligibility and referral for longer-term housing assistance programs, including Permanent Supportive Housing (PSH) or Targeted Affordable Housing (TAH), through the Coordinated Assessment and Housing Placement (CAHP) process;

(d) Connection to other community resources and services that are responsive to the needs of the household (*e.g.*, behavioral health, primary health care, educational supports, food and nutrition resources);

(e) Rental assistance in the form of a monthly rental subsidy, the cost of a security deposit, move-in assistance, and utility assistance, as needed and identified in the Housing Stabilization Plan pursuant to paragraph (b) of this subsection, for up to twelve (12) months;

(f) In cases where a relocation is approved, housing identification assistance through which the Service Provider assists participants with:

(1) Identification of a unit independently and/or accessing a pool of available housing units to identify a unit that best fits the participant's needs;

(2) Assistance in negotiating with landlords to reduce the rent or include utilities; and

(3) Scheduling a timely inspection of the unit;

(g) Job placement and workforce development; and

(h) Documentation of activities that can be credited toward a participant's IRP, such as housing search, housing counseling services, obtaining a GED certification, University of the District of Columbia class credit, work hours, or certification with the District Department of Employment Services (DOES) or other barrier remediation activities specifically identified in the plan.

7806.3 The Service Provider will have regular, no less than monthly, engagement with the participant as dictated by the goals in the Housing Stabilization Plan or IRP, coordinate with other Service Providers, and maintain current documentation on progress toward goals. This will include an assessment of progress made towards the completion of the Housing Stabilization Plan or IRP.

7806.4 The Service Provider shall conduct a formal review of services provided and the participant's participation in the Program after three (3), seven (7), and ten (10) months of assistance. This review will include the following:

(a) Review of participant's income change and approved budget plan;

(b) Review of progress on the Housing Stabilization Plan or IRP and the applicant's approved budget plan;

(c) Needs-based assessments, using a progressive engagement model, to determine if a less or more aggressive intervention is required; and

(d) Review of participant's likely ability to sustain housing stability independently of the Program at the end of the FRSP assistance period.

7807 UNIT SELECTION

7807.1 Participation in the FRSP is conditioned upon selecting a housing unit that passes the FRSP required housing inspection, which shall conform to the August 2024 National Standards for Physical Inspection of Real Estate established by HUD or other standards designated by the Department by rule, and meets the Rent Reasonableness Standard as determined by DCHA. The Department or the Department's designee may authorize selection of a housing unit that exceeds the maximum allowable rent for purposes of ensuring the program is readily accessible by large families and individuals with disabilities, in accordance with Sections 9 and 12 of the Act (D.C. Official Code §§ 4-754.11(a)(2) and 4-754.21(11)).

7807.2 The participant shall be required to work with their case manager to identify a unit independently and access the pool of available housing units to identify a unit that best fits their needs.

7807.3 The participant shall make a reasonable effort to identify a unit that will allow the household to achieve housing stability independent of the Program by the end of the FRSP assistance period as described in § 7801.8.

7807.4 The Department shall permit the following maximum number of bedrooms based on the household's composition:

(a) A household with one parent and one child under the age of two (2) will be approved for a studio or a one (1)-bedroom apartment;

(b) A household of more than one person will be approved for a unit with one (1) bedroom for the head of household and spouse or partner and one (1) additional bedroom for each two (2) persons within the household pursuant to 14 D.C.M.R. § 402.2-402.3.

7807.5 The following exceptions shall apply to the maximum number of bedrooms policy in § 7807.4:

(a) Children of the opposite gender shall be allocated separate bedrooms once one of the children is over the age of five (5) or if one (1) of the children will turn five (5) within six (6) months after the household's lease is signed;

(b) With the permission of the applicant and to allow the household to identify a unit that they believe will be more affordable in the long-term, the Department may allow children of opposite gender between the ages of six (6) and eleven (11) to occupy the same bedroom, in order to reduce the number of bedrooms required;

(c) Children of the same gender shall be allocated one (1) bedroom. Beginning once one (1) of the children turns age thirteen (13), if there is a difference of five (5) years or more between children of the same gender, they may have separate bedrooms; and

(d) A bedroom shall not be assigned to an unborn child unless there is a parent in the household who is in their third trimester.

7807.6 If a participant requests to lease up in a unit with more bedrooms than is allowed under § 7807.4 and 7807.5, the household shall request approval of their selected unit from the Department, which shall be granted only if the household demonstrates that the increase in bedrooms is necessary to accommodate the reasonable needs of a household member with a disability.

7807.7 If a parent shares custody of children, bedrooms shall be provided for children if the children live with the parent for fifty percent (50%) or more of the time. The Department shall require verification of the shared custody.

7807.8 If the participant's household composition changes, the household may request an exception to the standards in § 7807.4 and 7807.5. If the household is already in a unit, the household may request a unit review.

7807.9 If the participant is unable to secure a housing unit in a timely manner, he or she shall be offered at least one (1) unit from the available housing inventory to the extent that units are available in the housing inventory.

7807.10 FRSP assistance shall be provided only for housing units located within the District of Columbia. Any unit constructed before 1978 in which a child under the age of six (6) will be residing must comply with Section 302 of the Lead-Based Paint Poisoning Prevention Act, effective November 9, 1973 (Pub. L. 91-695; 42 U.S.C. § 4822), and implementing regulations at 24 C.F.R. part 35, subparts A, B, M, and R.

7807.11 Upon selection, successful inspection, and signing of a lease, the Service Provider shall ensure that the case manager's and Department's contact information is promptly provided to the landlord.

7807.12 The Service Provider shall assist a participant in relocating to a different unit if, at any time during the participant's tenancy:

(a) The participant needs to move because of a reasonable accommodation;

(b) The participant needs to move because of domestic violence; or

(c) The unit has substantial housing code violations that adversely impact the health or safety of the participant's household, and that the landlord fails to address after receiving notice of the housing code violations.

7807.13 Relocation to a different unit shall have no effect on the participant's length of FRSP assistance.

7808 RENTAL ASSISTANCE

7808.1 FRSP provides rental assistance for up to twelve (12) months. The monthly FRSP rental assistance amount shall be the difference between the rental cost and the household contribution.

7808.2 The household shall contribute thirty percent (30%) of their adjusted annual income toward housing costs, which shall be assessed by the Eligibility Provider. The actual contribution amount will be calculated based on the participant's approved budget component of the Housing Stabilization Plan or IRP.

7808.3 The FRSP participant shall pay the monthly contribution amount for the duration of the FRSP assistance period, unless the participant has notified the Service Provider of good cause for non-payment, such as the participant withholding rent due to housing code violations in the unit which the landlord has failed to address after receiving notice of the violations; the Service Provider agrees that good cause exists; and the participant deposits or retains the amount withheld from the rent in a financial account approved by the Service Provider. The FRSP participant shall not be responsible for paying the subsidized portion of the rent.

7808.4 The Department or the Department's designee shall pay the subsidized portion of the rent directly to the landlord, including any late fees or court costs that accrue due to a late payment rent on the part of the Department.

7808.5 The Program shall not be obligated to provide a monetary amount for a requested service if a less costly alternative is available.

7808.6 The rental cost for the unit may not exceed the rent reasonableness standard determined by DCHA. The Referring Provider and the participant shall attempt to identify housing units below market rent wherever possible.

7808.7 In addition to the monthly rent subsidy, FRSP rental assistance may include the cost of a security deposit, move-in assistance, and utility assistance, in accordance with the applicant's approved budget plan.

7808.8 The maximum FRSP payment for a security deposit shall be the actual amount of the deposit, which shall not exceed the cost of one (1) month's unsubsidized rent.

7808.9 An FRSP participant shall report to their Service Provider in writing within fifteen (15) calendar days of any change in income of fifty dollars ($50) or more.

7808.10 The FRSP shall not increase the household's rental payment due to an increase in earnings unless a participant experiences an increase of more than one thousand dollars ($1,000) per month for at least three (3) months.

7808.11 Upon receiving written notification from the household of a change in the household's monthly income, the Service Provider shall determine whether there is a need to recalculate the amount of the household's housing cost contribution, based on the following criteria:

(a) If the participant reports a decrease in monthly income of fifty dollars ($50) or more, the Service Provider shall process and submit documentation to the Department to recalculate the household's contribution;

(b) If the participant reports a decrease in monthly income of less than fifty dollars ($50) the household may request that a recalculation be conducted;

(c) If the participant reports an increase in monthly income of more than one thousand dollars ($1,000) per month that will last for at least three (3) months, the Service Provider shall process and submit documentation to the Department to recalculate the household's contribution;

(d) If the recalculation pursuant to paragraphs (a) or (b) results in an increase in the amount of FRSP rental assistance, the change shall take effect the first day of the month or the next day that rent is due if different from the first of the month, whichever is first, following completion of the calculation. The recalculation shall be completed within ten (10) business days of receipt of written notice from the household of the decrease in household income and request for a recalculation, and documentation necessary for the Department recalculation;

(e) If the recalculation made pursuant to paragraphs (a), (b), or (c) results in a decrease in the amount of FRSP rental assistance, the change shall take effect the first of the month, or on the day that rent is next due if different than the first of the month, whichever is first, following the month in which written notice of the change is provided to the household; and

(f) If the next day rent is due is less than fifteen (15) calendar days from the date the notice is either hand-delivered or postmarked, the change in the FRSP rental assistance shall be effective the second month (or the second date upon which rent is due) following the month in which written notice of the change is provided to the household.

7808.12 When the Eligibility Provider calculates the initial FRSP assistance or when a Service Provider requests a change in FRSP assistance based upon a reported change in income, the Eligibility Provider or Service Provider shall give to the participant household a written Notice of FRSP Rental Assistance or a Notice of Change in FRSP Rental Assistance, as appropriate. Each Notice shall state:

(a) The basis for the rental assistance determination;

(b) The statute or regulation under which the change was made;

(c) The participant's current FRSP rental assistance and the participant's current share of the housing costs;

(d) If the rental assistance is changing, a computation of the new amount of FRSP rental assistance and the new participant contribution to the rental amount;

(e) If the rental assistance amount is changing, the effective date of the change in accordance with § 7808; and

(f) The FRSP participant's right to a reconsideration of the initial calculation or the recalculation by the Department or the Department's designee, within thirty (30) calendar days of receipt of the written Notice, and instructions for submitting such requests for reconsideration.

7808.13 The Eligibility Provider shall respond to a request for reconsideration in accordance with § 7808.12(f) within five (5) business days of receipt of the household's written request for a reconsideration. The five (5) business day timeframe shall be tolled if the provider has requested documentation necessary to the review and receipt of such documentation is pending.

7808.14 Within twenty-four (24) hours of the Eligibility Provider's calculation or recalculation of the household's rental assistance, notice required shall be either hand-delivered to an adult member of the participant household, mailed to the household by first class mail, or sent by electronic mail if the household has given consent.

7808.15 Only in rare circumstances, when required by a vendor or by a District or federal agency, may the assistance payment be made in the form of cash. In all other cases, the FRSP assistance payment shall be made in the form of non-cash direct vendor payments.

7809 CASE MANAGEMENT SERVICES

7809.1 A participant enrolled in FRSP shall receive case management services from a qualified Service Provider.

7809.2 FRSP case management services shall use a progressive engagement model based on the presenting needs of the family and may include:

(a) Development of a Housing Stabilization Plan to identify the family's goals for connecting to services, increasing income, and achieving housing stability after their FRSP assistance ends, and the intermediary steps the family must take to accomplish those goals;

(b) Employment services, including job coaching and assistance identifying opportunities to increase earnings;

(c) Regular contact and communication with a case manager to discuss progress towards the Housing Stabilization Plan and adjust them as needed;

(d) Connection to other community resources and services that are responsive to the needs of the household, such as behavioral health, primary health care, educational supports, food and nutrition resources;

(e) For FRSP participants who are also receiving TANF, documentation of activities that can be credited toward a participant's TANF IRP, such as housing search, housing counseling services, obtaining a GED certification, University of the District of Columbia class credit, work hours, or certification with DOES or other barrier remediation activities specifically identified in the plan; and

(f) An updated assessment in response to changed circumstances or a significant life event.

7809.3 The Service Provider shall assess a participant's potential eligibility for longer-term housing assistance programs, including the PSH program and the TAH program, within the first ninety (90) days of the FRSP assistance period.

7809.4 The Service Provider shall confirm that a participant is registered to the DCHA waiting list. If not, the Service Provider shall assist with applying for housing through DCHA, if such application is available.

7809.5 The Service Provider will have regular engagement with the participant as dictated by the goals in the Housing Stabilization Plan, but no less than monthly; coordinate with other Service Providers; and maintain current documentation on progress toward goals. This includes an assessment of progress made towards the completion of the Housing Stabilization Plan.

7809.6 The Housing Stabilization Plan or IRP shall aim for a targeted progression towards exit from the FRSP assistance provided by the end of the twelve (12)-month FRSP assistance period.

7809.7 The participant is expected to plan for the end of FRSP assistance after the end of the twelve (12)-month assistance period.

7809.8 The Service Provider shall engage the participant on progress made towards the Housing Stabilization Plan, which includes the family's plan and actions steps to exit the program. If the participant elects to request a program extension to receive assistance beyond the twelve (12)-month program time period, the Service Provider will review and process the request according to the requirements determined by the Department and in accordance with Section 7812.

7809.9 A participant who receives TANF is required to comply with all TANF requirements and remain in active engagement status with their assigned TANF Employment Provider (TEP), and each Service Provider's Program Rules shall so provide. In cases where a participant is not engaging with the assigned TEP provider, the Service Provider may cite this as a Program Rules violation.

7810 [REPEALED]

7811 FINANCIAL INCENTIVES

7811.1 The Department, subject to funding availability, may award a financial incentive to an FRSP participant who meets program goals related to exiting the program earlier than the twelve (12) month program timeframe to stable housing within specific timeframes. The participant may use these awarded funds only to pay rent or utilities.

7811.2 The FRSP financial incentive shall be in the amounts indicated in Section 7811.3.

7811.3 A participant shall qualify for an FRSP financial incentive if they achieve one of the following indicators of housing stability, subject to availability of funding:

(a) If the participant has signed a lease in their current housing unit or in a new housing unit supported by a long-term housing voucher, including PSH, TAH, District Child and Family Services Agency (CFSA) Family Unification, District Department of Behavioral Health (DBH), or Section 8, within thirty (30) calendar days of approval for the voucher, the participant is eligible to receive up to two hundred fifty dollars ($250).

(b) If the participant's household wages earned and unearned, are enough to afford rent at fifty percent (50%) Rent Burden or less within six (6) months of being in the program, the participant is eligible to receive up to two thousand dollars ($2,000). If this goal is reached after six (6) months but within twelve (12) months of being in the program, the participant is eligible to receive up to one thousand dollars ($1,000).

(c) If the participant has moved in or is planning to move in with family or friends and has a written commitment that they can live at that location for at least a year within six (6) months of being in the program, the participant is eligible to receive up to two thousand dollars ($2,000). If this goal is reached after six (6) months but within twelve (12) months of being in the program, the participant is eligible to receive up to one thousand dollars ($1,000).

(d) If the participant has entered into a shared housing agreement where the participant will be able to live in the housing for at least a year paying fifty percent (50%) Rent Burden or less within six (6) months of being in the program, the participant is eligible to receive up to two thousand dollars ($2,000). If this goal is reached after six (6) months but within twelve (12) months of being in the program, the participant is eligible to receive up to one thousand dollars ($1,000).

7812 EXTENSION CRITERIA

7812.1 FRSP provides assistance for a maximum period of twelve (12) months, unless the Department has funding available for FRSP extensions in a given fiscal year. When such funding is available, the Department may accept FRSP extension requests. If FRSP funding is available for extensions, an FRSP participant may request an extension of FRSP assistance for an additional six (6) months under certain circumstances. The Department will consider the totality of circumstances as described in this section when determining an extension request.

7812.2 The Department shall consider requests for FRSP assistance extending past twelve (12) months if funding is available within the FRSP budget for program extensions. The Department may rely on budget appropriations and Program spending projections based on the availability of current Fiscal Year funding for FRSP rental subsidies and other FRSP services for current FRSP participants, as well as families projected to enter the Program during the current Fiscal Year, when making this determination. DHS shall publish a notice in the *District of Columbia Register* when FRSP funding for extensions has been exhausted in a given fiscal year.

7812.3 A request for an extension of FRSP assistance must be submitted in writing between ninety (90) and sixty (60) days before the end of the participant's twelve (12)-month assistance period. The request for an extension must be on a form prescribed by the Department. The Service Provider will assist the participant in gathering and submitting the required information to the Department.

7812.4 The Department may grant an extension of FRSP assistance if the participant has demonstrated a good faith effort toward the achievement of goals set forth in their Housing Stabilization Plan or IRP as observed by the Service Provider at the three (3), seven (7), and ten (10) month reviews, but cannot yet sustain housing stability independently of the program.

7812.5 For the purposes of this section, the participant shall have demonstrated a good faith effort toward the achievement of goals set forth in their Housing Stabilization Plan or IRP by meeting the following requirements:

(a) The participant has missed no more than one monthly rent payment;

(b) The participant has no documented Program Rules violations in the past three (3) months;

(c) The participant has a housing stabilization plan with an aim of a targeted progression towards exit from the supports of FRSP; and

(d) The participant has met, in-person or virtually, with their FRSP case manager at least once per month for the past five (5) months.

7812.6 For the purposes of this section, the Department will determine whether the participant can sustain housing independently of FRSP using the Affordability Assessment described at §7801.8. An FRSP participant will not qualify for an extension of FRSP assistance if median rent based on unit size for the Washington-Arlington-Alexandria Metropolitan Area as defined by HUD is less than fifty percent (50%) of the FRSP participant's household income.

7812.7 The Department shall accept a request for extension of FRSP assistance from an FRSP participant who has been approved for permanently affordable housing if the Department has determined that funding for extensions is available in the current fiscal year pursuant to § 7812.2. When such funding is available, a participant who has been approved for permanently available housing shall receive an extension of FRSP assistance for up to six months or until the participant begins to receive assistance from the new housing program provider, whichever comes first.

7812.8 For the purposes of this section, "permanently affordable housing" shall include federally or locally funded programs through which families receive long-term housing assistance. These programs include the Housing Choice Voucher Program, Permanent Supportive Housing, Targeted Affordable Housing, the DC Flexible Rent Subsidy Pilot Program, the Career Mobility Action Plan Program, and other comparable housing programs.

7812.9 When determining whether to grant a participant an extension beyond twelve (12) months of FRSP assistance, the Department shall consider the totality of the circumstances. In addition to the factors described above in this section, the totality of the circumstances shall also include the participant's progress toward attaining employment income equal to or exceeding the equivalent of at least an average of thirty (30) hours per week at the District's minimum wage and the length of total program assistance the participant has received.

7812.10 An FRSP participant shall not qualify for an extension of FRSP assistance beyond twelve (12) months unless they have earned the equivalent of at least an average of thirty (30) hours per week at or above the minimum wage of the District for the past four (4) months.

7812.11 DHS may waive the employment requirement in Section 7812.10, if, at the time of the participant's extension request, the participant faces a significant hardship, such as having a child in their custody under the age of six (6) months or experiencing a medical condition that prevents the FRSP participant from meeting the employment requirement. To qualify for this waiver, the participant must demonstrate reasonable efforts to engage with their case manager to address the hardship preventing their employment.

7812.12 FRSP is not an entitlement, and the program is not designed to be an indefinite bridge to long-term affordable housing. Therefore, an FRSP participant may not submit a request for an extension of FRSP assistance if they have already been granted one six (6)-month extension of program assistance.

7812.13 The Department shall notify the participant and the participant's Service Provider if the Department grants the request for an additional six (6) months of FRSP assistance.

7812.14 The Service Provider shall conduct two (2) additional formal reviews for an FRSP participant who receives an additional six (6) months of FRSP assistance to ensure the participant receives the support necessary to exit FRSP with stable housing.

7812.15 If the Department denies the request for an extension of FRSP assistance, the Department shall give the participant a written notice at least thirty (30) calendar days before the final FRSP subsidy payment. The written extension denial notice shall state:

(a) The reason for the denial of additional FRSP assistance;

(b) The participant's right to appeal the determination through a fair hearing and administrative review, including deadlines for requesting an appeal; and

(c) The participant's right to continuation of FRSP assistance pending the outcome of any fair hearing requested within fifteen (15) calendar days' receipt of the written notice of denial.

7820 PROGRAM TERMINATION

7820.1 A Service Provider may terminate its FRSP assistance pursuant to Section 22 of the Act (D.C. Official Code § 4-754.36).

7820.2 Termination under this provision shall apply to rental assistance, case management services, and any other service or assistance provided by the Service Provider by virtue of the participant's participation in FRSP.

7820.3 The Service Provider shall give written and oral notice to an FRSP participant of their termination from the program pursuant to this section at least thirty (30) calendar days before the effective date of the termination.

7820.4 The Service Provider's written notice to the participant of the termination shall include:

(a) A clear statement of the termination and its effective date;

(b) A clear and detailed statement of the factual basis for the termination, including the date or dates on which the basis or bases for the termination occurred;

(c) A reference to the statute, regulation, or Program Rule pursuant to which the termination is being implemented;

(d) A clear and complete statement of the participant's right to appeal the termination through administrative review and fair hearing proceedings pursuant to § 7824, including the appropriate deadlines for instituting the appeal; and

(e) A statement of the participant's right, if any, to continuation of benefits pending the outcome of any appeal, pursuant to Section 9(a)(18) of the Act (D.C. Official Code § 4-754.11(a)(18)).

7820.5 Termination pursuant to this section refers to a termination of the Service Provider's FRSP assistance only and does not provide the Department or an FRSP Provider with any authority to interfere with a participant's tenancy rights under the lease agreement as governed by Title 14 of the District of Columbia Municipal Regulations.

7821 PROGRAM EXIT

7821.1 Pursuant to Section 22b(a) of the Act (D.C. Official Code § 4-754.36b(a)), a Service Provider may conduct a program exit when:

(a) The FRSP participant reaches the end of their FRSP assistance period; or

(b) The Department determines the participant is no longer eligible for FRSP.

7821.2 The Service Provider shall provide the participant oral and written notice of the program exit at least thirty (30) calendar days before the effective date of the

program exit. The Service Provider may issue the written notice via electronic transmission if the participant has consented and provided such contact information.

7821.3 The Service Provider's written notice to the participant of the program exit shall include:

(a) A clear statement of the effective date of the participant's exit from the Program, including the final month for which the participant will receive FRSP housing assistance;

(b) A clear and detailed statement of the factual basis for the program exit, including the date or dates on which the basis or bases for the program exit occurred;

(c) A reference to the statute or regulation pursuant to which the program exit is being implemented;

(d) A clear and complete statement of the participant's right to appeal the program exit pursuant to §7824, including deadlines for instituting the appeal; and

(e) A statement of the participant's right to continuation of FRSP assistance pending the outcome of an appeal requested within fifteen (15) calendar days after receipt of written notice of the program exit, pursuant to § 7824.

7821.4 A program exit from FRSP shall not affect a participant's tenancy rights under an agreement governed by Title 14 of the District of Columbia Municipal Regulations.

7821.5 An FRSP participant may withdraw from FRSP, including all FRSP services and rental assistance, at any time.

7821.6 An FRSP participant who wishes to withdraw from FRSP shall submit a Voluntary Withdrawal Form to the Department. The Department shall respond in writing to indicate the final date of FRSP assistance.

7822 SUMMARY OF PROVIDER RESPONSIBILITIES

7822.1 An Eligibility Provider is responsible for the following:

(a) Assisting the FRSP applicant with the overall application process, including assisting the applicant in obtaining required information to complete the application process;

(b) Referring the completed FRSP application to the Department in as short a time as possible;

(c) Maintaining in the applicant's or participant's file the following detailed documentation:

(1) Assistance for which the applicant qualifies;

(2) Case-management reviews; and

(3) The applicant's or participant's individualized Housing Stabilization Plan or IRP;

(d) For an applicant who is determined ineligible for FRSP assistance, providing them with a referral or referrals to other programs and services within the Continuum of Care.

7822.2 A Service Provider is responsible for the following:

(a) Providing individualized case management services using a progressive engagement model based on the presenting needs of all members of the participant household;

(b) Developing an individualized Housing Stabilization Plan or IRP in collaboration with the participant and other organizations and entities that are also engaged with the participant;

(c) Connecting the participant to other community resources, and ongoing evaluation of the Housing Stabilization Plan or IRP and modification as needed;

(d) Conducting a review of case management services provided and participant participation after three (3), seven (7), and ten (10) months of assistance;

(e) In cases of an approved relocation, assisting the participant to identify a housing unit independently or access the pool of available housing units to identify a unit that best fits their needs;

(f) Providing employment supports; and

(g) Ensuring a participant receiving TANF receives credit for any work or barrier remediation activities and supports identified in the service plan, such as job search, GED preparation, housing search and counseling.

7823 PARTICIPANT RIGHTS AND RESPONSIBILITIES

7823.1 An FRSP participant shall have the rights described pursuant to Sections 9 and 10a of the Act (D.C. Official Code §§ 4-754.11 and 4-754.12a).

7823.2 A participant shall have the right to withdraw from the Program at any time during the FRSP assistance period.

7823.3 A participant shall have the responsibilities described pursuant to Section 11 of the Act (D.C. Official Code § 4-754.13).

7823.4 A participant shall also have the following responsibilities:

(a) The participant must pay their monthly rental contribution on time for the duration of the FRSP assistance period;

(b) The participant is responsible for notifying the Department or their Service Providers if a member of their applicant unit will not reside in the unit for longer than 6 months; and

(c) The participant is responsible for reporting changes in income pursuant to § 7808.9.

7824 FAIR HEARING AND ADMINISTRATIVE REVIEW

7824.1 An FRSP applicant or participant shall have ninety (90) calendar days following the receipt of a written notice described in §§ 7803.8, 7812.15, 7820.3, or 7821.4 to appeal the action that is the subject of the written notice. The appeal shall be conducted in accordance with the fair hearing and administrative review provisions of Sections 26 and 27 of the Act (D.C. Official Code §§ 4-754.41 and 4-75.42).

7824.2 Upon receipt of an appeal, the Department shall offer the petitioner or the petitioner's authorized representative an opportunity for an administrative review in accordance with Section 27 of the Act (D.C. Official Code § 4-754.42), except that if an eviction is imminent, the Department shall take all reasonable steps to provide an expedited administrative review to maximize resolution of the appeal in time to resolve the housing emergency and prevent the eviction.

7824.3 In accordance with Section 26 of the Act (D.C. Official Code § 4-754.41(b)(2)(F)), an appeal of a written notice of program exit issued because the participant reached the end of their FRSP assistance period may not be reviewed at a fair hearing. The administrative review decision by the Department shall be final in such cases.

7824.4 In accordance with Section 27 of the Act (D.C. Official Code § 4-754.42(d)(3)), the Department may conduct an administrative review on the papers and without an in-person hearing if the purpose of the administrative review is to ascertain the validity of a decision to exit the participant because the participant reached the end of their FRSP assistance period.

7824.5 In accordance with Sections 9 and 22b of the Act (D.C. Official Code §§ 4-754.11(a)(18)) and 4-754.36b((c)), a participant who appeals within fifteen (15) days of receipt of a written notice of termination pursuant to § 7820 or program exit pursuant to § 7821 shall have the right to the continuation of FRSP services pending a final decision from the fair hearing proceedings, except, that a participant who appeals within fifteen (15) days of receipt of a written notice of program exit issued because the participant reached the end of their FRSP assistance period shall have the right to continuation of FRSP services pending the administrative review decision.

7899 DEFINITIONS

7899.1 The terms and definitions in 29 DCMR § 2599 are incorporated by reference in this chapter.

7899.2 For the purposes of this chapter, the following additional terms shall have the meanings ascribed:

Act – the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*).

Approved Budget Plan – a household's estimate of costs, revenue, and resources over a specified period, reflecting a reading of future financial conditions and goals. An approved budget plan serves also as a: (1) plan of action for achieving quantified objectives, (2) standard for measuring performance, and (3) device for coping with foreseeable adverse situations.

Authorized Representative – an individual who is at least eighteen (18) years of age, who is acting on behalf of the applicant, and has sufficient knowledge of the applicant's circumstances to provide or obtain necessary information about the applicant, or a person who has legal authorization to act on behalf of the applicant.

Eligibility Provider – an organization that receives Family Re-Housing and Stabilization Program funds and is authorized to assess eligibility and administer Family Re-Housing and Stabilization Program services, including the payment of rental subsidies.

Family – (A) a group of individuals with at least one minor or dependent child, regardless of blood relationship, age, or marriage, whose history and statements reasonably tend to demonstrate that they intend to remain together as a family unit; or (B) a pregnant woman in her third trimester.

Housing Stability – the ability to pay housing costs with or without assistance from another source, including rent and utilities, or to secure other viable and

secure housing options necessary to retain housing without FRSP assistance.

Individualized Housing Stabilization Plan – the self-sufficiency plan that the Family Re-Housing and Stabilization Program participant has entered into with the shelter, housing, District Temporary Assistance for Needy Families (TANF), or other service provider that sets out the steps and goals necessary for the participant to achieve greater housing and economic self-sufficiency.

Longer-Term Housing Assistance Program – a program within the Continuum of Care that combines supportive services with permanent rental assistance.

Progressive Engagement – a strategy of starting off offering a small amount of assistance initially, and, after reassessment, adding more assistance if needed to help each household reach stability. This strategy uses the lightest touch possible for a household to be successful, knowing more assistance can be added later if needed.

Rapid Re-Housing – a supportive housing program that provides a homeless individual or family with financial assistance as a bridge to permanent housing, by providing some or all of a security deposit, first month's rent, short-term rental subsidy, and supportive services in order to help the recipient become self-sufficient. FRSP is a Rapid Re-Housing program.

Referring Provider – a Continuum of Care provider designated by Section 7803.2 as an approved referral source for applicants to FRSP.

Rent Burden– the share of a family's adjusted gross income that is paid towards rent and utilities.

Rental Payment – a regular payment made by a tenant to an owner or landlord for the right to occupy or use property.

Security Deposit – a sum of money paid in advance that is required by the owner or landlord for leasing property as security against the tenant's inability to fulfill the lease or security to cover damage to the rental premises.

Service Provider – an organization that receives Family Re-Housing and Stabilization Program funds and is authorized to deliver Family Re-Housing and Stabilization Program services.

Vendor – a provider of a service or product, including a landlord.

All persons who desire to comment on these proposed rules should submit their comments in writing to the District of Columbia Department of Human Services, 64 New York Avenue, N.E.,

6th Floor, Washington, D.C. 20002, Attn: Dana Looper, or by email to rapidrehousing@dc.gov. All comments must be received by the Department no later than thirty (30) days after publication of this notice in the *District of Columbia Register*. Copies of these rules and related information may be obtained by writing to the above address or by calling the Department of Human Services at (202) 671-4200.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2025-037
February 28, 2025

SUBJECT: Appointments — Opioid Abatement Advisory 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 of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and pursuant to section 102 of the Opioid Litigation Proceeds Amendment Act of 2022, effective March 10, 2023, D.C. Law 24-315, D.C. Official Code § 7-3212, it is hereby **ORDERED** that:

1. **MARK LEVOTA** is appointed as the representative from the District of Columbia Behavioral Health Association member of the Opioid Abatement Advisory Commission (the "Commission") and shall serve in that capacity at the pleasure of the Mayor.

2. **MICHAEL PICKERING** is appointed as the representative from the District of Columbia Behavioral Health Association member of the Commission, replacing Mark LeVota, and shall serve in that capacity at the pleasure of the Mayor.

3. **EFFECTIVE DATE:** Paragraph 1 of this Order shall be effective *nunc pro tunc* to October 1, 2023. Paragraph 2 of this Order shall be effective *nunc pro tunc* to July 31, 2024.

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 2025-038
February 28, 2025

SUBJECT: Appointment — Developmental Disabilities State Planning Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and in accordance with Mayor's Order 2009-165, dated September 25, 2009, as amended by Mayor's Order 2018-039, dated April 10, 2018, and Mayor's Order 2021-137, dated November 21, 2021, it is hereby **ORDERED** that:

1. **GENESIS MCDONALD** is appointed as a District resident with developmental disabilities member of the Developmental Disabilities State Planning Council, filling a vacant seat formerly held by Amber Keohane, for the unexpired portion of a term to end January 1, 2026.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to December 31, 2024.

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 2025-039
February 28, 2025

SUBJECT: Appointments — Commission on Fashion Arts and Events

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), and in accordance with section 3 of the Commission on Fashion Arts and Events Establishment Act of 2008, effective April 15, 2008, D.C. Law 17-148, D.C. Official Code § 3-652, it is hereby **ORDERED** that:

1. **KAVYA BALAJI** is appointed as the designee of the Deputy Mayor for Planning and Economic Development member of the Commission on Fashion Arts and Events (the "Commission"), to serve at the pleasure of the Mayor.

2. **MAUDE OKRAH** is designated as the Chairperson of the Commission, replacing Lanaysha Jackson, to serve at the pleasure of the Mayor.

3. **EFFECTIVE DATE:** Paragraph 1 of this Order shall be effective *nunc pro tunc* to May 20, 2024. Paragraph 2 of this Order shall be effective *nunc pro tunc* to November 20, 2024.

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 2025-040
February 28, 2025

SUBJECT: Appointments — Advisory Board on Veterans Affairs for the District of Columbia

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and pursuant to Mayor's Order 2001-92, dated June 22, 2001, as amended by Mayor's Order 2002-142, dated August 19, 2002, it is hereby **ORDERED** that:

1. The following persons are appointed as members of the Advisory Board on Veterans Affairs for the District of Columbia ("Board"), to serve at the pleasure of the Mayor:

   a. **CURTIS ADDLEMAN**, replacing Dallas Poulson;
   b. **ALTON CHEAVES**, replacing Sidney Locks;
   c. **LILLIAN ANITA DIXON**, replacing Shay Rangel;
   d. **DARWAIN FROST**, replacing Stephen Slaughter;
   e. **MILTON HARDY**, replacing Kyle Smitz;
   f. **BRANDON MCCLAIN**, replacing Lane Williams;
   g. **BRIA PATTERSON**, replacing Namatie Mansaray;
   h. **ERIC RUDBERG**, replacing Leith Daghistani;
   i. **TRACEY TURNER**, replacing Joseph Wynn; and
   j. **MATTHEW WEE**, replacing Jesse Moore.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to December 11, 2024.

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 2025-041
February 28, 2025

SUBJECT: Appointments and Reappointment — Commission on Aging

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and pursuant to section 402 of the District of Columbia Act on the Aging, effective October 29, 1975, D.C. Law 1-24, D.C. Official Code § 7-504.02, it is hereby **ORDERED** that:

1. **BARBARA HIRSCH** is appointed as a member of the Commission on Aging (the "Commission"), filling a vacant seat formerly held by Guleford Bobo, for the remainder of an unexpired term to end October 28, 2025.

2. **KYLE MCGREGOR** is appointed as a member of the Commission, filling a vacant seat formerly held by Hattie Pierce, for the remainder of an unexpired term to end October 28, 2027.

3. **CAROLYN MATTHEWS** is reappointed as a member of the Commission, for a term to end October 28, 2026.

4. **CAROLYN MATTHEWS** is designated as the chairperson of the Commission, replacing Guleford Bobo, and shall serve in that capacity at the pleasure of the Mayor.

5. **EFFECTIVE DATE:** Paragraph 4 of this Order shall be effective *nunc pro tunc* to January 8, 2025. The remainder of this Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2025-042
February 28, 2025

SUBJECT: Appointment and Reappointment — District of Columbia Commission on the Martin Luther King, Jr. Holiday

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), and in accordance with Mayor's Order 2013-243, dated December 23, 2013, as amended by Mayor's Order 2014-007, dated January 3, 2014, Mayor's Order 2017-055, dated March 3, 2017, and Mayor's Order 2017-183 dated August 8, 2017, it is hereby **ORDERED** that:

1. **MARY IVEY** is appointed as a Ward 6 public voting member of the District of Columbia Commission on the Martin Luther King, Jr. Holiday (the "Commission"), filling a vacant seat formerly held by Katelynd Mahoney Anderson, for the remainder of an unexpired term to end January 31, 2025.

2. **MARY IVEY** is reappointed as a Ward 6 public voting member of the Commission, for a term to end January 31, 2027.

3. **EFFECTIVE DATE:** Paragraph 1 of this Order shall be effective *nunc pro tunc* to November 13, 2023. The remainder of this Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2025-043
March 3, 2025

SUBJECT: Reappointments — Executive Director, Corrections Information Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and pursuant to section 11201a of the National Capital Revitalization and Self-Government Improvement Act of 1977, effective October 2, 2010, D.C. Law 18-233, D.C. Official Code § 24-101.01, it is hereby **ORDERED** that:

1. a. **REVEREND DONALD ISAAC, SR.** is reappointed as Executive Director of the Corrections Information Council ("Council"), for a term to end December 31, 2024.

   b. This paragraph shall be effective *nunc pro tunc* to December 31, 2021, and supersedes Mayor's Order 2025-022, dated January 30, 2025.

2. a. **REVEREND DONALD ISAAC, SR.** is reappointed as Executive Director of the Council, for a term to end December 31, 2027.

   b. This paragraph shall be effective *nunc pro tunc* to December 31, 2024, and supersedes paragraph 1.a. of this Order.

3. **EFFECTIVE DATE:** Except as otherwise provided in this Order, this Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

OFFICE OF ADMINISTRATIVE HEARINGS

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

NOTICE OF PUBLIC MEETING

In accordance with D.C. Code § 2-576(1), the Advisory Committee to the Office of Administrative Hearings hereby gives notice that it will meet on Tuesday, March 18, 2025, at 1:30 pm. The meeting is in-person only and will be held at the following location:

Potomac Room
Marion S. Barry Building
441 Fourth Street, NW, Suite 450N (North side of 4th Fl.)
Washington, DC 20001

MEETING AGENDA

1. Welcome and Call to Order
2. Introductions
3. Remarks from the Chief ALJ
    a. Update on staffing and vacancies;
    b. Key case/decisions update;
    c. Tech updates;
    d. Trend lines on new case filings/backlogs; and
    e. Other key issues.
4. Open Microphone from Agency GCs and ALJs
5. Open Microphone from Other Members of the Public (time permitting)
6. Old Business
7. New Business
8. Adjournment

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

For more information, please contact Lisa Brannock, Executive Assistant, at (202) 724-7681 or lisa.brannock@dc.gov.

DC COMMISSION ON THE ARTS AND HUMANITIES

NOTICE OF FUNDING AVAILABILITY

FY 2026 Public Art Building Communities Grant

The DC Commission on the Arts and Humanities (CAH) announces the availability of grants to support public art projects by individuals, District-based non-profit organizations, and Business Improvement Districts (BID) in the District of Columbia during Fiscal Year 2026. (See RFP for details.) Multiple artists will be awarded under this announcement.

RFA Release:	Friday, March 14, 2025, 5:00 PM ET
Submission Deadline:	Monday, July 21, 2025, 9:00 PM ET
Number of Awards:	Multiple
Award Amount:	Individuals up to $75,000
	Organizations up to $125,000
	Business Improvement Districts (BIDs) up to $150,000

Applicants must maintain residency in the District of Columbia throughout the grant period. Organizations must be incorporated with a 501(c)(3) or 501(c)(6) federal tax exemption status with central offices in the District of Columbia or be a District of Columbia Business Improvement District (BID) incorporated, in addition to the other eligibility criteria to be listed in the program's guidelines. Applicants must also be registered as a District of Columbia nonprofit business in good standing with the DC Department of Buildings (DOB), the Office of Tax and Revenue (OTR), the Internal Revenue Service (IRS), and the Department of Employment Services (DOES).

All applicants must submit their completed applications online on or before 9:00 pm ET on Monday, July 21, 2025.

For additional eligibility requirements, evaluation criteria, and application instructions, please review the Request for Applications (RFA), which will be posted online at http://dcarts.dc.gov/

All eligible applications are reviewed through a competitive process. All activities funded by the grants must occur between October 1, 2025, and September 30, 2026.

CAH will not accept applications submitted via hand delivery, mail, or courier service. Late submissions and incomplete applications will not be forwarded to the review panel.

For more information, please contact:
Kerry Kennedy, Public Art Coordinator
DC Commission on the Arts and Humanities
200 I (Eye) St. SE
Washington, DC 20003
kerry.kennedy@dc.gov

DEPARTMENT OF BUILIDNGS

NOTICE OF CLASS CHANGE DETERMINATION

Office Strategic Code Enforcement

Address:	**Square:**	**Lot:**
1252 Emerson Street, NE	3909	0040

The Department of Buildings (DOB) has applied the following classification change for FY 2020:

Based on our records the property status has been updated to reflect a Class 1 – Residential 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 Donald Sullivan, Program Manager

Sincerely,

Donald Sullivan
Program Manager
Vacant Building Administration
(202) 442-4406
donald.sullivan@dc.gov

DEPARTMENT OF BUILIDNGS

NOTICE OF CLASS CHANGE DETERMINATION

Office Strategic Code Enforcement

Address:	**Square:**	**Lot:**
2023 Rosedale Street, NE	4526	0802

The Department of Buildings (DOB) has applied the following classification change for FY 2020 1st half:

Based on our records the property status has been updated to reflect a Class 3 – Vacant 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 Donald Sullivan, Program Manager

Sincerely,

Donald Sullivan
Program Manager
Vacant Building Administration
(202) 442-4406
donald.sullivan@dc.gov

DEPARTMENT OF BUILIDNGS

NOTICE OF CLASS CHANGE DETERMINATION

Office Strategic Code Enforcement

Address:	**Square:**	**Lot:**
4910 Georgia Avenue, NW	2926	0018

The Department of Buildings (DOB) has applied the following classification change for FY 2019:

Based on our records the property status has been updated to reflect a Class 2 – Residential 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 Donald Sullivan, Program Manager

Sincerely,

Donald Sullivan
Program Manager
Vacant Building Administration
(202) 442-4406
donald.sullivan@dc.gov

DEPARTMENT OF BUILIDNGS

NOTICE OF CLASS CHANGE DETERMINATION

Office Strategic Code Enforcement

Address:	**Square:**	**Lot:**
4910 Georgia Avenue, NW	2926	0018

The Department of Buildings (DOB) has applied the following classification change for FY 2020:

Based on our records the property status has been updated to reflect a Class 1 – Vacant Lot 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 Donald Sullivan, Program Manager

Sincerely,

Donald Sullivan
Program Manager
Vacant Building Administration
(202) 442-4406
donald.sullivan@dc.gov

DEPARTMENT OF BUILDINGS

SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
5220 Blaine St. NE	5240	0005

Dear Sir/Madam:

The Department of Buildings, (DOB), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY2023 2nd half** for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship.**

> *Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, "A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.*
> *(B) The exemption may be granted for a period of up to 24 months, subject to renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship."*

Annually you are required by law to register vacant property or seek an exemption for the current tax year. DOB will immediately notify the Office of Tax and Revenue (OTR) to reclassify the subject property as exempt or Class 1/Class 2. Please visit mytax.dc.gov to inquire about refunds, updated tax bills or payment.

DOB reserves the right to revoke this exemption if the building is not maintained in accordance with the Vacant Building Maintenance standards, or if disqualifying information is obtained. To learn more about the vacant building registration process or inspection requirements, please visit dob.dc.gov.

If you have questions regarding this decision, please contact Carousel Moore, Program Support Specialist at (202) 442-4541.

Sincerely,

Lamir Whetstone
Interim Program Manager
Vacant Building Administration
(202) 221.8544
lamir.whetstone1@dc.gov

DEPARTMENT OF BUILDINGS

SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
5220 Blaine St. NE	5240	0005

Dear Sir/Madam:

The Department of Buildings, (DOB), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY2024 1st half** for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship.**

> *Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, "A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.*
> *(B) The exemption may be granted for a period of up to 24 months, subject to renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship."*

Annually you are required by law to register vacant property or seek an exemption for the current tax year. DOB will immediately notify the Office of Tax and Revenue (OTR) to reclassify the subject property as exempt or Class 1/Class 2. Please visit mytax.dc.gov to inquire about refunds, updated tax bills or payment.

DOB reserves the right to revoke this exemption if the building is not maintained in accordance with the Vacant Building Maintenance standards, or if disqualifying information is obtained. To learn more about the vacant building registration process or inspection requirements, please visit dob.dc.gov.

If you have questions regarding this decision, please contact Carousel Moore, Program Support Specialist at (202) 442-4541.

Sincerely,

Lamir Whetstone
Interim Program Manager
Vacant Building Administration
(202) 221.8544
lamir.whetstone1@dc.gov

OFFICE OF THE CHIEF TECHNOLOGY OFFICER

AMENDED NOTICE OF FUNDING AVAILABILITY

Broadband Equity Access and Deployment (BEAD) Program

The DC Office of the Chief Technology Officer (OCTO) invites interested persons to review its updated Broadband Equity Access and Deployment (BEAD) Program Deployment Notice of Funding Availability (NOFA). The NOFA originally made available online at: https://www.techtogetherdc.com/ has been amended to reflect a new Request for Application (RFA) opening date. For more information, please contact Kevin Hughes at octo.grants@dc.gov.

CHILD AND FAMILY SERVICES AGENCY

CITIZEN REVIEW PANEL

Notice of Public Meeting
Tuesday, March 11, 2025
6:30 to 8:30 PM

Zoom Meeting link:
https://us02web.zoom.us/j/84506622043?pwd=nSEOhDfnNt8ce4qtrxY4Zx8rFIVCvn.1

Agenda

6:30 – 6:40 PM	Welcome/Introductions • Introductions of members, public observers, and presenters • Determination of quorum • Satisfaction of Public Notice • Approval of Minutes of January 2025 • Approval and/or modification of tonight's agenda	Pierrea Wallace Chairperson
6:40 – 7:00	Facilitator Report and Updates • Membership and leadership updates • Updates on MOTA and Council	Margie Chalofsky Facilitator
	• BEGA Public Financial Disclosure Statement ("PFDS") Filers.	Toni Carr Asst to Facilitator
7:00 – 8:00	Working Group Presentation(s)	Panel Members
8:00- 8:15	Member Sharing	TBD
8:15 – 8:20	Fiscal report	Andrew Miller Panel Treasurer
8:20 -8:25	Public Comments	
8:25– 8:30	Closing and Adjournment	Pierrea Wallace Chairperson

Future CRP Meetings	
Date	***Location**
May 13, 2025	Zoom
July 8, 2025	Zoom
September 9, 2025	Zoom

*Location subject to change

Questions: Pierrea Wallace, Chairperson <pierreanaketa@gmail.com>

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.

THE CLEMENCY BOARD OF THE DISTRICT OF COLUMBIA

NOTICE OF CLOSED MEETING

On Friday, March 14, 2025, at 10:30 a.m., the Clemency Board of the District of Columbia will hold a closed meeting to discuss confidential applications (Open Meetings Act, D.C. Official Code Section 2-575(b)(1)), pursuant to the Open Meetings Act, D.C. Code Section 2-575(b).

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

For additional information, please contact Kimberly Ulan, Staff Director and Associate General Counsel at (202) 727-2292 or kimberly.ulan@dc.gov.

THE CLEMENCY BOARD OF THE DISTRICT OF COLUMBIA

NOTICE OF PUBLIC MEETING

The Clemency Board of the District of Columbia will hold a meeting on Friday, March 14, 2025, at 10:30 a.m. The meeting will be held via Webex. Below is the agenda, meeting link, and log-in numbers for this meeting. The final agenda will be posted on the Clemency Board's website at https://clemency.dc.gov/.

AGENDA

1. Welcome and Call to Order
2. Old Business
3. New Business
4. Public Comments
5. Closed Session
6. Adjournment

Meeting Link:

https://dcnet.webex.com/dcnet/j.php?MTID=m11695bdcf87580e2bbf0fc04d2edc3ae

Registration: Please press Ctrl and click the link above to pre-register for the meeting.

Registration password: This meeting does not require a password for registration.

Webinar number (access code)**:** 2316 009 2019

Webinar password: AeakDc3Aw32 (23253232 when dialing from a phone or video system)

Join by phone: +1-202-860-2110 United States Toll (Washington D.C.) or
1-650-479-3208 Call-in number (US/Canada)

Join by mobile device (attendees only): +1-202-860-2110,,23160092019#23253232# US Toll (Washington D.C.); or +1-650-479-3208,,23160092019#23253232# Call-in toll number (US)

Some mobile devices may ask attendees to enter a numeric password.

Join from a video system or application: Dial 23160092019@dcnet.webex.com

You can also dial: 173.243.2.68 and enter your webinar number.

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

For additional information, please contact Kimberly Ulan, Staff Director at (202) 727-2292 or Kimberly.Ulan@dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY

FY25 Scholarships for Opportunity and Results (SOAR) Act Facilities Grant

Request for Applications Release Date: March 28, 2025 at 3 p.m.

The Office of the State Superintendent of Education (OSSE) will issue a Request for Applications (RFA) for federal SOAR Act grant funds. SOAR Act funds are available to District of Columbia public charter local education agencies (LEAs) through the SOAR Act (Pub. L. 112-10). The purpose of the funds is to support the improvement and expansion of high-quality public charter schools. This notice provides information regarding the FY25 SOAR Act Facilities Grant competitive opportunity.

Eligibility and Selection Criteria: Eligible applicants are high-quality DC public charter schools. Applicants must use funds to support the renovation of facilities occupied by charter schools. Eligible applicants must provide documentation of site control (ownership or at least a 50-year lease). Applicants are encouraged to submit a notice of intent to apply form.

Applications will be scored on the following selection criteria: (1) project data; (2) needs assessment; (3) project description; (4) theory of action; (5) equitable access and participation; (6) logic model; and (7) budget.

Length of Award: The total award period for this grant is two years. The initial award period begins on the date of the award and ends on Sept. 30, 2025. Applicants will be required to complete a continuation application in the second year. Continuation of awards in year two is contingent upon: 1) availability of funds; 2) recipient's implementation and/or operation of the program as submitted in the application; 3) recipient's demonstration that substantial progress has been made toward meeting the objectives set forth in the approved application, based on ongoing monitoring and review of the recipient's reports; 4) compliance with District and federal laws, regulations, and guidance; and 5) appropriate expenditure of funds throughout the grant award period.

Available Funding for Award: The funding available is $3,500,000 for FY25 awards through this RFA. OSSE will provide up to $750,000 per award. Determinations regarding the number of competitive grant awards will be based on the quality and number of applications received and available funding. OSSE anticipates awarding approximately five to eight awards. Successful applicants may be awarded amounts less than requested. Awards are limited to one per LEA. Grant funds shall only be used to support activities authorized by the relevant statutes and included in the applicant's submission.

Application Process: Applications for this grant must be submitted in the Enterprise Grants Management System (EGMS) prior to 3 p.m. on Friday, May 23, 2025. Please allow additional time for any issues you may experience in EGMS, as well as to run the system's consistency check, prior to submission. OSSE expects to make awards by Tuesday, July 15, 2025.

A review panel or panels will be convened to review, score, and rank each application for a competitive grant. The review panel(s) will be composed of external, neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. Each application will be scored against a rubric, and applications will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE will make all final award decisions.

The pre-application webinars will be held at the following times:

- Tuesday, April 8, 2025, from 10-11 a.m.
- Thursday, April 10, 2025, from 1-2 p.m.

Webinar registration links will be included in the RFA.

The notice of intent to apply form will be available in the RFA. Applicants are encouraged to submit the notice of intent to apply by Friday, May 9, 2025.

To receive more information on this grant, please contact:

Marie Hutchins
Office of the State Superintendent of Education
1050 First Street, NE, Fifth Floor, Washington, DC 20002
Email: Marie.Hutchins@dc.gov

The RFA for this competitive grant program will be available on **Friday, March 28, 2025, 3 p.m.** on OSSE's website at www.osse.dc.gov and the District's Grants Clearinghouse. All applications will be submitted through EGMS at grants.osse.dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR 2026 (FY26)

PRE-KINDERGARTEN ENHANCEMENT AND EXPANSION FUNDING

High-Quality Designation Application Release Date: March 7, 2025 12:00 p.m.

The Office of the State Superintendent of Education (OSSE), Division of Early Learning, is soliciting applications for the Pre-K Enhancement and Expansion Program (PKEEP) high-quality designation to be eligible to receive an allocation of PKEEP funding. OSSE will distribute funding to community-based organizations (CBOs)[1] pursuant to the Pre-K Enhancement and Expansion Amendment Act of 2008, (the "Act"), effective July 18, 2008 (D.C. Law 17-202; D.C. Official Code § 38-271.01 *et seq.*) and its' implementing regulations (5-A DCMR Chapter 35). Receipt of a PKEEP high-quality designation makes a CBO eligible to receiving PKEEP funding. It does not guarantee funding, which is awarded based on available resources.

The purpose of the PKEEP allocation is to distribute funding, per student, as appropriate, in an amount not to exceed the uniform per student funding formula ("UPSFF")[2] pursuant to section 2401 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321- 107; D.C Official Code § 38-1804.01), to CBOs providing pre-K education services[3] that meet the eligibility requirements and the high-quality standards set forth in section 201 of the Act (D.C. Code § 38-272.01) and its implementing regulations (5-A DCMR §§ 3500.3 and 3501). A supplemental allocation equivalent to the at-risk weight may be distributed for pre-K age students in foster care, who are homeless or receive TANF or SNAP funds pursuant to the Early Learning Equity in Funding Amendment Act of 2017, effective Aug 1, 2017 (D.C. Law 22-9; D.C. Official Code § 38-271.06)).

The awarding of PKEEP funding is contingent on FY26 funding. Should the amount appropriated to OSSE be insufficient to fund all high-quality pre-K programs that meet the eligibility requirements and the high-quality standards, OSSE shall distribute funds to each high-quality program that: (a) meets the eligibility requirements and the high-quality standards and (b) serves a student population where 35 percent or more of enrolled children are eligible for and receiving subsidized child care or Head Start funding. If funds are not sufficient to allocate funding to every high-quality program that meets those requirements, OSSE shall award funds to programs that meet the above requirements and serve a student population in a high need community. Should the amount appropriated to OSSE be insufficient to fund all high-quality pre-K programs that meet all

[1] "Community-based organization" or "CBO" means a Head Start or early childhood education program operated by a non-profit, for-profit or faith-based organization, or organization that participates in local or federally-funded early childhood programs, including the Child Care Subsidy Program.

[2] Rates will be final upon the legislative enactment of the Fiscal Year 2024 Budget Support Act of 2023.

[3] "Pre-K education service" means the purposeful, well planned and developmentally appropriate practice and instruction provided by community-based organizations to pre-K age children.

of the above eligibility requirements and the high-quality standards, OSSE may distribute the funds through a competitive grant process (see *"Competitive Grant, If Applicable"* below).

This NOFA is to announce the release of the high-quality designation application. As noted below, in order to receive funding, each CBO must first receive a high-quality designation. While this application determines eligibility for funding, CBOs must complete a funding application within OSSE's electronic grants management system (EGMS) before accessing their award. Applicants can access EGMS here: https://grants.osse.dc.gov/.

Eligibility: To be eligible to receive PKEEP funding, a CBO providing pre-K education services shall:

1. Be currently licensed and maintain compliance pursuant to Chapter 1 of Title 5-A of the District of Columbia Municipal Regulations (DCMR 5-A, Chapter 1);
2. Submit a high-quality designation application on a form furnished by OSSE and receive designation from OSSE, which demonstrates that the CBO meets each of the following:
    1) Eligibility criteria pursuant to 5-A DCMR § 3500.3 (including designation as a Level II provider); and
    2) High-quality standards pursuant to 5-A DCMR § 3501.1; and
3. Attend the entire high-quality designation pre-application conference.

OSSE will host a mandatory PKEEP high-quality designation pre-application conference. Given the importance of the information that will be presented, no one will be allowed to join the session after the pre-application conference begins. Attendance will be taken at the beginning and end of the pre-application conference. Failure to attend the entire pre-application conference will result in a disqualification of the high-quality designation application. Click here to register for the pre-application conference.

Date	Time	Location
Thursday, March 13, 2025	1:00 -2:30 p.m.	Teams Registration Link

The PKEEP high-quality designation application will be posted on Friday, March 7, 2025 on OSSE's website: OSSE Website Link and is due on **Monday, April 7, 2025 4:00 p.m**.

Competitive Grant Process, If Applicable

If OSSE does not receive an appropriation amount sufficient to fund all eligible high-quality pre-K programs as laid out above, OSSE may allocate the funds through a competitive grant process. In that case, a Request for Application (RFA) will be released on **Friday, May 9, 2025** on OSSE's website: OSSE Website Link.

For additional information regarding this NOFA, please contact:

Dionne Muir-Clarke

Education Program Specialist
Policy, Planning, and Research Unit
Division of Early Learning
Office of the State Superintendent of Education (OSSE)
Government of the District of Columbia
1050 First St. NE, Sixth Floor
Washington, DC 20002
Phone: (202) 445-9031
Dionne.Muir-Clarke@dc.gov

STATE BOARD OF EDUCATION

AMENDED NOTICE OF 2025 MEETING SCHEDULE

This notice outlines the schedule of the regular meetings of the D.C. State Board of Education (SBOE). The meetings are held in open session and the public is invited to attend. The meetings are held at the Marion S. Barry, Jr. Building (441 4th St. NW, Washington, D.C. 20001). An agenda for each meeting will be posted on the State Board's website at sboe.dc.gov. This schedule is subject to change. For further information, please contact 202-741-0888 or sboe@dc.gov.

Type of Meeting	Date	Time	Location
Working Session	1/8/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	1/15/25	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	2/5/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	2/19/25	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	3/6/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	3/19/25	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	4/2/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	4/23/25	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	5/7/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	5/21/25	5:30 PM	Old Council Chambers (Ground Floor)

Working Session	6/4/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	6/18/25	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	7/2/25	5:00 PM	Citywide Conference Center (11th Floor)
Working Session	8/6/25	5:30 PM	Old Council Chambers (Ground Floor)
Public Meeting	8/20/25	5:00 PM	Citywide Conference Center (11th Floor)
Working Session	9/3/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	9/17/25	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	9/30/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	10/15/25	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	11/5/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	11/19/25	5:30 PM	Old Council Chambers (Ground Floor)
Working Session	12/3/25	5:00 PM	Citywide Conference Center (11th Floor)
Public Meeting	12/17/25	5:30 PM	Old Council Chambers (Ground Floor)

ELSIE WHITLOW STOKES COMMUNITY FREEDOM PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

MULTIPLE SERVICES

Elsie Whitlow Stokes PCS invites all interested and qualified vendors to submit proposals for the services below. The RFP with bidding requirements and supporting documentation can be obtained by emailing procurement@ewstokes.org.

- Legal Services
- Tutoring Services
- General Contracting
- Architecture Services
- Commercial Door Services
- SPED Services

Vendors are requested to provide the following items in response to the proposals: an organizational capability statement, resumes of key personnel, three references, and a detailed scope of work. Please submit all documents as PDF files via email by noon on March 24, 2025. When sending your response to the RFP, ensure that the email subject line includes the service type you are responding to. Please no calls, all questions should be directed to procurement@ewstokes.org

DEPARTMENT OF ENERGY AND ENVIRONMENT

COMMISSION ON CLIMATE CHANGE & RESILIENCY

NOTICE OF PUBLIC MEETING

The Commission on Climate Change & Resiliency meeting will be held on Thursday, March 13, 2025, from 3:00 p.m. to 5:30 p.m. The meeting will be held virtually via WebEx.

Below is the draft agenda for this meeting. The link for the WebEx meeting will be included in the final agenda posted to the Commission on Climate Change & Resiliency's webpage 48 hours in advance of the meeting at: https://climatecommission.dc.gov/page/meetings-2

For additional information, please contact: Tasneem Islam, Program Analyst, at (202) 450-8620 or tasneem.islam1@dc.gov.

DRAFT MEETING AGENDA

March 13, 2025
3:00 – 5:30 pm

1. Call to Order
2. Announcement of Quorum
3. Approval of Agenda
4. Approval of Previous Meeting Minutes
5. Chair's Welcoming Remarks
6. Staff Report
7. Finance Report
8. Governance Report
9. Committee Reports
10. Guest Presentations
11. Public Comments
12. Discussion & Upcoming Meetings
13. Adjournment

FRIENDSHIP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

EXTENSION

Various Services

Friendship Public Charter School request for proposals for prospective vendors to provide:

- Friendship Public Charter School (FPCS) is seeking proposals from qualified firms to provide comprehensive strategies and operational support designed to enhance the organization's student recruitment and retention efforts.

The competitive RFP can be found on FPCS website at: http://www.friendshipschools.org/procurement. Proposals are due no later than **4:00 P.M., EST, Wednesday March 21, 2025**. Questions and Proposals should be submitted on-line at: Procurementinquiry@friendshipschools.org. All bids not addressing all areas as outlined in the RFP will not be considered. No proposals will be accepted after the deadline.

KIPP DC PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

AV Equipment, Maintenance, and Related Services

KIPP DC is soliciting proposals from qualified vendors for AV Equipment, Maintenance, and Related Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST on March 21, 2025. Questions should be addressed to robert.monteiro@kippdc.org by March 19, 2025.

LEE MONTESSORI PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

PROCURE AND INSTALL PLAYGROUND EQUIPMENT

Lee Montessori Public Charter School is seeking proposals to procure and install playground equipment at their East End campus, located at 2345 R Street SE.

Proposals are due no later than March 17th at 4:00pm ET. Applications must be submitted electronically to joshua@leemontessori.org and lesley@conroylandscape.com.

For a full copy of the RFP, additional information, or questions, please contact:

Joshua McComas
Director of Operations
2345 R Street SE, Washington DC 20020
202-779-9740 / joshua@leemontessori.org

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-202

April 25, 2022

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-202

Dear Mr. Ayele:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), challenging the response of the Office of Police Complaints ("OPC") to your FOIA request.

You submitted a FOIA request to OPC that consisted of questions about universities and job fairs. Specifically, "1) What formal and informal ties does OPC have with American University Washington College of Law, Georgetown Law and the University of Maryland, College Park? 2) Will you join me in moving to call upon all documentations which were presented to students, faculty and staff of American University Washington College of Law, Georgetown Law and University of Maryland, College Park to be promptly disclosed either to my e-mail or in the alternative my mailing address?" OPC responded by informing you that visits to the schools were for internship fairs and giving a link to where documents OPC staff provided at the events could be found. You subsequently filed an appeal with this Office in which you repeated several questions from your initial request and posed additional questions. OPC responded to your appeal by reiterating that it provided the requested documents and has no other responsive materials.[1]

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records within a reasonable amount of time. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-

[1] A copy of OPC's response to your appeal is attached to this decision.

543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

Based on the foregoing, we therefore conclude that the OPC properly responded to your FOIA request and we hereby deny your appeal. This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Official Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Alicia J. Yass, Legal Counsel
OPC (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-203

September 7, 2022

VIA ELECTRONIC MAIL ONLY

Michael Ayele

RE: FOIA Appeal 2020-203

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Office of Deputy Mayor for Public Safety and Justice ("DMPSJ") to your March 21, 2020 FOIA request, identified as 2020-FOIA-04386, which sought answers to a series of questions.

FOIA requires requests to describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records within a reasonable amount of time. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

DMPSJ closed your request on April 10, 2020 because it did not have a duty to answer the questions presented and otherwise did not have any records that were responsive to your request. Based on the foregoing, we conclude that DMPSJ properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Michelle Vanneman, DMPSJ FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-204

September 7, 2022

VIA ELECTRONIC MAIL ONLY

Michael Ayele

RE: FOIA Appeal 2020-204

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Office of the Deputy Mayor for Public Safety and Justice ("DMPSJ") to your April 13, 2020 FOIA request, identified as 2020-FOIA-04764, which sought answers to a series of questions.

FOIA requires requests to describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

On April 27, 2020 DMPSJ closed your request because it did not have any duty to answer the questions presented and otherwise did not have any records that were responsive to your request. Based on the foregoing, we conclude that DMPSJ properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Michelle Vanneman, DMPSJ FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-205
September 7, 2022

VIA ELECTRONIC MAIL ONLY

Michael Ayele

RE: FOIA Appeal 2020-205

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Department of Behavioral Health ("DBH"), identified as 2020-FOIA-03696, to your February 26, 2020 FOIA request which sought answers to a series of questions.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

On April 13, 2020, DBH advised you that it did not have any records that were responsive to your request. Based on the foregoing, we conclude that DBH properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,
Mayor's Office of Legal Counsel

cc: Matt Caspari, DBH FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-206
September 7, 2022

VIA ELECTRONIC MAIL ONLY

Michael Ayele

RE: FOIA Appeal 2020-206

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Child and Family Services Agency ("CFSA") to your March 29, 2020 FOIA request, identified as 2020-FOIA-04502, which sought answers to a series of questions.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

On April 13, 2020 CFSA denied your request because it did not reasonably describe the records sought. Based on the foregoing, we conclude that CFSA properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Wendy Singleton, CFSA FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-207
September 7, 2022

VIA ELECTRONIC MAIL ONLY

Michael Ayele

RE: FOIA Appeal 2020-207

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Child and Family Services Agency ("CFSA") to your March 29, 2020 FOIA request, identified as 2020-FOIA-04500, which sought answers to a series of questions.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

On April 13, 2020 CFSA denied your request because it did not reasonably describe the records sought. Based on the foregoing, we conclude that CFSA properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Wendy Singleton, CFSA FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-208

February 11, 2021

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-208

Dear Mr. Ayele:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the failure of the Department of Behavioral Health ("DBH") to respond to your FOIA request.

You submitted a FOIA request to DBH that consisted of lengthy statements describing purported contacts with various D.C. government agencies and several questions regarding a wide range of topics. On July 9, 2020, DBH sent you a letter stating that your requests were not related to the agency and was beyond the scope of the DC FOIA. The agency further noted that it conducted a diligent search of its own records and found no responsive records.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records within a reasonable amount of time. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

Based on the foregoing, we conclude that the DBH properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the

District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Matthew Caspari, General Counsel
DBH (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-209
September 7, 2022

VIA ELECTRONIC MAIL ONLY

Michael Ayele

RE: FOIA Appeal 2020-209

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Child and Family Services Agency ("CFSA") to your April 6, 2020 FOIA request, identified as 2020-FOIA-04642, which sought answers to a series of questions.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

On April 13, 2020 CFSA denied your request because it did not reasonably describe the records sought. Based on the foregoing, we conclude that CFSA properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Wendy Singleton, CFSA FOIA Officer (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-210

April 11, 2022

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-210

Dear Mr. Ayele:

This letter responds to the administrative appeal you submitted to the Mayor, challenging the response of the Department of Human Resources ("DCHR") to your grievance about a FOIA request.

On March 19, 2020, you submitted a grievance form to DCHR referencing a FOIA request. On April 17, 2020, DCHR denied your grievance as a FOIA request is not a matter subject to review under the grievance process. The next day, you appealed to this Office.

In accordance with D.C. Official Code § 2-537, the Mayor reviews appeals under the District of Columbia Freedom of Information Act of decisions issued by District agencies. It appears from your correspondence that you are challenging a decision made on a grievance. Because this Office does not have jurisdiction over grievances, we are unable to assist you and hereby dismiss your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Aphrodite Hadjiloucas, FOIA Officer/Attorney-Advisor
DCHR (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-211
September 12, 2022

VIA ELECTRONIC MAIL ONLY

Michael Ayele

RE: FOIA Appeal 2020-211

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Public Employee Relations Board ("PERB") to your March 30, 2020 FOIA request, identified as 2020-FOIA-04530, which sought answers to a series of questions.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

On April 21, 2020 PERB denied your request stating that it did not maintain the type of records requested and did not have a duty to answer questions. Based on the foregoing, we conclude that PERB properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,
Mayor's Office of Legal Counsel

cc: Gertie A. Elam, PERB FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-212

March 3, 2022

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-212

Dear Mr. Ayele:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the failure of the Department of Behavioral Health ("DBH") to respond to your FOIA request.

You submitted a FOIA request to DBH that consisted of lengthy statements describing purported contacts with various D.C. government agencies and several questions seeking public records containing your contact information. On April 23, 2020, DBH responded to your request and stated that it conducted a diligent search but found no responsive records. In response to your appeal, DBH further explained that your statements and requests were unrelated to that agency.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records within a reasonable amount of time. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

Based on the foregoing, we conclude that the DBH properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Matthew Caspari, General Counsel
DBH

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-213

July 19, 2021

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-213

Dear Mr. Ayele:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the response of the Office of Administrative Hearings ("OAH") to FOIA request 2020-FOIA-05254.

You submitted a DC FOIA request to OAH purporting to request certain documents filed with OAH concerning the Department of Human Services. OAH was unable to discern what documents you were requesting and contacted you for clarification. In response, you submitted a new FOIA request—2020-FOIA-05974—which the agency understood to be a clarification of your original FOIA request. OAH explained that your new request remains open pending additional clarification from you about the documents you are seeking.[1]

Based on the foregoing, we conclude that your appeal from the agency's response to request 2020-FOIA-05254 is moot and hereby dismiss the appeal. If, after providing clarification to OAH about what documents you are seeking in request 2020-FOIA-05974, you disagree with the agency's response, you may again appeal to this Office with respect to that request.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Shawn M. Nolen, Assistant General Counsel
OAH (via email)

[1] A copy of OAH's response to your appeal is attached to this decision.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-214

October 25, 2022

VIA ELECTRONIC MAIL ONLY

Mr. Fritz Mulhauser

RE: FOIA Appeal 2020-214

Dear Mr. Mulhauser:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Metropolitan Police Department ("MPD") to your June 18, 2020 FOIA request, identified as 2020-FOIA-06021, which sought the following:

> [A]ll FOIA requests for video from body worn cameras worn by MPD members deployed in or near Lafayette Square on June 1, 2020, from noon to midnight. (The requested date range was from June 1, 2020 to June 18, 2020).

On June 24, 2020, MPD responded to your request by providing a listing of requests received for body worn camera footage from June 1, 2020 through June 24, 2020. Citing the personal privacy exemption of FOIA, D.C. Code § 2-534(a)(2), MPD redacted certain information falling under the following categories: "Requester Name", "Organization", "Request Description", "Comments" and "Primary User."

In your appeal, you have asserted that MPD's response is incomplete because "it was created as a display of some parts of the requests…", as opposed to "[s]ome additional elements of all or many FOIA requests such as requester address, fee waiver request, etc. [that] are not displayed in the table." Moreover, you have challenged the propriety of the redactions MPD made, pursuant
D.C. Code § 2-534(a)(2), to the various categories of information contained within the produced document.

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public

body . . .” D.C. Code § 2-532(a). The right to inspect a public record, however, is subject to exemptions. D.C. Code § 2-534.

D.C. FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Adequacy of Request

As an initial matter, there is reasonable ambiguity in the interpretation of your request for “[A]ll FOIA requests for video from body worn cameras…” While this could be interpreted as one for the individual components of each request, e.g. emails, correspondence, and other documents or information that could be contained in a file, as you have asserted, it could also rationally be one for the categorical “Request Description”, as MPD has provided.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

Here, this Office agrees with MPD’s response in the context of the description of the records sought, as provided, versus a request for more particularized or specific information about each request, e.g. please provide the entirety of information about any request for video from body worn cameras…

D.C. Code § 2-534(a)(2) (Exemption 2)

Under Exemption 2, determining whether disclosure of a record would constitute an unwarranted invasion of personal privacy requires a balancing of the individual privacy interest against the public interest in disclosure. *See Dep’t of Justice v. Reporters Comm. for Freedom of Press*, 489
U.S. 749, 762 (1989). The first part of the analysis is determining whether a sufficient privacy interest exists. *Id.*

A privacy interest is cognizable under D.C. FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep't of Agric*., 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v.*
U.S. Dep’t. of Justice, 806 F. Supp. 2d 105, 113 (D.D.C. 2011). Information such as names, phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See*, e.g., *Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994).

Even if a substantial privacy interest exists, Exemption 2 can be overcome if a FOIA requester can establish a greater public interest in disclosure of the records. *See NARA v. Favish*, 541 U.S. 157, 172 (2004). If there is a privacy interest in non-disclosure and a public interest in disclosure, the competing interests must be balanced to determine whether disclosure "would constitute a clearly unwarranted invasion of personal privacy." *Washington Post Co. v. HHS*, 690 F.2d 252, 261 (D.C. Cir. 1982). This balancing of private and public interests must be conducted with respect to the purpose of FOIA, which is "'to open agency action to the light of public scrutiny.'" *Dep't of Air Force v. Rose*, 425 U.S. 352, 360-61 (quoting S. Rep. No. 813, 89th Cong., 1st Sess., 3 (1965)). Official information that sheds light on an agency's performance of its statutory duties falls squarely within the statutory purpose of FOIA. That purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency's own conduct. *Reporters Comm. for Freedom of Press*, 489 U.S. at 772-773.

Requester's Name; Primary User

When weighing the privacy interest of the names of requesters and the "primary user[s]", which is understood to be the name of the MPD employee processing the request, versus the public interest in disclosure, it is unclear how the withheld information has any bearing on the conduct of MPD as an agency. In the absence of any countervailing public interest, we find that MPD was justified in withholding this information.

Organization

The Supreme Court in a unanimous decision has determined that under federal FOIA corporations do not have "personal privacy" that is protected by the privacy exemptions. *FCC v. AT&T Inc.*, 562 U.S. 397, 409-410 (2011). The Court reached this conclusion despite the fact that the definition of "person" in the federal FOIA includes a corporation. *Id*. Although corporations are entitled to certain protections under FOIA through the trade secrets and commercial information exemption, they do not have a personal privacy interest as it is contemplated in the associated FOIA exemption. *Id*. at 408-40309 ("[W]e far more readily think of corporations as having "privileged or confidential" documents than personally private ones."). To the extent MPD has redacted the name of a private corporation under the "Organization" category, this information should be released.

Request Description

Upon a review of a selection of the requests for which the "Request Description" has been redacted, it appears that MPD has redacted this information, in part, because it is non-responsive to the FOIA request, i.e. these are not requests for video from body worn cameras worn by MPD members deployed in or near Lafayette Square on June 1, 2020. The practice of withholding non- responsive portions of responsive documents is not permissible under D.C. FOIA. *See e.g., Am. Immigration Lawyers Ass'n v. Exec. Office for Immigration Review*, 830 F.3d 667, 677 (D.C. Cir. 2016). To the extent that MPD has redacted purely non-responsive information, it should be released. However, the information contained therein may still be subject to other FOIA exemptions.

Comments

Although the redactions made to the "Comments" may not be justified under D.C. Code § 2-534(a)(2), they would be properly withheld under D.C. Code § 2-534(a)(4) (Exemption 4). Exemption 4 vests public bodies with discretion to withhold "inter-agency or intra-agency memorandums and letters which would not be available by law to a party other than an agency in litigation with the agency[.]" The deliberative process privilege rests "on the policy of protecting the 'decision making process of government agencies' . . . and focus[es] on documents 'reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.'" *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 150 (1975). "Manifestly, the ultimate purpose of this long-recognized privilege is to prevent injury to the quality of agency decisions." *Id*. at 152. According to the legislative history accompanying the federal FOIA, the purpose of FOIA Exemption 4 is to encourage the "frank discussion of legal and policy issues." S.Rep. No. 813, 89th Cong., 1st Sess. 9 (1965).

It is well established that an internal letter, memorandum, or other form of written communication is protected from disclosure under the deliberative process privilege if it is both "predecisional" in nature and "deliberative" in character. A record in the possession, custody, or control of a public body is "predecisional" when it is "prepared in order to assist an agency decision maker in arriving at [a] decision," *Renegotiation Board v. Grumman Aircraft Engineering Corp.*, 421 U.S. 168, 184-85 (1975), such as "recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency." *Coastal States*, 617 F.2d at 866. A record maintained by a public body contains information that "reflects the give-and-take of the consultative process", it is of a "deliberative" character. *Id*.

As such, MPD should reevaluate the information redacted under the category of "Comments" and release any that is not otherwise exempt under Exemption 4, or any of the other D.C. FOIA exemptions.

Conclusion

Based on the foregoing, we affirm MPD's decision, in part, but remand this matter to disclose any non-exempt information designated under the categories of "Organization", "Request Description", and "Comments". This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2020-215 & 2020-217

February 9, 2021

VIA ELECTRONIC MAIL

Ms. Lena Bell

RE: FOIA Appeal 2020-215 and 2020-217

Dear Ms. Bell:

This letter responds to the administrative appeals you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), on the grounds that the Department of General Services ("DGS") improperly responded to your request related to a proposal from Allied Barton Security.

Background

Your FOIA request sought two sets of records: (a) the proposal submitted by Allied Barton Security in response to Solicitation DCAM-12-NC-0031, the subcontracting plan submitted with the proposal, and the approved subcontracting plan signed by a Department of Small and Local Business Development representative, and (b) e-mail communication and written correspondence between certain personnel at DGS and representatives of Allied Barton Security. DGS responded by stating that it "conducted a comprehensive search for records that would be responsive to your [first] request," but said that it found no responsive documents. With respect to your second request, DGS stated that "DGS will notify you when the email request is available for release."

You then appealed, noting tshat the "contracting office of DGS should have the contract documents and any and all correspondence involving the solicitation and award of the above referenced contract." In response to your appeal, the agency informed our office that your appeal "can be considered mute [*sic*] and closed." In response to a request for clarification from our office, the agency further explained: "[W]e applied response on June 25, 2020. Also, the Appeal does not say what asserts."[1]

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who

[1] A copy of DGS's responses to your appeals are attached to this decision.

represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, the DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body." D.C. Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Code § 2-534. Under the DC FOIA, an agency is required to disclose materials if they are "retained by a public body." D.C. Code § 2-502(18).

Adequacy of the Search

The first issue implicated by your appeal is whether DGS conducted an adequate search for records. In order to establish the adequacy of a search, an agency "must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested." *Campbell v. United States DOJ*, 164 F.3d 20, 27 (D.C. Cir. 1998).

To conduct a reasonable and adequate search, an agency must: (1) make a reasonable determination as to the locations of records requested; and (2) search for the records in those locations. *Doe v. D.C. Metro. Police Dep't*, 948 A.2d 1210, 1220-21 (D.C. 2008) (citing *Oglesby*, 920 F.2d at 68). This first step includes determining the likely electronic databases where such records are to be located, such as email accounts and word processing files, and the relevant paper-based files that the agency maintains. *Id.* Second, the agency must affirm that the relevant locations were in fact searched. *Id.* Generalized and conclusory allegations cannot suffice to establish an adequate search. *See In Def. of Animals v. NIH*, 527 F. Supp. 2d 23, 32 (D.D.C. 2007).

In response to your request and your appeals, DGS provides absolutely no explanation or detail describing how it searched for responsive records. In particular, although the agency states that it was "unable to locate or identify any responsive records proposal, subcontracting plan and the approved subcontracting plan," the agency does not list the steps that it took to search for those documents. As a result, we conclude that DGS has not met its burden to show that it conducted an adequate search for those records.

Timeliness

The second issue implicated by your appeal is the timeliness of DGS's production. DGS's response to you appears to suggest that it has located responsive emails but that it has not yet reviewed those emails to determine which are eligible for disclosure. DGS stated that it "will notify you when the email request is available for release," but did not provide any timeline.

Pursuant to D.C. Code § 2–532, the deadline for agencies to provide records in response to a DC FOIA request that was previously suspended during the "days of a COVID-19 closure" is now 45 business days from January 15, 2021. DGS is still within the statutorily allowed period to provide responsive documents. However, we encourage the agency to conduct its review expeditiously and provide you with any responsive, non-exempt documents in response to your request.

Conclusion

Based on the foregoing, we remand this matter to DGS to provide you and this office with a detailed explanation of the search it conducted for the requested documents—specifically, the proposal submitted by Allied Barton Security in response to Solicitation DCAM-12-NC-0031, the subcontracting plan submitted with the proposal, and the approved subcontracting plan signed by a Department of Small and Local Business Development representative. In addition, although the time to respond to your request has not formally lapsed, we encourage DGS to provide you with an update on when you can expect to receive DGS's production with respect to the requested emails.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Victoria Johnson, FOIA Officer
DGS (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-216

September 12, 2022

VIA ELECTRONIC MAIL ONLY

Hazel Johnson

RE: FOIA Appeal 2020-216

Dear Ms. Johnson:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to D.C. Code § 2-537 of the District of Columbia Freedom of Information Act ("FOIA"). In your appeal, you have challenged the response of the Metropolitan Police Department ("MPD") to your February 19, 2020 FOIA request, identified as 2020-FOIA-03489, which sought documents associated with "Arrest Citation# 011746909."

On June 26, 2020, MPD provided you with a copy of the responsive documents it located that had been redacted pursuant to D.C. Code § 2-534(a)(2) and (a)(3)(C) "to protect names and other identifying information of witnesses, some MPD personnel and third-party individuals."

In your appeal you challenge MPD's withholding because "the documents relate to me." MPD did not provide this Office with a copy of the responsive records for an *in camera* review; therefore, we cannot fully verify MPD's assertions made in response to your appeal. As a result, this Office will provide a general analysis of the exemptions asserted based on MPD's representations.

D.C. Official Code § 2-534(a)(2) ("Exemption 2") applies to "[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." In determining whether disclosure of a record would constitute an invasion of personal privacy requires a balancing of the individual privacy interest against the public interest in disclosure. *See Department of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 762 (1989).

D.C. Official Code § 2-534(a)(3)(C) ("Exemption 3") is more expansive than Exemption 2, and protects from public disclosure information contained in an investigatory file that "would constitute an unwarranted invasion of privacy." Exemption 3 lacks the key word "clearly" that is contained in Exemption 2, and therefore is a broader privacy privilege.

In assessing MPD's decision to withhold the requested information, the first part of the analysis is determining whether a sufficient privacy interest exists. *Id*. A privacy interest is cognizable under D.C. FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media*

LLC v. Dep't of Agric., 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v. U.S. Dep't. of Justice*, 806 F. Supp. 2d 105, 113 (D.D.C. 2011). Information such as names, personal phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See, e.g., Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994). Moreover, the D.C. Circuit has held individuals have a "strong interest" in not being associated with unwarrantedly with alleged criminal activity whether they be suspects, witnesses, or investigators. *Fitzgibbon v. CIA*, 911 F.2d 755, 767 (1990). The identities of witnesses providing information to investigators are generally protected due to the potential of harassment or retaliation. *See, e.g., McCann v. HHS*, No. 10-1758, 2011 WL 6251090, at *3 (D.D.C. Dec. 15, 2011).

The second part of a privacy analysis examines whether an individual privacy interest is outweighed by the public interest. *See Reporters Comm. for Freedom of Press*, 489 U.S. at 772-773. In the context of D.C. FOIA, a record is deemed to be of "public interest" if it would shed light on an agency's conduct. *Beck v. Department of Justice, et al*., 997 F.2d 1489 (D.C. Cir. 1993). As the court held in *Beck*:

> This statutory purpose is furthered by disclosure of official information that "sheds light on an agency's performance of its statutory duties." *Reporters Committee*, 489 U.S. at 773; *see also Ray*, 112 S. Ct. at 549. Information that "reveals little or nothing about an agency's own conduct" does not further the statutory purpose; thus the public has no cognizable interest in the release of such information. *See Reporters Committee*, 489 U.S. at 773.

Id. at 1492-93.

In balancing the privacy interest of individuals contained in an incident report versus the public interest in disclosure, it is unclear how disclosing the information would be relevant to MPD's conduct as an agency. Without any identified countervailing public interest, we find that MPD may withhold the identified information.

Additional information may be available, outside the context of FOIA, by satisfying MPD's disclosure policy, *e.g.* by presenting a waiver of an authorized individual as requested, and the requestor is encouraged to initiate that process with MPD, if desired.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-218

September 12, 2022

VIA ELECTRONIC MAIL ONLY

Claire Dechon

RE: FOIA Appeal 2020-218

Dear Ms. Dechon:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Metropolitan Police Department ("MPD") to your FOIA request which sought certain police reports related to incidents at 4201 Massachusetts Ave., NW, in Washington, D.C.

This Office did not receive a copy of the original request or the written denial issued by MPD, if any.[1]

On July 8, 2020, this Office asked MPD to provide the justification the decision not to grant a review of the records requested, a *Vaughn* index of the documents withheld, and a copy of any public record(s) in dispute. As of the date of this decision, a response has not been received.

It is the public policy of the District of Columbia that all persons are entitled to full and complete information regarding the affairs of the District government and the official acts of those who represent them as public officials and employees. D.C. Code § 2-531. The ultimate responsibility for responding to requests for records of an agency is vested in the agency head. 1 DCMR § 400.1

However, based on the record before us, this Office is unable to determine the adequacy of the response, or lack thereof.

[1] See 1 DCMR § 412.4 ("An appeal to the Mayor shall be in writing and shall include: (a) Statement of the circumstances, reasons or arguments advanced in support of disclosure; (b) Copy of the original request, if any; (c) Copy of any written denial issued under § 407.2; and (d) Daytime telephone number, email address for the requester.")

This constitutes the final decision of this Office. If you have any additional information you may resubmit it by separate appeal. Alternatively, if you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-219

February 11, 2021

VIA ELECTRONIC MAIL

Ms. Sophia Watts-Jenkins

RE: FOIA Appeal 2020-219

Dear Ms. Jenkins:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the response of the Office of Human Rights ("OHR") to your FOIA request.

On May 7, 2020, you submitted a FOIA request to OHR seeking "the rubric that was completed to terminate" you from your position with the District of Columbia Public Schools ("DCPS"). You also asked OHR to respond to questions about whether certain individuals were contacted in your case. On July 14, 2020, OHR contacted you and explained that, "[a]lthough the meaning of 'rubric' in [your] request is unclear, OHR is releasing all records in the investigative file that are subject to disclosure." You responded by requesting that OHR provide you with a "form," not contained in the investigative record, that you believe certain DCPS employees filled out pertaining to you. OHR explained, however, that it had no copy of such a form in its investigative record for your case.[1]

Under FOIA, an agency has no obligation to produce records that are not under its possession or control. *See United States Dep't of Justice v. Tax Analysts*, 492 U.S. 136, 144-45 (1989).[2] To the extent that the "rubric" or "form" that you seek exists, it is not in OHR's possession or control. As OHR explained, it has searched its entire investigative record in your case and not located that document.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d

[1] A copy of OHR's response to your appeal is attached.
[2] The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 312 (D.C. 1987). Accordingly, decisions construing the federal stature are instructive and may be examined to construe local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

122, 129-130 (D.D.C. 2009). FOIA thus imposed no obligation on OHR to respond to your questions about its investigative techniques.

We therefore conclude that OHR properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Charles Abbott, Interim FOIA Officer
OHR (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-220

September 12, 2022

VIA ELECTRONIC MAIL

James Taglieri

RE: FOIA Appeal 2020-220

Dear Mr. Taglieri:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you challenged the response of the Metropolitan Police Department ("MPD") to your July 2, 2020 FOIA request, identified as 2020-FOIA-06314, which sought photographs taken by officers responding to a motor vehicle collision in which you were involved.

On July 7, 2020, MPD denied your request because, "[a]bsent authorization and/or waiver, a release of such records would constitute…a clearly unwarranted invasion of personal privacy and is exempt from disclosure pursuant to D.C. Code § 2-534(a)(2) and (a)(3)(C)." In your appeal, a signed release was provided.

Based on the foregoing, we remand this matter to MPD to promptly disclose the requested records.

This constitutes the final decision of this Office. You may challenge MPD's subsequent response, or lack thereof, by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

Enc. FOIA Appeal 2020-220 (with signed release)

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-221

February 12, 2021

VIA ELECTRONIC MAIL

Ms. Kate Bailey

RE: FOIA Appeal 2020-221

Dear Ms. Bailey:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the District Department of Transportation ("DDOT") improperly withheld documents in response to your DC FOIA request for public records.

Background

On June 19, 2020, you submitted a DC FOIA request to DDOT for "[r]ecords, including emails and text messages, about the closure of 16th Street, N.W. between H and K Streets," with a specified date range. On July 14, 2020, DDOT responded to your request and stated that it had located 616 pages of records responsive to your request, but that it was withholding all but one of those pages pursuant to the deliberative-process privilege, D.C. Code § 2-534(a)(4) ("Exemption 4"). You filed an appeal with this Office the following day. In your appeal, you challenge DDOT's "barren assertion" that the deliberative-process privilege applies, claiming that DDOT has not provided sufficient detail to determine whether the privilege is applicable.

On October 29, 2020, DDOT responded to your appeal.[1] In that response, the agency explained:

> A review of the hundreds of pages of [withheld] document files shows that the discussions were logistical and directional in nature. Many of the email chains were duplicative and were shared among DDOT management and the Agency's Transportation Operations and Safety Administration The documents withheld were internal directives and communications pertaining the logistics and directions to staff on closing off the District of Columbia city street in question. The emails included information to and from DDOT divisions on the placement of jersey walls and traffic barriers. A large number of the documents were communications and alerts from Homeland Security and Emergency Management Agency pertaining to the ensuing public demonstrations that occurred at the 16th Street location.

[1] A copy of the agency's response to your appeal is attached to this decision.

As a result, DDOT argues, the deliberative-process privilege shields those records from disclosure.

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, the DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body." *Id*. at § 2-532(a).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe local law. *Washington Post v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Exemption 4 – Deliberative Process Privilege

DDOT indicated in response to your initial DC FOIA request that it withheld records under Exemption 4. *See* D.C. Code § 2-534(a)(4). Exemption 4 vests public bodies with discretion to withhold "inter-agency or intra-agency memorandums and letters which would not be available by law to a party other than an agency in litigation with the agency[.]" This exemption has been construed to "exempt those documents, and only those documents, normally privileged in the civil discovery context." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). As a result, Exemption 4 encompasses the deliberative-process privilege. *See McKinley v. Bd. of Governors of the Fed. Reserve Sys.*, 647 F.3d 331, 339 (D.C. Cir. 2011).

The deliberative-process privilege protects agency documents that are both pre-decisional and deliberative. *Coastal States Gas. Corp. v. Dep't of Energy*, 617 F. 2d 854, 866 (D.C. Cir. 1980). A document is pre-decisional if it was generated before the adoption of an agency policy, and it is deliberative if it "reflects the give-and-take of the consultative process." *Id.* Applying these criteria, this office has conducted an *in camera* review of the withheld records and determined that, although DDOT has properly withheld some records, many others are not exempt from disclosure. Below we discuss the withheld documents by category.

Properly Withheld Documents

FEMA Alerts

The first set of documents DDOT has withheld include real-time law-enforcement incident notifications compiled and distributed by the Federal Emergency Management Agency (FEMA), based on seemingly sensitive information supplied by the Metropolitan Police Department (MPD), the District's Homeland Security and Emergency Management Agency (HSEMA), and the United States Secret Service. These documents describe the location,

movements, and actions of demonstrators. Examples of these records include, for example, pages 1 through 45 of the PDF file of withheld documents labeled "bailey withhold 1,"[2] but many more are found throughout all six PDF files of withheld documents.

Although the agency invokes the deliberative-process privilege to withhold these records under Exemption 4, they may more appropriately be withheld under Exemption 3, which protects investigatory records compiled for law-enforcement purposes, *see* D.C. Code § 2–534(a)(4). Such records are exempt from disclosure if, for example, disclosure would interfere with enforcement proceedings or reveal investigative techniques or procedures generally not known outside the government. *See id.* Disclosure of these real-time reports from FEMA, which share information gleaned from law-enforcement partners and law-enforcement officers on the ground, could potentially reveal investigative techniques and interfere with investigations into incidents that occurred during that time period. Therefore, regardless of whether Exemption 4 applies, we agree with DDOT's decision to withhold the FEMA alerts (and analogous HSEMA alerts) at issue.

Deliberative Emails

DDOT has also withheld several emails that fit squarely under the deliberative-process privilege because they are both pre-decisional and deliberative. These include the email from Associate Director Matthew Marcou at the top of page 66 in the "bailey withhold 4" file, which seeks staff input on a DDOT policymaking matter; page 86 in "bailey withhold 4," which provides recommendations in response to that request for input; and pages 26 and 27 of "bailey withhold 5," which continue that discussion. They also include emails between Chief of Staff Lee Goodall and other staff members at pages 17 to 26 of "bailey withhold 6," which reflect internal deliberations about whether, where, and how to engage in street closures. Any other emails to the same effect, in which agency staff engage in deliberations about what policies and procedures DDOT should follow, are similarly protected by the privilege and may be withheld.

Deliberative Briefing Documents and Drafts

DDOT has further withheld drafts of potential parking-restriction plans, which by their nature as draft proposals are generally treated as deliberative. *See, e.g.*, *City of Virginia Beach v. United States Dep't of Commerce*, 995 F.2d 1247, 1253 (4th Cir. 1993). These are found, for example, at pages 32, 33, and 44 of "bailey withhold 6," and may be withheld under the deliberative-process privilege. So too with the briefing document located at pages 34 to 39 and 46 to 50 of that file, which includes discussion about DDOT's planning assumptions and how DDOT may want to respond to various contingencies. DDOT also properly withheld a draft service management plan for Metrobus, which contains draft proposals for bus service and begins at page 51 of "bailey withhold 6." Any other drafts and proposals circulated for discussion are likewise protected by the deliberative-process privilege.

[2] Because DDOT's production of documents to MOLC does not include Bates numbers, we refer to the page numbers in the six PDF files transmitted to our office.

Improperly Withheld Documents

DDOT Situational Updates

Hundreds of the withheld pages are made up of so-called "DDOT Situational Reports," many of which are duplicates. These generally take the form of emails from Chief of Staff Lee Goodall to staff members, which report factual matter related to DDOT's operations and other information that has been reported to DDOT about street and transportation conditions. With perhaps some limited exceptions, the material contained in them does not appear to be deliberative. In other words, it is aimed at informing agency staff about matters that have already taken place or updating them on actions DDOT has taken or decided to take. Based on our review, these communications do not disclose agency deliberations on proposed agency policy.

One example is the email sent by Lee Goodall to a large number of agency staff on June 3, 2020, which can be found starting at page 22 of the "bailey withhold 2" file. Among other pieces of factual information provided to staff, the update shares the following types information:

- That DDOT established a time code for employees working on certain matters.
- That curfew times for the District had been updated.
- That a DDOT employee represented the agency on a call.
- That the U.S. Secret Service had announced various street closures.
- That the Mayor had held a press conference.
- That various traffic signals needed to be repaired.
- Scheduling information for streetcars, the Circulator, WMATA, Capital Bikeshare, and other scooters and bikes.
- Reports on damage to street signs.
- The timing of when agency officials would testify.
- That a heat advisory was in effect.
- A construction notice that went out to developers and contractors.
- Updates on maintenance work.

None of this information is exempt from disclosure under the deliberative-process privilege. It is true, of course, that this information was shared internally among agency staff, but that is merely a threshold requirement—that fact alone does not protect the information from disclosure. The documents at issue must actually be deliberative.

The point of that requirement is to encourage open, frank discussions on matters of policy between subordinates and superiors; protect against premature disclosure of proposed policies before they are finally adopted; and protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. *Russell v. Dep't of the Air Force*, 682 F.2d 1045, 1048 (D.C. Cir. 1982). None of those rationales applies to the majority of the content in the withheld DDOT situational updates. Disclosing what actions DDOT took and the information that DDOT possessed about

streetlights, traffic operations, and parking, for instance, does not reveal any intra-agency deliberations or discussion about proposed agency actions or policy decisions.

To be sure, DDOT *may* be able to redact some limited material from those updates that would reveal agency deliberations or otherwise disclose private information—*e.g.*, bullet points discussing what policies or actions DDOT is "assessing," "planning," or "considering," or the confidential phone number for an operational command center. Some of that information could potentially reveal the matters that DDOT staff deliberated acting on. However, based on our review, such bullet points appear to be few and far between. The bulk of the information contained in those dozens of situational reports is factual and retrospective, informing agency staff about DDOT's operations and actions. In general, that is precisely the type of information to which requestors are entitled under the DC FOIA.

As a result, the agency should produce non-exempt portions of the DDOT situational update emails to the requestor. Similarly, the agency should produce other documents that are public and do not reflect internal agency deliberations, such as the MPD traffic advisories located at pages 28 to 31 of "bailey withhold 6."

Conclusion

In sum, we remand this matter to DDOT with instructions to produce the DDOT situational update emails, with any appropriate redactions. We also direct DDOT to produce any public documents that were determined to be relevant. However, we affirm DDOT's decision to withhold the FEMA alerts, deliberative emails among DDOT staff members discussing agency policy, and briefing or draft documents that discuss recommendations or proposals for DDOT's actions.

If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Karen R. Calmeise, Hearings/FOIA Officer
DDOT (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-222

September 12, 2022

VIA ELECTRONIC MAIL

Henry Schlick

RE: FOIA Appeal 2020-222

Dear Mr. Schlick:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Metropolitan Police Department ("MPD") to your July 14, 2020 FOIA request, identified as 2020-FOIA-06558, which sought the names of individuals arrested within a series of Central Complaint Numbers ("CCNs").

On July15, 2020, MPD denied your request because, in the absence of an authorization and/or waiver, the release of the records would constitute a clearly unwarranted invasion of personal privacy and is exempt from disclosure pursuant to D.C. Code § 2-534(a)(2) and (a)(3)(C).

In your appeal, you have asserted that "the information requested is part of the public record, because the arrested individuals' names associated with the incident numbers are publicly available alongside the incident number at [the] D.C. Superior Court."

However, under the applicable case law, the public nature of information does not necessitate the subsequent release of related documents. *DOJ v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 762 (1989); *Long v. United States DOJ*, 450 F. Supp. 2d 42, 68 (D.D.C. 2006) ("the fact that some of the personal information contained in these records already has been made public in some form does not eliminate the privacy interest in avoiding further disclosure by the government."); *Edmonds v. FBI*, 272 F. Supp. 2d 35, 53 (D.D.C. 2003) (finding that media identification of persons mentioned in a law enforcement file "does not lessen their privacy interests or 'defeat the exemption,' for prior disclosure of personal information does not eliminate an individual's privacy interest in avoiding subsequent disclosure by the government").

D.C. Official Code § 2-534(a)(2) ("Exemption 2") applies to "[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy."

D.C. Official Code § 2-534(a)(3)(C) ("Exemption 3") is more expansive than Exemption 2 and protects from public disclosure information contained in an investigatory file that "would

constitute an unwarranted invasion of privacy." Exemption 3 lacks the key word "clearly" that is contained in Exemption 2, and therefore is a broader privacy privilege.

In assessing MPD's decision to withhold the requested information, the first part of the analysis is determining whether a sufficient privacy interest exists. *Id*. A privacy interest is cognizable under D.C. FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep't of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v. U.S. Dep't. of Justice*, 806 F. Supp. 2d 105, 113 (D.D.C. 2011). Information such as names, personal phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See, e.g., Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994). Moreover, the D.C. Circuit has held individuals have a "strong interest" in not being associated with unwarrantedly with alleged criminal activity whether they be suspects, witnesses, or investigators. *Fitzgibbon v. CIA*, 911 F.2d 755, 767 (1990).

The second part of a privacy analysis examines whether an individual privacy interest is outweighed by the public interest. *See Reporters Comm. for Freedom of Press*, 489 U.S. at 772-773. In the context of D.C. FOIA, a record is deemed to be of "public interest" if it would shed light on an agency's conduct. *Beck v. Department of Justice, et al*., 997 F.2d 1489 (D.C. Cir. 1993). As the court held in *Beck*:

> This statutory purpose is furthered by disclosure of official information that "sheds light on an agency's performance of its statutory duties." *Reporters Committee,* 489 U.S. at 773; *see also Ray,* 112 S. Ct. at 549. Information that "reveals little or nothing about an agency's own conduct" does not further the statutory purpose; thus the public has no cognizable interest in the release of such information. *See Reporters Committee*, 489 U.S. at 773.

Id. at 1492-93.

In balancing the privacy interest of an individual named in an incident and/or investigative report versus any public interest in disclosure, it is unclear how disclosing the identities of these individuals is relevant to MPD's conduct as an agency. Further, the Supreme Court has held courts have found "as a categorical matter that a third party's request for law enforcement records or information about a private citizen can reasonably be expected to invade that citizen's privacy, and that when the request seeks no "official information' about a government agency, but merely records that the Government happens to be storing, the invasion of privacy is "unwarranted." . . ." *Reporters Comm. For Freedom of Press*, 489 U.S. at 780. In the absence of any identified countervailing public interest, MPD may withhold the identified information and its decision to do so is affirmed.

Additional information may be available, outside the context of FOIA, by satisfying MPD's disclosure policy, *e.g.* by presenting a waiver of an authorized individual as requested, and the requestor is encouraged to initiate that process with MPD, if desired.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-224

VIA E-MAIL

Mr. Bamidele Ajisogun

RE: FOIA Appeal 2020-224

Dear Mr. Ajisogun:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you challenge the response of the District Department of Transportation ("DDOT") to your request for public records under the DC FOIA.

Background

You submitted a DC FOIA request for the results of any requests for proposals and contracts related to the administration of certain employee benefit programs. Additionally, you requested that DDOT answer certain questions regarding city employees. On July 22, 2020, DDOT responded and indicated that it did not have any public records responsive to your request. You subsequently filed the present appeal.

DDOT filed a response to your appeal on September 23, 2020. The agency again indicates that it does not have records responsive to your request. Specifically, DDOT states that the subject matter of the records you have requested is beyond the agency's jurisdiction.

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534. Under the DC FOIA, an agency is required to disclose materials only if they were "retained by a public body." D.C. Official Code § 2-502(18).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

In your appeal, you indicate that you are aware that "there is a contract out there" and request that DDOT provide the contract to you in accordance with the DC FOIA. However, the test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence, that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States (Dep't of Justice)*, 578 F.2d 261 (9th Cir. 1978). Your appeal provides no reason to question DDOT's assertion that it does not maintain records pertaining to the subject matter your identified.

Conclusion

Based on the foregoing, we conclude that DDOT provided a sufficient response to your appeal. For this reason, we deny your appeal. This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Karen R. Calmeise, FOIA Officer
DDOTs (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-226

September 7, 2022

VIA ELECTRONIC MAIL

Oleksandr Yanevskyy

RE: FOIA Appeal 2020-226

Dear Mr. Yanevskyy:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Department of Corrections ("DOC") to your October 31, 2019 FOIA request, identified as 2020-FOIA-00779, which sought the following:

> [A]ny available information about Mariia Butina (a.k.a. Maria Butina), a Russian citizen, who was arrested in July 2018 and detained at DC Central Detention Facility…[and]…all available documents including but not limited to logs of the detainee, search warrants, the detainee schedule, booking information, et cetera.

On June 27, 2020, DOC denied your request citing the personal privacy exemption to FOIA, D.C. Code § 2-534(a)(2).

Under D.C. Code § 2-534(a)(2), determining whether disclosure of a record would constitute an invasion of personal privacy requires a balancing of the individual privacy interest against the public interest in disclosure. *See Department of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 762 (1989).

In assessing DOC's decision to withhold the requested information, the first part of the analysis is determining whether a sufficient privacy interest exists. *Id*. A privacy interest is cognizable under D.C. FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep't of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v. U.S. Dep't. of Justice*, 806 F. Supp. 2d 105, 113 (D.D.C. 2011). Information such as names, personal phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See, e.g., Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994). Moreover, the Supreme Court has held "as a categorical matter that a third party's request for law enforcement records or information…can reasonably be expected to invade that citizen's privacy . . ." *Reporters Comm. For Freedom of Press*, 489 U.S. at 780; *see also Hemenway v. Hughes*, 601 F. Supp. 1002 (D.D.C. 1985)(an individual's nationality or citizenship status involve a sufficient privacy interest to warrant protection)

The second part of a privacy analysis examines whether an individual privacy interest is outweighed by the public interest. *See Reporters Comm. for Freedom of Press*, 489 U.S. at 772-773. In the context of D.C. FOIA, a record is deemed to be of "public interest" if it would shed light on an agency's conduct. *Beck v. Department of Justice, et al*., 997 F.2d 1489 (D.C. Cir. 1993). As the court held in *Beck*:

> This statutory purpose is furthered by disclosure of official information that "sheds light on an agency's performance of its statutory duties." *Reporters Committee,* 489 U.S. at 773; *see also Ray,* 112 S. Ct. at 549. Information that "reveals little or nothing about an agency's own conduct" does not further the statutory purpose; thus the public has no cognizable interest in the release of such information. *See Reporters Committee,* 489 U.S. at 773.

Id. at 1492-93.

Here, we find that disclosing records from DOC pertaining to a named individual who is not yourself, and from whom you have not provided written authorization, would constitute an invasion of the individual's personal privacy. While the public interest you have raised in allegations made against DOC is appreciated, this forum does not have the jurisdiction to address such a formal complaint, if any, and it is unclear how the requested records (visitor logs, phone and health records, etc.), for which an individual does have a privacy interest, would shed significant light on DOC's performance of its statutory duties. When there is a privacy interest in a record and no countervailing public interest, the record may be withheld from disclosure. *See, e.g. Beck v. Department of Justice*, 997 F.2d 1489, 1494 (D.C. Cir. 1993).

Based on the foregoing, we affirm DOC's decision.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Oluwasegun Obebe, DOC FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-227

February 18, 2021

VIA ELECTRONIC MAIL

Mr. Chris Peak

RE: FOIA Appeal 2020-227

Dear Mr. Peak:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Office of the Chief Medical Examiner ("OCME") improperly withheld records responsive to your request under the DC FOIA.

Background

On May 20, 2020, you submitted a request to the OCME seeking "all releasable indexed data on COVID-19 deaths investigated by the medical examiner this year." You stated that such data could include "the person's age, gender, race and ethnicity; their home residence and the place the body was found; and the date, cause and manner of death, along with any other relevant information from the autopsy reports." OCME responded on July 21, 2020, informing you that it would not release personally identifiable information about COVID-19 decedents. OCME based its response on D.C. Code § 2-534(a)(2), which protects "[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." OCME also informed you that the Mayor' COVID-19 website, to which OCME contributes daily, provides data on deaths sorted by age, gender, race, and ethnicity.

You appealed, citing to D.C. Code § 5-1412(c), which provides that "[a]ny . . . person with a legitimate interest may obtain copies of [certain] records maintained [by OCME] upon such conditions and payment of such fees as may be prescribed by regulation by the Mayor." Those records, which you claim you are entitled to under the statute, would contain personally identifiable information, including names of decedents. As you explain in your appeal, your request centers on whether releasing "the name of a dead person would be an unwarranted invasion of personal privacy under" D.C. Code § 2-534(a)(2).

In its response to your appeal, OCME reiterates that its answer to you was proper under D.C. Code § 2-534(a)(2).[1] ("Exemption 2"). In particular, OCME argues that both decedents and their survivors have significant privacy interests in the withheld information and that you have failed to put forward a public interest justifying the disclosure notwithstanding that privacy interest.

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body." D.C. Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Code § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

OCME Records Statute

As an initial matter, this office rejects your argument that you are entitled to OCME's case files under D.C. Code § 5-1412, which governs OCME's maintenance of records. Although you are correct that the statute allows a person with a "legitimate interest [to] obtain copies of [such] records," that allowance is expressly based "upon such conditions and payment of such fees *as may be prescribed by regulation by the Mayor*." D.C. Code § 5-1412(c) (emphasis added). As relevant here, those conditions are laid out in 28 DCMR 5005.3. Under that regulation, you can obtain these records by: (1) providing written authorization of the next of kin for release of the records; (2) serving a subpoena; or (3) obtaining a court order. Your request does not include any of those, and thus D.C. Code § 5-1412(c) does not give you an automatic right to the records you seek.

Exemption 2

OCME records may nevertheless be available under the DC FOIA if they are not subject to any applicable exemption. Under Exemption 2, which the agency has invoked here in denying you the names and other personally identifiable information from COVID-19 decedents, determining whether disclosure of a record would constitute an invasion of personal privacy requires a balancing of the individual privacy interest against the public interest in disclosure. *See Department of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 762 (1989). The first part of the analysis is determining whether a sufficient privacy interest exists. *Id*.

[1] OCME's response is attached to this decision.

A privacy interest is cognizable under DC FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep't of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v. U.S. Dep't. of Justice*, 806 F. Supp. 2d 105, 113 (D.D.C. 2011). Information such as names, phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See, e.g.*, *Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994).

This Office has repeatedly held that, just as an individual has a substantial privacy interest in the individual's personally identifiable information, a decedent has a substantial privacy interest in the medical findings contained in the decedent's autopsy report. *See* FOIA Appeals 2017-104, 2017-19, 2009-13. As you note, the U.S. Department of Justice does take the position that, with respect to the federal FOIA, "an individual's privacy rights are extinguished upon death."[2] However, our decisions have consistently recognized that autopsy reports were properly withheld under DC FOIA pursuant to Exemption 2, and that a decedent still maintains privacy rights even after death.

Even were that not the case, it is undisputed that a decedent's survivors have protectable privacy interests with respect to sensitive materials about the decedent's death. *See Nat'l Archives & Records Admin. v. Favish*, 541 US 157, 167 (2004). You argue that the names of the decedents here do not qualify because the records you are seeking are not comparable to the graphic death-scene photographs at issue in *Favish*. In your view, withholding the names and other identifying information of COVID-19 decedents would not "spare surviving family members from further mental anguish and pain," which was a rationale motivating the Court's decision in *Favish*. However, that argument ignores the stigma that often accompanies a death resulting from COVID-19.[3] Indeed, it has been widely reported that many families are reluctant to acknowledge that their loved ones have died from the pandemic because of negative associations with the disease.[4] Releasing the names of decedents would cause many more families to feel that same pain and anxiety. As a result, releasing the records you seek would invade the privacy interest of those decedents' survivors.

The second part of the Exemption 2 analysis examines whether the individual privacy interest is outweighed by the public interest. *See Reporters Comm. for Freedom of Press*, 489 U.S. at 772-773. The public interest you articulate is in "understanding the significant disparities in who died from COVID-19, whether their deaths could have been prevented and whether they have all been properly counted." But it is not at all clear how releasing the names or other personally identifiable information you seek would further that public interest, particularly in light of the disaggregated data on COVID-19 mortality that the Mayor's Office already publishes.

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[2] https://www.justice.gov/oip/blog/foia-post-2004-supreme-court-rules-survivor-privacy-favish.
[3] *E.g.*, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7338401/.
[4] *E.g.*, https://www.bostonglobe.com/2020/04/27/nation/coronavirus-brings-illness-death-sometimes-stigma/.

When there is a privacy interest in a record and release of the documents would not further a countervailing public interest, the record may be withheld from disclosure. *See, e.g. Beck v. Department of Justice*, 997 F.2d 1489, 1494 (D.C. Cir. 1993). As a result, we find that OCME has properly withheld the requested names and personally identifiable information under Exemption 2.

Conclusion

Based on the foregoing, we affirm OCME's decision and deny your appeal. This constitutes the final decision of this Office.

If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Rodney K. Adams, General Counsel
OCME (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-228

September 12, 2022

VIA ELECTRONIC MAIL

Christopher Moore

RE: FOIA Appeal 2020-228

Dear Mr. Moore:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Metropolitan Police Department ("MPD") to your August 11, 2020 FOIA request, identified as 2020-FOIA-07133, which sought the following:

> [A]ny records on arrests, incarceration, or use of as an informant for James Blackburn, Sr.

On August 13, 2020, MPD denied your request because, in the absence of an authorization and/or waiver, the release of the records would constitute a clearly unwarranted invasion of personal privacy and is exempt from disclosure pursuant to D.C. Code § 2-534(a)(2) and (a)(3)(C).

D.C. Official Code § 2-534(a)(2) ("Exemption 2") applies to "[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." In determining whether disclosure of a record would constitute an invasion of personal privacy requires a balancing of the individual privacy interest against the public interest in disclosure. *See Department of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 762 (1989).

D.C. Official Code § 2-534(a)(3)(C) ("Exemption 3") is more expansive than Exemption 2, and protects from public disclosure information contained in an investigatory file that "would constitute an unwarranted invasion of privacy." Exemption 3 lacks the key word "clearly" that is contained in Exemption 2, and therefore is a broader privacy privilege.

In considering the privacy rights of the deceased, courts have found that "one's own ... interest in privacy ordinarily extend beyond one's death." *Schrecker v. DOJ*, 254 F.3d 162, 166 (D.C. Cir. 2001. Rather, the privacy interest of an individual may only be diminished, not eliminated, if that individual is deceased. *Davis v. DOJ*, 460 F.3d 92, 97-98 (D.C. Cir. 2007) ("We have recognized that the privacy interest in nondisclosure of identifying information may be diminished where the individual is deceased"); *Schrecker v. DOJ*, 349 F.3d 657, 661 (D.C. Cir. 2003) ("The fact of

death, therefore, while not requiring the release of identifying information, is a relevant factor to be taken into account in the balancing decision whether to release information").

In assessing MPD's decision to withhold the requested information, the first part of the analysis is determining whether a sufficient privacy interest exists. *Id.* A privacy interest is cognizable under D.C. FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep't of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v. U.S. Dep't. of Justice*, 806 F. Supp. 2d 105, 113 (D.D.C. 2011). Information such as names, personal phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See, e.g., Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994). Moreover, the D.C. Circuit has held individuals have a "strong interest" in not being associated with unwarrantedly with alleged criminal activity whether they be suspects, witnesses, or investigators. *Fitzgibbon v. CIA*, 911 F.2d 755, 767 (1990).

The second part of a privacy analysis examines whether an individual privacy interest is outweighed by the public interest. *See Reporters Comm. for Freedom of Press*, 489 U.S. at 772-773. In the context of D.C. FOIA, a record is deemed to be of "public interest" if it would shed light on an agency's conduct. *Beck v. Department of Justice, et al*., 997 F.2d 1489 (D.C. Cir. 1993). As the court held in *Beck*:

> This statutory purpose is furthered by disclosure of official information that "sheds light on an agency's performance of its statutory duties." *Reporters Committee,* 489 U.S. at 773; *see also Ray,* 112 S. Ct. at 549. Information that "reveals little or nothing about an agency's own conduct" does not further the statutory purpose; thus the public has no cognizable interest in the release of such information. *See Reporters Committee*, 489 U.S. at 773.

Id. at 1492-93.

In balancing the privacy interest of the deceased, as contained in incarceration records and/or witness statements, it is unclear how disclosing the requested information is relevant to MPD's conduct as a whole. Further, the Supreme Court has held courts have found "as a categorical matter that a third party's request for law enforcement records or information about a private citizen can reasonably be expected to invade that citizen's privacy, and that when the request seeks no "official information' about a government agency, but merely records that the Government happens to be storing, the invasion of privacy is "unwarranted." . . ." *Reporters Comm. For Freedom of Press*, 489 U.S. at 780. In the absence of any identified countervailing public interest, we hold that MPD may withhold the identified information.

Additional information may be available, outside the context of FOIA, by satisfying MPD's disclosure policy, *e.g.* by presenting a waiver of an authorized individual as requested, and the requestor is encouraged to initiate that process with MPD, if desired.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may

commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-229

April 7, 2022

VIA ELECTRONIC MAIL

Anthony R. Van Vuren

RE: FOIA Appeal 2020-229

Dear Mr. Van Vuren:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Department of General Services ("DGS") did not adequately search for records pertaining to lead on District of Columbia Public School grounds.

Background

On February 10, 2020, you submitted a request to DGS for the following categories of documents relating to lead levels and related testing performed at playgrounds and athletic fields located on District of Columbia public school property:

1. All communications with and all documents provided by employees of Soil and Land Use Technology, Inc. (SaLUT) from May 1, 2019 to the present related to lead levels at any playground or athletic field located at any District of Columbia public school.
2. All communications with and all documents provided by employees of EMSL Analytical, Inc. (EMSL) from May 1, 2019 to the present related to lead levels at any playground or athletic field located at any District of Columbia public school.
3. All communications with and all documents provided by employees of Sport Surface Specialties LLC or Playcore Holdings, Inc. (Playcore) from May 1, 2019 to the present related to lead levels at any playground or athletic field located at any District of Columbia public school.
4. All documents, including but not limited to promotional materials, warranties, products descriptions, care and maintenance instructions, or other statements from manufacturers, sellers, suppliers, or maintenance/service contractors, relating to the presence or absence of lead in any artificial surface installed at any playground or athletic field located at any District of Columbia public school.
5. All test results, screening results, lab reports, data, observations, analyses, findings, and conclusions, whether raw, preliminary, interim, initial, or final in nature, and regardless of the source thereof, relating in any way to the

presence or absence of lead at any playground or athletic field located at any District of Columbia public school, including but not limited to the data associated with any raw, preliminary, interim, initial, or final results of any X-ray fluorescence (XRF) testing, atomic absorption testing, or Inductively Coupled Plasma – Mass Spectrometry (ICP-MS) testing performed on any playground or athletic field located at any District of Columbia public school.

6. All public statements from May 1, 2019 to the present from the District of Columbia or any of its employees or agents, relating to the presence or absence of lead at any playground or athletic field located at any District of Columbia public school.
7. Copies of any and all whistleblower complaints filed with the District of Columbia government relating to the presence of lead at any playground or athletic field located at any District of Columbia public school.
8. All documents and communications, including but not limited to letters, email, filings, expressions of concern, complaints, from District of Columbia residents, home owners associations, community groups, environmental organizations or nonprofit organizations, relating to the presence or absence of lead at any playground or athletic field located at any District of Columbia public school.
9. All documents reflecting legal or administrative complaints filed by District of Columbia residents or employees of the District of Columbia government, and any responses thereto, relating to injuries resulting from or harm caused by exposure to lead or other toxic substances at any playground or athletic field located at any District of Columbia public school.
10. All documents or communications reflecting an assessment or consideration of the potential risk regarding the use of any artificial surface at any playground or athletic field located at any District of Columbia public school, including any assessment or consideration of the potential risk from exposure to lead or other toxins from such artificial surfaces.

On March 5, 2020, DGS informed you that it would respond to your request no later than March 19, 2020. On March 10, 2020, DGS produced one document and two links to its website, informing you that it was still processing your request. On March 11, 2020, DGS updated you that it had located 395 emails with attachments and would need until April 8, 2020 to review them. On March 20, 2020, DGS notified you that it was unable to locate any responsive records for Requests 1 through 3. On July 6, 2020, DGS provided a status update that it found no responsive records for Requests 1 through 4, 7, and 9, had produced responsive records for Requests 5 and 6, and would need 4 weeks to review the 394 emails with attachments located for Request 8.

On August 13, 2020, you appealed to this office. You were skeptical of DGS's position that it had no responsive documents for Requests 1 through 4, 7, and 9 and argued that the agency did not conduct an adequate search for responsive documents. You also claimed DGS provided "incomplete and inadequate information in response to Requests 5 and 6 without

justification and has provided no documents or communications in response to Request 8." In arguing that the DGS likely has responsive records, you pointed to documents on DGS' website, and testimony of DGS Director Keith Anderson and DGS Chief Operating Officer Yohance Fuller before the DC Council Committee on Facilities and Procurement.

On December 22, 2020, DGS responded to your appeal.[1] DGS asserted that by assigning your request to the Facilities and Capital Construction Divisions and submitting an email search request to the Office of the Chief Technology Officer ("OCTO") with search terms, it conducted an adequate search. DGS noted that it released emails responsive to Request 8. DGS also asserted that its delay in responding was justified because most agency staff are working remotely and "do not have daily hands on access to records that may not be in electronic form."

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, the DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." *Id.* at § 2-532(a).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 312 (D.C. 1987). Accordingly, decisions construing the federal stature are instructive and may be examined to construe local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Adequacy of Search

In determining whether an agency conducted an adequate search in response to a records request, the test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence that records exist is not enough to support a finding that full disclosure has not been made. *Marks v.*
U.S. Dep't of Justice, 578 F.2d 261 (9th Cir. 1978).

In order to establish the adequacy of a search,

> 'the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the

[1] A copy of DGS's response to your appeal is attached.

> information requested.' [*Oglesby v. United States Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)]. . . The court applies a 'reasonableness test to determine the 'adequacy' of a search methodology, *Weisberg v. United States Dep't of Justice*, 227 U.S. App. D.C. 253, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

Campbell v. United States DOJ, 164 F.3d 20, 27 (D.C. Cir. 1998).

To conduct a reasonable and adequate search, an agency must: (1) make a reasonable determination as to the locations of records requested; and (2) search for the records in those locations. *Doe v. D.C. Metro. Police Dep't*, 948 A.2d 1210, 1220-21 (D.C. 2008) (citing *Oglesby*, 920 F.2d at 68). This first step includes determining the likely electronic databases where such records are to be located, such as email accounts and word processing files, and the relevant paper-based files that the agency maintains. *Id.* Second, the agency must affirm that the relevant locations were in fact searched. *Id.* Generalized and conclusory allegations cannot suffice to establish an adequate search. *See In Def. of Animals v. NIH*, 527 F. Supp. 2d 23, 32 (D.D.C. 2007).

Here, we reject DGS's contention that it conducted a reasonable and adequate search. DGS identified the Facilities and Capital Construction Divisions as the locations where responsive records would be held but has not provided an explanation of their searches or why other units such as the Office of the General Counsel or Office of the Director were not consulted. DGS also has not explained why an OCTO email search request was only submitted for Request 8 when multiple requests sought communications. Additionally, DGS has not given an explanation as to how it has no responsive records for categories of documents that are on its own website.

Conclusion

Based on the foregoing, we remand this matter to DGS to conduct an adequate search. Within ten business days from the date of this decision, DGS shall identify the relevant locations for responsive records and describe the results of its search. If DGS's forthcoming search results in retrieving responsive records, DGS shall disclose to you non-exempt portions or provide a reasonable explanation of the basis for withholding in accordance with DC FOIA.

If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Victoria Black Johnson, FOIA Specialist
DGS (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-230

September 7, 2022

VIA ELECTRONIC MAIL

Rend Smith

RE: FOIA Appeal 2020-230

Dear Mr. Smith:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Metropolitan Police Department ("MPD") to your August 13, 2020 FOIA request, identified as 2020-FOIA-07207, which sought the following:

> Any and all records the Washington DC Metropolitan Police Department has on, about, or mentioning Melazon Azeeze a resident of Washington DC born November 13, 1956 and deceased May 25, 1998. Please include materials that refer to her as "Melly Azeeze" or "Mel Azeeze" and by any other known aliases.
>
> I am specifically seeking a missing persons report filed by Elizabeth Azeeze regarding the disappearance of Melazon Azeeze on November 15, 1971 as well as the sexual assault complaint submitted by Melazon in the immediate aftermath. At the time of this incident, the Azeeze's resided at 4301 3rd Street SE, Washington DC.

On August 14, 2020, MPD denied your request because, in the absence of an authorization and/or waiver, the release of the records would constitute a clearly unwarranted invasion of personal privacy and is exempt from disclosure pursuant to D.C. Code § 2-534(a)(2) and (a)(3)(C).

D.C. Official Code § 2-534(a)(2) ("Exemption 2") applies to "[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy."

D.C. Official Code § 2-534(a)(3)(C) ("Exemption 3") is more expansive than Exemption 2, and protects from public disclosure information contained in an investigatory file that "would constitute an unwarranted invasion of privacy." Exemption 3 lacks the key word "clearly" that is contained in Exemption 2, and therefore is a broader privacy privilege.

In assessing MPD's decision to withhold the requested information, the first part of the analysis is determining whether a sufficient privacy interest exists. *Id*. A privacy interest is cognizable under D.C. FOIA if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep't of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008). In general, there is a sufficient privacy interest in personal identifying information. *Skinner v. U.S. Dep't. of Justice*, 806 F. Supp. 2d 105, 113 (D.D.C. 2011). Information such as names, personal phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See, e.g., Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994). Moreover, the D.C. Circuit has held individuals have a "strong interest" in not being associated with unwarrantedly with alleged criminal activity whether they be suspects, witnesses, or investigators. *Fitzgibbon v. CIA*, 911 F.2d 755, 767 (1990).

In considering the privacy rights of the deceased, courts have found that "one's own ... interest in privacy ordinarily extend beyond one's death." *Schrecker v. DOJ*, 254 F.3d 162, 166 (D.C. Cir. 2001). Rather, the privacy interest of an individual may only be diminished, not eliminated, if that individual is deceased. *Davis v. DOJ*, 460 F.3d 92, 97-98 (D.C. Cir. 2007) ("We have recognized that the privacy interest in nondisclosure of identifying information may be diminished where the individual is deceased"); *Schrecker v. DOJ*, 349 F.3d 657, 661 (D.C. Cir. 2003) ("The fact of death, therefore, while not requiring the release of identifying information, is a relevant factor to be taken into account in the balancing decision whether to release information").

The second part of a privacy analysis examines whether an individual privacy interest is outweighed by the public interest. *See Reporters Comm. for Freedom of Press*, 489 U.S. at 772-773. In the context of D.C. FOIA, a record is deemed to be of "public interest" if it would shed light on an agency's conduct. *Beck v. Department of Justice, et al*., 997 F.2d 1489 (D.C. Cir. 1993). As the court held in *Beck*:

> This statutory purpose is furthered by disclosure of official information that "sheds light on an agency's performance of its statutory duties." *Reporters Committee,* 489 U.S. at 773; *see also Ray,* 112 S. Ct. at 549. Information that "reveals little or nothing about an agency's own conduct" does not further the statutory purpose; thus the public has no cognizable interest in the release of such information. *See Reporters Committee,* 489 U.S. at 773.

Id. at 1492-93.

In balancing the privacy interest of the deceased, as contained in incarceration records and/or witness statements, it is unclear how disclosing the requested information is relevant to MPD's conduct as a whole. Further, the Supreme Court has held courts have found "as a categorical

matter that a third party's request for law enforcement records or information about a private citizen can reasonably be expected to invade that citizen's privacy, and that when the request seeks no "official information' about a government agency, but merely records that the Government happens to be storing, the invasion of privacy is "unwarranted." . . ." *Reporters Comm. For Freedom of Press,* 489 U.S. at 780.

In the absence of any identified countervailing public interest, we hold that MPD may withhold the identified information

Additional information may be available, outside the context of FOIA, by satisfying MPD's disclosure policy, *e.g.* by presenting a waiver of an authorized individual as requested, and the requestor is encouraged to initiate that process with MPD, if desired.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-231

September 12, 2022

VIA ELECTRONIC MAIL

Dr. Daryao S. Khatri

RE: FOIA Appeal 2020-231

Dear Dr. Khatri:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the lack of response of the University of the District of Columbia ("UDC") to your July 4, 2020 FOIA request, which sought the following:

1. Appointment letters for Michelle Chatman and Amanda Huron when they were FIRST hired;

2. Form 50 and/or 52 (HR Approving form for appointments) letters for Michelle Chatman and Amanda Huron when they were FIRST hired;

3. Termination dates and the paperwork that preceded terminations of the BA programs in anthropology and Geography;

4. Reinstatement dates and the paperwork that preceded reinstatements of the BA programs in anthropology and Geography; and

5. The following information that culminated in the appointment of Michelle Chatman as Assistant Professor on June 21, 2016:

   • Request for the advertisement of the position;

   • Copy of the actual advertisement and copy of the advertisement from the newspapers, journals, etc.;

   • Minutes of departmental committee approving Chatman's appointment;

   • Minutes of the meeting that interviewed her for the position;

   • Copy of the recommendation from the department to the dean;

   • Copy of the Dean's recommendation; and

• Copy of the Provost's recommendation to HR

On August 20, 2020, this Office asked UDC to provide the justification for the decision not to grant a review of the records requested, a *Vaughn* index of the documents withheld, and a copy of any public record(s) in dispute. As of the date of this decision, a response has not been received.

It is the public policy of the District of Columbia that all persons are entitled to full and complete information regarding the affairs of the District government and the official acts of those who represent them as public officials and employees. D.C. Code § 2-531. The ultimate responsibility for responding to requests for records of an agency is vested in the agency head. 1 DCMR § 400.1

Based on the record before us, we can only conclude that the failure to timely respond to your request constitutes a constructive denial. D.C. Official Code § 2-532(e). We therefore remand this matter to UDC to promptly disclose any non-exempt records that are responsive to your request.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with
D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Thomas Redmond, UDC FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-232

September 7, 2022

VIA ELECTRONIC MAIL

Alpha Jalloh

RE: FOIA Appeal 2020-232

Dear Mr. Jalloh:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the lack of response of the Metropolitan Police Department ("MPD") to your FOIA request.

The appeal you have filed lacks a copy of the original request or any other identifying information. *See* 1 DCMR § 412.4 ("An appeal to the Mayor shall be in writing and shall include: (a) Statement of the circumstances, reasons or arguments advanced in support of disclosure; (b) Copy of the original request, if any; (c) Copy of any written denial issued under § 407.2; and (d) Daytime telephone number, email address for the requester.")

It is the public policy of the District of Columbia that all persons are entitled to full and complete information regarding the affairs of the District government and the official acts of those who represent them as public officials and employees. D.C. Code § 2-531. The ultimate responsibility for responding to requests for records of an agency is vested in the agency head. 1 DCMR § 400.1

However, based on the record before us, this Office is unable to determine the adequacy of MPD's response, or lack thereof.

This constitutes the final decision of this Office. If you have any additional identifying information you may resubmit it by separate appeal for consideration. Alternatively, if you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-233

September 7, 2022

VIA ELECTRONIC MAIL

Laila Said-Alam

RE: FOIA Appeal 2020-233

Dear Ms. Said-Alam:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you challenged the response of the Metropolitan Police Department ("MPD") to your June 2, 2020 FOIA request, identified as 2020-FOIA-05667, which sought information related to "Event #16032448."

On September 29, 2020, MPD denied your request, "[a]bsent authorization from the victim, or proof of representation…[as] a release of such records would constitute…a clearly unwarranted invasion of personal privacy and is exempt from disclosure pursuant to D.C. Code § 2-534(a)(2A)(B)." In your appeal, a signed release was provided.

Based on the foregoing, we remand this matter to MPD to promptly disclose the requested records.

This constitutes the final decision of this Office. You may challenge MPD's subsequent response, or lack thereof, by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

Enc. FOIA Appeal 2020-233 (with signed release)

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-234

February 7, 2022

VIA ELECTRONIC MAIL

Ms. Marla Spindel

RE: FOIA Appeal 2020-234

Dear Ms. Spindel:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the failure of the Child and Family Services Agency ("CFSA") to respond to your DC FOIA request.

You submitted a DC FOIA request to CFSA requesting a record concerning the DC Grandparent Caregiver Program. On March 9, 2020, the agency provided you with the requested record via electronic mail. The agency also sent you a response letter describing the information contained in the record. You submitted an appeal to this office on September 2, 2020, stating that CFSA failed to respond to your request.[1]

Based on the foregoing, we conclude that CFSA properly responded to your DC FOIA request and we hereby dismiss your appeal. This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Wendy Singleton, Executive Assistant/FOIA Officer
CFSA (via email)

[1] A copy of CFSA's response to your appeal is attached to this letter.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-235

September 7, 2022

VIA ELECTRONIC MAIL

Marla Spindel

RE: FOIA Appeal 2020-235

Dear Ms. Spindel:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you challenged the lack of response of the Department of Human Services ("DHS") to your December 21, 2019 FOIA request, identified as 2020-FOIA-02035, which sought the following:

> [A]ll contracts between Department of Human Services and community providers for housing prevention services, including those listed on the attached document. (Date Range for Record Search: From 01/01/2019 To 12/31/2019)

On September 4, 2020, this Office asked DHS to provide the justification for the decision not to grant a review of the records requested, a *Vaughn* index of the documents withheld, and a copy of any public record(s) in dispute. As of the date of this decision, a response has not been received.

It is the public policy of the District of Columbia that all persons are entitled to full and complete information regarding the affairs of the District government and the official acts of those who represent them as public officials and employees. D.C. Code § 2-531. The ultimate responsibility for responding to requests for records of an agency is vested in the agency head. 1 DCMR § 400.1

Based on the record before us, we can only conclude that the failure to timely respond to your request constitutes a constructive denial. D.C. Official Code § 2-532(e). We therefore remand this matter to DHS to promptly disclose any non-exempt records that are responsive to your request.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with
D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Robert Warren, DHS FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-236

February 7, 2022

VIA ELECTRONIC MAIL

Mr. Kirby R. Vining

RE: FOIA Appeal 2020-236

Dear Mr. Vining:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the failure of the Executive Office of the Mayor ("EOM") to respond to your DC FOIA request.

Background

On July 29, 2020, you submitted a DC FOIA request to EOM requesting the names of persons who submitted applications for positions on the Historic Preservation Review Board (HPRB) over a two-year period, as well as the dates of those submissions. You filed an appeal with this Office on September 4, 2020, stating that EOM failed to respond to your FOIA request within the period of time required by statute.

EOM responded to your appeal on September 8, 2020 and stated that the office would continue to process your request within the extended public record disclosure periods set by Mayor's Orders and D.C. Council legislation related to the COVID-19 public health emergency.[1]

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, the DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body .
. . ." D.C. Code § 2-532(a). The right created under DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Code § 2-534. Under DC FOIA, an agency is required to disclose materials if they are "retained by a public body." D.C. Code § 2-502(18).
An agency in receipt of a DC FOIA request "reasonably describing any public record" must

[1] A copy of the agency's response to your appeal is attached to this letter.

either make the record accessible or provide the requester with its reasons for withholding the record "within 15 days (except Saturdays, Sundays, days of a COVID-19 closure, and legal public holidays)". D.C. Code § 2-532(c)(1). A "COVID-19" closure is defined as "a period of time for which the Mayor has declared a public health emergency . . . ." D.C. Code § 2-539(c)(1). Mayor's Order 2020-103 extended the public health emergency through December 31, 2020. For this reason, we conclude that EOM did not exceed the deadline for responding to your DC FOIA request and therefore deny this appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Cristina Sacco, Associate General Counsel
Executive Office of the Mayor (via Email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-237

February 23, 2020

VIA ELECTRONIC MAIL

Mr. Joseph Pileri

RE: FOIA Appeal 2020-237

Dear Mr. Pileri:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Department of Small and Local Business Development ("DSLBD") failed to properly respond to your DC FOIA request for public records.

Background

You submitted a DC FOIA request to DSLBD for all documents related to the grant process for the Grown in DC grant between March 1, 2019 to June 3, 2019, and specifically any documents regarding the evaluation of Common Good City Farm ("CGCF"). DSLBD responded to your request by providing three documents related to the Grown in DC grant process: the request for applications, a PowerPoint presentation made available to applicants, and an FAQ document made available to applicants. DSLBD explained, however, that it had no documents related to an evaluation of CGCF because a search of the Office of Tax Revenue's ("OTR") system determined that CGCF did not have "clean hands" and therefore CGCF's application was deemed ineligible prior to scoring. You subsequently filed an appeal with this Office reiterating your request for documents explaining the grant-applicant evaluation process and information on how DSLBD evaluated and denied CGCF specifically. In essence, your appeal challenges the adequacy of DSLBD's search for responsive documents.

In response to your appeal, DSLBD explained that it provided all responsive documents to you based on a search of its records.[1] In particular, DSLBD's program manager for the grant stated:

> We have made a thorough search of our files for documents maintained in our shared drives for records from 03/01/2019 to 06/03/2019 in "Office 365" files where Inno.ED maintains limited grant records and "ZoomGrants," the system of record for the grant competitions. We searched and "Common Good City Farm." I

[1] A copy of DSLBD's response to your appeal is attached to this decision.

am the central custodian of both. The full Inno.ED team also has access to these records.

Further, DSLBD explained:

> That [CGCF] application was not scored and not awarded, as its application was deemed ineligible prior to scoring, and therefore no actual records specific to CGCF exist that would fall under the FOIA exceptions noted herein. To the request for documentation on the clean hands rejection, we do not have records on that. We adapted our process after this grant round to maintain further records related to clean hands status per applicant, but that was not part of our process at the time of this grant.

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, the DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body." *Id*. at § 2-532(a).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe local law. *Washington Post v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Adequacy of Search

In determining whether an agency conducted an adequate search in response to a records request, the test is not whether any additional documents might conceivably exist, but whether the government search for responsive documents was adequate. *See Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence, that records exist, is not enough to support a finding that full disclosure has not been made. *Marks v. U.S. Dep't of Justice*, 578 F.2d 261 (9th Cir. 1978).

In order to establish the adequacy of a search:

> 'the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.' (*Oglesby v. United States Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)) . . . The court applies a 'reasonableness' test to determine the 'adequacy' of a search methodology, (*Weisberg v. United States Dep't of Justice*, 227 U.S. App. D.C. 253, 705 F.2d 1344, 1351 (D.C. Cir. 1983)) . . . .

Campbell v. United States DOJ, 164 F.3d 20, 27 (D.C. Cir. 1998). Further, the agency is under no obligation to "either answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt records, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-43 (10th Cir. 1978).

To conduct a reasonable and adequate search, an agency must: (1) make a reasonable determination as to the locations of records requested; and (2) search for the records in those locations. *Doe v. D.C. Metro. Police Dep't*, 948 A.2d 1210, 1220-21 (D.C. 2008) (citing *Oglesby*, 920 F.2d at 68). The first step includes determining the likely electronic databases where such records are to be located, such as email accounts and word processing files, and the relevant paper-based files that the agency maintains. *Id.* Second, the agency must affirm that the relevant locations were in fact searched. *Id.* Generalized and conclusory allegations cannot suffice to establish an adequate search. *See In Def. of Animals v. NIH*, 527 F. Supp. 2d 23, 32 (D.D.C. 2007).

Here, DSLBD has explained that it searched the relevant electronic database, "ZoomGrants," which is the system of record for the grant competitions. DSLBD also searched for key terms, including "Grown in DC" and "Common Good City Farm," which were likely to produce any records responsive to your request. Under the standard articulated in *Doe*, we believe that DSLBD's description of its search is both sufficiently detailed and reasonably calculated to locate responsive records. Moreover, DSLBD's representation that it has no documents related to the "evaluation" of the CGCF application itself is sensible in light of the fact that, after DSLBD conducted its "clean hands" check, the CGCF application did not proceed to the evaluation or scoring stage.

In addition, DSLBD's explanation makes clear that, at least as of the time CGCF submitted its application, the agency did not keep screenshots of the searches it conducted using OTR's database. Because the agency is not under an obligation to create new records in response to document requests or to produce records that it does not possess, DSLBD was not required to re-query OTR's database, take a screenshot, save that document, and then produce it to you. However, if you would like to seek a record that is in OTR's possession, you are of course free to submit a FOIA request to that agency. The link to submit FOIA requests to OTR can be found here: https://otr.cfo.dc.gov/page/open-government-and-foia-otr.

We conclude that DSLBD properly responded to your FOIA requests and we hereby deny your appeal. This constitutes the final decision of this Office with regard to your appeal. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Lorenzo McRae, General Counsel
DSLBD (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2020-239 & 2020-240

September 12, 2022

VIA ELECTRONIC MAIL

Marla Spindel

RE: FOIA Appeals 2020-239 & 2020-240

Dear Ms. Spindel:

This letter is in response to the administrative appeals that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeals, you challenged the lack of response of the D.C. Child and Family Services Agency ("CFSA") to your February 24, 2020 FOIA request, identified as 2020-FOIA-03651, which sought the following:

> A breakdown of child homicides committed by parent or caregiver by each year, age of child, ward of child, and cause of death (e.g., blunt impact, asphyxia, etc). (Date Range for Record Search: From 01/01/2015 To 02/24/2020)

On September 10, 2020, this Office asked CFSA to provide the justification for the decision not to grant a review of the records requested, a *Vaughn* index of the documents withheld, and a copy of any public record(s) in dispute. As of the date of this decision, a response has not been received.

It is the public policy of the District of Columbia that all persons are entitled to full and complete information regarding the affairs of the District government and the official acts of those who represent them as public officials and employees. D.C. Code § 2-531. The ultimate responsibility for responding to requests for records of an agency is vested in the agency head. 1 DCMR § 400.1

Based on the record before us, we can only conclude that the failure to timely respond to your request constitutes a constructive denial. D.C. Official Code § 2-532(e). We therefore remand this matter to CFSA to promptly disclose any non-exempt records that are responsive to your request.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

cc: Wendy Singleton, CFSA FOIA Officer (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-241

August 19, 2021

VIA ELECTRONIC MAIL

Ms. Amy Phillips

RE: FOIA Appeal 2020-241

Dear Ms. Phillips:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the response by the Department of Corrections ("DOC") to your DC FOIA request.

You submitted a DC FOIA request for any and all documents or materials containing the search terms "COVID-19," "COVID19," "COVID 19," "coronavirus," or "corona virus." DOC responded that "'any' or 'all' records is not a reasonable description of records sought." DOC explained that, "if your request is for email search, for instance, you need to additionally provide names of the writer(s) and recipient(s) of the emails. If it is for medical records, you must provide names of the individuals whose medical records you seek, as well as HIPAA compliant authorizations executed by those individuals." DOC concluded that, "[s]ince you did not reasonably describe records sought, . . . your request is not a proper FOIA request. You may resubmit it, describing records sought reasonably and more specifically." DOC thus did not process or provide any documents in response to your request.

On appeal, you argued that your request was reasonably described, and you explained that it was designed to obtain "any[] plans DOC had put in place as of March 9 to help DOC protect prisoners in its care, staff, and the general public from the Covid-19 pandemic." In light of that clarification, DOC ultimately processed your FOIA request and provided you responsive documents in the form of DOC's Pandemic Plan and hyperlinks to various DOC webpages. Because DOC has processed your request and provided you with responsive documents, we dismiss this appeal as moot. If you submit another request to DOC for documents and that request is denied, you may appeal that denial to this Office.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Oluwasegun Obebe, Records, Information & Privacy Officer
DOC (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-243

September 12, 2022

VIA ELECTRONIC MAIL

Michael Ayele

RE: FOIA Appeal 2020-243

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Department of Behavioral Health ("DBH") to your April 15, 2020 FOIA request, which sought answers to a series of questions.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

On August 31, 2020 DBH advised you that it did not have any records that were responsive to your request. Based on the foregoing, we conclude that DBH properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the

District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Matt Caspari, DBH FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-244

September 12, 2022

VIA ELECTRONIC MAIL

Michael Ayele

RE: FOIA Appeal 2020-244

Dear Mr. Ayele:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the response of the Metropolitan Police Department ("MPD") to your April 15, 2020 FOIA request, which cited a number of news articles.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records following a reasonable search. More specifically, 1 DCMR § 402.4 states that:

> A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency "has no duty either to answer questions unrelated to document requests or to create documents." *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). "FOIA creates only a right of access to records, not a right to personal services." *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

On May 8, 2020 MPD closed your request and suggested you consult with another agency. Based on the foregoing, we conclude that MPD properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the

District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-245

July 6, 2021

VIA ELECTRONIC MAIL

Ms. Tiffany Montgomery

RE: FOIA Appeal 2020-245

Dear Ms. Montgomery:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the D.C. Board of Ethics and Government Accountability ("BEGA") failed to respond to your FOIA request.

On May 18, 2020 you submitted a request for the following documents:

(1) All records, information, documents, notes, files, communications concerning the "constant emails" from me to BEGA and/or its directors after my termination as alleged by Niquelle Allen. If these records do not exist please clearly state so in your official response to this FOIA request.

(2) All records, information, documents, notes, files, communications concerning the "constant phone calls" from me to BEGA after my termination as alleged by Niquelle Allen. The date of my termination is February 7, 2020. Please provide the phone number and employee name associated with the supposed accuser(s), and clearly identify on what days I supposedly made these phone calls and what is alleged to have been stated. Please identify the phone number from which I supposedly called BEGA after my termination. I also request a copy of phone bills dating back to eight months for all phone numbers associated with this FOIA request, should such records exist. If these records do not exist please clearly state so in your official response to this FOIA request.

(3) All phone records for the DC government phones used by the following individuals for the past six months: (I) Niquelle Allen; (II) Rochelle Ford; (III) Johnnie Barton; (IV) Tyrell Dow; (V) Ashley Cooks. I request a copy of all phone records that details calls made to and from their phones, as well as the text messages on the phones.

(4) All records, information, notes, and communication concerning supposed "social media posts" that Niquelle Allen has fabricated and has accused me of making to her/BEGA. If these records do not exist please clearly state so in your official response to this FOIA request.

(5) All records, notes, communication, information, documentation, correspondences, and files made to and from BEGA to the Department of Government Services from September 2019 to present.

(6) A copy of the security complaint, if any, made by Ms. Allen against me based on her false accusation that I "physically threatened" her in the Wilson Building on the date that I before Councilman Charles Allen, which is on or around February 12, 2020. If this document does not exist, please clearly state it in your official response.

(7) All communications, notes, and records related to the accusation from BEGA that I supposedly "physically confronted" a BEGA employee after my termination. Please clearly state the employee's name, where and when this incident supposedly took place, and all security records associated therewith. If no such records exist, please clearly state so in your official response to this FOIA request.

(8) All records, notes, information, documents, details, and data related to how BEGA is recording, monitoring, and approving hours worked during the COVID-19 situation for any employees working remotely. The payments made for salaries are paid for by taxpayers and these records are subject to FOIA. I am not necessarily interested in wages paid to employees, but the structure of how the hourly wages are monitored, and approved by BEGA. Feel free to anonymize the names of the employees, but do identify the wages paid and hours worked while the employees are working remotely.

You filed an appeal on September 14, 2020, because you had not received a response to your FOIA request. On May 28, 2021, BEGA filed a response to your appeal.[1] In the response, BEGA indicated that it was withholding all responsive documents pursuant to D.C. Official Code § 2-534(a)(2) and § 2-534(a)(4).

Since your appeal only challenged the failure of BEGA to respond to your FOIA request and BEGA has now responded to your request, we dismiss your appeal as moot. However, you may file a new appeal with this Office if you are dissatisfied with the agency's response.

This shall constitute the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Rashee Raj, General Counsel
BEGA (via email)

[1] A copy of the response from BEGA to your appeal is attached to this decision

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-247

August 19, 2021

VIA ELECTRONIC MAIL

Mr. Pili Greenfield

RE: FOIA Appeal 2020-247

Dear Mr. Greenfield:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the purported failure of the Executive Office of the Mayor ("EOM") to respond to your DC FOIA request within the statutory timeframe.

Last year, you submitted a FOIA request to EOM seeking various records related to the BET headquarters campus property in Northeast, D.C. EOM informed you that your search returned over 50,000 results and that it could take several months to review for responsiveness and make exemption determinations. You then asked EOM to narrow the search, which EOM informed you could take up to three weeks. Subsequently, you appealed what you viewed as EOM's failure to respond and stated that you "ha[ve] not received any response within the statutory" period. EOM responded to your appeal by explaining that the deadline you invoked did not apply because of the District's ongoing public health emergency at that time.[1] EOM also noted that, as of September of last year, it had produced a copy of at least one responsive document to you.

Although an agency typically must respond to DC FOIA requests within 15 business days, EOM is correct that that deadline did not apply during the COVID-19 public health emergency. D.C. Code § 2-532(c)(1) expressly exempts "days of a COVID-19 closure" from the deadline for an agency to respond. A "COVID-19 closure" is defined as a "period of time for which the Mayor has declared a public health emergency." On March 11, 2020, the Mayor declared a public emergency and public health emergency through Mayor's Order 2020-045 and Mayor's Order 2020-046. That public health emergency was in effect at the time of EOM's response. As a result, the statutory deadline for EOM to respond to your request had not lapsed.[2]

Based on the foregoing, we conclude that EOM's deadline to respond to your DC FOIA

[1] A copy of EOM's response to your appeal is attached to this decision.
[2] Although you claim in your appeal that EOM's deadline to respond had passed before emergency relief was enacted, that is incorrect. D.C. Act 23-247 added the "COVID-19 closure" provision to D.C. Official Code § 2-532 on March 17, 2020, just two business days after you submitted your request.

request did not lapse and that EOM provided a response to your request following your appeal. We therefore deny this appeal as moot.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Vanessa Careiro, Deputy General Counsel
EOM (via email)

Cristina Sacco, Associate General Counsel
EOM (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-248

February 7, 2022

VIA ELECTRONIC MAIL

Mr. James Edward Sullivan

RE: FOIA Appeal 2020-248

Dear Mr. Sullivan:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), on the grounds that the Office of the Chief Medical Examiner ("OCME") improperly responded to your FOIA request.

On September 16, 2020, you submitted a FOIA request seeking records regarding the death investigation of a family member. You filed your appeal with this Office on September 18, 2020, requesting clarification on the status of your FOIA request. Based on the language of your appeal, we construe your appeal as challenging OCME's alleged failure to provide you with a written response to your FOIA request.

On September 24, 2020, OCME filed a response to your appeal.[1] In the response, OCME indicated that it had explained to you that pursuant to DC Code 2-534(a)(2) it could not release the requested records in response to a FOIA request but, as next of kin, you could request the records directly from OCME's Records Manager. OCME also notified us that you already "had received OCME records through the usual channel of a direct request to OCME as a next of kin" and you had conversations with OCME to address your concerns about the documents. Because the agency has provided you with a response, we dismiss your appeal as moot.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with D.C. Official Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Rodney K. Adams, General Counsel
OCME (via email)

[1] A copy of OCME's response to your appeal is attached to this decision.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-249

September 29, 2021

VIA ELECTRONIC MAIL

Ms. Claudia Barber

RE: FOIA Appeal 2020-249

Dear Ms. Barber:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the lack of response from the Office of Administrative Hearings ("OAH") to your DC FOIA request.

On August 6, 2020, you submitted a DC FOIA request to OAH seeking records related to certain OAH employees. When OAH did not substantively respond to your FOIA request, you appealed. In response to your appeal, OAH asserted that that statutory deadline to respond to your request had not yet passed because the District's COVID-19 public health emergency was still in effect.[1]

OAH is correct. Although an agency typically must respond to DC FOIA requests within 15 business days, with the possibility of an extension, that deadline did not apply during the COVID-19 public health emergency. Pursuant to D.C. Code § 2-532, the deadline for agencies to provide records in response to DC FOIA requests received prior to January 15, 2021, was 45 business days from that date.

Based on the foregoing, we conclude that OAH did not miss its deadline to respond to your DC FOIA request at the time of your appeal, and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

[1] A copy of OAH's response to your appeal is attached to this decision.

cc: Shawn M. Nolen, Assistant General Counsel OAH (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-250

September 12, 2022

VIA ELECTRONIC MAIL

Mr. Winter Owen Calvert

RE: FOIA Appeal 2020-250

Dear Mr. Calvert:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you challenged the response of the D.C. Homeland Security and Management Agency ("HSEMA") to your August 6, 2020 FOIA request, identified as 2020-FOIA-07032, which sought the following:

> [A] copy of all records, including emails, faxes, letters, correspondence, criminal complaints, SAR's, investigations, etc., that contain my name - Winter Owen Calvert, Winter Calvert, or Owen Calvert.

On September 24, 2020, HSEMA responded to your request stating that it did not have any responsive records. In your appeal filed with this Office, you have asserted HSEMA is in error because you possess an email dated December 19, 2019, from "Shane Lamond, a Lieutenant in the Intelligence Branch" and "[h]e clearly has my name and some records."

FOIA only requires that, under the circumstances, a search is reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence, that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States (Dep't of Justice)*, 578 F.2d 261 (9th Cir. 1978).

Further, FOIA is agency specific. *See* 1 DCMR § 402 ("A request for a record of an agency may be made orally or in writing and shall be directed to the particular agency."). An agency is required to disclose materials only if they were "retained by a public body." D.C. Code § 2-502(18).

Additional information may be available, by submitting a FOIA request to alternative D.C. agencies, and the requester is encouraged to pursue that process if desired.

Based on the foregoing, we conclude that HSEMA properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. You may challenge any subsequent response received by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Official Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Whitney Bowen, HSEMA FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-252

March 18, 2021

VIA ELECTRONIC MAIL

Mr. Kenneth McClenton

RE: FOIA Appeal 2020-252

Dear Mr. McClenton:

This letter responds to the administrative appeals you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), on the grounds that the Department of Motor Vehicles ("DMV") improperly responded to your FOIA request.

On September 19, 2020, you submitted a FOIA request "inquiring as to whether Doris O. Matsui, also known as Doris K. Matsui, a candidate for the United States Congress for the 6th District of California, registered vehicles or obtained a driver's license in the District of Columbia between January 1, 1979 and November 3, 2020."

You filed your appeal with this Office on September 24, 2020, because your FOIA request was closed without a written response. On October 9, 2020, DMV filed a response to your appeal.[1] In the response, DMV indicated that the agency responded to you request, via email, on September 21, 2020, and that sender did not receive a "bounce-back" email indicating the message was undeliverable. Additionally, in both the agency's September 21st and October 9th responses, DMV asserted although the agency is not required to respond to questions under FOIA, the agency conducted a diligent search of its records producing no responsive records to your request.

It is unclear whether you did not receive or are unaware of the agency's September 21st FOIA response. Since your appeal only challenged DMV's failure to respond to your FOIA request and DMV has responded to your request, we dismiss your appeal as moot. However, you may file a new appeal if you are dissatisfied with the agency's response.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with D.C. Official Code § 2-537.

[1] A copy of DMV's response to your appeal is attached to this decision.

Respectfully,

Mayor's Office of Legal Counsel

cc: David Glasser, General Counsel
DMV (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-253

February 9, 2021

VIA ELECTRONIC MAIL

Mr. Arya Mohsen

RE: FOIA Appeal 2020-253

Dear Mr. Mohsen:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the response from the Office of Unified Communications ("OUC") to your September 8, 2020, FOIA request, in which you sought records of a 911 call.

OUC initially was unable to process your request because, in its view, you did not describe the records you were seeking with adequate specificity. You appealed, challenging that determination. In reviewing your appeal, an attorney at OUC contacted you and took down additional information regarding your request.[1] This additional information enabled OUC to locate the 911 call you sought. After review of the call, on October 6, 2020, OUC transmitted the 911 call to you via email.

Because OUC has now provided you with documents responsive to your request, your appeal is dismissed as moot.

If you are unsatisfied with the OUC's document production, you may file a new appeal once you have had an opportunity to review the records provided by the agency.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Jared Siegel, Assistant General Counsel,
OUC (via email)

[1] A copy of OUC response to your appeal is attached.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-254

February 14, 2022

VIA ELECTRONIC MAIL

Dr. Quentin Jevar Crocheron

RE: FOIA Appeal 2020-254

Dear Dr. Crocheron:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Department of Risk Management ("ORM") failed to properly respond to your FOIA request. On July 29, 2019, you requested that ORM provide to you "all Records related to 'DC MPD' employment records, and all records of any and all cases in my name, verified, through Background." You appealed on January 3, 2020. On January 13, 2020, this Office issued FOIA Appeal Decision 2020-067 stating that your appeal was based on a lack of response from ORM and dismissing your appeal as moot because ORM responded to your request in response to notification of your appeal. You filed the instant appeal on September 28, 2020. On October 8, 2020, ORM responded to your appeal reiterating that it had not located any documents responsive to your request and that the MPD employment records you requested were not maintained by ORM. [1] ORM also reiterated that it timely responded to your July 29, 2019 request because ORM responded on July 30, 2019.

ORM has indicated that a diligent search for responsive records has identified no such records within its files. We have no reason to question the agency's representation that it possesses no responsive records.

Based on the foregoing, we dismiss your appeal challenging ORM's response to your FOIA request. This is the final decision of this Office with regard to your appeal. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

[1] A copy of ORM's response to your FOIA appeal is attached to this decision.

cc: Robert Preston, FOIA Officer
ORM (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-255

February 11, 2021

VIA ELECTRONIC MAIL

Ms. Nancy Yacoub

RE: FOIA Appeal 2020-255

Dear Ms. Yacoub:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 ("DC FOIA"), challenging the response from the Office of Unified Communications ("OUC") to your DC FOIA request, in which you sought records of 911 calls made by particular phone numbers.

OUC stated that it was unable to process your request because the OUC Computer Aided Dispatch database system inputs 911 calls based on location and dates rather than by phone number. You appealed, challenging that response. Upon receiving your appeal, OUC performed a second search, this time using the phone numbers you had provided.[1] This additional information enabled OUC to locate 911 calls for two of those numbers.

On October 7, 2020, OUC contacted you via email and informed you of the newly found 911 calls. OUC is now in the process of reviewing the 911 calls and will produce any responsive, non-exempt records to you. Because OUC has agreed to provide you with documents responsive to your request, your appeal is dismissed as moot.

If you are unsatisfied with the OUC's forthcoming document production, you may file a new appeal once you have had an opportunity to review the records provided by the agency.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

[1] A copy of OUC response to your appeal is attached.

cc: Jared Siegel, Assistant General Counsel
OUC (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2021-001

March 15, 2021

VIA ELECTRONIC MAIL

Mr. Fritz Mulhauser

RE: FOIA Appeal 2021-001

Dear Mr. Mulhauser:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Office of the State Superintendent of Education ("OSSE") improperly withheld a document in response to your DC FOIA request for public records.

Background

On July 21, 2020, you submitted a DC FOIA request to OSSE for a single record: a memo entitled "Concerns with the Proposed Accountability System." On September 21, 2020, OSSE responded to your request, informing you that it had found a draft document named "Concerns with the Proposed Accountability System," written by a former OSSE employee named Etai Mizrav. OSSE stated that it was withholding that document under the deliberative-process privilege. In your appeal, you challenge OSSE's claim that the deliberative-process privilege applies, arguing that (1) the deliberative-process privilege does not shield factual information, (2) the privilege does not shield documents that the agency adopts as its official position, and (3) the record at issue may lacks the essential character of a deliberative document.

On October 7, 2020, OSSE responded to your appeal.[1] In that response, the agency explained its search process:

> Etai Mizrav is no longer employed with OSSE; therefore, we did not have access to his documents and projects. We conducted an email search for the requested document. We discovered several drafts of the same document, however a final version of the same document was not found.

The agency then explained why it invoked the deliberative-process privilege:

[1] A copy of the agency's response to your appeal is attached to this decision.

> [T]he document in question was generated based on opinions of the D.C. proposed accountability system; therefore we believe it's appropriate to withhold under deliberative process privilege. . . .
>
> The document in question was prepared by a former employee for the former Assistant Superintendent of Systems and Support, K-12. We are unaware of the project timeline and whether or not the employee's evaluations of the accountability system were adopted. While we have some email communication regarding different versions of the draft memorandum in question, we are not aware of a final memorialized policy or procedures being adapted.

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, the DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body." *Id*. at § 2-532(a).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe local law. *Washington Post v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Exemption 4 – Deliberative Process Privilege

OSSE stated in response to your initial DC FOIA request that it withheld records under Exemption 4. *See* D.C. Code § 2-534(a)(4). Exemption 4 vests public bodies with discretion to withhold "inter-agency or intra-agency memorandums and letters which would not be available by law to a party other than an agency in litigation with the agency[.]" This exemption has been construed to "exempt those documents, and only those documents, normally privileged in the civil discovery context." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). As a result, Exemption 4 encompasses the deliberative-process privilege. *See McKinley v. Bd. of Governors of the Fed. Reserve Sys.*, 647 F.3d 331, 339 (D.C. Cir. 2011).

The deliberative-process privilege protects agency documents that are both pre-decisional and deliberative. *Coastal States Gas. Corp. v. Dep't of Energy*, 617 F. 2d 854, 866 (D.C. Cir. 1980). A document is pre-decisional if it was generated before the adoption of an agency policy, and it is deliberative if it "reflects the give-and-take of the consultative process." *Id.* Applying these criteria, this office has conducted an *in camera* review of the withheld record and determined that OSSE properly invoked the privilege to withhold the requested memorandum.

The withheld record in this case fits squarely under the deliberative-process privilege because is both pre-decisional and deliberative. The record in question is a draft memorandum prepared by an employee opining on a proposed performance accountability system for District

schools and making recommendations about what metrics and standards to use. It is pre-decisional because, on it face, it directly discusses the District's "proposed accountability system" that had not yet been enacted; it was specifically an attempt to shape what the final version of that system would later look like. *See, e.g.*, *Nadler v. United States Dep't of Justice*, 955 F.2d 1479, 1491 (11th Cir. 1992) ("[A] recommendation to a supervisor on how to proceed is predecisional by nature.") It is also "a direct part of the deliberative process in that it makes recommendations or expresses opinions on . . . policy matters." *Vaughn v. Rosen*, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975). In particular, it assesses certain approaches to accountability and measuring school performance and advocates for the system to include the author's recommended measures.[2] A pre-decisional intra-agency memorandum from an employee providing policy advice and making recommendations to agency superiors is a textbook example of material that is protected by the deliberative-process privilege.

It is true, of course, that purely factual information is generally not exempt, but that principle is not applicable here. As an initial matter, the withheld memorandum does not include easily segregable factual information.[3] To be sure, the author intersperses arguments and recommendations with certain factual datapoints, but the selective and curated use of specific facts to support an argument is itself protected by the deliberative-process privilege. Attempting to segregate those facts and to redact the material around them would not only be practically challenging but would also "permit indirect inquiry into the mental processes" of the document's drafter, *Williams v. United States Dep't of Justice*, 556 F. Supp. 63, 65 (D.D.C. 1982), and thus reveal pre-decisional agency deliberations. Similarly, the interconnected nature of any factual information with the deliberative material is such that releasing any of the memorandum would expose or cause harm to the agency's deliberations. That is, in this case, the facts the author chose to cite for support of his recommendation could themselves reveal what his recommendations were. Disclosing that material would thus defeat the point of the privilege. *See Wolfe v. HHS*, 839 F.2d 768, 774-776 (D.C. Cir. 1988) (en banc).

In addition, there is no indication at all that the agency ever "adopted" this document as its own or chose to use it as an official source of agency guidance. In fact, its draft status strongly implies that is not the case.

Finally, the record is not simply a summary or a technical assessment, contrary to what you suggest. Rather, it is a set of the author's opinions, recommendations, and arguments that appear intended to advise agency decision-makers on a matter of policy. That is at the core of what the deliberative-process privilege protects.

Conclusion

In sum, we agree with OSSE's decision to withhold the requested record based on the deliberative-process privilege. We therefore affirm the agency's decision and deny your appeal.

---

[2] Moreover, the document's status as a draft further underscores its deliberative nature. *See, e.g.*, *City of Virginia Beach v. United States Dep't of Commerce*, 995 F.2d 1247, 1253 (4th Cir. 1993).
[3] Contrary to what you speculate, it does not contain any sort of "factual . . . recital" section.

If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Mona Patel, FOIA Officer
OSSE (via email)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2021-002

September 12, 2022

VIA ELECTRONIC MAIL ONLY

Ms. Ella Fassler

RE: FOIA Appeal 2021-002

Dear Ms. Fassler:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you challenged the lack of response of the Metropolitan Police Department ("MPD") to your July 2, 2019 FOIA request, identified as 2019-FOIA-06101, which sought the following:

> [E]mails and email attachments that fit ALL of the following criteria:
>
> a) Sent or received between December 1st, 2018, and the latest possible date and July 2nd 2019, or the latest possible date available in the email system, as the systems are often up to a month behind);
>
> b) Sent by an email address ending in "@adl.org" to any employee of the law enforcement agency to which this request is addressed, OR sent by an employee of the law enforcement agency to which this request is addressed to any "@adl.org" email address and/or any other employee of the town/city in which the law enforcement agency resides; [and]
>
> c) Containing in the subject line, or body of the message, or attachment, one OR more of the following search terms: 'Leadership Seminar', 'Leadership Seminar in Israel: Resilience and Counterterrorism' 'Leadership, Resilience and Counter-Terrorism Seminar', 'NCTS', 'National Counter-Terrorism Seminar', 'Counter-Terrorism Seminar', 'Israel', 'ADL', 'Anti-Defamation League', 'Shin Bet', 'INP', 'Israel National Police', 'terrorism', 'invitation', [or] 'invite'.

On October 2, 2020, this Office asked MPD to provide the justification for the decision not to grant a review of the records requested, a *Vaughn* index of the documents withheld, and a copy of any public record(s) in dispute. While this Office did not receive a response, a review of the District's FOIA-tracking data indicates MPD continues to process the request.

It is the public policy of the District of Columbia that all persons are entitled to full and complete information regarding the affairs of the District government and the official acts of those who represent them as public officials and employees. D.C. Code § 2-531. The ultimate responsibility for responding to requests for records of an agency is vested in the agency head. 1 DCMR § 400.1

Under 1 DCMR § 405.1 when no decision can be dispatched within the applicable time limits, an agency shall nevertheless continue to process the request and inform the requester of the reason for delay, the date on which a determination may be expected; and the right to treat the delay as a denial and the right to appeal.

Based on the record before us, we remand this matter back to MPD to comply with 1 DCMR § 405.1, if it has not already done so, with the objective of producing any non-exempt records that are responsive to the request as soon as practical.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

Mayor's Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2021-003

September 12, 2022

VIA ELECTRONIC MAIL ONLY

Mrs. Donna Black

RE: FOIA Appeal 2021-003

Dear Mrs. Black:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq*. In your appeal, you have challenged the lack of response of the Metropolitan Police Department ("MPD") to your February 25, 2020 FOIA request, identified as 2020-BWC-00174, which sought the following:

> [A]ll calls to MPD and all body camera footage of all officers dispatched to an incident that took place with DHS employees, TCP employees, and Capital City Protective Services SPO & Regular Security Guards at Quality Inn/Comfort Inn Hotel (Shelter) located at 1600 New York Avenue NE 20003 and the surrounding public area of the hotel and public sidewalks near the hotel the incidents happened on December 17, 2019 between the hours of 8:00pm through 11:00pm and an arrest was made the defendant name is Damion O. Black date of birth [omitted] Male PD Id number 507983 and the alias name on record that a dishonest officer gave him is Jermaine Webley [omitted] the only two officers name provided at the time are Sergeant Robert Ferretti badge number S0483 and Officer Hopper badge 4605, and many more officers as well also on December 18, 2019 between the hours of 7:00pm through 10:00pm and the only officer that provided information was Officer Derron Simpson badge number 5650 and the supervisor Officer I requested on the scene Sargent Rosa and many more Officers MPD was called out about three times.
>
> We would like all calls documented, and all body camera footage of all Officers dispatched…

On October 2, 2020, this Office asked MPD to provide the justification for the decision not to grant a review of the records requested, a *Vaughn* index of the documents withheld, and a copy of any public record(s) in dispute. While this Office did not receive a response, a review of the District's FOIA-tracking data indicates MPD denied your request on March 27, 2020. You may contact the MPD FOIA personnel to obtain a copy of that decision.

Because you have only challenged MPD's failure to respond, we dismiss this appeal as moot.

However, you are free to challenge any substantive response received from MPD by separate appeal to this Office

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia.

Respectfully,

Mayor's Office of Legal Counsel

cc: Brandynn Reaves, FOIA Officer, MPD (via email)

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF PUBLIC MEETING

District of Columbia Combat Sports Commission

The District of Columbia Combat Sports Commission ("Commission") hereby gives notice of its upcoming 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 Commission will hold its upcoming meeting on Wednesday, March 12, 2025, at 12:00 p.m.

The Commission holds its meetings on the second Wednesday of each month at 12:00 p.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Mr. Terron McAbee, acting Commission Administrator, at (202) 442-4320 or terron.mcabee@dc.gov.

DRAFT AGENDA

1. Call to Order – 12:00 p.m. (*Public Session*)
2. Attendance
3. Comments from the Public
4. Approval of 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. Adjourn
9. Next Scheduled Commission Meeting on Wednesday, April 9, 2025

Meeting Link:
https://dc-gov.zoom.us/j/85888231877?pwd=fxieEsaERjXNXnbOvwmIZgaclsQesg.1

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

District of Columbia Real Estate Commission

The District of Columbia Real Estate Commission ("Commission") hereby gives notice of its upcoming 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 Commission will hold its upcoming meeting on Tuesday, March 11, 2025, at 10:00 a.m.

The Commission holds its meetings on the second Tuesday of each month at 10:00 a.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Stacey Price, Commission Administrator, at (202) 442-4495 or stacey.price@dc.gov.

DRAFT AGENDA

1. Call to Order – 10:00 a.m. (*Public Session*)
2. Attendance
3. Comments from the Public
4. Approval of Minutes
5. Education Subcommittee Report
6. Budget Update
7. Correspondence
8. Old Business
9. New Business
10. 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.
11. Recommendations
    a. Applications for Licensure
        i. Administratively Approved Applications
        ii. Technical Applications
    b. Legal Recommendations for Complaints and Legal Matters
12. Adjourn – Next Scheduled Meeting on Tuesday, April 8, 2025

Meeting Link:
https://dc-gov.zoom.us/j/82574074018?pwd=ebn9uMUK7RuOIiOLfTVal9qjHnJtsp.1
Meeting Number: 825 7407 4018
Password: DCREC

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.

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

American Federation of Government Employees, Local 1403 Petitioner and Office of Labor Relations and Collective Bargaining and Department of Disability Services and Department of Behavioral Health and District of Columbia Public Schools and Child and Family Services Agency and Alcoholic Beverage and Cannabis Administration Respondents	PERB Case No. 24-UM-02 Opinion No. 1899

DECISION AND ORDER

I. Statement of the Case

On July 12, 2024, the American Federation of Government Employees, Local 1403 (Petitioner) filed a petition for unit modification (Petition). The Petitioner requests that the Board amend Certification No. 133 to explicitly include attorneys in five agencies with independent personnel authority by removing the reference to the Mayor's personnel authority and explicitly adding the Alcoholic Beverage and Cannabis Administration (ABCA). A notice was posted at each of the five agencies. OLRCB filed comments on behalf of the agencies. On December 16, 2024, the parties filed a Consent Motion for Expedited Relief.

II. Background

In 2005, PERB certified the American Federation of Government Employees, Local 1403 as the sole and exclusive bargaining representative of the following bargaining unit:[1]

> All attorneys within the Legal Service who come within the personnel authority of the Mayor of the District of Columbia, excluding attorneys employed by the Office of the Attorney General (formerly the Office of Corporation Counsel), management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity and employees engaged in administering the provisions of XVII of the District of Columbia Merit Personnel Act of 1978, D.C. Law 2-139.

Since the issuance of this certification, there have been changes to the identity or statutory authority of certain of the agencies whose attorneys have traditionally fit within the scope of Certification No. 133. More than one agency subordinate to the Mayor has since been granted independent personnel authority. Another formerly independent agency has become subordinate to the Mayor but has retained independent personnel authority. Another subordinate agency had independent personnel authority at the time of the certification but always recognized the Union as representing its employees for the last 20 years. Another agency which used to be subordinate to the Mayor and under her personnel authority has been made an independent agency.

In the Consent Motion for Expedited Relief, OLRCB states that it does not oppose the Petition, on behalf of the Agencies, if the clause "attorneys employed by the Office of the Attorney General" is removed.[2] The Petitioner does not oppose this change.[3]

The parties propose the following change to the description of the bargaining unit:[4]

> All attorneys within the Legal Service who are employed by an agency subordinate to the Mayor of the District of Columbia or by the District of Columbia Alcoholic Beverage and

[1] *AFGE, Local 1403, AFL-CIO and the District of Columbia Government*, 52 D.C. Reg. 1670, Slip Op. No. 777, PERB Case No. 04-RC-01, Certification No. 133 (2005).
[2] Consent Motion at 2.
[3] *See id*.
[4] *Id*.

Cannabis Administration, excluding management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity and employees engaged in administering the provisions of XVII of the District of Columbia Merit Personnel Act of 1978, D.C. Law 2-139.

III. Discussion

PERB Rule 505.1(a) provides that a unit modification may be sought to reflect a change in the identity or statutory authority of the agency. The Petitioner has requested a modification because there have been changes to the identity or statutory authority of multiple agencies. The Union and agencies continue to operate under the certification that previously covered the affected employees. The agencies do 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 Certification No. 133 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 the American Federation of Government Employees, Local 1403, is certified as the exclusive bargaining representative is modified as will be described as set forth below:

   Unit Description:

   All attorneys within the Legal Service who are employed by an agency subordinate to the Mayor of the District of Columbia or by the District of Columbia Alcoholic Beverage and Cannabis Administration, excluding management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity and employees engaged in administering the provisions of XVII of the District of Columbia Merit Personnel Act of 1978, D.C. Law 2-139.

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 Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons, and Peter Winkler.

December 19, 2024

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:	
Fraternal Order of Police/Metropolitan Police Department Labor Committee	
Petitioner	PERB Case No. 24-N-03 & 24-N-10
v.	Opinion No. 1900
District of Columbia Metropolitan Police Department	
Respondent	

DECISION AND ORDER

I. Statement of the Case

On March 28, 2024, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP) filed a negotiability appeal in PERB Case No. 24-N-03. On May 17, 2024, FOP filed a negotiability appeal in PERB Case No. 24-N-10. The two negotiability appeals were consolidated on November 20, 2024. The instant consolidated negotiability appeal concerns three (3) proposals made by FOP and declared non-negotiable by the Metropolitan Police Department (MPD).

For reasons stated herein, the Board concludes that FOP's proposals concerning Article 12, and Article 19 Sections (E)(1) and (2) are non-negotiable.

II. Background

FOP and MPD are in the process of negotiating a successor collective bargaining agreement (CBA). On July 3, 2023, FOP submitted its initial proposals regarding both compensation and non-compensation items to MPD.[1] On July 24, 2023, MPD asserted that the following proposals were nonnegotiable: Article 12; Article 14, Sections 1-3; Article 15, Sections 7-9; Article 19, Sections E(1) and (2); Article 38, Sections 1-2; Article 39, Section 1; Article 47, Section 1; and Article 50.[2]

The parties engaged in negotiations over the proposals from September 2023 to March 2024.[3] On March 25, 2024, FOP filed a Notice of Automatic Impasse regarding Article 35 (Wages).[4] On May 22, 2024, PERB stayed all proceedings in the consolidated negotiability appeals in this case, pending the resolution of the impasse.[5]

On August 20, 2024, the parties agreed to revert to status quo on articles 14, 15, and 47.[6] The Union further withdrew its proposal for Article 50.[7] On September 30, 2024, the Parties submitted a Joint Status Report to PERB indicating that both sides have participated in mediation and are still scheduling impasse arbitration.[8] On October 17, the parties agreed to revert to status quo on Articles 38 and 39.[9]

PERB lifted the stay on the consolidated negotiability appeals on October 2, 2024. The remaining three (3) proposals are before the Board for disposition.

III. Standard of Review

There are three categories of collective bargaining subjects: (1) mandatory subjects, over which the parties must bargain if either party requests it; (2) permissive subjects, over which the parties may bargain; and (3) illegal subjects, over which the parties may not bargain.[10] A permissive subject of bargaining is nonnegotiable if either party declines to bargain on the subject.[11] Management rights are permissive subjects of bargaining.[12] Section 1-617.08(a) of the

[1] FOP's Appeal at 3.
[2] FOP's Appeal at 3.
[3] MPD's Answer at 2.
[4] MPD's Answer at 2.
[5] MPD's Answer at 2.
[6] MPD's Answer at 2.
[7] MPD's Answer at 2.
[8] MPD's Answer at 2.
[9] MPD's Answer at 2.
[10] *D.C. Nurses Ass'n v. D.C. Dep't of Mental Health*, 59 D.C. Reg. 10776, Slip Op. No. 1285 at 4, PERB Case No. 12-N-01 (2012) (citing *NLRB v. Wooster Div. of Borg-Warner Corp*., 356 U.S. 342 (1975)).
[11] *UDC Faculty Ass'n v. UDC*, 64 D.C. Reg. 5132, Slip Op. No. 1617 at 2, PERB Case No. 16-N-01 (2017).
[12] *NAGE Local R3-06 v. WASA*, 60 D.C. Reg. 9194, Slip Op. No. 1389 at 4, 13-N-03 (2013); *FEMS and AFGE, Local 3721*, 54 D.C. Reg. 3167, Slip Op. 874 at 9, PERB Case No. 06-N-01 (2007).

D.C. Official Code sets forth management rights giving management the "sole rights" to undertake actions listed therein.[13]

Matters that do not contravene section 1-617.08(a) or other provisions of the Comprehensive Merit Personnel Act (CMPA) are negotiable.[14] Section 1-617.08(b) of the D.C. Official Code provides that the right to negotiate over terms and conditions of employment extends to all matters except those that are proscribed by the CMPA.[15]

Pursuant to § 1-605.02(5) of D.C. Official Code, the Board is authorized to make a determination in disputed cases as to whether a matter is within the scope of collective bargaining.[16] The Board's jurisdiction to decide such questions is invoked by the party presenting a proposal that has been declared nonnegotiable by the party responding to the proposal.[17] The Board will separately consider the negotiability of each of the matters in a dispute.[18]

IV. Analysis

There are three (3) proposals that MPD has identified as nonnegotiable subjects of bargaining. The proposals are set forth below.

ARTICLE 12

DISCIPLINE

FOP proposes to revise certain language in the CBA as follows:

Section 4

The Chief of Police or his/her designee ~~shall~~will only take adverse action after providing the employee with (1) written notification of the charges and proposed action and after providing the employee with (2) fifteen (15) business days to submit a written response to the charges. In the event the Department proposes termination, the employee shall have twenty-one (21) business days to submit his/her response. In his/her response, the employee shall also indicate whether he/she desires a Departmental hearing.

[13] D.C. Official Code § 1-617.08(a).
[14] *UDC Faculty Ass'n*, Slip Op. No. 1617 at 4.
[15] D.C. Official Code § 1-617.08(b).
[16] *See WTU v. DCPS*, Slip Op. No. 1884, PERB Case Nos. 24-N-04, *et al.* (2024).
[17] *FOP/Protective Serv. Police Dep't Labor Comm. v. DGS*, 62 D.C. Reg. 16505, Slip Op. 1551 at 1, PERB Case No. 15-N-04 (2015).
[18] *UDC Faculty Ass'n*, Slip Op. No. 1617 at 2-3.

Section 9~~10~~

If the Employer suspends an ~~officer~~employee without pay during the resolution of a criminal indictment and the criminal indictment is dropped or in any way resolved, then the Employer agrees to return the ~~officer~~employee to a pay status or issue notification of the charges and proposed action within thirty (30) business days of the date the indictment was either dropped or resolved. Likewise, if the Employer suspends an ~~officer~~employee without pay after the ~~officer~~employee has been convicted of criminal charges, the Employer agrees to either return the officer to a pay status or issue notification of the charges and proposed action within thirty (30) business days of the date it removed the officer from the pay status.

~~**Section 11**~~

~~Disciplinary action will not preclude an employee from participating in the promotional process. Notwithstanding the foregoing, if, after the eligibility list is formed, a final disciplinary penalty of a suspension of twenty (20) days or greater is imposed, the member need not be promoted from that list. In addition, notwithstanding the foregoing, if after the eligibility list is formed an adverse action is proposed, the promotion may be held in abeyance pending a final disposition. If the disposition is favorable to the member, or the penalty is less than a suspension of twenty (20) days, he/she shall be promoted forthwith with back pay retroactive to the date when the member would otherwise have been promoted.~~

MPD's Position

MPD asserts that FOP's proposal for Article 12 is nonnegotiable because it violates D.C. Code §1-617.08(c)(1), which explicitly states that "all matters pertaining to the discipline of sworn law enforcement personnel shall be retained by management and not be negotiable through bargaining, including substantive or impacts-and-effects bargaining."[19] MPD argues that management has the right to implement discipline.[20]

FOP's Position

FOP argues that, although the current D.C. Code provides that proposals related to discipline, including the impacts and effects of discipline, are retained by management, "there is a pending bill in the U.S. House of Representatives that seeks to restore D.C. Police Union's right to negotiate matters pertaining to discipline to law enforcement officers."[21] FOP argues that it is premature for MPD to assert that Article 12 is non-negotiable because "there is a likelihood that

[19] MPD's Answer at 6.
[20] MPD's Answer at 8.
[21] FOP's Appeal at 5 (citing H.R. 5798, 118th Cong. (1st Session 2023)).

collective bargaining rights over matters related to discipline will be restored during the parties' ongoing negotiations and before a final contract is agreed upon."[22]

Board's Conclusion

The Union does not contest that D.C. Code §1-617.08(c)(1) explicitly reserves the discipline of sworn law enforcement personnel to management. The Union's reliance on proposed legislation to argue otherwise is meritless. Therefore, the proposed Article 12 is non-negotiable.

ARTICLE 19

GRIEVANCE PROCEDURE

E. ARBITRATION

FOP proposes to add certain language to the CBA as follows:

Section 1

The parties agree that arbitration is the method of resolving grievances which have not been satisfactorily resolved pursuant to the Grievance Procedure *and is the agreed method of appealing any fine, suspension, removal from service, or any reduction of rank or pay of any employee who is not serving a probationary period*.

MPD's Position

MPD maintains that the proposed language for Article 19, Section E, Paragraph 1 seeks to limit managements rights under D.C. Official Code §1-617.08(c)(1) as it interferes with management's right to discipline employees.[23]

FOP's Position

FOP notes that under the current D.C. Code, proposals related to the discipline, including the impacts and effects discipline, are not negotiable.[24] However, FOP argues that negotiating rights over discipline may be restored during the life of the contract, and therefore, the MPD's assertion of non-negotiability as to Article 19 is premature due to the pending legislation in the House of Representatives.[25]

[22] FOP's Appeal at 6.
[23] MPD's Answer at 8.
[24] FOP's Appeal at 14.
[25] FOP's Appeal at 14 (citing H.R. 5798).

Board's Conclusion

The Union does not contest that D.C. Code §1-617.08(c)(1) explicitly reserves the discipline of sworn law enforcement personnel to management. The Union's reliance on proposed legislation to argue otherwise is meritless. Therefore, the proposed Article 19, Section E(1) is nonnegotiable.

ARTICLE 19

GRIEVANCE PROCEDURE

E. ARBITRATION

FOP proposes to add certain language to the CBA as follows:

Section 2

Within fifteen (15) business days of the decision of the Chief of Police on a*n adverse action or* grievance, the Union, on behalf of an employee or employees, may advise the Chief of Police in writing, signed by the aggrieved employee, of its demand for arbitration or request to utilize the Grievance Mediation procedure. The parties agree to meet at least once in a last attempt at conciliation. Should conciliation fail to settle the dispute, the parties will attempt to agree on a statement of the issue for submission to arbitration/mediation. If the parties are unable to agree on a joint statement of the issue the arbitrator/mediator shall be free to determine the issue.

MPD's Position

MPD maintains that the proposed language for Article 19, Section E, Paragraph 1 seeks to limit managements rights under D.C. Official Code §1-617.08(c)(1) as it interferes with management's right to discipline employees.[26]

FOP's Position

FOP notes that under the current D.C. Code, proposals related to the discipline, including the impacts and effects discipline, are not negotiable.[27] However, FOP argues that negotiating rights over discipline may be restored during the life of the contract, and therefore, the MPD's assertion of non-negotiability as to Article 19 is premature due to the pending legislation in the House of Representatives.[28]

[26] MPD's Answer at 8.
[27] FOP's Appeal at 15.
[28] FOP's Appeal at 15 (citing H.R. 5798).

Board's Conclusion

The Union does not contest that D.C. Code §1-617.08(c)(1) explicitly reserves the discipline of sworn law enforcement personnel to management. The Union's reliance on proposed legislation to argue otherwise is meritless. Therefore, the proposed Article 19, Section E(2) is nonnegotiable.

ORDER

IT IS HEREBY ORDERED THAT:

1. FOP's proposal to add Article 12 is nonnegotiable;

2. FOP's proposal to add Article 19, Section (E)(1) is nonnegotiable;

3. FOP's proposal to add Article 19, Section (E)(2) is nonnegotiable; and

4. 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 Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons, and Peter Winkler.

January 16, 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 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 State, County and Municipal Employees, District Council 20, Local 2743	PERB Case No. 24-E-02
Complainant	
v.	Opinion No. 1902
District of Columbia Department of Insurance, Securities and Banking	
Respondent	

DECISION AND ORDER

I. Statement of the Case

On August 16, 2024, the American Federation of State, County and Municipal Employees, Local 2743 (AFSCME) filed a petition for enforcement (Petition). Pursuant to PERB Rule 560.1, AFSCME requests enforcement of PERB Case No. 23-U-06, Opinion No. 1864 (Opinion 1864).[1] AFSCME alleges that the District of Columbia Department of Insurance, Securities and Banking (DISB) has failed to comply with Opinion 1864.[2] DISB opposes the Petition, asserting that the Board's order in Opinion 1864 is *ultra vires* and that DISB is statutorily prohibited from full compliance.[3] For the following reasons, the Petition is granted.

II. Background

The AFSCME Vice-President (Complainant), an employee at DISB, repeatedly engaged in protected union activity, including testifying at District of Columbia Council hearings and filing unfair labor practice complaints against DISB.[4] On October 28, 2022, the Complainant submitted

[1] Petition at 1.
[2] Petition at 3.
[3] Answer at 8-9.
[4] *AFSCME, District Council 20, Local 2743 v. DISB*, 71 D.C. Reg. 4050, Slip Op. No. 1864 at 2, PERB Case No. 23-U-06 (2024). In one of these cases, PERB Case No. 21-U-17, AFSCME submitted an affidavit by the

a memorandum to the Compliance Analysis Division Director (CAD Director) requesting reevaluation of the Complainant's preliminary FY22 Performance Evaluation and a seven (7) percent Performance Allowance, as defined by the District Personnel Manual (DPM) Chapter 11B-59.[5] The Complainant further requested that any denial of this Performance Allowance be included in his personnel file along with a written rationale for the denial.[6] On November 4, 2022, the Complainant reiterated this request for a rationale for denying him a Performance Allowance in an email to multiple DISB management officials, as well as highlighting his high key performance indicators.[7] On November 22, 2022, the Complainant filed a grievance at steps 1 and 2 regarding DISB's failure to grant him a Performance Allowance, alleging that DISB had violated D.C. Official Code § 1-617.04 and Article 23 of the parties' collective bargaining agreement (CBA).[8]

On September 20, 2023, PERB held a hearing on the matter. On January 2, 2024, the Hearing Examiner issued a report and recommendations (Report) concluding that DISB had committed an unfair labor practice by denying the Complainant a Performance Allowance in retaliation for his protected union activity.[9] The Hearing Examiner, out of concern that DISB's unfair labor practices would taint the typical procedure for recommending an employee for a Performance Allowance, further recommended that the Board order DISB to implement the requested Performance Allowance, including interest.[10] On March 21, 2024, the Board affirmed the Hearing Examiner's Report, finding that DISB had committed an unfair labor practice against the Complainant and ordering the agency to make the Complainant whole by paying him the requested seven (7) percent Performance Allowance bonus for FY22 and four (4) percent interest from the date the bonus should have been paid.[11]

On April 5, 2024, DISB filed a motion for reconsideration (Motion) of the Board's decision in Opinion 1864. DISB argued that: (1) the ordered remedy was contrary to law; and (2) the Board

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Complainant's former supervisor asserting that the Deputy Commissioner had told her that the Complainant spent too much "Agency time" having union-related conversations, as well as that DISB management "were tired of [the Complainant] and that he has to go." *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 3. The parties in Opinion 1864 stipulated the affidavit into evidence. *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 3.

[5] *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 2.

[6] *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 2.

[7] *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 2-3.

[8] *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 3. The Complainant moved the Grievance to step 3 on December 5, 2022. On December 19, 2022, the DISB Deputy Commissioner responded via letter asserting that the Grievance was deficient and therefore not in line with the requirements of the parties' CBA. The Deputy Commissioner further asserted that the step 3 Grievance was both untimely, as the Complainant had not met "settlement effort" requirements of the CBA, and "not ripe and moot," as the Complainant's FY22 Performance Evaluation had not been finalized. The Deputy Commissioner stated that the Complainant had ten (10) days to correct the asserted deficiencies. On January 11, 2023, the Complainant moved the Grievance to step 4 and requested arbitration. On January 18, 2023, DISB denied the Grievance as untimely and vague. Moreover, DISB held that the grievance did not arise out of the parties' CBA, and that "the subject matter of performance allowance is non-arbitrable." *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 3.

[9] *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 1, 5-6.

[10] *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 6.

[11] *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 10. The Board further ordered DISB to post an attached Notice and notify the Board of its compliance with the order. *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1864 at 10.

erred in finding that AFSCME had met its burden under the *Wright Line* test.[12] On June 26, 2024, the Board found that DISB's Motion consisted solely of new arguments that could have been, but were not, presented to the Hearing Examiner, and, therefore, had been waived by DISB.[13] Consequently, the Board denied DISB's Motion. DISB did not appeal the Board's denial of its Motion to the D.C. Superior Court within thirty (30) days.

On August 16, 2024, AFSCME filed the instant Petition. AFSCME contends that DISB has failed to comply with Opinion 1864 in its entirety and requests that the Board: (1) recommend disciplinary action against multiple DISB management officials; and (2) seek enforcement in the Superior Court to compel DISB to comply with the Board's order in Opinion 1864.[14]

III. The Union's Entitlement to Relief

The elements for granting a petition for enforcement are present in the instant case. AFSCME prevailed in the original case before the Board. DISB filed a motion for reconsideration of Opinion 1864, which was denied in Opinion No. 1876 (Opinion 1876). DISB's arguments against the Petition constitute mere repetition of arguments from its Motion. DISB failed to appeal the denial of the Motion to the Superior Court but has still refused to comply with the Board's order. While DISB's Answer purports to deny facts asserted by the Petition, these denials are primarily semantic and do not amount to any genuine or material factual dispute regarding its failure to comply with the Board's order in Opinion 1864.

The Board has held that, when there is no genuine dispute over the terms of an arbitration award, a failure to comply with those terms is an unfair labor practice.[15] The Board has applied that holding to the enforcement of orders in unfair labor practice cases.[16] DISB's failure to comply with the Board's order in Opinion 1864, although purportedly because of a statutory prohibition on compliance, amounts to a flat refusal to comply with the Board's order. If DISB wished to genuinely dispute the legality of its compliance with the Board's order, the agency could have appealed the Board's denial of its Motion to the Superior Court.

It is undisputed that the Board's order reaffirming its decision in Opinion 1864 became final and that DISB did not comply with the order after an unsuccessful motion for reconsideration and no attempt to seek review with the Superior Court. Therefore, the Petition for Enforcement is granted. The Board will seek judicial enforcement of Opinion 1864 in its entirety, as provided by D.C. Official Code § 1-617.13(b). The Board will also seek costs and attorney fees incurred in seeking judicial enforcement of Opinion 1864. Further, the Board has considered AFSCME's

[12] *AFSCME, District Council 20, Local 2743 v. DISB*, 71 D.C. Reg. 10660, Slip Op. No. 1876 at 2, PERB Case No. 23-U-06(MFR) (2024).
[13] *AFSCME, District Council 20, Local 2743 v. DISB*, Slip Op. No. 1876 at 5.
[14] Petition at 4-5. The Complainant also reiterates the original order from Opinion 1864 in its prayer for relief. Petition at 5-6.
[15] *FOP/MPD Labor Comm. v. MPD*, 68 D.C. Reg. 6740, Slip Op. No. 1790 at 2, PERB Case No. 21-E-08 (2021) (citing *AFGE, Local 2725, AFL-AO v. DCHA*, 46 D.C. Reg. 6278, Slip Op. No. 585 at 3, PERB Case Nos. 98-U-20, 99-U-05 and 99-U-12 (1999)).
[16] *AFSCME, District Council 20, Local 2921, AFL-CIO v. DCPS*, 62 D.C. Reg. 5904, Slip Op. No. 1512 at 4, PERB Case No. 12-E-10 (2015).

request to recommend disciplinary action against multiple DISB management officials. The Board finds that such relief is not warranted at this time.

ORDER

IT IS HEREBY ORDERED THAT:

1. The American Federation of State, County and Municipal Employees, Local 2743's petition for enforcement is granted;

2. The American Federation of State, County and Municipal Employees, Local 2743's request for a recommendation of disciplinary action against Department of Insurance, Securities and Banking management officials is denied;

3. Within seven (7) days from the issuance of this Decision and Order, the Department of Insurance, Securities and Banking shall fully comply with the Board's order in Opinion No. 1864, if it has not already done so, and shall notify the Public Employee Relations Board in writing that it has complied;

4. The Board shall proceed with enforcement of Opinion 1864, pursuant to D.C. Official Code §§ 1-605.02(16) and 1-617.13(b), if full compliance with Opinion 1864 is not made and documented within seven (7) days of the issuance of this Decision and Order; and

5. 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 Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons and Peter Winkler.

January 16, 2025

Washington, D.C.

Notice: This decision may be formally revised 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 State, County and Municipal Employees, Local 2743	
Complainant	PERB Case Nos. 24-U-12 & 24-U-15
v.	Opinion No. 1903
District of Columbia Department of Insurance, Securities and Banking	
Respondent	

REMAND ORDER AND INSTRUCTIONS

On January 10, 2024, the American Federation of State, County and Municipal Employees, Local 2743 (AFSCME) filed an unfair labor practice complaint (24-U-12 Complaint) against the District of Columbia Department of Insurance, Securities and Banking (DISB) asserting that DISB violated §§ 1-617.04(a)(1-5) of the Comprehensive Merit Personnel Act (CMPA) by investigating and disciplining an employee (Complainant), the AFSCME Vice-President, in violation of his right to union representation and in retaliation for protected union activity.[1] On February 1, 2024, AFSCME filed an unfair labor practice complaint (24-U-15 Complaint) against DISB asserting that DISB violated D.C. Official Code § 1-617.04(a)(4) by suspending the Complainant for nine (9) days without pay in retaliation for protected union activity.[2] On July 22, 2024, PERB held a hearing on the matter. On September 20, 2024, the Hearing Examiner issued a report and recommendations (Report) finding that DISB had not committed any unfair labor practices which merited relief under the CMPA.[3]

[1] 24-U-12 Complaint at 2-5 (citing D.C. Official Code § 1-617.04(a)(1-5)).
[2] 24-U-15 Complaint at 4 (citing D.C. Official Code § 1-617.04(a)(4)). On January 24, 2024 and February 20, 2024, DISB filed answers to each Complaint respectively (24-U-12 Answer and 24-U-15 Answer). On April 19, 2024, PERB consolidated the two Complaints.
[3] Report at 17. On October 7, 2024, AFSCME filed exceptions to the Report (Exceptions). On October 21, 2024, DISB filed an opposition to AFSCME's Exceptions (Opposition to Exceptions). The Exceptions included a request for oral argument before the Board. Exceptions at 1, 19. The Board has determined that it requires no further information from the parties in order to render a decision to remand; therefore, AFSCME's request for oral argument is denied.

The Board hereby orders this matter remanded to the Hearing Examiner for re-application of the *Wright Line* test under the proper burden-shifting framework. The Board requests that the Hearing Examiner review the application of the requirements for a complainant to establish a *prima facie* case of retaliation and the burden-shifting standard in *Wright Line* to the facts of the instant matter.

The Board notes that it has adopted the framework set forth by the National Labor Relations Board (NLRB) in *Wright Line*,[4] that a complainant must establish a *prima facie* case by showing that the complainant's exercise of a protected right was a "motivating factor" in the employer's disputed action.[5] To establish a *prima facie* case of retaliation, a complainant must establish that: (1) the employee engaged in protected union activity; (2) the employer knew about the employee's protected union activity; (3) there was anti-union animus or retaliatory animus by the employer; and (4) as a result, the employer took an adverse employment action against the employee.[6] The NLRB recently reiterated that requiring the "identification of a causal nexus as a separate element … is superfluous."[7]

The Board requests that the Hearing Examiner review and provide an updated analysis in a Report and Recommendations no later than February 22, 2025.

ORDER

IT IS HEREBY ORDERED THAT:

1. This matter is remanded to the Hearing Examiner for the proper application of the *Wright Line* burden-shifting test; 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 Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons and Peter Winkler.

January 16, 2025

Washington, D.C.

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[4] *Wright Line*, 251 NLRB 1083 (1980).
[5] *Bagenstose v. DCPS*, 38 D.C. Reg. 4155, Slip Op. No. 270, PERB Case Nos. 88-U-33 and 88-U-34 (1991).
[6] *AFGE, Local 2978 v. District of Columbia Office of the Chief Medical Examiner*, 60 D.C. Reg. 5801, Slip Op. No. 1348 (Amended) at 4, PERB Case No. 09-U-62 (2013) (citing *Doctors Council of the District of Columbia v. District of Columbia Comm'n on Mental Health Services*, 47 D.C. Reg. 7568, Slip Op. No. 636 at 3, PERB Case No. 99-U-06 (2000); and *DCNA v. District of Columbia Health and Hospitals Pub. Benefit Corp.*, 46 D.C. Reg. 6271, Slip Op. No. 583, PERB Case No. 98-U-07 (1999)).
[7] *Intertape Polymer Corp.*, 372 NLRB No. 133 at 9 (2023) (citing *Tschiggfrie Properties*, 368 NLRB No. 120 at 7 (2019)).

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFF

ELECTRIC TARIFF 00-2, IN THE MATTER OF POTOMAC ELECTRIC POWER COMPANY'S PUBLIC SPACE OCCUPANCY SURCHARGE ELECTRICITY TARIFF, 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 Official Code and in accordance with Section 2-505 of the District of Columbia Official Code,[1] of its intent to act upon the Potomac Electric Power Company's (Pepco or Company) - Public Space Occupancy Surcharge Rider (Rider PSOS or Surcharge Update) 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 February 21, 2025, pursuant to D.C. Code Section 10-1141.06,[2] Pepco filed with the Commission an updated Rider PSOS.[3] In the filing, Pepco shows the process to be used to recover from its customers the fees paid by Pepco to the District of Columbia (District) for the rental of public structures in public space. Pepco proposes to amend the following tariff pages to reflect the update in the Rider PSOS:

ELECTRICITY TARIFF, P.S.C.-D.C. No. 1

(Former) One Hundred-Sixty-Fifth Revised Page No. 2
One Hundred-Fifty-Eighth Revised Page No. 2.1
One Hundred-Fifty-Sixth Revised Page No. 2.2
Twenty-Eighth Revised Page No. R-33

(New) One Hundred-Sixty-Sixth Revised Page No. 2
One Hundred-Fifty-Ninth Revised Page No. 2.1
One Hundred-Fifty-Seventh Revised Page No. 2.2
Twenty-Ninth Revised Page No. R-33

3. According to Pepco, the Surcharge Update consists of two parts reflecting: 1) the payments to be made by Pepco to the District for the current calendar year; and 2)

[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] *Electric Tariff 00-2, In the Matter of Potomac Electric Power Company's Public Space Occupancy Surcharge Electricity Tariff, P.S.C.-D.C. No. 1* (*ET00-2*), Potomac Electric Power Company's Rider "PSOS," filed February 21, 2025 (Surcharge Update).

the over or under recovery from the prior year.[4] The Rider PSOS sets forth how each component of the annual update is to be calculated.[5] In its filing, Pepco trued-up the cumulative prior year over and under recoveries from 2001 up to the date of the current filing.[6] Pepco asserts that the cumulative amount from these years is an under-collection of $169,171.[7] The Company includes the supporting calculations for the revised Rider PSOS surcharge rate in Attachment B. Pepco proposes a PSOS rate of $0.00228 per kilowatt-hour delivered to the customer, which is a decrease from the current PSOS rate of $0.00233 per kilowatt-hour approved in 2024.[8] Pepco proposes its Surcharge Update to become effective on and after March l, 2025.[9]

4. The Company has a statutory right to implement its filed PSOS. However, if the Commission discovers any inaccuracies in the calculation of the proposed PSOS, Pepco could be subject to reconciliation of the PSOS.

5. 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, and sent electronically on the Commission's website at https://edocket.dcpsc.org/public/public_comments. Copies of the proposed tariff amendment may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket" tab, click on "Search Current Dockets," and input "ET00-2" as the case number. Copies may also be purchased at cost by contacting the Commission Secretary at the address provided above. Persons with questions concerning this 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 the Surcharge Update.

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

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

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4 *ET00-2*, Surcharge Update at 1.

5 *ET00-2*, Surcharge Update at 1 and Attachment B. *See also ET00-2*, Order No. 11737, ¶ 9, rel. July 14, 2000 (Wherein the Commission noted that Pepco's filing included a method for calculating a true-up).

6 *ET00-2*, Surcharge Update at 1 and Attachment B at 1.

7 *ET00-2*, Surcharge Update at 1 and Attachment B at 2.

8 *ET00-2*, Surcharge Update at 2 and Attachment B.

9 *ET00-2*, Surcharge Update at 1.

DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF ADMINISTRATIVE LAW JUDGES OF THE OFFICE OF ADMINISTRATIVE HEARINGS

NOTICE SEEKING COMMENTS REGARDING REAPPOINTMENT OF ADMINISTRATIVE LAW JUDGE

The Commission on Selection and Tenure of Administrative Law Judges ("Commission") seeks comments regarding the potential reappointment of Administrative Law Judge Alexis Taylor.

Pursuant to D.C. Mun. Regs. tit. 6-B, § 3705.7, this is to notify attorneys, litigants, and members of the public that the Commission will consider ALJ Taylor's qualifications for reappointment to the District of Columbia Office of Administrative Hearings. ALJ Taylor has filed a statement with the Commission requesting reappointment to a six-year term upon the expiration of her current six-year term on June 11, 2025.

D.C. Mun. Regs. tit. 6-B, § 3705.21:

> In deciding whether to reappoint an Administrative Law Judge, the Commission shall consider all information it has received concerning the reappointment, and the voting members shall give significant weight to the recommendation of the Chief Administrative Law Judge, unless they determine that the recommendation is not founded on substantial evidence. The Commission shall reappoint the Administrative Law Judge if it finds that the Administrative Law Judge has satisfactorily performed the responsibilities of his or her office and is likely to continue to do so.

In addition to the specific qualifications contained in D.C. Mun. Regs. tit. 6-B, § 3703 (*Appointment, Reappointment, Discipline and Removal of Administrative Law Judges by the Commission on Selection and Tenure of Administrative Law Judges)*, applicable to all Administrative Law Judges, D.C. Mun. Regs. tit. 6-B, § 3703.5 states: "An Administrative Law Judge shall possess judicial temperament, judgment, expertise and analytical and other skills necessary and desirable for an Administrative Law Judge."

The Commission hereby requests that any interested party submit any information bearing on ALJ Taylor's qualifications, which they believe will aid the Commission in deciding whether to reappoint this Administrative Law Judge. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting information shall be kept confidential unless expressly authorized by the person submitting the information.

All comments must be received by the Commission on or before thirty days **(30 days)** after publication of this Notice in the D.C. Register. Comments may be personally delivered, sent by postal mail, or emailed.

Comments sent by postal mail or personally delivered musted be sealed in an envelope marked "Confidential – ALJ Reappointments," at the following address:

Commission on Selection and Tenure of Administrative Law Judges
c/o OAH Clerk of Court Designee Jacqueline Spencer
441 4th Street, N.W.
Suite 450N
Washington, D.C. 20001

Comments may be emailed to Jacqueline Spencer at jacqueline.spencer1@dc.gov .

The members of the Commission are:

The Honorable Robert Rigsby
Chief Administrative Law Judge M. Colleen Currie
Rob Hawkins, Esq.
Laura E. Hankins, Esq.
Adele El-Khouri, Esq.

DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF ADMINISTRATIVE LAW JUDGES OF THE OFFICE OF ADMINISTRATIVE HEARINGS

NOTICE SEEKING COMMENTS REGARDING REAPPOINTMENT OF ADMINISTRATIVE LAW JUDGE

The Commission on Selection and Tenure of Administrative Law Judges ("Commission") seeks comments regarding the potential reappointment of Administrative Law Judge Deborah Carroll.

Pursuant to D.C. Mun. Regs. tit. 6-B, § 3705.7, this is to notify attorneys, litigants, and members of the public that the Commission will consider ALJ Carroll's qualifications for reappointment to the District of Columbia Office of Administrative Hearings. ALJ Carroll has filed a statement with the Commission requesting reappointment to a six-year term upon the expiration of her current six-year term on June 11, 2025.

D.C. Mun. Regs. tit. 6-B, § 3705.21:

> In deciding whether to reappoint an Administrative Law Judge, the Commission shall consider all information it has received concerning the reappointment, and the voting members shall give significant weight to the recommendation of the Chief Administrative Law Judge, unless they determine that the recommendation is not founded on substantial evidence. The Commission shall reappoint the Administrative Law Judge if it finds that the Administrative Law Judge has satisfactorily performed the responsibilities of his or her office and is likely to continue to do so.

In addition to the specific qualifications contained in D.C. Mun. Regs. tit. 6-B, § 3703 (*Appointment, Reappointment, Discipline and Removal of Administrative Law Judges by the Commission on Selection and Tenure of Administrative Law Judges)*, applicable to all Administrative Law Judges, D.C. Mun. Regs. tit. 6-B, § 3703.5 states: "An Administrative Law Judge shall possess judicial temperament, judgment, expertise and analytical and other skills necessary and desirable for an Administrative Law Judge."

The Commission hereby requests that any interested party submit any information bearing on ALJ Carroll's qualifications, which they believe will aid the Commission in deciding whether to reappoint this Administrative Law Judge. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting information shall be kept confidential unless expressly authorized by the person submitting the information.

All comments must be received by the Commission on or before thirty days **(30 days)** after publication of this Notice in the D.C. Register. Comments may be personally delivered, sent by postal mail, or emailed.

Comments sent by postal mail or personally delivered musted be sealed in an envelope marked "Confidential – ALJ Reappointments," at the following address:

Commission on Selection and Tenure of Administrative Law Judges
c/o OAH Clerk of Court Designee Jacqueline Spencer
441 4th Street, N.W.
Suite 450N
Washington, D.C. 20001

Comments may be emailed to Jacqueline Spencer at jacqueline.spencer1@dc.gov.

The members of the Commission are:

The Honorable Robert Rigsby
Chief Administrative Law Judge M. Colleen Currie
Rob Hawkins, Esq.
Laura Hankins, Esq.
Adele El-Khouri, Esq.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Operations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will hold a meeting via Microsoft Teams on Thursday, March 20, 2025 at 9:30 a.m. This meeting will not be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. The Chief Executive Officer and General Manager invites the public to attend the meeting via Microsoft Teams. Below is the draft agenda for this meeting. Please see the final agenda to DC Water's website at www.dcwater.com, which will include remote access information for this meeting.

For additional information, please contact Michelle Rhodd, Board Secretary at (202) 787-2331 or Michelle.Rhodd@dcwater.com.

DRAFT AGENDA

1. Call to Order	Committee Chairperson
2. Roll Call	Board Secretary
3. AWTP Status Updates - BPAWTP Performance	Vice-President, Wastewater Ops
4. Project Status Updates	Vice-President of Engineering & Technical Services
5. Water Quality Monitoring	Vice-President, Water Ops
6. Action Items - Joint Use - Non-Joint Use	 Chief Operating Officer and EVP Vice President of Procurement
7. Emerging Items/Other Business	Committee Chairperson
8. Executive Session	Committee Chairperson
9. Adjournment	Committee Chairperson

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 WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Human Resources and Labor Relations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will hold a meeting via Microsoft Teams on Wednesday, March 12, 2025, at 9:30 a.m. This meeting will **not** be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. The Chief Executive Officer and General Manager invites the public to attend the meeting via Microsoft Teams. Below is the draft agenda for this meeting. Please see the final agenda will be posted to DC Water's website at www.dcwater.com, which will include the remote access information for this meeting.

For additional information, please contact Michelle Rhodd, Board Secretary at (202) 787-2331 or Michelle.Rhodd@dcwater.com.

DRAFT AGENDA

1. Call to Order	Committee Chairperson
2. Action Items	Chief People and Inclusion Officer and EVP, People and Talent
3. Other Business	Committee Chairperson
4. Executive Session	Committee Chairperson
5. Adjournment	Committee Chairperson

*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***.**

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 03-05A
Z.C. Case No. 03-05A
NRP Properties, LLC
(Modification of Significance to Approved Planned Unit Development and Related Zoning Map Amendment @ Square 770, Lot 804)
July 25, 2024

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a virtual public hearing on July 1, 2024, to consider the application (the "Application") of NRP Properties, LLC ("Applicant") for approval of a Modification of Significance to a Planned Unit Development ("PUD") and related Zoning Map Amendment ("Map Amendment") approved by the Commission in Z.C. Order No. 03-05 for Lot 804 in Square 770 (the "Property").

The Commission reviewed the Application pursuant to Subtitle Z, Chapters 4 and 7 of the Zoning Regulations for 2016, Title 11 of the District of Columbia Municipal Regulations (the "Zoning Regulations" or "ZR-16"). For the reasons stated below, the Commission hereby **APPROVES** the Application.

FINDINGS OF FACT

I. Background

Prior Approval and the Overall PUD Site

1. Pursuant to Z.C. Order 03-05 dated April 16, 2004 (the "Original Order"), the Commission approved a consolidated PUD and related Map Amendment from unzoned to the C-3-C[1] zone for Lot 39, Lot 803 and Lot 804 in Square 770 (collectively, the "PUD Site") (Exhibit ["Ex."] 3).[2]

2. The PUD Site has a total land area of 391,342 square feet, excluding land dedicated for the nearby public street network, and is generally bound by M Street, S.E. to the north, New Jersey Avenue, S.E. to the west, Tingey Street, S.E. to the south and 4th Street, S.E. to the east. The PUD Site is located in "The Yards" neighborhood, a high-density, mixed-use area along the Anacostia River. Much of "The Yards" has been redeveloped over the past two decades (Ex. 3).

3. The centerpiece of the PUD is two office buildings that are the headquarters for the U.S. Department of Transportation (the "DOT Buildings") located on the parcel to the north of the Property. The DOT Buildings have a height of 121 feet and 109 feet, respectively, and a total of 1,454,008 square feet of gross floor area, which equates to a floor-area-ratio ("FAR") of 3.8. There is a below-ground parking garage with 936 spaces and six loading berths (Ex. 3).

[1] Z.C. Order 03-05 was approved under the 1958 Zoning Regulations. Under ZR-16, the C-3-C zone was re-designated as the MU-9 zone.
[2] References are based on current lot numbers. As discussed below, the modifications will occur on Lot 804.

4. The PUD also included 13,900 square feet of retail space in two small structures located adjacent to the DOT Buildings as well as through the adaptive reuse of historically contributing Building 170 on Lot 803 (Ex. 3).

5. For the Property, the PUD proposed a one-story retail structure with approximately 4,000 square feet. In conjunction with the retail structure, the PUD contemplated 35,000 square feet of publicly accessible open space on the PUD Site, including space on adjacent Lot 803 and a publicly accessible plaza area on the Property (Ex. 3).

6. Overall, the PUD was approved with an FAR of 3.8, a maximum height of 130 feet, and a lot occupancy of 52%. As part of the Original Order, the Commission granted flexibility for vehicular parking, including the grouping of compact vehicles and number of spaces for retail uses, and roof structure setback (Ex. 3).

Parties

7. The following were automatically parties to this proceeding pursuant to Subtitle Z § 403.5:
   - The Applicant; and
   - Advisory Neighborhood Commission ("ANC") 8F, the ANC in which the Property is located and, therefore, an "affected ANC" pursuant to Subtitle Z § 101.8.

8. The Commission received no requests for party status.

Notice

9. Pursuant to Subtitle Z § 300.7, on August 11, 2023, the Applicant mailed a Notice of Intent to file a Zoning Application to all property owners within 200 feet of the Property and to the ANC (Ex. 3E).

10. Pursuant to Subtitle Z § 402, the Office of Zoning ("OZ") provided notice of the July 1, 2024 virtual public hearing by a letter dated May 14, 2024, with the Notice of Public Hearing sent to (Ex. 14-15):
    - Applicant;
    - ANC 8F;
    - ANC Single Member District ("SMD") 8F02;
    - Councilmember Trayon White;
    - Office of ANCs;
    - Office of Planning ("OP");
    - D.C. Department of Transportation ("DDOT");
    - D.C. Department of Buildings ("DOB");
    - Zoning Commission lead attorney;
    - D.C. Department of Energy and Environment ("DOEE");
    - At-Large Councilmembers and the Chair of the Council; and
    - Owners of property within 200 feet of the Property.

11. OZ published of the Notice of Public Hearing in the May 24, 2024, edition of the *District of Columbia Register* (71 DCR 6387 *et seq.*) (Ex. 14A).

12. Pursuant to Subtitle Z § 402.3, the Applicant posted notice of the hearing on the Property on May 21, 2024, and maintained such notice in accordance with Subtitle Z § 402.10 (Ex. 16, 24).

Current Zoning

13. Prior to the PUD, the PUD Site, including the Property, was unzoned federal land. Pursuant to the Original Order, the PUD Site, including the Property, was rezoned to the MU-9 zone (formerly C-3-C zone).

Comprehensive Plan

14. The Comprehensive Plan's (Title 10A of the D.C. Municipal Regulations) Future Land Use Map ("FLUM") identifies the Property for "High-Density Residential" and "High-Density Commercial," uses. The "High-Density Residential" designation includes "neighborhoods and corridors, generally, but exclusively, suited for high-rise apartment buildings" where "density is typically greater than a FAR of 4.0, and greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development." (10A DCMR § 227.8). The "High-Density Commercial" designated is defined to include "commercial areas with the greatest scale and intensity of use in the District…with densities greater than a FAR of 6.0…" (10A DCMR § 227.13). The "High-Density Commercial" designation is consistent with the MU-9 zone (*Id.*).

15. The Comprehensive Plan's Generalized Policy Map ("GPM") identifies the Property as a "Regional Center," which is an area for the "largest range of commercial functions outside the Central Employment Area and are likely to have major department stores, many specialty shops, concentrations of restaurants, movies, and other leisure or entertainment facilities. They typically draw patrons from across the city, as well as patrons from nearby suburban areas. A large office component is also associated with Regional Centers. As with Multi-Neighborhood Center, infill development at Regional Centers should provide new retail, entertainment, service uses, additional housing, and employment opportunities (10A DCMR § 225.19). The GPM also identifies the Property as within a "Resilience Focus Area," which is intended for areas within the 100- and 500-year floodplain (10A DCMR § 304.7).

16. The Comprehensive Plan designates the PUD Site as within the Lower Anacostia Waterfront/Near Southwest Area Element.

Anacostia Waterfront Framework Plan

17. The Anacostia Waterfront Framework Plan is a 2003 policy document that is intended to guide the revitalization of Anacostia Waterfront areas and bridge the gap between communities west and east of the river. The Framework Plan identifies the Near Southeast Waterfront, which includes the PUD Site and the Property, as a target area (Ex. 3). .

II. The Application

The Project

18. The Application only proposes modifications to the Property, which was previously approved for a one-story retail structure. The remainder of the PUD Site, including the DOT Buildings and Building 170, are not impacted by the Application.

19. In place of the approved approximately 4,000 square foot retail structure, the Application proposes to construct a new, 12-story plus penthouse, mixed-use building (the "Project") at the Property. The Project features 127 new dwelling units, all of which will be affordable, and approximately 2,653 square feet of ground level retail space (Ex. 3).

20. Overall, the Applicant proposes the Project to have:
    - Approximately 123,233 square feet of gross floor area ("GFA"), plus habitable penthouse space, for a total FAR of 5.58 on the Property;
    - A maximum building height of 130 feet plus a penthouse of 17 feet;
    - A lot occupancy of 48%;
    - 127 dwelling units to include 40 three-bedroom units. The Project will also have residential amenities to include a children's playroom, a gym, a business center, and wrap-around services. All of the residential units will be affordable, with the average affordability of all units no greater than 60% Area Median Income ("AMI");
    - 56 long-term bicycle parking spaces and 10 short-term bicycle parking spaces;
    - No on-site parking or loading facilities; and
    - A proposed public space plan to include a 48-foot loading zone and 40-foot pick-up/drop-off zone on New Jersey Avenue, S.E. and a 60-foot loading zone on Tingey Street, S.E.

    (Ex. 3, 3J1-3J4, 28A, 28C).

21. The Project will maintain approximately 10,175 square feet of open plaza space on the Property, including the portion along New Jersey Avenue, S.E. and to the rear of the Project adjacent to Building 170.[3] (Ex. 3)

22. The Project's architecture is intended to reflect a harmony of modern aesthetics and historical warehouse influences common to the area. The base of the building is clad in black speckled brick, which lends a contemporary and upscale appearance to the structure. The street-level storefront extends almost 12 feet and is designed to be accessible at grade, enhancing interaction with the urban environment. Unique designed pillars between the storefront sections are angled, creating a dynamic and visually engaging pedestrian experience. The building's typical floors continue with the use of brick while introducing metal panels, emphasizing intricate brick detailing to add depth and character to the façade. The bricks are carefully layered, creating an undulating facade that provides a textured appearance from the viewer's perspective. Metal panels serve as a backdrop, offering a

[3] The open space in the Project is reduced from 35,000 sq. ft. to approximately 22,175 sq. ft. (Ex. 13).

contrast to the warm tones of the brickwork. Punched windows, inspired by the scale and openings of historical warehouses, punctuate the brick façade (Ex. 3).

23. The Project is designed to achieve Enterprise Green Communities Plus certification and will include a green roof and solar panels (Ex. 3).

Applicant's Submissions, Revisions and Testimony

24. On September 27, 2023, the Applicant filed the initial Application and related materials (Ex. 1-3J4).

25. On February 5, 2024, the Applicant filed a supplement to the Application in order to expand on the racial equity analysis provided in the Application (Ex. 10).

26. On April 18, 2024, the Applicant filed a prehearing statement, which responds to the issues and comments raised by the Commission during the March 14, 2024, set-down meeting as well as OP's comments in its March 4, 2024, report (Ex. 11) In sum, the prehearing statement included the following:

- Zoning Comparison Chart: To illustrate the proposed changes to the approved PUD, the Applicant provided a chart comparing the zoning development standards for the PUD Site and the Property;
- Zoning Relief/Flexibility Chart: In response to Commission comments regarding changes to the relief/flexibility approved in the Original Order, the Applicant provided a chart outlining the new flexibility requests in the Application;
- Public Benefits Chart: The Commission sought an understanding as to how the Project might impact the public benefits proffers in the PUD. In response, the Applicant provided a chart outlining each public benefit, whether the public benefit has been completed, and if the Project would impact any approved public benefits. As detailed, the Project impacts the public benefit concerning the provision of 35,000 square feet of open plaza space;
- Conditions Chart: The Applicant provided a chart outlining all conditions in the Original Order and whether the conditions have been met;
- Architectural Comparison: The Applicant provided an architectural comparison between the one-story retail structure in the approved PUD and the proposed Project; and
- Vehicular Parking Clarification: Due to a typographic error in the original statement, the Applicant clarified the number of parking spaces that are required for the Project and the flexibility from vehicular parking being requested.[4]

(Ex. 13)

27. On May 31, 2024, the Applicant submitted a Transportation Statement prepared by Gorove/Slade, the Applicant's traffic and transportation expert (Ex. 18-18B). The findings of the study included:

[4] The Applicant's statement in support (Ex. 3) incorrectly stated that the Project requires 29 vehicular parking spaces; however, the Project requires 21 vehicular parking spaces, from which the Applicant seeks flexibility.

- The 101 Tingey Street, S.E. site is surrounded by a very well-connected existing network of transit, bicycle, and pedestrian facilities that result in an environment for safe, enjoyable, and effective non-vehicular transportation;
- The requested flexibility from the requirement to provide on-site parking spaces is not expected to have a detrimental impact due to the site's proximity to transit, carsharing facilities, nearby publicly available parking garages with over 1,600 publicly available spaces, and bicycle facilities;
- The requested flexibility for one loading berth and one service/delivery space is not expected to have a detrimental impact due to the proposed on-street loading zones on New Jersey Avenue, S.E. and Tingey Street, S.E.;
- The proposed project will provide short- and long-term bicycle parking in excess of zoning requirements;
- The proposed project will calm traffic along New Jersey Avenue, S.E. by installing curb extensions along the east side of New Jersey Avenue, S.E. to decrease the roadways' widths and reduce crossing distances;
- The proposed project will install a sidewalk-level bicycle lane on New Jersey Avenue, S.E. maintaining existing bicycle connectivity and providing separation from the vehicular travel lane;
- The proposed project will include TDM measures that adequately promote non-vehicular modes of travel;
- The proposed project will establish an LMP that will ensure efficient operation of the on-street loading and pick-up/drop-off zones; and
- The proposed project will not have an adverse impact on the surrounding transportation network.

28. On June 11, 2024, the Applicant filed a supplemental statement, as permitted under Subtitle Z § 401.5, which included the following:
- Architectural Updates: The Applicant provided an updated architectural plan set that included revisions to the public space design to incorporate enhanced curbside loading and pick-up/drop-off areas. The curbside loading and pick-up/drop off area are intended to mitigate any impacts due to the Project's lack of on-site loading. The updated plan set also included minor adjustments to the layout of two-unit types and façade materiality. As a follow up to the charts provided in the prehearing statement (Ex. 13), the updated plans further incorporate diagrams to illustrate the proposed changes to the approved PUD;
- Transportation Demand Management and Loading Management: The Applicant highlighted the proposed transportation demand management plan ("TDM") and loading management plan ("LMP") set forth in the transportation statement. The Applicant noted that it would engage the ANC and DDOT on the proposed TDM and LMP;
- Affordability Levels: The Applicant clarified the affordability levels for the Project. The Applicant proffered that the average affordability of all units in the Project will be no greater than 60% AMI, with some units as low as 30% AMI; and
- Community Outreach: The Applicant summarized the community outreach conducted since the setdown meeting, including the meetings and correspondence with the ANC:

- The Applicant presented Project updates to the ANC at its public meeting on April 23, 2024. The ANC identified the importance of transportation and loading management at the Property since the Project will not incorporate on-site parking or loading. Accordingly, in mid-May, the Applicant provided the TDM and LMP to the ANC.

(Ex. 19-19A4)

29. Testimony at the public hearing on July 1, 2024, including a PowerPoint presentation (Ex. 25). Four witnesses testified during the Applicant's presentation: Chris Marshall from NRP Properties, LLC; Babatunde Oloyedo from Marshall Heights Community Development Organization; Sean Pichon from Michael Graves Architects; and Daniel VanPelt from Gorove/Slade Associates. Mr. Goins and Mr. VanPelt were accepted as expert witnesses by the Commission (July 1, 2024, Public Hearing Transcript "Tr."):

- With respect to community outreach, the Applicant stated that it continued its dialogue with the ANC as follows:
  - May/June 2024 – Correspondence with ANC regarding transportation issues; and
  - June 18, 2024 – Applicant presents to ANC 8F at public meeting with focus on transportation discussion.

30. On July 8, 2024, the Applicant filed a post-hearing submission responding to issues and comments from the Commission and the ANC raised during the July 1, 2024, hearing. The post-hearing submission included the following:

- Revised Public Space Plan and Architectural Updates: The Applicant included revised public space and architectural plans to address comments from the Commission and the ANC with regard to loading. The primary change is to move the Project's residential entrance from the Tingey Street façade to the New Jersey Avenue façade in order to funnel traffic and curbside congestion away from Tingey Street. The new entrance location is also a shorter walking distance from the curb on New Jersey Avenue. The Applicant proposed additional mitigating measures for the public space plan, including signage for the loading and pick-up/drop-off spaces, reserving the spaces for sole use of the Project, and installing cameras in public space to monitor the spaces for potential violations. The public space plan also proposed improved conflict zones for the bicycle lane on New Jersey Avenue to create safer conditions. Finally, the architectural plans included minor updates with additional details for the "Juliet" balconies and a reference to a proposed mural;
- OP Conditions: The Applicant confirmed that it agreed to two conditions requested by OP in its hearing report concerning the TDM and LMP as conditions to an approval and changes to design flexibility language to amend the residential units total to plus/minus 5% and to not allow a reduction in the proffered three-bedroom units;
- Enterprise Green Communities Plus Scorecard: In response to a request from the DOEE, the Applicant enclosed the proposed Enterprise Green Communities Plus scorecard; and
- Expert Resume: The Applicant enclosed the resume of Sean Pichon from Michael Graves.

(Ex. 28-28E)

31. On July 10, 2024, the Applicant filed draft proffers and conditions (Ex. 29-30).

32. On July 16, 2024, the Applicant filed the final version of the proffers of conditions (Ex. 34).

33. On July 23, 2024, the Applicant filed proposed findings of fact and conclusions of law pursuant to Subtitle Z § 601.1 (Ex. 35-35A).

Relief Requested

34. The Applicant requested additional PUD-related zoning flexibility pursuant to Subtitle X § 303.1, as follows:
- To provide zero vehicular parking spaces where 21spaces[5] are required for the Project pursuant to Subtitle C § 701.5;
- To provide zero loading berths or service-delivery spaces where 1 loading berth and 1 service-delivery space is required for the Project pursuant to Subtitle C § 901.1; and
- To allow a northern side yard of five feet in width where a side yard of 21.6 feet is required pursuant to Subtitle G § 208.2.

35. The Applicant also requested certain design flexibility to vary elements of the final plan set approved by the Commission and still comply with the requirements of Subtitle X § 311.2 and Subtitle Z § 702.8 to construct the Project in complete accordance with the final approved plans.

III. Applicant's Justification for Relief

36. Consistency with Comprehensive Plan and Other Public Policies (Subtitle X § 304.4(a)). The Applicant provided evidence that the Application complies with Subtitle X § 304.4(a) because the PUD remains not inconsistent with the Comprehensive Plan and other public policies related to the Property, as follows:
- *FLUM*: The Project is not inconsistent with the FLUM's designation for the Property, which is a mix of uses to include "High-Density Residential" and "High-Density Commercial." The Comprehensive Plan's Framework Element defines "High-Density Residential" to include "neighborhoods and corridors, generally, but not exclusively, suited for high-rise apartment buildings," where density greater than a 4.0 FAR "may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development." (10A DCMR § 227.8) Similarly, the Framework Element defines "High-Density Commercial" to include "commercial areas with the greatest scale and intensity of use in the district." (10A DCMR § 227.13) Densities greater than 6.0 FAR are predominant in the "High-Density Commercial" designation (*Id.*). The Project will have a density, scale and mix of uses that is consistent with the FLUM designations and in context with the surrounding built environment, which is almost

[5] The Commission took final action to approve a text amendment under Z.C. Case No. 23-17 on June 27, 2024, which will reduce the vehicular parking requirement for affordable housing developments by exempting the first 50 units and requiring 1 space per 3 units beyond those 50 units. The text amendment is not yet final and effective; however, when applied to this Project, the vehicular parking space requirement would reduce from 21 to 13 spaces, which is inclusive of the 50% transit reduction.

exclusively high-density, mixed-use development. The Project aligns with the evolution of planning guidance, including the FLUM designation, which has changed since the original PUD was approved (Ex. 3);

- *GPM*: The Project is not inconsistent with the GPM's designation for the Property of "Regional Center" because the Project is a vibrant, mixed-use building with new housing and retail space in the middle of a high-density and walkable neighborhood. The Project will also incorporate building standards to account for its location in the "Resilience Focus Area" (Ex. 3);
- *Racial Equity*: The Project advances racial equity goals by providing new, all-affordable units in a highly-amenitized, transportation-rich neighborhood. The Project will provide opportunities for individuals and families from a variety of income levels and backgrounds to live in a neighborhood that is otherwise predominantly market rate housing. The Project will contribute toward the affordable housing production goals in the Lower Anacostia Waterfront/Near Southwest Planning Area, which have otherwise not been met as identified in the Mayor's Order on Housing. The Project will also provide wrap-around services administered by Marshall Heights Community Development Organization, that will include job training, financial-literacy training and other offerings for residents. The Project achieves environmental equity goals by proposing to meet Enterprise Green Communities plus certification:
  - The Applicant stated that the Project will not cause any direct displacement of tenants or residents as the Property does not currently contain any residential use, that indirect displacement is not expected to occur in the area surrounding the Project, and that the additional affordable housing in the Project is likely to relieve pressure on existing housing stock and provide additional affordable housing options; and
  - The Applicant made the following observations and conclusions about the neighborhood in its responses to the Community Outreach and Engagement component of the Commission's Racial Equity Tool:
    - The Applicant focused its community outreach efforts on ANC 8F, which was active and well-organized.
    - ANC 8F Commissioners identified that the community is in need of more affordable housing; and
    - All of the residential developments in The Yards are majority market-rate apartments and condominiums. Therefore, the existing housing stock in the neighborhood is attainable only for more affluent residents, albeit with some limited affordable options through standard IZ set aside requirements. Given existing income disparities based on race, the neighborhood skews toward white residents. The Applicant believes the provision of 127 new all-affordable units in the heart of The Yards will begin to address some of these challenges; (Ex. 3, 10)
- *Citywide Elements*: The Project is not inconsistent with a number of policies reflected in the Comprehensive Plan's Citywide Elements, including:
  - Land Use Element: The Project will provide 127 new units of affordable housing with ground level retail space within blocks of a Metrorail station. The Project is an infill development of an unimproved site in the high-density Yards

neighborhood. The Project encourages non-auto-oriented transit, such as public transportation, bicycling and walking (Ex. 3);

- Transportation Element: The Project will improve the surrounding public space to encourage pedestrian and bicycle transportation. The Project discourages personal automobile use by not providing any on-site parking. The Project will exceed its long-term bicycle parking requirements and, therefore, residents will be more likely to utilize bicycle transportation. These findings are supported by the reports of both the Applicant's transportation expert, Gorove Slade, as well as DDOT (Ex. 3, 18-18B, 21);
- Housing Element: The Project will be all-affordable and includes 40 three-bedroom units, in a high-cost, neighborhood. The average affordability level of all units will be 60% AMI. The Property's location will ensure that families have access to one of the City's most "well-resourced" neighborhoods (Ex. 3, 19);
- Environmental Element: The Applicant is committed to achieving an Enterprise Green Communities Plus certification, which is a higher level of performance in what is already a leading standard for affordable housing development. The Project will also have a green roof and a solar panel array (Ex. 3); and
- Urban Design Element: The Project will provide exceptional urban architecture by incorporating high-quality materials and architectural styling that is complementary of the surrounding aesthetic. The Project makes efficient use of a relatively small lot that is restricted by encumbrances. Nonetheless, the Project will activate the surrounding streetscape by incorporating ground level retail and a public plaza space to the rear (Ex. 3);

- *Area Element:* The Application implements the goals of the Lower Anacostia Waterfront/Near Southwest Area Element by proposing a high-density, mixed-use development to further activate areas along the Anacostia waterfront. The Project achieves equity and inclusion goals in the planning area by providing all-affordable dwellings and family-sized units; and
- *Anacostia Waterfront Framework Plan*: The Application is consistent with the over-arching development goals set forth in the Anacostia Waterfront Framework Plan, which envisions mixed-use development in a lively and active neighborhood along the waterfront. The Project's all-affordable units further the plan's goal to ensure a strong and balanced neighborhood through diversity in housing types and income levels (Ex. 3).

37. No Unacceptable Impacts on the Surrounding Area or to City Services (Subtitle X § 304.4(b)). The Application asserted that the PUD satisfies the requirements of Subtitle X § 304.4(b) because the Project will not result in any unacceptable impacts to the surrounding area or to city services and facilities, as the impacts are either favorable, capable of being mitigated or acceptable given the quality of public benefits, as follows:

- The Project will have a favorable impact on land use and zoning by improving a vacant lot with a mixed-use building that includes 127 affordable residential units. The Project is consistent with the prescribed density in the MU-9 zone, which is the approved zoning for the PUD. The Project is also reflective of the pattern of development in the surrounding Yards neighborhood, which has experienced significant changes since the PUD was approved. Much of the development in The Yards is high-density, mixed-

use development as is being proposed by the Project. While the Project proposes to remove open plaza space, the Project will maintain 10,175 square feet of publicly accessible plaza space on the Property. There are also a number of parks and community spaces nearby that can further supplement the loss of open plaza space on the Property (Ex. 3);

- The Project will not have unacceptable impacts on city services and facilities as the Property is already served by major utilities; the nearby school network can accommodate an increase to enrollment; and there are ample services such as recreation, library and fire and emergency personnel to meet the needs of the Project's residents. With respect to the transportation network, the Applicant's traffic expert from Gorove/Slade found no unacceptable impacts (Ex. 18-18B). The Project provides excellent access to alternative forms of transportation, and the Project's provision of bicycle parking in excess of requirements will encourage alternative forms of transportation to and from the site. Additionally, the Applicant has mitigated the potential impacts of providing no parking or loading by proposing an extensive TDM plan and LMP along with a public space plan that includes two loading zones and a pick-up/drop-off zone adjacent to the Project (Ex. 3, 19, 28); and
- The Project will not have unacceptable environmental impacts because it is designed to meet the Enterprise Green Communities Plus certification and will include a green roof and solar panels (Ex. 3). The Project will also meet or exceed the green-area-ratio requirement under the Zoning Regulations (Ex. 3).

38. The Project Provides Specific Public Benefits and Amenities (Subtitle X § 304.4(c)). In accordance with Subtitle X § 304.4(c), the Project will provide specific public benefits and amenities that are not inconsistent with the Comprehensive Plan and other adopted public policies and active programs related to the Property. The Applicant's benefits and amenities exceed what could result from a matter-of-right development, are tangible, measurable, and able to be arranged prior to issuance of the certificate of occupancy, and benefit either the immediate neighborhood or address District-wide priorities. *See* Subtitle X §§ 305.2, 305.3. The Application proposes the following additional public benefits and project amenities beyond what was originally approved for the PUD:

- Superior Urban Design and Architecture (Subtitle X § 305.5(a)): The Project's architecture blends modern aesthetics and historical warehouse influences. The vibrant design will activate the unimproved Property and maintain a strong street wall that is seen throughout The Yards (Ex. 3, 19, 28);
- Site planning and efficient and economical land utilization (Subtitle X § 305.5(c)): The Project will activate a currently vacant site with new housing and ground-level retail in a high-density, mixed-use neighborhood. The Project will make efficient use of a challenging site, which is relatively small and has a constricted buildable area due to easements (Ex. 3, 19, 28);
- Housing (Subtitle X § 305.5(f)): The Project will provide housing that exceeds the amount that would have been required through matter-of-right development under existing zoning as it will be all-affordable and provides 40 units with three bedrooms (Ex. 3);

- Affordable Housing (Subtitle X § 305.5(g)): The Project proposes 127 all-affordable including units at deeper levels of affordability than required under IZ. The average affordability level of all units will be 60% AMI (Ex. 3);
- Environmental and Sustainable Benefits (Subtitle X § 305.5(k)): The Applicant proposes for the Project to achieve Enterprise Green Communities Plus certification, which is the affordable housing equivalent of LEED. The Project also incorporates sustainability features such as a green roof and solar panel array. The Project will provide a 0.3 green area ratio, which exceeds the requirement of 0.2 by one-tenth (Ex. 3); and
- Other Public Benefits Advancing Policy Objectives (Subtitle X § 305.5(r)): The Project will incorporate a children's playroom, a gym, and a business center for residents. These Project amenities advance policy objectives in the Comprehensive Plan by offering space for families and to enrich the lives a residents. These amenities are not common in all-affordable projects, particularly those in a high-cost neighborhood (Ex. 3).

IV. Responses to the Application

Office of Planning

39. OP submitted a report dated March 4, 2024 (the "OP Set down Report") recommending that the Commission set the Application down for a hearing based on OP's conclusion that the Project is not inconsistent with the Comprehensive Plan, including its maps, the Citywide and Lower Anacostia Waterfront and Near Southwest Area Element, and when viewed through a racial equity lens; and is not inconsistent with the Anacostia Waterfront Framework Plan. Further, the Project meets the requirements of Subtitle X, Chapter 3. (Ex.11)

40. OP submitted a report dated July 8, 2022 (the "OP Hearing Report") recommending that the Commission approve the Application subject to two conditions. The OP Hearing Report concluded that (Ex.23):
    - The Project, on balance, is not inconsistent with the Comprehensive Plan as viewed through a racial equity lens and would further policy statements under the Land Use, Transportation, Housing, Environmental Protection, Economic Development, Parks, Recreation and Open and Urban Design Citywide Elements, and the Lower Anacostia Waterfront/Near Southwest Area Element. The Project is not inconsistent with the Property's FLUM and GPM designations:
        - With respect to disaggregated race and ethnicity data, OP provided data for the Lower Anacostia Waterfront/Near Southwest (LAW/NSW) planning area, in which the subject site is located for two time periods, 2012-2016 and 2018-2022[6]. The data shows that in comparing the two time periods, the number of residents of each

[6] The OP Setdown Report provided disaggregated race and ethnicity data taken from the 2012-2016 and the 2017-2021 American Community Survey ("ACS") 5-Year Estimates, which are available via the OP State Data Center. After the OP Setdown Report was filed, the OP State Data Center was updated to include more current ACS data from 2018-2022. The updated data, which includes the 2018-2022 ACS 5-Year Estimates, is provided in the OP Hearing Report and is summarized in Finding of Fact No. 39.

race or group increased, except Blacks; the percentage of people who identify as White, Hispanic, and People of two or more races increased significantly, while the percentage who identify as Black decreased significantly. For the 2018-2022 time period, the planning area has a higher percentage of residents who are White (58.6%) as compared to Districtwide (39.6%) , and a lower percentage of residents who identify as Black (29.2%) or Hispanic (7.4%). Over the two time periods, the median income for all races and groups increased in the planning area and is higher than the Districtwide median household income; however, for the 2018-2022 time period, although the median income for Blacks ($58,755) rose in the planning area, it remained lower than the median income for Blacks Districtwide ($75,942). Given the income data by race, it can be inferred that the families who would potentially benefit the most from the affordable housing proposed in this PUD site would be Black or other minority groups, which could help to reverse the present trends of declining Black population in the planning area;

- The Applicant responded to the issues raised by the Commission at the March 14, 2024, public meeting;
- OP is supportive of the requested design flexibility, with the condition that the Applicant revise the flexibility request with respect to changes to the number of units being provided in the Project to amend to plus/minus 5% and to not allow a reduction in proffered three-bedroom units;
- OP is supportive of the requested zoning flexibility from the standards for vehicular parking, loading and side yard. With respect to loading, OP noted that the proposed public space plan, including the two loading zones and pick-up/drop-off zone would offset demand for loading. OP also pointed to the provision of bicycle parking exceeding zoning requirements and the Project's access to public transit and pedestrian and bicycle facilities; and
- The Project provided benefits and amenities that are commensurate with the requested zoning flexibility through the PUD. OP noted that the Applicant would be maintaining some of the plaza space envisioned as part of the original PUD.

41. OP requested two conditions: 1) The Applicant shall comply with conditions set forth in the Transportation and Loading Management Plan as approved by DDOT and 2) Design flexibility requested for the number of units be amended to plus/minus five percent and amended to not allow a reduction in proffered three-bedroom units.[7]

42. At the July 1, 2024, public hearing, OP testified in support of the Application, including the requested relief. (Tr. 57-59)

DDOT Report

43. DDOT filed a report dated June 21, 2024 (the "DDOT Report," Ex. 21) stating that it has no objection to the Application and supports the requested zoning relief from the parking and loading requirements. DDOT conditioned its support on the Applicant implementing

[7] The Applicant agreed to these conditions during the July 1, 2024 hearing and in the post-hearing submission (Ex. 28).

the proposed TDM and LMP for the life of the project as reflected in the Applicant's transportation statement at Exhibit 18A. DDOT stated its general support for the Applicant's proposed public space plan, including the provision of two loading zones and a pick-up/drop-off zone.

44. At the public hearing on July 18, 2022, DDOT testified in support of the Application. (Tr. 54-55) DDOT also testified that the Project design and public space plan would mitigate traffic concerns for the site. (Tr. 57)

45. DDOT filed a supplemental report dated July 15, 2024 ("DDOT Supplemental Report") after reviewing the Applicant's revised plans to address ANC concerns regarding traffic congestion, pedestrian and bicyclist safety, and enforcement of the loading and pick-up/drop-off zones (Ex. 32). DDOT stated its support for the Applicant's proposal to move the Project's residential entrance from Tingey Street to the New Jersey Avenue façade. DDOT further stated that the proposed signage must be approved by the Curbside Management Division (CMD) during the public space permitting process, and it will work with the Applicant and ANC during the process to ensure that the final approved signage addresses enforcement concerns. DDOT also stated that it does not support reserving the loading and pick-up/drop-off zones for sole use by the Project and noted that there is not yet a process to incorporate video cameras in public space to monitor loading and PUDO zones, but it will note this Project as a potential study location for future pilot programs. DDOT is supportive of the proposed treatments for the bicycle lanes to improve pedestrian and bicyclist safety. DDOT also expressed concern regarding the increase in hardscaping and impermeable surfaces and requested that the Applicant incorporate bioretention facilities or green space to offset the new loading and pick-up/drop-off zones. Overall, DDOT continued to support the Application, with two revisions to the Loading Management Measures of the Applicant's Proffers and Conditions. Specifically, changes to Condition C.2.k. and to add a new Condition C.2.o.

Additional Agency Reports

46. In addition to OP and DDOT, DOEE submitted a report on the Application, which is included with the OP Hearing Report; and the Office of the Attorney General ("OAG") submitted a letter in support and a PowerPoint presentation[8] (Ex. 23, 22A-22B). Overall, DOEE applauded the Applicant for pursuing Enterprise Green Communities certification and made other suggestions about how the Project can be designed in an energy- and environmentally friendly manner.

ANC Report

47. The ANC submitted a resolution dated June 18, 2024 ("ANC Report"), which was adopted at a duly noticed and regularly scheduled monthly meeting, with a quorum present (Ex. 26). The ANC Report expressed that the ANC supported the Project, particularly the all-affordable housing. However, the ANC conditioned its support on the resolution of issues

[8] OAG also provided testimony in support and presented its PowerPoint at the July 1, 2024, hearing. (Tr. at pp. 43-50)

pertaining to transportation, pedestrian safety, and loading concerns, and raised a number of related issues and concerns. Specifically, the ANC identified that:

- The "[P]roject's lack of any on-site parking coupled with existing conditions that do not offer a pick-up and drop-off zone, nor a loading zone nor a curb cut, will …exacerbate an already problematic intersection";
- The Project "lies adjacent to a bike lane that would need to be removed should this development proceed. Users of this bike lane, positioned near the main entry point of the proposed development, would be in direct conflict with vehicular traffic should the bike lane remain alongside the site;
- The Project's "loading plan and pick-up and drop-off plan that would exacerbate several problems that exist on the site, those being":
  - "DPW's inability to keep up with illegally parked vehicles which occupy stadium zone spaces ... due to staffing limits"; and
  - The "[A]pplicant proposes a public loading zone which has .. shown to fail due to lack of enforcement and congestion of travel lanes due to simultaneous … use of said zones".

As such, the ANC Report requested the following:

- The Applicant request private use of the loading zone for the Project to allow for more effective enforcement against illegal use of the zone;
- DDOT remove the bicycle lane at Tingey Square;
- DDOT guarantee the pick-up/drop-off space and loading plan that is proposed for the Project; and
- DDOT approve the removal of landscaping and vegetation along New Jersey Avenue, S.E. to accommodate the loading and pick-up/drop-off spaces.

48. Attached to the ANC Report were several photos showing the parking and streetscape conditions near the site (Ex. 26A).

49. During the hearing on July 1, 2024, the ANC provided testimony through Chair Edward Daniels and Commissioner Rick Murphree, who is also the Single Member District Commissioner for the Property. On behalf of the ANC, Chair Daniels testified that the ANC is supportive of the Project because it provides 100% affordable housing. However, the ANC reiterated its concerns about transportation and public safety, including an extensive discussion about existing conditions around the Property (Tr. 65-79). Commissioner Murphree stated similar concerns during his testimony (Tr. 90-92).

50. After the hearing, the ANC submitted an addendum dated July 15, 2024 ("ANC Addendum,") in response to the Applicant's revised public space plan (Ex. 31, 36).[9] The ANC Addendum states that the ANC appreciates the Applicant's revised public space plan, including changing the main entrance from Tingey Street, S.E. to New Jersey Avenue, S.E. The ANC continued to request the Applicant seek private use of the loading zone. The ANC added unrelated requests concerning leasing language on the Project website and to establish a tenure for the Applicant's affordability proffer. The ANC also requested that

[9] Ex. 31 and 36 are the same document filed on July 15, 2024 and July 25, 2024, respectively.

the Applicant install a clear "yield to pedestrians" sign along the bicycle lane in front of the building. Finally, the ANC reiterated its request to DDOT to remove the bicycle lane on Tingey Square, S.E.

Letters in Support or Opposition

51. There is one letter of support in the case record and no letters of opposition (Ex. 27). Additionally, no individuals or groups spoke in support or opposition at the hearing.

Contested Issues

52. The Commission finds that the following contested issues were raised in the record.

53. When deciding whether to schedule a hearing on the Application, the Commission stated the Applicant should provide more information about the nature of the core elements of the PUD balancing test that were changing as a result of the requested modification so it could evaluate whether the revised Project met the PUD test (*See* Subtitle X § 304.3[10]). This was necessary because it was clear from the information that the Applicant provided that the revised Project was altering the relief required, and the public benefits of the Project, and accordingly the Commission needed further information before it could conclude that the Application satisfied the burden of proof. Therefore, when it decided to schedule a hearing, the Commission directed the Applicant to provide the following additional information prior to that hearing:

- The changes in development standards between the approved PUD and the modified Project;
- Whether additional zoning flexibility was required for the revised PUD Project;
- How the revised Project would impact the public benefits proffered in the approved PUD, including the reduction in open space plaza space; and
- An evaluation of any potential adverse effect of the Project.

(March 14, 2024 public meeting transcript at 38-40)

54. The Applicant responded to the Commission's request in its filing at Ex. 13, which is described above in Finding of Fact ("FF") 25. The Commission was satisfied that the Applicant's response provided sufficient information to evaluate the Application as follows:

- The Commission finds that the revised Project has several significant differences in the development standards, most importantly that the uses were changing from retail to residential, building footprint, GFA, FAR, and height of the revised Project were increasing substantially;
- The Commission finds that the revised Project also requires additional vehicular parking, loading, and side yard relief;
- The Commission finds that the revised Project reduces the size of the public plaza, a significant public benefit of the Original PUD. The Commission further finds that the

[10] Subtitle X § 304.3 states: "In deciding a PUD application, the Zoning Commission shall judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case."

revised Project provides several new public benefits in the areas of housing, affordable housing, and family sized units. The Commission further finds that the revised Project enhances several existing public benefits in the areas of enhanced landscape and streetscape materials, environmental benefits, and local business opportunities; and

- The Commission finds that the Project will have adverse impacts related to its increased density, as well as transportation and traffic impacts, and appreciates the Applicant's candor in noting them in its response.

55. OP and DDOT recommended that the Applicant include conditions of approval in this Order related to traffic demand management and loading demand management in order to mitigate potential adverse effects of the Project in their respective hearing reports (Ex. 21, 23, 32). OP also suggested limitations on the design flexibility requested by the Applicant in order to ensure that the built Project conformed with the application's provision of residential units (Ex. 23). The Applicant agreed to these conditions at the hearing, confirmed the language of the conditions in its post-hearing submission (Ex. 28), and they are included as conditions of this Order.

56. DOEE requested that the Applicant provide an Enterprise Green Communities Plus scorecard for the Project and made additional suggestions for ways to make the Project more environmentally friendly (Ex. 23). The Applicant responded and provided the scorecard (Ex. 28D). The Commission believes that the Project provides adequate benefits overall, including in the area of environmental benefits to warrant approval.

57. ANC 8F submitted a report (Ex. 26) stating that the ANC conditioned its support on the resolution of issues pertaining to transportation, pedestrian safety, and loading concerns, and raised a number of related issues and concerns. The ANC identified that:

- The "[P]roject's lack of any on-site parking coupled with existing conditions that do not offer a pick-up and drop-off zone, nor a loading zone nor a curb cut, will …exacerbate an already problematic intersection";
- The Project "lies adjacent to a bike lane that would need to be removed should this development proceed. Users of this bike lane, positioned near the main entry point of the proposed development, would be in direct conflict with vehicular traffic should the bike lane remain alongside the site; and
- The Project's "loading plan and pick-up and drop-off plan that would exacerbate several problems that exist on the site, those being:
  - DPW's inability to keep up with illegally parked vehicles which occupy stadium zone spaces ... due to staffing limits"; and
  - "The [A]pplicant proposes a public loading zone which has … shown to fail due to lack of enforcement and congestion of travel lanes due to simultaneous … use of said zones".

58. The ANC suggested that the following mitigations could address its issues and concerns:

- The Applicant request private use of the loading zone for the Project to allow for more effective enforcement against illegal use of the zone;
- DDOT remove the bicycle lane at Tingey Square;

- DDOT guarantee the pick-up/drop-off space and loading plan that is proposed for the Project; and
- DDOT approve the removal of landscaping and vegetation along New Jersey Avenue, S.E. to accommodate the loading and pick-up/drop-off spaces.

59. After hearing the ANC's hearing testimony, the Commission requested that the Applicant consider changes to the Application to address the issues raised by the ANC.

60. The Applicant made significant changes to Application to address the issues raised by the ANC. The changes are described in the post-hearing filing submitted by the Applicant as follows (Ex. 28-28E):
- The Applicant redesigned the Project to relocate its residential lobby and entrance away from the troubled Tingey Street intersection, and instead locate it on the New Jersey Avenue, S.E. side of the building, where it will more directly access the planned PUDO and loading zones on New Jersey Avenue (Ex. 28B). The Commission believes relocating the entrance will reduce congestion on Tingey Street because of the natural tendency for the most intense pick up and drop off activity to be proximate to the entrance;
- The Applicant added additional commitments to request loading and PUDO zone signage for the updated zones shown in the new diagram that it submitted with the post-hearing statement (Ex. 28C). The revised signage request would expressly restrict use of the loading zone to 30-minute loading for commercial vehicles and require a permit or payment to use the loading area. The signage will also expressly state that the PUDO zone is restricted to pick up and drop off, and that all unattended vehicles will be ticketed and towed. In addition, the Applicant asserted that it would pursue and seek DDOTs approval to reserve the loading and PUDO zone on New Jersey Ave, S.E. to be solely used for the Project and incorporate video cameras in public space to help monitor the loading and PUDO zones. The Applicant noted that all use, restrictions and signage of public space is subject to DDOT approval through the public space approval process; and
- The Applicant noted that in its hearing testimony, the ANC identified safety challenges where a bicycle lane is located between the loading/parking area and the sidewalk, which is what is proposed by the Applicant. The Applicant stated that it was proposing this condition to preserve existing bicycle connectivity and provide a hardened buffer between vehicular movement and the bicycle lane. The Applicant further stated it was proposing to install dashed green conflict striping, flexiposts, and caution signage along the bike lane to alert bicyclists and pedestrians about potential conflicts.

61. The Commission finds that DDOT, not the Commission, has the exclusive authority to grant private use of the loading zone, remove the bicycle lane on Tingey Square, and approve the PUDO and loading zones plan and signage, and the removal of landscaping and vegetation along New Jersey Ave, S.E., which are requested conditions in the ANC report. DDOT also has exclusive authority to approve the Applicant's proposed bicycle/pedestrian mitigations.

62. The ANC responded in an addendum to its report, stating appreciation for the Applicant's revised public space plan (Ex. 31, 36). In the addendum, the ANC further stated that it continued to request the following:
- The Applicant seek private use of the loading zone and signage for the bicycle lane; and
- DDOT to remove the bicycle lane on Tingey Square, S.E.

63. The Commission notes that the Applicant asserted that it would pursue and seek DDOT's approval to reserve the loading and PUDO zone on New Jersey Ave, S.E. to be solely used for the Project (Ex. 28). However, the Commission notes again that it is within the purview of DDOT through its public space process to determine whether the use of the zones will be limited to the Project, and this is outside of the Commission's control. Likewise, the removal of the bike lane on Tingey Square is solely within DDOT's control.

64. The ANC's addendum also requested that the Applicant ensure that the installation of a yield to pedestrian's sign is clear along the bike lane in front of the building. The Commission finds that the Applicant's proposed dashed green conflict striping, flexiposts, and caution signage along the bike lane substantially address this concern.

65. The Commission finds that the redesigned entrance location, the Project's TDM and loading management plans, and the Project's other traffic, loading and public space mitigations are sufficient to make the situation acceptable given the public benefits of the Project.

CONCLUSIONS OF LAW

Authority

1. Pursuant to the authority granted by the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve a Consolidated PUD and modifications consistent with the requirements of Subtitle X, Chapters 3 and 7, and Subtitle Z § 300.

Standard of Review for Approval of PUD Modification of Significance

2. Pursuant to Subtitle X § 300.1, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:
   (a) Results in a project superior to what would result from the matter-of-right standards;
   (b) Offers a commendable number or quality of meaningful public benefits; and
   (c) Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.

3. Pursuant to Subtitle X § 303.11: "The amount of flexibility from all other development standards not addressed by this section shall be at the discretion of the Zoning Commission."

4. Pursuant to Subtitle X § 303.12: "A PUD-related zoning map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD."

5. Pursuant to Subtitle X §§ 303.1 and 303.13: "As part of any PUD, the applicant may request approval of any relief for which special exception approval is required. The Zoning Commission shall apply the special exception standards applicable to that relief, unless the applicant requests flexibility from those standards. Any such flexibility shall be considered the type of development flexibility against which the Zoning Commission shall weigh the benefits of the PUD."

6. Pursuant to Subtitle X §§ 304.3 and 304.4, in reviewing a PUD application, the Commission must: "Judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case;" and must find that the proposed development:
   (a) Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;
   (b) Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and
   (c) Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.

7. A PUD public benefit must "benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provision." (Subtitle X § 305.2). Each public benefit must (i) be a tangible and quantifiable item; (ii) measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; and (iii) may primarily benefit a particular neighborhood or area of the city or service a critical city-wide need (Subtitle X § 305.3). Further, the majority of a PUD's public benefits should relate to the geographic area of the ANC in which the application is proposed (Subtitle X § 305.4). A project need only be particularly strong in one area or a few of the categories of public benefits listed in Subtitle X § 305 but must be acceptable in all proffered categories and superior in many in order for a project to qualify for approval (Subtitle X § 305.12).

8. The Comprehensive Plan Act of 1984 (D.C. Law 5-75; D.C. Official Code § 1-306.01(b)) established the CP's purposes as: (1) to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and

public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District.

9. In determining whether a PUD is not inconsistent with the Comprehensive Plan, the Commission shall balance the various elements of the Comprehensive Plan. The D.C. Court of Appeals discussed this balancing test in its review of the PUD and related zoning map amendment for the redevelopment of the McMillan Reservoir Slow Sand Filtration Site (Z.C. Order No. 13-14(6)) (the "McMillan PUD"). In its decision affirming the Commission's approval of the McMillan PUD, the Court stated the following:

> "The Comprehensive Plan is a 'broad framework intended to guide the future land use planning decisions for the District. *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm'n*, 33 A.3d 382, 394 (D.C. 2011) (internal quotation marks omitted). '[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.' *Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous 'occasionally competing policies and goals,' and '[e]xcept where specifically provided, the Plan is not binding.' (*Id*.) at 1167, 1168 (internal quotation marks omitted). Thus 'the Commission may balance competing priorities' in determining whether a PUD is consistent with the Comprehensive Plan as a whole.' (*D.C. Library Renaissance Building/West End Library Advisory Grp. v. District of Columbia Zoning Comm'n*, 73 A.3d 107, 126 (D.C. 2013)). '[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain why they are outweighed by other, competing considerations.'" (*Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016)).

10. Pursuant to Subtitle Z § 704.4, the Commission's scope of review of a modification of significance to an approved PUD "shall be limited to impact of the modification on the subject of the original application and shall not permit the Commission to revisit its original decision."

Scope of Modification Review

11. Based on the case record and the Findings of Fact above, the Commission concludes that the PUD-related map amendment to the MU-9 zone approved in the Original Order remains appropriate and is not being revisited in the Commission's evaluation of this Application.

Consistency with the Comprehensive Plan and Public Policies (Subtitle X § 304.4(a))

12. Based on the case record and the Findings of Fact above, the Commission concludes that the Application results in no changes to the Commission's determination in the Original Order that the PUD is not inconsistent with the Comprehensive Plan and other active public policies.

13. The Commission concludes the Application is not inconsistent with the FLUM's mixed-use High-Density Residential and High-Density Commercial designations for the Property, which envision a density and scale consistent with the proposed Project. Similarly, the Project's density, scale and mix of uses are consistent with the surrounding Yards neighborhood, much of which has the same FLUM designation and is improved with high-density mixed-use development (FF13, 35, 38, 39).

14. The Commission concludes that the Application is not inconsistent with the GPM's "Regional Center" designation for the Property because the proposed Project will allow for a new all-affordable, mixed-use building to be constructed in the middle of a vibrant and walkable neighborhood (FF 14, 35, 38, 39).

15. The Commission concludes that the Project furthers the goals of the Comprehensive Plan's Citywide Elements, including the Land Use, Transportation, Housing, Environmental Protection, and Urban Design Elements. In particular, the Commission emphasizes the over-arching goal in the Land Use and Housing Elements to provide new affordable housing in the District. The Project will provide 127 new units of affordable housing in a location with access to amenities, public transportation and employment opportunities. The Project is designed to be family-friendly, with 40 three-bedroom units as well as the toddler playroom, gym, and business center. The Project proposes long-term and short-term bicycle parking that exceeds the minimum zoning requirements. The Project is also designed with exceptional and memorable architecture, high-quality materials, and to meet Enterprise Green Communities plus standards (FF 35, 38, 39).

16. The Commission concludes that the Project is not inconsistent with the Racial Equity goals of the Comprehensive Plan. Overall, the Project will provide affordable housing opportunities in a neighborhood that is primarily market rate housing with increasing affordability challenges due to the relatively new housing stock and substantial amenities. The new housing will be provided without displacing any existing residents, as the Property is currently unimproved. To that end, the Commission agrees with the Applicant and OP's analysis finding that the Project's 127 units of new affordable housing will substantially increase the existing affordable housing stock in the planning area. The Commission agrees that the location of the Project provides residents with substantial ability to improve their lives through access to opportunities and amenities. The proposed wrap-around services to be provided by Marshall Heights Community Development Organization will provide additional resources for residents.

Community Outreach and Engagement

The Applicant's racial equity analysis included community outreach efforts to ANC 8F, which is active and well-organized. In response, ANC 8F Commissioners identified that the community is in need of more affordable housing. The Project includes 127 new all-affordable units, which directly addresses this need. ANC 8F also identified transportation issues, which the Applicant addressed by significantly revising the Project design to relocate the residential entrance away from the problematic location identified by the ANC,

and by including additional mitigation measures. The Applicant also consented to adding conditions to this Order in response to requests by the ANC.

Displacement
The Project will not cause any direct displacement of tenants or residents, as the Property does not currently contain any residential use. The Project is likely to relieve pressure on existing housing stock and provide additional affordable housing options.

Disaggregated Race and Ethnicity Data
OP provided data for the Lower Anacostia Waterfront/Near Southwest planning area, in which the Property is located, for two time periods, 2012-2016 and 2018-2022. The data shows that over the two-time periods, the number of residents of each race group, except Blacks, increased in the planning area. Similarly, the median income for all races and groups increased over the two time periods, but although median income of Blacks in the planning increased overall it remained below the Districtwide median income for Blacks. Given the population and median income data for the planning area, the Commission is encouraged that the Project's provision of 127 new affordable units in this transit and amenity rich location will create housing opportunities to retain the Black population, which is declining, and further increase the overall minority population within the planning area (FF 27-28, 35, 39).

17. The Commission finds the Project is not inconsistent with the Anacostia Waterfront Framework Plan, which incorporates policy goals encouraging high-density, mixed-use and walkable neighborhoods adjacent to the Anacostia River. The plan also calls for a diversity in housing type and income levels, which the Project provides (FF 35, 38, 39).

Potential Adverse Impacts – How Mitigated or Outweighed (Subtitle C § 304.4(b))

18. Based on the case record and the Findings of Fact above, the Commission concludes that the Project will not result in any unacceptable impacts that are not capable of being mitigated or outweighed by the Project's proffered public benefits and amenities as detailed below.

19. The Commission concludes the Project will not create any unacceptable impacts to land use and zoning because the Project will improve a vacant lot with a mixed-use building that has a similar density and scale to nearby development. The proposed density is particularly important given the Project's provision of all-affordable residential units. Further, the Project will maintain a substantial portion of the open plaza space that was originally envisioned for the Property in the PUD (FF 20, 36).

20. The Commission concludes the Project will not create any unacceptable impacts to city services and facilities or that any impacts are capable of being mitigated or acceptable given the Project's public benefits as follows:
    - The Project could result in impacts to the transportation network as a result of the Project providing no parking or loading; however, those impacts are capable of being mitigated or are otherwise acceptable given the level of public benefits in the Project. First, the Project provides excellent access to alternative forms of public transportation,

including Metrorail and Metrobus, that will reduce the need for personal vehicles. Second, the surrounding area provides a pedestrian and bicycle network that will make it easier for residents and visitors to access the Property by foot or bicycle. Third, the Applicant is proposing an extensive public space plan that will incorporate a loading zone and pick-up/drop-off zone on New Jersey Avenue, S.E. and a loading zone on Tingey Street, S.E. that can be used to serve the residential and retail portions of the Project. In conjunction with the public space, the Applicant has proffered the inclusion of a TDM and LMP to further mitigate loading and traffic issues. DDOT has stated its support for the Applicant's proposed loading zones and pick-up/drop-off zones as well as the TDM and LMP; and

- The ANC raised a related concern that the Applicant's original proposed plan positioned the main entry point of the development at a location that would exacerbate already problematic conditions, potentially creating an unacceptable impact. The Applicant addressed this concern by changing the Project's residential entrance to move it away from Tingey Street where much of the existing congestion exists to New Jersey Avenue. The Applicant also made commitments to additional mitigations, consisting of PUDO zone signage for the updated zones, signage that would restrict use of the loading zones, a commitment to seek DDOT's approval of exclusive use of the zones for the Project, to incorporate video cameras for monitoring and enforcement of the zones, and enhanced conflict striping, flexiposts, and caution signage to reduce bicycle/pedestrian conflicts. Accordingly, the Commission concludes that the potential impacts to the transportation network as a result of the Project are capable of being mitigated. The Commission believes that despite these mitigations there will still be some adverse impacts, but they are acceptable given the public benefits of the Project, as discussed in detail in Findings of Fact 55-63 above (FF 19, 26-27, 29, 36-37, 41-43, 45-48, 52, 55-63).

21. The Commission concludes the Project will not create any unacceptable impacts on the environment. The Project is designed to meet Enterprise Green Communities Plus certification and includes sustainability features such as a large green roof and solar array. The Project will also exceed its green-area-ratio requirement under zoning (FF 22, 29, 44, 54).

PUD Flexibility Balanced Against Public Benefits and Potential Adverse Effects (Subtitle X §§ 304.3 and 304.4(c))

22. Based on the case record and the Findings of Fact above, the Commission concludes the Application satisfies the balancing test under Subtitle X §§ 304.3 and 304.4(c) because the requested zoning flexibility is outweighed by the Application's public benefits and amenities, and the potential adverse effects for the reasons discussed below.

23. The Commission concludes that the Application's request for development flexibility from the standards for parking and loading are appropriate because the Project has excellent access to alternative forms of transportation, including train, bus, bicycle and pedestrian networks. The Commission also finds that the Applicant has sought to mitigate this request for flexibility by providing an extensive public space plan, TDM and LMP. The Commission notes that the provision parking and loading would result in the loss of

important square footage that could be dedicated to more affordable housing units or amenities for residents (FF 19, 27, 29, 33, 36-37, 39, 41-43).

24. The Commission concludes the Applicant's request for development flexibility from the standards for side yards is appropriate because the Project maintains a five-foot side yard and is otherwise buffered from the DOT Buildings by those buildings' side yard. Further, the Commission notes a side yard is not generally required in the MU-9 zone (FF 33, 36, 39).

25. The Commission concludes the Application provides superior public benefits that benefit the surrounding neighborhood or general public to a significantly greater degree than what would result from a matter-of-right development at the Property for the following reasons (FF 37):

- The Project will provide superior urban design and architecture (Subtitle X § 305.5(a)) due to high-quality materials and design that blends modern aesthetics with historical warehouse influences common to the area;
- The Project will provide superior site planning and efficient and economical land utilization (Subtitle X § 305.5(c) because the Project will improve a small, vacant site in the middle of The Yards neighborhood with 127 new units of affordable housing and ground level retail space. The Project will make efficient use of the Property, which is encumbered by easements that limit the buildable area on site;
- The Project will provide superior housing benefits (Subtitle X § 305.5(f)) because the 127 units of housing is significantly greater than that permitted under matter-of-right PDR-1 zoning. The Project also provides 40 three-bedroom units;
- The Project's most substantial benefit is the amount of affordable housing (Subtitle X § 305.5(g)). The Project proposes 127 all-affordable units that will be provided at an average affordability of 60% AMI. The Project exceeds the amount of affordable housing that would be normally required under the IZ program;
- The Project will provide superior environmental and sustainable benefits (Subtitle X § 305.5(k)) by achieving Enterprise Green Communities Plus certification and incorporating sustainability features such as a green roof and solar panel array. The Project will also exceed its green-area-ratio requirement; and
- The Project provides other superior public benefits that advance policy objectives (Subtitle X § 305.5(r)), including the proposed children's playroom, gym and business center. These Project amenities will provide space for individuals and families and are particularly commendable given the Project's affordability and high-cost location.

26. The Commission concludes the Project may cause potential adverse effects related to traffic congestion and pedestrian/vehicular conflicts, but those effects are largely mitigated, and acceptable given the quality of the public benefits of the Project (FF 19, 26-27, 29, 36-37, 41-43, 45-48, 52, 55-63).

27. The Commission has judged, balanced and reconciled the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and the potential adverse effects, and concludes the Application warrants approval.

"Great Weight" to the Recommendations of OP

28. The Commission must give "great weight" to the recommendation of OP, pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8 (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086-87 (D.C. 2016)).

29. The Commission finds persuasive OP's evaluation of the Application as having satisfied the applicable PUD modification standards, including that the Application is not inconsistent with the Comprehensive Plan as a whole and other applicable public policies; the requested zoning flexibility from parking, loading, and side yard requirements is appropriate; and that the Application's public benefits and amenities are commensurate with the zoning flexibility requested (FF 38-40).

"Great Weight" to the Written Report of the ANC

30. 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 this 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)).

31. The ANC Report references support for the Application, particularly given the Project's provision of all-affordable residential units. However, the ANC Report conditioned the ANC's support on resolution of issues pertaining to loading and transportation. In particular, the ANC Report and the ANC's testimony at the July 1, 2024, hearing noted that the Project's lack of on-site loading would exacerbate traffic and transportation problems in the neighborhood. The ANC identified issues with congestion, pedestrian and bicyclist safety, and enforcement of the loading and pick-up/drop-off zones. As such, the ANC Report requests the Applicant seek private use of public space for the loading zone and requests that DDOT: 1) remove the bicycle lane on Tingey Street; 2) guarantee the proposed public space plan will be approved; and 3) approve the removal of vegetation and landscaping on New Jersey Avenue, S.E. (FF 45-46).

32. At the conclusion of the July 1, 2024, hearing, the Commission directed the Applicant consider changes to the Application to address the issues raised by the ANC that pertain to traffic congestion, pedestrian safety, and loading. The Commission did so because it was persuaded that the Application would make an already bad situation worse and could create an unacceptable impact (FF 55-57).

33. After the July 1, 2024 hearing, the Applicant revised its public space plan to address the ANC's concerns. As reflected in the Applicant's post-hearing submission, the Applicant moved the residential entrance to New Jersey Avenue, S.E. to alleviate congestion around Tingey Square and agreed to seek DDOT's approval for private use of the proposed loading zone and cameras in public space to allow for better enforcement of the loading and pick-up/drop-off zones. The Applicant also proposed signage for loading and pick-up/drop-off zone enforcement as well as improved features for bicyclist and pedestrian safety (FF 29, 58).

34. In response to the Applicant's changes, the ANC Addendum reiterates its overall support for the Project, commends the change in location for the residential entrance, reiterates its requests for the Applicant to seek private use of the loading zone, and that DDOT remove the bicycle lane on Tingey Street, S.E., and added additional requests that the Applicant install yield to pedestrian signs along the bike lane in front of the building, that the Applicant add information on its website intended to help prospective tenants find income based programs that will be accepted in the Project, and that this Order include information about the tenure for which the property is completely affordable. (FF 48, 60)

35. As reflected in the DDOT Report and DDOT Supplemental Report, DDOT has no objection to the Applicant's request for flexibility from the zoning requirements for parking and loading and supports the proposed loading zones and pick-up/drop-off zones and the proposed treatments for the bicycle lanes to improve pedestrian and bicycle safety. However, DDOT stated it does not support reserving the loading and PUDO zones for sole/private use by the Project and noted that there is not yet a process to enforce loading and PUDO zones with video cameras in public space. With respect to the removal of vegetation and landscaping for the proposed loading and pick-up/drop-off zone, DDOT stated concern about removal of existing vegetation and replacement with hardscaping impermeable surface and suggested this be offset by increasing bioretention or by expanding existing tree boxes or green space (FF 41, 43).

36. During the hearing, DDOT testified that the Applicant's public space plan would mitigate traffic concerns in the area. DDOT also testified that it does not support removal of the bicycle lane on Tingey Square S.E. DDOT further testified that the ANC will have an opportunity to participate in the public space permitting process to ensure the public space plans, as presented to the Commission, are consistent with what is approved by DDOT (FF 42; Tr. 55-57, 61-63).

37. The Commission concludes the ANC raised concerns about the pedestrian and vehicular safety that warranted additional mitigation to prevent unacceptable impacts. Following the July 1, 2024 hearing, the Applicant worked with the ANC and made changes to further address the ANC's loading and safety concerns, including moving the Project's residential entrance to New Jersey Avenue, S.E., proposed signage and bicycle/pedestrian safety elements. The Applicant has also committed to requesting that the loading zone and pick-up/drop-off zone be reserved for the Project and to install cameras in public space; although, the final decision on these public space items will be made by DDOT. The

Commission believes these changes are sufficient to mitigate the traffic, loading impacts, and pedestrian and vehicular safety issues raised by the ANC (FF 45-48, 55-63).

38. The Commission further concludes the ANC's advice regarding several suggested mitigations was not persuasive, namely that DDOT remove the bicycle lane on Tingey Square, guarantee that the PUDO and loading zones are reserved for the sole/private use by the Project, approve the removal of landscaping in public space, and approve certain signage for the loading and PUDO zones and bicycle lane in front of the building. This is because these decisions are exclusively within DDOT's purview, so the Commission does not have the authority to dictate these outcomes to DDOT. The Commission believes that the mitigations that are required by this Order are sufficient to prevent unacceptable Project impacts, go a long way to addressing the issues raised, and any remaining adverse impacts are acceptable given the quality of the Project's public benefits (FF 55-63).

39. Finally, with respect to the ANC's requests that the conditions of this Order address housing tenure and require a link to applicable income-based programs accepted by the Project's leasing office, the Applicant acquiesced to these requests, and the Commission has included appropriate conditions in this Order. (FF 48)

DECISION

Based on the case record, the testimony at the public hearing, and the above Findings of Fact and Conclusions of Law, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application for:

- A Modification of Significance to the consolidated PUD and related Map Amendment originally approved in Z.C. Order No. 03-05;
- Flexibility from the requirements for vehicular parking (Subtitle C § 701.5);
- Flexibility from the requirements for loading (Subtitle C § 901.1); and
- Flexibility from the requirements for side yards (Subtitle G § 208.2).

Said approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on or during a certain time, the timing of the obligation is noted in bold and underlined text. The following conditions are intended to replace those in Z.C. Order 03-05. Changes to the conditions of Z.C. Order No. 03-05 are shown below, with text to be deleted marked in ~~strikethrough~~ text and new text marked in **bold and underlined** text.

A. Project Development

1. The PUD shall be developed substantially in accordance with the plans prepared by DMJM Design and Michael Graves Architect, P.C., dated August 22, 2003, in the record at Exhibits 33 and 33a, as supplemented by the drawings dated September 18, 2003, in the record at Exhibit 43, (collectively, the "Plans") as modified by the guidelines, conditions, and standards herein **and as further modified pursuant to the architectural plans filed in the record of ZC Case No. 03-05A as Exhibits 19A1-19A4 and Exhibit 28A (the "Modified Plans") as modified by the guidelines, conditions, and standards herein.**

2. The PUD shall be two office buildings, consisting together of approximately 1,454,008 square feet of gross floor area (the "Office Buildings"), with an approximate zoning density of 3.7 FAR **and one mixed-use building, consisting of approximately 123,233 square feet of gross floor area (the "Mixed-Use Project"), with an approximate zoning density of 5.58 FAR.** The **Office Buildings** shall also include on-site retail of at least **10,085** square feet of gross floor area **and the Mixed-Use Project shall include on-site retail of approximately 2,653 square feet**, as described in detail in Condition No. The total project, including the on-site retail, shall have an approximate density of 4.08 FAR.

3. The west Office Building shall have an approximate height of 121 feet to the top of the parapet and a maximum height of 130 feet to the top of the atrium, as measured in accordance with the Zoning Regulations. The east Office Building shall have an approximate height of 109 feet to the top of the parapet and a maximum height of 118 feet to the top of the atrium, as measured in accordance with the Zoning Regulations. The project may include a roof structure with a height not to exceed eighteen feet, six inches, with setbacks as indicated in the Plans. The project shall comply with the Height Act of 1910. The Applicant shall have the flexibility to modify the atrium to comply with the Height Act of 1910.

4. The **Office Buildings** shall include a minimum of 936 parking spaces and fifty (50) bicycle parking spaces in the below-grade parking garage. **The Mixed-Use Project shall include a minimum of fifty-eight (58) long-term bicycle parking spaces and ten (10) short-term bicycle parking spaces.** The Applicant shall have flexibility to arrange compact cars in groups of less than five contiguous spaces with access from the same aisle.

5. The **Office Buildings** shall include three twelve-foot by fifty-five-foot loading berths and three twelve-foot by thirty-foot service/delivery spaces as shown on the Plans. Access to the loading facilities for trucks that are larger than thirty feet is prohibited between the hours of 7:00-9:00 AM and 4:30-6:30 PM on weekdays, excluding legal holidays. Access to loading facilities is permitted at all times for trucks that are thirty feet or smaller. This restriction shall not apply to the loading facility until nine months after the issuance of the principal certificate of occupancy for the **Office Buildings**, or during such move-in or moveout periods as may be required during building renovations or re-tenanting of the buildings. The **Office Buildings** shall implement the Loading Dock Management Plan as referenced in Finding No. 39 **in ZC Order 03-05**.

[Commission note: the following condition was numbered 24 in Order 03-05. It is re-numbered here as Condition 6 to maintain the structure of the conditions.]

6. The Applicant shall have flexibility with the design of the **Office Buildings** in the following areas:
   a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atrium, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not materially change the exterior configuration of the building;

b. To make minor modifications to the location and design of the retail building at the corner of New Jersey Avenue and M Street, and the retail kiosk at the comer of Fourth and M Streets, provided that the structures and their locations are generally consistent with those shown on the Plans;
c. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction;
d. To make minor refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals; and
e. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces does not decrease below a minimum of 936 spaces.

The Applicant shall have flexibility with the design of the Mixed-Use Project in the following areas:

a. Interior Components: To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the Modified Plans;

b. Exterior Materials – Color: To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the Modified Plans;

c. Exterior Details – Location and Dimension: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the Modified Plans. Examples of exterior details include, but are not limited to, doorways, canopies, railings, and skylights;

d. Streetscape Design: To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division or the Public Space Committee or other permitting process;

e. Signage: To vary the number, font, message, logo, and color of the Mixed-Use Project signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the Modified Plans and are compliant with the D.C. signage regulations;

f. Residential Units: To modify the number of residential units by plus or minus five percent, provided that (1) the total square footage of the Project's residential dwelling units shall not be reduced, and (2) the percentage of gross floor area square footage reserved for the affordable housing shall not be reduced; and (3) the number of three-bedroom units shall not be reduced below 40 as reflected in the Modified Plans.

g. Sustainable Features: To vary the approved sustainable features of the Mixed-Use Project and the features, means, and methods of achieving the required GAR and Enterprise Green Communities certifications.

[Commission note: the following conditions are re-numbered from Order 03-05 to accommodate the re-numbering of Condition 24 to Condition 6 above.]

7. The Applicant shall provide retail as follows:

   a. Adaptive re-use of Building 170 with a minimum of 8,000 square feet of gross floor area at ground level, with the possibility of incorporating approximately an additional 10,500 square feet of gross floor area within Building 170 on the upper levels;

   b. Construction of the **Mixed-Use Project** containing approximately **2,653** square feet of gross floor area **for retail**.

   c. Construction of a retail pavilion at the corner at New Jersey Avenue and M Street as shown on the Plans, containing approximately 1,755 square feet of gross floor area;

   d. Construction of a retail kiosk at the corner of Fourth and M Streets, as shown on the Plans, containing approximately 330 square feet of gross floor area; and

   e. The Applicant shall implement a seasonal retail kiosk program in accordance with the concepts identified at Exhibit 41 in the record.

8. The Applicant shall provide a minimum of 24,000 square feet of gross floor area for publicly-accessible ground floor retail along M Street in the Office Buildings at such time as the DOT or any subsequent Federal tenant no longer occupies the Office Buildings. The Applicant may provide additional retail in the Office Buildings at any time.

B. Public Benefits

9. The Applicant shall dedicate in fee to the District of Columbia portions of New Jersey Avenue, Fourth Street and Tingey Street (the "Dedicated Streets"), as indicated in the Street Re-Opening file in the Office of the Surveyor, known as S.O. 03-1420. The

Applicant shall record a covenant acceptable to DDOT and the Office of Corporation Counsel evidencing the dedication and grant of easements for the Dedicated Streets. This covenant must be filed prior to the Applicant's receiving a certificate of occupancy for either of the Office Buildings.

10. The Applicant shall design and construct the Dedicated Streets in accordance with the DDOT standards and specifications.

11. The original Third Street L'Enfant right-of-way, between M and Tingey Streets ("Third Street"), is part of the Site and therefore will remain private property. The owner of the property may restrict the use by or disallow vehicles from traveling along this private thoroughfare, but shall permit travel by emergency vehicles. Third Street shall be improved by the Applicant in accordance with the Plans to serve as an open-air pedestrian thoroughfare and to provide access for emergency vehicles. The Applicant shall construct Third Street to DDOT standards and specifications for future conversion to a public roadway. At such time as the DOT or a subsequent Federal tenant no longer occupies the Office Buildings, the Applicant shall dedicate Third Street to the District. The dedication shall include at least the surface of Third Street and such subsurface area as is needed for the installation of water and sewer lines and other public infrastructure. The Applicant shall improve Third Street for use as a public roadway in accordance with DDOT standards and specifications. In the event that the Council of the District of Columbia does not accept the dedication, the Applicant shall be relieved of the requirement under this Order to dedicate Third Street as a public street.

12. The Applicant shall construct and maintain the Site Animation and Activation Plan in accordance with the concept plan submitted as Exhibit E in the Prehearing Submission, in the record at Exhibits 14 and l4a **of Z.C. Case No. 03-05**.

13. The Applicant shall expend $75,000 towards a Comprehensive Signage Program, as described in the record at Exhibit 41 **of Z.C. Case No. 03-05**, that will include the Canal Blocks Park and the Hope VI community north of the Site. This program will be implemented in coordination with DDOT.

14. Prior to the issuance of a certificate of occupancy for either of the Office Buildings, the Applicant shall contribute $2,500,000 to the Canal Park Development Association for the development of Canal Blocks Park.

15. Prior to the issuance of a certificate of occupancy for either of the Office Buildings, the Applicant shall contribute $1.5 million to the District of Columbia. The payment shall be accompanied by a written statement indicating that the payment is made in compliance with this Order and that the District may not use the money for any purpose other than for construction and programming of the Anacostia Riverwalk and Trail located within ANC 6D. The Applicant shall advise the Commission if the District indicates that it is unwilling or unable to use the money for this purpose.

16. The PUD shall include the creation of approximately **22,175** square feet of landscaped, publicly accessible open space. This plaza shall be preserved in perpetuity as publicly-accessible open space, unless this Condition is **further** modified by the Zoning Commission.

17. The Applicant shall include landscaping improvements for the project as indicated in the Plans **and Modified Plans**. The Applicant or its successors shall maintain all landscaping improvements.

18. Landscaping and security improvements in the public space along M Street shall be in accordance with the Plans, as approved by the Public Space Division of DDOT. The Applicant or its successors shall maintain all landscaping improvements in the public space.

[Commission note: conditions 19-23 are new.]

19. **The Applicant shall provide affordable housing as set forth in this condition:**

    a. **For so long as the Mixed-Use Project is subject to public financing-related affordability restrictions ("Initial Affordability Period"), all of the Mixed-Use Project's dwelling units shall be reserved at an average affordability level no greater than 60% of Area Media Income ("AMI"), with some units as low as 30% AMI. The affordability level assumes that the Applicant will be granted an exemption from the Inclusionary Zoning Regulations ("IZ") set forth in Subtitle C, Chapter 10 of the Zoning Regulations, pursuant to 11-C DCMR § 1001.6. However, the Commission takes no position as to whether an exemption from the IZ Regulations should be granted;**

    b. **Should the exemption from the IZ Regulations be granted, the affordable housing requirements of this condition shall be stated in the covenant required under 11-C DCMR § 1001.6(a)(4); and**

    c. **Should the exemption from the IZ Regulations be denied, the Applicant shall provide affordable housing in accordance with this condition, unless the IZ Regulations impose more restrictive standards. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to eight percent of the residential gross floor of the Mixed-Use Project, and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area.**

20. **Following the conclusion of the Initial Affordability Period, and for so long thereafter as the Mixed-Use Project exists, the Mixed-Use Project shall reserve no less than eight percent of the Mixed-Use Project's gross floor area at 60% AMI.**

21. **For the Life of the Mixed-Use Project, at least 40 of the dwelling units will be three-bedroom units.**

22. **For the Life of the Mixed-Use Project, the Applicant shall provide a link on the Mixed-Use Project website that points potential residents to all income-based programs that will be accepted by the property's leasing office (i.e., Inclusionary Zoning, DCHA vouchers, etc.)**

23. **Prior to the issuance of a Certificate of Occupancy for the Mixed-Use Project, the Applicant shall furnish a copy of its preliminary Enterprise Green Communities Plus certification application to the Zoning Administrator demonstrating that the building has been designed to meet the Enterprise Green Communities Plus standard for residential buildings.**

C. Transportation

[Commission note: the following conditions are re-numbered from Order 03-05 to accommodate the re-numbering of Condition 24 to Condition 6, and new conditions 19-23 above.]

24. **For the Office Buildings,** the Applicant shall implement a Transportation Management Plan as set forth in the Applicant's Traffic Impact Study dated March 14, 2003, attached as Exhibit C to the Supplemental PUD Statement filed with the Commission on March 19, 2003, and found in the record **of ZC Case No. 03-05** at Exhibit 12.

For the life of the Mixed-Use Project, the Applicant shall implement the following Transportation Demand Management measures:

a. Identify a Transportation Coordinator for the planning, construction, and operations phases of development. The Transportation Coordinator will act as the point of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo.

b. Develop, distribute, and market various transportation alternatives and options to residents, including promoting transportation events (e.g., Bike to Work Day, National Walking Day, Car Free Day) on the property website and in any internal building newsletters or communications;

c. Direct the Transportation Coordinator to subscribe to goDCgo's residential newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan;

d. Provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT's goDCgo program by emailing info@godcgo.com.

e. Post all transportation and TDM commitments on the building website, publicize availability, and allow the public to see what has been promised;

f. Offer a SmarTrip card and one (1) complimentary Capital Bikeshare coupon good for a free ride to every new resident;

g. Provide at least 10 short- and 58 long-term bicycle parking spaces, exceeding ZR16 minimum requirements for at least six (6) short- and 42 long-term bicycle parking spaces;

h. Accommodate non-traditional sized bikes including cargo, tandem, and kids bikes, with a minimum 5% of spaces (minimum 2) be designed for longer cargo/tandem bikes, and a minimum of 10% of spaces (minimum 6) will be designed with electrical outlets for the charging of electric bikes and scooters, and dual electrical outlets installed at 6-foot intervals throughout the storage room to accommodate additional electrical bicycles and scooters in the future. There will be no fee to the building employees or residents for usage of the bicycle storage room and strollers will be permitted to be stored in the bicycle storage room.

25. The Applicant shall work with the DDOT to create a corridor-based organization focusing on transit improvements. This organization will support the evaluation and implementation of a means for property owners on the M Street corridor to assist in financing a portion of the capital and operating costs for the "next generation" of transit on the M Street corridor. This model may be consistent with the one used to finance construction of the New York Avenue Metrorail Station. The Applicant shall participate in a coordination committee to facilitate dialogue among property owners along the M Street corridor to assist the DDOT in making a trolley or other "next generation" transit model a reality.

26. The Applicant shall work with the DDOT to install a new traffic signal at the intersection of New Jersey Avenue and M Street and to install a new traffic signal at the intersection of Fourth and M Streets. The Applicant shall bear the cost of the installation of these two traffic signals.

27. The Applicant shall work with DDOT, GSA, WASA, and OP to finalize the design of the intersection of Tingey and N Streets at the terminus of New Jersey Avenue to create an operational and safe intersection.

28. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Local Business Opportunity Commission in order to achieve the target goal of thirty-five percent participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security to be created as a result of the PUD project. In addition, the Applicant shall give preference in hiring to residents of ANC 6B and ANC 6D. The

Applicant shall provide information regarding available jobs created by the project to ANC 6B and ANC 6D, who will be responsible for disseminating this information to the surrounding communities. After completion of construction of the project, the Applicant shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement.

29. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent of the new jobs created by the PUD project. In addition, the Applicant shall give preference in hiring to residents of ANC 6B and ANC 6D. The Applicant shall provide information regarding available jobs created by the project to ANC 6B and ANC 6D, who will be responsible for disseminating this information to the surrounding communities. After completion of construction of the project, the Applicant shall provide a written status report to the Zoning Commission and the Department of Employment Services regarding compliance with this agreement.

30. **For the Life of the Mixed-Use Project, the Applicant shall provide the following loading management measures:**

    a. **A loading manager will be designated by the building management who will be on duty during delivery hours. The loading manager will be responsible for coordinating with vendors and tenants to schedule deliveries and will work with the community and neighbors to resolve any conflicts should they arise;**

    b. **Lease provisions will require all residential tenants to use only the designated loading zone for all move-in and move-out activities through coordination with the loading zone;**

    c. **All tenants and retail vendors will be required to schedule deliveries that utilize the loading zone (any loading operation conducted using a truck 20-feet in length or larger);**

    d. **The loading manager will schedule deliveries using the loading zone such that the zone's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the loading zone is full, that driver will be directed to return at a later time when the loading zone will be available so as to not compromise safety or impede Tingey Street and New Jersey Avenue functionality;**

    e. **The loading manager will schedule residential loading activities so as not to conflict with retail deliveries. All residential loading will need to be scheduled with the manager;**

    f. **Trucks using the loading zone will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the goDCgo Motorcoach**

Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map (godcgo.com/freight);

g. **The loading manager will be responsible for providing suggested truck routing maps to the building's tenants and to drivers from delivery services that frequently utilize the development's loading zone as well as notifying all drivers of any access or egress restrictions. The residential and retail loading managers will also distribute flyer materials, such as the MWCOG Turn Your Engine Off brochure, to drivers as needed to encourage compliance with idling laws. The residential and retail loading managers will coordinate to post these materials and other relevant notices in a prominent location adjacent to the loading zone;**

h. **The loading manager will coordinate with building staff to roll trash receptacles from the building to the curb for collection. Trash bins will be rolled to the curb at the time of collection and will be expeditiously returned to the building trash room;**

i. **"No Parking: Loading Zone" signs will be used to demarcate the loading zone, and "No Parking" signs will be used to demarcate the pick-up/drop-off zone. The exact restrictions and placards will be determined by DDOT's Curbside Management Division ("CMD") during public space permitting;**

j. **The loading manager will schedule deliveries so that no deliveries should arrive within three hours prior to or three hours after a game or other event at Nationals Park, consistent with the Audi Field + Nationals Park Traffic Operations & Parking Plan;**

k. **The loading zone along Tingey Street, S.E. will be approximately 60 feet in length to accommodate residential and retail loading for the building. The pick-up/drop-off zone along New Jersey Avenue will be approximately 40 feet in length and the loading zone along New Jersey Avenue will be approximately 48 feet in length. The exact dimensions will be determined by CMD during public space permitting;**

l. **The loading manager will use traffic cones to block off the loading zone and actively manage deliveries and move-ins/outs;**

m. **The loading manager will call 311 to obtain DPW enforcement of the parking restriction in the loading zone and pickup/drop-off zone as needed; and**

n. **The Applicant will provide a curbside management and signage plan, as well as a copy of this LMP, in the public space construction permit application; and**

o. **The Applicant will print and distribute *Bike Lanes and Safe Loading* educational flyers to users of the curbside loading and pick-up/drop-off zone adjacent to the proposed sidewalk-level bike lane on New Jersey Avenue to show users how to**

properly use loading zones located along bike lanes and minimize conflict for all public space users.

Miscellaneous

31. No building permit shall be issued for **the Mixed-Use Project** until the Applicant has recorded a **Notice of Modification of Zoning Commission Order relating to the Property and requiring compliance with this Order in the land records of the District of Columbia.**

32. The Office of Zoning shall not release the record of this case to the Zoning Division of **DOB** until the Applicant has filed a copy of the covenant in the records of the Zoning Commission.

33. The **Mixed-Use Project** approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit. Construction of **the Mixed-Use Project** shall begin within three years of the effective date of this Order.

34. Pursuant to § 267 of the Human Rights Act of 1977, D.C. Official Code § 2-1402.67 (200l), the Applicant is required to comply fully with the provisions of the Act, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of **DOB** to approve permits if the Applicant fails to comply with any provision of the Human Rights Act.

35. In the event that the PUD expires because 1) the PUD covenant is not recorded in the land records of the District of Columbia, 2) the time periods set forth in Condition No.**33** are not met, or 3) no extension for the time periods set forth in Condition No.**33** is requested or approved, then the Site shall be zoned CR.

Proposed Action

Vote (July 1, 2024): 4-0-1 (Anthony J. Hood, Robert E. Miller, Tammy Stidham, and Joseph S. Imamura to approve; 3rd Mayoral Appointee seat vacant).

Final Action

Vote (July 25, 2024): 4-0-1 (Tammy Stidham, Robert E. Miller, Anthony J. Hood, and Joseph S. Imamura to approve; 3rd Mayoral Appointee seat vacant).

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *District of Columbia Register*; that is, on March 7, 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. 08-30E
SCD 25 M, LLC
(Two-Year Design Review Time Extension for Property Located @ Square 700)
December 19, 2024

Pursuant to notice, at its public meeting on December 19, 2024, the Zoning Commission for the District of Columbia (the "Commission") considered the application ("Application") of SCD 25 M, LLC (the "Applicant") for a two-year extension of the time period to file a building permit application for the approved Design Review in Square 700, Lot 879[1] (the "Property") pursuant to Z.C. Order No. 08-30 (the "Order").

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

THE PROPERTY

1. The Property is located in the Ballpark neighborhood at the southwest corner of M and Half Streets, S.E., one block north of Nationals Park. The Property constitutes the northern portion of Record Lot 49, which encompasses the entire eastern half of Square 700 occupying the block bounded by M Street, S.E. to the north, Half Street, S.E., to the east, N Street, S.E. to the south, and Van Street, S.E., to the west.

PRIOR APPROVAL

2. Pursuant to the Order, effective April 10, 2009, the Commission approved a Design Review for development of Record Lot 49 as a single building divided into two main phases. The first phase was to consist of a mixed-use development with residential and retail, and the second phase was to consist of a mixed-use development with office and retail uses (the "Project"). The Order provided that the approval would remain valid for a period of five years following issuance of the final Certificate of Occupancy for the first phase of the Project, within which time a building permit application must be filed for the second phase of the Project. A final Certificate of Occupancy was issued for the first phase of the Project on December 3, 2019 (See Exhibit ["Ex."] 2C). Thus, the Order remains valid until December 3, 2024.

3. In Z.C. Order Nos. 08-30A, 08-30B, 08-30C, and 08-30D, the Commission approved modifications to design elements of the Project (Ex. 2).

[1] When Z.C. Order No. 08-30 was approved, the Property was designated as Lot 857 in Square 700; the Property is now designated as Lot 879 in Square 700.

PARTIES AND NOTICE

4. The parties to the original application were the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the ANC in which the Property was located at the time of the original approval. The Property is now located within the boundaries of ANC 8F; therefore, only ANC 8F is an "affected" ANC and an automatic party to this Application (*See* Subtitle Z §§ 101.8, 403.5(b)).

5. On October 30, 2024, the Applicant served the Application on ANC 8F, the Office of Planning ("OP"), and the District Department of Transportation ("DDOT"), as attested by the Certificate of Service submitted with the Application (Ex. 2 at 7).

II. THE APPLICATION

6. On October 30, 2024, the Applicant timely filed the Application requesting a two-year time extension of the validity of the Order, such that if approved the Applicant would be required to file a building permit application for phase two of the Project no later than December 3, 2026 (Ex. 1-2C).

7. The Application asserted that it met the requirements under Subtitle Z § 705.2, for the proposed two-year time extension because:
   - The Applicant served the extension request on all parties to the application and all parties were allowed 30 days to respond;
   - There was no substantial change in any of the material facts upon which the Commission based its original approval in the Order; and
   - Good cause justified the Commission in granting the time extension because the Applicant has faced the continued challenges predominating the market for new office space and the overall office market, including severe difficulties in securing financing for new office construction, high interest rates, and elevated construction costs. Despite these challenges, the Applicant remains committed to completing the Project, as evidenced by its expenditure of $1,699,000 in development related costs toward the Project, moving a gas line into the adjacent right of way, establishing an agreement with the Washington Metropolitan Area Transit Authority regarding future development, and advertising and marketing the site to further support development, among other efforts (Ex. 2).

III. RESPONSES TO THE APPLICATION

8. OP submitted a report dated November 27, 2024 ("OP Report") which recommended approval of the Application (Ex. 5). The OP Report concluded that the requested two-year extension meets the requirements of Subtitle Z § 705.2; and the Applicant demonstrated with substantial evidence its inability to obtain sufficient financing, following its good faith efforts, because of changes in economic and market conditions beyond its reasonable control, including low office space demand as a lingering effect of Covid-19 and telework. OP further noted that the 2021 changes to the Comprehensive Plan remain supportive of the transit oriented, mixed-use, and walkable development the Project will facilitate.

9. ANC 8F did not submit a response to the case record.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.4, and 705.6.

2. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond.

3. The Commission concludes that the Applicant satisfied Subtitle Z § 705.2(a) by demonstrating that it served all parties, in this case ANC 8F, on October 30, 2024, and that the ANC was given 30 days to respond from the date of service.

4. Subtitle Z § 705.2(b) requires that the Commission finds that no substantial change has occurred to any of the material facts upon which the Commission based its original approval of the application that would undermine the Commission's justification for approving the original application.

5. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) because there has been no substantial change to the material facts upon which the Commission based its original approval that would undermine the Commission's justification for that approval.

6. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:

    1. *An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;*
    2. *An inability to secure all required governmental agency approvals for a development by the expiration date of the order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or*
    3. *The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order*.

7. The Commission concludes, based on the Application and the OP Report, that the Application meets the standards of Subtitle Z §§ 705.2(c)(1) because the Project suffered significant challenges due to impacts to the real estate market associated with the aftermath of the Covid-19 pandemic, including high interest rates, elevated construction costs, and

low demand for new office space, all of which resulted in the Applicant being unable to secure financing for phase two of the Project. Thus, the Commission concludes that, because of economic and market conditions beyond the Applicant's reasonable control, the Applicant was unable to comply with the time limits of the Order and needs additional time to move forward with phase two of the Project.

"GREAT WEIGHT" TO THE RECOMMENDATION OF OP

8. The Commission is required to 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. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

9. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANC

10. 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*, 141 A.3d 1087). 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 Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted)).

11. As previously noted, ANC 8F did not submit a response to the case record.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant's request for a two-year extension of the deadline to file a building permit application for phase two of the Project, with the requirement that the Applicant:

- File a building permit application no later than **December 3, 2026**.

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

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 08-30E shall become final and effective upon publication in the District of Columbia Register; that is, on March 7, 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. 14-12H
Z.C. Case No. 14-12H
EAJ 1309 5th Street, LLC
(Two-Year Time Extension for PUD @ Square 3591, Lots 801, 802, 7004, 7005, 7011, 7012, 7013, 7034, 7036, 7037, and 7038)
December 19, 2024

Pursuant to notice, at its December 19, 2024 public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of EAJ 1309 5th Street, LLC (the "Applicant") concerning Lots 801, 802, 7004, 7005, 7011, 7012, 7013, 7034, 7036, 7037, and 7038 in Square 3591 (the "Property") for (i) a waiver from the Commission's rules limiting the number and duration of time extensions, and (ii) a two-year time extension of the deadline to file a building permit application for the approved consolidated planned unit development ("PUD") approved by Z.C. Order No. 14-12 (the "Original Order"), as extended by Z.C. Order Nos. 14-12A, 14-12D, 14-12D(1),14-12D(2), and 14-12G, and as modified by Z.C. Order Nos. 14-12C and 14-12C(1). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, ["Zoning Regulations of 2016"], to which all subsequent regulatory citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

THE PROPERTY

1. The Property is located in Ward 5 in the Northeast quadrant of the District on a rectangular lot bounded by 6th Street, N.E. to the east, 5th Street, N.E. to the west, a surface parking lot to the south, and to the north, a newly delivered mixed-use building; is in the heart of the Union Market District; and contains the two-story market building (known as "The Market" or the "Existing South Building") that remains the center of retail activity in the Union Market District today.

PRIOR APPROVALS

2. Pursuant to the Original Order, effective May 8, 2015, the Commission approved (i) a consolidated PUD for the South Parcel, including the Existing South Building and a Future South Building("South Building PUD"), (ii) a first-stage PUD with respect to lots adjacent to the Property (the "North Parcel"), including the North Building, and (iii), together for the Property and the North Parcel, a related Zoning Map amendment rezoning both from the CM-1 (now PDR-1) to the C-3-C (now MU-9B) Zone District. The Original Order authorized:
   - A Consolidated PUD both for the Existing South Building to allow ground floor retail/restaurant uses, an event space on the second level, and outdoor plazas; and for the Future South Building, a vertical expansion of the Existing South Building to a height of 120 feet and a gross floor area of approximately 216,400 for entertainment

(movie theatre) and either office or residential uses above the theatre, at the Applicant's election; and

- A First-Stage PUD for the North Building to include ground floor/retail uses and upper story residential uses with a total height of 120 feet and a gross floor area of approximately 325,000 square feet. The North Building is now fully constructed and is currently occupied.

3. Condition No. D.3 of the Original Order approved the South Building PUD for two years of the Original Order effective date, during which time the Applicant was required to file a building permit application.

4. Pursuant to Z.C. Order No. 14-12A, filed on May 5, 2017, and effective November 9, 2018, the Commission approved a two-year time extension of the deadline to file a building permit application under the South Building PUD until May 9, 2019.

5. Pursuant to Z.C. Order No. 14-12D[1], filed on May 7, 2019, and effective January 24, 2020, the Commission approved a one-year time extension of the deadline to file a building permit application under the South Building PUD until May 8, 2020. Pursuant to Subtitle Z § 702.1[2] and 204.3, such deadline was automatically extended for a period of six (6) months; that is, until November 9, 2020.

6. Pursuant to Z.C. Order No. 14-12D(1),[3] filed on December 15, 2020 and effective January 1, 2021, the deadline to file a building permit application under the South Building PUD was administratively extended for one year pursuant to Subtitle Z § 705.9[4], until November 9, 2021.

7. Pursuant to Z.C. Order No. 14-12D(2),[5] filed on November 8, 2021 and effective November 26, 2021, the deadline to file a building permit application under the South

1 On June 26, 2017, the Applicant filed an application for a modification to the South Building PUD and a Second-Stage PUD for the North Parcel in Z.C. Case No. 14-12B. On August 23, 2018, the Applicant withdrew such application without the Commission having ever taken action with respect thereto. On April 10, 2019 the Applicant filed an application for a modification of consequence to the South Building PUD to permit interim improvements and uses in the Existing South Building on the Property in Z.C. Case No.14-12C, which modifications were approved in Z.C Order Nos. 14-12C and 14-12C(1), effective August 30, 2019.

2 Under Subtitle Z § 705.5, administrative extensions granted due to the Covid-19 pandemic per Subtitle Z § 702.1, do not count as an extension request under Subtitle Z § 705.5.

3 On November 6, 2020, prior to the expiration date established in Z.C. Order No. 14-12D, the Applicant filed a request for a further time extension of the South Building PUD under Z.C. Case No. 14-12F thereby tolling the expiration of the South Building PUD. On September 9, 2021, the Applicant withdrew the time extension request under Z.C. Case No. 14-12F because it was superseded by Z.C. Order No. 14-12D(1).

4 Under Subtitle Z § 705.5, administrative extensions granted due to the Covid-19 pandemic per Subtitle Z § 705.9, do not count as an extension request under Subtitle Z § 705.5.

5 On June 6, 2019, affiliates of the Applicant filed an application for a second-stage PUD for the North Parcel, which application was approved in Z.C. Order No. 14-12E, effective July 31, 2020.

Building PUD was administratively extended for one-year pursuant to Subtitle Z § 705.9,[6] until November 9, 2022.

8. Pursuant to Z.C. Order No. 14-12G, filed on November 4, 2022 and effective April 7, 2023, the Commission approved a two-year time extension of the deadline to file a building permit application under the South Building PUD until November 9, 2024; and a waiver from the Commission's rules, under Subtitle Z § 705.5, to allow a third time extension and a second extension for more than one year.

PARTIES AND NOTICE

9. In addition to the Applicant, the only party to Z.C. Case No. 14-12 was Advisory Neighborhood Commission ("ANC") 5D, the "affected" ANC pursuant to Subtitle Z § 101.8.

10. On November 8, 2024, the Applicant served the Application on ANC 5D, the Office of Planning ("OP"), and the District Department of Transportation ("DDOT"), as attested by the Certificate of Service submitted with the Application (Exhibit ["Ex."] 2 at 12).

II. THE APPLICATION

11. On November 8, 2024, the Applicant filed the Application requesting a two-year time extension until November 9, 2026, to file a building permit application under the Consolidated PUD for the Future South Building; and a waiver, pursuant to Subtitle Z § 101.9, from Subtitle Z § 705.5 to allow a fourth time extension and a third extension for more than one year. The Application stated that this extension request relates only to the Consolidated PUD and the Future South Building, as the Existing South Building and the interim improvements and uses inside are to remain intact during construction of the Future South Building, as approved under Z.C. Order Nos. 14-12C and 14-12C(1). The Application further stated that in the next two years the Applicant expects to either satisfy filing a building permit application or seek modification of the Consolidated PUD to make permanent the interim conditions at the Property. (Ex. 2)

12. The Applicant asserted it met the requirements of Subtitle X § 705.2 for the requested two-year time extension and the requirements of Subtitle X § 101.9 for a waiver from Subtitle Z § 705.5's maximum of two-time extensions and a maximum of one year for a second time extension because:
    - The time extension request was served on all parties and parties were allowed 30 days to respond;
    - There has been no substantial change in any material facts upon which the Commission based its approval of the Original Order that would undermine the Commission's justification for that approval; and

[6] Under Subtitle Z § 705.5, administrative extensions granted due to the Covid-19 pandemic per Subtitle Z § 705.9, do not count as an extension request under Subtitle Z § 705.5.

- Good cause justifies the Commission granting the time extension and the waiver because the Applicant has faced extraordinary circumstances that have delayed commencement of construction of the Future South Building, including
  - Post-pandemic effects on the real estate market for office and movie theaters;
  - Financing difficulties exacerbated by high interest rates; and
  - Construction challenges unique to the structural design and increased construction costs; and
- The time extension request does not prejudice the rights of any party and is not prohibited by law as the only party to the Application, in this case ANC 5D, was served with the Application, the Applicant maintains a close working relationship with the ANC to ensure that its concerns are addressed, and no law prohibits this extension request.

(Ex. 2)

13. Despite these challenging circumstances, the Applicant notes the significant steps it has taken to deliver and enhance the benefits of the Consolidated PUD, including:
- The Applicant has advanced or completed nearly all of the Original Order's public benefits ahead of construction of the Future South Building (See Ex. 2A, Summary of Public Benefits);
- The Applicant has converted the top level of the Existing South Building into additional publicly accessible outdoor and recreational space, on an interim basis (as described and approved in Z.C. Order 14-12(C)) (*See* Ex. 2B, photos of the Union Market); and
- The Applicant has completed construction of the North Building (the First-Stage PUD per the Second-Stage PUD approved in Z.C. Order 14-12E) and the building is complete and currently occupied.

(Ex. 2)

III. RESPONSES TO THE APLICATION

OP

14. On December 2, 2024, OP filed a report (the "OP Report") supporting the Application and finding that it meets the requirements of Subtitle Z § 705.2 for the requested extension and the requirements of Subtitle Z § 101.9 for the requested waiver. OP concluded that there have been no substantial changes to the Comprehensive Plan Future Land Use Map or the Generalized Policy Map for the Florida Avenue Market Area (although there were changes in the 2021 Comprehensive Plan update with respect to the importance of PDR land), land designated for other uses such as this Property are anticipated to change use accordingly. OP stated that the Applicant demonstrated that the economics of the Future South Building are infeasible at this time due to post-pandemic challenges to the office market and difficulties in obtaining office financing and an equally challenging market for movie theatres as well as high construction costs. OP also noted that the Applicant has delivered many of the public benefits and amenities proffered through the Original Order. (Ex. 4)

ANC

15. ANC 5D did not file a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z § 705.3, 705.5, and 705.6.

2. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.

3. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served the Application on the only other party to the Application, ANC 5D, which was given 30 days to respond from the November 8, 2024, date of service.

4. Subtitle Z § 705.5 requires that "[a]n applicant with an approved PUD may request no more than two (2) extensions. . .[and a] second extension may be approved for no more than one (1) year."

5. Subtitle Z § 101.9 authorizes the Commission to waive any of the provisions of Subtitle Z if, in the judgment of the Commission, the Applicant demonstrates good cause for the waiver and the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

6. The Commission concludes that good cause exists for the Applicant's request for a waiver from the provisions of Subtitle Z § 705.5 to allow a fourth time extension and a third extension for more than one year because of the difficulties confronting the Applicant in constructing the building and mix of uses approved in the Future South Building due to economic and market challenges.

7. The Commission concludes that no party will be prejudiced by the granting of this waiver, as ANC 5D was served with the Application and did not file a response.

8. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the PUD.

9. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) because there has been no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for that approval.

10. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
    1. An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;

2. *An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or*
3. *The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.*

11. The Commission concludes that the Application meets the standards of Subtitle Z § 705.2(c)(1) and (c)(3) because the Applicant has demonstrated that it has diligently pursued the financing to construct the Future South Building and has not been able to move forward due to significant economic and market challenges outside its reasonable control, including a depressed market for office and movie theatres exacerbated by the Covid-19 pandemic, and high interest rates and construction costs, which made obtaining financing for the Future South Building infeasible within the time limits of the Original Order.

"Great Weight" to the Recommendations of OP

12. The Commission must give "great weight" to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.9 (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

13. The Commission finds persuasive OP's recommendation that the Commission approve the Application and therefore concurs in that judgment.

"Great Weight" to the Written Report of the ANC

14. The Commission must give "great weight" to the issues and concerns of the affected ANC expressed in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(2012 Repl.)) and Subtitle Z § 406.2. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978))

15. ANC 5D did not file a response to the Application; therefore, there is nothing to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a two-year time extension (with a waiver of Subtitle Z § 705.5 pursuant to Subtitle Z § 101.9) of Z.C. Order No. 14-12, as extended by Z.C. Order Nos. 14-12A, 14-12D, 14-12D(1), 14-12D(2), and 14-12G until November 9, 2026, within which time

a building permit application must be filed under the Future South Building. The Conditions in Z.C. Order No. 14-12, remain unchanged and in effect as previously modified.

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

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 14-12H shall become final and effective upon publication in the *District of Columbia Register*; that is, on March 7, 2025.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-21F
Z.C. Case No. 15-21F
Kenilworth Revitalization I JV, LLC
(Modification Without Hearing of the Approved PUD @ Square 5113, Lots 5-9, Square 5114, Lot 10 and Square 5116, Lots 164,165,172-180, and 186)
November 14, 2024

Pursuant to notice, at its November 14, 2024, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Kenilworth Revitalization I JV, LLC (the "Applicant") for a Modification Without Hearing of the Approved Planned Unit Development ("PUD") in Z.C. Order No. 15-21 (the "Original Order"), as modified by Z.C. Order No. 15-21B and extended by Z.C. Order Nos. 15-21A, 15-21C, 15-21D, and 15-21E, for Lots 5-9 in Square 5113, Lot 10 in Square 5114, and Lots 164, 165, 172-180, and 186 in Square 5116 (the "Property" or "PUD site").

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedure, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the "Zoning Regulations", to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

1. Pursuant to Z.C. Order No. 15-21 (the "Original Order"), effective January 20, 2017, the Commission approved a Consolidated PUD, a First-Stage PUD, and a Related Map Amendment for development of Squares 5113, 5114, and 5116, located west of Kenilworth Avenue, north of Douglas Street, east of Anacostia Avenue, and south of Shaw Drive. The Original Order approved a new mixed-use development on the PUD site, previously improved with a Department of Housing and Community Development public housing development known as Kenilworth Courts, to consist of approximately 530 residential units, including public housing replacement units, tax credit rental units, market rate units for rent and sale, and non-residential uses to include a grocer/fresh food use (the "Project".) The Project was approved to be developed in multiple phases. The first phase, approved as a Consolidated PUD, consists of 4.4. acres bounded by Kenilworth Avenue, Douglas Street, 45th Street, and Quarles Street and includes a mixed-use building with 65 residential units above and ground floor non-residential use, a 42-unit senior building, and 59 single family homes and stacked flats. Construction of the Consolidated PUD is completed. The second phase, approved as a First-Stage PUD, is still pending (Exhibit ["Ex."] 2).

2. Pursuant to Z.C. Order No. 15-21A, effective January 24, 2020, the Commission approved a two-year time extension for the Consolidated PUD and First-Stage PUD. Pursuant to Z.C Order Nos. 15-21B and 15-21C, both effective April 16, 2021, the Commission approved

a modification of consequence to the Project, and a two-year extension for the First-Stage PUD, respectively. Pursuant to Z.C. Order No. 15-21D, effective April 7, 2023, and Z.C. Order No. 15-21E, effective June 21, 2024, the Commission approved a one-year extension, and a two-year extension for the First-Stage PUD, respectively (Ex. 2). Based on the most recent extension granted in Z.C. Order No. 15-21E, the deadline to file a Second-Stage PUD application for the second phase is January 20, 2026, and the validity of the First-Stage PUD is extended to January 20, 2027.

PARTIES

3. The only party to the Original Order other than the Applicant was ANC 7D.

4. On September 24, 2024, the Applicant served the Application on ANC 7D and the Office of Planning ("OP"), as attested by the Certificate of Service submitted with the Application (Ex. 2 at 6).

II. THE APPLICATION

5. On September 24, 2024, the Applicant filed the Application requesting a modification without hearing, pursuant to Subtitle Z § 703.1, to modify Condition B.5. of the Original Order to clarify the duration of the van loop service from the Project to both the Deanwood and Kenilworth Recreation Centers. The proposed modified condition language would state that the van loop service shall continue until a more direct, well-lit pedestrian path from the Project to both the Deanwood and Kenilworth Recreation Centers is established. The Application notes that the van loop service has not yet commenced; however, the completed construction of the Frederick Douglass Memorial Bridge provides a pedestrian connection between the Project and the Deanwood and Kenilworth Recreation Centers (Ex. 2).

6. The Application states that the case record in Z.C. Case 15-21 demonstrates that the intent was for the van loop service to be provided only until better pedestrian connections were available, as evidenced by the discussion at the public hearing, the Applicant's Proffers and Conditions, the Applicant's Draft Findings of Fact and Conclusions of Law, the Applicant's Revised Proffers and Conditions, and the Original Order itself (*See* Ex. 2 at 3-4). However, the full intent of the van loop service proffer was not captured in the conditions of the Original Order; the proposed modified condition language would capture the intent for the duration of the van loop service.

III. Responses to the Application

Office of Planning ("OP")

7. OP submitted a report dated November 4, 2024 ("OP Report"), recommending approval of the Application and concluding that the proposed modification of Condition B.5. appears to be consistent with the intent of the Original Order and the discussion at the public hearing, regarding a van loop service connecting the site to the Deanwood and the Kenilworth Recreation Centers until a more direct, well-lit pedestrian path is established.

Moreover, it appears that reasonably convenient access from the Project to both the Deanwood and Kenilworth Recreation Centers is currently available (Ex. 4).

ANC 7D

8. ANC 7D did not file a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications Without Hearing to final orders and plans without a public hearing.

2. Subtitle Z § 703.6 defines a Modification Without Hearing as "a modification in which impact may be understood without witness testimony, including, but not limited to a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission. Determination that a modification can be approved without witness testimony is within the Commission's discretion. A request to add or change a zoning map designation to an approved planned unit development shall not be considered without a hearing."

3. The Commission concludes that the Application qualifies as a Modification Without Hearing within the meaning of Subtitle Z § 703.6, as a proposed change to a condition in the final order and therefore can be granted without a public hearing.

4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.10 to serve the Application on all parties to the original proceeding- in this case ANC 7D- and OP, at the same time that the request was filed with the Office of Zoning. The Commission concludes that ANC 7D was allowed 30 days after the request was filed and served on September 24, 2024, to file a response to the Application in accordance with Subtitle Z § 703.12.

5. The Commission concludes that, in accordance with Subtitle Z § 703.13, this request for a Modification Without Hearing was filed with the Office of Zoning at least 35 days prior to the public meeting at which the request was considered by the Commission. The request was originally filed on September 24, 2024, and considered by the Commission at its November 14, 2024 public meeting.

6. The Commission finds the Application consistent with the intent of the Original Order approval as the proposed modified language to Condition B.5. clarifies that the intent was for the van loop service to continue only until a better pedestrian connection was established between the Project and both the Deanwood and Kenilworth Recreation Centers. Further, the completion of the construction of the Frederick Douglass Memorial Bridge has established the pedestrian connection from the Project to both recreation centers that the van loop service was intended to rectify.

"Great Weight" to the Recommendations of OP

7. 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 (2001)) and Subtitle Z § 405.9, the Commission must give "great weight" to the recommendations of OP (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment,* 141 A. 3d 1079, 1087 (D.C. 2016)).

8. The Commission finds OP's recommendation to approve the Application persuasive and therefore concurs in that judgment.

"Great Weight" to the Recommendations of the ANC

9. Pursuant to §13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) and Subtitle Z §406.2, the Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*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)).

10. ANC 7D did not file a response to the Application; therefore, there is nothing to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a Modification Without Hearing to modify Condition B.5. of the Original Order to clarify that the van loop service shall continue until a more direct, well-lit pedestrian path from the Project to both the Deanwood and Kenilworth Recreation Centers is established. Condition No. B.5. of Z.C. Order No. 15-21, as modified by Z.C. Order No. 15-21B and extended by Z.C. Order Nos. 15-21A, 15-21C, 15-21D, and 15-21E, is amended to read as follows (deletions shown in ~~**bold and strikethrough**~~ text; additions in **bold and underlined** text). All other conditions in Z.C. Order No. 15-21, as modified, remain unchanged and in effect.

5. Commencing with the issuance of a Certificate of Occupancy for the first building in Phase 1 and continuing service up until the issuance of a Certificate of Occupancy for the first building in Phase 2, the Applicant shall provide a van loop service from the Project to both the Deanwood and the Kenilworth Recreation Center. The Applicant shall provide loop service from the Project to the Deanwood and Kenilworth facilities four times per weekday, in the morning hours and after school. **The van loop service shall continue until a more direct, well-lit pedestrian path from the Project to both the Deanwood and Kenilworth Recreation Centers is established.**

Final Action
VOTE (November 14, 2024): 5-0-0 (Tammy Stidham, Robert E. Miller, Anthony J. Hood, Joseph S. Imamura, and Gwen Wright to approve.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 15-21F shall become final and effective upon publication in the *District of Columbia Register*; that is on March 7, 2025.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 17-21C
Z.C. Case No. 17-21C
As You Like It, LLC
(One-Year Time Extension for Approved PUD @
Square 498, Lot 52 (501 I Street, S.W.))
January 30, 2025

Pursuant to notice, at its January 30, 2025 public meeting, the Zoning Commission for the District of Columbia ("Commission") considered the application ("Application") of As You Like It, LLC ("Applicant") for a one-year time extension of the approved consolidated planned unit development ("PUD") and Zoning Map amendment approved in Z.C. Order No. 17-21, as modified by Z.C. Order No. 17-21A and as extended by Z.C. Order No. 17-21B. The property (Lot 52 in Square 498) that is the subject of the application has a street address of 501 I Street, S.W. ("Property"). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

I. FINDINGS OF FACT

PRIOR APPROVALS

1. Pursuant to Z.C. Order No. 17-21 ("Order"), as amended by Z.C. Order No. 17-21A, the Commission approved a consolidated PUD and related map amendment for the Property, which authorized construction of a mixed-use building including office, rehearsal, education, and costume-shop space for the Shakespeare Theatre Company ("STC"); approximately 70 for-sale residential units; and approximately 40 on-site and 15 off-site parking spaces (collectively, "Project" or "PUD").

2. Condition E.2 of the Order required the Applicant to file for a building permit by November 29, 2021.

3. Pursuant to Subtitle Z § 705.9[1], the Commission approved a one-year administrative time extension to file a building permit application by November 29, 2022, in Z.C. Order No. 17-21(1).

4. Pursuant to Z.C. Order No. 17-21B, the Commission approved a two-year time extension to file a building permit application by November 29, 2024.

PARTIES AND NOTICE

5. The only party to the Order and to the Application was Advisory Neighborhood Commission ("ANC") 6D, which is the "affected" ANC[2] (*See* Subtitle Z § 101.8, 403.5).

[1] Under Subtitle Z § 705.5, administrative extensions granted due to the Covid-19 pandemic per Subtitle Z § 705.9, do not count as an extension request under Subtitle Z § 705.5.

[2] United Neighbors of Southwest submitted a request for party status in opposition, which was later withdrawn. Martin Welles submitted a request for party status in opposition, which the Commission denied.

6. On November 25, 2024, the Applicant served the Application on ANC 6D, as well as the Office of Planning ("OP") and the District Department of Transportation, as attested by the Certificate of Service submitted with the Application (Exhibit ["Ex."] 2).

II. THE APPLICATION

7. On November 25, 2024, the Applicant timely filed the Application requesting a one-year extension of the Order, to be allowed until November 29, 2025, to file a building permit application for the Project.

8. The Application asserted that it met the requirements for a time extension enumerated in Subtitle Z § 705.2 because:
   - The extension request was served on all parties and parties were allowed 30 days to respond;
   - There has been no substantial change in any material facts upon which the Commission based its approval of the Order;
   - The Applicant has been unable to obtain Project financing for the following reasons:
     - The continued after-effects of the pandemic on performing arts organizations such as STC, which have severely disrupted the programming and financing assumptions behind STC's participation in the Project;
     - The impact of the elevated interest rate environment, which has raised the effective cost for potential purchasers of the Project's for-sale multifamily component;
     - The existing state of the market including inflation, interest rates, and elevated construction costs; and
     - The accompanying challenges all of the above events imposed on securing sufficient capital to finance the Project; and
   - Other conditions beyond the Applicant's reasonable control render the Applicant unable to comply with the time limits of the Order as previously extended; specifically, a pending sale of the Property for by-right development and the need to extend the validity of the PUD during the contract diligence period, not only to maintain the Applicant's significant investment in the PUD approval but also to maintain the protections for the neighbors that were memorialized in the PUD.

   (Ex. 2)

III. RESPONSES TO THE APPLICATION

9. On December 23, 2024, OP submitted a report, recommending approval of the Application and concluding there were no substantial changes to the material facts upon which the Commission had based its approval of the Order (Ex. 5).

10. On December 16, 2024, ANC 6D submitted a resolution stating that at its regularly scheduled and properly noticed public meeting on December 9, 2024, with a quorum present, the ANC voted 6-0-2 in support of the Application (Ex. 4).

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z § 705.3, 705.5 and 705.6.

2. The Commission concludes that the Applicant timely filed the Application prior to its expiration.

3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.

4. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it served ANC 6D, the only party to the Application, on November 25, 2024, and that ANC 6D was given 30 days to respond from November 25, 2024.

5. Subtitle Z § 705.2(b) requires that the Commission find that no substantial change has occurred to any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the PUD.

6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b), based upon the Application and the OP Report, which each stated no substantial changes had occurred to the material facts upon which the Commission based its prior approval that would undermine the Commission's justification for approving the Project.

7. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
   (1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;
   (2) An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
   (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

8. The Commission concludes that the Application met the standards of Subtitle Z § 705.2(c)(1) and 705.2(c)(3) due to adverse conditions affecting not only the financing market for commercial real estate development but also the financing of the performing arts and for-sale multifamily components of the Project, all of which were beyond the Applicant's reasonable control. The need to maintain the requirements and conditions of the PUD during the pending contract period also represents a condition beyond the

Applicant's reasonable control. For these reasons, the Commission agrees that these conditions constitute good cause for the requested one-year extension of the PUD.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

9. The Commission is required to 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. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

10. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANC(S)

11. 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 (*Spring Valley-Wesley Heights Citizens Ass'n v. District of Columbia Zoning Comm'n*, 856 A.2d 1174, 1180 (D.C. 2004)). 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 Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted)).

12. The Commission finds ANC 6D's recommendation to approve the Application persuasive and concurs in that judgment.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a one-year time extension of Z.C. Order No. 17-21, with the requirement that the Applicant:

- File a building permit application to construct the PUD approved by Z.C. Order No. 17-21, as modified by Z.C. Order No. 17-21A, by November 29, 2025; and
- Begin construction of the PUD approved by Z.C. Order No. 17-21, as modified by Z.C. Order No. 17-21A, by November 29, 2026.

VOTE (January 30, 2025): 5-0-0 (Joseph S. Imamura, Tammy Stidham, Anthony J. Hood, Robert E. Miller, and Gwen Wright to approve.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 17-21C shall become final and effective upon publication in the *District of Columbia Register*; that is, on March 7, 2025.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 24-03
Z.C. Case No. 24-03
Good Hope Road, LLC
(Zoning Map Amendment @ Square 5765, Lot 1015)
November 14, 2024

Pursuant to notice, at its public meeting on November 14, 2024, the Zoning Commission for the District of Columbia (the "Commission") considered an application (the "Application") submitted by Good Hope Road, LLC (the "Applicant") for approval of an amendment to the Zoning Map from the MU-4 zone to the MU-7A zone (the "Map Amendment") for the property located at 1603 Marion Barry Avenue, S.E. (Square 5765, Lot 1015) (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 [the "Zoning Regulations"] 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 set forth below, the Commission hereby **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") 8A, 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 August 31, 2023, the Applicant mailed a Notice of Intent to file an application for a Zoning Map Amendment to all property owners within 200 feet of the Property, as well as ANC 8A, as required by Subtitle Z § 304.5. (Exhibit ["Ex."] 3G)

4. On February 8, 2024, the Office of Zoning ("OZ") sent copies of the Notice of Filing to (Ex. 9):
   - Applicant;
   - ANC 8A;
   - ANC Single Member Districts ("SMD") 8A02 and 8A05;
   - Office of the ANCs;
   - Office of Planning ("OP");
   - District Department of Transportation ("DDOT");
   - Department of Buildings ("DOB");
   - Councilmember Trayon White, Sr.;

- OZ Legal Division ("OZLD");
- Department of Energy and Environment ("DOEE"); and
- Chairman and At-Large members of the D.C. Council.

5. On May 28, 2024, OZ sent notice of the July 29, 2024, public hearing to (Ex. 14, 15):
   - All recipients listed in Finding of Fact ("FF") 4; and
   - Property owners within 200 feet of the Property.

6. OZ also published notice of the July 29, 2024 virtual public hearing, in the June 7, 2024, *District of Columbia Register* (71 DCR 6864 *et seq*.) as well as through the calendar on OZ's website (Ex. 13).

7. Pursuant to Subtitle Z § 402.3, the Applicant posted notice of the hearing on the Property on June 18, 2024, and maintained such notice in accordance with Subtitle Z § 402.10 (Ex. 17, 27).

THE PROPERTY

8. The Property is located in Ward 8 in the Anacostia neighborhood within the Anacostia Historic District and is bounded by Marion Barry Avenue, S.E. (formerly Good Hope Road, S.E.) to the north, 16th Street, S.E. to the west, an alley and low-density residential development to the south, and surface parking lots to the east (Ex. 3).

9. The Property consists of approximately 10,248 square feet of land area (Ex. 3).

10. The Property is currently improved with a single-story commercial building that was previously occupied by a laundromat, is currently vacant, and is surrounded by a parking lot. The existing structure on the Property is not contributing to the Anacostia Historic District (Ex. 3).

CURRENT ZONING

11. The Property is currently located in the MU-4 zone, which is intended to permit moderate-density mixed-use development, provide for facilities for shopping and business needs, housing, and mixed uses, and be located in low- and moderate-density residential areas with access to main roadways and rapid transit stops, among other things (Subtitle G § 101.9).

12. As a matter of right, the MU-4 zone allows a maximum density of 2.5 FAR (3.0 FAR with IZ bonus density), of which no more than 1.5 FAR may be devoted to non-residential uses, and a maximum height of 50 feet, not including the penthouse (Subtitle G §§ 201.1, 203.2).

COMPREHENSIVE PLAN (10-A DCMR)

13. Pursuant to Subtitle X § 500.3, the Commission shall find that the Map Amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.

14. In applying the standard of review applicable to the Map Amendment, the Comprehensive Plan requires the Commission to do so 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 considerations of whether the Map Amendment is "not inconsistent" with the Comprehensive Plan, rather than a separate determination about a zoning action's equitable impact.

15. 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." (*Id.* § 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 (*Id.* § 213.9).

16. The Comprehensive Plan Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element suggests to prepare and implement tools to use as a part of the Commission's evaluation process (10-A DCMR § 2501.8). Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Analysis 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 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.

Generalized Policy Map (the "GPM")

17. The Comprehensive Plan's GPM situates the Property in a Main Street Mixed Use Corridor, which the Comprehensive Plan's Framework Element describes as "traditional commercial business corridors with a concentration of older storefronts along the street. The area served can vary from one neighborhood to multiple neighborhoods. Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper-story residential or office uses. Some corridors are underutilized, with capacity for redevelopment. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment." (10-A DCMR § 225.14).

Future Land Use Map (the "FLUM")

18. The Comprehensive Plan's FLUM designates the Property within the Moderate Density Commercial designation, which the Framework Element describes as "shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a FAR of 2.5 and 4.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-5 and MU-7 zones are representative of zones consistent with the Moderate Density Commercial category, and other zones may also apply (10-A DCMR § 227.11).

Far Southeast/Southwest Area Element

19. The Property falls within the Far Southeast/Southwest Area Element that calls for, among other things:
    - Encouraging additional opportunities for housing development and potentially employment growth in the Far Southeast/Southwest Planning Area along a designated Great Streets corridor (10-A DCMR § 1808.2);
    - Supporting infill housing development on vacant sites within the area, especially within e.g. historic Anacostia (*Id.* § 1808.5); and
    - Supporting additional retail development within the area, especially within e.g. historic Anacostia, and in particular development that combines upper story housing or offices and ground floor retail (*Id.* § 1808.7).

II. THE APPLICATION

PROPOSED ZONING

20. The Application proposes to rezone the Property to the MU-7A zone. The Application acknowledges the Applicant's planned future development of the Property; and states that, due to the Property's location within the Anacostia Historic District, concept design approval from the Historic Preservation Review Board ("HPRB") was received on July 27, 2023 for redevelopment of the Property with a six-story mixed-use building with penthouse, a height of approximately 65 feet, and an increased sixth floor setback, consistent with the development standards of the proposed MU-7A zoning (Ex. 3; *see* also Ex. 3D). In its pre-hearing statement, the Applicant explained that it also considered the MU-5 zones and the MU-8 zones for the Property site, which both allow higher maximum heights than the proposed MU-7A zone's 65-foot maximum height; therefore, the modest increase in density allowed under the proposed MU-7A zoning will appropriately integrate the Property's Moderate Density Commercial FLUM designation and the historic preservation considerations of the Property's location within the Anacostia Historic District (Ex. 11).

21. The purposes of the Mixed-Use ("MU") zones are to, among other things (Subtitle G § 101.3):

- Provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities and scale throughout the city;
- Reflect a variety of building types, including shop-front buildings that may include a vertical mixture of residential and non-residential uses, or buildings containing all residential or non-residential uses; and
- Ensure that infill development is compatible with the development pattern within the zone and surrounding areas.

22. Specifically, the MU-7 zones are intended to permit medium-density[1], mixed-use development and to be located on arterial streets, in uptown and regional centers, and at rapid transit stops (Subtitle G § 101.12).

23. As a matter of right, the MU-7A zone permits:
- A maximum density of 4.0 FAR (4.8 FAR with IZ), of which no more than 1.0 FAR may be devoted to non-residential uses (Subtitle G § 201.1); and
- A maximum height of 65 feet, not including penthouse. (*Id.* § 203.2)

APPLICANT'S JUSTIFICATION FOR APPLICATION

Not Inconsistent with the Comprehensive Plan

24. The Applicant asserted that the Application is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs applicable to the Property, as detailed below (Ex. 3, 3C).

Racial Equity

25. The Applicant asserted that the Map Amendment would not be inconsistent with the racial equity policies and goals of the Comprehensive Plan. The Applicant noted that equity is conveyed throughout the Comprehensive Plan where priorities of affordable housing, preventing displacement, and access to opportunity are distinguished. The Map Amendment would increase the allowable density on the site and permit a mix of uses which would promote racial equity goals of the Comprehensive Plan (Ex. 3):
- *Community Outreach and Engagement* – The Applicant provided evidence of its community outreach and engagement efforts in response to the Commission's Racial Equity Tool. The Applicant stated that it engaged with ANC 8A prior to filing the application, including meeting in-person and via telephone with the SMD representative for ANC 8A05, who is also the ANC Chair, and other members of the ANC and the community multiple times beginning in the Summer of 2022. The Applicant presented to the full ANC 8A at its regular monthly public meetings on March 7, 2023, July 18, 2023, December 5, 2023, December 23, 2023, June 24, 2024, and July 9, 2024, in addition to presentations to the ANC at its executive meetings on September 9, 2022, February 21, 2023, and May 30, 2023. The Applicant also

[1] The Comprehensive Plan Framework Element describes the MU-7 zone as a consistent zone with the Moderate Density Commercial FLUM designation. The Commission has asked OP to bring forward a text amendment to the Zoning Regulations to change the description of the MU-7 zone in Subtitle G § 101.12 from a medium-density zone to a moderate-density zone, consistent with the Comprehensive Plan Framework Element.

conducted extensive outreach with the surrounding community and neighborhood organizations, including meetings with nearby residents and business owners in the Summer of 2022 and continued such efforts through the Winter of 2022/2023 and Spring 2023; hosted an in-person community event at the Property on December 3, 2022; conducted an outreach event hosted at the Property in coordination with Suited for Change and Whitman-Walker Health on January 28, 2023; and hosted multiple in-person, virtual, and telephone meetings with nearby residents in March and April of 2023. The Applicant included over 120 letters of support from community members and area residents to further evidence its community outreach and engagement and the broad-based support for the proposal (Ex. 3; *see* letters of support at Ex. 3H); and

- *Displacement* - The Map Amendment would not directly result in the physical displacement of residents since the Property currently does not contain any residential uses (Ex. 3).

GPM

26. The Applicant asserted that the Map Amendment would not be inconsistent with the GPM because the proposed rezoning will facilitate redevelopment of the Property with a new mixed-use development containing ground-floor commercial uses and residential uses above, which will replace an underutilized, single-story building and surface parking lot, both of which are physically and programmatically inconsistent with what is envisioned for a Main Street Mixed Use Corridor under the GPM (Ex. 3, 3C, 11).

FLUM

27. The Applicant asserted that the Map Amendment would not be inconsistent with the FLUM because:
    - The density that is permitted under the proposed MU-7A zone (4.0 FAR or 4.8 FAR for IZ developments) is not inconsistent with the 2.5-4.0 FAR density range envisioned for the Moderate Density Commercial FLUM designation, and the MU-7 zones are specifically referenced in the Framework Element as being consistent with the Moderate Density Commercial FLUM designation that applies to the Property;
    - Redevelopment of the Property in accordance with MU-7A matter-of-right parameters, and requiring approval from HPRB due to the Property's location within the Anacostia Historic District, will yield a context-sensitive development that provides neighborhood-serving commercial uses and new housing, and that is compatible with the Historic District; and
    - The Map Amendment would facilitate redevelopment of the Property that could strengthen the retail mix and urban design quality of the Marion Barry Avenue, S.E. corridor and help advance the District's commercial revitalization goals for a designated Great Streets corridor. Together, the higher-quality commercial space and increased residential density gained through the Zoning Map amendment, and business-owner assistance provided through the Great Streets program could help support existing small businesses, attract new businesses, increase the District's tax base, create new job opportunities for District residents, and help transform the

Marion Barry Avenue, S.E. corridor into a thriving and inviting main street mixed use neighborhood center (*Id*.).

Far Southeast/Southwest Area Element

28. The Applicant asserted that the proposed Map Amendment is not inconsistent with the policies set forth in the Far Southeast/Southwest Area Element. Consistent with the planning and development priorities identified in the Area Element, the proposal will provide additional opportunities for housing development and potential employment growth in the Planning Area along a designated Great Streets corridor. The proposed rezoning could promote growth in a location of the Planning Area where it makes sense, along an arterial corridor near transit and other mixed-use development. In addition to additional housing, the proposed rezoning will also facilitate new retail, and service uses in the Far Southeast/Southwest Planning Area and historic Anacostia (Ex. 3, 3C; *see also*10-A DCMR §§ 1808.2, 1808.5, 1808.7).

Land Use Element

29. The Applicant asserted that the proposed Map Amendment to the MU-7A zone is not inconsistent with the Land Use Element as it will support the growth and revitalization of Marion Barry Avenue, S.E. into a successful, transit-oriented, pedestrian-friendly commercial main street containing new retail amenities supported by new and existing residential uses; and facilitate infill development on the Property with new housing that will help achieve the District's housing goals. Further, redevelopment of the Property subject to review by the HPRB for consistency with the Anacostia Historic District, will result in development with a height and massing that is consistent with the surrounding context (*Id*.; *see also* 10-A DCMR §§ 307.14, 308.6, 310.7, 310.10, 313.10, 313.14).

Transportation Element

30. The Applicant asserted the proposed Map Amendment is not inconsistent with the Transportation Element because it will support mixed-use transit-oriented development given the Property's location immediately adjacent to a priority bus route along Marion Barry Avenue, S.E. The increase in allowable density for new housing, particularly affordable housing, will also advance equitable access to transportation, and discourage auto-oriented uses by facilitating redevelopment of the Property that will replace existing surface parking and all curb cuts with a new mixed-use development (*Id*.; *see* also10-A DCMR §§ 403.10, 403.13, 404.6, 411.5).

Housing Element

31. The Applicant asserted that the Map Amendment is not inconsistent with the Housing Element as it will facilitate redevelopment of an underutilized site on a designated Main Street mixed-use corridor and D.C. Great Street with a new mixed-use development containing new housing and ground-level commercial uses. The increased density allowed under the proposed MU-7A zone will facilitate more housing, including affordable housing set aside in accordance with IZ requirements, which will help address citywide housing needs for low- and moderate-income households. Further, the additional market rate housing facilitated by the proposed rezoning has the potential to increase the

socioeconomic diversity of the Far Southeast/Southwest Planning Area, while the affordable housing will help offset the rising cost of housing and minimize the potential for displacement in the Planning Area (*Id.*; *see also* 10-A DCMR §§ 503.3, 503.4, 503.5, 503.6, 504.8-504.10, 504.19, 505.9).

Environmental Protection Element

32. The Applicant asserted that the Map Amendment is not inconsistent with the policies and objectives of the Environmental Protection Element because the rezoning will facilitate the redevelopment of the Property, which is currently improved with an underutilized, one-story building and surface parking and is entirely impervious and lacks any sustainable stormwater management. The future redevelopment of the Property facilitated by the proposed MU-7A zoning will be significantly more sustainable as it will be subject to the requirements of the District's Green Building Act, the DOEE's stormwater regulations, and site study and mitigation efforts, among other requirements (*Id.*; *see also* 10-A DCMR §§ 603.6, 605.6, 605.7, 616.3).

Economic Development Element

33. The Applicant asserted that the Map Amendment is not inconsistent with the Economic Development Element because it will support an appropriate amount and type of new, neighborhood-serving retail and service uses that will not unduly impact the surrounding neighborhood. The provision of moderate density mixed-use development adjacent to a priority bus corridor will potentially connect residents to major employment areas within and around the District. The Applicant has committed to re-establish the laundromat use on the site in response to community input (*Id.*; *see also* 10-A DCMR §§ 708.8, 708.9, 713.5, 718.10).

Urban Design Element

34. The Applicant asserted that the Map Amendment is not inconsistent with the Urban Design Element as it will facilitate new mixed-use development that will enhance the urban design quality of the site, as well as the Marion Barry Avenue, S.E. commercial corridor, and has already received HPRB concept design approval (*Id.*; *see also* 10-A DCMR §§ 906.3, 908.3, 908.8, 909.5, 909.8-909.10).

Historic Preservation Element

35. The Applicant asserted that the Map Amendment is not inconsistent with the Historic Preservation Element as it will facilitate redevelopment of the underutilized site, which is currently a detriment to the character of the Anacostia Historic District, with new mixed-use development that has received concept design approval from HPRB (Ex. 3, 3C, 3D; *see also* FF 20; 10-A DCMR §§ 1008.5, 1013.3, 1014.9, 1014.10).

Potential Inconsistencies with the Comprehensive Plan

36. The Applicant analyzed whether the Map Amendment would be considered inconsistent with certain policies of the Comprehensive Plan. Upon review, the Applicant did not identify any instances where the proposal to rezone the Property to the MU-7A zone was categorically inconsistent with applicable Comprehensive Plan policies such that a

balancing of potential inconsistencies with the Map Amendment's consistency with other Comprehensive Plan policies and considerations was necessary (Ex. 3, 3C).

Hearing Testimony

37. At the public hearing held on July 29, 2024, the Applicant presented its case, including testimony from Amir Irani, a representative of the Applicant, and Shane Dettman, the Applicant's expert in zoning and land use planning. (Transcript of July 29, 2024 Public Hearing ("Public Hearing Tr.") at 7-42). In response to the opposition testimony summarized in FF 39 below, the Applicant's legal counsel stated that the proposed MU-7A zone is wholly consistent with the Property's Moderate Density FLUM designation and its intended density, and the case record clearly demonstrates considerable community outreach and engagement and broad community support for the proposal. The Applicant's legal counsel also stated that, despite the Commission's evaluation being limited to a map amendment in this case, the record should clearly reflect that the HPRB concept design approval received (on July 27, 2023) was for a six story building with setbacks on front and back upper floors, not a seven story building; HPRB concept design approval would have to be obtained again if something different was proposed for the site; and the development next door at 1605-1607 Marion Barry has an approximate building height of 50 feet and has higher topography than the Property (Public Hearing Tr. at 89-94).

38. The Commission received testimony from the following individuals and organizations in support of the Map Amendment at the public hearing (Public Hearing Tr. at 57-81):
- Dr. Jacque Patterson, a resident of the area in which the Property is located, who testified that the rezoning would support the growth and improvement of the Marion Barry Avenue, S.E. corridor and economic development in the area;
- Patrick O'Keefe, a resident living on U Street, S.E., one block south of the Property, who testified that rezoning the Property will help address public safety concerns in the area and economic development in the area;
- Allister Chang, a representative of Civic Suds, a non-profit organization that is working with the Applicant to provide community services at the Property following its redevelopment, who testified in support of the rezoning; and
- Daniel McGee, a resident living on U Street, S.E., one block south of the Property, testified that the rezoning will support the growth and economic stability of the Marion Barry Avenue, S.E. corridor.

39. The Commission received testimony from the following individuals and organizations in opposition to the Map Amendment at the public hearing (Public Hearing Tr. at 42-46, 63-74, 85-87):
- Greta Fuller, a representative of the Historic Anacostia Preservation Society ("HAPS"), who testified that HAPS opposed the Application and believed the Applicant's proposed redevelopment was not a good fit for the area because the project will potentially bring more affordable housing to an area with too much affordable housing already; and Ms. Fuller stated the community's desire for market rate housing and questioned why the height of the Applicant's proposed redevelopment cannot be five stories like the development next door; and

- Commissioner Jamila White, the ANC/SMD Representative for the Property, testified that the ANC opposed the Application[2]. Ms. White expressed concern about how the Property will ultimately be redeveloped, given that the proposal will allow for matter-of-right development under the MU-7A zone; and stated that there is opposition to the Application because of the height of the Applicant's proposed redevelopment and the community's desire that future development on this site be the same height and size as the building next door at 1605 Marion Barry.[3]

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

40. OP submitted a Setdown Report dated April 15, 2024, concluding that the proposal would not be inconsistent with the Comprehensive Plan, specifically the Comprehensive Plan Maps, policies of the Citywide Elements and recommendations of Far Southeast and Southwest Area Element, including when viewed through a racial equity lens; and recommending that the Commission set down the case for a public hearing (the "OP Setdown Report") (Ex. 10).

41. The OP Setdown Report concluded that the proposed MU-7A zone would not be inconsistent with the Comprehensive Plan for the following reasons (Ex. 10):
    - **Racial Equity**: Overall, when evaluated through a racial equity lens, the proposed Map Amendment is not inconsistent with the Comprehensive Plan. The proposed zoning action does not result in any physical displacement of residents or any commercial use because the site is currently vacant, and OP concluded that indirect displacement is also unlikely as a result of the Zoning Map Amendment. The rezoning will permit construction of new housing in excess of what can be constructed under existing zoning, including both new market-rate and affordable housing in accordance with IZ requirements; and redevelopment will result in public space and streetscape improvements along Marion Barry Avenue, S.E. Future residents of housing on the site would have easy access to several public facilities and gathering spaces in the neighborhood. OP's Setdown Report also included disaggregated race and ethnicity data for the Far Southeast and Southwest Planning Area; however, more current data was provided in the OP Hearing Report and is discussed below in FF 43;
    - **FLUM**: The proposed MU-7A zoning is representative of the Moderate Density Commercial designation and is appropriate for the site; and properties to the east, west, and north of the Property are also recommended for moderate density residential. In addition, the surrounding properties are also in the Anacostia Historic District and so subject to HPRB review for height, density, and compatibility with adjacent uses and

[2] During their respective testimony at the July 29, 2024 public hearing, Commissioner White and the Applicant's legal counsel disagreed about the outcome of the ANC 8A vote at its July 9, 2024 public meeting; Commissioner White testified that the ANC voted in opposition to the Application and the Applicant's legal counsel testified that the ANC voted down a resolution to support the Application.

[3] Commissioner White stated that she was testifying on behalf of the ANC. However, no letter or report was filed from the ANC stating the ANC's position on the Application or authorizing Commissioner White to testify on the ANC's behalf at the public hearing.

developments would be tailored to be compatible and respectful of the lower density dwellings. Therefore, the MU-7A Zone on the Property would be compatible with the development pattern envisioned for this portion of Marion Barry Avenue, S.E. and would not be inconsistent with the FLUM;

- **GPM**: Rezoning the Property is not inconsistent with the FLUM's Main Street Mixed Use Corridor designation for the Property. The development of the Property with retail and housing opportunities would be in keeping with other recent and planned redevelopments in the area to serve neighborhood needs, would respond to the emerging mixed-use character of development on Marion Barry Avenue, S.E, and the MU-7A zone would allow a development that would be similar in scale and density along the corridor;
- **Far Southeast/Southwest Area Element**: The MU-7A zone is consistent with the Area Element because it allows for increased height and additional density at a moderate range over what is currently allowed and would allow a development with a variety of unit sizes and incomes, along with ground floor retail or services. 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 (10-A DCMR § 1808.2, 1808.5, 1808.7, 1808.10, 1808.17);
- **Land Use Element**: The Map Amendment furthers the policies set forth in the Land Use Element as it would allow new development of currently underutilized and vacant property with a mix of multifamily housing and retail uses, which could create opportunities for neighborhood revitalization and beautification, thereby accommodating population growth in new development consistent with the planning intent and advancement of affordability and racial equity goals. Further, it would permit ground-floor neighborhood serving uses, that would help to widen the types of neighborhood services available to existing and prospective residents and improve the character of the existing neighborhood and the streetscape of Marion Barry Avenue, S.E. (10-A DCMR § 307.14, 308.6, 310.9, 310.10, 310.17, 311.5);
- **Transportation Element**: The Map Amendment furthers the policies set forth in the Transportation Element as it would allow for an appropriately scaled development along a transportation corridor which connects to the Anacostia Metrorail station, and which could help reduce the necessity of auto use and ownership in support of a related reduction in household expenses for future residents. Active retail uses along this corridor and along a transit route could enable a pedestrian-oriented environment and a transit-oriented development. The Map Amendment supports redevelopment of the Property to meet the expectations of equity in transportation accessibility, as the Property is one (1) mile from the Anacostia Metro Station (Green Line) and is connected via several Metrobus routes (92, W6, B2, and V2) (10-A DCMR §§ 403.13, 404.6, 405.7);
- **Housing Element**: The Map Amendment furthers the policies set forth in the Housing Element because it would facilitate redevelopment of an underutilized site and will assist in addressing the District's housing needs along a corridor where mixed-use development is envisioned. The proposed redevelopment facilitated by this Map Amendment would make a substantial contribution to the District's housing and

affordable housing goals and advance Comprehensive Plan policies related to housing. The location of the Property along a transit corridor with several bus routes connecting to the Anacostia Metro station supports the Framework Element's equity requirements for a desirable depth of affordability and access, which reduces future households' transportation costs thereby providing easier access to employment and services (10-A DCMR § 503.3, 503.5, 503.6, 503.11, 504.8-504.10, 504.13, 504.17, 504.19, 505.8);

- **Environmental Protection Element**: The Map Amendment furthers the policies set forth in the Environmental Protection Element because future development of the Property would be reviewed by DOEE to implement District policies 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 (10-A DCMR § 603.6, 612.4, 613.6);
- **Economic Development Element**: The Map Amendment furthers the policies set forth in the Economic Development Element because it will provide the opportunity for new neighborhood retail uses and services along the Marion Barry Avenue, S.E. corridor (10-A DCMR § 708.8, 708.10, 708.11, 713.5);
- **Urban Design Element**: The Map Amendment furthers the policies set forth in the Urban Design Element because the proposed MU-7A zone would provide for a new mixed-use building on a currently vacant property, to a height and scale and use mix consistent with the Comprehensive Plan and the character of the area. The proposed zone permits ground-floor retail to activate the street, while allowing housing units above, which will help to further activation of the street. Any development on the site would be required to meet current streetscape and environmental standards for new buildings (10-A DCMR § 909.5, 909.6, 909.10, 918.4);
- **Historic Preservation Element**: The Map Amendment furthers the policies set forth in the Historic Preservation Element because it would facilitate redevelopment of a non-contributing site with a project that has been reviewed and approved by HPRB, indicating that the development would be compatible to the surrounding neighborhood in architecture, design, and intensity (10-A DCMR § 1008.5, 1013.3, 1014.9, 1014.10); and
- **Potential Comprehensive Plan Inconsistency:** The Map Amendment would be potentially inconsistent with Comprehensive Plan policy ED-3.2.6: Commercial Displacement because future development facilitated by the proposal could impact neighboring businesses. However, this potential CP inconsistency is mitigated by the Map Amendment's potential to increase the population base to support local business; and outweighed by the numerous Comprehensive Plan policy goals and objectives that would be advanced by the Map Amendment.

42. The OP Setdown Report does not recommend that IZ Plus apply to the Map Amendment due to the significantly disproportionate amount of existing affordable housing in the Far Southeast/Southwest Planning Area and ANC 8A, in which the Property is located. OP noted that the intent of IZ Plus is to produce more affordable housing, particularly in areas where there are relatively few affordable units; data provided by the Deputy Mayor for Planning and Economic Development shows that, as of the end of February 2024, the Far Southeast/Southwest Planning Area has far exceeded the Mayor's 2025 affordable housing

target for the Planning Area by providing 2,447 affordable units, or 218.5% of the target for the provision of affordable housing (Ex. 10).

43. On July 19, 2024, OP submitted a hearing report (the "OP Hearing Report") recommending approval of the Application that largely reiterated the OP Setdown Report's recommendations. The OP Hearing Report provided more current disaggregated race and ethnicity data for the Far Southeast/Southwest Planning Area. Specifically, the data is the 2012-2016 and 2018-2022 American Community Survey 5-Year Estimates while the OP Setdown Report utilized less recent 2017-2021 data.

44. Disaggregated Race and Ethnicity Data: The OP Hearing Report provided disaggregated race and ethnicity data for the Far Southeast and Southwest Planning Area, noting the following trends (Ex.20):

- In the 2018-2022 period, Black residents continued to make up the largest portion of the population, but both the total population and the percentage decreased from 91% to 87.7% over the two time periods. Most of the other groups saw a slight increase or retained their percentage of the population; the "Two or More Races" segment of the population, although relatively small, had the largest increase, more than doubling in population and rising from 1.3% to 4.36% of the total;
- The median income of the Far Southeast/Southwest Planning Area was significantly lower than that of the District in both the 2012-2016 and 2018-2022 time periods. While the planning area saw an approximately $13,000 increase between time periods, this was significantly lower than the approximately $29,000 increase Districtwide. The Black or African American population had one of the lowest median incomes of all segments of the population in the 2012-2016 time period ($29,425) but saw an increase to $41,254, in the 2018-2022 time period. Although all groups had increases in median income, the income of Whites nearly doubled while that of Hispanic/Latino residents increased threefold;
- Between 2012-2016 and 2018-2022, the percentage of owner occupancy in the District changed only slightly - 40.7% to 41.5% while in the Far Southeast and Southwest Planning Area there was a more significant increase from 18% to 22.34%. Rates of homeownership increased for all racial groups but remained lower than the District as a whole for most groups;
- In 2012-2016, the unemployment rate in the Planning Area was at 22.8%, which was greater than twice the rate of the District at 8.7%. Although the rate of both the District (7.1%) and the Planning Area (17.7%) fell in 2018-2022, the Planning Area's unemployment rate remained over twice that of the District's; and
- The unemployment rate and housing cost burden rates may be reflected in the poverty rate in that in both time periods, the poverty rate of the Planning Area was approximately 15% to 20% points higher than that of the District, although the poverty rate decreased between the two time periods by an amount greater than that of the rest of the District as a whole – from about 38% to about 30%.

45. At the July 29, 2024, public hearing, OP testified in support of the Application and reiterated its recommendations in the OP Setdown Report and OP Hearing Report (Public Hearing Tr. at 47-55).

DDOT REPORT

46. DDOT submitted a report dated July 19, 2024 (the "DDOT Report") stating that it had no objection to the Application. DDOT concluded that the proposed rezoning is expected to lead to a moderate increase in the amount of transit, biking, and walking trips, and a minor increase in vehicle trips with minimal impact on the roadway network (Ex. 21).

47. DDOT did not provide testimony at the public hearing.

ANC REPORTS

48. ANC 8A did not file a written report to the case record. Jamila White, the ANC/SMD Representative for the Property, testified in opposition to the Application; her testimony is summarized above in FF 39; however, no letter or report was filed by the ANC authorizing her to testify on the ANC's behalf.

OTHER AGENCIES, PERSONS, AND ORGANIZATIONS

49. The Commission received letters of support of the proposed Zoning Map Amendment from the following individuals: Ashley Whitfield, Patrick O'Keefe, Alejandro Schwedhelm, Jessica Anderson, Brian McKenzie, Angela Nguyen, Andrew Nguyen, Dietrich Williams, and Mark Garrett (Ex. 22-26, 28, 30, 32, 34, 35).

50. The Commission received a letter in opposition from attorneys representing complainants in a complaint filed with the U.S. Department of Housing and Urban Development against the District of Columbia that alleges racial discrimination through the alleged misuse of the Low-Income Housing Tax Credit ("LIHTC") program and concentration of LIHTC projects in predominately Black neighborhoods such as Anacostia in Ward 8. The letter stated that the proposed Zoning Map Amendment would result in further overconcentration of low-income affordable housing in the surrounding community, perpetuate existing racial and economic segregation patterns, and undermine the neighborhood's diversity and economic balance (Ex. 33).

POST-HEARING SUBMISSIONS

51. At the conclusion of the July 29, 2024 public hearing, the Commission asked for ANC 8A to submit the meeting minutes, resolution, and vote from its July 9, 2024 public meeting; for ANC 8A to file a report based on the outcome of its September 2024 public meeting; and for the Applicant to file a response to the ANC submissions (Public Hearing Tr. at 97-105).

52. On September 23, 2024, the Applicant filed a post hearing submission, including a draft order, and stating that it made efforts to continue outreach with ANC 8A following the public hearing and received no response; the Applicant also stated that, to its knowledge,

the Application was not on the ANC's September 2024 public meeting agenda (Ex. 37, 37A).

53. ANC 8A did not file any post-hearing submissions, as requested by the Commission; and did not file a written report to the record in this case prior to the Commission taking final action at its November 14, 2024 public meeting.

NATIONAL CAPITAL PLANNING COMMISSION ("NCPC")

54. On October 1, 2024, the Commission referred the proposed map amendment to NCPC for review and comment pursuant to the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Code § 1-201 *et seq.* (Ex. 38).

55. On October 30, 2024, NCPC staff filed a letter stating that the Application falls under an exception listed in the NCPC's submission guidelines and is exempt from NCPC review (Ex. 39).

CONCLUSIONS OF LAW

1. Section 1 of the Zoning Act of 1938, effective June 20, 1938 (52 Stat. 797, ch. 534; D.C. Official Code § 6-641.01, *et seq.*) ("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." (§ 1 of the Zoning Act; D.C. Official Code § 6-641.01).

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.*

NOT INCONSISTENT WITH COMPREHENSIVE PLAN (SUBTITLE X § 500.3)

3. Pursuant to Subtitle X § 500.3, the Commission shall find that the Map Amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.

4. The Commission concludes, based on the case record and/or filings/testimony of the Applicant and OP, that the Map Amendment from the MU-4 zone to the MU-7A zone is not inconsistent with the Comprehensive Plan as a whole, including the Comprehensive Plan Maps and Elements, and will advance a number of Comprehensive Plan policy goals and objectives, including when viewed through a racial equity lens, as discussed below.

5. Even if the Map Amendment conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the Comprehensive Plan as a whole (*See Durant v. D.C. Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013). The Commission concludes that to the extent the proposal is potentially inconsistent with any Comprehensive Plan policies, such inconsistency is outweighed by the Map Amendment's consistency with the FLUM and numerous other competing Comprehensive Plan policies relating to land use, housing, transit-oriented development, and other policies as discussed below.

Racial Equity

6. The Commission concludes that the Map Amendment is not inconsistent with the Comprehensive Plan 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 Southeast and Southwest Planning Area (FF 25, 43). The Commission finds that the racial equity analyses provided address the components of the Commission's Racial Equity Tool for the following reasons:
   - The Map Amendment would increase the allowable density on the Property and permit a mix of uses which promote planning and development priorities set forth in the Comprehensive Plan's Citywide Elements and the Far Southeast/Southwest Area Element, including increasing housing and affordable housing production, and improving neighborhood-serving amenities and retail services in underserved areas (FF 40, 41, 43);
   - *Community Outreach and Engagement*: The Applicant provided evidence of extensive community outreach and engagement efforts with ANC 8A, surrounding residents, neighborhood organizations, and community stakeholders, including various meetings and events. The Applicant also provided evidence of broad-based community support for the Map Amendment based on numerous letters of support (FF 25). The Commission finds the Applicant's community outreach and engagement efforts adequate;
   - *Displacement*: The Map Amendment will not directly result in the physical displacement of residents or any commercial use as the Property is currently vacant. The case record notes the Applicant's intent to re-establish the laundromat use in the planned future development of the Property in response to community input (FF 25, 33); and
   - *Disaggregated Race and Ethnicity Data*: The OP Hearing Report provided disaggregated race and ethnicity for the Far Southeast and Southwest Planning Area

showing a slight decrease in the Black population over the two time periods from 91% to 87.7%; significantly lower median income and lower homeownership in the Planning Area compared to Districtwide; and a substantially higher poverty rate than Districtwide reflected in the Planning Area's high unemployment and housing cost burden rates (FF ¶ 43). The Commission acknowledges these disparities and is encouraged that the Map Amendment's provision of increased density on a currently vacant underutilized Property will create more housing opportunities and neighborhood serving retail opportunities than the existing MU-4 zone will allow, resulting in new residents to the area to increase and potentially diversify the population base socioeconomically and potentially decrease housing cost burdens for existing low and moderate income residents in the Planning Area (FF 41, 43).

GPM

7. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property within a Main Street Mixed Use Corridor because the Map Amendment to the MU-7A zone will facilitate redevelopment of the Property with a new mixed-use development containing ground-floor commercial uses and residential uses above, which will replace an underutilized, single-story building and surface parking lot, both of which are physically and programmatically inconsistent with the Property's Main Street Mixed Use Corridor designation on the GPM (FF 17, 26, 41).

FLUM

8. The Commission concludes that the Map Amendment is not inconsistent with the FLUM's designation of the Property for Moderate Density Commercial development because (FF 18, 27, 41):
   - The density permitted under the proposed MU-7A zone (4.0 FAR or 4.8 FAR for IZ developments) is not inconsistent with the 2.5-4.0 FAR density range envisioned for the Moderate Density Commercial FLUM designation, and the MU-7 zones are specifically referenced in the Framework Element as being consistent with the Moderate Density Commercial FLUM designation that applies to the Property; and
   - Redevelopment of the Property in accordance with MU-7A development standards and requiring approval from the HPRB for development within the Anacostia Historic District, will yield a context-sensitive development that is compatible with the Historic District and the surrounding area

Far Southeast/Southwest Area Element

9. The Commission concludes that the Map Amendment is not inconsistent with and furthers the policies of the Far Southeast/Southwest Area Element because the Map Amendment will provide additional opportunities for housing development and potential employment growth along a designated Great Streets corridor; and could promote growth along an arterial corridor near transit and other mixed-use development through the provision of new retail and services uses (FF 19, 28, 41).

Land Use Element

10. The Commission concludes that the Map Amendment is not inconsistent with the Land Use Element because (FF 29, 41):
    - The Map Amendment supports the growth and revitalization of Marion Barry Avenue, S.E. into a transit-oriented, pedestrian-friendly commercial main street with new retail amenities that are supported by new and existing residential uses; and
    - The rezoning will facilitate infill development on the Property that will help achieve the District's housing goals and redevelopment will be subject to review by HPRB for consistency with the Anacostia Historic District.

Transportation Element

11. The Commission concludes that the Map Amendment is not inconsistent with the Transportation Element because (FF 30, 41):
    - The Map Amendment supports mixed-use, transit-oriented development immediately adjacent to a priority bus route along Marion Barry Avenue, S.E.;
    - The increase in allowable density for new housing, particularly affordable housing, established by the new zoning will advance equitable access to transportation and discourage auto-oriented uses by facilitating redevelopment of the Property that replaces existing surface parking; and
    - Given the site's proximity to both the Anacostia Metro Station and Metrobus routes, the Map Amendment supports redevelopment of the Property to meet the expectations of equity in transportation accessibility.

Housing Element

12. The Commission concludes that the Map Amendment is not inconsistent with the Housing Element because (FF 31, 41):
    - The Map Amendment facilitates redevelopment of an underutilized site on a designated Main Street Mixed-Use Corridor and D.C. Great Street with a new mixed-use development containing new housing and ground-level commercial uses;
    - The increased density allowed under the proposed MU-7A zone will facilitate more housing, including affordable housing set aside in accordance with IZ requirements, which will help address citywide housing needs for low- and moderate-income households; and
    - In addition, the additional market-rate housing facilitated by the proposed rezoning has the potential to increase the socioeconomic diversity of the Planning Area, while the affordable housing will help offset the rising cost of housing and minimize the potential for displacement in the Planning Area.

Environmental Protection Element

13. The Commission concludes that the Map Amendment is not inconsistent with the Environmental Protection Element because the rezoning the rezoning facilitates the redevelopment of a currently vacant, one-story building and surface parking that is entirely impervious and lacks any sustainable stormwater management with significantly more sustainable development that will be subject to the District's Green Building Act, the

DOEE's stormwater regulations, and site study and mitigation efforts, among other requirements (FF 32, 41).

Economic Development Element

14. The Commission concludes that the Map Amendment is not inconsistent with the Economic Development Element because (FF 33, 41):
    - The Map Amendment will support new, neighborhood-serving retail and service uses that will not unduly impact the surrounding neighborhood; and
    - The provision of moderate density mixed-use development adjacent to a priority bus corridor will potentially connect residents to major employment areas within and around the District.

Urban Design Element

15. The Commission concludes that the Map Amendment is not inconsistent with the Urban Design Element because the Map Amendment will facilitate the redevelopment the Property with a new mixed-use development with the potential to enhance the urban design quality of the site and the Marion Barry Avenue, S.E. commercial corridor more broadly (FF 34, 41).

Historic Preservation Element

16. The Commission concludes that the Map Amendment is not inconsistent with the Historic Preservation Element because the Map Amendment will facilitate redevelopment of the Property, which is currently a detriment to the character of the Anacostia Historic District, with a new mixed-use development that will be subject to review and approval by the HPRB to ensure consistency with the Anacostia Historic District (FF 35 ,41).

Potential Comprehensive Plan Inconsistency

17. The OP Reports stated that the Map Amendment is potentially inconsistent with Comprehensive Plan policy ED-3.2.6: Commercial Displacement because future development facilitated by the proposal could negatively impact neighboring businesses. The Commission agrees with OP's conclusion that this potential inconsistency is mitigated by the Map Amendment's potential to increase the population base to support local business; and outweighed by the numerous Comprehensive Plan policy goals and objectives that would be advanced by the Map Amendment as discussed in this Order (FF 25-35, 41).

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

18. 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, the Commission must give "great weight" to the recommendations of OP.

19. The Commission concludes that OP's reports, which provided an in-depth analysis of the proposed MU-7A zone for the Property and its consistency with the Comprehensive Plan and advancement of Comprehensive Plan racial equity policies, are persuasive and concurs with OP's recommendation that the Property be rezoned to MU-7A, as discussed

above (FF 40, 41, 43). The Commission also agrees with OP's recommendation not to apply IZ Plus to this Map Amendment due to the disproportionate amount of existing affordable housing in the Far Southeast and Southwest Planning Area and Ward 8, in which the Property is located (FF 42).

"GREAT WEIGHT" TO THE ANC 8A REPORT

20. 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, the Commission must give "great weight" to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public.

21. ANC 8A did not provide a written report to the case record citing issues and concerns, to which the Commission can afford great weight (FF 47, 52). Nevertheless, the Commission acknowledges the opposition to the Map Amendment, citing concerns that the proposal will contribute to the existing concentration of affordable housing in the Planning Area and that the Applicant's planned future development on the site will be out of scale and context with the surrounding area (because of the intensity of the matter-of-right development standards of the MU-7A zone) (FF 39, 49). The Commission notes that its evaluation in this case is solely limited to assessing whether the matter-of-right development standards of the MU-7A zone are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property (*See* Subtitle X § 500.3). And although the case record documents the Applicant's planned future development and receipt of HPRB concept design approval to construct a project, the Commission is not evaluating a specific project in this Application. The Commission applies the aforementioned standard of review for map amendments; in this case, the Commission finds that the MU-7A zone is a moderate density zone with development standards that appropriately balance the Property's Comprehensive Plan map designations and its location within the Anacostia Historic District (FF 18, 20-23, 27, 41). The Commission acknowledges that regular IZ affordable housing set-aside requirements will be triggered if the Property is developed with the residential uses the Applicant has stated it intends to do; however, consistent with OP's recommendation, the Commission will not apply IZ Plus, a higher affordable housing set-aside requirement, to this Map Amendment given the existing concentration of affordable housing in the Property area (FF 20, 37, 42). The Commission is confident that the HPRB review process, which applies to the Property, will yield future development on the site that is of an appropriate scale and fits the context of the surrounding area.

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and, therefore, **APPROVES** the Application to amend the Zoning Map as follows:

SQUARE	LOT(S)	MAP AMENDMENT
5765	1015	MU-4 to MU-7A

Proposed Action
VOTE (September 26, 2024): 4-0-1 (Robert E. Miller, Joseph S. Imamura, Anthony J. Hood, and Tammy Stidham to approve; 3rd Mayoral Appointee seat vacant.)

Final Action
VOTE (November 14, 2024): 4-0-1 (Joseph S. Imamura, Tammy Stidham, Anthony J. Hood, and Robert E. Miller to approve; Gwen Marcus Wright, not voting, having not participated.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 24-03 shall become final and effective upon publication in the *District of Columbia Register*; that is on March 7, 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.

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.

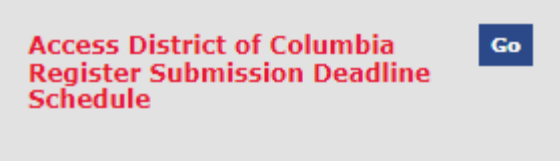
If an official government holiday falls on a Thursday, the deadline for submitting documents is WEDNESDAY. Because Thursday, November 27, 2025 is Thanksgiving Day, the deadline for the December 5, 2025 *District of Columbia Register* is Wednesday, noon on November 26, 2025.

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